

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 26th JUNE 2012

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[9:30]

The Roll was called and the Dean led the Assembly in Prayer.

Senator I.J. Gorst (The Chief Minister):

Sir, [Approbation] may I take this opportunity and be the first States Member to officially congratulate you and say how pleased and delighted we are that Her Majesty knighted you in her recent Birthday Honours List. You have served your Island as Attorney General, Deputy Bailiff and now as Bailiff and I believe, and I am sure that all Members agree with me that it is indeed very well-served and we take it, as an Assembly, as an honour as well. I should also, Sir, like to say how pleased we are for your wife, Lady Birt, who, as I know... [Approbation] our wives are indeed a support and we could not do what we do without their support. We are absolutely delighted for her as well and the very active role that she plays in our community and also the patronages that she holds. May I congratulate you. [Approbation]

The Bailiff:

Chief Minister, thank you very much indeed for those kind words and I thank Members too for their endorsement. Joan and I have been very touched by the number of people who have written to us and sent messages and we really do appreciate it. We feel very humbled by it all and we thank everyone for their kind words. I am particularly grateful for your words in relation to my wife who is, in my impartial opinion, a very special person [Laughter] and is of great support in every conceivable way. Thank you for that. I will simply continue to try and do my best for the Island and for this Assembly. [Approbation]

APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS

1. Resignation of Mr. Christopher Evans and Mr. Alexander Fearn from the Public Accounts Committee

The Bailiff:

I have received the resignation of Mr. Christopher Evans and Mr. Alexander Fearn from the Public Accounts Committee. That means there are vacancies and Members will see on their desk notice, I think, of nominations which will be presented next time.

1.1 Deputy T.A. Vallois of St. Saviour (Chairman, Public Accounts Committee):

Could I just take this opportunity to thank publicly Mr. Alex Fearn and Mr. Chris Evans for giving their time and commitment on the Public Accounts Committee over the last 6 months. [Approbation] Their knowledge and experience has been invaluable and I wish them well for their future endeavours.

2. Appointment of 5 members of the Bailiff's Consultative Panel

The Bailiff:

Then we come to the appointment of 5 members of the Bailiff's Consultative Panel. There is a note about this on the original Order Paper. As Members will be aware, certain Members of the States are members of the panel *ex officio*: the Chairman of the Comité de Connétable, the Chief Minister, the Chairman of P.P.C. (Privileges and Procedures Committee), the Minister for Treasury and Resources, but there are 5 other members that it is necessary to elect by ballot by the States. The 5 current members, their period is about to expire and accordingly it is necessary for Members to elect up to 5 other members for membership of the consultative panel, so I invite nominations.

Deputy T.A. Vallois:

Can I nominate Deputy Jeremy Maçon please?

The Bailiff:

Is that nomination seconded? **[Seconded]** Are there any other nominations?

Connétable J.M. Refault of St. Peter:

May I nominate the Constable of St. John? **[Seconded]**

Deputy R.G. Le Hérissier of St. Saviour:

Can I nominate Deputy Labey of Grouville please?

The Bailiff:

Is that seconded? **[Seconded]**

Connétable D.J. Murphy of Grouville:

Can I nominate the Constable of St. Lawrence?

The Bailiff:

Is that seconded? **[Seconded]**

Connétable J.L.S. Gallichan of St. Trinity.

Can I nominate the Connétable of St. Mary?

The Bailiff:

Is that seconded? **[Seconded]** Is there any other nomination?

Senator P.M. Bailhache:

Can I nominate Senator Farnham?

The Bailiff:

Is that seconded? **[Seconded]** Are there any other nominations?

Senator F. du H Le Gresley:

Can I nominate Deputy Pinel of St. Clement?

The Bailiff:

Is that seconded? **[Seconded]**

Deputy M.R. Higgins of St. Helier:

I would like to nominate Deputy Southern.

The Bailiff:

Is that seconded? **[Seconded]**

Deputy R.C. Duhamel of St. Saviour:

Could I nominate Deputy Tadier?

The Bailiff:

Is that seconded? **[Seconded]** Are there any other nominations?

Senator A. Breckon:

Could I nominate Deputy Judy Martin?

The Bailiff:

Is that seconded? **[Seconded]** Are there any other nominations for this hotly contested...
[Laughter]

Deputy M. Tadier of St. Brelade:

Could I nominate Deputy Trevor Pitman?

The Bailiff:

Is that seconded? **[Seconded]** Are there any other nominations? Very well, so that will close the nominations. We have 11 nominations for 5 places. What I think I will suggest, if I may, because it will be difficult for everyone to remember that, I think it would be helpful if we adjourn this for a short moment. I will ask the Greffier to type up some ballot papers with the names of all the nominees and then we will hold the ballot at a convenient moment later on.

[9:45]

QUESTIONS

3. Written Questions

1.1. CONNÉTABLE OF ST. JOHN OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING JERSEY TELECOM'S FAULT REPAIR SERVICE:

Question

Given many millions of pounds of funding has been put into telecommunications from the public purse, would the Minister, as the representative of the shareholder, provide a breakdown of the number of faults identified by Jersey Telecom from December 2011 to date, indicating which parishes have been most affected?

Answer

It should be pointed out that the funding made available for JT is an investment, and will be repaid.

While JT deals with many faults that are not related to its network but instead to matters such as equipment in use by the subscriber or varying levels of technical ability, the vast majority of these are dealt with by the staff at JT's 24/7 call centre.

There are, on average, approximately 800 network faults dealt with by JT's network engineers per month, split as follows since December 2011:

Month	Dec 11	Jan 12	Feb 12	Mar 12	Apr 12	May 12
Network faults	856	786	736	783	962	814

This is not considered out of the ordinary for a network that carries an average of 9.2m calls per week, 98.7% of which are successful.

The faults cannot be split by parish as JT runs an Island-wide network where parish boundaries are not relevant to how it manages the network or faults arising thereon.

Another point worth making is that network faults are expected to drop quite significantly as JT replaces its copper network with a fibre network (the Gigabit Jersey programme). Fibre is a vastly

superior technology and not prone to the levels of faults suffered by copper laying beneath the ground (for example, water ingress affects copper but not glass fibre). The industry and JT view is that a fibre network will see a reduction in network faults of as a result of the move to fibre.

Finally the Minister would also like to remind Members of an invitation he issued last week to an update from management of JT on 2 July dealing with the annual performance of the company, Gigabit Jersey and any other questions Members may have.

1.2 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE BOARD OF GOVERNORS OF HAUT DE LA GARENNE:

Question

Further to the provisions of the Children (Jersey) Law 2002, will the Minister publish a list of all living and deceased members of the board of governors/board of management/board of trustees for Haut de la Garenne since 1960, and if not, why not?

Answer

Haut de la Garenne, which closed in 1987, has never been administered by the Health and Social Services Department. It was the responsibility of the Education Committee.

HSSD does not therefore directly hold records relating to the membership of any Board, if in fact there was a Board in place. Any remaining records that do exist would be held at the Jersey Archive, however clarification would be required from Law Officers as to whether HSSD could publish any such information.

1.3 DEPUTY R.J. RONDEL OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE ENVIRONMENTAL RISK ASSESSMENT UNDERTAKEN PRIOR TO THE DIAMOND JUBILEE FIREWORK DISPLAY:

Question

Would the Minister outline the differences, if any, between the Environmental Risk Assessments for the aborted firing of 120,000 rockets by Mr. Terry McDonald in August 2007 and the recent firework display held for H.M. The Queen's Diamond Jubilee on 4th June 2012?

Answer

In this response I would respectfully direct the Deputy to the report; "Importation of Fireworks In 2007 For A Charity Event: Investigation (P.21/2011) – Combined Report By The Ministers For Home Affairs, Planning And Environment And Economic Development" which was presented to the States on 15th September 2011 by the Minister For Home Affairs.

This document will provide useful background information, including submitted risk assessments, and highlights the reasons that requests were made by the Department for information from Mr. McDonald.

Correspondence with the department in this case was precipitated by an approach to staff by Mr. McDonald, and the Department offered advice to ensure that, should the record breaking attempt go ahead, minimal environmental damage would result. The scale of the attempt was of concern to the department as it was proposed that approximately 7 tonnes of fireworks would be used.

The risk assessments and the work with Mr. McDonald catalysed the drafting of two reports from the Department, both of which are available on the States of Jersey website. These were entitled as follows.

1. *'World Record Rocket Launch Attempt – a response from the Environment Division, States of Jersey.'*
2. *"World Record Rocket Launch Attempt – An Assessment of Pollution to controlled waters and Toxicity"*

It is not the mandate of the Department to authorise firework displays, but it acts in an advisory capacity and also regulates and enforces in the event of contravention of relevant island legislation. In the case of the jubilee display the Department was contacted by the ornithological section of the Société Jersiaise who were concerned about disturbance to birds nesting on the rock outcrop at the castle.

A subsequent meeting was held with the Bailiffs' team, this was followed by a meeting on site at the castle including staff from Fire and Rescue, the Health and Safety Inspectorate, as well as Environment department staff. The fireworks display operators were requested by the Bailiff to prepare a risk assessment which, I would respectfully suggest to the Deputy, should a copy be required a request is made of the Bailiffs' chambers.

Further, it is understood that the Société were to undertake a pre and post display survey of the nesting sites but as this is not something that was requested by the Department, I would again respectfully advise that they should be approached directly for a copy of any subsequently drafted report.

1.4 DEPUTY R.J. RONDEL OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING CONCERNS RAISED BY STATES DEPARTMENTS IN RESPECT OF THE DIAMOND JUBILEE FIREWORK DISPLAY:

Question

Would the Minister detail any concerns raised by any States Departments prior to H.M. The Queen's Diamond Jubilee firework display on 4th June 2012 and would he undertake to provide Members with any relevant reports from any States Department (such as Environment/Health and Safety/Fire Service etc) relating to the display?

Answer

It is not the mandate of the Department to authorise firework displays, but it acts in an advisory capacity and also regulates and enforces in the event of contravention of relevant island legislation. In the case of the jubilee display, the Department was contacted by the ornithological section of the

Société Jersiaise who were concerned about disturbance to birds nesting on the rock outcrop at the castle.

A subsequent meeting was held with the Bailiffs' team, This was followed by a meeting on site at the castle including staff from Fire and Rescue, the Health and Safety Inspectorate, as well as Environment department staff. The fireworks display operators were requested by the Bailiff to prepare a risk assessment which, I would respectfully suggest to the Deputy, should a copy be required a request is made of the Bailiffs' chambers.

Further, it is understood that the Société were to undertake a pre and post display survey of the nesting sites but as this is not something that was requested by the Department, I would again respectfully advise that they should be approached directly for a copy of any subsequently drafted report.

1.5 THE DEPUTY OF GROUVILLE OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING MEASURES TO IMPROVE AIR QUALITY ACROSS JERSEY:

Question

Setting aside the closure of the Bellozanne Incinerator, which caused considerable air pollution across the entire Island, together with the latest measures that have been put in place to alleviate the noxious aromas emanating from the green waste composting process at La Collette 2, would the Minister outline what practical measures, if any, the Transport and Technical Services Department undertakes on a regular basis to improve air quality across Jersey.

Would the Minister offer some detail in respect of practical procedures undertaken by the Department to improve air quality in the area of the Town, where slow moving traffic causes excessive exhaust gas emissions?

Answer

The States approved a Sustainable transport policy (STP) in December 2010 which aims to reduce the proportion of trips made by private car and to encourage the use of smaller lower emissions vehicles. Achieving these two aims will result in a reduction in air pollution, particularly in the town area where high volumes of motor vehicles on our narrow streets can lead to traffic congestion.

TTS has been working on several initiatives to apply the policy.

Key to reducing reliance on the private car is a better bus service. Several improvements to the network have been introduced, increasing peak hour capacity and providing better coverage to rural areas and on Sundays. 9 new bus shelters were installed in 2011 and TTS has worked with the current operator to introduce new improved vehicles, most notably the double decker buses on the route 15 to the airport. Highly significant to the continued improvement to the bus services and delivery of the STP targets is the considerable work TTS has done and is continuing to do towards appointing an operator for the new contract which commences in January 2013. A preferred bidder has been selected for the second and final stage of the tender process and negotiations are in progress to ensure that the new contract will enable the bus service to meet the requirements of the STP, including a more comprehensive island wide network, increased peak time capacity, a town service and improved school bus service. Higher bus emission standards will be a condition of the new contract.

A significant aspect of the STP is encouraging walking and cycling. The cycle route from the west into St Helier has been extended along Commercial Buildings and work is ongoing to provide a continuous cycle route through to Havre des Pas. The first stage of the eastern cycle network has been completed between Gorey Pier and Lavender Villa and work is ongoing to develop its continuation. More cycle stands have been and will be installed, particularly in the town centre. Several minor improvements to encourage walking have been completed including new crossing facilities and new sections of footpaths.

Encouraging people to make better travel choices is an important aspect of the policy and TTS is working with schools to develop travel plans and have organised 2 “green travel” awareness days to promote sustainable travel. 24 School travel plans have been completed since the programme commenced in 2011.

With regard to air pollution, it is essential that in addition to reducing the proportion of people choosing to travel by private car, the use of more ‘environmentally friendly’ cars is encouraged. TTS provides half price parking for low emissions vehicles and is introducing electric vehicles into the States fleet. The new town park is serviced by an electric pick up truck and the tender for renewal of the States car lease fleet to be renewed this year favours low emission vehicles with 10 cars to be fully electric. Plans are being progressed in conjunction with the JEC for reserved spaces and charging points for electric cars in our main town car parks.

Through its planned vehicle fleet replacement policy, all TTS owned vehicles will meet or exceed the Euro 3 vehicle emission standard by the end of 2012, with much of the fleet meeting the Euro 4 and Euro 5 standards.

Traffic flows and air quality are monitored by TTS and by the Environmental Health Department respectively and I will be publishing a progress report on the impact of the STP on these issues shortly.

In addition to these transport initiatives, the Department has installed a number of odour control units on the foul sewer system. Problems have arisen at certain pumping stations which has caused odour nuisances to nearby residents. These units pass the odorous air through biological or carbon filters. The outlet air is sampled on a monthly basis to ensure all units are working correctly.

The last unit installed was at Bonne Nuit treatment plant which is located next to the public toilets at Bonne Nuit Harbour. We have received a number of comments on how this unit has reduced all nuisance odours.

1.6 THE DEPUTY OF GROUVILLE OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING ROAD CLEANING ON BANK HOLIDAYS AND WEEKENDS:

Question

Could the Minister advise whether Transport and Technical Services staff using road sweeping machines worked on New Year’s day, other bank holidays and Saturdays in rural parishes and, if so, why?

Answer

The Mechanised Road Sweeping section operates on a shift system that covers seven days a week, from 0600 hrs to 1700 hrs, inclusive of weekends and bank holidays excluding Christmas Day only. Operators receive a shift payment and do not receive overtime payments for working at weekends and on bank holidays as these are covered in the shift pattern.

By using this shift system the department minimises overtime costs and maximises the usage of vehicles and equipment to provide a cost efficient and effective road and pavement cleaning service for all the A, B and C class main roads across the Island.

Road cleaning schedules take into account the expected usage of roads and the resultant frequency of cleaning required. I can confirm that this will result in road cleaning taking place in rural parishes at weekends and on bank holidays.

1.7 THE DEPUTY OF GROUVILLE OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING STAFFING AND MANPOWER COSTS:

Question

Further to the figures contained within R.48/2012 (States Employment Board- Annual Report 2011) how many staff are currently employed within the Transport and Technical Services Department, how are their roles split and what is the total cost of manpower?

Answer

The actual number of staff by head count employed in the Transport and Technical Services Department contained within R.48/2012 (States Employment Board- Annual Report 2011) was 482, the **total** manpower costs of which was £18,623,981.42 (includes Social Security, pension, allowances, on call payments etc)

The current actual number of staff employed in the Transport and Technical Services Department end of May 2012 was 491 (following successful recruitment to some existing vacancies).

The staff roles are split as follows:

Waste:	412
Municipals:	29
Engineering & Highways:	28
Transport:	22

The total manpower costs for the period Jan 2012 - May 2012 are £8,014,630.37

1.8 DEPUTY M.R. HIGGINS OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING LEGAL COSTS INCURRED IN RESPECT OF THE LOW VALUE CONSIGNMENT RELIEF COURT ACTION:

Question

Would the Attorney General advise members of the actual total legal costs incurred in taking the UK Government to court on the Low Value Consignment Relief issue and explain which law firms were involved, whether he will publish the itemised bills they provided for their services to the States and, if he is not willing to do so, will he advise members why not?"

Answer

It is not yet possible to give a final figure for the total costs incurred by the States as a result of the LVCR judicial review proceedings. This is because HMRC has still not presented its bill of costs, of which Jersey and Guernsey were each ordered to pay 25%.

The Jersey legal representation was undertaken by solicitors PWC Legal who instructed Leading Counsel from Brick Court Chambers and Junior Counsel from Gray's Inn Tax Chambers. The final sum payable by the States of Jersey for their services throughout totals £656,370.67. This is net of contributions from the fulfilment industry.

With reference to the last part of the question, itemised bills would not generally be published as they contain information that may be commercially sensitive to the firms and individuals involved.

1.9 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE COLLECTION OF VALUE ADDED TAX FOR THE UK GOVERNMENT BY JERSEY POST:

Question

Will the Minister, as the shareholder representative, advise the Assembly –

- (a) the current system being used by Jersey Post to collect VAT receipts from Jersey residents sending goods to the UK and the rules being applied;
- (b) the value of VAT receipts that have been collected to date since Jersey Post started collecting these payments for H.M. Government (HMG) ;
- (c) whether Jersey Post is compensated financially by HMG for the collection and, if so, what is the amount they have received;
- (d) whether the VAT is being charged at a standard rate of 20% across the board or whether there are different rates being applied to different goods; and,
- (e) if any goods are not subject to UK VAT and if so what they are?

Answer

As the representative of the shareholder, the board of Jersey Post Limited deals with all the operational issues. Jersey Post has provided responses to the questions raised but has also confirmed that most of this information is available for everyone to see on their website and was included in the leaflet delivered to every household in early May 2012.

- a) Jersey Post offers a VAT prepayment scheme approved by Her Majesty's Revenue and Customs (HMRC). The intention of the scheme is to minimise the delays and extra costs to Island residents and businesses caused by the need for HMRC to inspect items entering the UK to determine whether UK VAT is payable. Where VAT is due Royal Mail make a collection charge of £8 for each item.
- b) Jersey Post has been collecting VAT on behalf of HMRC for a number of years on behalf of fulfilment customers dispatching products to the UK. In 2011 £5.4 million was collected. The scheme offered at Post Office branches, which it is assumed the Deputy is referring to,

was introduced on 1st April 2012 and up until 31st May £42,914 had been collected. In the case of fulfilment customers Jersey Post collected £3.2 million on behalf of HMRC for the first accounting period (effectively one month) following the withdrawal of LVCR although this is expected to reduce dramatically in the coming months.

- c) Jersey Post is not currently compensated for providing this service, but intends to approach HMRC again when the volumes and additional costs incurred have been established. Jersey Post's first priority was to minimise delays to Islanders' mail.
- d) The prepayment scheme only applies to goods where VAT applies at the standard rate. This is at the insistence of HMRC who take the view (one shared by Jersey Post) that its staff are not qualified to assess whether the reduced rate is applicable.
- e) VAT is an extremely complicated tax with numerous exemptions. The common items that are zero rated for VAT are food, children's clothing, and some books. This was highlighted in the leaflet sent to Island households.

1.10 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE IMPACT OF THE LOSS OF CAR PARKING PROVISION IN THE TOWN AREA:

Question

Would the Minister state whether he has concerns that the increasing loss of parking in St. Helier (residents parking schemes, loss of parking in Tunnel Street/Gas Place area and pedestrianisation) may affect Jersey's economy by encouraging buyers to shop on-line and, if so, whether he has entered into discussions with the Connétable of St Helier, the Minister for Transport and Technical Services and others to address this problem?

Answer

As demonstrated by the recent retail survey, the retail sector faces significant challenges. As such, I have held two meetings so far to discuss issues facing the retail sector, particularly in St Helier, with the Assistant Minister for Transport and Technical Services (TTS), the Connétable of St Helier, and others including representatives from the Chamber of Commerce and the Town Centre Manager.

One outcome from this was that TTS undertook a survey of parking availability across town carparks at 10am, 12pm and 3pm on a Saturday. At all times, over 50% of parking spaces in St Helier were available. This does not mean we should be complacent, as in some areas of town there were shortages and we must address concerns members of the sector have with regard to parking. However, parking is not the only issue. We must assess this as part of a broader strategy to address the barriers preventing people coming into town and using the significant number of parking spaces that already exist in central carparks – such as Sand Street – on the most popular shopping day of the week.

I have received recommendations to address parking issues by members of the group, but these come with an associated cost to States budgets in the form of reduced revenue to TTS. As such they require further consideration to establish that they will have an incremental impact and not just reduce revenue for the same number of visitors to town. Therefore, a sub-group have undertaken to produce a broader report to address the wider issues facing retailers, such as how to encourage shoppers in the current economic climate, address the increased price sensitivities of customers and increased competition from online retailers. I expect this by the end of the month, and this will be presented to the group for consideration of next steps.

The Deputy may also wish to be aware that in addition to this, TTS have already recognised that the existing system of car park regulation and payment does not provide the flexibility that many of customers and the Department would like. To address this, TTS are trialling new technology involving Automatic Number Recognition in the Autumn of 2012 in Sand Street car park. The proposed system will relieve the motorist of having to predict the length of their stay in advance and provide the ability to stay longer than three hours if required.

1.11 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE HEALTH IMPLICATIONS OF WIRELESS BROADBAND:

Question

Further to the response given by the Minister for Planning and Environment to my question on 12th June 2012 regarding the use of mobile phones and wireless broadband connections, would the Minister advise what research, if any, the Health and Social Services Department has carried out into possible health implications of wireless broadband and, if none, state why not?

Answer

HSSD reviews international research when considering the risk of electromagnetic radiation from these sources. There is a large body of international research carried out using data from population numbers that cannot be replicated in Jersey.

The current research advice for the use of mobile phones from the International Agency for Research on Cancer is; “there could be some risk and a close watch needs to be maintained”. This advice resulted from a study of 6500 cancer cases in 13 countries.

The UK’s Health Protection Agency advice on mobile phone use is; “The scientific consensus is that, apart from the increased risk of a road accident due to mobile phone use when driving, there is no clear evidence of adverse health effects from the use of mobile phones or from phone masts”. And for wireless broadband is; ‘On the basis of current evidence, the HPA does not consider there to be a problem with the safety of WLAN (wireless broadband)’.

In the case of wireless broadband the European CE standard controls the emission of electromagnetic radiation and consumers should look for this marking when buying equipment.

In Jersey, HSSD’s Health Protection Service maintains a watching brief and consults on any planning applications for new mast deployments.

1.12 SENATOR S.C. FERGUSON OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING LITIGATION CLAIMS AGAINST THE HEALTH AND SOCIAL SERVICES DEPARTMENT:

Question

Would the Minister provide details of the number of litigation claims made against the Health and Social Services Department over the past 10 years, identifying for each year –

- (i) the number of claims submitted by speciality;

- (ii) the number of claims upheld by specialty/department;
- (iii) the total amount paid to successful claimants by specialty/department;
- (iv) the overall cost to administer claims each year;
- (v) the number of FTE staff employed to administer claims, by grade and advising the total staffing costs and to which/whose budget these costs are attributed?

What amount is covered by “insurance” if any, and would the Minister advise what insurance payments are made, including insurance cost increases by year?

Answer

(i) Number of claims

Information is provided by Hospital division rather than specialty, so as not to be identifiable. In some specialities the numbers of claims are low which could result in claims/claimants being identified. Providing information by division, as opposed to by speciality, helps reduce this risk.

Information about Community and Social Services claims are provided as a total over the 10 year period in order to prevent potential identification.

Division	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Ambulatory Care	0		2				1				
Emergency Care	2	1	1	2		2	2	4	3	3	2
Theatres & Anaesthetics	1				1						
Women & Children	4	6	2	4	1	4	2	2	1	3	4
Medicine		4	3	1	2		4	4		3	3
Surgery	7	4	4	5	5	8	3	4	8	1	6
Mental Health					2	1	3			1	
Public Health				1							
Clinical Support	1			1							1
Total	15	14	12	14	11	15	15	14	12	11	16

	2001 - 2011
Community & Social Services	9

(ii) The number of claims upheld

These figures reflect the number of claims that upheld for the year in which they were notified. Therefore, as claims often take a number of years to be settled, claims received in 2010 and 2011 will not be upheld for some time.

Hospital Division	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Ambulatory Care							1				
Emergency Care	2	1	1	1		1	2	1			
Theatres & Anaesthetics					1						
Women & Children		2		2							
Medicine		3	1								
Surgery	4	3		2	1	1		1	1		
Mental Health											

Public Health											
Clinical Support											
Total	5	9	2	5	2	2	3	2	1	0	0

	2001 - 2011
Community & Social Services	1

(iii) Total amount paid to successful claimants

Settlements are generally made out of Court on a confidential basis. Damages and costs are not always separated, therefore the figures provided cannot be taken to be just the damages received by the claimant, some costs may be included.

The figures are not broken down by division as the number of successful claimants in any one division may be so small as to be identifiable.

The figures show the settlement against claim in the year in which the claim was made, not the year in which the payment was made (ie. 2001 figure is settlement for a claim received in 2001 although the payment was made in a different year).

2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
£	£	£	£	£	£	£	£	£	£	£
356,134	396,600	80,000	167,796	20,215	125,000	35,743	282,207	750	0	2,500

(iv) The overall cost to administer claims each year

The overall cost to administer claims cannot be readily determined as various aspects of the work is undertaken HSSD, in relation to the administering of claims, and by the Treasury in relation to the management of insurances.

(v) The number of FTE staff to administer claims, by grade and advising the total staffing costs and to which budget these costs are attributed to?

There is approximately 1 FTE equivalent, spread across a number of roles, involved in the administration of claims within HSSD. The grades of the staff member vary as do their budget lines. These staff also undertake other roles so it is not possible to extrapolate details in relation to hours worked and costs.

(vi) What amount is covered by insurance

If the claim is settled by the States Insurers there is an excess applied to the policy for which HSSD is liable.

If the claim is settled by a medical indemnifying body, such as the Medical Defence Union or Medical Protection Society, there is no excess on the policy and the settlement is paid for by the indemnifying body in full with no HSSD liability.

(vii) Would the Minister advise what insurance payments are made, including insurance cost increases by year?

This information was provided to the States on 29th May in response to Question 6898.

1.13 SENATOR S.C. FERGUSON OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE COST OF OCCUPIED BEDS IN VARIOUS HOSPITAL DEPARTMENTS:

Question

Would the Minister provide Members with the annual figures for the past 10 years of the average cost per day of an occupied bed (identifying the costs included in the calculation) and average occupancy rates and average length of stay in the following units –

- Surgery
- Medicine
- Maternity
- Rehabilitation
- Mental Health Acute
- Mental Health Long Term.

Answer

1: Average cost per day of an occupied bed

The information required to answer this Question is not been collected routinely.

Different levels of staffing are required for intensive care, maternity care, high dependency care, acute care, mental health care, residential care and nursing care, so all these beds have very different costs. In addition lower occupancy rates are required for unscheduled care as unscheduled care bed capacity must be available to deal with the variability of emergency demand. This also affects bed cost.

That said analysis based on data from 2010 conducted by KPMG in preparation for the HSSD Green estimated that the average cost per bed night was £235, based on direct costs of £1.7M in 2010 for a 20 bed ward. This does not include indirect costs for example; building and equipment costs.

2. Average Occupancy Rates and Average Length of Stay

HSSD cannot provide data in the format requested for the following reasons:

- it has not been collected routinely for rehabilitation, mental health acute and mental health long term;
- data collected prior to 2011, when HSSD implemented its new TrakCare, is not sufficiently robust and cannot be readily analysed, hence KPMG focused on 2010 only. The 2010 data alone required significant analysis from varying information sources plus, prior to that analysis being undertaken a bespoke data cleansing exercise was required in respect of clinical coding in order to improve accuracy;
- the data sets collected since the introduction of TrakCare are still in the process of being refined and hence do not lend readily themselves to this non-standard analysis.

HSSD has been very explicit about the requirement to invest in improved data and informatics; hence it is a key cross-cutting work stream in the White Paper.

Data for Medicine division and Surgery division has however been included in the States of

Jersey Annual Performance Report, and is collated below from 2005 to 2009. In considering this data it is essential to understand that:

- as detailed above there are concerns about its robustness;
- the recommended bed occupancy level is 85%, to allow for cleaning and operational factors
- the figures below are yearly averages and do not reflect fluctuations in demand. Demand can be affected by seasonal variations, bed closures related to infection control and other operational factors. Levels of demand therefore fluctuate quickly, for example if a snapshot of recent data is taken, in June 2011 bed occupancy on Plemont medical ward was 82% (within the 85% recommended rate) but by July 2011 it had risen to 99%.

Average LOS	2005	2006	2007	2008	2009
Surgery	4.3	4.2	3.8	3.4	3.8
Medicine	7.9	7.8	7.6	6.1	8.1
Maternity*	-	-	-	-	-

Occupancy Rate	2005	2006	2007	2008	2009
Surgery	71%	68%	66%	N/A	72%
Medicine	90%	89%	89%	100%	80%
Maternity*	-	-	-	-	-

In the technical documents that support the Green Paper, KMPG clearly stated that JGH was running out of bed capacity. Through an analysis of 2010 occupancy rates, plus projections related to populated changes they concluded that:

- an additional 20 medical beds would be required by 2015 to cope with activity and a further 40 beds would be needed to cope with the activity projected in 2040;
- a similar rise was not required in surgical beds where peak demand in June and July was below the 85% occupancy (note: however that lack of available data meant KMPG was unable to assess demand created by medical patients placed in surgical beds because of lack of medical bed capacity).

1.14 SENATOR S.C. FERGUSON OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE PROGRESS OF GIGABIT JERSEY:

Question

Would the Minister as the representative of the shareholder, inform Members what the progress is on Gigabit Jersey?

- a) How many users are now on the system?
- b) What is the estimated time to complete the cabling for the Island and what is the estimate of time to get Gigabit Jersey into every home?
- c) What is the up to date estimate of costs to completion?

Answer

The Minister is pleased to note that Gigabit Jersey will form part of the update that JT will be providing to States members on 2 July. In the meantime, here are the answers to the Senator's specific questions:

- a) There are currently more than 400 homes connected to the Gigabit Jersey network (410 on the 18th June; 450 expected by 26th June).

The expectation is to have 2,000 customers connected by the end of August, after which connections will increase to 2,000 a month. This work will be done by a group of newly trained staff, recruited by JT with support from the States' Back to Work team.

- b) There are two aspects to the cabling: Homes Passed and Homes Connected.

Homes Passed refers to the running of the fibre across the Island, to within 10 to 100 metres of each home. JT aims to complete this by the end of 2012 which is well ahead of schedule.

Homes Connected provides the physical connection from the Homes Passed fibre into the customer's premises. As this work requires access to all residential premises the original timescale was estimated at 5 years to complete. JT is optimistic that this will be done one or two years ahead of schedule.

- c) JT recently re-ran the costs model from a zero base. It is pleasing to note that the total cost remains at the original budget of £41.5m.

1.15 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE NEW £100 NOTE:

Question

Would the Minister update members regarding the recent £100 note, namely:

- a) how many were printed,
- b) how many expression of interest were received,
- c) how many have been issued (sold) to date?

Answer

- a) 100,000 £100 notes were produced. This was the minimum print run which could be ordered.
- b) Approximately 3,700 expressions of interest were received from collectors before the week of the launch.
- c) 5,440 notes have been issued (sold) to date i.e. notes with a face value totalling £544,000.

1.16 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE ENERGY FROM WASTE PLANT:

Question

Will the Minister advise members whether the contract for the Energy from Waste Plant has been completed and the Plant is now being fully operated by the Department and, if not, provide details why it has not?

If the contract has not been completed, would the Minister advise -

- (i) the estimated completion date;
- (ii) the cost of the contract to date;
- (iii) the estimated cost of completing the Plant and who, and in what proportion, will be liable for these costs?

If the contract has been completed, would the Minister advise -

- (i) the final cost of the project to date;
- (ii) the final cost of failing to hedge the contract?
- (iii) the amount of waste incinerated to date together with a monthly breakdown from start to date?
- (iv) the amount of electricity that has been generated to date and the quantity and value of that electricity that has been sold to the JEC?
- (v) the current status of landscaping on the site?

Answer

The new Energy from Waste plant at La Collette has processed all of the Island's municipal waste since the 24th December 2010.

The Energy from Waste plant achieved "Take Over" on the 29th July 2011. From this date the plant was handed over by the design and build contractor, CSBC (Jersey) Limited to the States of Jersey. Since the 29th July 2011 the Energy from Waste Plant has been operated by the Transport and Technical Services Department.

The contract between CSBC (Jersey) Limited and the Minister for Transport and Technical Services is not yet completed as there are two further Milestones for the contractor to achieve.

1. Issue of Performance Test Certificate. The performance tests are underway and are due to be completed by the end of June 2012.
2. 1st Anniversary of Performance Test Certificate. This is an extended availability test and lasts for 365 days following the completion and certification of the performance tests.

If the contract has not been completed, would the Minister advise -

- (i) the estimated completion date;

It is anticipated the contract will be complete by the end of June 2014.

- (ii) the cost of the contract to date;

The cost, paid to date for the Energy from Waste Contract 14th November 2008, is £99,414,332.

- (iii) the estimated cost of completing the Plant and who, and in what proportion, will be liable for these costs?

The cost to completion of the Energy from Waste Contract is £104,897,048. Providing that the performance tests and availability tests are passed in accordance with the Energy from Waste contract, the Transport and Technical Services Department will be liable for the remaining £5,482,715 costs as these costs form part of the original contract sums which were agreed to in the Energy from Waste Contract of the 14th November 2008.

If the contract has been completed, would the Minister advise –

- (i) the final cost of the project to date;

As the project is not yet complete the Minister is unable to provide the full and final cost for the project.

- (ii) the final cost of failing to hedge the contract?

As the project is not yet complete the Minister is unable to provide the final cost of failing to hedge the contract.

- (iii) the amount of waste incinerated to date together with a monthly breakdown from start to date?

- (iv) the amount of electricity that has been generated to date and the quantity and value of that electricity that has been sold to the JEC?

Whilst the project is not yet complete the Minister can provide up to date waste tonnages and electricity exported to the JEC.

	Waste Processed	Exported Electricity
	Tonnes	KWH
JAN 2011	994	
FEB 2011	5,027	
MAR 2011	3,677	919,680
APR 2011	5,896	1,313,116
MAY 2011	4,674	1,577,308
JUN 2011	5,030	2,420,847
JUL 2011	5,280	2,337,974
AUG 2011	8,850	3,768,930
SEP 2011	7,089	3,569,562
OCT 2011	6,773	3,982,166
NOV 2011	7,328	4,206,740
DEC 2011	2,268	836,962
JAN 2012	7,631	4,338,835
FEB 2012	5,528	3,169,699
MAR 2012	3,199	2,083,491
APR 2012	6,053	3,166,506
MAY 2012	4,135	2,177,786
Total to end of May	89,432	39,869,603

The unit value of the electricity exported to the JEC is based on the European power markets and is reviewed on an annual basis. This value is subject to a commercial agreement between the Jersey Electricity Company and the Minister for Transport and Technical Services and The Minister for Treasury and Resources.

(v) the current status of landscaping on the site?

The Eastern landscape mound has been profiled and planted. The growth is being monitored and where necessary new plants and trees will be put in to replace those that failed to establish themselves.

1.17 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE DELEGATION OF POWERS IN RESPECT OF PLANNING APPLICATIONS:

Question

Will the Minister advise Members, with regard to planning applications:

1. (a) the powers of, and relationship between, the Minister, the Planning Applications Panel and the delegated powers of his officers, and
(b) the circumstances in which one may overrule or vary the decisions of the others.
2. The procedure(s) adopted when the Planning Applications Panel rejects an application which is subsequently resubmitted to the Department and which
 - (i) has successfully met all the objections of the Panel;
 - (ii) has successfully met some of the objections of the Panel.
3. The nature and extent of the powers that have been delegated to officers?

Answer

1. (a) The Minister has delegated functions conferred upon or vested in him by virtue of the power conferred on him by Article 28(1) of the States of Jersey Law 2005 and article 9A of the Planning and Building (Jersey) Law 2002, as set out in the Scheme of Delegation for the Minister for Planning and Environment. Those parts of the Scheme of Delegation relating to Planning and Building services are included in Appendix 1 below.

In December 2011, the Minister approved an updated *Determination of Planning Applications: Code of Conduct for Minister for Planning and Environment*. The code of conduct ensures that there is a clear framework in place that indicates when the Minister might become involved in the consideration of individual development proposals. This framework assists the Minister, States Members, members of the public and Officers in understanding in what circumstances the Minister might become involved in considering development proposals. The code of conduct is published on the States of Jersey website.

The Planning and Applications Panel (PAP) also work against an approved code of conduct.

- (b)
 - (i) An application refused by the Department under delegated powers may be reviewed by the Planning Applications Panel if the applicant requests reconsideration.
 - (ii) A decision of the Planning Application Panel may be reviewed by the Minister if it is contrary to Department Advice.
 - (iii) A decision of the Minister cannot be reviewed, unless the Minister himself chooses to revoke a permission using his powers under Article 27 of the Planning and Building (Jersey) Law 2002.
- 2. There are no particular procedures set out for the examples quoted in the Deputy's question. Each new application is fully assessed based on its merits and the material considerations which apply to it at that time, notably the 2011 Island Plan.
- 3. Please refer to the answer given to question 1 (a) above.

Appendix 1

Scheme of Delegation for the Minister for Planning and Environment December 2011		
2. By virtue of the power conferred on him by Article 28(1) of the States of Jersey Law 2005 and article 9A of the Planning and Building (Jersey) Law 2002 the Minister has delegated the following functions conferred upon or vested in him		
Law	Detail/Involves	Delegated to whom
Planning and Building (Jersey) Law 2002.		
APPLICATIONS FOR PLANNING PERMISSION		
Article 9 (5) Article 9 (6)	Determining that an application has been properly made, that sufficient information is accompanying the application and that if this is not the case that the application can be refused.	<ul style="list-style-type: none"> • the Planning Applications Panel • the Chief Officer – Planning and Environment; • the Directors of Planning Development Control and Policy and Projects; • the Principal Planners and, Principal Historic Environment Officer and • the Senior Planners & Assistant Senior Planners
Article 11(3)	Determining that an application has been publicized in accordance with the Planning and Building (Application Publication) (Jersey) Order 2006	
Article 11(4)	Taking into account representations received in connection with a planning application	

Article 11(5)	Requiring evidence to demonstrate that an application for planning permission has been publicised or notified in the appropriate manner	
Article 11(6)	Provision of a copy of any part of an application for consideration or comment	
Article 13(1) Article 13(2) Article 13(3)	Determination as to whether an application for planning permission should be the subject of an Environmental Impact Assessment (EIA) and consideration of applications accompanied by an EIA	
Article 14	Consideration of any comments received from the relevant Highway Authority (if any) in respect of any effect any development that might have on highway safety	<ul style="list-style-type: none"> • the Planning Applications Panel • the Chief Officer – Planning and Environment; • the Directors of Planning Development Control and Policy and Projects;
Article 15	Consideration of any comments received from the Minister for Economic Development in respect of any effect any development might have on the harbour or airport	<ul style="list-style-type: none"> • the Principal Planners, Principal Historic Environment Officer • the Senior Planners & Assistant Senior Planners

Article 16	Consideration of any comments received from the Minister for Transport and Technical Services in respect of any effect any development might have on sewerage or drainage system, flood defence works, surface water issues or water quality.	
Article 17	Consideration of any comments received from any Minister or other body created by statute who has an interest in an application for planning permission	
Article 19 (save for Article 19(3))	Granting of planning permission either without conditions or subject to conditions following the submission of an application	
Article 19(3)	Grant of planning permission inconsistent with the Island Plan	<ul style="list-style-type: none"> • the Planning Applications Panel
Article 20	<p>Grant of planning permission for development already undertaken following the submission of an application.</p> <p>Grant planning permission for a development that does not accord with a condition attached to a previously granted planning permission</p>	<ul style="list-style-type: none"> • the Planning Applications Panel • the Chief Officer – Planning and Environment; • the Directors of Planning Development Control and Policy and Projects; • the Principal Planners, Principal Historic Environment Officer • the Senior Planners & Assistant Senior Planners
Article 21	Variation of a condition attached to a previously granted planning permission following an application to vary the condition	
Article 22	The giving of reasons for the grant or refusal of an application for planning permission	

Article 23	The attaching of appropriate conditions to any grant of planning permission	
Article 26	Termination of a planning permission which has been commenced but not completed by reference to time limit	
Article 28	Provision of a certificate of completion of a development	
<p>APPLICATIONS FOR BUILDING PERMISSION</p> <p>(BUILDING BYE-LAWS APPROVAL)</p>		
Article 34 (4)	Refusal of an application for building permission on the basis of appropriate details not being submitted	<ul style="list-style-type: none"> • the Chief Officer – Planning and Environment; • the Director of Building Control;
Article 35(2)	Granting of Building permission that is inconsistent with the Building Bye Laws	
35(3) & 35(4),	Granting or refusal of Building Permission (Building Bye Laws)	<ul style="list-style-type: none"> • the Chief Officer – Planning and Environment; • the Director of Building Control; • the Directors of Planning Development Control and Planning Policy and Projects; • Principal Building Control Surveyors; • Senior Building Control Surveyors; • Building Control Surveyors;
Article 36	Giving of reasons for the refusal of Building Permission (Bye Laws)	

Article 35(2)	Granting of Building permission that is inconsistent with the Building Bye Laws	<ul style="list-style-type: none"> • the Chief Officer – Planning and Environment; • the Director of Building Control;
ENFORCEMENT OF PLANNING AND BUILDING CONTROLS		
Article 40	Service of an Enforcement Notice where there has been a breach of Development Controls (Planning Controls and Building Controls)	<ul style="list-style-type: none"> • the Planning Applications Panel • the Chief Officer – Planning and Environment; • the Directors of Building Control; Planning Development Control and Planning Policy and Projects • the Principal Planners, Principal Historic Environment Officer and Principal Building Control Surveyors;
Article 42	Variation or withdrawal of an Enforcement Notice	
Article 45	Service, alteration or withdrawal of a Stop Notice	
Article 47	Service of an Enforcement Notice in respect of non-compliance with a condition attached to a planning or building permission	

SITES OF SPECIAL INTEREST		
Article 51	Maintenance of a List of Sites of Special Interest	<ul style="list-style-type: none"> • the Chief Officer – Planning and Environment; • the Director of Planning; • the Assistant Directors of Planning;
Article 52	Adding or removing of a building or place on the List of Sites of Special Interest	

Article 53	Provisional Listing of a building or place	<ul style="list-style-type: none"> • the Principal Planners, Principal Historic Environment Officer • The Director of Environment; • The Director Environmental Management and Rural Economy; • The Principal Ecologist
Article 54 (2)(a)	Grant of permission to carry out works to an SSI which whilst not amounting to development would affect the character of the SSI	<ul style="list-style-type: none"> • the Planning Applications Panel • the Chief Officer – Planning and Environment; • the Directors of Planning Development Control and Policy and Projects; • the Principal Planners, Principal Historic Environment Officer • the Senior Planners & Assistant Senior Planners • the Director of Environment; • the Director Environmental Management and Rural Economy; the Principal Ecologist

Article 55 (3)	This relates to allowing activities which are restricted on SSIs	<ul style="list-style-type: none"> • the Planning Applications Panel • the Chief Officer – Planning and Environment; <p>In relation to those activities indicated in Article 55 (1)(a) & (b)</p> <ul style="list-style-type: none"> • the Directors of Planning Development Control and Policy and Projects; • the Principal Historic Environment Officer <p>In relation to those activities indicated in Article 55 (1) (c) (relating to those activities stipulated in Article 55 (2))</p> <ul style="list-style-type: none"> • The Director of Environment; • The Director Environmental Management and Rural Economy; • The Principal Ecologist
PROTECTED TREES		
Article 58	Maintenance of a List of Protected Trees	<ul style="list-style-type: none"> • the Planning Applications Panel • the Chief Officer – Planning and Environment;
Article 59	Adding or removing a tree on the List of Protected Trees	<ul style="list-style-type: none"> • the Directors of Planning Development Control and Policy and Projects;
Article 60	Provisional listing of trees	<ul style="list-style-type: none"> • the Principal Planners, Principal Historic

Article 61(1)(a)	Grant of permission to carry out works to a Protected Tree	<p>Environment Officer</p> <ul style="list-style-type: none"> • the Senior Planners & Assistant Senior Planners • the Director of Environment; • the Director Environmental Management and Rural Economy; • the Principal Ecologist
DANGEROUS STRUCTURES		
Article 66	Serving of a dangerous buildings notice	<ul style="list-style-type: none"> • the Chief Officer – Planning and Environment; • the Directors of Planning Development Control and Planning Policy and Projects and Building Control; • Principal Building Control Surveyors; • Senior Building Control Surveyors; • Building Control Surveyors;
Article 68	Variation or withdrawal of a dangerous building notice	
Article 71	<p>Immediate action to ensure safety of a building</p> <p>This includes powers of entry to carry out any such works</p>	
PLANNING OBLIGATION AGREEMENTS		
Article 25	Entering into a Planning Obligation and modifying or discharging all or part of the obligations of that Agreement.	<ul style="list-style-type: none"> • the Chief Officer – Planning and Environment; <p>the</p> <ul style="list-style-type: none"> • Directors of Planning and Development Control and Planning Policy and Projects

CARAVANS

Article 99	Permission to import a caravan, campervan or any other vehicle with sleeping etc accommodation	<ul style="list-style-type: none"> • the Planning Applications Panel • the Chief Officer – Planning and Environment; • the Directors of Planning Development Control and Policy and Projects; • the Principal Planners and, Principal Historic Environment Officer and • the Senior Planners & Assistant Senior Planners • Enforcement Officers
Article 101	Attaching of conditions to the importation of a caravan etc	

ENVIRONMENTAL IMPACT ASSESSMENTS		
Planning and Building (Environmental Impact) (Jersey) Order 2006		
Article 3	Whether an environmental impact statement is required	<ul style="list-style-type: none"> • the Chief Officer – Planning and Environment; • the Directors of Planning Development Control and Planning Policy & Projects;; • the Principal Planners Development Control,
Article 4	What information (the Scope) should be provided in an environmental impact statement.	
PUBLICITY FOR PLANNING APPLICATIONS		
Planning and Building (Application Publication) (Jersey) Order 2006		
All of the powers and responsibilities conferred in the Minister	Powers relating to the publicising of applications for planning permission including extending the publicity period for more than 21 days and re-advertising a proposal	<ul style="list-style-type: none"> • the Chief Officer – Planning and Environment; • the Directors of Planning Development Control and Policy and Projects; • the Principal Planners, Principal Historic Environment Officer • the Senior Planners & Assistant Senior Planners
PUBLIC INQUIRIES (FOR INFORMATION)		
Planning and Building (Public Inquiries)(Jersey) Order 2008		No powers delegated
MOVEABLE STRUCTURES		
Planning and Building (Moveable Structures) (Jersey) Order 2006 (after Article 81 Of the Planning and Building (Jersey) Law 2002		

All the functions conferred upon or vested in the Minister	Grant of permission for an moveable structure (as defined by the order) attachment of conditions on a grant of permission and allowing retrospective permission	<ul style="list-style-type: none"> • the Chief Officer – Planning and Environment; • the Directors of Planning Development Control and Policy and Projects; • the Principal Planners, Principal Historic Environment Officer • the Senior Planners & Assistant Senior Planners
CONTROL OF ADVERTISEMENTS		
<p>Planning and Building (Display of Advertisements)(Jersey) Order 2006</p> <p>(after Article 76 of the Planning and Building (Jersey) Law 2002)</p>		
All the functions conferred upon or vested in the Minister	Grant of permission for an advertisement, attachment of conditions on a grant of permission and allowing retrospective permission	<ul style="list-style-type: none"> • the Planning Applications Panel • the Chief Officer – Planning and Environment; • the Directors of Planning Development Control and Policy and Projects; • the Principal Planners, Principal Historic Environment Officer • the Senior Planners & Assistant Senior Planners
HIGH HEDGES		

By virtue of the power conferred on him by Article 28(1) of the States of Jersey Law 2005 and subject to the conditions set out below, the Minister has delegated the functions conferred upon or vested in him under –

High Hedges (Jersey) Law 2008

Article 6	Whether a complainant has taken steps to resolve the situation, whether the complaint is frivolous or vexatious or whether the complaint is justified	<ul style="list-style-type: none"> • the Chief Officer – Planning and Environment; • the Directors of Planning Development Control and Policy and Projects;
Article 7	Issuing of a Remedial Notice provided that the Owner of the Hedge has not made any representation in connection with the Complaint	<ul style="list-style-type: none"> • the Principal Planners • the Senior Planners & Assistant Senior Planners
Article 9	Withdrawal of a Remedial Notice and issuing of an amended Notice if appropriate	<p>NOTE – the Planning Applications Panel do not have any powers to determine High Hedges applications as neither the States of Jersey Law 2005 or the High Hedges (Jersey) Law 2008 allow for such a delegation</p>

1.18 CONNÉTABLE OF ST JOHN OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING POWER CUTS EXPERIENCED IN THE ISLAND OVER THE PAST 10 YEARS:

Question

Would the Minister, as the representative of the shareholder, provide a detailed breakdown of the numbers of power cuts which have occurred in the Island over the last 10 years, indicating the dates and whether they affected the whole Island, specific Parishes, districts or areas; the duration of each power cut, and the cause of each one?

Answer

Jersey Electricity, as a plc listed on London Stock Exchange, reports on security of supply performance in an audited Annual Report each year. The simplest, and main industry recognised, method of comparing electricity supply reliability is by monitoring Customer Minutes Lost (CML's). This measures the average number of minutes in each year that a customer's supply has been interrupted and is seen as the most meaningful Industry measure. The table below shows the comparative performance of Jersey Electricity over the last 10 years, against the UK and similar island jurisdictions. As can be seen, the performance in Jersey is favourable compared to other regions and supply security is, on average, among the best in Europe.

CML's	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	Average
Jersey Electricity	10	27	12	11	39	58	5	9	10	45	23
Gurnsey Electricity	34	68	53	15	12	34	37	19	23	10	31
Manx Electricity	29	87	87	21	21	21	17	10	24	12	33
UK											80

In response to the Connétable's question, information on the number of systems faults is also monitored by JEC. However this is not held at the level of detail asked for. A summary of the System faults over the last 10 years are as follows:-

System Faults (Jersey)									
Financial Year	02/03	03/04	04/05	05/06	06/07	07/08	08/09	09/10	10/11
High Voltage	14	5	8	8	12	2	5	2	6
Low Voltage	121	114	89	91	90	74	70	77	81
Totals	135	119	97	99	102	76	75	79	87

The following table shows that a fair proportion are outside of JEC's control, caused by third party damage faults (e.g. a developer cutting through a power line).

Third Party Damage Faults (Jersey)									
Financial Year	02/03	03/04	04/05	05/06	06/07	07/08	08/09	09/10	10/11
High Voltage	5	3	3	2	3	0	1	0	1
Low Voltage	27	34	31	41	35	25	27	28	26
Totals	32	37	34	43	38	25	28	28	27

It is not possible to provide a breakdown by Parish, District or area.

1.19 DEPUTY OF ST. OUEN OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE USE OF ADDITIONAL FUNDING WITHIN THE HEALTH AND SOCIAL SERVICES DEPARMENT:

Question

Will the Minister provide a detailed and itemised breakdown of how the extra funding of £1,758,000 for 2012 recently allocated by the Minister for Treasury and Resources will be used to provide immediate additional support to our Island's health and social services and in particular identify precisely which essential community based front line services will benefit from the additional funding and by how much?

Answer

HSSD is currently finalising detailed plans and costings and subjecting them to a rigorous process of internal review and scrutiny. It is envisaged that this work will be completed over the coming weeks and at that point the information will be made available to all States members. HSSD is also working with the Treasury to ensure a system is in place to hold HSSD to account for how this money is used.

Subject to final clarification it is envisaged that the broad areas of activity will include:

Managing capacity pressures in the Hospital through intermediate provision – approximately £700,000

At present Islanders who are not well enough to be at home are often admitted to hospital, or kept in hospital, simply because of the lack of viable, appropriate alternatives. HSSD is therefore intending to commence work with the independent sector in order to support provision of 'step up' and 'step down' beds (ie. care facilities outside the hospital which act as a bridge between acute care and home). In addition Islanders will be offered appropriate 24/7 support services in their own homes, allowing them to return home quicker and stay at home longer.

This is better for patients and also opens up capacity in the hospital to treat other Islanders. Spend in this area will include some of the specialist staff and equipment required to support such provision.

End of life care – approximately £200,000

This money will enable community based third sector organisations to provide support and services for people at the end of their lives.

Improved respite – approximately £200,000

This money will be made available to extend respite care services for both adult and children, in order to support them and their families.

Improved services for adults – approximately £100,000

This money will be help support the restructuring of existing services for homeless adults thus ensuring improved provision for this vulnerable group.

Workforce planning and recruitment - £150,000

It is a well documented fact that HSSD faces particular challenges associated with the recruitment and retention of staff. These are further complicated by the need to recruit approximately 145 additional FTE posts in 2013 and to undertake urgent medical manpower planning in order to deal with the significant number of clinical staff coming up to retirement.

HSSD will therefore invest these monies in additional short-term capacity to support existing clinical teams to develop robust workforce plans plus provide essential training and skills development.

Implementing the White Paper Changes - approximately £400,000

HSSD is undertaking an ambitious and complex change programme in partnership with key stakeholders and external service providers. Central to this is the development of detailed implementation plans, which need to be in place the end of 2012. Professionals with specialist planning skills are required to support our clinical staff, third sector partners and other service to develop and test these plans. The skills and capacity required are not available within HSSD existing workforce.

1.20 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR HOME AFFAIRS REGARDING THE INMATES AT H.M.P LA MOYE SERVING SENTENCES FOR DRUG RELATED OFFENCES:

Question

What is the total number of inmates at H.M.P. La Moye, as at the week commencing 25th June 2012?

What number and percentage of those inmates are serving sentences relating to the possession, circulation and importation of drugs?

What percentage of these are Cannabis related?

What is the average daily cost of keeping a prisoner at H.M.P. La Moye?

Answer

The total number of prisoners held by the States of Jersey Prison Service at unlock on Monday 25 June 2012 was 158.

The average prison population for 2012 to date is 158, compared with 184.5 for 2011 and 176.8 for 2010.

The total number of prisoners who are currently in prison for a drug offence is 70. This figure represents 44.3% of the prison population.

The percentage of drug offences that directly relate to cannabis is 31%, so this represents 13.7% of the prison population.

The daily cost for keeping a prisoner in prison in Jersey during 2011 was £156.94 based on the total prison expenditure for 2011. This is an accurate figure. It is not possible to give an accurate figure for 2012 because the population of the prison is fluctuating and it would require an estimate to be made of the population for the remainder of the year. However, if the average prison population for 2012 remained at 158, then it is anticipated that the daily cost for 2012 would be approximately £184.50 based on the prison’s net budget or £191.32 based on the gross budget (see table below).

Daily cost of keeping a prisoner			
Year	Based on prison’s	Based on prison’s	Based on the

	net budget	gross budget	prison's total actual expenditure
2011	£157.51	£163.95	£156.94
2012	£184.50	£191.32	£?

1.21 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING ENFORCEMENT ACTIONS UNDERTAKEN BY THE JFSC:

Question

Will the Minister advise members of the following information about the Jersey Financial Services Commission (JFSC) –

- (a) the number of enforcement actions and their outcomes for each year since the inception of the JFSC, broken down into the different types of activities regulated by it ie. banking, trusts, companies etc?
- (b) the number of court actions commenced by the JFSC for each year since its inception, identifying the institutions concerned, broken down into the different types of activity it regulates showing which were abandoned or completed and in the case of the latter their outcomes?
- (c) the amount of money held by the Commission to fund court and/or enforcement actions each year since the JFSC's inception and how much was expended in those years on court cases and other enforcement actions?

Answer

- (a) The Commission has undertaken just under 900 enforcement investigations since its inception in 1998.

Enforcement investigations are not classified according to 'types of activities'. To do so would make little sense given that one investigation may cover a number of different areas of industry.

Neither are enforcement investigations classified by their 'outcomes'. The investigations themselves comprise a wide range of activities: the formal use of regulatory powers; the service of notices requiring production of information; formally requiring persons to attend at the Commission to answer questions; the service of directions requiring the business to do something; the release of public statements to censure a business (to name but a few). The outcomes are equally wide ranging and to classify in this way would be problematic and, again, serve little purpose.

The numbers of enforcement investigations undertaken since 1999 are set out in the table below.

<i>Year</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>	<i>2002</i>	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
<i>No. of actions</i>	39	78	95	74	69	54	46	47	72	64	78	80	102	71

- (b) The regulatory laws restrict the Commission from providing any details surrounding court applications which are not in the public domain e.g. applications to secure a search warrant.

The Commission is also unable to provide details of cases where a court application was either anticipated or commenced and a confidential settlement was achieved prior to proceeding to full trial.

The cases listed below are derived from public records and are available through www.jerseylaw.je.

They do not include cases:

- where the Commission has supported an application by a third party e.g. an application for a winding up order by a regulated company facing insolvency;
- where the Commission is defending an appeal lodged under the provisions of the regulatory laws, objecting to the exercise of the Commission’s regulatory power; or
- where the Commission has identified criminal conduct which is then pursued by the Police.

JFSC v AP Black (Jersey) Ltd, Cater Allen Trust Company (Jersey) Ltd, Langton and Black (2002 – JRC 443)

Restitution proceedings against bank-owned trust company and recovery of costs. Application upheld by the Court.

JFSC v Alternate Insurance Services Limited, Clark and Le Fustec (2007 JLR 95)

Restitution proceedings against insurance service provider following reckless mis-selling of investments. Application upheld by the Court.

JFSC v Equity Trust & Ors (2007 JRC 229)

Proceedings against large independent trust company for removal of trustee and manager of three collective investment funds. Application partly successful.

- (c) The Commission does not hold an amount of money specifically to fund court actions. Instead, the Commission has built and maintains an accumulated reserve fund in order to meet contingencies, which contingencies include provision of funds to pursue investigations and litigation. In this specific regard, the Commission’s policy has been to build up the accumulated reserve to an amount equal to six months’ operating expenditure plus the average of the last five years’ cost of investigations and litigation.

The table below shows the annual balance of the accumulated reserve fund together with the costs incurred annually in investigation and litigation.

	Commission reserves	Investigation and litigation costs
	at the start of the year (£000)	incurred during the year (£000)
1998 (6 months)	603	206

1999	961	87
2000	1,521	331
2001	1,555	1,287
2002	2,502	340
2003	3,700	632
2004	4,168	900
2005	3,036	1,143
2006	3,793	519
2007	4,684	882
2008	4,987	462
2009	5,697	444
2010	5,886	522
2011	6,496	477
2012	7,133	<i>(forecast) 1,000</i>

Should any States member have a particular interest in learning more about the enforcement role of the Commission, the Commission have indicated their willingness to provide individual or collective briefings.

1.22 DEPUTY M. TADIER OF ST. BRELADE OF THE CHIEF MINISTER REGARDING THE QUEEN ELIZABETH II FIELD CHALLENGE:

Question

Further to his response on 15th May 2012, in answer to my question relating to the Queen Elizabeth II Field Challenge, when the Chief Minister said that the Diamond Jubilee Committee was working very hard and that the scheme was not secretive, will he inform members of the number of formal (minuted) meetings held since my question was asked and advise when the public will be requested to nominate fields in line with the Field Challenge criteria?

Answer

The Diamond Jubilee Committee supports the Queen Elizabeth II Fields Challenge and remains confident that a suitable site will be found to receive the status in Jersey. There have been no formal meetings of the Committee since I gave my response to Deputy Tadier on 15th May 2012, but a meeting will take place shortly and a way forward will be identified.

The Queen Elizabeth II Fields Challenge is not driven by a deadline, and I am confident that the local community will be given the opportunity to participate in the campaign.

1.23 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR HOUSING REGARDING BENCHMARK STANDARDS FOR PRIVATE RENTAL ACCOMMODATION:

Question

What percentage of private rental accommodation in the Island does the Minister believe would not meet the Department's own 'acceptable standard' benchmark?

Are the standards of private rental units monitored in any meaningful way and is this an area of concern for the Minister?

What steps, if any, is the Housing Department taking to look into accommodation in the private sector which does not 'meet the grade'?

Answer

Some Members will be aware that when they approved the establishment of the Population Office (P.25/2005) they made the first of a number of changes which altered the responsibilities and remit of the Housing Department. These changes continued with the creation of Jersey Property Holdings (P.93/2005) and the transfer of the Rent Abatement and Rent Rebate Schemes to Social Security as part of the Income Support Scheme. The consequence of those changes is that the Housing Department has halved in staff numbers and is now just a social landlord which concerns itself with the management of 4,500 social homes providing accommodation and support services for around 13,000 people, some of whom represent the most vulnerable in our society. There are just 44 staff at the Department and as we have learned from the work undertaken on my Housing Transformation Programme this represents an extremely lean organisation with as few as 50% of the staff one might see in other jurisdictions.

It is precisely because of this unclear responsibility and the Department's much narrower remit that I am proposing that it be transformed into a wholly States-owned Housing Association so that it can further enhance its focus on the provision of landlord services to tenants. All of the existing homes and all of the staff other than two specialist staff working on the Affordable Housing Gateway will transfer to the new Association on the same terms and conditions which they presently enjoy as States employees. This will ensure continuity of service for tenants.

What all this clearly demonstrates is that the Housing Department does not have any responsibility for overseeing the standards of homes in the private rented sector and it has never had that responsibility. However, standards are enforced to some degree by the Minister for Health & Social Services' Health Protection Unit when a complaint is made in relation to a danger to public health. In relation to Registered Lodging Houses the Population Office provides a full registration and inspection regime. I am aware that the Minister for Health & Social Services is developing proposals to introduce new legislation on housing standards to enhance the health protection provisions which would apply across all housing tenures.

In the "Achieving Decent Homes" White Paper I am proposing the establishment of a Strategic Housing Unit who will produce for the first time a much needed Housing Strategy for the Island. This will ensure that clear accountability and direction for housing policy matters across government is introduced and that matters such as the condition of private sector properties can be appropriately addressed. Notably, the Jersey Annual Social Survey 2009 indicated that 7% of those in the residentially qualified private rental sector, considered the state of repair of their home to be "Poor" and the Strategic Housing Unit will need to consider measures to tackle this.

1.24 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING CHANGES TO COMPANY TAX POLICY:

Question

Further to responses given on 29th May 2012 and 12th June 2012 on changes to tax policy in respect of locally and non-locally owned companies, will any of the potential tax extensions apply to the new companies created by inward investment in the oil, gas and mining sectors whose “shareholders are worldwide and fluid” and if not, why not?

Will mechanisms for “restricting tax reliefs for companies” referred to in the answer to question 6916 on 12th June 2012, also apply to such companies and, if not, why not?

Will the Minister detail the current rules for non-resident landlords and state how these rules might be tightened along with how much tax revenue might be produced by such measures?

Answer

In all of his questions on this matter, the Deputy refers to non-locally owned companies. As the Minister has noted on a number of occasions any tax measures relating to companies cannot discriminate on the basis of ownership as to do so would not meet the Code of Conduct for Business Taxation.

The key feature of Jersey’s tax regime for companies is the provision of a tax neutral environment which is particularly important for companies such as those referred to in the question. As the Deputy states, the shareholders are worldwide and fluid. Such investors will often hold their investments in tax neutral vehicles to minimise the risk of double or multiple levels of taxation. This does not mean no tax is paid on the investment returns. Tax is paid on the activities in which the investment company invests and by the investors when they receive income. If Jersey could not provide a tax neutral environment for such companies, they would not locate in Jersey. Jersey would then lose the benefit provided by these companies.

Further details in the form of briefings and a report will be provided to all States Members on the work which has been done and what is proposed in relation to non financial services companies.

The reference to “restricting tax reliefs for companies” relates to a proposed budget measure which is still in development. For that reason no further detail can be provided at this stage but the potential measure is not sector specific. Therefore if these companies avail of the relief, restricting that relief would apply to these companies.

As regards non-resident landlords, again this is a proposed budget measure which is intended to improve the collection of outstanding tax from non-resident landlords. Further details will be provided in the 2013 Budget Statement.

1.25 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING JOB OPPORTUNITIES WITHIN MINING COMPANIES REGISTERED IN JERSEY:

Question

Will the Minister state why he refused to give the names of companies in the oil, gas and mining sector registered in Jersey and confirm that Glencore International PLC’s registered address is Queensway House, Hilgrove Street, St Helier?

Since this company has its headquarters in Switzerland and is not conducting mining operations in Jersey, can the Minister state what activities are actually taking place in the Island, and, if not, why not?

Will he further state what taxes, fees or charges such a company will be subject to in Jersey?

How many of the 53 “job opportunities” in this sector arise from this company’s registration and what those jobs are and, if not, why not?

Can the Minister state what relationship exists between the mining company and its share registrar, Computershare Investor Services (Jersey) Limited and advise whether any of the “job opportunities” are related to this company?

Answer

I refused to list specific names of companies in the States Assembly for the reason given to question 1240/5/6937 and I refer the Deputy to Hansard.

My role as Minister for Economic Development is to support business and grow the economy. To do this, we need to promote Jersey as a jurisdiction that is open for inward investment. Naming an individual company and requesting specific details about their legitimate business affairs using public States procedures is in my view is inappropriate and damaging to our professional reputation.

However, for the purposes of clarity, I can say that if the Deputy is under the impression this company is one of those referred to that were supported by Economic Development to move to Jersey in the oil, mining and gas sector, he is mistaken. As such none of the job opportunities detailed in my previous answer and detailed by the Deputy relate to this company. For the avoidance of any doubt my Department has no relationship with this company. If the Deputy wishes to find out specific details about the company, he should contact the company directly or access the public records available at the Jersey Financial Services Commission.

As the Deputy was unable to attend the briefing on the Economic Growth and Diversification Strategy, I would be happy to arrange a meeting to discuss the strategy in particular issues relating to inward investment in which the Deputy seems to have a keen interest.

1.26 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING JOB OPPORTUNITIES CREATED BY INWARD INVESTMENT:

Question

Of the 128 businesses locating in Jersey contained in Appendix 2 of the Economic Growth and Diversity Strategy, how many of these companies are actually trading in Jersey, and how many are merely registered or headquartered here?

Given that the June Labour Market survey is usually not delivered until October, and that the figures contained in Appendix 2 of the growth plan on job creation are critical to its debate, will the Minister either

- a) deliver the 2011 figures of jobs delivered in time for the debate on the strategy, or

- b) produce figures for “job opportunities” created up to June 2011 which can be assessed in terms of jobs delivered in the December 2011 Labour Market survey?

Can the Minister explain why the retail “job opportunities” in Appendix 2 of P.55/2012 contain a higher proportion of non locally qualified (NLQ) jobs than the sector average and, if not, why not?

Will the Minister state how many “job opportunities” were created by inward investment in the first half of 2011 and how many locally qualified positions were filled by December along with the equivalent figures for NLQ positions?

Answer

The 128 inward investment businesses have all been licensed as required under the Regulation of Undertakings and Development (Jersey) Law as they are carrying on a trade, business or profession in the Island. These businesses have provided business plans stating that they will have staff and premises in the Island.

There are many businesses which have registered addresses in the Island. These do not form part of the inward investment figures as they have no requirement to engage with my department.

My department is currently undertaking work to establish how many of the job opportunities created for the period to December 2011 have been filled and will provide a breakdown as to locally qualified and non-locally qualified jobs. This information will be available before the debate of P55/2012.

The proportion of non-locally qualified positions in the retail sector is broadly similar across those listed in Appendix 2 of P55/2012 and those for the wholesale and retail sector as whole.

1.27 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE MEASUREMENT OF THE NUMBER OF HIGH-VALUE JOBS CREATED THROUGH THE ECONOMIC GROWTH STRATEGY:

Question

What mechanism will the Minister be using to measure success in creating high-value jobs through the Economic Growth Strategy?

Since P.55/2012 aimed to increase diversity in the economy, why is spending on the rural sector reduced and spending on tourism increased by only 6%, whereas spending on the finance sector is increased by 40% to £3.8 million over the period 2012 to 2015?

Is the £3.8 million sum allocated to the finance sector additional to the sums to support Jersey Finance Limited and, if so, what will be the total spend allocated to the finance sector in 2015?

Answer

Taking each element of this question in turn:

What mechanism will the Minister be using to measure success in creating high-value jobs through his economic growth strategy?

Job opportunities created will be measured using information gathered through regular reporting under the Housing and Work (Jersey) Law.

The relative value of the job opportunities being created will be measured through indicators of gross value added per person employed. This will include assessing the likely profits of the businesses involved and the wages/salaries of its employees, the skill levels of the jobs created, the training offered for local employees and consideration of the likely tax revenue or other financial returns for the States.

Since P.55/2012 aimed to increase diversity in the economy, why is spending on the rural sector reduced and spending on tourism increased by only 6%, whereas spending on the finance sector is increased by 40% to £3.8 million over the period 2012 to 2015?

The Deputy is, mistakenly, applying a very specific interpretation of the term ‘diversification’. As stated in P.55/2012, ‘*economic growth and diversification is not an end but a means to an end*’. The reason that diversification is not an ‘end’ in itself is that diversification cannot mean diversifying away from high value sectors towards low value sectors, as this would mean a combination of significant tax rises alongside lowering the standard of public services which, in my view, is unacceptable.

There are four strategic aims of the Economic Growth and Diversification Strategy (EGDS) that are clearly listed in P.55/2012. Strategic Aims 1 and 3 outline how we intend to achieve diversification into new high value sectors such as e-commerce. Strategic Aim 2 sets out how we intend to achieve further diversification *within* financial services, which is already a very diversified sector. Tax receipts from financial services provide Jersey with the highest proportion of GVA (c.40% in 2011). This funds a significant proportion of our public services. It is vital that we grow this sector, which will in part be delivered through expanding into new markets and developing new financial services products. Additional funds have been allocated to this area to achieve this critical aim.

The rural and tourism sectors are dealt with alongside all other sectors of the Jersey economy under Strategic Aim 4. Both remain important industries to Jersey and bring wider benefits to Island life. In terms of the rural economy we are honouring the spending commitments made in the Rural Economy Strategy, which was published in 2011 and had already identified savings that could be achieved; primarily through the phased withdrawal of grants. We have as the Deputy highlights proposed an increase to the Tourism budget representing ‘only’ a 6% increase – putting this into context however, Tourism already accounts for almost 40% of the EDD budget, therefore this small additional amount corresponds to a significant sum. It is however worth pointing out that as set out at 4.3 of the EGDS, future support for both tourism and the rural economy is predicated upon increasing both productivity and local employment allied to reducing the reliance on inward migration

Is the £3.8 million sum allocated to the finance sector additional to the sums to support Jersey Finance Limited and, if so, what will be the total spend allocated to the finance sector in 2015?

The £3.8 million sum is inclusive of the sum to support Jersey Finance Limited.

1.28 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE OVERPAYMENT OF INCOME SUPPORT:

Question

“Will the Minister produce an estimate for –

- (i) the numbers of Income Support overpayments and underpayments that occur annually;
- (ii) the average sum overpaid;
- (iii) the most common causes of overpayments, that is, the change of circumstance that triggers an over- or underpayment, and
- (iv) where error can be identified, what percentage is the fault of the applicant or that of the Department?”

Answer

Income Support is designed such that over and underpayments will arise.

Income Support benefit is always paid in advance, on either a weekly or four-weekly basis. Any change of circumstance that occurs after a payment has been made and during the period paid for, which affects the value of the claim rate, will result in the need for a payment adjustment in respect of the over or under payment.

The most common reason for an adjustment (an over or under payment) is a change in employment. This could either increase or decrease the level of Income Support payment. In some cases, all the details of the change will be known in advance and the claim can be amended to pay at the correct rate for a future date. However, it is more usual that there is a short delay before the claimant provides all the details to the Department. When this change is processed, an adjustment will be included to take account of the underpayment or overpayment during this time.

The Income Support team is currently processing over 11,000 individual changes on an annual basis, and these figures are expected to increase as a result of the continuing economic downturn. Depending on the nature of the change, an adjustment may be created as part of the processing of the change. In addition, large numbers of changes are made automatically to claims on a regular basis. Automatic changes do not generate adjustments as they are always made in advance of the change itself. These include the up-rating of old-age pensions and other contributory benefits in October each year and increases in rentals and service charges for housing department tenants.

Against an estimate of 11,000 manual changes per annum, 6,246 payment adjustments were created in respect of income support claims during 2011. (3,558 underpayments, 2,688 overpayments). The average overpayment created during 2011 in respect of sums overpaid and leading to an adjustment in the claim is estimated at £138 (median).

The most common reasons for a payment adjustment to an Income Support claim include:

- change of income or employment
- change of accommodation;
- receipt of an additional benefit; and
- change in the membership of an Income Support Household.

A significant number of larger underpayments are generated by the award of impairment components for long-term illness and disability. These awards require information from both the claimant and the claimant's GP and the collation and assessment of this detailed information

commonly takes several weeks. The award is then backdated to the date on which Income Support received the initial application, which can often result in a large underpayment being paid.

It should be noted that the great majority of the adjustments referred to above are not the result of any error. They represent standard payment adjustments used to adjust for short periods when customers were over- or underpaid.

When a customer error is identified, it will be rectified as soon as possible. This can lead to the need for an adjustment. However, as this is included as part of the overall process for the administration and checking of changes to claims, the number of such errors is not recorded separately. It is therefore not possible to identify the percentage of errors made by claimants, as opposed to the Department.

4. Oral Questions

4.1 Deputy T.M. Pitman of St. Helier of the Minister for Health and Social Services regarding hospital waiting times for psychology services:

What is the current waiting time for people urgently waiting to see a psychologist?

Deputy A.E. Pryke of Trinity (The Minister for Health and Social Services):

Adults currently wait approximately 6 to 8 weeks for psychological assessment. After assessment those that require counselling can access a programme after approximately 4 to 6 weeks. Those who have more complex needs and require one-to-one therapy are currently waiting between 3 to 6 months. For older adults the wait is approximately 2 months for counselling and for older adults the wait is up to 6 months for one-to-one therapy.

4.1.1 Deputy T.M. Pitman:

With due respect to the Minister, waiting 3 weeks to hear back after your doctor writes and then 5 weeks for an appointment in such an affluent island, what use is that for someone who is at serious risk of suicide from depression?

The Deputy of Trinity:

The referrals are done by a clinical decision. If there is a crisis point then I am sure the consultant will see that patient very soon. It is not acceptable and that is one of the reasons why we have, as part of our White Paper, identified the needs to improve psychological services. That is one of our 5 main key areas for the next 3 years.

4.1.2 Deputy G.P. Southern of St. Helier:

Could the Minister state whether these times have increased over recent years and could she inform the House whether there are any problems recruiting in this particular area?

The Deputy of Trinity:

There is an increase as there is an increase in demand over all areas of our use of the hospital. That is why the White Paper and our redesign of Health and Social Services is so important. Part of it has been due to staff shortages but it is not due to lack of recruitment.

4.1.3 Deputy T.M. Pitman:

I am well aware from a previous profession that young people waited a very long time indeed, so clearly - I appreciate this is not all the Minister's fault - things are not exactly improving. What assurances can she give the House that steps are being taken very urgently to rectify this?

The Deputy of Trinity:

As I have said, in the White Paper with the redesign of Health and Social Services, improved access to psychological therapies is one of our 5 key aims. That has got a resource factor to it. It is going to redesign that with a view of being more out into the community, being able to access it out in the community, more stepped care, more input put into psychological wellbeing workers, and high intensity workers. So we identified that it is a problem and it is a big problem; that is why it is one of our key main areas.

4.2 Deputy J.A. Martin of St. Helier of the Minister for Social Security regarding inappropriate deduction of social security contributions from redundancy payments:

What advice, if any, is provided by the staff at Social Security Department to all local employers to ensure that they are aware that the employee 6 per cent social security contribution should not be taken from any redundancy payments, and will he undertake to ensure that any employees who have had this contribution taken from their redundancy pay in the last 2 years receive a full refund?

Senator F. du H Le Gresley (The Minister for Social Security):

The department sends every new employer who registers with the department written information and advice on their responsibilities under the law. Information on any changes in contribution legislation is circulated to all current employers. In addition, information is available on the States of Jersey website, which includes 2 tables headed "Items to include in an employee's gross wages" and "Items not to include in an employee's gross wages". These tables include entries for redundancy (pay not included), holiday pay and in lieu of notice (payments included). Employees contemplating redundancies will often contact the department to ensure that the correct procedures are followed. The Jersey Advisory and Conciliation Service also provides detailed information to employers. It is not possible for me to provide an undertaking to identify all employees who have been made redundant in the past 2 years as the department does not hold this information. I can confirm that in the last 2 years the department has only received one complaint on this matter, when it was discovered that the employer in question had made a genuine mistake. If any member of the public believes that contributions have been deducted in error from any redundancy payment they should contact the department for further advice.

4.2.1 Deputy J.A. Martin:

I am sure the Minister did not mean to mislead the House; when he says one complaint, he means from one employee, who is one of 200 people who have had their redundancy pay subject to social security. I am sure he does not mean to mislead the House but that would assume he has. The question is this firm, Social Security were buzzing around this firm giving advice to employees and staff on redundancy pay for the last 6 months, so why did the company decide to take social security from the wages? It is not done in the U.K. (United Kingdom) so did they make it up? There has been a failure in Social Security and I want the Minister to find out why because even today if you go down there with your wage slip people on the front desk do not know that this is wrong. I want the Minister to undertake some sort of responsibility and sort this one out. People are owed hundreds of pounds...

The Bailiff:

Your question, Deputy, is?

Deputy J.A. Martin:

The question is will he accept responsibility? It is not one complaint. There are at least 200 people that he knows about. Now how many other people have done this since we brought in this new law? Social Security themselves do not know.

Senator F. du H. Le Gresley:

I feel suitably scolded by the Deputy, however when I said there was only one complaint, I meant about one employer, not referring to the number of employees that might be employed by that employer. It is not possible for me to go into the details of one particular case; however I can advise Members that there is a requirement which we recently approved in this Assembly for any employer making 12 or more employees redundant to notify the Minister, that is myself, in advance. This enables my staff to go into the offices of the employer to meet the staff and go through all the necessary advice and also advise the employer about their responsibilities with reference to social security contributions. So I do feel that the criticism that the Deputy is levelling at my department is unfair.

4.2.2 Deputy G.P. Southern:

One error in this area is one too many. Will the Minister circulate his list of employers, indicating that this procedure - the docking of social security payments from redundancy payments - should not happen?

Senator F. du H. Le Gresley:

I do not consider that it is necessary to do that. I have already explained that the information we give to employers makes it quite clear that redundancy payments should not have social security contributions deducted, it is on the website and, as I say, when we are notified of a redundancy we speak to the employer and the employees, if that is the wish of the employer. I do not believe it is necessary.

4.2.3 Deputy G.P. Southern:

If I may, a supplementary? Given the presence of his officers in this particular company the error still seems to have occurred. Does he not agree that it is insufficient to take the measures that he already has done and further measures are required?

Senator F. du H. Le Gresley:

No, I do not agree.

4.2.4 Deputy J.A. Martin:

I am very sorry the Minister has taken this attitude because he really has the responsibility. In this House when we knew this large company was going to be making redundancies, he said that they were working closely with officers and staff. The misinformation that has circulated, even to people being made redundant... Staff from Social Security has said: "If you are getting redundancy do not come back for X amount of weeks which you are being paid redundancy for." It is ridiculous.

The Bailiff:

You are coming to your question then, Deputy.

Deputy J.A. Martin:

I am sorry, I have to push the Minister on this. I want him to make this known. I want him to do an internal review and find out who was working in this company and how they came to the conclusion that Social Security needed to be taken. National Insurance is not taken through redundancy...30,000 in taxes taken into consideration, so we have the same system. Did they make this one up? Now the Minister for Social Security must take some form of responsibility and get

this audited or we will have to keep on about this and keep informing the public. There are people out there who are owed money and they do not even know it and the Minister is refusing to take any responsibility.

The Bailiff:

You must come to a question, Deputy. We have not had one so far, I do not think.

Deputy J.A. Martin:

Sorry, I absolutely want him to reconsider. I have been dealing with this...

The Bailiff:

Right, you have asked it. Will you reconsider, Minister?

Senator F. du H. Le Gresley:

I understand the concern of the Deputy about this particular complaint and my officers tell me it was a genuine mistake made by the company in question. We are working with that company to make sure that any employees who have had deductions are reimbursed, but initially our job is to reimburse the employer who in turn reimburses the employee. There is nothing more to be done. There is no investigation required. An error has occurred and it is being put right.

[10:00]

The Bailiff:

Just before we come to the next question, I have just been advised there are 2 members of the Electoral Commission in the Assembly watching our proceedings, Mr. Storm and Professor Sallis, so no doubt Members would wish to just welcome them and trust that they learn from this experience. **[Approbation]**

4.3 Deputy M.R. Higgins of the Minister for Economic Development regarding reputational issues arising from the K2 tax avoidance scheme which was being promoted in the United Kingdom:

Does the Minister consider that the revelation about the K2 tax avoidance scheme being promoted in the United Kingdom from Jersey has damaged the Island's reputation as a well-regulated and responsible financial centre and undermined the policy of attracting high net worth individuals to come to live in Jersey, and if not why not?

The Bailiff:

Chief Minister, I understand you are going to answer this question on behalf of the Minister for Economic Development.

Senator I.J. Gorst (The Chief Minister - rapporteur):

Indeed, Sir, thank you. Anything that might impact on the Island's reputation as a well-regulated and responsible financial centre must be of concern. However, I think it is recognised by those doing business with Jersey that in this case it is the U.K. laws that have allowed the publicised scheme to be promoted by U.K. tax advisers for use by U.K. residents and that Jersey is one of many jurisdictions can find that it is being used in connection with such schemes. What I believe is important for the protection and enhancement of the Island's reputation is having the right policies in place and for there to be a clear commitment to those policies on the part of all concerned. We expect this message to be understood and acted upon by all who have a part to play in supporting the policy objectives of the Jersey authorities in continuing to enhance the Island's reputation as a

well-regulated and responsible international finance centre. The questioner has referred specifically to the policy of attracting high net worth individuals. I am confident that this policy has not been undermined by the recent press publicity because those individuals will recognise that the fundamental attractions of Jersey as a place of residence have not changed.

4.3.1 Deputy M.R. Higgins:

A number of questions arise from that, but I will just ask one. First of all, you mentioned policies. He expects people to follow policies. What policies are there that his department or other departments have laid down to these people? What guidance is being given and what action are you taking against people who are promoting schemes which will damage the reputation of this Island?

Senator I.J. Gorst:

The Deputy will be aware that it has been Jersey Government policy for a number of years that we comply with all relevant international standards. That policy is shown to be acting by the results that we receive from observations and reports from the I.M.F. (International Monetary Fund) and O.E.C.D. (Organisation for Economic Co-operation and Development), I think that is quite clear. The Deputy refers to promoters of this scheme. As I said in my answer, and has been quite clearly shown, the promoter of the scheme is being done in the U.K. by a U.K. promoter. I am not sure what the Deputy is asking me to do in that regard. That is something for the United Kingdom Government to deal with.

4.3.2 Deputy M.R. Higgins:

With respect, just following up on that, Jersey firms are engaged in these practices. The U.K. promoters could not do what they are doing without the support of the Jersey companies. We are getting the blame for not only the U.K. promoters but also the actions of some of our Jersey companies.

The Bailiff:

So what is the question, Deputy?

Deputy M.R. Higgins:

Does the Minister not agree?

Senator I.J. Gorst:

I am not really sure what the Deputy was asking me. I was quite clear that in the publicised scheme it is my understanding that it was indeed a U.K. promoter. Of course the scheme is administered in Jersey, it could quite easily have been administered in Luxembourg, Singapore or Delaware. No country unfortunately can ensure that incidents like this do not occur from time to time.

4.3.3 Deputy G.P. Southern:

When the Minister in his statement says: "There is no wish or need to accommodate or to give encouragement to those who seek to involve Jersey in aggressive tax planning schemes" he takes the high moral ground. Will he occupy the high political ground and act to close such schemes down?

Senator I.J. Gorst:

The Deputy appears to be confusing the powers of this Legislature with the powers of a United Kingdom Legislature. My statement was quite clear and I stand by that statement. I have said again this morning, and there is another question later today, that I will do everything in my power to

ensure that industry understands the policy and makes decisions in light of the best long-term interest of Jersey.

4.3.4 Deputy G.P. Southern:

Is the Chief Minister certain that there is no involvement of Jersey companies in administering trusts, which aggressively avoid U.K. tax?

Senator I.J. Gorst:

I think I have already answered that question. I said in this instance that the scheme was administered in Jersey. It could quite easily have been administered in some other jurisdiction. I wish to ensure that industry takes into account the best long-term interest of Jersey and that is right and proper.

Deputy G.P. Southern:

The question was a general one: is he certain there is no involvement of Jersey companies in such schemes?

Senator I.J. Gorst:

As I also said, inevitably any jurisdiction will find that perhaps from time to time it might be used for such schemes. It would therefore be impossible for me to give such an undertaking.

4.3.5 Deputy T.M. Pitman:

I acknowledge what the Chief Minister said - that Jersey is just one of a number of tax havens that allow this to happen - however given his statement that there is no place in Jersey for aggressive tax avoidance, how can that really be enforced because it is a new policy or was the Chief Minister just borrowing one of Jimmy Carr's jokes?

Senator I.J. Gorst:

Jersey is an international financial centre. I have forgotten now what the remaining bit of the Deputy's question was, perhaps he could just re-ask it.

Deputy T.M. Pitman:

Yes, could the Chief Minister tell us how this bold and brave new policy will be enforced?

Senator I.J. Gorst:

It is not a bold and brave new policy. It is the course of action which successive governments have followed. As I said at the start of answering these questions, Jersey is a well-regulated transparent centre and Governments prior to this one have ensured that we comply with all relevant international standards. That has been proven, as I have also said, by the reports of the I.M.F. and the O.E.C.D. I believe that we can be proud of that but we must work to continue to ensure that that is the case.

4.3.6 Deputy M. Tadier:

The Chief Minister seems to be sending out a mixed message. On the one hand saying that K2 is perfectly legal, that Jersey is well-regulated but nonetheless criticising saying that we have no need for these kind of schemes in Jersey. Would the Minister explain if this is a legal operation why is the Chief Minister seeking to claim the moral high ground? Does he agree with his Minister for Treasury and Resources when he spoke on the radio saying that morality and politics do not mix?

Senator I.J. Gorst:

Let me be clear that the Minister for Treasury and Resources and I are of one mind in regard to this issue. I stand by my statement, as I believe the Minister for Treasury and Resources does as well, and we continue to ensure that we, as a jurisdiction, comply with all relevant international standards. That is absolutely right and proper. As I said, in this instance, as the Deputy knows, we have a general anti-avoidance rule in Jersey and I understand perhaps in the light of some of the recent publicity and even before the Exchequer, as the Secretary is reported as saying in the media, that they are considering the introduction of a similar provision. That is absolutely right and proper that jurisdictions do consider how they might deal with what might be and has been called loopholes within their domestic tax legislation.

4.3.7 Deputy M. Tadier:

With due respect, in a supplementary, the Chief Minister cannot be saying on the one hand: “Yes, we agree with the U.K., we agree with the Prime Minister that we have got moral qualms about this particular device, which we see as being contrived and as aggressive, but we are not going to do anything about it because it is a U.K. problem.” One either does one or the other and says: “Look, this is entirely legal in Jersey, it is not our problem if the U.K. wants to shut it down, you shut it down.” We cannot admit guilt and then not follow up because it makes us look weak. Does this Minister not agree that we should not be sending out these mixed messages and perhaps...

The Bailiff:

I think that is your question then, Deputy.

Senator I.J. Gorst:

To be clear, I have never mentioned morality when I have been talking about this particular issue. I think the Deputy made the point in his earlier question that sometimes politics and morality are difficult bed fellows. I think the leader of the Opposition in the United Kingdom was quite clear. If the United Kingdom Government believes that it is inappropriate then they should amend their legislation accordingly. That is absolutely right and proper. But at the same time, the Deputy seems to be having difficulty with the fact that we are a well-regulated and transparent jurisdiction. That is the policy that I will continue to follow while I am Chief Minister.

4.3.8 Deputy R.G. Le Hérissier:

Would the Chief Minister say his policy can be summed up in a phrase, if there is a loophole and it is not of our own making we are well able and it is acceptable that we exploit it? Would that sum up current policy?

Senator I.J. Gorst:

I am not sure whether the Deputy has been listening to my responses so far, but I really do not understand how we can draw that conclusion from what I have said. That is absolutely not current policy. Some Members like to believe that tax law is straightforward and easy to understand. That is absolutely not the case. It can be very complex. Governments make decisions with regard to tax to try and stimulate certain actions. Sometimes they have other unintended consequences, which they in due course then have to deal with. I have been quite clear. The United Kingdom can, of course, and it is right that they amend their taxation legislation as they see fit. At the same time, we as a Government and I believe that the industry, understands that but I wish to ensure that that message is reinforced. We are a well-regulated, transparent jurisdiction. We comply with all relevant international standards. That has been proven by independent, international bodies and that is the policy that we will continue to follow.

4.3.9 Deputy M.R. Higgins:

I do not know how the Chief Minister can say that we are a well-regulated financial centre in this particular area because is it not the case that the Chief Minister has no means of knowing what schemes are being worked upon by firms in this Island? There are no regulations concerning them. There is no register. There is no knowledge. So in other words he cannot say well-regulated when we do not have any regulations governing this type of thing in the Island. Does he not agree?

Senator I.J. Gorst:

I am a little surprised at the Deputy's inference with regard to regulation. He seems to be casting doubt upon the validity of the reports of the I.M.F. and the O.E.C.D. I would not wish to do so. The financial services industry is regulated by the J.F.S.C. (Jersey Financial Services Commission). That is absolutely right and proper. I fail, I am afraid to say, to understand what it is exactly the Deputy is trying to suggest.

4.3.10 Deputy M.R. Higgins:

The Chief Minister is deliberately misleading the House. I asked specifically...

The Bailiff:

You cannot allege that another Member is deliberately misleading the House as you well know, Deputy.

Deputy M.R. Higgins:

Sorry, Sir, I will get round to that later.

The Bailiff:

No, you will not. You will withdraw it now.

Deputy M.R. Higgins:

I will withdraw it for this particular case, yes. What I will say is that the Chief Minister was asked specifically about this type of scheme, regulation of this type of scheme. Not regulation in general. There is no way that he knows what schemes are going on in this Island and therefore he cannot regulate them, so how he can say we are regulated I do not know.

The Bailiff:

So the question is?

Deputy M.R. Higgins:

Does he not agree with that statement?

Senator I.J. Gorst:

I do not agree with that. As the Deputy is aware, financial services operators in Jersey are regulated and those individuals are responsible for the operation and acting of trustees of trusts on this Island. If Members understood the amount of regulation that we have, the transparency and the quality of our regulation, perhaps they would not make some of the observations that they are making this morning.

4.4 Deputy M. Tadier of the Minister for Treasury and Resources regarding his commitment to 'finding a proper and fair solution' to the zero-rate tax paid by some local companies:

I am slightly thrown by all that interest there, so I am going to find my Order Paper and proceed with the question. Given that on 8th November 2011, when standing for his current position, the Minister made a commitment to finding a proper and fair solution to the Zero/Ten rate paid by some local companies. Will he reaffirm his commitment and state what progress, if any, has been made to finding the solution?

[10:15]

Senator P.F.C. Ozouf (The Minister for Treasury and Resources):

I am happy to reconfirm my commitment to find a proper and fair solution that is appropriate for the Island. I can advise the Assembly that substantial work has been undertaken in recent months. We briefed the Council of Ministers a number of weeks ago and my Assistant Minister and I will be briefing all States Members on this important issue before the summer recess. This is perhaps a good opportunity to reiterate a number of the principles. Firstly, that we are committed to find a solution provided that it will not damage Jersey's international competitiveness. Secondly, I restate that the economic climate is certainly challenging and that we should not do anything that damages economic growth or risks jobs. Thirdly, it is critical that we protect Zero/Ten and tax neutrality as this is the bedrock, the foundation of our financial services industry which is in turn a key pillar of the economy.

4.4.1 Deputy M. Tadier:

There are lots of caveats there and I wish the Minister for Treasury and Resources good luck in devising a scheme which meets all 3 of those tests. Regarding the caveat to do with not damaging competitiveness; does the Minister acknowledge that under the current system where some companies are essentially paying effectively zero rate on the High Street because the shareholders are elsewhere and others are paying 20 per cent, we are already damaging the competitiveness? So long as this system exists, local companies are at a disadvantage and are perhaps seeking to move abroad or going out of business because they cannot compete with foreign competitors.

Senator P.F.C. Ozouf:

First of all, may I express some gratitude for the Deputy saying just how difficult this issue is because it is a difficult issue and we have been trying to find a solution for some time and of course we are not alone, all the Crown Dependencies are wrestling with this issue. Secondly, it might be helpful to the Deputy to reflect on the fact that while there might have been an unfairness on the local retailing environment before deemed distribution was removed, one of the unintended consequences of removing deemed distribution means that retailers can hold profits in companies and only pay them when they choose to withdraw that money from a dividend. That is perhaps dealt with a lot of the unfairness that people perceive to be with the forced dividend arrangements.

4.4.2 Senator S.C. Ferguson:

When will the Minister admit that under the Zero/Ten requirements, as imposed by the O.E.C.D. and E.U. (European Union), it is impossible to have a differential tax scheme to catch overseas earned companies? When will the Minister admit that it is impossible?

Senator P.F.C. Ozouf:

If I may pick up the Senator on one issue; she will know that of course the code of conduct has nothing to do with the O.E.C.D., it is the E.U. and she needs to get her facts right. Secondly, there is no issue about admitting. The fact is that I have stated repeatedly that you cannot discriminate between onshore and offshore activities. That is at the nub of the issue. This is not a new issue which is being raised by the Senator today. This is the issue that this Assembly has been wrestling with for years and we are trying to deal with it. But I am confident that there are some

opportunities, particularly working with colleagues in the other Crown Dependencies, to find a way of capturing some revenue that was lost. Revenue that was not lost because of the zero, revenue that was lost because of the move from 20 to 10 per cent, which has got everything to do with competitiveness, nothing to do with the E.U. code.

4.4.3 Senator S.C. Ferguson:

Will the Minister answer the question and admit that it is pretty well impossible to meet the various requirements and have a differential tax system for overseas-owned companies?

Senator P.F.C. Ozouf:

Admitting something means that you have almost done something wrong and on this issue I do not think I set the rules. I have to work with my Treasury Department and indeed the other Crown Dependencies to try and find a solution, and we will try to find a solution. We do think there are options available to us. I am consulting my colleagues in the other Crown Dependencies and I promise to brief Members before the summer recess.

4.4.4 Deputy G.P. Southern:

This is a question about revenue generation; will the Minister confirm that the progress he has made has been largely to eliminate various schemes as possible solutions and that the answer that he is developing will come nowhere near replacing the £30 million lost from zero rate on certain companies?

Senator P.F.C. Ozouf:

I am grateful for the Deputy to confirm that the loss of zero-rating companies was substantially not £100 million. I will just remind myself of what the actual loss was, I think it was £30 million or less in relation to that. It might have been £15 million, but I will confirm that. I have eliminated a number of options but there are a number of options that we are considering. We are considering a number of options and I am going to brief Members on this. I have already briefed the Council of Ministers on this issue. There is a great deal of education I need to do. It is not a case of admitting, it is a case of understanding the principles and trying to find a solution that works within the principles that we have voluntarily complied with.

4.4.5 Deputy G.P. Southern:

Since the Minister cannot use a tax mechanism because that would differentiate between types of companies, it has got to be a charging system and any charging system will not replace the £30 million that is missing from our revenues.

Senator P.F.C. Ozouf:

Can I just also say that the revenue lost from the introduction of Zero/Ten was of course real and it was painful to deal with but if we would not have implemented the changes to Zero/Ten we would have lost the whole of the financial services industry. So it would not be £30 million; we would be losing hundreds of millions of pounds and as always there are trade-offs in relation to issues. I do not agree that necessarily charges should be completely eliminated. I understand the difficulty with them and I do not like charges as a mechanism but we are leaving all options open and I do not want to be drawn today on effectively options that we are looking at.

4.4.6 Deputy R.G. Le Hérissier:

Can the Minister explain how a disparate group, some members of whom led the charge in aggressive tax competition, can he explain how members of this group are now going to act co-operatively to provide a solution to an issue which they drove without ever thinking of the consequences?

Senator P.F.C. Ozouf:

I do not think there was an aggressive group but certainly if one reflects on the fact that the corporate rate of tax in Ireland was 12.5 per cent and we had effectively a rate on banks of 20 per cent that certainly was a competitive issue. The Isle of Man set a 10 per cent rate no doubt with having an eye on the corporate tax in Ireland. The U.A.E. (United Arab Emirates) has a zero tax base. Hong Kong has a 15 per cent but territorial basis of tax. Singapore has other rates of tax. Malta has ways of competing. So this is not just a small caucus of countries. International tax competition across large countries and small countries is a factor in the world and seems to continue. We had to respond to that, making our tax system competitive was painful but we have done it, but I still need to find, if I can, a solution to deal with this residual issue.

4.4.7 Senator P.F. Routier:

In relation to the issue of unfair competition between locally-owned businesses and businesses which are owned by shareholders outside of the Island, can the Minister confirm that businesses which are owned by companies outside of the Island pay the rate of tax which is applicable in their own country?

Senator P.F.C. Ozouf:

That is of course absolutely correct. It depends upon the way that dividends will be treated and there has been some changes in the way that dividends are taxed within the United Kingdom who have moved to a territorial system. It will depend. He is right, but it does depend on where those businesses are owned.

4.4.8 Deputy M. Tadier:

Can I just refer to I suspect some possible misleading may have gone on in that response because the Attorney General did cover this answer once in one of his speeches and there is nothing to guarantee that anybody based abroad will pay any tax. It depends completely on the setup.

Senator P.F.C. Ozouf:

I think I said that.

The Bailiff:

I think the Minister said it depends on how it is dealt with in the home jurisdiction.

4.4.9 Deputy C.F. Labey of Grouville:

I wonder if the Minister is in a position to give some sort of indication as to what mechanisms could be used - because there was talk many years ago about deemed rent, which may or may not be suitable - but if he is going to brief us before the summer recess or during the summer he must have some idea now as to what sort of mechanisms could be used to level the playing field.

Senator P.F.C. Ozouf:

It is a fair question and of course the Deputy was responsible for the amendment, which obliged me to do exactly this work. I do apologise to the Deputy but I do not want to be drawn in public, at this stage, on the options that are under consideration. Taxation must be certain and we must effectively announce policy or potential policies in a proper way and I have not finished the analysis. I have not got the backing of the Council of Ministers on proposals. I am still doing some work with the Crown Dependencies. I am absolutely content to brief the Deputy in confidence of what our thinking is and will welcome her in the department to brief her confidentially on what our thinking is, and indeed any other Member.

4.4.10 Deputy M. Tadier:

On the Machinery of Government Review, and it looks like we may be creating a new Ministry for Alchemy because it seems to me that the Minister for Treasury and Resources is setting himself up for an impossible task here. We have heard the same suggestion from Senator Ferguson. The Minister also said: "I will find a solution if I can", so my question to the Minister is he has known about what he sees as a problem. It does not necessarily have to be a problem, but he has recognised that it does have some inherent unfairness for local companies. Surely he should know by now whether or not it is possible to find a solution to this. There is clearly doubt in the Minister's own mind as to whether this is achievable, so will we know by the end of this year and at what point will the Minister give up on trying to find a solution to Zero/Ten if he realises it is futile?

Senator P.F.C. Ozouf:

I think I have a reputation of never giving up. I am going to carry on trying to find a solution with my tax officials for something which is a problem, and I understand the anxiety which traders have in Jersey. The Deputy does not need to portray the Treasury Department as the Treasury of Alchemy. This is a really big problem. There is no easy solution, but we are trying and we are making best endeavours but we are looking to see where we can protect Jersey's tax revenues. The theme of this year's budget is going to be protecting revenues. Looking at the way that we can safeguard the revenues that we have, looking at where we can within the rules, gain more corporate tax revenue from activities in Jersey and we will not stop. But we have been looking at this for 5 years. If it takes another 2 years I will continue to work at it, if I am allowed to, and will continue to do so. But the Deputy says, of course, this is a really difficult problem but we have solved difficult problems before. I am not guaranteeing a solution will be found, but I am going to try.

4.5 Deputy S. Power of St. Brelade of the Minister for Transport and Technical Services regarding the tender to process the Island's scrap metal for the next tender period:

Further to his answer on 12th June this year, can the Minister inform Members why Picot and Rouille Limited, the local company that runs the scrapyards at Bellozanne, was deemed to be an unsuitable company to process the Island's scrap metal for the next tender period and in his words did not come up to the mark? Before he answers the question, I want to thank the Minister for an open and frank question and answer session yesterday at Transport and Technical Services.

Deputy K.C. Lewis of St. Saviour (The Minister for Transport and Technical Services):

As Members will appreciate, this is a complex process involving commercially sensitive information. We are also under the conditions of a tender. I would have liked to have provided a full briefing however based on legal advice received I feel it inappropriate to comment any further on the details regarding Picot and Rouille's submission on the floor of this Assembly. To inform Members on the tender process and other circumstances surrounding the environmental issues, property and financial arrangements, I have circulated a more detailed briefing note. I also invited all Members to a face-to-face question and answer session on this matter yesterday afternoon, and I thank all Members that attended. I would like to reassure Members that I am committed to a fair and robust process to renew this contract that will provide the Island with a sustainable waste material service provision for the future. To provide further rigour, I have requested the Treasury to commission an external audit of this process which I can confirm is now under way.

4.5.1 Deputy S. Power:

I thank the Minister and I understand his difficulties. Nonetheless I do have a specific question for the Minister. Under the E.U. Commission End-of-life Vehicle Directive can the Minister confirm whether his assessment and his department's assessment, are they content that the processing of

scrap cars as such and the stabilisation of the cars as a non-pollutant is being carried out to best effect by the current contractor?

[10:30]

Deputy K.C. Lewis:

I do not think it is wise for me to answer that at this stage.

4.6 Deputy G.P. Southern of the Chief Minister regarding action in respect of aggressive tax planning schemes:

When the Chief Minister in his statement released on 21st June 2012 calls upon those concerned in aggressive tax-planning schemes to “act”, what actions does he envisage and what actions, if any, will he be taking as Chief Minister?

Senator I.J. Gorst (The Chief Minister):

May I first remind the Assembly again that the scheme which has been subject to recent publicity is not a Jersey scheme. They are schemes promoted by U.K. advisers for use by U.K. residents in accordance with current U.K. tax law. Jersey is just one of the many jurisdictions that can find that it is being used in connection with such schemes. The U.K. does not wish its law to be applied in the way that it has been. The best way of dealing with those schemes is for the U.K. to change its tax laws either by closing down what they see as specific loopholes or introducing a general anti-avoidance rule, which we understand the British Government is considering. As I said earlier, Jersey has had a general anti-avoidance rule for over 50 years. What we can and will do is what I said in my statement. That is to remind our financial institutions of the role we expect them to play in supporting the policy objectives of the Jersey authorities in continuing to enhance the Island’s reputation as a well-regulated and responsible international finance centre. I intend to reinforce this message through meetings with the industry’s representative bodies. In addition I will be asking the relevant Government departments and the Jersey Financial Services Commission to indicate whether there is any further action they believe could be taken in their areas of responsibility to help limit the risk of future threats to Jersey’s hard fought reputation.

4.6.1 Deputy G.P. Southern:

That at least was progress. He is going to ask some questions. In the light of his firm political commitment to comply fully with all relevant international standards will the Chief Minister sign the Island up to automatic information exchange under the European Savings Tax Directive and extend the coverage to include disbursements from Jersey-based trusts to residents in the U.K. and elsewhere in Europe? Guernsey and the Isle of Man have signed up to this, why have we not?

Senator I.J. Gorst:

We are, of course, committed to exchange but while the European Union itself is not yet in a position to give a date for introduction and all its Member States have agreed on that date, then Jersey will reserve its position until that is forthcoming.

4.6.2 Deputy G.P. Southern:

In the light of his Minister for Treasury and Resources’ statement of co-operation, consulting with Isle of Man and Guernsey over tax issues, can the Minister tell us, if it is good enough for Guernsey and the Isle of Man why is it not good enough for us?

Senator I.J. Gorst:

We make our own decisions. This Government makes its own decisions. This Assembly makes its own decisions in the best interests of Jersey and that is as it should be.

4.6.3 Deputy T.M. Pitman:

Given that the late and notorious American socialite, Leona Helmsley, once summed up the attitude of so many of the rich that tax is for the little people, is it not high time that Jersey sent out the message that expecting to pay less tax simply because you have more should be consigned to the dustbin of history and to work in tandem with other jurisdictions to ensure we have a moral and ethical approach to life?

Senator I.J. Gorst:

I do not think it is helpful to talk about taxation in those terms. Jersey has a policy, as I have said probably 3 times already this morning, of complying with all relevant international standards and that is one that I am absolutely committed to and that is absolutely right and proper. Some of the issues that the questioner is referring to should be considered by those international standard setters, and we take our place at that table and are part of those deliberations, and that is the right and proper place that they should be considered.

4.6.4 Deputy T.M. Pitman:

I would ask if the Minister could clarify for me why it is not helpful to highlight these huge anomalies in taxation? What is wrong with fairness?

Senator I.J. Gorst:

The Tolley's handbook on how to deal with the U.K. tax system runs at something like just over 11,000 pages. As I said earlier, governments make decisions with regard to how they are going to tax individuals, companies within their communities. They then make amendments and adjustments and over time, by nature, they become very complex. We, as a Jersey Government, have for a number of years tried to ensure that our taxation is simple, it is straightforward, and is as low as possible. It now appears that many other jurisdictions are deciding that perhaps rather than their complex system they would like to mirror the system that we have got.

4.6.5 Senator S.C. Ferguson:

With respect to the Chief Minister, I understand the latest edition of Tolley runs to 17,000 pages. From the way Jersey is always quoted in the context of these various schemes, it appears that the Island is being specifically targeted by the U.K. and onshore authorities. What actions will the Chief Minister be taking to deal with this?

Senator I.J. Gorst:

I do not see it in those terms at all. Each state must decide its taxation system, and that is right and proper. The United Kingdom and across Europe are suffering from the economic downturn and they are, in light of that, reviewing their taxation system and asking themselves if there are specific - as I said earlier - what might be called loopholes, which they wish to close, and whether they might wish to introduce a GAAR (General Anti-Avoidance Rules), something which we have had in our jurisdiction for over 50 years. I am not sure whether the Senator's opening remarks in correcting me with regard to the length of Tolley is suggesting that I should be going back to private practice.

4.6.6 Deputy M. Tadier:

The Chief Minister seems to tell half the story when he mentions the fact that these are U.K. schemes devised in the U.K., *et cetera*, and forgets to mention that of course they are administered and marketed by companies that are registered in Jersey, operating in Jersey and giving revenues to

the Tax Department in Jersey. Also does the Minister acknowledge that he is playing a risky game when on the one hand he appears to condemn such practices as K2 and implores local companies to act but then apparently in question time is unwilling to give an answer of how he as Chief Minister, in Council of Ministers and as some kind of figurehead of the States Assembly and Government should perhaps be putting in measures to make sure that these kind of practices, which he personally finds unpalatable, are unable to continue in our Island. What steps will the Chief Minister take to investigate what other types of vehicles of this nature exist? What encouragement and assistance will he give for these to be shut down by those operating them in our Island?

Senator I.J. Gorst:

I find myself in somewhat of a difficulty. I have been answering questions on this subject all morning and I believe that I have given fair and balanced answers, yet it would appear that some Members perhaps have not heard what I have been saying. The questioner who has just asked a question insists on suggesting that the scheme recently published is promoted in Jersey. As I said a number of times earlier, it is promoted by a U.K. promoter. Yes, it is administered in Jersey and I have said that is the case but it is promoted by a United Kingdom promoter. With regard to acting, I have been absolutely clear about what I will be doing and I have reiterated that again several times. I do not think there is anything else I can add to that.

4.6.7 Deputy G.P. Southern:

I did hear the Minister say that he would raise these issues with the J.F.S.C. and other authorities. When he does so, will he raise the following 3 issues and bring a statement back to the House as to what progress he has made on them, (1) the signing up to the automatic information exchange under the E.U. Savings Tax Directive, (2) a requirement for full public disclosure of the ultimate beneficial owners of all companies registered in Jersey and annual financial statements from all companies registered in Jersey, and (3) a requirement also that all Jersey-based paying agents, banks, trust administrators, *et cetera*, making income and capital distributions to persons resident in the U.K. and elsewhere inform the Jersey tax authorities of any such payments in order that the Island's authorities can be transparent and meet their international exchange of tax information agreements?

Senator I.J. Gorst:

Perhaps first of all I could thank the Deputy for his question. I have, as I said earlier, outlined what I shall be doing and that is ensuring that the financial services community in Jersey is aware of Government policy with regard to pursuing ourselves and ensuring that we are a well-regulated, transparent jurisdiction complying with all relevant international standards, and that is the way I will be framing the conversation. Therefore with regard to the Deputy's question I am afraid the answer is no.

4.7 Deputy R.J. Rondel of St. Helier of the Minister for Planning and Environment regarding the relocation of the new Police Headquarters to the Green Street Site:

Would the Minister advise the Assembly whether there are any major concerns from a planning perspective regarding the relocation of the new police headquarters to the Green Street site and if so what these are?

Deputy R.C. Duhamel (The Minister for Planning and Environment):

There are no major policy issues preventing the principle of locating a new police headquarters on the Green Street car park site. The Island Plan envisages office and other such development taking place within the town of St. Helier. The proposal to locate the police headquarters to the Green

Street car park is currently under informal discussion between the Treasury and Resources Department and the Planning Department. As Minister, I have not been involved in these discussions as I wish to maintain an independence from this informal process because I might wish to determine any subsequent planning application. It is vital that the Minister retains objectivity on any proposal so that the proper consideration of a formal application is carried out and is seen to be carried out in an open and transparent manner. Clearly I am aware, as other Members will be aware, that discussions between the departments have been ongoing for some time and that issues such as the scale, mass, access to and design of the building and the car parking on the site are still under debate. All of these matters will be robustly considered against the terms of the 2011 Island Plan during the process of a formal planning application if one is submitted. However at this time I am unable to comment further on this matter.

4.7.1 Deputy R.J. Rondel:

Would the Minister agree with me that we have so far possibly wasted large sums of taxpayer's money on the present plans for the new police station as they already need to be significantly changed from the original presentation from Jersey Property Holdings?

Deputy R.C. Duhamel:

Money is not a Planning consideration in terms of expenditure. Clearly the result of the application when one is forthcoming will pay respect or give due regard to the amount of monies that have been expended in getting to that position. Until we are at that position, I am not in a position to comment.

4.7.2 Deputy J.A. Martin:

I appreciate the Minister does not want to get involved at this stage politically. I am asking the Minister because it is directed at him. I am sure, as he says, there are discussions between quite a few Ministers and officers. I would like him to state whether his department has seen the impact traffic assessment report and if they are in possession of it - as promised to me at least 4 weeks ago by the Minister for Transport - can he assure that all States Members see this please?

Deputy R.C. Duhamel:

In as much as I am able to promise documentation from another department, I would assure the House that I will do my best to pass on any of those documents in the timescale that would allow Members to form a rational opinion of the process.

[10:45]

4.7.3 Deputy J.M. Maçon of St. Saviour:

I am aware of what the Minister has advised the Assembly however before he determines it would the Minister advise the Minister for Treasury and Resources to bring a proposition to the States Assembly to allow the Assembly to accept the proposed locations outlining alternative sites within the report and if not, why not?

Deputy R.C. Duhamel:

The Minister for Treasury and Resources is entitled to bring whatever proposals he wishes to this Assembly. On a general point, I think it would be helpful perhaps if a general collective decision could be taken on an area that will represent a serious expenditure of States funds.

4.7.4 Deputy J.H. Young of St. Brelade:

Will the Minister confirm that both the Green Street car park site and, in fact, Lime Grove House itself, lie within the eastern gateway area, which is especially identified in the Island Plan, as requiring a comprehensive development plan? Would he not agree that it is his responsibility under

the plan to bring that plan forward before approving applications and, in particular, does that Island Plan proposal not say that in the event of a major public project put in that area that plan should be brought before the States for approval?

Deputy R.C. Duhamel:

That would be my favoured approach and if I am in a position to bring forward master plans for this area, in addition to the other master plans that my department are intending to bring forward, although the budgets have not been found to pay for these items, then I will obviously do my best.

4.7.5 Deputy R.G. Le Hérissier:

Can the Minister say when the process of informal consultation will cease and when definitive advice will be given to the people behind the application?

Deputy R.C. Duhamel:

Presumably informal advice will cease when the Treasury Department or those departments beneath it bring forward a formal application.

4.7.6 Deputy R.J. Rondel:

Could the Minister possibly confirm that his department have been involved closely from an early stage with advising Jersey Property Holdings or possibly sitting on a panel with them or does he agree that perhaps a better process could be found when developing large State schemes such as this relocation of the police headquarters?

Deputy R.C. Duhamel:

It is always open to individual departments to improve on their services. From my reading of the situation at the moment it might well have been more useful to have had more extensive talks with the department but that is about as much as I can say.

4.8 Connétable P.J. Rondel of St. John of the Minister for Treasury and Resources regarding electricity power cuts over the last 10 years:

Would the Minister, as the shareholder representative, advise how many power cuts there have been over the last 10 years, what the causes were and what action, if any, the J.E.C. (Jersey Electricity Company) is taking to put in place a reliable, robust, continuous power supply?

Senator P.F.C. Ozouf (The Minister for Treasury and Resources):

I have circulated a chart in order to assist Members in answering this oral question and this is a supplement to the written question from the Connétable as well. I am advised that the J.E.C. supply system is a complex one with several voltages being distributed across the Island and including 3 submarine cables and other generation capacity on the Island. The system is installed with, I am advised, the European standards in accordance with those standards to ensure quality and reliability of the power in the Island. The network meets best practice developed over a number of years by the company and ensures safety and reliability. The charts that I have handed out, show the low number of faults, which the system has safely and efficiently dealt with over the past 10 years. The first chart shows the system faults split between low and high voltage. The second chart shows faults from the above figures caused by third parties, i.e. developers cutting through a power line having not properly surveyed a site before building, and other such matters. Finally, also the table of those faults in number 4. The J.E.C. monitors faults and interruptions to supplies and takes action continuously to improve its performance. I am also advised that the J.E.C. is currently looking into the third interconnector to France, which subject to planning permission will be

commencing within the next couple of years and also they are investing in the on-Island generation with 2 additional diesel engines that are currently being installed at La Collette.

4.8.1 The Connétable of St. John:

I note in the graph that the Minister gave us the continual downfall in disruption until 2008 but since 2008 onwards, until today, we have had a considerable increase. That being the case, can the Minister explain the reason why we have had this upturn since 2008?

Senator P.F.C. Ozouf:

I am many things but I am not the Managing Director of the J.E.C. and I am not an expert in electricity, although I have been briefed. I think the figures stand for themselves. If I refer the Connétable to the written question where there is a comparison of the faults in Jersey compared to other places and I think the Jersey Electricity Company do a very good job in terms of reliability. There have certainly been a slight increase in the last 3 years but the results for the J.E.C. stand by themselves and are extremely good compared to other Crown Dependencies and other European systems. Indeed, I should take the opportunity of congratulating the J.E.C. on investing in the network to ensure that the reliability is maintained, but always improvements must be made.

4.8.2 Deputy T.M. Pitman:

While I hate to think of the Constable of St. John having to write his questions in the dark, does the Minister for Treasury and Resources agree with me that really this is not a major problem compared with some other jurisdictions?

Senator P.F.C. Ozouf:

I agree with the Deputy but of course any power cut is going to, by a proper evaluation, need to be looked at and certainly I have asked questions about this issue to the J.E.C. I think it is absolutely vital that we have extremely high reliability of electricity in the Island. They have explained to me that there was an unfortunate set of circumstances in relation to this issue where the power supply failed. You do not normally expect 2 undersea cables to fail and have that happen in a period of time when the diesel generation, which should kick in, was in the process of being reinstalled in the Island. A number of features happened. I am very confident that we have on-Island generation. Importing of electricity is important because it is low carbon and it is low cost, which can be passed on to consumers, so we need both.

4.8.3 Deputy M. Tadier:

Can the Minister give any information about J.E.C.'s plans perhaps to make the Island more self-sufficient when it comes to electricity and what their plan is to do with renewable energy?

The Bailiff:

I think a bit off the subject.

Deputy M. Tadier:

If I can just say, obviously we get power cuts which are not within our control. If there is an issue that happens in France with a cable that will result in a power cut in Jersey and obviously the more control we can have over generating our own energy it would be in our own hands, so to speak, so I think there is at least a tenuous link.

Senator P.F.C. Ozouf:

I am happy to answer that. The Deputy is right. We need both the benefit of imported power, low carbon, low-cost energy, but also we need the resilience on-Island and that is why we have got gas turbines, the J.E.C.'s got diesel generators, which kick in. I think they are Rolls Royce engines,

like a jet aircraft, that kicks in within a number of seconds and the more traditional steam turbines, which takes a number of time to do. Added to that, of course now is the important contribution to the network of the Energy from Waste plant, which I am advised can at its peak production produce 12 megawatts of a total load of 155 winter total load, within the winter. So it is absolutely important that all of this on-Island generation is capable but of course it is going to be at a higher cost than the imported power, we need both. I hope that he takes assurance from that.

4.8.4 Deputy J.A. Hilton of St. Helier:

In the Senator's first part of the question that he answered he explained that there were 3 submarine cables between Jersey and France. Then in a later answer he referred to an unusual set of circumstances whereby 2 undersea cables failed at the same time. Can he clarify that when that happened that all 3 cables were working originally and that we were just left with one cable working or was there complete failure and all 3 cables were not functioning?

Senator P.F.C. Ozouf:

One thing I am going to do is I am going to ask the J.E.C. to provide Members with a briefing on the state of our electricity so that they can understand some of the technicalities. The Assistant Minister and I will organise that in the coming months. There are 2 cables, there is EDF1 and EDF2. EDF1 is the older cable. There was a fault in the second cable, which meant the entire load went to the first cable which then failed. That cable itself is the reason why the company is investing in the new Normandy 3 cable that will be effectively securing our resilience in the longer term, and that has already been in plan for a number of years. That first one is 28 years old. It is envisaged that it was going to be replaced. The replacement is estimated at a cost of £50-60 million and planning permission is currently underway. It is expected to become operational in 2015.

4.8.5 Senator L.J. Farnham:

Very briefly, I wonder if the Minister happens to know that since the recent power cut is the Island still generating its own electricity or are we back on the supply from the cables?

Senator P.F.C. Ozouf:

We are back on the cables, I am advised. That is not the case in Guernsey of course who have got a permanent fault between the Jersey and Guernsey cable, and that is also receiving some attention and hopefully the whole of the Channel Island grid will be up and running. But we do need to make this long term investment to secure a continuation of supply.

4.8.6 The Connétable of St. John:

Having worked on the installation of the original steam turbines that was 40-plus years ago in the middle 1960s, given the major breakdowns we have had in recent times, 2 major ones, and the problems with the submarine cables, I am heartened to hear that another cable is being proposed but is that in conjunction with other companies, i.e. oil and gas lines, so we put the whole thing in at once or are we just going to rely solely on electricity yet again and not try and bring in within the fold the other 2 supplies of energy on the same line?

Senator P.F.C. Ozouf:

No doubt the gas turbines were well installed because they are serving the steam turbines, which the Connétable was installing. He did some good work then perhaps and they continue to work. I cannot really comment on the other energy suppliers but it is important to perhaps reflect that there is a long awaited energy policy that is going to guide the overall energy resilience for the Island and we very much hope that that is going to be done in conjunction with Guernsey. It would be a good idea to have an energy policy for the whole of the Channel Islands, and that would guide our respective resilience plans across the Island. In relation to on-Island generation...

The Bailiff:

I think the question is just about gas and oil and I think you said you do not know about that.

Senator P.F.C. Ozouf:

The energy policy is going to solve it.

The Connétable of St. John:

It did, in fact, cover gas, oil and electricity as one pipeline straight cable.

Senator P.F.C. Ozouf:

I am advised that I do not think that that is possible. But again we look forward to the briefing that the J.E.C. will provide on exactly what their resilience is. I take this opportunity of thanking the J.E.C. and all their staff for the hard work that they did in restoring the Island's network so quickly.

4.9 Deputy J.A. Hilton of the Minister for Health and Social Services regarding the housing of sex offenders:

Did the Children's Service decide not to inform other relevant departments that a convicted sex offender had been housed within yards of a playground at Le Marais and, if so, given the reaction of tenants and her responsibilities under the Children (Jersey) Law 2002, does the Minister consider that not sharing such information was appropriate?

The Bailiff:

Assistant Minister, I understand you will be answering this question.

Deputy J.A. Martin (Assistant Minister for Health and Social Services - rapporteur):

I am sorry, but it is not appropriate to comment on specific and individual cases. The process for dealing with sex offenders placed on the register is dealt with by a board called J.M.A.P.P.A. (Jersey Multi-Agency Public Protection Arrangements). This is chaired by Probation and it has representatives from the police, prison, Customs and Immigration, Health and Social Services, Social Security and Education, Sport and Culture.

4.9.1 Deputy J.A. Hilton:

Interestingly it is appropriate not to comment. Too often these matters are swept under the carpet, in my opinion. I will ask a question not specifically related to that one. Can the Assistant Minister tell me whether she feels it is appropriate that a convicted sex offender is housed by the Housing Department when they are not in full receipt of the information applicable to that person? Does she think that is appropriate in general cases?

[11:00]

Deputy J.A. Martin:

If the Deputy had not been specific in the first question maybe that would be a general case. The Deputy is asking me about a specific case and it is not appropriate to comment on. The Deputy was at the meeting with the Chief Probation who chairs this J.M.A.P.P.A. - which helps reduce reoffending and protect the public - and she was told exactly the same thing. So I do not know how further the Deputy would like me to go. Health has a place on this board, it started running after the introduction of the Jersey Sex Offenders Register in January 2011 and the Deputy will know, as she was the Assistant Minister for Home Affairs then, that these cases are very sensitive and it is not appropriate to debate one in a public forum, especially in the States Assembly.

4.9.2 Deputy J.A. Hilton:

Does the Assistant Minister not recognise the irony of her answer to that question? By not including all the professional members of J.M.A.P.P.A. in that information, the person that the Housing Department ended up housing... it was blatantly obvious that in an Island as small as Jersey residents on that estate would know who that individual was. So by the very token of doing that they drew attention to the person and did that person a gross disservice as they did to the tenants of Le Marais. Does she not agree?

Deputy J.A. Martin:

I cannot agree on something that I cannot be specific about. The Deputy talks about irony. I have not commented on any case. The Deputy seems to have much more information than possibly I do and I know she does not, unless there is somebody who is leaking something to her. I really cannot comment any further.

The Bailiff:

Very well. Question 10 falls away because of the illness of Deputy Baudains so we come now to Question 11 which Deputy Young will ask of the Minister for Planning and Environment.

4.10 Deputy J.H. Young of the Minister for Planning and Environment regarding the existence of a Code of Conduct covering planning matters:

Will the Minister advise the Assembly whether Development Control Officers of the Planning Department are subject to a code of conduct, including pre-application discussions, reports to members, review of decisions and records of complaints which mirrors that contained within the Local Government Association revised guidance note *Probity in Planning: The role of councillors and officers* published in May 2009 - I have a copy here - and if not, why not?

Deputy R.C. Duhamel (The Minister for Planning and Environment):

Planning Officers, as well as all members of the Civil Service are subject to the rules which govern their employment behaviour. Additionally, those officers who are members or prospective members of the Royal Town Planning Institute are subject to the Code of Conduct attached to that chartered body. I have looked at the content of the *Probity in Planning: The role of councillors and officers* guidance note and confirm that, although it is not formally adopted, officers of the department do adhere to the provisions set out within it. It is worthy to note that the author of the guidance note also co-authored the Planning Officers Society Report into the Jersey Planning Service following the Reg's Skips Committee of Inquiry of 2010. The processes of the department follow the recommendations set out within that report. Additionally, the author was employed to carry out training earlier this year with the current members of the Planning Applications Panel, further embedding the principles of good governance with staff and States Members.

Deputy J.H. Young:

I did not hear the answer whether or not the Minister was going to issue his own Code of Conduct requiring those things. Could I have an answer to that?

Deputy R.C. Duhamel:

The question was whether or not the members of the department were subject to a code. As I said, they are not subject to a formal code but they do adhere to the principles within the U.K. one. If, indeed, the Deputy feels that perhaps the officers would benefit from a formalisation of that code, then I would be pleased to consider it.

4.10.1 Deputy T.A. Vallois:

If the guidance is not in place in Jersey and the officers practise in the principle of that guidance, could the Minister explain how, if an officer was to go against those principles, he would hold that officer to account?

Deputy R.C. Duhamel:

I do not think it would be the Minister holding that officer to account. It would certainly be the Human Resources body for professional misconduct.

4.10.2 Deputy J.H. Young:

The Minister will know, having read the document, that the thrust of it is to ensure that all Planning officers' interactions on planning matters are transparent and impartial; that they avoid the impression of advocacy in their written report and, indeed, prevent the argument for one side or another in public meetings. Would he confirm that those matters are being followed by his officers and in the implied code, as he suggested?

Deputy R.C. Duhamel:

As far as I am aware, they are being followed but I add a proviso that, as I mentioned in a previous question, all managerial systems are open to continuous improvement and if, indeed, having assessed these documents a second time I consider that the departmental officers would benefit from a formalisation of the points within the code, then I will implement that code for those persons.

4.11 Deputy G.P. Southern of the Chief Minister regarding the modernisation of services provided by the public sector:

In preparatory work with Ministers or with the States Employment Board relating to proposed moves to modernise services provided by the public sector, to what extent, if any, has the privatisation or outsourcing of services been explored and, in particular, has outsourcing been ruled out for any services and if so, which ones?

Senator I.J. Gorst (The Chief Minister):

Public sector reform in other jurisdictions has considered the options highlighted in the Deputy's question. However, as Members will be aware from earlier statements and answers to questions, the thinking about public sector reform is at an early stage where it is premature to predict the outcomes of the proposed diagnostic work to be conducted in the coming months.

4.11.1 Deputy G.P. Southern:

Can the Chief Minister inform Members whether he has done any research already to outline possibilities and have any specific proposals for modernisation, including possible outsourcing for particular services, been put to any public sector representatives?

Senator I.J. Gorst:

As the Deputy should be aware, the Housing Department is obviously on a trajectory to become, in effect, independent of the States, as is Harbours and Airports. I am not aware that there have been any formal proposals made with regard to other services but if the Deputy knows otherwise.

4.11.2 Deputy T.M. Pitman:

"Modernise" is a lovely term that usually covers up cutting and mangling, destroying and other such things. I remember it being put forward at the workshop run by the Chief Minister and what I

would like to ask, is the Chief Minister fully committed to ensuring that we do maintain high quality public services or does he support a full move to privatisation of almost everything?

Senator I.J. Gorst:

I am absolutely committed to providing high quality public service. However, I am not absolutely committed to us doing it in exactly the same way that we have done it in the past. I think every Member agrees that there needs to be change. Perhaps some of the terms used are not always fit for purpose but it is easy to slip into such terminology. What we are talking about here is workforce modernisation, service redesign and cultural change to improve the service that Government provides to the citizens of our community and that is only right and proper. We know that our finances in due course will come under even more pressure and unless we try to get a better service out of the money that we are providing then of course we will run into difficulties.

4.11.3 Deputy T.M. Pitman:

I think even the Minister for Treasury and Resources has now acknowledged that the £65 million savings was never going to work and was a completely foolish idea. Given that reality, how does the Chief Minister see this progressing to ensure balance of quality services or the public suffering badly just for the sake of savings?

Senator I.J. Gorst:

The difficulty is that I suppose in some respects we have got used to thinking in 3-year terms. This process, this modernisation, this change of culture, this redesign in the way that we are offering services, is not about just 3 years. It is about trying to improve our service and deliver a service which is going to serve us well over the next 5, 10, 15 and 20 years. So we cannot bury our head in the sand. We know that we have an ageing demographic and that is going to present challenges right across the services we provide and that is why we must start this work now. It will not be quick. It will not be shortly. We have got to be in this for the long-term best interests of our community and, the Deputy is right, balances will have to be made.

4.11.4 Deputy T.A. Vallois:

The Chief Minister mentioned early stages of looking into the modernisation programme. Can he confirm whether he is aware of all of the evidence that was given to Corporate Services Scrutiny Panel over the last 3 years from his Acting Chief Executive Officer with regards to numerous research, numerous work that has been completed by him and whether that is being taken into consideration?

Senator I.J. Gorst:

Yes, it is, but a simple report and pieces of research does not a workforce modernisation or a change of culture or a service redesign make. I am absolutely committed to taking that research, building upon it, but this is going to be a long process. Unless we do it from the - again to use a management term which I am trying not to - bottom up, unless I and the Acting Chief Executive and other Ministers go out and listen to people performing these functions in the department, develop those ideas and understand how we can provide services differently, we will not solve the problem and we will not get to where we endeavour to reach. So it is not a short, simple process.

4.11.5 Deputy T.A. Vallois:

Can I just follow up? The Chief Minister has just stated that they need to go to the front line and see what the service is delivering, *et cetera*. I heard that speech 3 years and again 2 years ago and again a year ago about delivering £65 million of savings for the States. Why has it not happened?

Senator I.J. Gorst:

The target for making £65 million savings monies has already been taken out of departments' budgets so those savings, to a large extent - obviously it runs through to next year as well - have been made. That is absolutely right and proper but we must continue. This, I believe, is a different approach to the one that was delivered via C.S.R. (Comprehensive Spending Review). We can either go on and have a C.S.R. 2, which I do not believe is appropriate because I believe it runs into some of the problems that Deputy Pitman highlighted, or we can try and do it in a much more wholesome way where we consider the culture that we have got, where we consider how we can modernise terms and conditions, and where we consider how we can deliver services better.

4.11.6 Deputy M. Tadier:

The Minister obviously has reaffirmed his commitment to improving public services but at the same time, he seems to be using improvement and spending less public money as synonymous terms. Will the Chief Minister acknowledge that there is a possibility that if we want to improve public services, we need to spend more public money, more of the taxpayers' money to do that? If so, and it is not possible to cut spending to improve services, where does his allegiance lie? Is he committed to absolutely improving services or absolutely cutting States expenditure which he has committed to and signed up to with the current and previous Council of Ministers?

Senator I.J. Gorst:

The Deputy seems to believe, as he has asked in earlier questions, that it is always an either/or. You are either for something or you are against something. These questions are much more finely nuanced. We have made savings; that is right and proper. I have spoken in this Assembly about the extra money that we need to invest in human resources function. That also is right and proper. We must, and I believe the Deputy is committed to this, try and step away from partisan approaches to these issues. Yes, where we want to improve a public service, we are going to be spending millions of pounds on improving the Health Service. That is absolutely right and proper.

[11:15]

4.11.7 Deputy G.P. Southern:

Does the Chief Minister appreciate that public sector representatives might be somewhat reluctant to discuss modernising their jobs out of existence given the wage freeze that he and his Ministers have imposed upon them? Will he state for Members whether a new date has been set for the meeting on modernisation, which was vitally important 2 weeks ago? Has a date been set for that meeting to take place?

Senator I.J. Gorst:

There are many questions there and I know you are going to tell me that I can only answer one of them. Which one shall I pick? Let me start by saying that a wage deal has not been imposed upon anyone so the normal and proper and right negotiations are ongoing. With regard to the setting of a date, I do not believe at this point that it has. If it has, I have not yet been informed of it. However, you probably appreciate that events get put in my diary without my knowledge and that is the only way, unfortunately, that my diary and department can operate.

Deputy G.P. Southern:

Will the Minister find out what date has been set and circulate it please?

Senator I.J. Gorst:

If a date has been set, yes I will.

4.12 Deputy J.A. Martin of the Minister for Treasury and Resources regarding advice given by the department on redundancy payments under £50,000:

Will the Minister advise whether redundancy payments of under £50,000 are subject to I.T.I.S. (Income Tax Instalment Scheme) and, if so, outline what advice, if any, is provided to local companies and employees by his department to ensure that all those who receive redundancy payments are aware that I.T.I.S. is not paid on earnings under this amount?

Deputy E.J. Noel of St. Lawrence (Assistant Minister for Treasury and Resources - rapporteur):

All payments which an individual receives from their employer in connection with the termination of their employment are technically taxable and must be notified to the Tax Office. This is regardless of whether such payments are contractual, statutory or voluntary. However, the first £50,000 of redundancy payments and certain other payments for loss of office are exempt from income tax and hence tax on these should not be collected through I.T.I.S. Further details on the income tax treatments of termination and redundancy payments, together with examples, are published on the Tax Office's section of the States website. Naturally if an individual feels that they have had I.T.I.S. deducted in error from their redundancy payments they can approach the Tax Office and a repayment of the I.T.I.S. can be made.

4.12.1 Deputy J.A. Martin:

I am not so concerned with the Tax Office and I.T.I.S. It may be taken but it is because people - some people have lost their jobs at the company that took social security - are paying last year's tax. My problem, from looking at the wage slips that I have seen, is that the individual's redundancy payments have been added to their earnings and it looks like that they feel that that is what they have earned and that is what they will be taxed on. So is the Assistant Minister saying that each individual should present themselves at the Tax Office for individual advice?

Deputy E.J. Noel:

I have been quite clear. The amounts paid do have to be notified to the Tax Office but I.T.I.S. on those payments should not be deducted by the employer. If an individual feels they may have had I.T.I.S. deducted in error then they should contact the Tax Office.

4.12.2 Deputy T.A. Vallois:

Could the Assistant Minister advise how £50,000 was determined as the appropriate cap?

Deputy E.J. Noel:

I do not recall how this was determined. I have some vague recollection that it was a States decision.

Deputy J.A. Martin:

I would just like to thank the Assistant Minister for Treasury and Resources for being much more helpful than the Minister for Social Security. **[Members: Oh!]**

4.13 Deputy S. Power of the Chief Minister regarding Ministerial responsibility for Population and Migration regulation and social housing and housing trusts.

The Chief Minister will note my consistency in this area of interest that I have. Does the Chief Minister agree that more Ministerial responsibility must be allocated to population and migration control and the regulation and supply of social and affordable housing? If so, would he consider again the creation of a Minister with specific and direct responsibility for population and migration

control and also control for the provision, supply and regulation of all social housing and housing trusts?

Senator P.F. Routier (Assistant Chief Minister - rapporteur):

Population, immigration and housing are strategic priorities as agreed by this Assembly and the Chief Minister and I will provide a clear and forceful lead on these central issues. I therefore do not believe we need a new Minister and department. However, these are ultimately matters for the Assembly, which has already directed that the Chief Minister be accountable for the Control of Housing and Work Law, and next year we will consider new Strategic Housing Units. In the meantime, work on the areas of population, immigration and housing will advance significantly in line with this Assembly's approved Strategic Plan.

4.13.1 Deputy S. Power:

Sorry, I am going to come back on this one. Does the Assistant Minister of the Chief Minister's Department agree with me that there is a perception that the control of population and migration needs a higher profile and that this would be achieved by the establishment of a Ministerial department that has control of migration, population and social and affordable housing?

Senator P.F. Routier:

I agree with the Deputy insofar as the priority needs a lot higher profile. Certainly that is a commitment which the Chief Minister and I are prepared to give and want to ensure with the new Control of Housing and Work legislation which is coming into place. We will then have the tools to be able to ensure that the priorities of this House and the desires of this House are implemented because previously with the existing Housing Law and the Regulation of Undertaking legislation, it has been very difficult to achieve what the House has wanted. But with this new legislation in place and with the forthcoming White Paper on the Strategic Housing Unit, we do feel that we will be able to achieve the priorities of this Assembly.

4.13.2 Deputy G.P. Southern:

The Assistant Minister talked about giving a forceful lead. Will he outline for Members what additional powers he has to meet any population targets that are set?

Senator P.F. Routier:

I think the Deputy will be aware - and hopefully is aware - of the additional powers which come under the Control of Housing and Work legislation. We have passed this legislation which will come into place very soon. With that, just briefly, there is certainly the names and address register which will give the information, which will enable - when decisions are required with regards to a new business establishing and the number of employees they want to employ... we will be able to have a lot better information to make those decisions. We will also be able to call-in licences to readjust them. There are so many new different aspects within the new legislation which will help us to achieve that.

4.13.3 Deputy R.G. Le Hérisier:

Would the Assistant Chief Minister not acknowledge that the issue is not necessarily that a more senior political person be in charge but that we have proper monitoring in place? As the situation ran totally out of control in the 2000s, as it did in Britain, and we have now found ourselves with a legacy, which was totally unanticipated, that has put enormous pressure on the Island's infrastructure.

Senator P.F. Routier:

Certainly the information which the Statistics Unit has recently provided with regard to the immigration which has happened over recent years does show that there was a peak in 2008-2009 and also that in the last couple of years there has been a halving of the amount of people who have had licences to establish businesses to employ people. So there does need to be more impetus put on controlling the population and the new legislation will help us achieve that.

4.13.4 Deputy R.G. Le Hérisier:

Would the Assistant Chief Minister not acknowledge that he is being slightly disingenuous? The whole issue was that by the introduction of the 5-year transition to the open labour market and the fact that people were using industries as a transition to that labour market as opposed to working in the industries and that was it, would he not acknowledge we were totally out of control? We could not control that situation and we chose not to.

Senator P.F. Routier:

I think it is very evident, and I think everybody has agreed, because they have agreed for the new legislation to come into place, that the older legislation that we had was failing. There is no doubt about it and that is why we have the new legislation.

4.13.5 Deputy M. Tadier:

On behalf of the Chief Minister, would the Assistant Chief Minister state quite categorically that he has no truck with those members of society who seek to make xenophobic or racist comments about immigrants who come here to work? Nonetheless would he undertake that part of the responsibility of this – and there is a serious underlying political issue here – is that there are serious issues that need to be addressed. Will he and the Chief Minister undertake to provide first of all a clear direction for the future? Secondly, to provide actual statistical and factual information about the amount of people who claim different services, benefits and the amount of people there are working in different sections and for different companies, where appropriate? So that we as States Members can give hard evidence to those that we talk to who may be tending towards these unsavoury views and give them factual evidence rather than just hearsay?

Senator P.F. Routier:

The Deputy asked quite a few questions there in the detail of the information that is required. Firstly, certainly on behalf of the Chief Minister and myself and I am sure most Members, any comments which are made with regard to immigration policy are not intended to give any indication of xenophobic remarks or comments and we obviously recognise that a diverse community is a structure which we endorse and welcome within our community. But obviously this issue with regard to immigration is something which is of major concern to everybody at the present time because of the high unemployment of people who have been here for some time and that is something we need to address. With regard to the work that is being carried out on access to services, that piece of work is going on at the present time and as soon as we have that information available we will be sharing that so that all Members can be aware of the difficulties that each department is having in providing services to the community but hopefully we will be able to have that information and share it with everybody.

4.13.6 Deputy S. Power:

I want to pick up on what the Assistant Chief Minister said. My tenet is that independent authority and corporate sole needs to be underlined in the control of migration and population and, indeed, social and affordable housing because they are becoming more and more important and bigger issues. Does the Assistant Chief Minister not agree with me that because of the size of the Chief Minister's Department now it would be better to break out population and migration control and,

indeed, link that to social and affordable housing so that this can be under the direction of one Minister with corporate sole?

Senator P.F. Routier:

We have considered that and the States have considered obviously the structure of the Control of Housing and Work legislation and have agreed that the Chief Minister will be accountable for that legislation. This Assembly will also look at the detail of the Strategic Housing Units in the future and make that decision. I have to say that we have considered this and we feel that the Chief Minister's Department is able to control those pieces of legislation and that policy area and we maintain that position.

4.14 Deputy R.J. Rondel of the Minister for Housing regarding the development of 'affordable homes' due to be completed next to Trinity Parish Hall:

Would the Minister advise the Assembly what the price range of the proposed development of affordable homes to be completed next to Trinity Parish Hall will be?

[11:30]

Deputy A.K.F. Green of St. Helier (The Minister for Housing):

I am a little perplexed about this question because the development in Trinity is being undertaken by the Parish of Trinity and while I am pleased to see that they are doing it, the Housing Department has not contributed to the development of any of the homes or how they are going to be allocated to potential buyers. I understand that the development is for category A homes and must therefore be either first-time buyer or some form of intermediate or shared equity housing but I am not aware of specific arrangements or the value of the homes and I am not sure that the Constable is aware of the value of the homes yet as they have not started building. But having said that, I would have thought if the Deputy wanted that sort of information he would be better off going to the developer, the sponsor of the project, and speaking directly with the Constable of Trinity.

4.14.1 Deputy R.J. Rondel:

Well, I too was a little perplexed because I did intend my question to be for the Constable of Trinity but apparently he was not allowed to, but I am led to believe that the homes could be in the region of a value of around £490,000, taking a reduction for the land to around £330,000. Would the Minister consider this figure, if it is correct, to be affordable for young local couples, especially when the land does have a nil value? Would the Minister also advise whether he may have any intention in using taxpayers' money in the form of loans for these types of homes and, if so, will he give an undertaking to come back to the Assembly with details?

Deputy A.K.F. Green:

Taking the last point first, if any taxpayers' money is to be loaned to the Parish of Trinity, that is a matter for the Minister for Treasury and Resources. I have no doubt that he will discuss it with me and see that if we are lending money that it fits in with the strategic aims of housing our community. But I cannot answer the Deputy's question. I have no idea what the cost of the homes is going to be in Trinity. I do know, having spoken to the Constable, the philosophy behind that, that he has tried to help young couples, and the Deputy makes a very good point when he asks the question, what is affordable? Well, it depends what you are earning and that is why we need to have a full study on affordable homes. We need different schemes for different people. We need shared equity or Jersey Homebuy, whatever you want to call it, however you want to dress it up. We need schemes that will make deposits available to families. There is a whole range of things

that we need and that is why we need a Strategic Housing Unit so that we have got complete action across all the different tenures.

4.14.2 Deputy J.H. Young:

Will the Minister advise the Assembly whether he agrees that if the homes are, in fact, affordable, that they should be subject to allocations through his housing gateway and that simply, could he advise the Assembly whether these are subject to a planning obligation agreement that homes be affordable?

Deputy A.K.F. Green:

I cannot advise the Deputy on whether they are the subject of planning obligation agreements because I know nothing about the scheme. I do however agree with the philosophy that subsidised homes or homes that are made affordable in any way should continue to be within the affordable homes market if possible. It is very easy to say but it is very difficult to implement because a lot of work needs to be done in that area and again that is why we need the Strategic Housing Unit. We could come up with all well-intentioned things that do not work. We need a proper review. We need proper strategy and that is what I am determined to do.

4.14.3 Deputy G.P. Southern:

The proposed gateway for affordable housing was supposed to be a single gateway. Does the Minister not regret that he did not include the Parishes? He appears to have 13 single gateways.

Deputy A.K.F. Green:

The gateway is a great improvement on what we had. All the Homes Trusts are using them. Some of the Parishes are using them. In fact, the Parish of Trinity has used it for the allocation of social housing and we will get there slowly but the affordable gateway will eventually be the place through which people will be directed to appropriate schemes. But those of us that are spending the money in providing the scheme should have some influence over what is happening on the site.

4.14.4 Deputy S. Power:

The Minister for Housing and his department had a terrific model in 2009 when his department delivered 46 houses at £250,000 each. Does he think that that model could be used again?

Deputy A.K.F. Green:

The quick answer is yes.

4.14.5 Senator P.F.C. Ozouf:

While the details have got to be worked out, would the Minister congratulate the Parish of Trinity on their work and encourage dialogue with the Minister for Treasury and Resources and the Minister for Housing for all Parish schemes that help their young people?

Deputy A.K.F. Green:

Yes and I am particularly delighted to see that this land that was rezoned is now going to be used and not sitting there like in some of the other Parishes. I urge the other Constables to get on and do something as well.

4.14.6 Deputy R.J. Rondel:

I too would be the first to congratulate the Parish of Trinity, my own Parish, when I know what price they will be [Laughter] and whether they will be affordable or not. I keep asking about affordable housing and I keep getting told the same answer from the Minister for Housing: "We need to review, we need to review." During the Island Plan debate last year, the Assembly agreed

that the delivery of affordable homes was extremely urgent and that States-owned land would have to be used to deliver these homes quickly. This was over 12 months ago and we have not seen any planning applications to date let alone a brick being laid. Does the Minister agree that the Assembly, and indeed the public, are becoming increasingly confused as to what price an affordable home should be when we have high figures being bandied around which are far out of reach of young couples on middle incomes, and we have the Minister for Planning and Environment, on the other hand, saying that he can deliver for around £200,000?

Deputy A.K.F. Green:

I think the question really is what is affordable and we have to accept that for some families buying will never be affordable, but my objective is to make affordable housing available to more families than currently. The Deputy made a point about States-owned land and all the rest of it. We have got a lot of work to do and we are working on it. Basically if I get given the sites I will ensure that development takes place. You can believe it.

4.15 Deputy T.M. Pitman of the Attorney General regarding lawyers' fees and expenses:

What requirement, if any, is in place to ensure that lawyers provide itemised bills to their clients?

Mr. T.J. Le Cocq Q.C., H.M. Attorney General:

Rule 5 of the Code of Conduct of the Jersey Law Society provides that members of the Society, when accepting new clients, must advise the client in writing of the terms of engagement. This will include the basis on which fees and expenses are to be charged and what circumstances may affect the level of fees including, among a number of other circumstances, the hourly rates. The client has a right at any time to inquire and be informed of the fees to date. When a person has been ordered to pay the costs of another party in litigation, in the absence of agreement on how much will be paid, the costs claimed are subject to a process of taxation which means that they are scrutinised by the Judicial Greffe to ensure that they are in a sum that is properly incurred and is properly payable. In those circumstances, the party claiming costs will provide an itemised bill which sets out on an item by item basis the costs claimed.

4.15.1 Deputy T.M. Pitman:

I thank the Attorney General for his answer. There is only one problem with that. Going to taxation costs people money and to use a constituent's example, because I think it is helpful, the constituent had work done by a dentist, a builder and had his car serviced. All trades provide detailed bills of how those costs were incurred yet a lawyer refuses point blank to do so for a sum that dwarfs all those bills by perhaps 20 times. Does that not suggest that some lawyers, and it is some not all, are completely out of control?

The Attorney General:

I am not sure that it is a useful comparison to compare, for example, dental fees with the costs incurred in legal proceedings. In the first case, that is a cost charged by the dentist and patient. In the second case, it is an adversarial system in which someone has been required to pay the costs of another party and it is that mechanism in which a fully detailed and itemised bill of costs needs to be prepared in order that it can be quantified.

4.15.2 Deputy T.M. Pitman:

Is the Attorney General effectively saying then that ... and I do not like to use the pun, that lawyers are a law unto themselves because that is what it would seem to be. Surely common law would suggest that any person has a right to know what they are paying for. Certainly if I was told I could

not know what I was paying for, I would have to have grave suspicions as to whether such a bill would be even valid.

The Attorney General:

There are 2 things which have been included in my answer. The first is the circumstance in which a lawyer is charging his own client and, in those circumstances, the client is perfectly entitled to find out what the up-to-date fee position is and to have sufficient information to satisfy himself that those fees are properly payable by him. The second circumstance is where, as I mentioned before, the individual has been subject to an adverse costs order made in connection with litigation. That client does not owe duties to the party who is to pay the bill. The lawyer has to comply with the system, as I say, relating to taxation. That is a system set out in practice directions issued by the court and it is those circumstances which give rise to an itemised bill which can be scrutinised. It is the fact that taxation can be a costly system. Generally speaking, the costs of taxation, if a figure cannot be arrived at by agreement, are down to the paying party but there is discretion for the Judicial Greffe to make a different taxation costs order.

4.15.3 Connétable M.P.S. Le Troquer of St. Martin:

I hope it is not off the question but could the Attorney General tell the Assembly who people can complain to and whether those complaints can be dealt with locally if the lawyer is not a locally recognised local lawyer or solicitor but offering advice and services on the Island?

The Attorney General:

It is a little outside the general ambit of the question that I have come down prepared to answer. The position is obviously with a local lawyer, a complaint can be made to the Jersey Law Society.

The Bailiff:

I am sorry, Attorney General, could you stop. Apparently we are inquorate. Could you summon Members back please? Very well, we are now quorate again. I think the question was who can you complain to?

The Attorney General:

Yes. It is my understanding that the lawyers who practise who are not members of the Jersey Law Society are nonetheless subject to their individual professional body and in those circumstances a complaint I am sure can be made to, for example, the English Law Society or something of that nature. But essentially what costs should be paid between a client and anyone who provides professional services to a client is a matter of contract between that client and the provider of professional services.

4.15.4 Deputy M.R. Higgins:

I would like to draw Members' attention to the written answer that the Attorney General has given me, question 8 and part of it did relate to this topic. In his answer to me, the Attorney General says that itemised bills would not generally be published as they contain information that may be commercially sensitive to the firms or individuals involved. My question was asking about the cost of the action taken by the States on the Low Value Consignment Relief and I have been told as part of this answer that the cost of that one judicial review of a case that was brought in the United Kingdom was £656,000. But we have got no breakdown and have no knowledge of what that money was spent on and, as a matter of public interest, and certainly if this is public money, does the Attorney General not think that legal firms acting on behalf of the States should provide itemised bills?

The Attorney General:

As I mentioned before, it is certainly the case that anyone who employs a lawyer is entitled to know what fees have been incurred, the basis on which it has been incurred, and what the lawyer has done to give rise to the bill that is raised to the extent that that is an itemised bill of costs. Yes, of course one should in those circumstances be prepared and available. There is a distinction in my mind as to what should be revealed in the public domain and what remains a matter of commercial sensitivity between the lawyer involved and his client.

4.15.5 Deputy M.R. Higgins:

The reason why I am pressing this point is the fact that if I remember correctly from previous meetings in this Assembly, we are told the expected court action on L.V.C.R. (Low Value Consignment Relief) going forward if necessary even to the Court of Appeal and to the Supreme Court in the U.K. was going to be in the order of £660,000 and yet here we have got one case here, one court appearance which comes out at £656,000 so I think it is in the public interest that we do know what the money was spent on. Does the Attorney General not agree?

[11:45]

The Attorney General:

I do not feel able to answer that question in the context of the question set out to me about general itemisation for lawyers and clients.

4.15.6 Deputy T.M. Pitman:

I nearly strayed on to that issue; I think it is very valid. However, it seems to me, with due respect to the Attorney General's answers, that this system of people who perhaps have to pay costs is open to huge abuse so I would like the Attorney General to tell me and the public what possible sanctions exist for lawyers who are found to have put together huge wholly unwarranted bills and then these are worked down by taxation?

The Attorney General:

The mechanism for taxation is that the party who is to be paid procures from their lawyers a detailed and itemised bill of the fees that they would be charged by their lawyer for the action the lawyer has conducted on their behalf. That bill then goes to the Judicial Greffe and the Judicial Greffe scrutinises it against certain tests which the court has prescribed over a period as to what should be paid by someone who has received an adverse costs order and is therefore the paying party. That is not the same amount as the client himself will pay. Therefore there is a margin between what the lawyer will charge his client and what the paying party who has received an adverse costs order will ultimately be required to pay following the taxation proceeding, and the difference between them depends upon the basis on which the court has ordered the payment of costs.

4.16 Deputy J.A. Hilton of the Minister for Health and Social Services regarding compulsory criminal record checks for employees under the proposed new Regulation of Care Law:

Will the Minister inform Members whether compulsory criminal record checks for all employees employed in the care system will be a requirement to the new Regulation of Care Law due to be lodged for debate later this year?

The Deputy of Trinity (The Minister for Health and Social Services):

Just a point of clarification. A proposition outlining the principles associated with the introduction of a Regulation of Care Law will be brought to the States later this year. Any law will then follow on from that debate which hopefully, if the Assembly approves, will be next year. Health and

Social Services already undertakes criminal record checks for all of its frontline staff who work with vulnerable people. Under the Regulation of Care Law this will also become an explicit requirement in any regulated service. This will include people working in care homes and anyone employed to provide care in an individual's own home.

4.16.1 Deputy J.A. Hilton:

I am relieved to hear that it will be an explicit requirement of the new law when it comes to the House but my concern is based around those jurisdictions who may not have such a sophisticated criminal record bureau that the United Kingdom has. I am wondering if the Minister can tell us how she believes that those people who come from other European countries might be dealt with in this respect when their systems simply are not as developed as our own?

The Deputy of Trinity:

Local criminal record checking only covers offences committed in the U.K. or Jersey but any individual who has lived outside the U.K. or Jersey would need to provide criminal record details from the relevant vetting agency in the country where they have lived. Within many European countries, this would take a form of a police-issued certificate of good conduct.

4.16.2 Deputy J.A. Hilton:

Is the Minister confirming that without a relevant check from the local police authority that indeed these people will not be employed in the care industry in Jersey?

The Deputy of Trinity:

As part of any employment there are a number of clearance checks including production of 2 verifiable references and a C.R.B. (Criminal Records Bureau) check. If the person has lived somewhere else in Europe and it is not possible to undertake that C.R.B. check, we would obviously expect a certificate of good conduct. If they could not provide a verifiable certificate of good conduct, they would not be employed in that role.

The Bailiff:

Very well, that brings questions on notice to an end.

Appointment of 5 members of the Bailiff's Consultative Panel

The Bailiff:

May I suggest to Members that we now undertake the ballot in respect of the Bailiff's Consultative Panel so I invite Members to return to their seats and the usher will distribute ballot papers for the positions. Can I remind Members that there are 5 vacancies and therefore Members may put crosses against 5 names. If they put more than that, it will be a spoilt paper. Very well, I will ask the Viscount and usher to collect the ballot papers please. Very well, have all ballot papers been collected? Then I will ask the Attorney General and the Viscount to act as scrutineers please. Now, before we move on to questions without notice, can I inform Members that the Minister for Economic Development has lodged Report 81, Tourism Development Fund Report for 2011 as presented.

5. Questions to Ministers without Notice - The Minister for Transport and Technical Services

The Bailiff:

Then we come to Questions to Ministers without notice and the first period is to the Minister for Transport and Technical Services.

5.1 Deputy T.A. Vallois:

Could the Minister explain why there are problems with enforcing the Road Traffic Law, particularly on Wellington Hill, for parking on pavements and whether anything will be done about it?

Deputy K.C. Lewis (The Minister for Transport and Technical Services):

Yes, there is a problem with illegal parking on Wellington Road. I am in consultation at the moment with the States of Jersey Police, Parish Honorary Police, the Constable and, indeed, my colleague to resolve this problem.

5.1.1 Deputy T.A. Vallois:

That consultation has been going on for over 3 years. When is something going to be done about it?

Deputy K.C. Lewis:

Policing of the roads is a policing matter and it is not for T.T.S. (Transport and Technical Services) to police it. The law is quite clear.

5.2 Deputy S. Power:

I would like to swerve back to the tender subject of scrap. Can I ask the Minister that in any tendering process for the future of processing of scrap metal on the Island, does the Minister and his department and his officers intend to apply fully the E.U. directive on the End-of-Life Vehicle Directive?

Deputy K.C. Lewis:

Yes, indeed.

5.3 Connétable J. Gallichan of St. Mary:

Schedule 12 of the Motor Vehicles (Driving Licences) (Jersey) Order 2003 is entitled "Form of certain plates in respect of inexperienced light motorcycle drivers". Could the Minister advise what the reasoning behind the riders of heavy motorcycles needing to display P plates is when obviously they cannot qualify for this category unless they are experienced for one year as the holder of a full licence for a light motorcycle?

Deputy K.C. Lewis:

Article 27 was introduced in April 1991 by the Road Traffic (No. 40) (Jersey) Regulations 1991 which allows the Minister by order to provide for a distinguishing mark to be displayed on a class of motor vehicle being driven by a person who has held a licence to drive that class of motor vehicle for less than a year. The relevant order makes it a requirement for the new full licence holder or inexperienced riders riding light and heavy motorcycles to display a P plate which came into effect on 5th August 1991. While the relevant Article in the Motor Vehicle (Driving Licences) (Jersey) Order 2003 Article 37 and the wording of Schedule 12 is quite clear, I would agree that the heading for the schedule should not include the word "light". When the order is next amended, I shall ask for "light" and "heavy" to be deleted. I believe the whole purpose of the P plates, along with the graduated licence for riding motorcycles, was an attempt to improve safety for motorcyclists. I would intend that the Road Safety Strategy will review whether P plates are of any merit and whether should there be any other measures that would improve motorcyclists' safety.

5.3.1 The Connétable of St. Mary:

Members will probably have guessed that I have asked the Minister about this before. **[Laughter]** My contention is that I cannot understand the benefit of asking somebody who has already proven themselves to be an experienced rider by riding for a year what the benefit of asking them to then display another inexperienced rider plate is and I would ask the Minister to think about instead of just changing the wording of the order to remove that requirement from experienced riders. Does the Minister agree that it is pointless to say that somebody could take their test on, say, a 200 or 250 cc motorcycle and then ride that for a year and then at any other time simply just buy a motorcycle 5 or 6 times of that capacity and performance. Will the Minister consider removing that requirement?

Deputy K.C. Lewis:

Yes, at the very end of my long rambling answer, I did say that I would intend the Road Safety Strategy will review whether P plates are of merit and whether any other measures to improve safety for motorcyclists should be introduced so I will review that.

5.4 Connétable A.S. Crowcroft of St. Helier:

I am grateful to Deputy Baudains of St. Clement who is ill today for his written question 10 to the Minister about the availability of parking in St. Helier and the answer that the Minister has given that over 50 per cent of parking spaces in St. Helier are available at various times during a Saturday makes very interesting reading. Will the Minister investigate the possibility of making this kind of information more available to the public, in particular putting back the screens on the approaches to St. Helier that would tell road users of the availability of parking, and would he further give consideration to incentives that will encourage people to take up those spaces such as a system like first hour free which operates in many town centres or a system that makes parking free from 3.00 p.m. in the afternoons?

Deputy K.C. Lewis:

Absolutely, I welcome the Constable's remarks. I well remember, I think it was in the 1970s and 1980s, we had the display boards up. They were neon operated. I believe that at the time they used Jersey Telecom lines but technology has vastly improved so if we can find the funding, I would be more than happy to have the electronic indicator put back again to indicate where there are free spaces throughout St. Helier and other places.

5.5 Deputy J.A. Hilton:

Is the Minister aware of any pollution incidents having taken place at the premises of the current scrap yard operator?

Deputy K.C. Lewis:

That will be under review very shortly, whether there is any pollution in the scrap yard or indeed below the concrete slab.

[12:00]

5.5.1 Deputy J.A. Hilton:

So the Minister is saying he is not aware that there have been any pollution incidents but he may be aware at a future date?

Deputy K.C. Lewis:

That is correct.

5.6 The Connétable of St. John:

Would the Minister give details how a member of the public who is disabled maybe for a short period of time with a broken leg or the likes or some other disability can get hold of a radar card - I think they are called - or radar key for disabled toilets because we have many people who are disabled who do not have a badge that they carry with them in their car. Therefore they are not liable to get one of these keys. Could he make sure that they are available and tell the House where they come from so that members of the public can get them for short-term periods, 3 months or whatever it may be?

Deputy K.C. Lewis:

Yes, I thank the Constable for that question. There are quite a few radar toilets now in Jersey. In the town area I believe the keys are kept at local cafeterias, *et cetera*, and issued to people on request. There is also a local retailer who does sell them to people with disabilities and I will research that and get the name and address to the Constable. I would concede maybe this is a system that needs to be reviewed.

5.6.1 The Connétable of St. John:

Yes, a supplementary on that. The Minister mentioned sells the radar cards or keys to the public by a retailer. Surely this type of thing should be available at no cost to people, given that if you are able bodied you are entitled to use the public conveniences at no cost and, therefore, that should be available to disabled in the same way. Would he answer that, please?

Deputy K.C. Lewis:

I am not sure of the cost but I believe it is just a small admin fee for the key but, as I say, I am more than happy to review that.

5.7 Deputy J.H. Young:

Will the Minister advise the Assembly whether on major public events, such as the Jubilee festivities at West Park, his department is able to ensure that the servicing and cleaning of public toilet facilities, such as at West Park, is maintained to the required standard at all times?

Deputy K.C. Lewis:

Yes, all the public conveniences that come under T.T.S. do have daily cleaning, sometimes 2 or 3 times daily, depending where they are. It is sometimes quite difficult during a major event to keep them up to top speck but I know our people do their very best.

5.8 The Connétable of St. Martin:

Will the Minister advise the Assembly whether the waste disposal complex at La Collette is now operating correctly and efficiently or is the department still working with the contractor who built the facility to correct faults in the building and the tipping facilities and, in particular, the access roads?

Deputy K.C. Lewis:

The access road is fully up to speck and complete. They do have engineers still on site but I think everything else is more or less up together. The official handover has happened, we have had it in our possession for some time but tests are still ongoing.

5.9 The Deputy of Grouville:

Does the Minister think it is acceptable that his department turned down the offer of visiting regiments' offer as part of their community-based summer work to lay certain phases of the eastern cycle network, which I was told was ideal work for them, because they prefer to do it in-house?

Deputy K.C. Lewis:

I was not aware that it had been turned down. I welcome the visiting territorial units' input and engineers' input into the infrastructure; as long as there is no sort of crossover and that it is not putting someone else out of work. It is not a problem whatsoever.

5.10 Senator L.J. Farnham:

After the previous opportunity to question the Minister in the Assembly I asked if he knew how many beach-cleaning machines the department owned and how many were in service. He undertook to let me have that information, to date he has not. I just wondered if he had found out that information and if he has not could he please let me have it.

Deputy K.C. Lewis:

I believe we have 2 machines which are for beach cleaning, which is, at the moment, temporarily suspended. We are in talks with colleagues at the Department of the Environment to get beach cleaning recommenced as soon as possible.

5.10.1 Senator L.J. Farnham:

Sir, may I ask a supplementary? May I ask why beach-cleaning services are currently suspended?

Deputy K.C. Lewis:

From the direction of the Department of the Environment.

Senator L.J. Farnham:

I am sorry, Sir. I wonder if the Minister could elucidate on that answer, there must be a reason.

Deputy K.C. Lewis:

At present seaweed is cleaned from the high watermark and it is deposited at the low watermark to be carried away by the sea from whence it came but the Department of the Environment think this is not eco-friendly and are researching other methods of disposing of it. As we speak, my officers are in consultation with the Department to find a solution.

5.11 Deputy S. Power:

In the context of the Constable of St. Mary's question, would the Minister not agree with me that some of the motor traffic regulations that are being administered by D.V.S. (Driver and Vehicle Standards) are simply out of date? I refer to: "Type approval of new vehicles from the U.K., motorcycle licensing and testing, the licensing of Segway-type vehicles and indeed some quad bikes with differentials." Would he not agree that these regulations need to be seriously and urgently overhauled?

Deputy K.C. Lewis:

The regulations are being overhauled. It is a very slow process. Vehicles like the Segway, in fact, I do not believe they are even legal in the U.K. Obviously quad bikes have been mentioned quite a few times but obviously with a slip differential, so that these vehicles could be used on the road. It is something that is under review at the moment as part of the tractor survey.

5.12 Deputy J.P.G. Baker of St. Helier:

Could the Minister advise Members what qualitative checks are carried out on companies that seek vehicle ownership details that are based outside of Jersey and I do not mean law enforcement organisations, I mean private companies and private individuals?

Deputy K.C. Lewis:

I think where the Deputy is coming from is nobody may have access to someone's private details unless they have reasonable cause to do so. There is a list, I believe, of U.K. companies that are bonded and would be listed as trusted companies, so that if somebody parks on a double yellow line in the U.K. and an agency asks for the details of a Jersey-registered vehicle that would be deemed as reasonable cause and they would be given those details.

Deputy J.P.G. Baker:

The question was what checks are made on these companies, rather than there is a list?

Deputy K.C. Lewis:

I am not sure what the checks are, I just know that they are approved companies. I will find that out and then get back to the Deputy.

5.13 Deputy S.G. Luce of St. Martin:

I am sure Members will have been surprised to hear the Minister's answer concerning seaweed on the beaches. Can I just ask him, given that we are about to enter the height of the tourist season and the seaweed must be building up on our beaches if it is not being cleared, to try to solve this problem and to get on and solve it?

Deputy K.C. Lewis:

I could not agree more. As I said previously, my officers are speaking with the Environment officers as we speak.

6. Questions to Ministers without notice - The Minister for Health and Social Services

The Bailiff:

Very well, that brings Questions without notice to the Minister to a close and we move now to the second period which is questions to the Minister for Health and Social Services. Deputy Southern.

6.1 Deputy G.P. Southern:

In answer to written question 6560 the Minister stated that in addition to the current recruitment and retention problems they have with staff it is complicated by the need to recruit approximately 145 additional F.T.E. (Full-Time Equivalent) posts in 2013. Will the Minister inform Members how many vacancies she expects to have in 2013 and how many vacancies she has now? What is the size of the problem?

The Deputy of Trinity (The Minister for Health and Social Services):

I do not have the exact details of a per cent but I think it is in the region of approximately 45 vacancies but I will check that and come back. Nursing recruitment and retention, as we go forward, is going to be a challenge. We have done some quite, as he knows, good initiatives here. We grow our own nurses and as well as having a Back to Nursing course, which has brought in another 15 nurses and they will be trained within the next couple of months, as well as local nurse training too. But, yes, it is a challenge and will continue to be a challenge.

6.1.1 Deputy G.P. Southern:

Point of clarification, Sir. The answer said nurse retention and recruitment, the 145 surely apply to all positions, rather than just nurses.

The Deputy of Trinity:

Yes and if it is in the part of the White Paper there will be change that we have with the redesign of Health and Social Services, not only within Health and Social Services but also to include those we are going to need within the third sector.

6.2 The Connétable of St. Martin:

Will the Minister advise the Assembly whether there has been a notable rise in the diagnosis of cancer cases in recent years and, if so, what investigation is being carried out by the department and the Medical Officer of Health as to possible causes, as to what appears to be a dramatic increase on the Island?

The Deputy of Trinity:

The Medical Officer of Health does keep very good statistics and there is a somewhat rise but the actual percentages, I do not have that detail at hand but I can send it to him, so it is no problem at all.

6.3 The Connétable of St. John:

Can the Minister, please, inform Members, why she is asking the Island what they think about the proposals in the H. and S.S. (Health and Social Services) White Paper when she has already reached the conclusion that a new hospital is to be built, as identified in the advert for Managing Director of the General Hospital, published by GatenbySanderson? Will the Minister inform Members what the cost of engaging this consultancy for this position is and, plus, give details of what the competitive 6-figure salary is, please?

The Deputy of Trinity:

At this stage, regarding the 6-figure salary, it is inappropriate for me to give a figure because it is going through the due process to advance to recruitment and they are in the process of short listing and, I think, interviews will be next month. The Hospital Director role is an important role, as identified, especially, by Verita and also backed up by the Aitkenhead Report. It did stress that it needs somebody with good experience of working in a general hospital, so that is important and was one of the features in the advert that went out. Regarding a new hospital, it has been well recognised that we do need a new hospital and feasibility study has got under way in the last couple of weeks and a report will come out towards the end of August/September time. It is either going to report, I hope, that we either need a new hospital on a different site or whether we need a new build or whatever on the present site. No decisions have been made; we need to wait for that feasibility report.

6.3.1 The Connétable of St. John:

Supplementary, Sir. Does the Minister not consider it essential that the level of community care provided to Islanders is clearly identified and documented and, of course, before the need of a new hospital can be identified?

The Deputy of Trinity:

Yes, the cost of a new hospital is in a ball-park figure. We mentioned about £252 million to £300 million based on our figures, so that is why it is important that a feasibility study is done on exactly what size of hospital we need and whether we want to do everything here on Island or send some people away for treatment. That is why it is important that this report is done and it will come out towards the end of the year.

6.4 Deputy R.G. Le Hérisier:

Would the Minister comment on the fact that while she is not in direct control of G.P.s (General Practitioners) there are various levers pulled by her and the Minister for Social Security?

[12:15]

Could she comment on the increasing disparities that are being exhibited in the way repeat prescriptions are being administered by G.P.s? G.P. and dental costs are fast reaching a tipping point in the Island and this is a further fact exacerbating that situation.

The Deputy of Trinity:

Yes, as we know, the G.P.s come under, at the moment, Social Security but over the last couple of years we have been working with G.P.s to try and ... especially with the White Paper because they are an important part of how we redesign Health and Social Services and they need to be part of that. As regarding repeat prescriptions, as the Deputy knows quite well they are a private business and we have no control over how much they charge for any of the services that they provide.

6.4.1 Deputy R.G. Le Hérisier:

Supplementary, Sir. Would the Minister be prepared to look into whether the rationales put forward to patients for repeat prescriptions are medical rationales or, at heart, are financial rationales?

The Deputy of Trinity:

I hope the rationale is for medical reasons but there is a great deal of work to be done with G.P.s and that we are working extremely well with the primary care body and this is probably one of the questions in the great mix of things that we will be looking forward, as we begin the redesign of Health and Social Services.

6.5 Deputy S. Pinel of St. Clement:

Can the Minister advise what her department is doing to improve the access to occupational therapists for Island schools; this is with reference to children with conditions such as autism?

The Deputy of Trinity:

I was not particularly aware that there was an issue, so if Deputy Pinel has a specific issue I will certainly look into it. I know a lot of work is being done with Autism Jersey and there has been a heartfelt report done to try and improve services, especially at Les Chenes. I know it is in part of the White Paper going forward too. But if there is a particular issue then I would welcome her talking to me about it.

6.6 Deputy J.H. Young:

Before making her decision to restructure her Environmental Health Unit jointly with Guernsey, did the Minister consider the potential benefits of co-locating that unit with the environmental team and the potential for efficient and enhanced services? Could she, please, also confirm that within the joint Guernsey unit that she is satisfied that, despite the differences in legislation on such things as noise, there will be no diminution of service locally?

The Deputy of Trinity:

As we are working with Guernsey is high priority too because there is quite a lot of areas that we can work with Guernsey and obviously it would save money for Guernsey as well as us. Environmental health is one of them and it has an environmental officer who spends, I think, either 3 days in Guernsey or 2 days here or vice versa and it works very well. That officer who is in Guernsey used to work in Jersey here, so she understands fully our laws and works with us. Regarding location, with part of the environmental health that is here working at Howard Davis Farm with the Environment Department, yes, I know we have had some discussions but I am open to any suggestion of working closer together with Guernsey or any other department must be a good thing.

6.7 Deputy J.G. Reed of St. Ouen:

On Tuesday, 6th December 2011 the Minister answered with a question tabled by Deputy Southern which raised the issue of user-pays charges contained in the 2012 Business Plan. At that time the Minister responded that certain projects were being scoped or under review and that she would report back to Members once the project details were available and more information was provided. I would like the Minister for Health and Social Services to inform us what progress has been made, if any, on the Patient Transport Review, the introduction of A. and E. (Accident and Emergency) charging mechanism and income generation initiatives within community and social services.

The Deputy of Trinity:

As the Deputy and this Assembly must be aware any user pays is going to be very sensitive and it needs a lot of working up. My officers have been working with the patient transport group to look at how we can improve the service, as well as reducing user pays and our main aim here, especially with patient transport services, is to improve the services. We are looking at moving the suitable clients from, shall we say, a very expensive mini bus into a cheaper and more user-friendly car service for those who can do that. We will be looking at making some charge for certain pay groups. However, there are restrictions with that Motor Traffic Law and so we have to go very carefully with that. As regarding the charging for A. and E., again, this is a very complex area, we know that A. and E. is used at times inappropriately for many different reasons because of the cost of going to G.P.s, *et cetera* and this continues to be scoped. Our aim is to perhaps have a G.P. out of hours perhaps in A. and E., so those who come to A. and E. with specific triage first can either go to A. and E. or go to see the G.P. This is still going to be worked up and it is part of a lean project that is being undertaken at present.

6.7.1 The Deputy of St. Ouen:

I would like to ask the Minister for Health and Social Services, first of all, when does she plan on completing these particular projects because these were proposals for savings to be delivered in 2012? Will she ensure that all the new user-pays charges will come to this Assembly for proper consideration at the appropriate time?

The Deputy of Trinity:

It is being worked up and I am very aware how difficult it can be but also very importantly to protect those people like vulnerable adults and families, that is going to be my high priority. But there are times, especially with patient transport, where at times it can be used kind of perhaps, shall we say, inappropriately and so it does need to be worked up. Yes, it will be debated soon.

6.8 Deputy S. Power:

The Minister will remember in 2006 when she chaired the closure of the Overdale Review. Can she outline briefly to the Assembly as to what those existing wards at Overdale are being used for now, for what sort of treatment?

The Deputy of Trinity:

I can indeed and I have to say it was a very good report. I am sure Deputy Power would agree with me too. Those existing wards at Overdale have been revamped and are used at the moment as facilities for patients with mental health problems because, as you will be aware. Rosewood House has been redecorated and done up but the patients there could not stay while all that work was being done, therefore, the ones that are appropriate to be moved went to McKinstry Oak. But now, with Clinique Pinel, with the funds coming into Clinique Pinel and the work there due to be started within the next couple of months or so, they have all moved out of Clinique Pinel and we are still

using the McKinstry Oak Ward. It has been done up since significant money was put in it to make it a good standard.

STATEMENT ON A MATTER OF OFFICIAL RESPONSIBILITY

The Bailiff:

Very well, that brings Questions to the Minister to a close. There are no matters under J, so we then come to Statements on a Matter of Official Responsibility and the Chairman of the Comité des Connétables will make a statement regarding the 2012 Island-wide rate.

7. Statement by the Chairman of the Comité des Connétables regarding the 2012 Island-wide rate

7.1 The Connétable of Trinity (Chairman of the Comité des Connétables):

I wish to inform the Assembly of the cost to ratepayers across the Island of the Island-wide rate for 2012, which has been determined in accordance to the Rates (Jersey) Law 2005. The 2012 annual Island-wide rate figure is the 2011 figure of £10,965,046 increased by the Jersey Retail Prices Index for 12 months to March 2012 of 4.7 per cent, resulting in the sum of £11,480,403. In accordance with the Rates (Apportionment) (Jersey) Regulations 2006, 55 per cent of the annual Island-wide rate figure is to be met by the domestic rate and 45 per cent of the annual Island-wide rate figure is to be met by the non-domestic rate. A sum of £6,314,222 is therefore to be raised by the domestic rate and the sum of £5,166,181 from the non-domestic rate. The rates are determined by dividing the sum to be raised between the number of quarters assessed on domestic and non-domestic property. The rates will therefore be 0.69 pence per quarter for domestic ratepayers and 1.21 pence per quarter for non-domestic ratepayers.

The Bailiff:

Very well, then Members have an opportunity of questions. Deputy of St. Ouen.

7.1.1 The Deputy of St. Ouen:

I wonder if the Chairman of the Comité des Connétables would confirm, first of all, whether there must be an increase in the rates levy each year and whether 4.7 per cent is the appropriate figure that has to be levied.

The Connétable of Trinity:

I am pleased to inform the Deputy of St. Ouen it is out of the Connétables hands. This is the amount we get sent from Treasury, which is the cost of the Island-wide rate. I am just the messenger telling you what will be added to the rates of the Parish from the Treasury and Resources Department to be added on for the Island-wide domestic and non-domestic rates. There is a figure we started with in 2005 and it goes up with the cost of living, and, unfortunately, this is where we are. That is 4.7 per cent but the actual cost, because there has been an increase in rates quarters in the Parishes, the actual increase would be in the region of 3 per cent and not 4.7 per cent.

7.1.2 Senator S.C. Ferguson:

When the Chairman of the Comité des Connétables makes a statement like this, perhaps it would be helpful if he would give the actual rates in pence per quarter for the previous year so that Members and the public can see the change in it because obviously a change in quarters would reduce the

rate, as the Connétable has already said. Would the Connétable not agree and does he have last year's figures to give us, please?

The Connétable of Trinity:

Yes, I can help the Senator. Last year it was 0.67, this year it will be 0.69, a 3 per cent increase and on the non-domestic it was 1.17, it will increase to 1.21.

7.1.3 Deputy G.P. Southern:

Is the Chairman aware whether the 4.7 per cent, which I think was September's inflation rate, is prescribed in the regulations of governing the percentage rise?

The Connétable of Trinity:

Yes, I did.

7.1.4 Deputy J.H. Young:

I wonder if the Chairman could give a little bit further information on the base figure of the total rate of £10,965,000 and so on. Could he advise whether that figure, the base of rates, has increased from the previous year or whether it has remained the same?

The Connétable of Trinity:

If the Deputy wishes I can give him the figures from 2006 right through to 2012. In 2006 it was £9,368,416 and, as you can see, it has crept up, up to now, to £11,480,403 in 2012.

[12:30]

Then the cost, when we had originally started in 2006, it was 0.62 a quarter and 1.11 for the non-domestic and we are now at the figure of, as I have told you, 1.21 and 0.69.

7.1.5 Deputy J.H. Young:

Could I just ask the Connétable to clarify a point for me because I may not have asked my question very clearly? Can he tell whether any of the increases are due to the increase of the number of properties and the base of property going into bases or rate or is all of the increase due to year-on-year percentage increases?

The Connétable of Trinity:

Deputy, the increase is year-on-year increases but because there are always more quarters in every year with new properties and different properties that have been renovated the increasing quarters goes up, so the cost that we are sent from Treasury, at say 4.7 per cent, is turning out at 3 per cent because we have more quarters. In other words, we are not giving the full 4.7 because of the increasing quarters when properties have been built in certain Parishes. It will affect different Parishes, you might have a Parish that has a housing estate built then quarters will rise. It has taken over the whole Island rates quarters. It is not individual Parishes. This is an Island-wide rate.

7.1.6 Deputy M. Tadier:

Was any consideration given to the appropriateness of introducing a 4.7 per cent increase, which is in line with R.P.I. (Retail Price Index), when many of the Island and States employees are facing a pay freeze?

The Connétable of Trinity:

For the Deputy's information, it is set by law.

7.1.7 Senator F. du H. Le Gresley:

On the same tack really, the Rates (Jersey) Law was introduced in 2005. Since then, there is a new measure of inflation called R.P.I.Y. which excludes the effect of G.S.T. (Goods and Services Tax) and I would just like to ask the Connétable if he thinks we should perhaps change the legislation to use R.P.I.Y. in future.

The Connétable of Trinity:

Maybe we will talk to the Minister for Treasury and Resources about that. As far as I am concerned this is set for the Connétables to erase. The Treasury and Resources Department are very fortunate, these Parishes collect this for them and we just send cheques into the Department. They have a very cheap administration.

The Bailiff:

The generosity of the Connétables is well known. [Laughter] [Approbation] Are there any other questions?

Deputy M. Tadier:

Sir, may I, if there is still time left?

The Deputy Bailiff:

Yes.

7.1.8 Deputy M. Tadier:

Would the *Chef* Connétable or the *Président* of the [Aside] ... Chairman. We could have at least had a French word for the ... I prefer to call him *Président*. Would he seek to see whether or not changes could be made by the law that necessitate an increase in R.P.I. to take into account effects such as austerity, whereby if people are facing pay freezes that the actual reference point should not be the R.P.I. but alternatively the earnings index.

The Connétable of Trinity:

That is possible; we can talk with the Treasury and Resources Department. We can look at other ways maybe. Another thing that has to come to this House is the apportionment. We go 55/45, and so that could be reviewed if people thought domestic ... the trouble is it is one of those things, you have businesses which are struggling at the moment, do you put more on the businesses and less on the domestic or do you put ... we came up with a figure that is pretty fair. We thought that on the figures of quarters that 45/55 was a fair percentage and that is what we have at the moment but nothing unreviewable. Maybe I might just say to the Assembly, if they think this was bad, there was talk at the time of the Connétables taking over repairing the roads. I think we took a better way and kept on this one. Thank you.

7.1.9 Senator P.F.C. Ozouf:

Would the Connétable agree with me that Parishes have been significantly better off, notwithstanding the inflation increase, or slightly less than inflation increase, as a result of the States taking full responsibility for welfare and residential care?

The Connétable of Trinity:

Yes, I would agree, certainly. But certainly, as you know, this is a far fairer situation than was there before because Parishes like St. Saviour, St. Clement and St. Helier bore the brunt of the welfare, whereas fortunately Parishes like my own, we had a very, very low welfare payment. This is far fairer because everyone in the community pays exactly the same amount towards this sum of money. There was a road show that went around the Parishes and there were a lot of contentious

things going on but, at the end of the day, we came to this agreement and I think at the end of the day it was better for everyone. This is a good agreement and we are happy to comply with it.

7.1.10 The Connétable of St. Helier:

Would the Chairman agree that notwithstanding his response to the previous question, there still exist areas of unfairness between the Parishes and, in particular, the funding of public conveniences, parks and gardens and street cleaning in the urban Parishes?

The Connétable of Trinity:

I have no comment on that one. We are fortunate; our toilets are cleaned by the States. **[Laughter]**

PUBLIC BUSINESS

The Bailiff:

Very well. That brings questions to the Chairman to an end. So we now come to Public Business.

Senator L.J. Farnham:

Sir, as we move on to Public Business, I was informed by an email from Senator Ferguson, as were other Members of the Assembly, that she is proposing to ask the Greffier to set another date for the censure vote on Senator Ozouf. I think this situation would be wholly unsatisfactory for a number of reasons, but primarily it is the States rules that a vote of censure is brought as soon as possible to the Assembly because it is a very, very serious issue. Not only for the bringer of the proposition but also for the recipient of a censure vote itself. I think it would be wholly unfair, at this late stage, for the Assembly to allow this to happen. And with that point of view in mind, I would like to ask the Chair if we may consider suspending Standing Order 30 and before the Chair rules, Sir, I would just like to elucidate a little on the reason for asking for this. I understand that it could be seen that by suspending Standing Order 30, this could create a vacuum in the States procedure. But I would also like to refer the Chair to Standing Order 166, which refers to the effect of suspension of a Standing Order: "The suspension of a Standing Order shall cease to have effect as soon as the purpose of the suspension has been fulfilled or the matter to which suspension relates has been concluded." I believe the effect of suspending this Standing Order, Sir, would be to then mean that Senator Ferguson would have to either debate the Standing Order now or withdraw it. If the proposition was withdrawn then I refer back to Standing Order 34, paragraph 3, which states that if a proposition has been lodged and then withdrawn without debate this shall not preclude the proposition being re-lodged in similar terms at a later date. So therefore, I would like to propose that Standing Order 30 is suspended and we debate the vote of censure today.

The Bailiff:

Before I consider that, is it seconded? Not seconded, so I do not need to ...

Deputy R.G. Le Hérissier:

Sir, it seems slightly...

The Bailiff:

One moment, Deputy. It is seconded nor not? **[Seconded]** I have considered this, Senator, but in my judgment there are 2 problems with what you propose. Whatever may be the rights and wrongs of what Senator Ferguson has done, first, she has in fact given notice, so in my judgment it has in fact been deferred. So it has happened. So you cannot undo what has happened. She does not need permission of the Assembly to defer it. Secondly, even if that were wrong, by simply suspending the Standing Order you do not replace it with something which says that she has to get

the permission of the Assembly to defer it. So your suspension would not achieve what you wish. So for both of those reasons, I am not going to accept your proposition as it is out of order.

Senator S.C. Ferguson:

Perhaps I could say something on the matter, Sir.

The Bailiff:

Yes, of course, Senator.

Senator S.C. Ferguson:

The curious email, which was allegedly sent from the Interim Treasurer, which we received at I think it was 1809 last night was, created by the Acting Chief Executive and Head of the Public Service. Some of it was also redacted. While I am sure there is a valid reason for this, I do not feel that we can go into a debate where this will be used as a crucial piece of evidence without these uncertainties being resolved. It is obviously possible for the Public Accounts Committee to follow up on the letter and that will be for the Chairman of the Public Accounts Committee to decide but in view of the uncertainties I have decided, with the concurrence of my colleagues and as is my right under Standing Order 30(2), to defer this debate as this will be fairer to all concerned. It is a fairly abrupt email and makes some accusations and I feel, in the nature of natural justice, that we should consider it and then come back with the vote of censure in order for fairness.

The Bailiff:

The Senator is correct to say that this is her prerogative and she has deferred it and therefore it is deferred. Therefore, we cannot have a long debate on whether she was right or she was not right to defer it. Now, if Members have any particular point of order they wish to raise ... I saw the Chief Minister's light. Do you wish to say anything?

Senator I.J. Gorst:

Sir, I am not sure it is a point of order; I just wanted to comment upon the Senator's suggestion that the email was created by the Acting Chief Executive Officer. Sir, I was in London yesterday. Things moved very quickly or slowly, depending on how you look at it, throughout the day. I obviously needed to take appropriate advice and give rights of reply. Appropriate advice was taken, rights of reply were not received and therefore I have to instruct my Chief Officer to ensure that the email was circulated and that is what happened. He did not create the email for the avoidance of doubt. The email, quite clearly, came from the writer as indicated.

Senator S.C. Ferguson:

If I can correct that, as I said, I am quite certain there is a perfectly valid reason but I think we need to look at it because if you go into the email and look at the properties it is quite clear who created it. Now let us sort the details out in order for fairness and natural justice.

Deputy J.A.N. Le Fondré of St. Lawrence:

Sir, may I just elucidate on that slightly? If Members want, I can circulate a screen copy of what I have printed today but there may be a very good reason for it and it may literally have been cut and pasted into a new document, but the document that was sent to us last night has the author of Richardson, J. in its properties. It was created at 2 o'clock yesterday afternoon and the other thing that is definitely fact is that the document that we have been sent says: "Final sentence text redacted." So in other words, at the moment, and as of whatever time it was last night; we were in a position that we had asked the Chief Minister for a copy of the original email, which unfortunately at full-time was not available. We had a position where it is not clear as to how much the full document does not appear to have been sent to States Members. It does say on the copy

that everyone here has got “Text redacted” and clearly that is undisputable. It does also say it was created at 2 o’clock yesterday afternoon and it also says that the author was not the person who it is signed from. Now, as I said, we believe it is probably a cut and pasting job but that is the problem and if we were going to go into a debate today, things like that plus the actual contents of the email itself, needed to be resolved before we get into what could be a very difficult debate. So that is why in the interests of fairness that matter does need to be clarified and that is why we have asked for the original email to be sent through. I am sure there is not a problem here, we have really emphasised that but it is literally, if you look at the document properties, and everyone can do it on their system, the author of that document is not the person who has signed it.

The Bailiff:

Thank you, Deputy. We cannot really have a long debate on the decision that Senator Ferguson has taken. Now, if any Member has a particular point, if they feel it is right for the Chair to know about it, then they may raise it but they will need to be sure about it. Chief Minister?

Senator I.J. Gorst:

I am sorry to have to rise to my feet again, Sir. I can only say that I am astounded by the inference that either myself or my Chief Executive Officer has somehow... I am not sure what word is being inferred, Sir, but I am astounded by it. If this is the reason for the deferment, then I can, when we come back at lunchtime, provide copies of the original email. I am advised by the appropriate authorities that the redacted element, which I had to redact because it was not being provided in this place, I can make that statement and ensure that it is unredacted, as it were, because at this point, if I am doing it in this Assembly I would have parliamentary privilege. So that might be a way forward but of course, it is for the Senator ultimately to decide.

[12:45]

Deputy J.A.N. Le Fondré:

Sir, can I just clarify there is no hint of allegations. There is absolutely no intent on integrity or anything along those lines. It was uncertainty, Sir.

The Bailiff:

Thank you.

The Connétable of St. Helier:

Sir, as Chairman of Privileges and Procedures Committee, I feel it is incumbent upon me to protest at the way States Members are being treated with this debate. Many Members have spent long hours working through the paperwork expecting this debate to take place today. I think it is treating them very shabbily for this to be withdrawn in short order. Clearly, the Senator and her colleagues could have withdrawn this proposition, got their facts right and brought it back at a later date. I think that would be far fairer to the person concerned than having this hanging over them like a sword of Damocles for a further 2 weeks. **[Approbation]**

Deputy M. Tadier:

Sir, may I make an actual point of order? It seems to me that we all have strong feelings about what is going on and you have already alluded to it yourself, in your own wisdom, that this is a matter of privilege. We do not need any debate about whether or not Senator Ferguson should withdraw this. There are clearly political feelings about this. The points that are being made now, I suspect, are material points that will be made in the debate and my personal feeling is that because this is fresh evidence, essentially, and I do not think any court would expect to just take the fresh evidence at face value. We do not even know, we have not had a chance to read or digest the new

evidence, many of us. So I think it is circumspect what the Senator is doing, but it does not matter what I think because, as I understand it, she has that perfect right to do that. And if people want to make statements in due course the Chief Minister can make an actual statement, perhaps in the Assembly, and we can go from there.

The Bailiff:

Thank you. I am not sure that is any more a point of order than any of the other contributions. **[Laughter]** I felt it right to allow one or 2 people to comment given the unusual circumstances but I think we need to bring it to a close now. The Senator has made her decision for better or for worse, it is her decision and there we rest.

Senator L.J. Farnham:

Sir, as I raised the issue of suspending a Standing Order, Sir ..

The Bailiff:

That was ruled out of order.

Senator L.J. Farnham:

Yes, and I agree with that, Sir. You did ask if Members wanted to seek a point of order or a point of clarification. I would like 2 points of clarification, Sir; one from Senator Ferguson and one from yourself. Firstly, I would like to know when Senator Ferguson informed the Greffier that this issue would be delayed and the second one ...

The Bailiff:

Last night the email is timed. The Greffier apprised me it was at 10.19 p.m., 2219.

Senator L.J. Farnham:

The other point, Sir, in ruling out of order my proposal to suspend the Standing Order you said that if the Standing Order were suspended it would not make any difference. I am just struggling to understand that because if this Standing Order was not in existence there would be no mechanism for the Senator to defer this option. I wonder if you could just explain briefly.

The Bailiff:

No, I am not going to explain my ruling, Senator. I have made it; it is perfectly clear to me that if in fact there is no Standing Order there then there is nothing which says that she needs the permission of the Assembly to defer it. We have the result of the ballot. **[Laughter]** Among all the excitement, that has been overtaken. So I can announce the votes cast for the Bailiff's Consultative Panel as follows: Senator Farnham, 25 votes; the Connétable of St. Lawrence, 31 votes; the Connétable of St. Mary, 24 votes; the Connétable of St. John, 17 votes; Deputy Martin, 12 votes; Deputy Southern, 6 votes; the Deputy of Grouville, 25 votes; Deputy Tadier, 9 votes; Deputy T. Pitman, 6 votes; Deputy Maçon, 23 votes and Deputy Pinel, 28 votes. That means that the following Members are elected in order of their size of votes, the Connétable of St. Lawrence, Deputy Pinel, Senator Farnham, the Deputy of Grouville and the Connétable of St. Mary.

Connétable D.W. Mezbourian of St. Lawrence:

Sir, may I thank Members who voted for me?

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

Very well. Thank you very much then. So the Assembly is adjourned until 2.15 p.m.

[12:49]

LUNCHEON ADJOURNMENT

[14:15]

The Bailiff:

8. Draft Health Insurance (Medical Benefit) (Amendment No. 5) (Jersey) Regulations (P.47/2012)

Then continuing with Public Business, we come now to the Draft Health Insurance (Medical Benefit) (Amendment No. 5) (Jersey) Regulations, Projet 47, lodged by the Minister for Social Security and I will ask the Greffier to read the citation.

The Greffier of the States:

The Draft Health Insurance (Medical Benefit) (Amendment No. 5) (Jersey) Regulations, The States, in pursuance of Articles 9 and 36 of the Health Insurance (Jersey) Law 19671, have made the following Regulations.

8.1 Senator F. du H. Le Gresley (The Minister for Social Security):

The Health Insurance (Medical Benefit) (Jersey) Regulations govern the contribution made by the Health Insurance Fund to the cost of each G.P. consultation. The Health Insurance Fund is allocated 2 per cent of the total of 12.5 per cent social security contribution rate collected from employees, employers and class 2 contributors. These contributions are used to subsidise the cost of G.P. consultations and cover the cost of prescription drugs dispensed into the community. In recent years there have been substantial changes in this area. Working closely with our Health and Social Services colleagues, we are currently undertaking a major programme to introduce a system of G.P. governance into the Island in line with the requirements of the U.K. authorities. This started in 2010 with the agreement of the States to P.36, which set out the new proposals and increased the subsidy paid to G.P.s by £4 per visit to help them meet the costs associated with the introduction of the new governance framework. Since then, very good progress has been made on a number of different fronts. A new I.T. (information technology) system is being developed which will create a central database of patient information. This I.T. will be in place by the end of the year although it may take a little longer for the G.P.s to transfer all their records to the new system. This new system will enable sharing of patient clinical data among G.P.s, including the G.P. out of hours service at the hospital. In the future, the system could also be used by other primary and secondary healthcare providers and could eventually be integrated with a new Health and Social Services computer system. A new quality improvement framework contract is being developed, which will require G.P.s to meet certain standards of patient care in order to receive part of their Government subsidy. A primary care governance unit is being established. This will create the governance structure required by the U.K. General Medical Council to allow local G.P.s to work in a well-regulated environment. All of these measures will help to strengthen the role of primary care in Jersey. This is a key component of the new Health and Social Services health strategy. The proposition today is very straightforward. While the new contractual and governance arrangements are being developed, I am proposing that the existing rate of medical benefit should be increased in line with inflation over the previous 12 months. This is an increase of 3.5 per cent based on the increase in R.P.I.Y. R.P.I.Y. is used for medical services who are exempt from G.S.T. and the R.P.I.Y. measure excludes G.S.T. This will increase the rate from £19.59 to £20.28. In 2011, 351,268 general medical benefits were paid at a cost to the fund of £7.3 million. I am also proposing an increase in the rate of benefit paid when a G.P. takes a blood test. This benefit was introduced at the beginning of 2010 to avoid the need for Health and Social Services Path Lab

charges to be passed on to patients. The benefit was set at £10 in 2010. I am proposing today to increase this by 3.5 per cent to a new rate of £10.35. Last year, this benefit was paid in respect of 76,541 blood tests at a cost to the fund of £760,000. The cost of upgrading these 2 benefits is estimated at £278,000 in a full year. I make the proposition.

The Bailiff:

Is the principle seconded? [**Seconded**] Does any Member wish to speak on the principles?

8.1.1 The Deputy of St. Ouen:

Just a very brief question, I wonder if the Minister could tell this Assembly how much the total contributions levied from employers in class 2 contributors are per annum?

The Bailiff:

Does any other Member wish to speak? Very well, then I invite the Minister to reply.

8.1.2 Senator F. du H. Le Gresley:

I think I can answer the question for the Deputy in relation to the Health Insurance Fund, which is what we are debating today and the contribution total in 2011 was £28,519,000.

The Deputy of St. Ouen:

I was asking how much you have collected per annum, as it states in this report: "The Health Insurance (Jersey) Law 1967 collects contributions (2 per cent in total) from employers, employees and class 2 contributors and uses this money to pay for medical and pharmaceutical benefits ..." I therefore would like to know what the total is per annum, or for last year, which made up the 2 per cent contribution as spoken about in the report.

Senator F. du H. Le Gresley:

I think I have answered the Deputy's question. The total is £28,519,000. That is the total of the contributions that represent the 2 per cent which is used for the Health Insurance Fund.

The Deputy of St. Ouen:

Received on an annual basis?

Senator F. du H. Le Gresley:

Received in 2011, yes.

The Deputy of St. Ouen:

Thank you.

The Bailiff:

Very well, all those in favour of adopting the principles, kindly show. Those against. The principles are adopted. The Deputy of St. Peter is not here. It is a question of whether this matter needs to be referred to the Health, Social Security and Housing Scrutiny Panel. Deputy Hilton, do you wish it to be referred to the panel? Very well then, Minister, do you wish to propose Regulations 1 and 2 together?

Senator F. du H. Le Gresley:

Yes, Sir. If I may, *en bloc*, thank you.

The Bailiff:

Seconded? [**Seconded**] Does any Member wish to speak on either of the regulations? All those in favour of adopting Regulations 1 and 2, kindly show. Those against. The regulations are adopted. Do you propose the regulations in Third Reading, Minister?

Senator F. du H. Le Gresley:

Yes, Sir.

The Bailiff:

Seconded? [**Seconded**] Does any Member wish to speak in Third Reading? The appel is asked for in relation to Third Reading. So I invite Members to return to their seats and the Greffier will open the voting.

POUR: 38		CONTRE: 1		ABSTAIN: 0
Senator P.F. Routier		Connétable of St. John		
Senator A. Breckon				
Senator S.C. Ferguson				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Deputy R.C. Duhamel (S)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy T.M. Pitman (H)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				

Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

9. Statement made ‘*in camera*’ on 8th December 2008: release of transcript (P.48/2012)

The Bailiff:

Very well, then we move on to the next matter. Projet 48, Statement made ‘*in camera*’ on 8th December 2008: release of transcript, lodged by Deputy Higgins. I will ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion (a) to agree, in accordance with the provisions of Standing Order 160(4), that the transcript of the Statement of the Minister for Home Affairs relating to the suspension of the Chief Officer of the States of Jersey Police that was made *in camera* on 2nd December 2008 in accordance with the provisions of Article 9(4) of the Police Force (Jersey) Law 1974 (including the transcript of the questions to the Minister that followed the Statement), should be made public; and (b) to agree, in accordance with the provisions of Standing Order 160(4), that, if any of the debate on this proposition takes place *in camera*, the transcript of this debate should also be made public.

The Bailiff:

Deputy Higgins, in your report you set out quite correctly that you cannot put in the report the various passages from the *in camera* debate you want to refer to, but you say you will be requesting the States to debate this proposition *in camera*. Is that what you are doing?

Deputy M.R. Higgins:

Sir, I wish to start in the open and then request to go *in camera*.

The Bailiff:

I see. Very well. The other matter, just before we start, is that I have been handed a document which contains some part of the transcript *in camera*, although other bits are public.

Deputy M.R. Higgins:

I shall not be referring to that document until we go *in camera* and it contains the entire transcript as well as the extracts. The extracts we just do not focus attention.

The Bailiff:

Right and do you want this circulated to Members then?

Deputy M.R. Higgins:

Yes, Sir, I do.

The Bailiff:

Right, because of course...

Deputy M.R. Higgins:

I will not be able to explain it otherwise.

The Bailiff:

I see. Well, if the proposition were not to succeed, it would clearly be a breach of all the Standing Orders and so on for any Member to then distribute this or release it anywhere else.

Deputy M. R. Higgins:

Sorry, Sir, the thing has been circulated within this House and hopefully no further until the States decides.

The Bailiff:

Yes, that is the important thing. Very well. So the citation has been read. You want to stay in open session at the moment, so I invite Deputy Higgins to make the proposition.

Senator I.J. Gorst:

Sorry, a little confused there. I wonder, does the Deputy wish it to be circulated now or once he has made the proposition to move *in camera* if that is approved? I think that might be a better way of dealing with it but I am not sure if that ...

The Bailiff:

I understood the Deputy would want to refer to some of this when it is *in camera*, is that not right, Deputy?

Deputy M.R. Higgins:

That is correct, but at the same time. Okay fine.

The Bailiff:

I would suggest it is preferable to circulate this if and when the Assembly goes *in camera*. Very well, Deputy?

[14:30]

9.1 Statement made ‘*in camera*’ on 8th December 2008: release of transcript (P.48/2012) - proposition of Deputy Higgins to debate the remainder of the matter ‘*in camera*’

9.1.1 Deputy M.R. Higgins:

First of all, when people do get this document and I hope they will, I hope no one is going to come up with procedural rules to stop this being debated *in camera*. I put on the sheet that it was P.42 but it is not, it is P.48. I could not remember the number of my own proposition. Anyway, first of all, this proposition is concerned with upholding the integrity of this Assembly. In order for any legislative Assembly to carry out its functions in effectively holding the Executive to account for its policies and actions Members rely on Ministers providing truthful and accurate information, reports and statements. Indeed it is an essential element in any parliamentary democracy. In fact, the code of conduct for elected Members, which is contained in the Standing Orders of the States of Jersey states under Openness: “Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest or rules on freedom of information, data protection or confidentiality clearly demand it.” Under the heading of Maintaining the Integrity of the States, it states that: “Elected Members should at all times conduct themselves in a manner which will tend to maintain and strengthen the public’s trust and confidence in the integrity of the States of Jersey and shall endeavour, in the course of their public and private conduct, not to act in a manner which would bring the States, or its Members generally, into disrepute.” In addition, the Ministerial Code states that: “Ministers will be expected to comply with the following principles of Ministerial conduct. Ministers have a duty to the States to account, and be held to account, for the policies,

decisions and actions of their department and any agencies for which their department has responsibility.” It also states: “It is of paramount importance that Ministers give accurate and truthful information to the States, correcting any inadvertent error at the earliest opportunity. Ministers who knowingly mislead the States will be expected to offer their resignation to the Chief Minister.” It therefore follows that any Minister who misleads the Assembly should be held to account for their actions, otherwise other Ministers might feel that they do not need to be truthful and provide accurate information to the States because they know they will get away with it. Secondly, because to allow them to get away with it would weaken the accountability of Members to the Assembly and democracy in Jersey. Now, this proposition is not concerned with the actions of a current Minister, but rather with those of a former Minister and a Member of the Assembly who I will demonstrate misled the Assembly. Now, because he is no longer a Member of the Assembly it is no use me referring him to the Privilege and Procedures Committee, or to the Chief Minister, as there is absolutely no sanction that they can pass on him. However, I do not believe that any Minister or Member of this Assembly, current or past should mislead the House and escape impunity.

Especially when the action took place during an *in camera* session and was first hidden from the public gaze and especially when it wronged a loyal servant of the Crown when he did so and that it has cost the States of Jersey more than £1.5 million in reviews and inquiries which may not have occurred if matters had been handled correctly in the first place. Now, it is my belief, which is backed by irrefutable evidence in that document, which I would like us to look at *in camera* that when the former Minister for Home Affairs, Andrew Lewis, misled the House during the *in camera* question and answer session following his statement to the Assembly that he had suspended Mr. Graham Power, the Chief of Police at that time. It is my belief that he should answer for his actions in the court of public opinion.

The Connétable of St. John:

Sir, a point of order, if I may? The proposer of this proposition is using people’s names. I was called by you on an earlier occasion not to use people’s names in this forum, Sir.

The Bailiff:

Yes, we have not always applied that strictly with former Members of the Assembly. It is almost inevitable that they will have to be identified by name. I think in this case Deputy Lewis can be called by name.

Deputy M.R. Higgins:

Thank you, Sir, that is one of the reasons why I am mentioning it as former Minister for Home Affairs and who it is. **[Laughter]** Now in order to present my evidence that he misled the Assembly, we will have to go *in camera* because the debate took place *in camera*. But before doing so, I want to make a number of points. Firstly, that although the suspension of the former Chief of Police had to be held *in camera* due to the Articles in the Police Force (Jersey) Law 1974, there is no legal impediment to the transcript being released if the States Assembly so wills it. Secondly, that no Member of the Assembly who was present in the Chamber on 2nd December 2008, possibly only 10 Members of the current House, needs to fear or worry over what they said during the closed session, as all their comments were, in my opinion, correct and in order. I can also say that no other former Members of the Assembly, other than the former Minister for Home Affairs, needs fear what they said in the Assembly either. Thirdly, the question of precedent. Now, I do not believe that Members in the Assembly need to worry about setting a dangerous precedent if this transcript is released and feel that they would be constrained from speaking freely in the future *in camera* debates for fear of them subsequently being released. I believe that this is a unique situation where a Minister misled the Assembly and the knowledge that in similar circumstances

where such transcripts could be released in future if the Assembly so willed it would deter any Minister from contemplating such an action. So, it is not a precedent in one sense, it is a unique situation where a Minister misled the House and I believe also the people of Jersey indirectly. I would therefore like to propose that the Assembly goes *in camera* so I can go through the evidence and I would like to apologise to the listening public for having to do so, but these are the rules that we work under and I hope that if Members agree to my proposition they will soon be able to read it all later. Thank you.

The Bailiff:

You propose at this stage that the debate goes *in camera*. Can I just be clear, Deputy, what will be the effect of your proposal; you would have to then complete your proposition *in camera* and presumably the debate would continue *in camera* so long as Members wished to, in their only speech, they can only speak once, refer to matters specifically which are *in camera*. And then you would presumably wish us to come back into open session for anything Members wish to say in open session? Or are you proposing the rest of the debate be *in camera*?

Deputy M.R. Higgins:

No, Sir, I think I would like to go through the evidence, people can question it or make any points and then we can come back and go back into public and then obviously at the end, the closing remarks and then we will vote on it.

The Bailiff:

Sorry, I just want to be clear. You want the whole of the debate *in camera* except your closing speech?

Deputy M.R. Higgins:

No, Sir. I want to go through the evidence and give people the opportunity to speak about the evidence if they want but then they can make any other comments they make after that as we come out of *in camera*.

The Bailiff:

Well, no, because they cannot speak twice, you see. They can only speak once. So they will have to decide whether to speak *in camera* or in open session.

Deputy M.R. Higgins:

In that case I would say that we stay *in camera* because part 2 of the proposition is that if at the end of it I am going to be asking that Members also agree that anything said *in camera* is released anyway.

The Bailiff:

I see, so in effect you are proposing that the rest of this debate be *in camera*?

Deputy M.R. Higgins:

Thank you.

The Bailiff:

Very well. That is clear. Is that seconded? **[Seconded]** Very well, does any Member wish to say anything on whether the debate should go *in camera*? Yes, but I am inviting anyone if they want to say anything first and then we will have a vote. Senator Bailhache?

9.1.2 Senator P.M. Bailhache:

I think that I would require, personally, much more information than I have heard so far from Deputy Higgins as to why this Assembly, which sits in public, which debates in public and decides in public, should go *in camera*. The Police Force Law provides very clearly that any discussion in the States regarding the appointment, suspension or dismissal of a Chief Officer should take place *in camera* and no doubt numbers of Members in the course of that debate, before this Assembly was constituted, took part on the basis that they were free to say things that they would not perhaps otherwise have said had the matter been debated in open forum. That is why there is that provision in the Police Force Law that said people can speak freely and express their views. But it is in the interests both of the individual concerned, in this case the former Chief Officer of Police and Members who contributed that their remarks should remain private. Now, I am not at all clear why the Deputy finds it necessary to refer to matters which took place during a debate *in camera*. If he has information that shows that the Assembly was misled during that debate, I do not understand why that information cannot form the basis of a report and a proposition if that is what he has in mind. He does not have to show that a particular former Member has misled the Assembly. He just has to use the underlying information to make whatever point he wants to make. I do not understand what point he wants to make. I do not understand the purpose of this proposition. But for my part, I am not prepared to agree that the Assembly should go *in camera*. I think if the Deputy wishes to make a case for the disclosure of information during an *in camera* debate, which would be highly unusual and would set a precedent, I think he needs to make it in open forum. I oppose the application to go *in camera*.

9.1.3 Deputy G.P. Southern:

On the topic, I believe the speech we just heard was a speech which should, more appropriately, be part of the main debate. It seems to me that if the States of Jersey Police Law says that matters concerning disciplinary affairs must, I would say in the police indeed, be held *in camera* we cannot debate that debate unless we go *in camera*. The speech we just heard said: "I shall be voting against a lifting of the *in camera* condition" eventually. It seemed to me and I cannot see how we can have this debate other than *in camera*. If the proposition is defeated one thing happens, that is the material that has been held *in camera* stays *in camera*. If the proposition is passed, then that becomes in the public domain. But we cannot debate it unless we are *in camera*, it seems.

The Bailiff:

Does any other Member wish to speak on whether to go *in camera*? You will have a chance at the end. It is your proposition to go *in camera*, Deputy. Senator Breckon?

9.1.4 Senator A. Breckon:

I would like to ask you a question of maybe your view in the Chair. I think we had an *in camera* debate on Les Pas Holdings and I think there was an agreement that after a certain period of time, the *in camera* debate would be made public and the reason it was *in camera* was because of a commercial conflict in which it could not be revealed because of contractual obligations and matters that were to be passed before the court, as I understand it. But I think it was revealed afterwards, Sir, and I do not know if you are able to tell me or anybody else is, if there is a precedent for revealing an *in camera* debate afterwards, but I do understand ... I think we did agree that we would do that but I do not think we did that in the case of this debate in December 2008. The reason I ask that is, is there a precedent where we have done this before?

The Bailiff:

I am advised by the Greffier that in that Les Pas matter, it was agreed at the outset before everyone went *in camera* that it would subsequently be released once the timing problem was over. The reason the Assembly went *in camera* there was that there was litigation and of course we could not discuss openly matters which could still come up in court. Once the court matter was settled, then

there was no matter to keep it *in camera*, but that was a decision of the Assembly to go *in camera*, that does not apply here of course because the need to go *in camera* in this case was mandated by the legislation. Does any other member wish to speak on whether to go *in camera*? Yes Deputy Young?

9.1.5 Deputy J.H. Young:

I am concerned to know how will we protect the interests of the subject of this transcript who, after all, is a private citizen now? So I think I would like to know before we decide on whether to go *in camera* how we protect that person. I would like that question before we go into *in camera* session today, if we do.

9.1.6 Deputy T.M. Pitman:

Very briefly, I do feel that if the public listening to this, there can only be one outcome really and that is that if we do not go along with what the proposer is asking, quite fairly, then it is only going to arouse more suspicions, whether they are justified or not, of the type that has arisen originally with this problem. There were 2 great problems that have come from this, what I think is an incorrect decision, but maybe we will discuss that later. That was a huge amount of an expense to the public for something that should not have happened. The other is a huge undermining of confidence in this Assembly, and that is the real issue that I think Members should all keep in their mind when considering whether we should support the proposer, and on that basis, I certainly will be supporting him and I would urge other Members to do so.

9.1.7 Deputy M. Tadier:

I echo, I think, the sentiment of Senator Bailhache when he talked about in principle as many debates as possible should be held in the open. I think, as Deputy Higgins has already alluded to, his hands are tied insofar as because the law which related to the previous debate requires that that be conducted *in camera*. It seems to me that there is a presumption here that Deputy Higgins and perhaps other individuals who were present during the original debate of the former Minister for Home Affairs may wish to refer to their comments that they made *in camera* and it seems quite reasonable that certainly those Members who were here might wish to do that. Now, of course, I suppose then we put ourselves in a very difficult position if we decide not to go *in camera* - as I think the correct Latin should be - are we saying that if we reveal things that we have made *in camera* at the time, are they covered by parliamentary privilege? Because it makes a nonsense of the whole *in camera* in the first place. So I presume that is the logic that Deputy Higgins is using and I will wait for him to confirm that. Nonetheless it does perhaps need to be looked at in more detail by our Privileges and Procedures Committee, because Senator Bailhache talked about being able to speak openly and freely, that is the point of having an *in camera* debate, but that is also the point of parliamentary privilege; that there should be nothing to stop any Member speaking openly and freely whether that takes place *in camera* or in public. And so I think we need to perhaps get back to the basics at some point and question whether we should really be having anything apart from the very exceptional circumstances being held *in camera*.

9.1.8 The Connétable of St. Mary:

I find this very troubling from my own personal point of view because in my previous incarnation as Chairman of Privileges and Procedures Committee, I had to deal with a breach of privilege that was caused by publication of an *in camera* debate, without, of course, the States consent, which this would not be if it was carried. In the report that P.P.C. undertook at the time, it became quite clear that the Members speaking in an *in camera* debate need and expect that debate to remain confidential in order to have the full freedom to say what they consider needs to be said. I find myself almost in a tautological situation where we are having a debate about going *in camera* to

discuss an *in camera* debate which would then be made public if the whole part of the proposition is approved.

[14:45]

I am not sure that where we stand with this Assembly will make taking that decision that affected Members who are not here now to voice their concerns.

The Bailiff:

I think that is probably more for the substantive debate, is it not? This, at the moment, is simply whether this Assembly should now go *in camera* so that reference can be made to what was then said *in camera*. Because if we do not go into camera now Members will not be allowed to refer and quote from things said in that *in camera* debate.

The Connétable of St. Mary:

Precisely, Sir, but in order to do that we are also, if you look at the second part of the proposition, it is saying that debate will itself become public, the debate that we are deciding to do now ...

The Bailiff:

Yes, that is what the proposition says, yes.

The Connétable of St. Mary:

And I just find it ... we are almost following our own tails as a snake doing this and I am concerned for the wider implications and how that affects our freedoms of privilege in this Assembly in the longer term.

The Bailiff:

Now, does any other Member want to speak on whether we go *in camera* or have all the arguments been put? I invite Deputy Higgins to reply then.

9.1.9 Deputy M. R. Higgins:

I would just like to say first of all that, no, ideally I would not like to go *in camera*, I would like to say it out in the open but the rules are the rules and the only way that I can present the evidence is to go *in camera*. By the way, what will take place *in camera* is not my opinion. It is fact. Statements from independent bodies, including other Members of this Assembly, that are on the public record which will disprove what the Minister for Home Affairs said during that debate, so therefore I can talk about what is already in the public arena, but until you read what the Minister for Home Affairs said, you will not see how he misled the States. That is the first one but as far as this debate is concerned and whether the *in camera* portion is released, that is down to Members. The proposition will be taken in 2 parts, in that I have deliberately made it (a) and (b). I want to go *in camera* so we can deal with this thing, but whether you decide that this part of the debate is released to the public, that is down to Members. What I would say though is that I do feel that if Members do not go *in camera* and hear the evidence then it will just bring our House into further disrepute because many people believe that we cover things up and everything else. I am trying to say something was wrong and that a person was disadvantaged, States Members were disadvantaged because they were misled. I am not even convinced it was an inadvertent misleading of the Assembly and the reason why is there were opportunities during that debate to correct what could have been a slip at the beginning but which was carried on throughout and therefore I think we need to go *in camera* so you can see the evidence that I am going to show you. Thank you.

The Bailiff:

Very well, you asked for the appel, Deputy? The appel is asked for then into the proposition which Deputy Higgins has made, namely that the remainder of this debate should be *in camera*. Very well, I invite Members to return to their seats and the Greffier will open the voting.

POUR: 24	CONTRE: 19	ABSTAIN: 0
Senator A. Breckon	Senator P.F.C. Ozouf	
Senator S.C. Ferguson	Senator L.J. Farnham	
Senator B.I. Le Marquand	Senator P.M. Bailhache	
Senator F. du H. Le Gresley	Connétable of Trinity	
Senator I.J. Gorst	Connétable of Grouville	
Connétable of St. Helier	Connétable of St. Clement	
Connétable of St. John	Connétable of St. Peter	
Connétable of St. Brelade	Connétable of St. Lawrence	
Deputy R.C. Duhamel (S)	Connétable of St. Mary	
Deputy G.P. Southern (H)	Connétable of St. Ouen	
Deputy of St. Ouen	Connétable of St. Martin	
Deputy J.A. Hilton (H)	Deputy R.G. Le Hérissier (S)	
Deputy J.A.N. Le Fondré (L)	Deputy of Grouville	
Deputy of Trinity	Deputy S.S.P.A. Power (B)	
Deputy K.C. Lewis (S)	Deputy J.M. Maçon (S)	
Deputy M. Tadier (B)	Deputy J.P.G. Baker (H)	
Deputy T.M. Pitman (H)	Deputy S.J. Pinel (C)	
Deputy T.A. Vallois (S)	Deputy of St. Mary	
Deputy M.R. Higgins (H)	Deputy of St. Peter	
Deputy A.K.F. Green (H)		
Deputy J.H. Young (B)		
Deputy of St. Martin		
Deputy R.G. Bryans (H)		
Deputy R.J. Rondel (H)		

The Bailiff:

Very well, so now we go *in camera*. So I would ask the usher to clear the gallery please and ask the media to withdraw.

[Debate proceeded *in camera*]

[16.22]

The Bailiff:

Very well. We need to reopen the Assembly for the vote. So, usher, if you would reopen the public gallery and invite the media back. The Greffier has helpfully suggested that perhaps we could return all the papers now, on the basis that if the vote is won then it is going to be published anyway and so this is not necessary and if it is lost then they need to be returned.

Deputy R.J. Rondel:

Sir, on that point, is it this piece of document that is going to be published or is it going to be the actual document?

The Bailiff:

No, it will be the official document. So I do ask all Members please to return the paper handed out by Deputy Higgins. I am going to ask the Greffier to pick it up.

Senator F. du H. Le Gresley:

Sir, while we are collecting these documents it struck me we should have a roll call to make sure that everybody who has received a document is in the Chamber.

The Bailiff:

I think that the Greffier has collected all of them. Hopefully, if there are any empty seats ... there is another one there.

Deputy M.R. Higgins:

Members, I did not get a copy, that is my copy that I was working from. Thank you.

The Bailiff:

Very well, we are now back in open session and the vote is now to be taken, first of all on paragraph (a) of the proposition. The appel has been called for. I invite Members to return to their seats and now the Greffier will open the voting.

POUR: 17	CONTRE: 30	ABSTAIN: 0
Senator S.C. Ferguson	Senator P.F. Routier	
Senator F. du H. Le Gresley	Senator P.F.C. Ozouf	
Connétable of St. Helier	Senator A. Breckon	
Connétable of St. Brelade	Senator B.I. Le Marquand	
Deputy R.C. Duhamel (S)	Senator I.J. Gorst	
Deputy R.G. Le Hérissier (S)	Senator L.J. Farnham	
Deputy J.A. Martin (H)	Senator P.M. Bailhache	
Deputy G.P. Southern (H)	Connétable of Trinity	
Deputy of Grouville	Connétable of Grouville	
Deputy J.A.N. Le Fondré (L)	Connétable of St. Clement	
Deputy M. Tadier (B)	Connétable of St. Peter	
Deputy T.M. Pitman (H)	Connétable of St. Lawrence	
Deputy T.A. Vallois (S)	Connétable of St. Mary	
Deputy M.R. Higgins (H)	Connétable of St. John	
Deputy J.M. Maçon (S)	Connétable of St. Ouen	
Deputy of St. John	Connétable of St. Martin	
Deputy J.H. Young (B)	Deputy of St. Ouen	
	Deputy J.A. Hilton (H)	
	Deputy of Trinity	
	Deputy S.S.P.A. Power (B)	
	Deputy K.C. Lewis (S)	
	Deputy E.J. Noel (L)	
	Deputy A.K.F. Green (H)	
	Deputy J.P.G. Baker (H)	
	Deputy S.J. Pinel (C)	
	Deputy of St. Mary	
	Deputy of St. Martin	
	Deputy R.G. Bryans (H)	
	Deputy of St. Peter	
	Deputy R.J. Rondel (H)	

The Bailiff:

Do you still wish Paragraph (b) to be voted on, Deputy?

Deputy M.R. Higgins:

Yes, Sir, but I think I know the answer.

The Bailiff:

Very well. The Greffier will reset the voting machine for paragraph (b) and the Greffier will now open the voting.

POUR: 15	CONTRE: 30	ABSTAIN: 2
Senator S.C. Ferguson	Senator P.F. Routier	Deputy J.A. Martin (H)
Senator F. du H. Le Gresley	Senator P.F.C. Ozouf	Deputy J.H. Young (B)
Connétable of St. Helier	Senator A. Breckon	
Connétable of St. Brelade	Senator B.I. Le Marquand	
Deputy R.C. Duhamel (S)	Senator I.J. Gorst	
Deputy R.G. Le Hérissier (S)	Senator L.J. Farnham	
Deputy G.P. Southern (H)	Senator P.M. Bailhache	
Deputy of Grouville	Connétable of Trinity	
Deputy J.A.N. Le Fondré (L)	Connétable of Grouville	
Deputy M. Tadier (B)	Connétable of St. Clement	
Deputy T.M. Pitman (H)	Connétable of St. Peter	
Deputy T.A. Vallois (S)	Connétable of St. Lawrence	
Deputy M.R. Higgins (H)	Connétable of St. Mary	
Deputy J.M. Maçon (S)	Connétable of St. John	
Deputy of St. John	Connétable of St. Ouen	
	Connétable of St. Martin	
	Deputy of St. Ouen	
	Deputy J.A. Hilton (H)	
	Deputy of Trinity	
	Deputy S.S.P.A. Power (B)	
	Deputy K.C. Lewis (S)	
	Deputy E.J. Noel (L)	
	Deputy A.K.F. Green (H)	
	Deputy J.P.G. Baker (H)	
	Deputy S.J. Pinel (C)	
	Deputy of St. Mary	
	Deputy of St. Martin	
	Deputy R.G. Bryans (H)	
	Deputy of St. Peter	
	Deputy R.J. Rondel (H)	

10. Income Support Medical Appeal Tribunal: appointment of members (P.49/2012)**The Bailiff:**

So, now we move to the next matter on the Order Paper, Income Support Medical Appeal Tribunal: appointment of members, Projet 49 lodged by the Minister for Social Security. I will ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion to appoint, in accordance with Article 15 of the Income Support (General Provisions) (Jersey) Order 2008, further to a process overseen by the Jersey Appointments Commission, the following persons as members of the Income Support Medical Appeal Tribunal for a period of 5 years: Advocate Elaine Millar, Deputy Chair; Dr. Michael Richardson, medical practitioner.

10.1 Senator F. du H. Le Gresley (The Minister for Social Security):

I am pleased to propose the appointment of a new Deputy Chair and a new medical practitioner to the Income Support Medical Appeal Tribunal. The Tribunal deals with appeals regarding the award of the impairment component of income support. The impairment component consists of 3 elements of subsidy: personal care, mobility and clinical cost, being money to assist with co-payment costs of G.P. fees. A tribunal panel consists of a legally qualified chair or deputy chair, a medical practitioner and lay person, being an individual who has an understanding of the impact and visibility through their own experience. The previous Deputy Chair left Jersey in 2011. To recruit new members open recruitment and structured interviews took place in October 2011 overseen by the Jersey Appointments Commission. The recruitment panel selected Advocate Elaine Millar for the position of Deputy Chair and Dr. Michael Richardson for the panel of medical practitioners. I am satisfied that the proposed Deputy Chair and the medical practitioner have the appropriate professional qualifications and will bring considerable knowledge and experience to their roles and I thank them for offering their services. I ask Members to agree that the proposed candidates are appointed to the Income Support Medical Appeal Tribunal, each for a 5-year term of office commencing on 1st July 2012. I ask Members to support the proposition.

The Bailiff:

Is the proposition seconded? **[Seconded]** Does any Member wish to speak on the proposition? Deputy Southern.

10.1.1 Deputy G.P. Southern:

As probably one of the few people in the Chamber who has brought a medical appeal, and let me say I do not recommend it; it takes 4 hours to get through a medical appeal on these sort of grounds. I have 2 points to make and they are very practical points and they are not to comment on the people who are about to be appointed because I do not know them. I am sure they will be very good. There are 2 things that I would like the Minister to take a look at. One is that both the hearing, 4 hours' worth, and the judgment have to be held in public. The last time I did one of these it meant that for the judgment the person, who has a wheelchair, had to be wheeled across town from her home to this place to appear for 3 minutes while they said: "You have lost your case. Please go away again" and that was another half hour to walk back home. So, that is one thing the public nature of hearing the judgment is probably not a good idea. Can we do something about that? The other is that these medical appeals are held on premises which belong to J.A.C.S. (Jersey Advisory and Conciliation Service) in the Employment Tribunal. They are not very accessible, especially if it is a medical tribunal for somebody in a wheelchair. The lift that is there is the smallest thing I have ever seen. Even with an old-fashioned ordinary wheelchair that you have to wheel you have to take the front bits off it in order to fit in. It certainly cannot take one of the new mobility scooters and is in a very inconvenient place. I would like the Minister to look into finding another venue which is accessible, because all of these cases will probably have some mobility element difficulty and I would like the assurance that the Minister will take a look at finding another place to hold these medical tribunals, in particular. That apart, that is the only thing I have to ask the Minister.

The Bailiff:

Does any Member wish to speak? I invite the Minister to reply.

10.1.2 Senator F. du H. Le Gresley:

I thank Deputy Southern for his comments and I will look into the 2 issues he refers to because obviously anybody, particularly a wheelchair user, if they have difficulty accessing premises to attend hearings then that is not acceptable and I will look into the 2 points he makes and I maintain the proposition.

The Bailiff:

All those in favour of adopting the proposition kindly show. Those against? The proposition is adopted. That brings us to Projet 50 Disciplinary Panel of the Law Society of Jersey: re-appointment of lay members, lodged by the Minister.

Senator I.J. Gorst:

As I asked the Greffier earlier I would like to defer this until the next sitting. Thank you.

[16:30]

The Bailiff:

Very well, the matter is deferred to the next sitting. So, that concludes Public Business. Now we come to Arrangements of Public Business for Future Meetings and I invite the Chairman of P.P.C. to speak to it.

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

11. The Connétable of St. Helier (Chairman, Privileges and Procedures Committee):

Members will have the arrangement as set out in the Order Paper. I have not been officially notified whether P.61 that was deferred today is being requested to be on 10th July. I would perhaps seek guidance from the proposer.

The Bailiff:

The Greffier, I think, has advised it was 2 weeks. So, it will be on 10th July.

The Connétable of St. Helier:

So that gives us some certainty then. The arrangement will be as under M with P.61 added at the top of the agenda for the next meeting. I am not aware of any other matters that have been brought forward.

The Bailiff:

Chief Minister, were you deferring yours for 2 weeks?

Senator I.J. Gorst:

Yes, please, Sir.

The Bailiff:

So that would also be...

The Connétable of St. Helier:

Sorry, Sir, also P.50 will be added.

Senator L.J. Farnham:

I am not intentionally testing your patience but I presume it is for Members to decide and agree to the arrangement of public business for 10th July. So, if Members now decided they did not want to debate P.61 on 10th July, what is the procedure for that, if it is at all possible?

The Bailiff:

It is a matter entirely for Members whether they agree to take matters or not.

11.1 Senator P.F.C. Ozouf:

I would like to defer again with regret P.38/2012. We still do not have a clear line of sight in relation to Q.R.O.P.S. (Qualifying Recognised Overseas Pension Scheme) and I would like to defer that for a further 2 weeks but I inform Members that it may well have to be deferred further if we do not get clarity from the U.K. Government. I do beg your pardon, on 17th July. Perhaps the Chief Minister's proposition could go after the vote of censure in order to give me at least a breath between the vote of censure and the T.D.F. (Tourist Development Fund) matters.

The Connétable of St. Helier:

Also, Sir, the special sitting of the States on 18th July is not on the Order Paper at the moment.

The Bailiff:

Thank you very much for reminding me of that. Just to be clear for Members the scheduled meeting is on 17th July. The business will not be completed on that day. The Assembly will not sit on 18th July because it is the day of the Royal visit, it will sit on 19th July. Senator Le Gresley, did you wish to respond?

11.2 Senator F. du H. Le Gresley:

On the order of business for 17th July is P.62, Deputy Southern, Income Support Mileage Allowance. I have written to Deputy Southern and explained that the policy he is trying to introduce is currently the policy and I was wondering if he was intending to withdraw his proposition.

Deputy G.P. Southern:

I have not received it.

Senator F. du H. Le Gresley:

Sorry, I should have said an email.

Deputy G.P. Southern:

I will certainly consider it, if that is the actual policy and if it fits to a T what I want I will accept that. About time too.

The Bailiff:

Very well. So, the matter before the Assembly then is whether to take the business as listed on 10th July with the addition of Projet 61 and Projet 50, but with the deletion of Projet 38. Do Members agree to take that? Very well. So that concludes the business of the Assembly and we will therefore reconvene on 10th July.

ADJOURNMENT

[16:33]