

# STATES OF JERSEY

## OFFICIAL REPORT

**MONDAY, 15th JULY 2013**

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

[14:15]

**COMMUNICATIONS BY THE PRESIDING OFFICER**

**1. The Bailiff:**

I have 3 matters to mention under A. The first is that His Royal Highness the Earl of Wessex will be visiting the Island on Monday, 16th September and Tuesday, 17th September. He is going to carry out a number of engagements but of particular interest to Members perhaps is that it is planned there should be a special meeting of the States in the Royal Square to commemorate the 350th anniversary of the presentation of the Royal Mace in 1663. There will be a community event and unveiling ceremony and an opportunity for His Royal Highness to meet youth groups and various sectors of the community. He will carry out an investiture on behalf of the Queen and also attend various other functions.

**Deputy M.R. Higgins of St. Helier:**

Sir, is it possible to lift the défaut on Deputy Pitman?

**The Bailiff:**

Yes. Does the Assembly agree to raise the défaut on Deputy Pitman? The défaut is raised. The second matter is that I have received the report of the Investigatory Powers Commissioner for Regulation of Investigative Powers (Jersey) Law 2005 and the Police Procedures and Criminal Evidence (Jersey) Law 2003, and that it will be in Members' pigeonholes. The third matter is that, as Members may be aware, the Société Jersiaise is arranging for a sort of photographic record of much of the Island at present by a leading photographer and I have received a request as to whether the photographer could take photographs of some part of the sitting this week. As this is a project of the Société I hope Members would agree that the photographer may do that. Very well. Then under B and C, matters are as set out in the Order Paper.

**QUESTIONS**

**2. Written Questions**

**2.1 SENATOR A. BRECKON OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING MONIES PAID OUT AS PART OF THE EXIT STRATEGY:**

**Question**

Can the Minister advise Members how much, including monies paid as part of the 'exit strategy', has been paid to growers/glasshouse operators in each year from 1995 to the present day and to whom?

**Answer**

A detailed search of archived grower records is required to determine the extent to which this information was retained by the former Agriculture and Fisheries Committee, which will take a significant amount of Officer time. From 1995 to 2005 support payments varied with the type of crop grown ranging from no subsidy, up to £200 per vergée for outdoor spray carnations. Past subsidies varied each year depending upon the season, budget and crop type.

The 2005 Rural Economic Strategy (RES) discontinued the individual crop subsidy and replaced it with a Single Area Payment (SAP) per vergée, to prevent crops being grown simply for the subsidy they commanded. It also recognised the difficulties facing the protected crops sector (glasshouse and polythene tunnels) in the context of high fixed and variable costs and high levels of competition within export markets.

Following consultation with the protected crops sector, it was agreed that the States would provide a one off ‘roll-up’ payment in 2006, based on the average cropped areas planted in the years 2004 and 2005 to enable the growers either to adapt to the changing market, diversify or to leave the industry. Following this “exit strategy” ongoing crop support was given through the SAP.

The Department is only required to keep financial details for the previous 7 financial years. The following details the payments between 2006 and 2012, including monies paid as part of the exit strategy and SAP to the protected crops sector.

	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>
	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>
G J Growers	105,599.76	289.00	260.10	Nil	Nil	Nil	Nil
La Valette Nurseries Ltd	33,039.36	Nil	Nil	Nil	Nil	Nil	Nil
Three Oaks Vineries Ltd	67,426.68	Nil	Nil	Nil	Nil	Nil	Nil
Harmony Produce Ltd	166,899.68	Nil	Nil	Nil	Nil	Nil	Nil
La Chasse Nurseries Ltd	342,059.19	1,042.30	1,042.30	Nil	Nil	Nil	Nil
PJ Le Cuirot Ltd	26,901.84	Nil	Nil	Nil	Nil	Nil	Nil
Fauvic Nurseries Ltd	269,043.50	1654.97	1,508.54	857.82	Nil	Nil	Nil
Grantez Growers Ltd	103,965.00	Nil	Nil	Nil	Nil	Nil	Nil



P & M Growers Ltd	10,755.00	Nil	Nil	Nil	Nil	Nil	Nil
Two Sole Traders	92,335.26	Nil	Nil	Nil	Nil	Nil	Nil
<b>TOTAL</b>	<b>1,218,025.26</b>	<b>2,986.27</b>	<b>£2,810.94</b>	<b>£857.82</b>	<b>0</b>	<b>0</b>	<b>0</b>

**2.2. SENATOR A. BRECKON OF THE CHAIRMAN OF COMITÉ DES CONNÉTABLES REGARDING THE EMPLOYMENT OF TRAINEES BY PARISHES:**

**Question**

In view of the various initiatives in place to get people back into work and as every Parish employs both manual and clerical workers, can the Chairman advise how many trainees, if any, have been employed in each year since 2010 and in which Parish?

**Answer**

The opportunities for trainees to gain work experience are limited in most parishes as the number of manual and clerical workers is small and, in some cases, positions are part-time rather than full-time.

Nevertheless, Parishes are prepared to offer work experience to trainees from schemes such as 'Advance to Work' and 'Back to Work'. St Helier has had a number of people from various initiatives (detailed information regarding the placements from these schemes, such as the number and year in which they were offered can be circulated in due course should this be required) and the replies received from other parishes are as follows:

2011 – 1 trainee St Martin;

2012 – 1 trainee Grouville; 1 trainee St Clement

2013 – 1 trainee Grouville; 2 trainees St Clement

Apprentice and trainee positions have also been offered as follows:

2010 – 1 trainee St Lawrence

2011 – 1 apprentice in St Helier

2012 – 1 trainee in St Helier

Permanent positions would also be advertised to those on the schemes.

**2.3. SENATOR A. BRECKON OF THE MINISTER FOR HOUSING REGARDING THE PROVISION OF ACCOUNTS FOR PHASES OF DEVELOPMENT OF LES SQUEZ AND LES MARAIS:**

**Question**

“Given that it was stated in the report accompanying P6/2007 (Social Housing Property Plan 2007–2016) approved on 17th July 2007, that the financing of Le Squez and Le Marais would be met from the £50 million sales of 208 properties to existing tenants and the receipts would fund the redevelopment of the whole estate, would the Minister provide the accounts for the phases of this development and identify the sources of funding?”

**Answer**

The table attached sets out the cost of each phase of the works to date, the numbers of homes sold the cash value realised, the value of deferred payment bonds held on the Department’s balance sheet and the source of other funding which has contributed to the scheme.

Project - Description	Cost	Funding Source		Fiscal Stimulus & P40/2012	Units Constructed	Units Sold	Deferred Bond Value on Sale
		Sales Proceeds	Housing Rolling Vote*				
Le Marias Low Rise (La Selliere) - HYC014	4,831,134.16	4,870,500.00	-39,365.84		37	23	541,166.67
Le Marais Low Rise - Phase 2 (Les Hinguettes) - HYC027	6,929,115.88		6,929,115.88		47	0	-
Le Squez - Redevelop - Ph 1A (La Cambrette) - HYC020	5,058,639.85	3,973,500.00	1,085,139.85		19	18	441,500.00
Le Squez - Redevelop - Ph 1b (Les Cloches) - HYC024	8,100,482.36	8,755,750.00	-655,267.64		65	40	2,918,584.00
Le Squez Phase 2 (Les Burons & Les Anquetils) - HYC028	11,155,456.75		3,017,494.75	8,137,962.00	60	0	-
Le Squez Phase 2c - HYR066 - Under Construction	4,986,114.00		486,114.00	4,500,000.00	24	0	-
Le Squez Phase 3 - HYR058 - Feasibility	150,125.21		150,125.21		-	-	-
	<b>41,211,068.21</b>	<b>17,599,750.00</b>	<b>10,973,356.21</b>	<b>12,637,962.00</b>	<b>252</b>	<b>81</b>	<b>3,901,250.67</b>

\* - Housing Rolling Vote includes sale proceeds from other properties and allocations from the Consolidated Fund.

## **2.4 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING PROBLEMS AND BREAKDOWNS AT THE INCINERATOR:**

### **Question**

With regard to the Energy from Waste Plant (incinerator) would the Minister -

- a) update members on the tree screening progress;
- b) advise whether there are problems with the travelling crane and hearth and, if so, give details of the malfunctions.
- c) state whether any monies have been paid to the construction firm and, if so, what percentage of the total,
- d) advise whether he has sought to re-negotiate the contract in view of the number of problems and breakdowns, and,
- e) agree to arrange for a competent firm of engineers (independent of both the Transport and Technical Services Department and the contractor) to prepare a comprehensive report on the incinerator.

### **Answer**

- (a) The Deputy may recall from my responses to his questions of 15th January 2013 and 19th February 2013 that due to the sites exposure to salt laden winds, this is an extremely hostile site in which to establish trees. The trees are establishing slowly but as I have explained on previous occasions it will take several years before the final screening affect is achieved.

My previous offer for the Deputy to visit the site with an Officer from my department to look at the trees remains open.

- (b) There are no current problems with the travelling crane or hearth however in recent months the control cabling to the crane did show signs of damage and as a result of this all of the crane cabling was replaced as a precautionary measure. The work and materials are to be paid for in full by the contractor. The plant is large and complex; it is inevitable that it will from time to time suffer from mechanical or electrical breakdowns.
- (c) The plant has been successfully processing the Island's waste since December 2010. So far the States of Jersey has paid the contractors 95% of the Civil Works and 95% of the Process Works.
- (d) The original contract is still intact and is working very effectively for the States of Jersey.
- (e) Competent Engineers (independent of both the Transport and Technical Services department and the contractor) have been working on the project since its inception. The client's team are fully aware of all the residual issues and we have an agreed schedule with the contractor to ensure the plant meets the original performance specification. Third party Engineers would not add any value at this stage of the negotiations.

## **2.5 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING SITE OF FORMER BOULEY BAY HOTEL:**

### **Question**

With regard to the site of the former Bouley Bay Hotel, would the Minister explain why this area has been allowed to deteriorate, does he consider that the pot-holes are a danger to vehicles and pedestrians alike and, if so, what action, if any, will he be taking?

**Answer**

The car park which the Deputy refers to is administered and maintained by the Environment department and not Transport and Technical Services. My officers have been in contact with the relevant officers at the Environment department who confirm the pot holes will be filled in and the area tidied up in the next four weeks

**2.6 DEPUTY S.S.P.A. POWER OF ST. BRELADE OF THE MINISTER FOR HOME AFFAIRS REGARDING DISPATCH TIMES FOR POLICE VEHICLES:**

**Question**

Would the Minister indicate to the Assembly the estimated and proposed dispatch times for police vehicles responding to an emergency to most points on the Island from the proposed Green Street Police Headquarters location and can he compare those dispatch times to the seven minute average dispatch time of police vehicles attributed to most parts of the Island from the present location at Rouge Bouillon?

Would the Minister confirm whether there will be any calculated difference?

**Answer**

Despite the best efforts of the States of Jersey Police and me, there has continued to be public misunderstanding of the way in which the States of Jersey Police respond to emergencies and I am grateful to Deputy Power for the opportunity to correct this misunderstanding.

There are no estimated or proposed despatch times for police vehicles responding to an emergency from the proposed Green Street Car Park Police Headquarters because the vast majority of emergency calls are responded to by police vehicles which are out patrolling the Island. About two vehicles per week leave Police Headquarters in order to respond directly to incidents occurring somewhere else in Jersey. However, most of these deployments are not emergency deployments but are specialist departments, such as Crime Scene Investigation, Police Dogs etc. who are responding in support of officers who have already deployed from locations elsewhere in the Island.

The target response time to incidents within the town area is 6 minutes and to incidents outside St Helier is 10 minutes. 90% of emergency responses (Code 1) are achieved within the above target response times.

Average response times from Police Headquarters are not recorded for the reasons set out above.

On the unusual occasions where an emergency response might be made directly from the new Police Headquarters, the estimation of the States of Jersey Police is that eastbound responses would be about 1 minute faster than westbound responses.

My own view, based upon my experience of the roads in Jersey, is that if a comparison were to be made between the current position of Police Headquarters and the future position, then the following would apply in the unusual cases in which an emergency deployment were to be made from Police Headquarters: -

1. deployment to the south-east and east of the Island would be faster;

2. deployment to the north-east, south, south-west and west of the Island would be about the same; and
3. deployment to the north-west and north of the Island would be slower.

Overall, bearing in mind the normal pattern of deployments from mobile units, neither the States of Jersey Police nor I believe that the proposed relocation will make any difference to the average response times.

## **2.7 DEPUTY S.S.P.A. POWER OF ST. BRELADE OF THE CHIEF MINISTER REGARDING REPORTS IN RESPECT OF FUTURE POPULATION STRATEGY:**

### **Question**

Further to his response to a written question from Deputy G.P. Southern of St. Helier on 2nd July 2013, what information is the Chief Minister's Department studying, awaiting or appraising, in addition to the various reports produced by the Statistics Unit since the first 2011 Census report, in order to bring a report to the States so that Members can consider and then debate the future population strategy?

In the aforementioned response a reference was made to the consideration of the economy, the environment and the community and the type of Island "we" want, would the Chief Minister elaborate on this?

### **Answer**

The Council of Ministers recognises that population, including attitudes to inward and outward migration, is of great interest to Islanders, which is why it was a strategic priority.

At the same time, the Council also included a priority to develop sustainable long term planning, recognising that there are a number of important long term issues that will affect the Island over the next 15-25 years, for example, our ageing population and the changing global economic environment.

These types of issues need to be addressed with co-ordinated strategies that deliver sustainability and liveability in the longer term, balancing economic, community and environmental considerations. It is therefore vitally important that we consider population policy in this context for future generations, and not in isolation.

The Council is currently reviewing what other jurisdictions are doing, including best practice, and what Islanders have said in previous consultations of this nature. In addition, work is underway to assess the long term consequences for our Island of different immigration scenarios based on the Statistics Unit Population Model, for example, with reference to housing, public services, and our economy.

In the autumn, we will be engaging with Islanders on a proposed vision, with a view to bringing forward a sustainable long-term strategy, including population, for debate in the first quarter of 2014.

## **2.8 CONNÉTABLE OF ST. HELIER OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING USE OF UNSPENT FUNDS FROM THE TOWN PARK CAPITAL VOTE:**

### **Question**

Despite the fact that the States Budget Management Report for the period ended December 2012 (page 6) states that half a million pounds of unspent funds from the Town Park Capital vote is to be returned to the rolling votes of Transport and Technical Services and Housing, would the Minister confirm whether this sum was identified for another project which was never undertaken and, if so, would the Minister explain what this 'other project' was, when it was agreed and by whom, why it was not undertaken and when that decision was made, and why the extra funding was included in the vote for the Millennium Town Park if it was never intended to be spent on that project?

Would the Minister provide a breakdown of how the £10 million sum allocated by the States was spent and what became of the earlier sums allocated to the Millennium Town Park project?

**Answer**

The half a million pounds relates to a proposal by the Council of Ministers in 2007 for landscaping improvements to Victoria Avenue unrelated to the Town Park. This was proposed to be funded from the TTS Infrastructure and Housing Rolling Votes (£250k each). To allow the landscaping project to be explored more fully, however, a temporary transfer of £500k from the Town Park budget was to be made, with this to be reimbursed in later years from the two sources mentioned above.

Following consideration of outline schemes, the landscaping project was not considered an affordable priority and the scheme did not proceed. However, the reimbursements were still made, meaning the Town Park budget was showing an excess of £500k. As this project did not proceed there was a requirement to return the budgets to the original capital heads of expenditure, namely the TTS Infrastructure and Housing Rolling Votes.

This was affected in 2012. These accounting adjustments had no effect upon the funding approved for, and spent on, the Town Park and no variations have been made to capital funding approved by the States.

A breakdown of the £10m allocated by the States was spent is listed below. All earlier sums allocated to the Millennium Town Park Project were spent on the early concept, feasibility and initial design work.

Millennium Town Park - Cost Breakdown Summary

Item	Cost (£1000's)
1 Preparation, Planning and Enabling	£2,400
2 Contaminated Land Remediation	£2,640
3 Utility Building	£768
4 Services and Systems	£1,050
5 Paving	£1,200
6 Planting	£996
7 Play area	£228
8 Practice Court and Petanque	£120

9 Park Furniture and Pergolas	£280
10 Water Curtain	£90
11 Water Field	£156
12 Public Art	£72

Total Cost      £10,000

**2.9 DEPUTY S. PITMAN OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING TREATMENT OF CHRONIC FATIGUE SYNDROME PATIENTS:**

**Question**

Would the Minister advise how many people have been treated for ME/CFS (Chronic Fatigue Syndrome) by the Health Service in the last 10 years and provide figures for each year 2000 to 2012?

Is there a specialist doctor or consultant that treats these patients?

What public information, if any, is provided by the Health Service to Islanders about the illness and the family support available?

**Answer**

Chronic Fatigue Syndrome (CFS), also sometimes referred to as ME (Myalgic Encephalomyelitis) is a relatively common condition that causes persistent fatigue and exhaustion. It affects everyday life and it doesn't go away with sleep or rest.

Symptoms can be mild, moderate or severe. Although the condition can, in its most severe form, be seriously debilitating and require lengthy periods of rehabilitation, the vast majority of other cases are dealt with in the community by GPs.

The number of patients who present to the Hospital with severe, disabling CFS/ME is very low.

Hospital data – which is available for the past two years – records no cases of hospital admissions, where Chronic Fatigue Syndrome (CFS) has been the primary condition, while anecdotally, the Consultant Neurologist recalls that around five patients have required hospital admission for CFS in the past seven years.

No outpatient episodes are clinically coded, which is in line with UK practice.

While we have data showing the number of Outpatients and which clinic patients attend, information about the condition for which they are being seen/treated is not routinely recorded within HSSD databases.

The information is retained in the patient notes and GP correspondence only, and HSSD does not have access to GP patient records.

A patient with suspected or diagnosed CFS/ME, referred by their GP to the Hospital, would initially be referred to the Consultant their GP felt would be the most appropriate, given the specific



the symptoms a patient is displaying. This may be a pain clinic, orthopaedic, physiotherapy or neurology etc.

However, it is common practice that the patient will, ultimately, also be seen by the Neurology consultant, who has primary responsibility for this field, and fully understands the frustrations and challenges faced by those suffering with CFS.

In the event a patient is diagnosed with severely disabling CFS/ME, the Consultant may refer the patient to Kings College Hospital in London for a more specialist opinion on symptoms and potential treatment pathways.

This, however, happens very infrequently as the number of patients presenting to the Hospital with severe CFS symptoms is extremely low.

A dedicated ME/CFS website – [www.nhs.uk/Conditions/Chronic-fatigue-syndrome](http://www.nhs.uk/Conditions/Chronic-fatigue-syndrome) - provides a wealth of helpful information, guidance and advice on the condition, as well as links to support networks and groups, and can be accessed via a link on our HSSD website [www.gov.je/Health](http://www.gov.je/Health)

Clinicians, nurses and other HSSD staff will assist patients with accessing this information, directing them to the websites and/or printing off relevant background information, support group contact details etc.

## **2.10 DEPUTY T.M. PITMAN OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING AN ENERGY EFFICIENCY SCHEME:**

### **Question**

Can the Minister confirm whether the publicly funded energy efficiency scheme was temporarily suspended in 2011 and 2012 to be re-evaluated, due to internal procedural problems within the Department and, if so, would he further confirm that, as a consequence, significant amounts of public money was misspent by the programme officers through the funding of private applicants whose homes fell outside of the remit of the scheme and impacted upon the ability to gauge the benefits of such energy efficiency measures?

### **Answer**

I can report that the Energy Efficiency Service (EES) has never suspended its services as a result of 'internal procedural problems', or for any other reason, and no programme officers, past or present, have misspent 'significant amounts of public money' as the question would suggest.

All EES staff operate within the mandate originally laid out to them by the States Assembly in 2008 when this workstream was established in the 2009 budget debate. The aim was to assist 'the vulnerable' with energy efficiency improvements.

The EES offers a 100% grant assisted turnkey service for vulnerable Islanders and has received 1,613 applications since 2009. To date, the EES has completed work (or is in the process of carrying out work) in 1,427 eligible households. The categories of eligibility for grants are set by the Minister who has been, and continues to be, advised by the Jersey Energy Trust (JET). JET was established in 2009 under MD-PE-2009-0114<sup>1</sup> and is an independent body that provides oversight and guidance to the Minister with respect to the energy efficiency services that are offered.

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<sup>1</sup> The establishment, membership and terms of reference of 'The Jersey Energy Trust' (JET). Currently the JET is chaired by Sir Nigel Broomfield, and members include David Lord, Chris Ambler, Peter Cadiou and Andrea Cook OBE and they are supported by the Director for Environmental Policy, the Deputy Chief Officer and the Chief Executive Officer of the Department of the Environment.

To assist further, I have set out below more details on how the EES operates.

Originally, eligibility for assistance from the EES was focused on a subset of people on Income Support in receipt of the Cold Weather Payment or those enrolled on the Westfield Health Scheme (65+ Health Scheme). As this priority group of clients were helped, the eligibility criteria has been expanded to include all those on Income Support, the Food Cost Bonus payment and a further group of Low-Income Islanders who are over 70 and declare having limited savings<sup>2</sup>.

Since the scheme began, applicants who are not eligible for acceptance under the usual criteria but who feel that their circumstances merit further consideration, have the right to appeal to the Minister. On reviewing such a case, the Minister may decide to accept an applicant on to the scheme using his/her discretion; this route has been used for 4 individuals since 2009. Full details on eligibility are available on the EES website<sup>3</sup>.

In evaluating an application for eligibility, officers are required to make the appropriate checks to ensure that applicants are eligible for help. For example, if an applicant claims to be on Income Support or another benefit such as the Food Cost Bonus payment, officers 'back-check' with the Department for Social Security to ensure they are actually in receipt of this benefit. If the applicants declare they are over 70, and of limited savings, their age is checked with the Department of Social Security.

When the householder receives assistance they sign an agreement document to authorise the prescribed energy efficiency works to their property. There is a clause that allows the States of Jersey to reclaim the value of the grant if information given in the application is found to be untrue. We have never had reason to enforce this provision but if the Deputy has evidence of ineligible people receiving State's assistance then he is invited to contact me and I will thoroughly investigate this.

All EES staff, both past and present, operate in accordance with the relevant States of Jersey Financial Directions: Financial Direction 5.1 the 'Purchase of Goods and Services' and 5.5 'The Management of Grants'. The officer responsible for the EES budget meets with the Department financial manager every month and the Department's Senior Management Team review the Department's overall spend at their 6 weekly Senior Management Board Meeting. The JET Board members receive an update on the EES budget every month by email and this includes expenditure and open orders. The budget is a standing agenda item at every JET Board meeting (held at least 4 times a year).

All energy efficiency work undertaken by contractors appointed by the EES are ordered and receipted through the States of Jersey Financial Management system – JD Edwards. The member of the EES team raises an order within the system and their senior manager and budget holder (in this case the Director for Environmental Policy) approves that order. All client records are held in a bespoke Client Relationship Management System. A combination of the financial data and operational data held in JD Edwards and the CRM allows the Energy Efficiency Service to report and analyse in great detail on all its activities and areas of spend.

The number and cost of each intervention (e.g. loft insulation, cavity wall insulation) ordered by the EES is known and quantified. The environmental benefit, in terms of carbon savings, as well as cost savings to the customer can then be evaluated. The analysis of the interventions and their benefits are then externally validated by the UK's Energy Saving Trust to which the EES is accredited. The EES report this data both to the Minister and the JET Board, an example of this report is the EES's Phase 1 report which covers the period 2009 and 2010 and was lodged au Greffe in November 2011 under MD-PE-2011-0119<sup>4</sup>.

<sup>2</sup>Less than: £50,000 savings if they are married/co-habiting or £30,000 savings if they live alone. This category of applicants is approximately 10% of the total applicants that are accepted on to the scheme.

<sup>3</sup>

<http://www.gov.je/ENVIRONMENT/GENERATEENERGY/ENERGYEFFICIENCY/Pages/EnergyEfficiencyServiceGrants.aspx>

<sup>4</sup>[http://www.gov.je/Government/PlanningPerformance/Pages/MinisterialDecisions.aspx?docid=5c3da955f99ed95aba129ad0dc6e639a\\_MDs](http://www.gov.je/Government/PlanningPerformance/Pages/MinisterialDecisions.aspx?docid=5c3da955f99ed95aba129ad0dc6e639a_MDs)

## **2.11 DEPUTY T.M. PITMAN OF ST. HELIER OF THE CHIEF MINISTER REGARDING COST OF COURT CASE AGAINST FORMER SENATOR SYVRET:**

### **Question**

Now that the secret court case against former Senator Stuart Syvret has concluded and given that data protection matters fall within the remit of the Chief Minister's department, will he detail –

- (a) the total cost of the case from public funds;
- (b) who authorised this sum and oversaw its allocation;
- (c) whether any of the 4 individuals bringing the case with the assistance of the Data Protection Commissioner also had to contribute their own funds and, if so, were these differing amounts and what were those sums;
- (d) whether former Senator Syvret was afforded 'financial equality of arms' from the same public funds;
- (e) whether any background checks were carried out on the 4 individuals to ascertain whether they had a history of similar allegations made against themselves;

If the Chief Minister is unable or is the wrong person to provide the relevant information, will he clarify under whose authority these Data Protection matters fall?

### **Answer**

The legal proceedings are not yet concluded and the Court order remains in place regarding the disclosure of information to any non-party. Therefore the position remains that further discussion would be sub judice. Once the proceeding are concluded, and subject to the decisions of the Court, it would it would then be appropriate to consider the extent to which further information can be provided.

## **2.12 DEPUTY T.M. PITMAN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE BUDGET ALLOCATED TO DATA PROTECTION TO FUND A COURT CASE:**

### **Question**

Will the Minister clarify what was the total amount of monies allocated or transferred to the office of the Data Protection Commissioner to fund the case against former Senator Stuart Syvret relating to 4 private individuals and breaches of the Data Protection (Jersey) Law 2005?

### **Answer**

No funding has been allocated or transferred to the office of the Data Protection Commissioner to fund any case. The costs incurred associated with cases are met from the Court and Case Cost

budget. In 2013, a total budget of £7.7 million has been allocated to fund court and case costs incurred by the Judicial Departments, Police and Customs. It is not possible to outline total monies to be allocated to any on-going case.

In answer to the question once proceedings are complete the Minister, and the Data Protection Commissioner, will need to have regard to:

- the Code of Practice on Access to Information held by the States, Committees of the States and Departments of the States;
- any stipulations of the Court concerning disclosure; and
- the principles of the Data Protection (Jersey) Law 2005 insofar as they relate to the rights of data subjects

when reaching a view on what information can legally be released.

### **2.13 DEPUTY T.M. PITMAN OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING SUSPECTS IN CHILD ABUSE COURT CASE:**

#### **Question**

In the course of the abuse case brought against James Donnelly in 2008/9 how many suspects were investigated in addition to Donnelly; how many initial suspects were not even interviewed, how many, if any, in addition to Donnelly were arrested and how many cases were sent to H.M. Attorney General's office for consideration to be given to the individuals being charged?

#### **Answer**

In respect of this case, there were three other individuals who were considered as suspects and they were arrested and interviewed. Prosecution case files were prepared and presented to the Law Officers' Department by the States of Jersey Police for consideration of criminal proceedings. None of the other three individuals in this case were charged with any associated offences.

### **2.14 DEPUTY T.M. PITMAN OF ST. HELIER OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING RECENT INCIDENT IN A SCHOOL CONCERNING THE USE OF A STARTING PISTOL:**

#### **Question**

Following an incident at a secondary school involving a male pupil and a starting pistol, would the Minister confirm whether the school concerned dealt with the incident in line with established procedures?

Would the Minister advise whether the school contacted the injured child's mother to inform her about the incident or did she only learn about it after school from her son?

Did the school transport the child to hospital after the incident and, if not, why not and who did?

#### **Answer**

A police investigation into the incident has been undertaken and we are still awaiting the outcome.

Police inquiries and legal processes always take precedence in such cases. Once they have been completed, the Education, Sport and Culture Department will commission its own inquiry.

Until this takes place and in fairness to all parties involved, it would be inappropriate to comment on any details of the incident.

**2.15 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR HOUSING REGARDING THE RELOCATION OF LES SQUEZ YOUTH CLUB:**

**Question**

Would the Minister confirm the assurances that he has given to Le Squez Youth Club that they will be re-located on the opposite side of the road as part of Housing's re-development of the site, and will he give the latest estimate of when this might occur?

**Answer**

As the Deputy knows, the proposed relocation of the Le Squez Youth Club to a new location on land presently occupied by social rented homes at Le Squez was always contingent on an exchange of various parcels of land at Le Squez between Samares School and the Housing Department. Therefore it was by no means a certainty that the new facility would be built and no absolute assurances to that effect have been given.

It is fair to say that an in principle agreement for these exchanges of land had been in place since at least 2010 and the Housing Department hoped that the whole scheme including the Youth Club could be delivered. However, in September 2012 in response to an increase in pupil numbers it became clear that the School was going to require increases in parking provision and amenity space which meant that the land exchanges originally proposed were not going to be feasible and would not be pursued. However, many of the other benefits arising from the master plan relating to improvements to parking, providing safe pedestrian access routes through the estate and the creation of a direct link between the School and the FB Fields are still important features of the proposed scheme.

The existing Youth Club is structurally sound and capable of being refurbished or extended and the Education Department has a £2m bid in the States long term capital programme for 2017 to undertake this project. The redevelopment of all of Le Squez is to be completed over approximately the next 5 years meaning that should the Education Department's capital bid be successful the improved Youth Club could be delivered in a very similar timescale.

**2.16 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING FUTURE USE OF THE LES SQUEZ YOUTH CLUB BUILDING:**

**Question**

Would the Minister confirm that Le Squez Youth Club is due to be moved during Housing's re-development of Le Squez estate and, if so, would the Minister state, in light of the imminent replacement of the club roof, what future use the building is destined for and assure members that the premises are not to be refurbished only to be demolished a year or so later?

**Answer**

Jersey Property Holdings Maintenance has, in consultation with the Youth Service, held off undertaking the roof works until funding could be secured. Funds are now in place for 2013. The repairs to the roof of Le Squez Youth Club are essential and urgent if the youth and community activities are to continue in the property.

The roof slates have deteriorated to the point of becoming porous and are not fit for purpose. The effect of this deterioration is that water penetrates the roof slate and enters the building when it

rains. This water ingress means the sports hall has to be closed to all activities until the weather improves and a clean-up operation is undertaken.

JPH Maintenance engaged a local architect to undertake the design and document submission, and has received approval to proceed with the works. The application had to conform to the Bye-Laws for energy conservation and, as a result, included the installation of insulation under the new roofing slate. This will provide an enhanced environment in the club and will assist the Youth Service in reducing energy consumption with regard to the heating and cooling of the sports hall. The project is currently out to tender and is due to start around the beginning of September 2013, lasting for approximately 10 to 12 weeks.

The relocation of the youth club building is not imminent or a certainty at this stage. Discussions will continue with Housing about how the school and youth club integrate into their redevelopment. However, it is likely that, due to its proximity to the school, the youth project building will remain an asset of the States of Jersey. The investment in the building is therefore justified for both the short and long term and will help improve what the Youth Service can offer young people in the Le Squez area.

**2.17 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING PLANNING APPLICATIONS FOR THE RE DEVELOPMENT OF LES SQUEZ:**

**Question**

With regard to Housing's re-development of Le Squez estate, could the Minister confirm, given Housing's ongoing alterations to the original plan, that each variation has and will be the subject of an application to Planning, together with appropriate advertisement so that interested parties are aware and have a chance to make input and, if not, why not?

**Answer**

I am happy to reassure the Assembly that the Housing Department need to apply to my department for permission to carry out works and alterations to the Le Squez housing estate as set out in the Planning and Building (Jersey) Law 2002. Indeed, my officers are already engaged in discussion with the Housing Department's architects on a redesign of the next phase of development. All planning applications received are advertised and interested parties are able to comment within 21 days and these comments are considered before a planning decision is made.

Major schemes with planning permission may incur minor and inconsequential alternations from time to time and my department deal with this for the Le Squez housing estate in the same manner as they would on any other site.

In addition, under the Planning and Building (General Development)(Jersey) Order 2011, there are a number of works and alternations that can be made without requiring planning permission providing the relevant conditions are met.

To assist further, I have set out below the recent planning applications relating to the Le Squez housing estate:

<b>2011</b>	P/2011/1191 (Phase 2 revision)	Construct 21 No. flats and 3 No. dwellings, associated stores and landscaping. Reduce width of existing road. Model Available.	Delegated Approved
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<b>2009</b>	P/2009/0780	development to provide 76 No. units of accommodation. Alterations to existing road network to facilitate future phases of redevelopment. Closure of school road to facilitate the development of a community square and links to FB fields. AMENDED PLANS RECEIVED.	Approved. Planning Applications Panel
<b>2007</b>	P/2007/2849 (Phase 2)	Proposed demolition of existing dwellings, garages and associated external works to facilitate new development. Demolitions to include: Flat Blocks A-H, Terrace Blocks Nos 1-26/33-49/69-81, Bungalow Nos 50-68.	Approved. Planning Applications Panel
<b>2006</b>	RP/2006/0367	Part demolish existing buildings and construct 15no. 1 bed flats, 3no. 2 bed flats, 16no. 3 bed flats, 5no. 2 bed houses, 3no. 4 bed houses, 15 place nursery and refurbish 20no. 3 bed houses and 3no. 4 bed houses. REVISED PLANS: Raise roof and convert garage into kitchen at Units 20, 21 and 23.	Delegated Approval
<b>2003</b>	P/2003/2646	Part demolish existing buildings and construct 15no. 1 bed flats, 3no. 2 bed flats, 16no. 3 bed flats, 5no. 2 bed houses, 3no. 4 bed houses, 15 place nursery and refurbish 20no. 3 bed houses and 3no. 4 bed houses	Delegated Approval
<b>2003</b>	P/2003/1540	Construct 19no. 2, 3 and 4 bed dwellings and associated external works with on-site parking.	Delegated Approval
<b>2002</b>	PP/2002/0642	Demolish 20no. 2 and 3 bed houses and construct 19no. 2, 3 and 4 bed houses with on-site parking. New JEC sub-station and landscaped areas.	Delegated Approval

**2.18 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING A REPORT ON THE VALUE OF JERSEY TO BRITAIN:**

## Question

With regard to the report 'The Value of Jersey to Britain' by Capital Economics published on 2nd July 2013, will the Chief Minister inform members –

- a) who paid for this report, how much did it cost and what was the source of the States contribution towards this;
- b) what bodies in the UK or Jersey provided the figures on which the report is based;
- c) were any of the critics of Jersey's finance industry spoken to;
- d) how 'independent' is Capital Economics; does this body have declared sponsors, were enquiries made regarding previous publications and their sponsors before commissioning this report and, if so, would the Chief Minister provide details;
- e) is Capital Economics a commercial company which provides economic and financial investment advice for investors and, if so, has this report been subject to critical peer review;
- f) what track record have the authors of the report (Andrew Evans, Rachel Lund and Mark Pragnell) in respect of publication in authoritative, peer- reviewed academic journals?

## Answer

- a) Jersey Finance Limited (JFL) commissioned this report at a cost of £176,000. Government supported JFL in its commissioning of the report through the transfer of funds by Ministerial Decision (MD-TR-2013-0027).
- b) Information was taken from a number of sources including but not limited to Jersey Financial Services Commission, Her Majesty's Revenue & Customs, HM Treasury, National Audit Office and the States of Jersey Statistics Unit – all sources are referenced in the report.

Detailed industry information was provided by the Jersey financial services industry and quality checked and approved by Capital Economics researchers.

- c) This report is based on facts and data collected over an extended period. The economic analysis was based on this data and on facts. On that basis it would be inappropriate to seek such opinion for a report of this nature.
- d) A number of companies were sent the Request for Proposal for this work and a thorough competitive tender process took place. Capital Economics was judged to have submitted the best tender which included strong commendations on their previous work. The company has an excellent reputation and were awarded the Wolfsson Economic Prize for their research work on the Euro.

Capital Economics is an independent company and the report was commissioned and researched on an arms length basis. Their reputation has been built on their capabilities and their independence.

- e) Capital Economics is a highly reputable consultancy which provides independent economic analysis to institutional and corporate clients around the world. They do not provide investment advice to anyone.

Full details of Capital Economics range of services can be found on their website [www.capitaleconomics.com](http://www.capitaleconomics.com).



I am unsure what is meant by the question of critical peer review? The firm was commissioned to provide an economic report on a commercial basis. It would not be normal practice to commission a peer review in such circumstances.

- f) Capital Economics is a highly regarded institution who provide expert economic analysis and reporting to a wide range of institutions on a commercial basis and as such would not be involved in academic research.

The firm provides regular analysis of global issues as well as regional and sectoral analysis. Examples of specific research work include:

- o Assessment of the future benefit to the UK economy of the roll out of '4G' mobile Internet technology for a telecommunications network company
- o Critical evaluation of passenger demand forecasts and development of credible scenarios to underpin a franchise bid by a train operating company
- o Appraisal of long term drivers of liabilities for a large pension fund
- o Survey of City attitudes to government borrowing to help a trade body develop new policy ideas to stimulate construction sector

## **2.19 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING FIGURES IN THE REPORT VALUE OF JERSEY TO BRITAIN FOR TAX EVASION:**

### **Question**

Does the Chief Minister accept the figures contained in the report 'The Value of Jersey to Britain' that the United Kingdom loses around £150 million in tax evasion through Jersey channels and a total of £600 million in tax "leakage" (avoidance and evasion)?

What measures, if any, has the Chief Minister in hand to reduce these sums in the short term?

### **Answer**

The estimates of tax loss produced by Capital Economics are the very best estimates we have. They are based on much more comprehensive analysis than that of other estimates. The report suggests that this is the maximum level of tax evasion plausible although the report states that the actual level is probably much lower.

The tax evasion figure of £150 million (which is included in the tax leakage total of £600 million) is expected to be significantly reduced as a result of the Disclosure Facility offered by the UK, and recently presented to the States, and the automatic exchange of information with the implementation of the intergovernmental agreement based on the US FATCA that is currently being negotiated.

The tax avoidance figure is also expected to be reduced as a result of the intergovernmental agreement. Again the report estimates that in all probability the actual number is much lower.

In addition it will be reduced by our own policies directed at discouraging the use of the Island for those aggressive avoidance schemes that would be damaging to Jersey's reputation as a quality international finance centre. One of the recommendations of McKinsey was that there should be set up a Sound Business Practice Committee, comprised of representatives of government, the industry and the regulator, and this Committee is already up and running.

## **2.20 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING JERSEY MANAGED WEALTH AND U.K. TAXES:**

### **Question**

Does the Chief Minister accept that the chart (Figure 1) contained within the Capital Economics report published on 2nd July 2013, summarising the sources and destination of Jersey managed wealth, demonstrates that the total for the United Kingdom sourced funds must include the £150 billion of funds from non-doms, who only place funds in Jersey to circumvent the taxes due in the UK?

Does he further accept that the chart shows that

- a) less than 50% of funds managed in Jersey are invested in the UK, and;
- b) a significant proportion of funds invested in the UK from Jersey did in fact come from the UK in the first place and only went to Jersey to avoid or evade tax by taking advantage of our tax- neutral status?

### **Answer**

I do not accept that those who qualify under the UK tax system as resident non-domiciled (non-doms) place funds in Jersey to circumvent the taxes due in the UK. The use of Jersey by the non-doms is the result of deliberate UK Government policy. UK non-doms could place their assets anywhere outside the UK with the same tax effect.

It is important to understand that the UK tax system has for many years encouraged non-nationals to live and work in the UK. Indeed Prime Minister Cameron quite openly welcomed wealthy French non UK domiciled people to London when French income taxes were being raised.

These 'non-doms' are welcomed to the UK and encouraged to stay there by the UK tax system which for non-doms only taxes UK source income and foreign income remitted to the UK. There is no UK tax liability arising in respect of foreign income that the non-doms do not remit to the UK.

The non-doms can hold their foreign income anywhere outside the UK and only pay UK tax on any sum remitted to them in the UK. The advantage for the UK in having this foreign income held in Jersey is that, in addition to ensuring that the UK is seen as a most favoured place of residence for the non-doms (which has also helped to attract foreign manufacturers and financial institutions to locate in the UK with employment and tax revenue benefits), the funds placed in Jersey are included in the funds upstreamed to the UK by the Jersey banks.

The Chart (Figure 1) in the Capital Economics report to which the second part of the question refers is a pictorial presentation of the more detailed information contained in Figure 36. This shows that of the value of assets held, administered or managed in Jersey it is estimated that 47% of the underlying asset is located in the UK. This figure reflects two aspects of Jersey role as an international finance centre. One is its importance to the UK economy and the other is the international nature of its business.

Figure 35 in the Capital Economics report shows the value of assets held, administered or managed in Jersey by location of ultimate contributor, settlor, investor or depositor. This shows a figure for the UK of 36%. However this does not mean that the funds came from the UK. A third of the UK figure is attributed to the non-doms who while resident in the UK will have placed foreign income in Jersey. A proportion of the money arising from UK based corporates will be money invested by institutions in Jersey funds that had a non UK source. It is incorrect therefore to state that the figure shown for the UK in Figure 35 represents money that "only went to Jersey to avoid or evade tax"

It is also incorrect to suggest that all the money invested into the UK from Jersey and all the money that the UK is identified as the contributor are the same money.

Some of the UK investment funds are routed through Jersey for investment in Europe or elsewhere around the world.

Similarly we know that many of the funds received by our banks internationally are then 'upstreamed' to the parent bank in the UK. Additionally wealthy individuals from around the world use Jersey to pool funds for investment into the UK.

## **2.21 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING CREDIBILITY OF A REPORT INTO THE VALUE OF JERSEY TO BRITAIN:**

### **Question**

Can the Chief Minister account for the discrepancy between the statement in the Capital Economics report that *'Jersey is custodian of £1.2 trillion of wealth: £200 billion in banks; £400 billion in trusts established by private individuals; £400 billion in specialist structures for businesses and institutions; and £200 billion in administered or managed funds'* and the figures given in the quarterly report of Jersey Finance Limited that *'the total value of banking deposits held in Jersey increased by £3bn from £152.1bn to £155.1bn during the first quarter of 2013'*?

Does this cast the credibility of the report into some doubt?

### **Answer**

I would refer the Deputy to Page 39 Figure 27 in the report which provides a breakdown of the £200bn figure in banks. This figure includes deposits, customer loans and other assets. The deposits figure quoted by Jersey Finance relates to bank deposits only.

## **2.22 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING CLARIFICATION OF AGREEMENTS WITH U.K. PRIME MINISTER REGARDING TAXES:**

### **Question**

Notwithstanding the response given on 2nd July 2013, will the Chief Minister clarify for members what changes, if any, he has recently agreed with the UK Prime Minister, in relation to

1. how much information exchange Jersey has entered into;
2. why Jersey refuses to provide corporate tax transparency;
3. why Jersey still has no register of trusts;
4. why Jersey does not commit to full automatic information exchange under the terms of the existing European Union Savings Tax Directive;
5. why Jersey opposes the extension of the European Union Savings Tax Directive;
6. when Jersey will sign the OECD tax mutual assistance agreement;
7. what information Jersey will exchange under its new commitment to automatic information exchange, and when?

### **Answer**

1. Following what has recently been agreed with the UK Prime Minister, the arrangements for tax information exchange with the UK already include or will include the following –
  - Tax Information Exchange Agreement (in force November 2009)
  - Double Taxation Arrangement (in force 1952)
  - EU Savings Tax Agreements (in force July 2005)
  - Disclosure Facility (in force April 2013)
  - Intergovernmental Agreement based on US FATCA (under negotiation),
  - OECD Multilateral Convention on Mutual Administrative Assistance on Tax Matters (awaiting extension of UK ratification).
  
2. Jersey has not refused to provide corporate tax transparency. Quite the contrary. Jersey is recognised internationally as a ‘model’ to follow. Jersey joined with the G8 countries in producing an Action Plan on how to improve the transparency of the ownership and control of companies and trusts. To quote from the Action Plan –

“Jersey has access to all the information on beneficial ownership that is required to meet the present international standards and to respond effectively to requests for information from tax authorities or law enforcement agencies as required by statute.”

“Should international agreement be reached that steps should be taken to allow tax authorities and law enforcement agencies to have access to beneficial ownership information held on a central registry, Jersey will comply with any new international standard in this respect that has global application covering G8, G20, OECD and EU member jurisdictions plus other major financial centres. Because of the quality of the beneficial ownership information already held in the Island such compliance will present far less of a challenge for Jersey than for most if not all other jurisdictions”

Jersey is also committed to take the steps set out in the Action Plan which include “Undertake a general review of corporate transparency, having regard for the development of international standards and their global application, starting with the publication of a pre-consultation paper before the end of 2013.”
  
3. Jersey shares with the G8, the G20, OECD and EU Member Jurisdictions plus other major financial centres in not requiring a register of trusts. The Financial Action Task Force that is the international standard setter for anti-money laundering revised its recommendations in February 2012 and focussed on the role of the trustees as the source of information on the identity of the settlor and the beneficiaries of trusts. This is also reflected in the G8 Communique issued following the Summit held in Northern Ireland last month. Jersey is recognised internationally as a jurisdiction that, because of the licensing and supervision of trust service providers, has more information available than other countries. This information is available to tax authorities and law enforcement agencies in accordance with existing statutes.
  
4. Jersey has always made it clear that it has no problem with the principle of automatic exchange of information (AEOI) under the terms of the existing European Union Savings Tax Directive. What has been said is that a change from the present retention tax option to AEOI should await a clear indication from the European Union that such a change is in prospect for Austria and Luxembourg. Accordingly Jersey has responded to the recent statements made by Luxembourg on the adoption of AEOI in 2015, and the expectation that Austria will follow

suit before the end of the year, and has consulted with the industry. The results of that consultation will be considered by the Financial Services External Relations Advisory Group (FERAG) at its next meeting.

5. Jersey has not opposed the extension of the European Union Savings Tax Directive. The present position is that we are waiting for an approach from the European Union. This is expected to take place once the European Commission has made sufficient progress with the mandate it was given last month to negotiate a revised Savings Tax agreement with Switzerland and the other four non-EU European third countries.
6. Jersey cannot sign the OECD/Council of Europe Multilateral Convention on Mutual Administrative Assistance in Tax Matters because only sovereign states can be signatories. Jersey in common with the other CDs will have to rely on the UK issuing a Letter of Declaration extending the UK's ratification of the Convention to Jersey. Under the provisions of the Convention it will enter into force on the first day of the month following the expiration of three months after the date of receipt of the Declaration by the Secretary General of the Council of Europe. The Letter of Declaration is currently under discussion with HM Treasury.
7. The intention of the OECD is that there should be a single standard for AEOI based on the US FATCA model. This will be reflected in the intergovernmental agreement with the UK, the joint project initiated by the UK and four other EU member states in which Jersey has agreed to join together with twelve more EU Member States, and bilateral AEOI agreements under the terms of the Multilateral Convention. The information to be provided will include –
  - Name, address, date of birth and, where applicable, the National Insurance Number of specified persons and the name and address of each entity;
  - The account number
  - The name of the reporting financial institution
  - The account balance or value
  - The total gross amount of interest, the total gross amount of dividends, and the total gross amount of other income generated with respect to the assets held in the account
  - The total gross proceeds from the sale or redemption of property paid or credited to the account.

Under the proposed intergovernmental agreement with the UK, information relating to calendar years 2013 and 2014 shall be exchanged no later than 30 September 2016. Subsequently the information shall be exchanged within nine months after the end of the calendar year to which the information relates. For 2013 and 2014 the information to be exchanged is limited to that covered by the first four bullet points above.

## **2.23 DEPUTY J.H. YOUNG OF ST. BRELADE OF H.M. ATTORNEY GENERAL REGARDING PUBLICATION OF THE TRANSCRIPT OF THE INQUIRY INTO PLÉMONT DEVELOPMENT:**

### **Question**

Will H.M. Attorney General inform the Assembly whether under the Planning and Building (Public Inquiries) (Jersey) Order 2008, the Inspector who was appointed by the Minister for Planning and Environment to hold a public inquiry into the redevelopment of Plémont Holiday Village is required to prepare and publish a transcript or record of the hearing which took place on 25th and 26th September 2012 and, if so, would he inform the Assembly of the legal procedures which are

available to the public to obtain access to that record or transcript and to formally challenge the content of the Inspector's report to the Minister in respect of alleged omissions, factual errors and erroneous analysis contained therein?

**Answer**

Article 4 of the Planning and Building (Public Inquiries) (Jersey) Order 2008 deals with the general functions of the Inspector. Article 4(2) of the Order provides:

*“The inspector shall conduct the public inquiry as he or she thinks fit, subject to the requirements of this Order and of the terms of reference.”*

Article 14 of the Order deals with the conduct of hearings. Article 14(5) of the Order provides:

*“The inspector shall cause a record to be made of a hearing.”*

Subject to any direction in the terms of reference it is a matter for the Inspector as to how he discharges the duty placed on him by Article 14(5).

The Order itself does not require the Inspector to publish a record made by him for the purposes of Article 14(5).

The rights of Members to information held by a Minister are set out in the Report of the Privileges and Procedures Committee to the States of the 23<sup>rd</sup> December, 2011 (R.153/2011).

The Attorney General refers to the answer to Written Question 7348 which sets out the relevant provision under the 2008 Order concerning the scope of the Minister's discretionary power to reopen a public inquiry.

**2.24 DEPUTY J.H. YOUNG OF ST. BRELADE OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING PRESERVATION OF A HISTORIC SEA WALL ON ESPLANADE:**

**Question**

Will the Minister inform the Assembly whether, in the light of information and representations which have subsequently come to light, he will be modifying his decision in respect of Unit 4 of the States of Jersey Development Company (SoJDC) office development on the Esplanade to ensure that the historic sea wall alongside the Esplanade remains as an integrated feature of the SoJDC scheme to guarantee the wall's conservation and heritage interpretation and, if so, will he provide details of such modification?

**Answer**

I am pleased to advise the Assembly that, following a meeting between myself, the applicant and representatives of Save Our Shoreline on 4th July, a compromise agreement has been reached.

27 metres (75%) of the 36 metres of sea wall that would have been destroyed as a result of the construction of the Jersey International Finance Centre Building 4 will now be retained. 9 metres of the sea wall is still being demolished.

I have imposed a condition on the planning permission to this effect and will consider the details prior to the commencement of the work.

I was pleased that the meeting allowed a collaborative approach to this important matter, which resulted in such a positive outcome.

### **3. Oral Questions**

#### **3.1 Senator S.C. Ferguson of the Minister for Treasury and Resources regarding the creation of a monopoly in fibre routers for the broadband fibre rollout by Jersey Telecom:**

Are J.T. (Jersey Telecom) attempting to create for themselves a monopoly in fibre routers for the broadband fibre roll-out, and if so, what action, if any, does the Minister, as the shareholder representative, intend to take?

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

I am advised by J.T. Retail that this is not the case. J.T. are providing free fibre routers to their subscribers in the same way that routers were provided free during the many promotional offers that ran while copper broadband services were being rolled out. If a J.T. Retail subscriber wishes to connect an alternative router to the J.T. network, they can. They should ensure that they contact J.T. to ensure that the fibre service will function with their router. J.T. obviously advise me that they will not provide support for any alternative routers. J.T. also inform me that the provision of routers is a technically complex area and subscribers need to be very careful when choosing alternatives as the network might not work with them. I am advised that other wholesale providers will be able to utilise other routers as part of their own fibre service; other providers will of course provide the service and support where necessary.

#### **3.1.1 Senator S.C. Ferguson:**

Given that J.T. are being difficult over the matter of the routers and the subsidy of the routers with other service providers, and given that access to the fibre network by all suppliers was one of the Minister's conditions for the original £19.5 million as set out in the Ministerial Decision of 2011, what will the Minister do about it?

#### **Senator P.C.F. Ozouf:**

Perhaps the Senator could tell the Assembly where she gets her information from because I am not aware that there are difficulties, and frankly, if I may say so, question time and questions on telecoms really should be directed, I think, at a very high level issue. If there are issues concerning competition issues, then the proper route is for the approach to be made to J.T. directly or to the Competition Regulatory Authority. I am told however that the largest alternative provider of I.T. (information technology) services or broadband services is Newtel and they will be providing their own router and have not asked for any input or assistance. The second largest provider, the former Cable and Wireless, is seeking a subsidy from J.T. but that is a matter for J.T. to resolve with that other entity.

#### **3.1.2 Deputy R.G. Le Hérissier of St. Saviour:**

Is the Minister convinced, despite his disavowal of the partnership arrangement for Jersey Telecom, that there was a proper separation between the infrastructure services and the delivery of services, and that the infrastructures do operate totally at hand's length so that this kind of issue should not arise?

#### **Senator P.C.F. Ozouf:**

I think the progress has been made because the J.C.R.A. (Jersey Competition Regulatory Authority) have required separate accounting. They have required J.T. to provide a set of accounts for their retail business and their infrastructure business so that the regulator, whose decision of any argument should be the place for resolution of it, not the Treasury Department, I am confident that the regulator has these issues well in hand.

[14:30]

### **3.1.3 Senator S.C. Ferguson:**

As a follow-up, is the Minister aware that fibre customers are being threatened with loss of service if they wish to use their own superior router?

### **Senator P.C.F. Ozouf:**

Perhaps the Senator could answer my question about where is she getting this information from. I am advised that the issue of fibre connections is that J.T. are providing a router that will work with their fibre network and that is the standard arrangement that I understand has been the case for roll-out of fibre in other places, and I am not aware of any particular problems. If she has got a particular isolated example then perhaps she could tell me where that problem arises and I will take it up with J.T., although I do not think operational matters really of this level should be discussed on the floor of this Assembly in this way, unless there is a major problem.

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

Could I raise the *défaut* on Senator Routier, please?

### **The Bailiff:**

Yes. Does the Assembly agree to raise the *défaut* on Senator Routier? The *défaut* is raised.

### **3.2 Connétable J. Gallichan of St. Mary of the Minister for Transport and Technical Services regarding the introduction of a penalty points system for minor traffic offences:**

Considering the results obtained from a broadly constituted road safety workshop in which of the 27 respondents on the matter of introducing a penalty points system for minor traffic offences, 19 were strongly supportive and 8 supportive, is this matter being actively addressed by the Minister, and if so, what are the next steps?

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

Following the road safety workshop, a comprehensive package totalling 35 potential measures has been developed that cover engineering, education and of course enforcement. With regard to enforcement, 3 key proposals were supported by the majority at the workshop; increasing the level of fines, introducing a new offence of causing death or injury by careless driving, and introducing a penalty points system for minor traffic offences. The Minister for Home Affairs has chaired a working group which includes the Magistrate, States Police, Honorary Police, Law Officers and T.T.S. (Transport and Technical Services). That group has developed detailed proposals for increased levels of fines and has also considered the introduction of an offence of causing death or injury by careless driving. The working group also discussed the issue of penalty points but made no firm recommendation. I am now considering the recommendation of the working group. The issue of penalty points is not straightforward because of the role played by Centeniers in administering minor road traffic penalties at the Parish Hall level. In any new system it would need to accommodate this. In addition to penalty points, there are a number of other measures within the forthcoming Road Safety Strategy which will require further research and consultation.

### **3.2.1 The Connétable of St. Mary:**

Two things from that, if I might. Firstly, the Minister mentioned the forthcoming Road Safety Strategy. I would be grateful if he could update me on when that is likely to be published, and secondly, can the Minister confirm whether he has looked at the effects of the points system introduced in various other jurisdictions, particularly with reference to re-offending and to young or novice drivers?



**Deputy K.C. Lewis:**

I believe the panel has done much research elsewhere. Although my officers have made progress with regard to research into the new offence of causing death or serious injury by dangerous driving, legal advice will be needed as, outside my department's control, I cannot confirm whether it will be possible to include it in the amendments to the level of fines but it is being progressed as soon as possible. Also, elements of the Road Safety Strategy require further research and consultation. I anticipate that work being completed so that I can complete a White Paper by the first quarter of next year. The working group chaired by the Minister for Home Affairs compiles residents of all the departments previously mentioned.

**3.2.2 Connétable S.W. Pallett of St. Brelade:**

Has the Minister at any time considered fixed penalty legislation or spot fines for dealing with minor offences such as speeding and mobile phone offences?

**Deputy K.C. Lewis:**

Not spot fines but all the other items mentioned are part of the discussions which are ongoing.

**3.2.3 The Connétable of St. Mary:**

The Minister, in his second response, gave me much useful information particularly about things I had not asked him about, but specifically on the issue of points. My officers are reporting to me, and I am seeing from my own observations, that for a great many people who are being stopped and prosecuted by officers but who follow through the process to get an outcome for speeding, for example, are driving expensive motorcars. They are simply not deterred by a financial penalty alone, and the real thing that would hit home to them as has been found out in France, for example, is that cumulative points on your licence brings the message home. You are not threatened with losing your licence if it is your lifeline for your job but the recidivism, the, sorry, I am looking for an English word, re-offending is often reduced greatly by the points system.

**Deputy K.C. Lewis:**

Yes, the points system and the accumulation of a points system is one of the items that is being considered by the panel. There is also the minor issue, as mentioned before, that this must dovetail with the Parishes themselves as many of these incidents are regulated and prosecuted by Centeniers. That was something else from the deterrent value point of view, that it should be, in the future maybe, that if something goes through a Parish Hall Inquiry then this should be released to the media, not necessarily names and addresses but how many people have been stopped and fined, in a particular Parish or area so that there is a deterrent value there.

**3.3 Deputy S. Pitman of St. Helier of the Minister for Health and Social Services regarding the treatment available to M.E./Chronic Fatigue sufferers within the Health and Social Services Department:**

What treatment is available to M.E. (myalgic encephalomyelitis)/Chronic Fatigue sufferers within the Health and Social Services Department?

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

Chronic Fatigue Syndrome, C.F.S., also sometimes referred to as M.E., can present in various forms. The patient referred to the hospital may be seen by any one of a number of different consultants depending on the G.P.'s (General Practitioner) view of which would be most able to help based on the symptoms. However, it is common practice that the patient will ultimately be seen by the neurology consultant. There is no test to detect or monitor the condition, no cure and no evidence to support any particular drug therapy. Treatment therefore aims to reduce the

symptoms. Everyone with C.F.S. responds to treatment differently so treatment plans are individual, which can include anything from graded exercise programme to pain management and/or clinical psychology. In most severe cases a patient may be referred to a U.K. (United Kingdom) C.F.S. consultant where they will often undergo long periods of managed rehabilitation.

### **3.3.1 Deputy S. Pitman:**

Does she not agree that firstly, she does not have enough evidence to support what she says regarding the curing and possibly ameliorating the illness? I would like to know what actual research the department has done in that area because I know one big thing that does help the illness in a big way is stress, and psychological support is not something that is given to these patients.

### **The Deputy of Trinity:**

Most patients are treated within G.P. surgeries and, as I understand it, it affects different people in different ways and they can be from mild, moderate or severe symptoms, and it is those symptoms, if the G.P. feels that a more specialist consultant is appropriate, then it can be referred to a specific consultant in that area. As regarding research, we have not undertaken any research regarding M.E. I know that in the U.K. there are a lot of research areas that are looking into it.

### **3.3.2 Deputy R.G. Le Hérissier:**

Is the incidence of M.E. in Jersey higher or lower in comparison to comparable areas of the U.K.?

### **The Deputy of Trinity:**

That is very difficult because each patient is an individual and has individual symptoms, and some of them range, as I said, from mild to severe. Most of these, it is only the very severe cases that we see in the hospital. Most of them are managed within G.P. surgeries.

### **3.3.3 Deputy J.G. Reed of St. Ouen:**

Would the Minister tell us whether accurate records are kept of all M.E. and Chronic Fatigue sufferers on the Island?

### **The Deputy of Trinity:**

If the Deputy is asking within the hospital, we do not log M.E. if they attend an Outpatients Department. That is the case across all outpatients in Jersey as well as the U.K. Should we? The numbers the neurologist sees are extremely small. G.P. surgeries? I am not too sure what G.P. surgeries do.

### **3.3.4 Deputy G.P. Southern of St. Helier:**

Does the Minister consider that it might be worth investigating serious cases of C.F.S. and doing a comparative study with equivalent areas in the U.K. or not?

### **The Deputy of Trinity:**

The numbers are, according to the consultant neurologist, extremely small. Looking at the written questions, he recalls that about 5 patients have required hospital admissions for C.F.S. in the last 7 years.

### **3.3.5 Deputy S. Pitman:**

Sir, you never gave me my supplementary so if I can have an extra question. The Minister's answers, I believe, show that there is a big lack of knowledge with her and with the department in the questions as well because it only refers to chronic fatigue when in fact there are quite a number of symptoms including digestive problems, dysfunctional brain issues with cognition and

susceptibility to depression, problems with blood circulation, muscle and joint pain, food intolerances, heart problems, breathing problems, et cetera, and she says that most people go to the neurologist. Does she not think that there needs to be somebody centralised to co-ordinate patients? She probably did not listen to the radio programme that was on over 8 weeks ago, it was very early, where a Charles Stevenson, who is an expert who has dealt with patients for 30 years, says that there is a need over here for somebody who is specialised given the population and given also that they calculate that in populations of around 0.2 to 0.4 people suffering with the illness.

**The Bailiff:**

I think the question was whether you agree.

**Deputy S. Pitman:**

Does the Minister not agree that we need a specialist, firstly?

**The Deputy of Trinity:**

I think the Deputy mentioned a whole list of symptoms. The consultant neurologist has an interest in M.E. and if necessary he will take a second opinion from a hospital, King's Hospital, in the U.K. but also this demonstrates that people are individuals and they present in very many different individual ways, and if they have got digestive symptoms it is accepted it is better that they go and see a gastroenterologist rather than a neurologist.

**3.3.6 Deputy S. Pitman:**

The problem with that is that they may think they have one symptom and they think they have got something when in fact they have got M.E./C.F.S. Now, in my experience there is not a specialist who knows about these symptoms. They only know that it is chronic fatigue or they tell people that it is all in their heads and they have to live with it. There really needs to be somebody who has the knowledge and can diagnose somebody and co-ordinate their treatment.

[14:45]

**The Deputy of Trinity:**

I would not disagree with what the Deputy said. There is no simple test unfortunately to detect or monitor the condition and no evidence to support any drug therapy so it is very difficult. Most of these cases are mild to moderate and are dealt with within the G.P. surgeries. Education can be particularly important and we have on the website links to M.E. and C.F.S. help groups.

**3.4 Deputy S. Power of St. Brelade of the Chief Minister regarding the Minister for Treasury and Resources' recent comments on the work of other Ministers and Departments:**

Notwithstanding the acknowledged quality and hard work of the Minister for Treasury and Resources, my question is: will the Chief Minister indicate whether he is content with that Minister commenting in public on the work of other Ministers in departments and indeed writing open letters to the media on live applications coming before the Minister for Planning and Environment, the Planning Applications Panel and the Planning and Environment Department?

**Senator I.J. Gorst:**

The Minister for Treasury and Resources has clearly stated that he has made no public comment on planning issues since he ceased being the President for the Planning and Environment Committee in 2005. However, the Deputy will be aware that the States Assembly cannot direct or replace Planning Panel decisions. Therefore the only way for a States Member or Minister to address concerns on planning applications is to write to the panel directly which is what the Minister has

done in this instance. This was an exceptional circumstance where the Minister was aware of important information which was not in the public domain but which he believed should be.

#### **3.4.1 Deputy S. Power:**

May I be allowed a supplementary question on that? I appreciate the response of the Chief Minister, however I do acknowledge the role of the Minister for Treasury and Resources and that it does transcend in many ways other States departments. However, the problem is that while the Minister is apparently on record as not getting involved directly, the Minister does get involved indirectly and there are examples with the selection and location of the new proposed police headquarters, and indeed the February campaign which was supposed to be a housing campaign conducted by the Minister for Treasury and Resources on behalf of the Minister for Housing. Would the Chief Minister care to comment?

#### **Senator I.J. Gorst:**

Neither of which issues are related to the original question, if I might just point that out. So I think the Deputy is unfair to criticise the Minister for Treasury and Resources in the way that he has. He used the appropriate process, he wrote to the Planning Panel and it is the Planning Panel or the Minister for Planning who will ultimately decide on this particular issue. Perhaps the Chairman is suggesting that now that he has raised the issue in the Assembly he will be stepping aside and not being involved in the decision as well. Politicians must be very careful when they are involved in issues like this, not to favour one side or the other. The process is to make a submission to the Planning Department via the Planning Applications Panel. That is exactly what the Minister has done. With regard to the other 2 cases: of course the Minister was involved in the housing campaign in February that we had because that was quite rightly cross-departmental. The Treasury Department was supporting Housing and Planning with regard to the Starter Home Loan Scheme. They have been involved in looking at States-owned sites. We must remember, and I am sure the Chairman does not need reminding, that States-owned property comes under the remit of the Treasury Department. Perfectly proper and within the Minister for Treasury and Resources' remit.

#### **3.4.2 Senator L.J. Farnham:**

I am just reflecting on the question and I am not trying to defend the Minister for Treasury and Resources, he has proven on many times he can get out of scrapes on his own. **[Laughter]** No, it is not a scrape. I just cannot help but wondering if the Assembly would agree that the Minister for Treasury and Resources is also an ordinary elected Member of the States Assembly. He is a Senator, and I think Members outside of their ministerial or assistant ministerial responsibilities have a perfect right to ask or say or make anything public they so wish.

#### **The Bailiff:**

Your question is?

#### **Senator L.J. Farnham:**

Does The Chief Minister agree? **[Laughter]**

#### **Senator I.J. Gorst:**

I simply reiterate what I said. The absolutely correct and proper process and channel was employed by the Minister for Treasury and Resources. He has a long history, as I intimated, with regard to this particular site and there was information that he felt, rightly, should be at the disposal of the planning panel. If the Minister was before them before they made that decision, that is absolutely right. I believe he would have been criticised had he not made that public and had the panel not been aware of those facts.

### **3.4.3 Deputy J.A. Martin of St. Helier:**

That is the third time now the Chief Minister has said it is only right and proper that the Minister for Treasury and Resources lets facts that he knows personally about a planning application be brought to light. Can somebody please let this whole Assembly and the public know what these facts are, and will the Chief Minister endeavour to enlighten us all as to what has been going on? Thank you.

#### **Senator I.J. Gorst:**

Nothing has been going on, as the Deputy tries to indicate. Quite clearly the Minister for Treasury and Resources gave a submission to the Planning Applications Panel. Submissions made to that panel are public documents. The Deputy will be able to see that as it is in the public domain.

### **3.4.4 Deputy J.A. Martin:**

Supplementary, Sir. Would the Chief Minister explain just how the Minister for Treasury and Resources was the only person that, seemingly at the eleventh hour, had this insightful, very interesting and obviously much needed information for a planning application? How did the Minister for Treasury and Resources have it and nobody else, especially in Planning?

#### **Senator I.J. Gorst:**

I said quite clearly, once again, the States own sites and sales thereof fall within the remit of the Treasury Department and therefore the Minister for Treasury and Resources was aware of a deal to sell off a piece of land which was then the subject of the planning application. That piece of land was previously in the States ownership.

### **3.4.5 Deputy R.G. Le Hérissier:**

Notwithstanding Senator Farnham's characterisation of the Minister's actions as possibly those of a very innocent and dispassionate Back-Bencher, would the Chief Minister not acknowledge that given that ultimately the Minister for Treasury and Resources has political accountability for Jersey Development Company, to make any pronouncements on big office or potential office developments in St. Helier, given the role of Jersey Development Company, is very unwise?

#### **Senator I.J. Gorst:**

Yet again, another Member, I believe, of the Planning Applications Panel making comment about what is still a live application. I do not believe that the Minister went into the detail of the application with regard to the office accommodation contained therein. He merely spoke about the sale of a piece of land from the States and his wish to see the historic buildings preserved. A wish which I share.

### **3.4.6 Deputy M. Tadier of St. Brelade:**

Will the Minister confirm that this is not about the property in discussion? Rather, the underlying rationale is that there has been an ongoing course of action discreetly against the Minister for Planning and Environment because he does not fit in to the inner circle of the Chief Minister's and this submission from the Minister for Treasury and Resources can be seen as an act of sedition against another one of his ministerial colleagues.

#### **Senator I.J. Gorst:**

I am not sure that that was related to the original question either but there we are, we will keep going. The sun is still shining. I would not agree with that at all, the Minister for Treasury and Resources quite clearly wishes to see historic buildings, important parts of St. Helier preserved. That is a wish that I share. If we had our time again I believe that many Members in this Assembly would like to have seen St. Helier preserved in a different way from that which it has. We have

few remaining historic sites; we should endeavour where we possibly can to see them preserved. Nothing to do with personalities.

**3.4.7 Deputy M. Tadier:**

Supplementary, Sir. What has the Chief Minister been doing, before this application, to preserve the dilapidated derelict and falling down buildings in this part of town? Has action been taken to preserve them up until this point?

**The Bailiff:**

I do not think that does arise out of the question. **[Laughter]** I have seen next, Deputy Young. Deputy Young, Deputy Baudains, then the final question, Deputy Power.

**3.4.8 Deputy J.H. Young of St. Brelade:**

Notwithstanding, nor wishing to defend our energetic and wide-ranging Chief Minister in his representations, would the Chief Minister not agree that it is important that our planning processes are open and transparent and that all Members of the Assembly, including Ministers, have the opportunity to make representations which are publicly accessible? Would he further agree that that right would be extended to members of the Planning Applications Panel excepting of course if they do so, they should withdraw from decisions?

**Senator I.J. Gorst:**

The Deputy makes a very valid and pertinent point. I did say in this instance, in my opening remarks, that these were exceptional circumstances. I understand the difficulty that Ministers sometimes face when they hold a very strong personal view, and yet the legal responsibility lies rightly with the Minister for Planning. How do they make that view known? In this incidence it is right that they make a submission to the Planning Applications Panel, that is what the Minister for Treasury and Resources did, that is what other Members of this Assembly do, day in, day out, when they are representing their constituents and that is absolutely right in this incidence that a listing is preserved. I would say that members of the Planning Applications Panel find themselves in a difficult position because if they make public pronouncements or even private pronouncements about particular sites, they then should withdraw as well from making those decisions because these are very important legally binding decisions and can create value or not for members of our community.

**3.4.9 Deputy G.C.L. Baudains of St. Clement:**

I presume the Chief Minister has read the correspondence which we are all talking about, and of course I do not think anybody could disagree with any Member of the States or public bringing forward material issues to the Minister or the panel. But is the Chief Minister also aware that the Minister for Treasury and Resources sought to influence the Planning Applications Panel by telling it how it basically should take matters forward, and is he content with that?

**Senator I.J. Gorst:**

It is my experience that when I acted as a Parish Deputy representing constituents, one of the things that either the Planning Department or the Planning Applications Panel want to look for is solutions and pragmatic ways forward. I would suggest that where the Minister for Treasury and Resources has said he has made a suggestion, that is all it is, and he has not sought to influence them unduly. He has used the proper legal channels, and he is within his rights to do that and I support him doing it.

**Deputy G.C.L. Baudains:**

I shall have to start telling the Chief Minister how to do his job.

### **3.4.10 Deputy S. Power:**

I would like to bring it to a close by acknowledging the deft footwork on the part of the Chief Minister but I do wish to say that I doubt any member of the Planning Applications Panel has conflicted themselves in any way by this question being placed. Would the Chief Minister not agree with me that on matters which are outside a specific Minister's responsibility, that a Minister, such as the Minister for Treasury and Resources, parking his tanks on other Ministers' lawns is entirely inappropriate and sometimes could be interpreted as eclipsing the role of the Chief Minister? Would he not agree?

### **Senator I.J. Gorst:**

I could not disagree more with the Deputy. The Minister for Treasury and Resources, as I said in my opening comments, has been a previous President of the Planning and Environment Committee, and is aware of the longstanding arguments and arrangements for the listing of those buildings and he believes strongly that they should be preserved, as do I, and therefore, as an individual Member of this Assembly with experience and with knowledge, he made his submission to the Planning Applications Panel. That is as it should be.

### **3.5 Deputy G.P. Southern of the Chief Minister regarding the mechanisms by which tax 'leakage' occurs through Jersey from U.K. tax revenues:**

Will the Chief Minister inform Members of the mechanisms by which leakage estimated at £600 million by the report, *The Value of Jersey to Britain* occurs through Jersey from U.K. tax revenues and state what measures, if any, he is prepared to take to close down any such mechanisms identified?

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

The Capital Economics Report identified tax evasion and tax avoidance as the mechanisms whereby U.K. tax leakage is estimated to occur up to a maximum figure of £600 million. The measures being employed to reduce this possible leakage include the U.K. disclosure facility, recently presented to Members, the negotiation of an inter-governmental agreement for the automatic exchange of information, and the work being undertaken by the newly formed Sound Business Practice Committee. But let us be clear, the Capital Economics Report made it very clear that overall Jersey is a significant benefit to the U.K. in terms both of tax revenue and the creation of employment.

[15:00]

### **3.5.1 Deputy G.P. Southern:**

In the light of the Chief Minister's statement that he wishes to clamp down on aggressive tax avoidance schemes, will the Chief Minister attempt what his Deputy failed to do in the last session, which is to give a definition of the criteria on which he will assess the aggression level of tax avoidance measures?

### **Senator I.J. Gorst:**

That, I suspect, is something that may come out of the work that the Sound Business Committee is producing. Up until then, I can think of no better methodology than, as I have said in the past, either a sniff test or a taste test. We are not talking about something which is defined in law and therefore it is difficult, as much as the Deputy would like us to try to be able to define it.

### **3.5.2 Deputy G.P. Southern:**

So is the Chief Minister saying that despite his assurances to clamp down on aggressive tax avoidance, he has no criteria by which to judge those measures?

**Senator I.J. Gorst:**

No, I have just described them.

**3.5.3 Deputy M. Tadier:**

What is the level of pungency which is required for the administrator of the sniff test for aggressive tax avoidance to be able to flag up whether or not aggressive tax avoidance is the type which is not desirable in Jersey's finance industry?

**Senator I.J. Gorst:**

These schemes can be quite complex, as the Deputy knows. They can be open and good schemes will have counsel opinion attached to them. They will also have approval from H.M.R.C. (Her Majesty's Revenue and Customs), and therefore if those items are not attached, then I would suggest that those working in the finance industry as a first port of call would ask themselves what is the basis of this scheme. Can it be reasonably explained, or is it just seeking simply to aggressively make hay from a loophole which does not have that opinion or that approval?

**3.5.4 Deputy M. Tadier:**

Supplementary. What safeguards are put in place to make sure that the person or body administering the sniff test does not, metaphorically speaking, have a cold?

**Senator I.J. Gorst:**

This is a complex area which while I might have used those terms myself, they are not straightforward, as I indicated in my supplementary answer, and therefore cannot simply be addressed in those terms.

**3.5.5 Deputy S. Pitman:**

Perhaps the Chief Minister could tell us, why did the sniff test fail when we had the Jimmy Carr fiasco? Why do we always get promises and no action seems to take place, because I think that is the reassurance that Members are looking for?

**Senator I.J. Gorst:**

I thank the Deputy for that question because it is after that particular incident when that scheme came to light, that this Government started talking and reaffirming that we believe aggressive tax avoidance has no place in Jersey's future. We have entered into a number of agreements, we have a number of reviews whose (a) purpose is to say that we are well regulated and meet current international standards, and (b) that we are playing our part in helping to deliver new standards and trying to ensure with the setting up of the Sound Business Committee that Jersey is not used in the future for aggressive schemes like K2.

**3.5.6 Deputy S. Pitman:**

Supplementary. If I could just refer the Minister back to the question. Why did the sniff test fail then because apparently all these things were already in place, us being a well-regulated offshore centre?

**Senator I.J. Gorst:**

As I simply indicated, it was subsequent to that coming to light that Ministers started talking about what further could we do, how could we look at these issues, and we then started talking about how those involved in the industry should consider the schemes in those lights. Are they good reputationally for the company taking on the work? Are they good reputationally for Jersey? Do they meet those other criteria that I just talked about?



### **3.5.7 Deputy G.P. Southern:**

Will the Chief Minister, both through his Minister for Treasury and Resources or otherwise, agree to requests that the control of income tax produces examples of tax avoidance equivalent to those measures which might trigger action under 134A for individuals on the Island?

#### **Senator I.J. Gorst:**

I do not know, obviously, what that clause is off the top of my head but I am always prepared to talk to the Minister for Treasury and Resources about any issue that might arise, but let us bear in mind that these are schemes which are employed by, or generally set up and advised by, the U.K. advisers for the benefit of U.K. residents, not Jersey residents. They can simply be administered here but we believe that they have no future. This report is the first time that we have commissioned independent economists to go away and do some work. You might say we have borne everything. We have looked at what our businesses are set upon and we see from this report for the first time that we are of benefit to the United Kingdom. We have taken steps to deal with evasion and we are taking steps to deal with aggressive avoidance, and we believe that these theoretical amounts are now being put beyond doubt. We have got the U.K. disclosure facility, we have got the factor agreements and we have got developing international standards. I believe that shows that Jersey is part of the future of international finance centres. It has got a strong record to be proud of and we are part of the solution and not part of the problem.

### **3.5.8 Deputy G.P. Southern:**

Sir, if I may, supplementary? Can the Chief Minister clarify that we do indeed have a general anti-avoidance regulation, it is 134A, to prevent tax avoidance by our own citizens and will he talk to the Comptroller of Income Tax to discover what types of mechanisms he has intervened on under 134A to prevent tax avoidance here?

#### **Senator I.J. Gorst:**

Once again, the Deputy is talking about the Jersey tax system and yet these schemes are involved and taking advantage of loopholes in other jurisdictions' tax systems so it is not the same.

#### **The Bailiff:**

Very well, we will come to an extra question which the Connétable of St. Brelade will ask of the Minister for Education, Sport and Culture.

### **3.6 The Connétable of St. Brelade of the Minister for Education, Sport and Culture regarding the status of his department's draft I.T. skills strategy:**

How is the Minister addressing the need to ensure that the Jersey curriculum is suitably structured to provide pupils with the necessary skills for life in the 21st century, and with increasing emphasis being placed on the teaching of more advanced skills, both in Jersey and further afield, will he confirm the status of his department's draft I.T. skills strategy?

#### **Deputy P.J.D. Ryan of St. John (The Minister for Education, Sport and Culture):**

The States have already recognised that a skilled workforce will be essential for Jersey's economic prosperity in future and has allocated £3 million in the last M.T.F.P. (Medium-Term Financial Plan) for the creation of a new I.T. skills strategy for the Island. Work on this project is well advanced under my Assistant Minister, Deputy Rod Bryans, and the strategy will be launched on schedule in the Autumn. Thank you.

#### **3.6.1 The Connétable of St. Brelade:**

Sir, supplementary? Would the Minister explain the reasons for the delay in producing his draft I.T. strategy which was due, I think, in May 2013, in regards to its importance in the overall

Minister for Economic Development's economic growth and diversification strategy, where it clearly states there is a need to better align education training with the needs of employers, thus reducing future reliance on migration. Can he explain the reasons for the delay?

**The Deputy of St. John:**

If we take the Connétable to be correct, that the original date was May, that is not my information. My information is that it is on schedule and due in the autumn this year. However, I do know that it is a complex subject, there is much work that needs to be done. Some of the work has already begun. In fact, we have Hautlieu's I.T. department, which does have specialist and highly rated I.T. staff, they are already involved in piloting a scheme where they share expertise with colleagues in primary schools and are using, for instance, Raspberry Pis to help our youngest children learn coding skills. So a lot of this work is already initiated but I do understand the Connétable's wish to have the strategy topped and tailed, done and dusted, as quickly as possible so that he can get on with reviewing what it is. I know he has a particular interest and I thank him for that interest. But I can just reassure him that it is now on what we think is the schedule for October this year.

**3.6.2 The Connétable of St. Mary:**

Could the Minister confirm to me if there is someone in the department who is dedicated to the development of this strategy, and someone also responsible for the I.T. provision in schools generally?

**The Deputy of St. John:**

Yes. Thank you to the Constable for her question. We have both a specialist I.T. person that looks after all aspects of I.T. in the education system, but that particular person is working with a more senior colleague at assistant director level within the department who is chairing the officer group, and my Assistant Minister, Deputy Bryans is overall Chair and has political responsibility.

**3.6.3 The Connétable of St. Mary:**

Sir, I would like another question, if I might, if there is time. Briefly, how can the Minister ensure in the current difficulties that we have, that the teachers will be receptive to the instruction of a new strategy and that also they will be resourced adequately for its implementation?

**The Deputy of St. John:**

First of all, as far as resources are concerned, we have sufficient funds in the M.T.F.P. already allocated, and secondly, I cannot absolutely guarantee it but I can certainly take the opportunity of assuring the Connétable that we have a whole band of very dedicated teachers, who have the best interests of the students at heart, throughout our education system. I know that to be the case so I am very confident that she does not need to worry about it.

**3.6.4 Deputy J.M. Maçon of St. Saviour:**

I do not believe that was my colleague's question so if I can rephrase it then. Can the Minister explain what processes have been put in place in order that when this document is published in October now, that the teachers will be taught and be able to teach the ongoing curriculum, and confirm that the curriculum will be designed at that stage, so that they will be able then to teach it in the next September?

**The Deputy of St. John:**

I know that one of the strands of work within the new I.T. strategy involves the skill sets of teachers, that has already been recognised, and as I say, there has already been some initiatives that have taken place particularly with the secondary teachers at Hautlieu helping their colleagues. But the Deputy is right, that is an area of concern and that is an area that we will be addressing. It will

be addressed within the new I.T. strategy when it comes out in October, and he and others will have ample opportunity then to inspect and question us on that particular future aspect that he is talking about.

**3.6.5 The Connétable of St. Brelade:**

Could the Minister confirm that he has either a senior I.T. official at Education or whether he has identified somebody to take that post? Just to add to that, will he be able to provide anything to the panel prior to the autumn to help it in its work?

**The Deputy of St. John:**

By the panel, I assume the Connétable means the Scrutiny Panel. It will not be possible and I do not think it would be right to try to pre-empt the strategy that is coming out, although I do know that Deputy Bryans does intend to have some informal meetings with the Scrutiny Panel to assist them in their work which might enable them to start their work earlier than waiting until October. The first part of the question was do we have a specialist person, I think, within the department. The Education Department has a specialist I.T. group that has been working for some years because it is not as if I.T. has just suddenly appeared. We have been working for many years and I believe very effectively within the department looking after things like the safeguarding of children and all sorts of other things. So it is not as if this is a new thing, we have very skilled staff already in the department. I do not believe that there is a need at this point in time but I will wait to see the results of the I.T. strategy that Deputy Bryans and his team of officers are currently working on. I think that answers the question.

[15:15]

**3.6.6 The Connétable of St. Brelade:**

I do not believe it does. I asked whether there was somebody specific identified in the department and I do not believe that question was answered.

**The Deputy of St. John:**

Yes, there are 2 or 3 people within the department.

**The Bailiff:**

Well, perhaps you could give their names to the Connétable after this meeting.

**The Deputy of St. John:**

I can do it after, but I do not think it is right to do it in public. I do not think that is what Members generally are supposed to do.

**3.7 Deputy M. Tadier of the Minister for Education, Sport and Culture regarding the decision to remove the children's play area at Les Quennevais Playing Fields:**

Will the Minister advise when a decision was made to remove the children's play area at Les Quennevais playing fields and why?

**The Deputy of St. John (The Minister for Education, Sport and Culture):**

My Assistant Minister, Deputy Roy Le Hérissier, will answer this question.

**Deputy M. Tadier:**

Normally I request that oral questions that I submit can only be answered by the Minister and not by any Assistant Ministers. Nonetheless, presumably as the Assistant Minister in this case has the paperwork I would be willing to accept the answer from him.

**The Deputy of St. John:**

He has more than the paperwork. He has political responsibility for the areas concerned.

**The Bailiff:**

Let us crack on.

**Deputy R.G. Le Hérissier (Assistant Minister for Education, Sport and Culture - rapporteur):**

The decision was taken in January 2013 following an inspection by the surveyors who undertake annual inspections at the behest of Property Services. The items were removed in April. The matter was put on the capital minor budget for 2014 but given the very good representations, I should add, and the very relevant representations from the Deputy for that area we are trying to see whether we can move it back to the 2013 minor capital budget.

**3.7.1 Deputy M. Tadier:**

Can I thank the Assistant Minister for his diligent work in this area? We would certainly appreciate, I believe, speaking on behalf of certainly all the Parish representatives, for this to be put back. It is missed so as soon as possible. Can I ask what consultation was done with stakeholders, including Parish representatives but also the users of that area, before the equipment was removed?

**Deputy R.G. Le Hérissier:**

As far as I am aware, there was no consultation simply because the removal was done on the basis that the equipment was dangerous. It had deteriorated beyond the point of usability and, as such, it had to be removed on health and safety grounds, I am afraid. Hence our wish that it be replaced as soon as possible, but then that will offer an excellent opportunity for consultation as to the kind of equipment and the nature of the equipment that should be put in its place.

**3.7.2 Deputy J.H. Young:**

Would the Assistant Minister confirm or would he agree that at the site at the moment is a fenced grass area devoid of anything in it? Would he be prepared to put a “watch this space” sign or something of that nature and his commitment that something is coming soon?

**Deputy R.G. Le Hérissier:**

Yes, we would even be prepared to put a statue of the Deputy of St. Brelade [**Laughter**] if it helps his popularity. But he is quite right, the sign at the moment is very curt and it does need to be expanded upon.

**Deputy M. Tadier:**

Can I just ask which Deputy the statue will be of? [**Laughter**]

**Deputy R.G. Le Hérissier:**

We would be prepared for a group sculpture.

**3.8 Deputy R.G. Le Hérissier of the Minister for Planning and Environment regarding nitrate levels in the water supply:**

What has been the trend in the last 5 years in respect of nitrate levels in the water supply and, in the case of an adverse trend, what mitigation measures, if any, are in place in order to reduce levels?

**Deputy R.C. Duhamel of St. Saviour (The Minister for Planning and Environment):**

The level of nitrates in the Island’s surface and ground water that form the supply of our drinking water are reducing and have steadily declined during the past 5 years. However, spikes of nitrate or

nitrates in surface water in winter and spring continue to be problematic and at certain times of the year water in the public supply, and in many private bore holes and wells, can exceed the E.U. (European Union) and World Health Organisation limits for nitrates of 50 milligrams per litre. The level of nitrates in drinking water is regulated by my department under the Water (Jersey) Law 1972. Under the law, Jersey Water can request dispensations that permit such spikes of nitrates. These requests are considered in consultation with the Medical Officer of Health to ensure that no detrimental impact to health results in granting these. During the past 5 years, Jersey Water have complied with all the agreed dispensations. The declining nitrate levels in the raw water are mostly likely due to improvements in farming practices such as more appropriate and accurate fertiliser applications and, indeed, the nitrate level has fallen despite the area of potato farming increasing over the last 5 years. However, there is no room for complacency and my department is committed to reducing levels of nitrates in the Island's water supply. The work concentrates on the sustainable and lower cost solution of tackling nitrate at source rather than higher cost options of treatment of our drinking water.

### **3.8.1 Deputy R.G. Le Hérissier:**

I wonder if the Minister could outline what the actual percentage drop has been over the last 5 years and also could he elaborate on the fact that the standards in many cases are not meeting E.U. standards according to his statement?

### **Deputy R.C. Duhamel:**

The average figures have gone from just under 60 milligrams per litre to just over 50 milligrams per litre. Sorry, what was the other question?

### **Deputy R.G. Le Hérissier:**

Is he happy that E.U. standards have in many cases not been followed according to his statement?

### **Deputy R.C. Duhamel:**

I did not say that E.U. standards have not been followed. The Environmental Health Department and our department do, as I mentioned, allow Jersey Water to allow for 33 per cent of the 76 annual samples to be taken to have nitrate levels that are higher than 50 milligrams per litre but not exceeding 70.

### **3.8.2 Deputy J.H. Young:**

Could the Minister tell us how those levels of allowed nitrate in our drinking water compare with standards elsewhere, particularly Europe and the mainland?

### **Deputy R.C. Duhamel:**

I think generally they are quite high in relation to other areas, but the level of the figures is to be expected because of the nature of the farming in a small confined space.

### **3.8.3 Deputy J.H. Young:**

Can he clarify when he says that they are bigger, could he tell us how much they exceed those levels elsewhere?

### **Deputy R.C. Duhamel:**

U.K. figures, and it really depends on which part of the U.K. you are talking about, regularly come in for maybe a quarter of those figures at well under the 50 milligrams per litre mark, at levels round about perhaps a half of that. In areas where there are high levels of farming and, indeed, application of fertilisers, the levels have reduced in line with the practices that have been undertaken both here and similarly in the U.K. areas.

### **3.8.4 Deputy M. Tadier:**

Will the Minister explain what the sample sizes were that were used to determine the average and whether the average is the mean and what percentage of those samples fell above the 50 milligram limit?

### **Deputy R.C. Duhamel:**

I do not have those figures to hand at my fingertips but what figure I do have I can repeat. That was the department allows a third or thereabouts of the 76 samples to be taken by Jersey Water to exceed the nitrate levels as spikes for part of the year. Part of the science of regulating the levels at which the pollution, if you like, can take place are down to things like the frequency of the rain water, the extent that fields have had fertilisers placed upon them and, indeed, whether or not the waters that have come from the clouds have allowed those nitrates which are water soluble to wash out of the ground. Even if we were to reduce the levels of nitrates that are on the fields or applied at the moment through current farming practices to levels where they were negligent, it would still take a number of years - of the order of 10, I am being told, at least - in order to allow the inherent nitrate levels within the ground to climb to a level that ensured that we were way below the World Health Organisation limits for these particular chemicals.

### **3.8.5 Deputy M. Tadier:**

Would the Minister be willing to publish the statistics which he does not have currently to hand and circulate them to Members?

### **Deputy R.C. Duhamel:**

Certainly, yes, and perhaps it is a bit remiss of me for not having those at my fingertips. I apologise to Members and certainly I am happy to get them published and forward it to Members.

### **3.8.6 Deputy R.G. Le Hérissier:**

Can the Minister confirm that he is talking about a difference of 16 millimetres, being the norm that we should reach, versus often 50 millimetres? In other words, what is being found? Is he happy with that difference?

### **Deputy R.C. Duhamel:**

I did not say 16. I said it had declined from 60 down to just above 50, not 16. Sixteen, of course, is smaller than 50 and if 50 is set at the problem level then 16 would, indeed, be good practice.

### **3.9 Deputy J.A. Martin of the Chief Minister regarding changes to the rental market range under the Control of Housing and Work (Residential and Employment Status) (Jersey) Regulations 2013.**

Would the Chief Minister advise whether under the Control of Housing and Work (Residential and Employment Status) (Jersey) Regulations 2013 the rental market now ranges from (a) to (k) allowing a person qualified under the former 1(1)(k) category status to rent more modest accommodation than before and, if so, does he not think that opening up the market in this way will lead to higher rents overall?

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

Could I ask my Assistant Minister, Senator Routier, to answer this one and 14 and 15 as well, which are also population related?

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

I would like to reassure Members the policies that have been applied for several years in this area will continue. In particular, where a person has been granted permission to purchase or lease

qualified housing on the grounds of their wealth, the Population Office will impose a condition such that they can only rent or buy high value properties to live in as their principal place of residence.

### **3.9.1 Deputy J.A. Martin:**

Then somebody is wrong because all last week a local popular estate agent was offering to rent a 2-bedroom flat at £230 a week and a 4-bedroom flat for £320 under the new “entitled” and in brackets “(a) to (h) and (j) to (k)”. So if (k) are not under the entitled, where will they be under the new scheme? Either the estate agent is wrong or, respectfully, what the Minister has just told us is wrong.

### **Senator P.F. Routier:**

Under the new legislation, somebody who is a high net worth individual who has been given entitled status would not be given permission from our Population Department to occupy such a property.

### **3.9.2 Deputy J.A. Martin:**

Where do 1(1)(k)s now fall, under registered, licensed or entitled? We only have 3 categories. Where do 1(1)(k)s now fall?

### **Senator P.F. Routier:**

The high net worth people would be entitled because we would grant them entitled status, but they would not be entitled to occupy a low value property. They still have to meet the criteria that has been in place for a number of years. For example, they would need to buy a property of about £1.75 million or rent at that same sort of level. It has to be a prestige property for them to occupy those properties. I would be interested to know which property agent was dealing with that.

### **Deputy J.A. Martin:**

Of course I will supply that and then the Minister can let them know they are advertising these low rent properties which will fall under income support. A 3 or 4-bedroom, £320 a week, will be under income support, which did surprise me so I am reassured that the Minister thinks he is right.

### **3.9.3 Deputy J.H. Young:**

Could the Assistant Minister confirm from his answer he has just given that under the law that we are now working under conditions can be attached to people falling under these 3 categories that we are now slotting everybody into? Could he confirm that that is the case, that he is able to put conditions?

### **Senator P.F. Routier:**

Yes, certainly any condition can be put by the Population Department on the licence that is given. If I just can reiterate, anybody of high net worth who is coming to the Island, they do have to occupy a property of high value and, in fact, the practicality of the matter, somebody who is of that sort of wealth would not want to be occupying a small property. I would be very, very surprised if they would be prepared to live in a small property without the benefit of a good view and all the rest of it that is usually associated with it. Certainly, the conditions are there that we would not allow them to do that in the first place.

[15:30]

### **3.9.4 Deputy J.A. Martin:**

I was rather worried there to hear the Minister say if you come into the Island as a very rich person practically you would not want to live in one of these smaller flats. What happens if that very rich

person becomes a not so rich person? We have no exit strategy so the only way to go is into cheaper properties that are in the rental market for (a) to (h) at the moment. I do not want to know about practicalities. I would like to know from the Minister that this certainly will not happen under the entitled 1(1)(k).

**Senator P.F. Routier:**

Yes, I can hopefully reassure the Deputy and other Members that that would not be the case. They would not be allowed to occupy low value properties.

**3.10 Deputy T.M. Pitman of St. Helier of the Chairman of the Privileges and Procedures Committee regarding amendments to Option B to create greater parity of weight of vote for St. Helier in comparison to other parishes:**

Does the Chairman accept that both of the amendments to Option B being put forward by myself and Deputy Green ensure much fairer, more equal representation in regard to parity of weight of vote for St. Helier in comparison to other Parishes, and further still that both more strongly protect the continued functioning of the so-called Troy rule?

**Connétable A.S. Crowcroft of St. Helier (Chairman, Privileges and Procedures Committee):**

When the Privileges and Procedures Committee concluded that it should lodge P.64/2013 it did so on the basis that by facilitating an early States debate on the outcome of the referendum the Committee would be doing its duty in accordance with previously related decisions of the States Assembly. The Committee's views regarding both amendments are to be found in the comments already presented to the States Assembly. P.64/2013 deliberately preserves the Troy rule. Proposed Article 5 would ensure that an Assembly of 42 would have no more than 18 in the Executive. Neither amendment undermines the Troy rule, although part 2 of both amendments increase the number of possible Ministers and Assistant Ministers.

**3.10.1 Deputy T.M. Pitman:**

I thank the Chairman for that, although I have to say I find his logic quite hard to follow. Both Deputy Green's and my own amendment are driven both by logic and the principle of fairness. It is quite clear that P.64, trying to cut the Assembly to 42, has neither of those qualities. I thus have to push the Chairman a little further and ask him why did his Committee agree to bring something forward that will undermine the effectiveness of this Government and will make democracy, the deficit in this Island, even worse. Is that really something that he and his Committee should be doing?

**The Connétable of St. Helier:**

The questioner has restated his question and he rather forces me to restate my answer. These matters are very much at the heart of the debate on P.64/2013 and the amendments which will be taking a lot of the Assembly's time this week. I would refer the Deputy to the comments by Privileges and Procedures, which explain that we feel the calculation made by the Deputies is different from the calculation made by the Electoral Commission. We simply refer Members to those comments and they will have to take a view when we have the debate tomorrow.

**3.10.2 Deputy T.M. Pitman:**

Of course, it is just a short time ago that with the wonderful new technology we have the Chairman of P.P.C. (Privileges and Procedures Committee) was tweeting out to his followers that anything other than going for Option A was gerrymandering. What has happened to him in the meantime? Why is he and his Committee now prepared to sell out democracy and the effectiveness of Government when they have the opportunity to do something, to stand up for something that could make things better?



**The Connétable of St. Helier:**

I am struggling to relate that supplementary to the main question. The Committee's views, including my views, are expressed in our comments on his amendments. What I tweeted during the campaign on the referendum, these are matters that I am sure will be addressed in the course of the debate. But I would simply ask the Deputy and other Members, indeed, to pay close attention to what the electorate were saying as a result of the referendum.

**3.10.3 Deputy T.M. Pitman:**

In the last statement from the Chairman, did he mean that we have to listen to the public, the 74 per cent who did not want either because it was such a complete and utter shambles?

**The Connétable of St. Helier:**

Again, these are matters that will be discussed tomorrow. I do not think there is any point in starting a debate today because we cannot really do it justice in question time.

**3.11 Deputy G.P. Southern of the Chief Minister regarding the proportion of the tax avoidance structures:**

Will the Chief Minister state what proportion of the £400 billion in specialist structures for businesses and institutions is in Jersey for the specific purpose of avoiding U.K. tax and advise whether the simplest of these structures, whereby a company which otherwise would have no connection with the Island is registered in Jersey for tax purposes, will continue to form the basis of our finance industry?

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

No precise figures are available, but the major part of the £400 billion is accounted for by special purpose vehicles and investment funds, and these vehicles are not set up for the specific purpose of avoiding U.K. tax. They are drawn to Jersey because of the experience and expertise of Jersey professionals combined with the attractiveness of Jersey's legislation and are vehicles designed to be attractive to international investors. There are foreign-owned companies being administered in the Island, some of which will be taking advantage of Jersey's tax neutrality but others will not be tax resident in Jersey. Such companies are not the basis of our finance industry, unlike the position elsewhere. This should be evident from the fact that Jersey has only some 30,000 registered companies compared with some million registered in the British Virgin Islands and a greater number registered in Delaware.

**3.11.1 Deputy G.P. Southern:**

I note that the Chief Minister said that the special purpose vehicles were not designed to avoid tax. Nonetheless, can he inform Members whether they do, in fact, avoid tax elsewhere and pay tax at a zero rate?

**Senator I.J. Gorst:**

They, of course, take advantage of our tax neutrality. That is along with a whole other list of reasons that someone might come and use Jersey, which I have spoken about many times before. The Deputy seems to be just picking off from one advantage, but these particular entities are coming to Jersey because of the skills and the expertise of our workforce and the ability to access world-class lawyers and accountants and banking facilities and to enable the cross-border flow of global capital and investment.

**3.11.2 Deputy G.P. Southern:**

I am not sure if the Chief Minister accidentally or deliberately failed to answer the question: do they or do they not pay tax in Jersey or are they zero rated?

**Senator I.J. Gorst:**

I did answer that question in my very opening sentence where I said, of course, they take advantage of tax neutrality. It does seem, if I may say so - of course, I am not one to complain - that the Deputy's questions this afternoon bear a remarkable resemblance to those questions posted on a certain tax research website.

**3.11.3 Deputy T.M. Pitman:**

It is always good to address things with experts, is it not, rather than pay a load of money to get what you want said. What I would like to ask the Minister is if these companies, as Deputy Southern tells us, only have a connection with the Island for the purposes of taxation and would not otherwise be here, what credibility can all this talk of sniff test have? Because it would seem to me that if that is the only reason a company is in Jersey, then the actual being here and the ethics behind it has to be a bit questionable. Could the Minister explain that to me?

**Senator I.J. Gorst:**

I just did in answering the previous question. It does seem - and I am not quite sure how I am going to get over this problem and address the issue - that some Members of this Assembly unfortunately seem ill-informed about the financial services industry which is in Jersey. We have commissioned, and Jersey Finance have commissioned, eminent independent economists to look at the financial services sector in Jersey and see what benefit it is to the United Kingdom and to the rest of Europe and to look at where the flows of cash come from and where they go to. While some Members, I accept, do not like globalisation and would like to roll the clock back, flows of capital need to move around the world. Jersey, with its expertise and all the qualities that I have spoken about, the access to first-class lawyers, an independent judiciary whose judgments are well regarded, a stable political system, a Government which produces balanced budgets and does not have debt and produces surpluses, these are all reasons why these finance companies and these companies that need to move capital around the world and pool investments so that they can get investors from around the world into a particular investment use Jersey, why they use small international finance centres. Of course, on top of that we have our tax neutrality. We, I believe, can move on. The steps that this Government has taken with regard to reaching agreement with the United Kingdom, with the United States being part, asking for the extension of the O.E.C.D. (Organisation for Economic Cooperation and Development) convention, part of the pilot initiative, I believe that we can be proud of what goes on in this jurisdiction. I believe that we have a strong future from financial services and perhaps I need to find some way of trying to address the concerns that one or 2 Members of this Assembly seem to hold on to. I believe that their concerns are unfounded.

**3.11.4 Deputy T.M. Pitman:**

Does the Chief Minister not think that some of these concerns and confusions might arise when you have people like his Minister for Treasury and Resources making up comments that people such as myself have never said about the Island's benefit to the U.K.? When you have Ministers who just make things up, I would say to muddy the waters about people's views, then that is obviously going to not be a helpful thing, is it? Perhaps if he could call some of his Ministers in to check, would he agree with me?

**Senator I.J. Gorst:**

I am sorry, I do not believe I am aware of the particular incident that the Deputy is referring to. If there is any concern with regard to the benefit of Jersey to the United Kingdom, then I can do no more than recommend the reading of the Capital Economics report, which is an independent, well-

respected group of economists which are used around the world to provide independent advice based on data and statistics.

**3.11.5 Deputy M. Tadier:**

Following the well-received arrival of the Capital report, which ostensibly shows how funds can flow to the U.K. so that wealthy individuals in the U.K. can also benefit from tax avoidance, will the Minister be supporting an independent, perhaps, review of how Jersey and other tax havens influence and impact on the third world countries so that their wealth can be extracted and sent to wealthy developed world countries as well?

**Senator I.J. Gorst:**

Once again, it seems that the Deputy makes a comment which I hope he is not trying to indicate that the United Kingdom resident non-doms are avoiding U.K. tax. They are doing exactly what the British Government wants them to do. They are investing capital into the U.K. It is part of the U.K.'s desired tax code that they do that, that they encourage these individuals to come and live in the U.K. and they only tax them on certain of their income arising and assets in the U.K. In fact, the Prime Minister of the U.K. only recently encouraged those individuals who were suffering from high rates of tax in France to relocate to the United Kingdom, so they are not avoiding tax at all. It is part of the U.K.'s strategy for economic growth and that is no bad thing. I said and have said publicly that I support the U.K. Prime Minister in believing that low taxes can enable economic growth. With regard to the developing countries question, which I think is what the Deputy wanted to ask me about, we had a developing countries conference in 2010 and we want to build on that capacity building. We recognise that there is a need to capacity build in the developing countries. We have approached the African tax administrators and we stand ready to serve and to work with those countries to ensure that they build their capacity and that they also can develop their economy.

**3.11.6 Deputy G.P. Southern:**

Does the Chief Minister accept that our tax neutral position is now putting the economy of the Island at risk as zero-rated companies increasingly are taken over by foreign ownership and reducing our tax take and increasing the burden on individual personal taxation?

[15:45]

**Senator I.J. Gorst:**

Of course, we know that the burden on individuals has increased, as it is increasing right across Europe. With regard to the Deputy's comment with regard to foreign ownership, he knows that the rules with regard to deemed distribution have changed and, therefore, all companies are regarded in the same way.

**3.12 Deputy S. Pitman of the Minister for Social Security regarding the number of claimants of income support and other benefits by people with M.E./Chronic Fatigue Syndrome:**

Firstly, I would just like to apologise to the Minister because I put this in as a written question because I wanted more information and it was not my fault, it is the Greffe's fault, but they are usually pretty good. How many people with M.E. or chronic fatigue syndrome are in receipt of invalidity benefit? How many are on long-term invalidity allowance? How many are also receiving income support and how is the incapacity of a sufferer assessed?

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

As at 31st May 2013 our records show a total of 34 individuals in receipt of invalidity benefits due to a diagnosis of M.E. or chronic fatigue syndrome. This benefit was withdrawn for new claimants

in 2004 and replaced by long-term incapacity allowance. There were 39 claims under this benefit, giving total claims of 73. Breaking down the figures, 10 of the 34 invalidity benefit claimants and 10 of the 39 L.T.I. (Long-Term Incapacity) claimants were also receiving income support as at the end of May. Ongoing invalidity benefit claims are based on quarterly medical certificates from G.P.s (General Practitioners). The claimant can also be asked to attend a medical board organised by the department. The test for invalidity benefit is that the claimant is completely incapable of work. All long-term incapacity allowance claims are assessed through departmental medical boards and the L.T.I. assessment is based on the loss of faculty of the individual and is calculated on a percentage basis. Doctors and departmental staff have access to a variety of resources to help them assess the incapacity of the claimant. For example, the U.K. Department for Work and Pensions provides a comprehensive website and the department has internal guidelines giving additional information.

**3.12.1 Deputy S. Pitman:**

Given my knowledge of the illness and also of how people are assessed on long-term incapacity allowance and also impairment and invalidity benefits both in the examination and also on the application forms - for instance, people are asked how far they can lift, how far they can move their legs, how far they can bend - does he not feel that this is inappropriate given the symptoms and the worst one, the fatigue? Would he agree to look at a document which I have found called the *Scottish Good Practice Statement* on M.E./C.F.S. (chronic fatigue syndrome), which rates people and has a list of all the symptoms and ranks each symptom with the sufferer?

**Senator F. du H. Le Gresley:**

As I have said, the department use the best available resources to assess a claimant who has M.E. or chronic fatigue syndrome. In particular, we have guidelines on variable and fluctuating conditions, which would encompass the days, perhaps, when somebody suffering from M.E. is feeling worse rather than better. Therefore, the department are familiar with the condition and the need to assess their overall condition rather than take the way they may be feeling on a particular day, particularly if they are attending a medical board on that day.

**3.12.2 Deputy S. Pitman:**

Does the Minister not agree, as does the chairman of the G.P. Association, that far more education is needed on this subject for his relevant officers, G.P.s, relevant H.S.S.D. (Health and Social Services Department) professionals and, if so, would he support a visit from a specialist like Charles Stevenson, who I mentioned earlier, to share his knowledge with such professionals initiating the development of a cross-departmental policy to treating sufferers towards recovery and not just their individual symptoms?

**Senator F. du H. Le Gresley:**

I think the Deputy in a way has already posed that question to the Minister for Health and Social Services. Certainly, any attempt to widen people's knowledge about the condition would be welcome and if a guest speaker could be invited across I am sure that would be a very good thing to do.

**3.13 Deputy T.M. Pitman of the Chairman of the Privileges and Procedures Committee regarding an investigation into apparent breaches of the Members' Code of Conduct by the Assistant Minister with responsibility for External Affairs:**

Given that the Privileges and Procedures Committee has the power to initiate investigations into apparent breaches of the Members' Code of Conduct, will the Chairman clarify whether his Committee have started an inquiry yet into the answers given by the Assistant Minister with

responsibility for external affairs regarding the confidentiality issues raised by 2 local businessmen travelling on the same flight from Gatwick?

**The Connétable of St. Helier (Chairman, Privileges and Procedures Committee):**

The Committee has not started an inquiry. The Privileges and Procedures Committee has not received a complaint regarding the matter cited by the Deputy, neither, given previous exchanges in the Assembly regarding the matter, has P.P.C. considered whether it has possession of or access to information that would warrant the commencement of a Code of Conduct investigation.

**3.13.1 Deputy T.M. Pitman:**

Of course, P.P.C. do not need a complaint and, of course, the Chairman, as I hope he will acknowledge, was copied into the original email from the businessman, including his name and who he is, so why has nothing been done or does he need an actual complaint, which I am happy to do if that is the case?

**The Connétable of St. Helier:**

The Deputy is right. Standing Order 157 provides that where P.P.C. has information, whether or not received from a complainant, that suggests that an elected Member may have acted in breach of the Code of Conduct it shall, without undue delay, inform the Member and investigate the act. I would simply repeat that this matter has been raised in question time on a number of occasions. I was indeed copied in by an email that the Deputy relates to, but as Chairman I get copied into quite a lot of emails. I am subject to “reply to all” trigger finger behaviour in some cases from Members and it is quite difficult sometimes to know quite what to make of the sort of emails that come into one’s inbox. However, P.P.C. is willing to pursue the matter in due course and I am sure if it is necessary P.P.C. will.

**3.13.2 Deputy T.M. Pitman:**

I am just concerned rather at the P.P.C. Chairman’s apparent attitude to why things are investigated. They are certainly very quick off the mark on occasions and, it has to be said, it is nearly always against what you might call anti-establishment figures. Is there some hidden code that we do not know about? How is the criteria met? How is it monitored? If is not consistent, then perhaps really the Chairman ought to go away and come up with something that is a bit better, does he not agree? Could I just point out to correct - I am sure it was a slip of the tongue - there should not be any confusion with that email because it came directly from a member of the public. It was not just an email from a colleague, which I know many of us would probably just put straight into the “deleted” bin.

**The Connétable of St. Helier:**

I think in response to Deputy Pitman’s question the reason I personally have not been pursuing this is because I have been aware that it has been a subject of questions in the Assembly and certainly the normal course of events if a Member is pursuing something like this is to get in touch with P.P.C. Indeed, I have given the Member advice privately of the correct procedure to follow if that is the case. With regard to his concern that P.P.C. only pursues anti-establishment Members, having been pursued by P.P.C. myself in not too recent history I do not think that is true unless he regards me as anti-establishment, of course.

**3.14 Deputy R.G. Le Hérissier of the Chief Minister regarding the introduction of work permits:**

Is the Council of Ministers unable or unwilling to propose the introduction of work permits and why is this the case given their application in other similar jurisdictions?

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

We have just introduced the new Control of Housing and Work Law following the decision of this Assembly and we should use this new law to achieve our objectives. Indeed, the new law includes powers to grant permission on an individual basis in the same way as the work permit system, and these powers will be used where necessary.

**3.14.1 Deputy R.G. Le Hérisier:**

I thank the Assistant Chief Minister, but is he not rather concerned that virtually every other jurisdiction for both E.U. and non-E.U. nationals, every comparable small jurisdiction, uses work permits? Is he not further convinced that the term “control” is, in fact, a misnomer? The new system is not a control system, it is an administrative monitoring system.

**Senator P.F. Routier:**

I am afraid I cannot agree with the Deputy. He is saying that it is not a control system. It is a control system, there is no doubt about it, because in the applications we get from businesses to employ non-local people we are controlling the number of people that they are permitted to employ. We do that on a regular basis. With regard to other jurisdictions using work permits, I think the Deputy is aware that even a near neighbour of ours has what is termed a work permit system but even that system does have its loopholes. People can move to the Island and move into unqualified accommodation, into staff accommodation, and also into open market. That is a big loophole in our sister island’s box of tricks which they do to control their population.

**3.14.2 Deputy M.R. Higgins:**

I hope you will give me a bit of latitude with this one because I will explain where I am coming to. It is directly relevant to the question. Members in this House have been trying to get the Assistant Minister and the Chief Minister to give us population figures for quite some time and they have ducked and dived at every opportunity. My question: is the Minister delaying bringing in work permits or any other effective measure until after the population has gone many tens of thousands more than it is at the present time?

**Senator P.F. Routier:**

No.

**3.14.3 Deputy M. Tadier:**

Does the Assistant Minister acknowledge or accept that if we had a functioning system of work permits then headlines such as those we saw 5 days ago, which may have easily appeared in 1940s Germany, requesting local residents to inform and report on their neighbours and those working illegally in the Island would not be necessary because we would have a much better system of making sure that those who are in the Island were legitimate?

**Senator P.F. Routier:**

Members must remember, and some obviously have been in this Assembly longer than others, we have debated the merits of work permits on a number of occasions. Each time it has been rejected because it was felt to be too labour intensive, too administratively burdensome on businesses, and the decision was made not to go forward with a work permit system. I believe with our new system and the ability within the legislation to put specific conditions on licences I think we have the best of both worlds. I believe that we can achieve what we want to do with the legislation that we have.

**3.14.4 Deputy M. Tadier:**

Does the Assistant Minister acknowledge that with the best intentions the impression conveyed in the *Jersey Evening Post* headline: “Hotline to stop illegal working” smacks of an intolerant Island,

whereas it should be the job of Government to put in mechanisms to make sure that everybody who is in the Island can either work legitimately or not be allowed in in the first place if that is not the intention?

**Senator P.F. Routier:**

I cannot control the headlines that are in the local evening paper, but certainly I think there is a bit of a schizophrenic approach that Members are taking with what is being asked of us. On the one hand, we have people who are wanting really strict controls to ensure that the population is kept at a ... I think we might be in a quorate now. I think people might be fed up with me speaking.

[16:00]

**The Bailiff:**

I think we are just all right, so I am afraid you have to carry on. **[Laughter]** Oh, I am sorry, maybe I miscalculated.

**Senator P.F. Routier:**

Someone just joined us, so that is good.

**The Bailiff:**

Now it is 27.

**Senator P.F. Routier:**

Yes, I think Members seem to unfortunately get in 2 minds about this issue. There are people who want really strict controls and are asking us to do more and more things to bring in greater compliance, and there is another part of this Assembly and the community as well who would like things to be a lot more relaxed. We are trying to find a midway through all that and hopefully we are going to achieve that with the way we address this law.

**Senator L.J. Farnham:**

I have through skilful use of my iPad managed to answer the question I was going to ask, thank you. **[Laughter]**

**3.14.5 The Connétable of St. Brelade:**

Unfortunately, I am a schizophrenic. Could I ask the Assistant Minister does he not think that a work permit scheme would simply stop dead in its tracks a white van man appearing at the harbour causing so much damage to our building industry?

**Senator P.F. Routier:**

I am not sure the work permit system would be better for dealing with that. We can achieve that with our existing legislation because we are going to have greater compliance. We are going to have additional officers who are going to be looking at people coming into the Island to ensure that they have the right licence to work in the Island. We have to remember the control of housing and work legislation is about population increase. It is not a tool to stop competition within business. It is not designed to do that. It is a control of population.

**3.14.6 Deputy R.G. Le Hérissier:**

The Assistant Chief Minister talks of a compromise, but would he not agree that the popular view is that essentially it is a failed policy and because such policies take effect over years the key decisions to do nothing, they were essentially decisions of inactivity. The key decisions were taken years ago and he is simply, despite the incredible hard work, dancing on the deck of the Titanic and we have failed to bring about a system where there are proper entry requirements and when people

come we can give them proper rights instead of shoving them into substandard accommodation and pretending we do not have a surplus of population.

**Senator P.F. Routier:**

I am afraid I do not share the Deputy's pessimistic view about the way we are progressing this legislation. Even with the old legislation, the Migration Advisory Group in recent years has managed to constrain the number of people who have had licences. We have halved the number of people coming to the Island in recent years and even last year, for instance, those who are non-locally qualified, although the Statistics Unit round up their numbers and they put a figure of 100, we know it was 50 plus 20 dependants. It was 70 people came to the Island, so it gave a worse, to my view, figure of the work we had managed to achieve in the last year. I hope that Members can get behind this legislation because I do believe it is a good tool to achieve what we want to do. I do not believe it is a failed system. I think what we have now is going to be very useful and going to achieve what we want.

**3.15 The Connétable of St. Mary of the Chief Minister regarding compliance with the requirements of Control of Housing and Work cards:**

It follows on particularly well from the last one, I think. With the introduction of control of housing and work cards, what steps, if any, are being taken to assist long-term residents to comply with the new requirements whose employment or contribution history may not be continuous due, perhaps, to departmental procedural reasons? Will arrangements be made to assist students seeking holiday jobs to obtain their necessary confirmations of attendance centrally from Education, Sport and Culture Department records?

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

I thank the Constable for this question. I think it is very timely. Customer service is an absolute priority and of the 1,500 cards issued so far the substantial majority were issued straight away. However, we must have proper controls and checks in place so that entitled cards are only issued to those with 10 years' residence. We enacted a range of measures to achieve the best service we can, including pre-qualifying nearly 40,000 individuals within the system in advance of the new law coming into place. The Population Department officers have met with the E.S.C. (Education, Sport and Culture) Department and Social Security to supplement the processes that we had in place on day one. I can say that with proper safeguards we expect to have a process in place in time for when the schools break up. This will enable cards to be issued immediately to students when E.S.C. confirms to Social Security that the student is entitled.

**3.15.1 The Connétable of St. Mary:**

I am grateful to the Minister and interested especially to hear about the pre-qualification. I have had several people contacting me since my question went in. The Minister is aware that my question arose because someone with 20 years-plus residence, a Jersey passport holder, a house owner with 4 children born and educated here, was given only a limited card because there were several months missing in their contributions, which had, in fact, been paid but returned by the department to them because of a procedural change. This person - and I am sure there are others because I have been contacted - felt the experience was so bad that they would have, if they had no children here, been on the next plane back to the United Kingdom. I just ask: is the Minister going to make someone available, a sort of one-stop-shop for these people who have a problem that can be identified in the department to be helped immediately to have their status confirmed if pre-authorisation has already been a target?

**Senator P.F. Routier:**



The departments have been working extremely hard in trying to get as many people pre-qualified as possible. I think they have done particularly well by getting 40,000 people pre-qualified. I am very sorry to hear about the experience that the person had that went into the department and I can only apologise if she was not satisfied with the service. We have bolstered the team within the Social Security Department. We have employed additional staff and the person who had particular expertise and knowledge about housing qualifications over many, many years is based at the Social Security Department and can troubleshoot for any particular individual case. These are early days. It has been a very, very difficult time for the staff to get things in place for day one and they are learning as they progress. I would like to put on record my sincere thanks to all of the staff, and I am sure this Assembly would want to join me in thanking the staff who have worked extremely hard in the early days of implementation. They are committed to provide an excellent service and I hope that the public will be able to receive that service. If there are any particular problems there is a dedicated person there to help resolve them.

### **3.15.2 Deputy C.F. Labey of Grouville:**

Is the Minister aware that some people are being turned away from Social Security because they are unable to prove that they have been here, notwithstanding the fact that they take their birth certificates, for 10 years? In one particular case I am aware of, the person and the school was unable to produce the relevant records so they were sent to the archive where they had to pay a fee of £30 to access their records. There is some work to be done, I would say, but having said that I think that they have done a very good job to have issued 40,000 cards so far. But I think there is a bit more work to be done here.

### **Senator P.F. Routier:**

I thank the Deputy for the question. First I would just like to pick up that I think she may have misheard me or misunderstood what I said about 40,000 cards being issued. There are 1,500 cards which have been issued. There are 40,000 within the system that have been identified as being people who are entitled, so if those other people come into the department they can automatically get their card immediately. The issue with regard to a person taking along the right information to prove that they have been qualified is very important. I think Members would be probably pretty aggrieved if we did not do appropriate checks and issued cards to entitled people who were not entitled. I think it is a 2-edged sword here. We really need to do those checks very, very carefully and there is very clear information on the website of the sort of information that people need to take along to the department to ensure that they have the right information there. I know it can be an issue for them if people have gone to the department and been turned away because they have not had sufficient information, but we have to do those checks carefully. We are not going to issue cards for people who are not entitled.

### **3.15.3 Deputy J.M. Maçon:**

I am deciding which way to go. I will follow what the Deputy of Grouville has said. Does the Assistant Minister think it is right that local people who have to go and get certain documents, perhaps from the archive, because their school has closed down or something and the documentation is no longer there, they will have to pay £30 simply to go back to another Government department, which is the Population Office, in order for that department to say: "Yes, you are a Jersey person"? Does the Assistant Minister think that is fair or does the Assistant Minister think we should introduce some sort of reimbursement system for these local people who have absolutely every right to be here?

### **Senator P.F. Routier:**

I am concerned that somebody has not been able to get their information from the Education Department. That is the resolution which we have tried to resolve over the last day or so to ensure

that people can get access to their school records, and hopefully that is now resolved. If somebody has not been able to get their records from the Education Department and gone somewhere else, I find it unfortunate because the second line of recommendation we would make to somebody who was not able to get their school records is that they would get personal references from any member of the community, as they used to do for ordinary housing qualifications, just to get somebody who has known them for a long time, sufficient years, to just write to the department to clarify that. I think going to the archives was probably a step they need not have done. There were other options for them which would not have cost them anything.

**3.15.4 Deputy J.M. Maçon:**

In that case, given that I know people have approached the Population Department, will the Assistant Minister ensure that when people approach the Population Department that these other methods are made absolutely clear to these people so that they do not have to go down that route? Because people have found themselves in that situation where they have had to go to the archive to get their school records, for example.

**Senator P.F. Routier:**

It is already very clear on the information which is in the public domain about the processes. Nowhere do we say about going to the archive department on our literature at all. It just talks about getting primary school, school holidays ... or family, friends and neighbours, or a Connétable of the Parish would do it for free.

**3.15.5 Deputy J.H. Young:**

Sorry, I apologise to the Assistant Minister, I may have missed it, but could he tell us is there some kind of appeals or special procedure for those people that are not able to get themselves properly registered on the grounds of missing information?

**Senator P.F. Routier:**

Yes, as has been always the case under the old system of trying to get housing qualifications, it is a matter of just being able to prove and then a decision would be made.

**3.15.6 Deputy J.H. Young:**

Can I ask for clarification? Where do they go to then if that is the situation when they come to the position where they cannot get anywhere with this?

**Senator P.F. Routier:**

I cannot recall a circumstance where that has been an issue. It is always dealt with within the Population Department.

**The Bailiff:**

Very well, that brings questions ... oh, I do beg your pardon, I am so sorry, Connétable.

**3.15.7 The Connétable of St. Mary:**

I would like to say you have cut me off at the knees, but if I get any shorter I will disappear completely. [Laughter]

[16:15]

I would just like to focus on the second part of my question and I know the Minister has said that arrangements are in hand to try and get some sort of centralised registry up. It is just that I cannot reiterate strongly enough ... I have been contacted by someone from the recent careers fair to say that when a candidate comes for a job, if they cannot get their card immediately and the next

candidate can, that person is going to lose out on a job. It is essential that we streamline this, especially for the youngsters who are coming out of school and they have got that resource immediately. This should be something that we have all done as a part of their leaving package from their secondary school, probably, to target that straight away. I think that is really important. Can the Minister assure me that that will be taken on board? Also just to say that, like him, I have got no qualms with the quality and the services given by his staff. I just hope that we can get the procedures that they are working through streamlined to enable them to do their job more satisfactorily. Thank you.

**Senator P.F. Routier:**

I could not agree more with the Connétable about how essential this is to have this in place and we recognised that over the last few weeks and the department have been working exceptionally hard to resolve it. In part of that investigation in the initial days of looking into this we were advised that it is the duty of a secondary school to issue a student with a letter when they leave school. But I believe that may not have been happening. But I do think that this is something that the secondary schools should do for each student that leaves school.

**4. Questions to Ministers Without Notice - The Minister for Housing**

**The Bailiff:**

Very well, then that brings questions on notice to an end. So we move now to questions of Ministers without notice and the first period is to the Minister for Housing.

**4.1 Deputy M. Tadier**

On the subject of over-occupancy: can the Minister comment whether he is sympathetic to those individuals who are currently, for example, in a 2-bedroom size when they only need one and therefore being charged the full 2-bedroom rate but similarly at the same time cannot get a 2-bedroom rate from Income Support to cover their rent? Does the Minister have any advice for what can be done in this situation?

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

The Deputy asked me initially was I sympathetic and I am sympathetic and I know that the Minister for Social Security is sympathetic and if somebody is prevented from downsizing there is an initial arrangement with Social Security that they continue to receive the support that they have always received. I am working very hard with my officers to get the appropriate sized accommodation so that people can move. Of course, there are always some people who wish to retain the 2-bedroom for medical reasons and we make allowances for that as well. It is not an easy solution but I am sympathetic and we are working very hard to solve the problem.

**4.1.1 Deputy M. Tadier:**

I thank the Minister for that useful answer. Can he just confirm then, if somebody's situation has changed and they have been waiting for a long time to move from a 2 to a one-bedroom property, then Social Security should be able to increase their allowance to that of a 2-bedroom property or similarly the Housing Department could only charge them for a one-bedroom?

**Deputy A.K.F. Green:**

The best thing to do if the Deputy has a particular case in mind is to ask that case to that person so that I can hear the case. Come and see us because there is more than one way of skinning the cat.

**4.2 Senator A. Breckon:**

Can the Minister tell the Assembly what is the actual cost of building a pair of semi-detached 3-bedroom houses, the actual cost?

**Deputy A.K.F. Green:**

I can but I cannot at this moment. I will make sure that we get that information out to Members.

**4.3 The Connétable of St. Brelade:**

Could the Minister for Housing inform the Assembly if there has been any delay to the development of housing? It is, in fact, very important, over-55s housing at Lesquende, at Les Quennevais, and what have been those causes?

**Deputy A.K.F. Green:**

I have some good news and some bad news for the Connétable. The good news is that I signed a Ministerial Decision to build 35 homes and awarded the contract today, 35 homes on what was known as developing site. The bad news is that we are in the breeding season of the slow worm and therefore we are not allowed on site until September.

**4.3.1 The Connétable of St. Brelade:**

Does the Minister have any idea of how long this delay might take?

**Deputy A.K.F. Green:**

As I said, we will be on site in September.

**4.4 Deputy S. Power:**

The Minister for Housing has just answered part (a) what was going to be my question as well, so I will ask him part (b) and that is: can the Minister remind the Assembly as to what plans the department now, as it evolves into its new status, has for increasing the stock of social housing for those that are in retirement in the western Parishes. I think it is a really important question.

**Deputy A.K.F. Green:**

We have a number of plans using our own land and working with the Minister for Planning and Environment. We hope very shortly, in fact, I was hoping to see in the next couple of days the new housing chapter of the Island Plan which has to go through the normal legal processes. Belle Vue phase 1 is one of those that will give us 35 sites. Belle Vue phase 2 is close to completing the design and hopefully we will get on with it before the breeding season of the slow worm, again. Then we have got work going on for more homes at ... sorry; in town anyway. Sorry, not Clearview Street, no. We have got all sorts of work going on in small areas, for Le Coin and other areas. There is lots of work going on but it is not enough. We will need to have some more sites. We will have exhausted all the States-owned sites fairly soon and we will have to have those new sites. I know the Minister for Planning is working hard on getting the chapter out so that we can start to go through the legal process.

**4.4.1 Deputy S. Power:**

Can I just ask him to clarify a point? I asked about the west of the Island. I am talking about principally St. Brelade, St. Peter and St. Ouen. Is there a plan within the development to increase and to supply further sites for the over-55s in the western Parishes, including his own?

**Deputy A.K.F. Green:**

I must have missed the "west" bit. I thought it was just over-55s generally. Well, the Deputy knows that we have Belle Vue phase 1 and phase 2. I know the Constable of St. Ouen is coming forward with a proposal of his own and I would encourage all Constables that have over-50s sites land in their Parishes that is not being used to come forward. But those are the only firm plans that I know of at the present time.

#### **4.5 Deputy J.H. Young:**

My question is partly covered but will the Minister advise the Assembly whether he is satisfied with the rate of progress on this essential review of Island Plan housing policies and whether he can confirm he has been adequately involved and when does he now expect to get this document?

#### **Deputy A.K.F. Green:**

I can confirm that I am adequately involved and, as I said, the plan hopefully will come out in the next day or so. But I am incredibly frustrated that we are bound by this long legal process in order to get sites which are described by the independent inspector as “the best housing sites in Jersey”. But, nevertheless, we are confined by this legal process which takes months. But that is where we are.

#### **4.5.1 Deputy J.H. Young:**

Can I ask a supplementary on that? The best housing sites, is he able to tell us where they are?

#### **Deputy A.K.F. Green:**

Ones that were described in the previous Island Plan public inquiry by the inspectors were the ones in St. Clement: the Samarès Nursery, the ones at Longueville Nursery and I cannot remember the third one now but they are well known.

### **5. Questions to Ministers Without Notice - The Minister for Planning and Environment**

#### **The Bailiff:**

Does any other Member wish to ask any questions? Very well. Well, then we will call questions to this Minister to an end and move on to questions to the Minister for Planning and Environment.

#### **5.1 Deputy M.R. Higgins:**

For the benefit of Members, I did communicate this or the gist of the question I was going to be asking the Minister today because I missed the time for questions as noted. Will the Minister advise the Assembly what mechanisms exist within his department to safeguard all written and electronic data, communications and documents relating to planning applications and enforcement and explain how long this material is kept?

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

At the moment, along with other departments, the files are kept in paper form, although we are moving towards an electronic application system which inevitably means that all records as far as possible will be kept in an electronic form. Again, in common with other departments, as we move from one system to another system there are going to be issues which will need to be dealt with by the Freedom of Information Laws that are not dealt with by my department but are dealt across departments by other parties to determine which information is held specifically in relation to emails and other comments that are a normal course of events when dealing with planning issues. At the moment some of those documents are kept in written form and appended to the file but in other instances they may well not be deemed to be relevant to the decision-making processes for a particular case. How long are files kept for? I think the normal process is for a minimum of 5 years. We do have files that extend in paper form going back further than that. The department is actively encouraging or being encouraged to prune files on the basis that keeping huge reams of information which might not be relevant to particular applications is deemed to be an unwholesome process. I think I have covered the points.

#### **5.1.1 Deputy M.R. Higgins:**

Supplementary on that. Under the Electronic Communications Law obviously all electronic data is valuable for court cases and so on. Is the department keeping all its emails and any information kept electronically and does it back them up and if so where does it back them up?

**Deputy R.C. Duhamel:**

Indeed, I am given to understand that departmental emails come under the name of the person that they are sent to and there needs to be a revision of practice in line with the Data Protection Services to ensure that relevant emails are filed accordingly, as indeed letters sent to applicants and replies were in paper form and appended to the file so that we not only have a streamlined system but we have a system that does cover anything of material relevance to the decision making that will take place for a particular case.

**5.2 Deputy T.A. Vallois St. Saviour:**

In response to Deputy Pitman's written question number 10, I have managed to find the report because it is not M.D.-0119; it is M.D.-0116 with regards to the Energy Efficiency Scheme. But could the Minister explain; he states in that report that: "In the long term even greater progress can be made if the service could be extended into the able to pay sector." Could he explain whether that is currently the case or when that is determined to be?

**Deputy R.C. Duhamel:**

That is not currently the case and that may or may not come to be, dependent upon requests that are made by my department to myself, to the Minister for Treasury and Resources as part of the Medium-Term Finance Plan or the next one, to find adequate funding to deal with that particular item in that particular fashion.

**5.3 Deputy T.M. Pitman:**

Back to the efficiency scheme again. Can the Minister confirm that as part of the £3.7 million already spent within the taxpayer-funded provision of the Energy Efficient Scheme, that neither he nor his directors would have any reason to believe that the department's tendering, procurement and implementation processes of the scheme between 2009 to 2012 resulted in making this department liable for any physical works and administrative duties within private members of the public's homes? If so, can the Minister confirm that the department had qualified procurement managers, quantity surveyors, project managers and risk assessors' expertise, to take on that role? If they did not, why not?

**Deputy R.C. Duhamel:**

That is quite a long one and I think I would probably need some legal advice in order to assure the Deputy that I was giving him a correct answer.

**5.3.1 Deputy T.M. Pitman:**

Supplementary, Sir. When can I expect that answer, with due respect, from the Minister?

**Deputy R.C. Duhamel:**

I am sure that my officers are hanging on to my every word at the moment and they are already busying themselves in procuring the information for the Deputy.

[16:30]

**5.4 Deputy J.P.G. Baker St. Helier:**

Can the Minister advise why he has not yet delivered the new fully independent planning appeals process?

**Deputy R.C. Duhamel:**

The new fully independent planning appeals process is about to be brought to this Assembly and I am told by my officers to expect a lodging on this coming Wednesday. I think in terms of the timetables that are spoken about, when the issues were discussed in the House, we are pretty well bang on.

**5.4.1 Deputy J.P.G. Baker:**

Can I have a supplementary and confirm with the Minister that is the appeals process that was recommended by the recent survey to the industry and his officers?

**Deputy R.C. Duhamel:**

I am not quite sure what the Deputy is getting at.

**Deputy J.P.G. Baker:**

Just some clarification that the process will be independent and it is aligned with what was unanimously bar one agreed in the recent survey of the industry.

**Deputy R.C. Duhamel:**

The process being brought forward as part of the legislative process will certainly be independent. The extent of the independence may well be challengeable in terms of some people's opinions but indeed it cannot be described as anything else.

**5.5. The Deputy of St. Mary:**

The Minister is aware that I have questioned the remit of the Historic Buildings Department with regard to the restrictions placed on homeowners when attempting to improve their properties for maintenance or energy saving purposes. This relates mainly to replacement windows, some with the property listings being considered, something not wanted by the property owners. Has the Minister considered easing these restrictions, which would greatly assist the property owner, easing unnecessary costs, and would also generate much needed work for the building industry in a lot of these situations?

**Deputy R.C. Duhamel:**

The Minister certainly has considered easing the restrictions but equally and probably more importantly the Minister is further reconsidering the reintroduction of historic grants to those persons who do have windows which Islanders think are important and should be repaired in a fashion that the policies imply.

**5.6 The Connétable of St. Helier:**

I amended the Island Plan successfully to enhance the provision of off-street parking for shoppers and visitors to St. Helier. The St. Helier Roads Committee has also emphasised the importance of providing such parking facilities when sites like the Jersey Gas and current police headquarters site are developed for housing. Why then has the Minister recently in his revised planning guidance for the North of Town Masterplan removed this requirement?

**Deputy R.C. Duhamel:**

The Minister has not removed any requirements as such at the moment. The Minister is considering a report that was commissioned by the Transport and Technical Services Department in terms of parking provision in town, particularly in relation to the North of Town Masterplan area and that document is being reviewed by both Ministers at the moment. When it has been reviewed then perhaps the Constable would like to re-ask his question.

## **5.7 Deputy R.G. Le Hérissier:**

I wonder if in relation to the Energy Efficiency Scheme, could the Minister explain to the House why his officers play a much broader role, e.g. working with contractors in this scheme as compared to where these schemes are administered elsewhere simply through grants to householders?

### **Deputy R.C. Duhamel:**

That is something I cannot really answer other than to say that it has certainly been my experience over the last 20-odd years that Jersey likes to do things the Jersey way.

### **5.7.1 Deputy R.G. Le Hérissier:**

While the Jersey way may indeed be wonderful to behold I wonder could the Minister convince the Assembly that the criteria by which grants are given and the involvement of his officers make for a rigorous system?

### **Deputy R.C. Duhamel:**

I think I can try and convince the Assembly but it would probably take more than the minute or so that I have got available to answer the question. All I can say in relation to the question that is being asked is that my department and certainly myself are more than happy for the whole of the workings of the scheme to be audited by the audit authorities that the States have at its fingertips for these purposes.

## **5.8 Deputy J.H. Young:**

In the light of the Attorney General's reply to my written question number 23 on the Plémont planning inquiry held a year ago, would he now require the inspector he appointed to produce a written record of this inquiry and will he make that public record so that the people can see the evidence, the policies and the assumptions on which the recommendation was made, particularly about a neighbouring development?

### **Deputy R.C. Duhamel:**

I understand that there was a recording of the hearing and the meeting was held in public, so I think generally there is an expectation that that recording should be available to members of the public. On that basis, I think I would have to take legal advice as to whether or not it is within my powers to direct the inspector to allow that hearing minute, if you like, or recording to be released in the way that the Deputy is referring.

### **5.8.1 Deputy J.H. Young:**

Supplementary, Sir. The Attorney General's written reply makes it plain, would the Minister not agree, that the Minister is able to direct the inspector and that it is the Minister's decision as to what he does with that?

### **Deputy R.C. Duhamel:**

I do not think my reading of the answers to 23 and the question can be interpreted in the same way as the Attorney General has worded them. I think under "Conduct of Hearings" it says that: "Hearings shall be in public [blah, blah, blah] and the inspector shall cause a record to be made of the hearing." But I think what is being referred to in the answer to the question that Deputy Young has placed, I am not quite sure whether or not there is a specific ability of the Minister to insist that that recording be made public. If indeed I do have those powers then I am more than happy, in the interests of open and fair proceedings to ask for that to happen. But I will have to take advice.

### **Deputy J.H. Young**



Sorry, Sir, can I have a second ...

**The Bailiff:**

I think you have made your point and the Minister is going to look into it and if he has got the power he will do it.

**5.9 Connétable J.L.S. Gallichan of Trinity:**

As the Minister is responsible for the Bouley Bay car park, could he inform the Parish or general public who gave permission for trees to be cut and ramps to be placed in the edge of that car park for the cyclists to use?

**Deputy R.C. Duhamel:**

This is not something that I have been briefed about but I will come back to the Constable in due course and other Members of the Assembly with the information he seeks.

**5.9.1 The Connétable of Trinity:**

Also, supplementary, could he get the branchage cut before Thursday because it is National Hill Climb Day? Just to inform you, they have received a £50 fine for that infraction.

**Deputy R.C. Duhamel:**

If there are any particular health and safety issues about reducing the size of the trees or plants to enable other sporting facilities to go on, then, yes, I am more than happy to have the work done.

**5.10 Deputy R.J. Rondel of St. Helier:**

Is the Minister able to provide the Assembly with an update of the urgent proposal for an electricity substation to be positioned at or around Westmount area?

**Deputy R.C. Duhamel:**

I think meetings and discussions are taking place with the Planning Department, the Minister for Planning, the Constable, the Roads Committee and indeed a whole stack of other persons who are involved. These things do inevitably take a little while to sort out although, as current records go by, I think we are ahead of the game. I am due to meet with the representatives from the electricity company at the end of the week and in the meantime permissions are being sought through the Constable by the holding of public assembly hearings to be able to be in a position for him to sign off on an application for the facility that is being spoken about.

**5.11 Senator L.J. Farnham:**

Could the Minister explain the current process for the removal of seaweed from the beaches and what happens reference its disposal? Will he also undertake to ask his department to remove any large amounts of rotting seaweed that is currently sitting on certain of the Islands' popular beaches?

**Deputy R.C. Duhamel:**

This is an area of expertise that is shared with the Transport and Technical Services. It is all done under specific F.E.P.A. (Food and Environment Protection Act) licences. We had the same issues last year. What has happened since last year is that there have been at least 2, to my knowledge, independent companies who have set up in order to offer commercial opportunities by the collecting of the green seaweed and to make some money out of their export. I am told that from E.D.D. (Economic Development Department) and T.T.S. work that both of these negotiations are well ahead and certainly we may see the occurrences of seaweed piling up and rotting and stinking as something that is relegated to the history bin.

**5.12 Deputy J.M. Maçon:**

With the abandonment of or the failure to progress the H3 policy, what alternatives will the Minister be introducing and when, and, if not, why not?

**Deputy R.C. Duhamel:**

As the Deputy will know, the proposals to come forward to replace the H3 and H1 sectors as part of the housing chapter of the previous Island Plan are well underway. There was good news last week. The requirements that this Minister was asking for in terms of the definition of affordable homes have been picked up by my officers and agreed and built into the whole chapter. That was a previous sticking point. But notwithstanding that, I think it is green for go and I am being told that something may well happen towards the end of the week.

**5.13 The Connétable of St. Brelade:**

Does the Minister or his department take into account, when considering a planning application, Royal Court judgments that might have been made through a previous third party appeal on a particular site, and, if so, who decides whether that previous court judgment is irrelevant to the current application?

**Deputy R.C. Duhamel:**

I think what happens is that there is a process within the department whereby the officers, when we have appeals and decisions are made by the courts, which would bring about a reinterpretation or reappraisal of policies, the officers are given the opportunity to take that on board as part of a revision of their interpretation of the Island Plan policies. One would hope, seeing as the decisions are also passed down, not just to the Minister but, indeed, to all the members of the Planning Applications Panel, that again they have the time and take the trouble to read those decisions in order to better inform them of any applicability in any other cases that they are judging.

**5.13.1 The Connétable of St. Brelade:**

Can I have a supplementary? Would the department take any advice from the Law Officers Department if they thought necessary, in regards to a previous Royal Court judgment?

**Deputy R.C. Duhamel:**

I am sure they would ask for the advice. Whether or not they took it into account is debatable. As with any planning decisions, advice that is given is not necessarily black and white and inevitably things have to end up a particular shade of grey and that means juggling the ball, so to speak.

**5.14 Connétable P.J. Rondel of St. John:**

The Minister mentioned possibly the reintroduction of grants for historic buildings. Would the Minister please tell us how this may work, when it stopped happening and also how it is going to be financed? Thank you.

**Deputy R.C. Duhamel:**

The Constable is no doubt familiar with the previous scheme whereby sums of monies, and they were not large sums of monies by any means, were expended by the department in paying for the difference between the costs of renovation of particular pieces of historic fabric in modern materials as compared to old fashioned materials. So, inevitably we had things like a proportion, maybe 30, 40 per cent or whatever of the costs of replacing wooden windows or whatever would have been grant aided.

[16:45]

I do not necessarily consider that there was a particularly fair or generous system and I think part and parcel of the general dissatisfaction with historic renovation of properties is perhaps that the

monies are not sufficiently high in order to compensate, in loose terms, for the Island's interest in those issues. Perhaps rates higher than 40 per cent might be better contemplated.

**5.14.1 The Connétable of St. John:**

Supplementary, please, Sir. Would any funding be coming from Percentage for Art, by any chance?

**Deputy R.C. Duhamel:**

The Percentage for Art is an area that is up for reconsideration as part of the discussion of policy areas within the Island Plan. It was mooted by the States just recently. That could be a consideration, albeit when one gets into Percentage for Art we have to be really careful that monies that have been asked for specific items are not spent too wide of the mark and the relevance of the levying of those fees are seen to be out of relation to what we are spending it on. There are further demands from the persons ...

**The Bailiff:**

If you could give a concise answer if you would, Minister.

**Deputy R.C. Duhamel:**

Sorry, Sir. I was just going to add that there are a number of departments who would like to spend these monies and I think if I were allowed to levy them at a higher level that would probably impose some excessive demands on those persons in a position to pay for them.

**5.15 Senator S.C. Ferguson:**

Will the Minister confirm that no new mobile phone masts still require permission from his department?

**Deputy R.C. Duhamel:**

I think they do, and, indeed, casting my mind back to a particular Scrutiny Panel that was set up to look at their location, I still think that they are nonetheless an environmental health hazard, if you like, considerations, which limit or certainly try to limit the extent to where these mobile phone masts might be positioned. In particular I am thinking of ... there was a suggestion that if they were too close to schools and young brains and young minds then perhaps they should find other places to be relocated.

**The Bailiff:**

Very well. That brings questions to the Minister to an end. Now, just before we go on to the next matter, Members will find an R.87 presented by the Privileges and Procedures Committee meeting of the States in 2014 has been presented.

**Deputy M.R. Higgins:**

Before we move on to the next item, it relates again to a report you mentioned earlier. You told us that the report of the Investigatory Powers Commission and Police Procedures Criminal Evidence Law were now pigeonholed. Subsequently they were, I did check and they were not, but I have now got a copy. I have had a chance to look at it. There were items that I was looking for in relation to information that I had received and I see, there is no reference to it, but there is reference to a confidential annex and also there is reference to the fact that you, Sir, as Bailiff, are the person who decides whether this report can be released. How can we, as Members, in a sense, scrutinise or object to or question the report when you are the Bailiff? Can you please give me some guidance as to how I can raise these issues and properly examine and scrutinise this report?

**The Bailiff:**

That is what the law provides. The law provides that, after consultation with the Commissioner, and it is his report, not mine, he produces it and if he recommends that certain matters are confidential and should not be published, then, if I agree with that, that is the position. This is nothing new; this happens every year. I have received from him a confidential annex and I agree with him that to release that into the public domain would be prejudicial to the various interests described and therefore it will not be released.

**Deputy M.R. Higgins:**

Sir, with obvious respect, you are the Bailiff; you make these rules.

**The Bailiff:**

No, I do not make the rules. The States made the rules.

**Deputy M.R. Higgins:**

Well, maybe the States made the rules in the past but again I do find it rather strange that we have reports that contain confidential information which States Members cannot even question and there is no mechanism for States Members to do this. Now, in other parliaments very often there may be, okay, in the U.K. you have Privy Councils or others that would get access to this information and could probably scrutinise this type of legislation. But we appear to have no mechanism here at all. Can you give me any guidance at all how we can try and challenge this?

**The Bailiff:**

No, I am afraid it is in the law, which this Assembly passed. So that is the thing. We all have to operate within the law, I am afraid.

**Deputy M.R. Higgins:**

I will bring a proposition to the start of the next session, then, Sir. Thank you.

**The Bailiff:**

Very well. So, then we come on to the next matter, which is a personal statement from Senator Bailhache to do with the reading of confidential papers in public view.

## **PERSONAL STATEMENT**

### **6. Senator Sir Philip Bailhache - personal statement in response to allegations concerning confidential papers read in public view**

#### **6.1 Senator P.M. Bailhache:**

On 18th June Deputy Trevor Pitman claimed that I was not telling the truth to the Assembly in relation to a complaint by one of his constituents and this is my first opportunity to respond to that claim. The claim is strongly denied. I should like to begin by stating that I have at no time been approached by Deputy Pitman seeking an explanation as to what happened on a London flight. The only exchanges that have taken place have happened on the floor of this Chamber in response to questions. If I had been aware of exactly what was being alleged, a misunderstanding could have been avoided. It was not until Deputy Pitman made available to the Chief Minister a copy of the email from his constituent shortly before questions were put on 14th May and the Chief Minister passed that copy to me, that I was able to understand the precise nature of the allegations. When questions were put to the Chief Minister on 30th April I had assumed that the flight in question was a flight that I made to London on the evening of 20th March, not long after the suspension of the Deans Commission had taken place. On that flight to London I have a clear recollection of reading the Korris Report, as stated by the Chief Minister to the Assembly on 30th April. It was only on 14th May that it became clear to me for the first time that the flight referred to by Deputy Pitman's

constituent was on the afternoon of 21st March when I was returning to Jersey to London. On that flight I do not believe that I would have been reading documents relating to this matter because I had read them in London but I may be mistaken. In answering questions on 14th May I said that the content of the email from Deputy Pitman's constituent and I quote: "Taken in the round gave a fictitious and malicious account of my reading habits on aeroplanes." Having had time to reflect, I am sorry that I used language that was stronger than was necessary or appropriate. I withdraw the phrase "fictitious and malicious" and would like to make it clear that I do not impute dishonesty or malice to Deputy Pitman's constituent or, for the avoidance of any doubt, to the Deputy himself. Having said that, the recollection of Deputy Pitman's constituent is at least, in part, mistaken. That is perhaps not surprising because the constituent has stated in his email that he was sitting in a seat on the opposite aisle and reading papers in someone else's possession from that position cannot be easy. That email alleged that the constituent had seen me reading various police statements and it was later clarified to the Chief Minister that this meant police witness statements. That recollection is mistaken because I do not have in my possession and did not have in my possession on the aeroplane any copies of such police statements. I do not believe that it would have been possible for the other information referred to in the email to have been seen on that occasion but in that respect I may be mistaken. If it was possible for any third party to have identified EY or HG from the papers in my possession, I would obviously regret that very much. I should like to clarify 2 other points. First, I have never had in my possession any papers that I was not entitled to have in my possession, nor that involved a breach of the Data Protection Law or any other statute. Specifically I have never seen any police statement relating to the investigation into allegations made by HG against EY. Secondly, my interest in these issues is not one that relates to my position as an Assistant Minister. My interest stems from my position as an elected representative of Grouville Church on the deanery synod and my strong feelings about the manner in which the dean has been treated. Any Back-Bench Member has a perfect right to interest himself in matters of this kind. Thank you.

**Deputy T.M. Pitman:**

Can I raise a point of order? It is nothing to do with the statement.

**The Bailiff:**

Very well, yes.

**Deputy T.M. Pitman:**

Yes. I was very surprised to see that the personal statement I had made not on this issue had been rejected but it was a statement that was made that he had been found guilty of breaking the email communication code and in that, of course, it did criticise you in your role as head of the Judiciary. I do think it is important that I know if it was then yourself putting on your hat as head of the legislature who vetoed that personal statement. Can you just clarify that for me, Sir, in public?

**The Bailiff:**

You know it is because you have seen the email from me that relates to my decision.

**Deputy T.M. Pitman:**

I have seen nothing, Sir.

**The Bailiff:**

Well, an email was sent which I understand was to be forwarded on to you. Anyway, it was my decision as Bailiff because that is what Standing Orders require me to do, and I ruled it out of order because it was out of order. Very well. Now, I think that brings matters to an end until we get on

to Public Business and I think Members ... **[Aside]** Yes, the adjournment should be proposed. Very well. The Assembly will adjourn and reconvene at 9.30 a.m. tomorrow morning.

**ADJOURNMENT**

[16:57]