

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 4th MARCH 2014

COMMUNICATIONS BY THE PRESIDING OFFICER	8
1.1 Tribute to the late Charles Alan Le Maistre, M.B.E. – former Connétable of Grouville	8
The Deputy Bailiff:.....	8
1.2 Welcome to His Excellency the Lieutenant Governor	8
Deputy Bailiff:.....	8
QUESTIONS.....	8
2. Written Questions	8
2.1 DEPUTY R.J. RONDEL OF ST. HELIER OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE PAYMENT TRIAL AT SAND STREET CAR PARK:.....	8
2.2 DEPUTY J.A.N. LE FONDRE OF ST. LAWRENCE OF THE CHIEF MINISTER REGARDING THE DAME HEATHER STEEL REVIEW:	10
2.3 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE PROCESSING OF INCOME SUPPORT APPLICATIONS:.....	10
2.4 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING INCOME SUPPORT FOR CHILDREN WITH DISABILITIES:	11
2.5 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE PAYMENT OF RATES ON STATES’ PROPERTIES:	13
2.6 DEPUTY J.H. YOUNG OF ST. BRELADE OF THE CHIEF MINISTER REGARDING ADVISORY AND OVERSIGHT GROUPS:.....	14
2.7 DEPUTY J.H. YOUNG OF ST. BRELADE OF THE CHIEF MINISTER REGARDING THE INVOLVEMENT OF NON-EXECUTIVE MEMBERS IN POLICY DEVELOPMENT:	15
2.8 DEPUTY J.H. YOUNG OF ST. BRELADE OF THE CHIEF MINISTER REGARDING THE ROLE AND MEMBERSHIPS OF GROUPS ESTABLISHED BY DEPARTMENTS FOR POLICY DEVELOPMENT:	16
2.9 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR HOME AFFAIRS REGARDING DISCIPLINARY CASES AT H.M. PRISON LA MOYE:	16
2.10 DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE RECOURSE AVAILABLE TO AN APPLICANT FOR PLANNING PERMISSION:	18

2.11	DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE APPLICATION OF BUILDING CONTROL REGULATIONS TO LISTED BUILDINGS:	18
2.12	DEPUTY T.A. VALLOIS OF ST. SAVIOUR OF THE CHIEF MINISTER REGARDING LEGISLATION AND POLICY GOVERNING THE PROVISION OF HOUSING IN JERSEY:.....	19
2.13	DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR HOUSING REGARDING THE PROVISION OF CERPETS, FLOORING AND WINDOWS IN STATES AND TRUST ACCOMMODATION:	21
2.14	DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE OPERATIONS OF THE DISCOVERY CHANNEL IN JERSEY:.....	21
2.15	DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE IMPACT OF THE MINIMUM WAGE:	22
2.16	DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE ISLAND’S CREDIT RATING:	23
2.17	DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING A DATA PROTECTION INVESTIGATION:.....	25
2.18	DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE IMPOSITION OF SANCTIONS IN THE INCOME SUPPORT SCHEME:	26
3.	Oral Questions.....	28
3.1	Deputy R.J. Rondel of St. Helier of the Minister for Transport and Technical Services regarding the publication of the results of the trial for the new parking charge system at Sand Street car Park:.....	28
	Deputy K.C. Lewis of St. Saviour (The Minister for Transport and Technical Services):	28
3.1.1	Deputy T.A. Vallois of St. Saviour:	28
3.1.2	Deputy S.G. Luce of St. Martin:	29
3.1.3	Deputy R.G. Le Hérisseier of St. Saviour:	29
3.1.4	Deputy G.C.L. Baudains of St. Clement:	29
3.1.5	Senator S.C. Ferguson:	29
3.1.6	Senator S.C. Ferguson:	29
3.1.7	Deputy J.A. Hilton of St. Helier:.....	29
3.1.8	Connétable P.J. Rondel of St. John:	30
3.1.9	Connétable J. Gallichan of St. Mary:	30
3.1.10	Deputy R.J. Rondel:	30
3.2	Deputy G.P. Southern of St. Helier of the Minister for Treasury and Resources regarding the States’ liability to pay Parish Rates	30
	Senator P.F.C. Ozouf (The Minister for Treasury and Resources):	31
	Deputy E.J. Noel of St. Lawrence (Assistant Minister for Treasury and Resources - rapporteur):.....	31
3.2.1	Connétable A.S. Crowcroft of St. Helier:.....	31
3.2.2	Senator S.C. Ferguson:	31
3.2.3	Senator L.J. Farnham:.....	31
3.2.4	Deputy M. Tadier of St. Brelade:.....	31
3.2.5	Deputy M. Tadier:	32
3.2.6	Deputy T.A. Vallois:	32
3.2.7	Deputy J.A. Hilton:.....	32
3.2.8	Deputy J.A. Hilton:.....	32

3.2.9 The Connétable of St. Helier:	32
3.2.10 Connétable L. Norman of St. Clement:	32
3.2.11 Senator L.J. Farnham:	33
3.2.12 Deputy G.P. Southern:	33
3.3 Deputy M. Tadier of the Chairman of the Education and Home Affairs Scrutiny Panel regarding recent allegations of misconduct at the Prison by past members of staff:	33
Connétable S.W. Pallett of St. Brelade (Chairman of the Education and Home Affairs Scrutiny Panel):	33
3.3.1 Deputy M. Tadier:	33
3.3.2 Deputy M. Tadier:	34
3.3.3 Deputy M.R. Higgins of St. Helier:	34
3.3.4 Deputy R.G. Le Hérisssier of St. Saviour:	35
3.3.5 Deputy R.G. Le Hérisssier:	35
3.3.6 Deputy T.A. Vallois:	35
3.3.7 Deputy M. Tadier:	36
3.4 Senator S.C. Ferguson of the Minister for Treasury and Resources regarding an update of the King Sturge report:	37
Senator P.F.C. Ozouf (The Minister for Treasury and Resources):	37
3.4.1 Senator S.C. Ferguson:	37
3.4.2 Senator S.C. Ferguson:	37
3.4.3 Deputy J.H. Young of St. Brelade:	38
3.4.4 Deputy J.H. Young:	38
3.4.5 Deputy S. Power of St. Brelade:	38
3.4.6 Deputy S. Power:	39
3.4.7 Deputy G.P. Southern:	39
3.4.8 Deputy G.P. Southern:	40
3.4.9 Senator S.C. Ferguson:	40
3.5 Deputy G.C.L. Baudains of the Minister for Home Affairs regarding the policing methods used in relation to ‘Jersey lifts’:	40
Senator B.I. Le Marquand (The Minister for Home Affairs):	40
3.5.1 Deputy G.C.L. Baudains:	41
3.6 Deputy J.H. Young of the Minister for Economic Development regarding the total capital expenditure by the Ports of Jersey and its predecessors on the 1937 Airport Building during the last 5 years:	41
Senator A.J.H. Maclean (The Minister for Economic Development):	41
3.6.1 Deputy J.H. Young:	42
3.6.2 Deputy J.H. Young:	42
3.6.3 Deputy M.R. Higgins:	42
3.6.4 Senator S.C. Ferguson:	42
3.6.5 Senator S.C. Ferguson:	43
3.6.6 Deputy G.C.L. Baudains:	43
3.6.7 Deputy J.H. Young:	43
3.6.8 Deputy G.C.L. Baudains:	44
3.6.9 Deputy J.H. Young:	44
3.7 Deputy R.G. Le Hérisssier of the Minister for Home Affairs regarding the security checks applied to civilian employees working within H.M. Prison La Moye:	44
Senator B.I. Le Marquand (The Minister for Home Affairs):	44
3.7.1 Deputy R.G. Le Hérisssier:	45
3.7.2 Deputy R.G. Le Hérisssier:	45
3.7.3 Deputy M. Tadier:	45

3.7.4 Deputy M. Tadier:	45
3.7.5 Deputy M.R. Higgins:.....	46
3.7.6 Deputy M.R. Higgins:.....	46
3.7.7 Deputy R.G. Le Hérisier:	46
3.7.8 Deputy R.G. Le Hérisier:	47
3.8 Deputy J.H. Young of the Minister for Planning and Environment regarding complaints from those subjected to enforcement proceedings for alleged infractions of the Planning and Building Law:	47
Deputy R.C. Duhamel of St. Saviour (The Minister for Planning and Environment):	49
3.8.1 Deputy J.H. Young:	49
3.8.2 Deputy M.R. Higgins:.....	50
3.8.3 Connétable D.W. Mezbourian of St. Lawrence:	50
3.8.4 Deputy R.G. Le Hérisier:	50
3.8.5 Deputy R.G. Le Hérisier:	51
3.8.6 Deputy M. Tadier:	51
3.8.7 Deputy M. Tadier:	51
3.8.8 Deputy J.M. Maçon of St. Saviour:.....	51
3.8.9 Senator S.C. Ferguson:	51
3.8.10 Deputy G.C.L. Baudains:	52
3.8.11 The Connétable of St. Lawrence:.....	52
3.8.12 Deputy J.H. Young:	52
3.9 Deputy G.P. Southern of the Chief Minister regarding the recent I.M.F. discussion paper ‘Redistribution, Inequality and Growth’:.....	52
Senator I.J. Gorst (The Chief Minister):	52
3.9.1 Deputy G.P. Southern:.....	53
3.9.2 Deputy M. Tadier:	53
3.9.3 Deputy M. Tadier:	53
3.9.4 Senator S.C. Ferguson:	54
3.9.5 Deputy G.C.L. Baudains:.....	54
3.9.6 Deputy G.P. Southern:.....	54
3.10 Deputy M. Tadier of the Minister for Social Security regarding a review of the policy whereby individuals who were hospitalised for more than 28 days lost their entitlement to certain Income Support components:	55
Senator F. du H. Le Gresley (The Minister for Social Security):	55
3.10.1 Deputy M. Tadier:.....	56
3.10.2 Deputy G.P. Southern:	56
3.10.3 Deputy M. Tadier:.....	56
3.11 Deputy G.C.L. Baudains of the Minister for Social Security regarding the future rent rebate policy:	57
Senator F. du H. Le Gresley (The Minister for Social Security):	57
3.11.1 Deputy G.C.L. Baudains:	58
3.11.2 Deputy G.C.L. Baudains:	58
3.11.3 Deputy G.P. Southern:	58
3.11.4 Deputy G.P. Southern:	59
3.11.5 Deputy G.C.L. Baudains:	59
3.12 Urgent Oral Question	59
Deputy G.P. Southern of the Minister for Economic Development regarding action taken to avert the prospect of serious disruption at Jersey Airport as a result of a baggage handlers’ dispute:	59
Senator A.J.H. Maclean (The Minister for Economic Development):.....	60

3.12.1	Deputy G.P. Southern:	60
3.12.2	Deputy G.P. Southern:	60
3.12.3	Deputy G.P. Southern:	60
3.12.4	Deputy G.P. Southern:	60
4.	Questions to Ministers without notice - The Minister for Economic Development.....	60
4.1	Deputy G.C.L. Baudains:	61
	Senator A.J.H. Maclean (The Minister for Economic Development):	61
4.1.1	Deputy G.C.L. Baudains:	61
4.2	Deputy J.H. Young:	61
4.3	Deputy R.G. Bryans of St. Helier:	61
4.4	Deputy J.G. Reed of St. Ouen:	62
4.4.1	The Deputy of St. Ouen:	62
4.5	Deputy G.P. Southern:	62
4.6	Deputy G.C.L. Baudains:	63
4.7	Deputy T.A. Vallois:	63
4.7.2	Deputy T.A. Vallois:	63
4.7.3	Deputy T.A. Vallois:	63
4.8	The Connétable of St. John:	64
4.8.1	The Connétable of St. John:	64
4.8.2	The Connétable of St. John:	64
4.9	Connétable S.W. Rennard of St. Saviour:	64
5.	Questions to Ministers without notice - The Minister for Housing.....	65
5.1	The Deputy of St. Ouen:	65
	Deputy A.K.F. Green of St. Helier (The Minister for Housing):	65
5.1.1	The Deputy of St. Ouen:	65
5.1.2	The Deputy of St. Ouen:	65
5.2	Deputy S. Pinel of St. Clement:	66
5.3	Deputy R.G. Le Hérisier:	66
5.4	Deputy G.P. Southern:	66
5.5	Deputy J.H. Young:	67
5.6	Deputy R.J. Rondel:	67
5.6.1	Deputy R.J. Rondel:	67
5.7	Deputy J.M. Le Bailly of St. Mary:	67
5.8	Deputy M. Tadier:	68
5.8.1	Deputy M. Tadier:	68
5.9	Deputy C.F. Labey of Grouville:	68
5.9.1	The Deputy of Grouville:	69
5.10	The Deputy of St. Ouen:	69
5.10.1	The Deputy of St. Ouen:	69
5.11	Deputy S. Power:	69
	STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY.....	70
6.	Deputy T.A. Vallois (Chairman, Public Accounts Committee):	70
6.1	Deputy R.G. Le Hérisier:	70
6.2	Senator L.J. Farnham:	71
6.3	Deputy M. Tadier:	71
6.4	Deputy G.P. Southern:	71
6.5	The Deputy of St. Ouen:	72

6.6	Senator A.J.H. Maclean:	72
6.7	Senator P.F.C. Ozouf:	72
6.8	The Deputy of Grouville:	72
6.9	Deputy G.P. Southern:	73
6.10	Senator A.J.H. Maclean:	73
COMMUNICATIONS BY THE PRESIDING OFFICER		73
7.	Appointment of Deputy Bailiff to succeed Bailiff - Royal approval	73
	The Bailiff:	73
PUBLIC BUSINESS		73
8.	Draft Shipping (Amendment No. 4) (Jersey) Law 201- (P.3/2014)	74
8.1	Senator A.J.H. Maclean (The Minister for Economic Development):	74
8.1.1	Deputy J.H. Young:	75
8.1.2	The Deputy of St. Ouen:	75
8.1.3	Senator S.C. Ferguson:	75
8.1.4	The Deputy of St. Martin:	75
8.1.5	The Connétable of St. John:	75
8.2	Senator A.J.H. Maclean:	76
8.3	Senator A.J.H. Maclean:	76
8.3.1	The Connétable of St. John:	76
8.3.2	Senator A.J.H. Maclean:	77
9.	Draft Employment of States of Jersey Employees (Amendment No. 6) (Jersey) Regulations 201- (P.7/2014)	77
9.1	Senator I.J. Gorst (The Chief Minister):	78
10.	Jersey Overseas Aid Commission: reappointment of non-States Commissioner (P.11/2014)	78
10.1	Senator P.F. Routier:	79
LUNCHEON ADJOURNMENT PROPOSED		79
	Deputy J.M. Maçon:	79
	Senator L.J. Farnham:	79
	The Connétable of St. John:	79
11.	Draft Drainage (Amendment) (Jersey) Law 201- (P.6/2014)	80
11.1	Deputy K.C. Lewis (The Minister for Transport and Technical Services):	80
11.1.1	Deputy J.H. Young:	81
11.1.2	Deputy T.A. Vallois:	81
11.1.3	The Connétable of St. John:	82
11.1.4	Senator P.F.C. Ozouf:	83
11.1.5	Deputy G.C.L. Baudains:	84
11.1.6	Senator B.I. Le Marquand:	84
11.1.7	Deputy R.C. Duhamel:	84
11.1.8	Deputy K.C. Lewis:	84
11.2	Deputy K.C. Lewis:	86
11.2.1	Deputy J.H. Young:	86
11.2.2	The Deputy of St. Ouen:	86

11.2.3	Deputy T.A. Vallois:	87
11.2.4	The Connétable of St. John:	87
11.2.5	Deputy K.C. Lewis:	87
ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS		90
12.	Deputy J.M. Maçon (The Chairman of Privileges and Procedures Committee):	90
12.1	The Connétable of St. Helier:.....	90
ADJOURNMENT.....		90

[09:30]

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

COMMUNICATIONS BY THE PRESIDING OFFICER

1.1 Tribute to the late Charles Alan Le Maistre, M.B.E. – former Connétable of Grouville The Deputy Bailiff:

As has just been mentioned by the Deputy of Grouville, Members might be already aware that Charles Alan Le Maistre died last week aged 87. He was Connétable of Grouville from August 1976 until his retirement in January 1989. Alan served on a wide variety of committees during his 12 and a half years in the States; Public Health, Tourism, Agriculture and Fisheries, Education, Establishment, Island Development and the Resources Recovery Board. On the so-called minor committees too; Industrial Relations, Elizabeth House, Telecommunications, Deliberation Anniversary Committee and the special Committee on Defence and International Representation. His activity in committee work shows that he was very popular among Members and that he was recognised as a man who did not talk unless he had something to say but when he did he spoke with clarity and good sense. He was Chairman of the Comité des Connétables, over which he presided with his usual robustness. The former Connétable of St. Lawrence, Mrs. Iris Le Feuvre, recalled that when she was elected and she went along to her first meeting of that committee one of the Connétables asked if the Chairman would introduce her to the Comité: “No” said Alan: “Everyone knows who she is” and I have no doubt he was right. **[Laughter]** Alan was a farmer and a passionate Grouvillé(?). He served in the Honorary Police before he became a Connétable and after his retirement he continued to work for the good of the Parish community. He was the church warden for many years, indeed stepping into the breach again at the last moment only a few years ago when there was an unexpected vacancy. He and his wife Matt have opened their home at Les Prés Manor for the Grouville fete every year of my adult memory. In 1994 he was awarded an M.B.E. (Member of the Most Excellent Order of the British Empire) in Her Majesty the Queen’s Birthday Honours list as a recognition of his selfless service to his Parish over some 40 years. Sometimes one hears or reads of a tribute being given that the deceased was a man of the old school, to the extent that means a person had the old-fashioned virtues of loyalty, of hard work, of honesty and commitment, Alan was of the old school. If it means he was stubborn and difficult to shift once he had made up his mind he was of the old school there too, as I know when he berated me last year in church for not wearing a tie. But, most of all, he was a family man. He and Matt had 4 sons, including the present Connétable of Grouville, and a daughter, many grandchildren and great-grandchildren, to whom Members will want to extend their sympathy. I ask Members to stand as the usual mark of respect in his memory. May he rest in peace.

1.2 Welcome to His Excellency the Lieutenant Governor

Deputy Bailiff:

Turning to the Order Paper more directly, as usual, on behalf of Members, I would like to extend the warmest welcome to His Excellency, the Lieutenant Governor. **[Approbation]**

QUESTIONS

2. Written Questions

2.1 DEPUTY R.J. RONDEL OF ST. HELIER OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE PAYMENT TRIAL AT SAND STREET CAR PARK:

Question

Could the Minister give the following information to the last known month end in relation to the trial that began on 12th November 2012 for a new parking charge system in Sand Street Car Park -

- a) What has been the difference in monthly income for parking excluding fines?
- b) How many vehicles have exceeded the 3 hour nominal limit broken down to up to 4 hours, up to 6 hours and longer than 6 hours?
- c) How much was the 'fine' income for Sand Street car park for the 12 month period (broken down into months) prior to the commencement of the trial?
- d) How much income has been received from 'fines' during the period of the trial, if any?
- e) Is the Minister considering charging those with 'blue badges' from outside Jersey for parking?

Answer

- a) Prior to the introduction of the ANPR (Automatic Number Plate Recognition) system in Sand Street the accepted method for estimating the income from paycard or season ticket sales per parking site was periodic occupancy surveys, made at set times of the day. The ANPR now provides much more accurate income information for parking at Sand St. Adjusting for inflation, using original occupancy surveys, average monthly income for the 12 month period prior to the commencement of the trial was £ 41,735. Following the introduction of the new system, the average monthly income from parking is £50,310.
- b) Since the introduction of the new system 49,405 vehicles have stayed for between 3 and 4 hours, 31,334 vehicles have stayed for between 4 and 6 hours and 32,597 vehicles have stayed for longer than 6 hours. Included in the last figure will be vehicles that park overnight and on non-chargeable days so many of the vehicles staying longer than 6 hours will have done so in non-chargeable periods.
- c) The fine income for Sand Street Car Park for the 12 month period prior to the trial is:

Month	Fine Income
November 2011	£7,195
December 2011	£5,340
January 2012	£7,220
February 2012	£7,470
March 2012	£6,675
April 2012	£6,195
May 2012	£7,545
June 2012	£7,515
July 2012	£4,850

August 2012	£6,515
September 2012	£4,860
October 2012	£7,290
TOTAL	£78,670

- d) Since the introduction of the trial £22,575.00 has been collected through payment of fines, this includes a period of light touch policing during the early part of the trail while the public familiarised itself with the ANPR system.
- e) The guiding assumption behind the European Blue Badge disabled parking permit is that Blue Badges issued in one EU country are given equal recognition in others. This reciprocal agreement also applies to non-EU countries or jurisdictions such as Jersey, Guernsey, Iceland, Isle of Man, Liechtenstein, Norway and Switzerland who also have agreed to participate in the scheme.

This agreement means that Jersey Blue Badge holders visiting another signatory country, for instance the UK or France, have the same rights and access to disabled parking facilities as granted to residents of that country. Conversely, a visiting Blue Badge holder from those countries can use Jersey's parking facilities in the same way as a disabled islander.

While I have no intention of departing from the underlying principles of the Blue Badge scheme, I will be undertaking a review of its application during 2014.

2.2 DEPUTY J.A.N. LE FONDRE OF ST. LAWRENCE OF THE CHIEF MINISTER REGARDING THE DAME HEATHER STEEL REVIEW:

Question

Could the Chief Minister provide an update on a likely date for the publication of the Dame Heather Steel review?

Answer

The position has not changed since I made my statement to the States Assembly in January. I continue to expect that the Bishop of Winchester will honour the commitment made in the terms of reference of the investigation by Dame Heather Steel that, upon receipt of the final report, the Bishop of Winchester will supply a copy to the Bailiff, the Dean and the Ministry of Justice. Lambeth Palace confirmed in January that the reports being conducted by Dame Heather Steel and Bishop Gladwin will be completed in due course. I hope that the Steel report will be completed as soon as possible in order that our community can be strengthened through reconciliation and healing based upon integrity and transparency.

2.3 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE PROCESSING OF INCOME SUPPORT APPLICATIONS:

Question

Will the Minister inform members what the average turn-around time for processing Income Support applications or Change of Circumstances forms from the date of issue to delivery of payment currently is?

Does he believe that this period can contribute to income support applicants getting into debt and, if so, what measures does he propose to reduce any such hardship?

What figures does the Minister have for over and under-payments in income support? To reduce the potential hardship through repayment of "overpayments" will he agree to re-instate the previous cap on such repayments of £21 weekly?

Answer

As stated in my answer to similar written questions tabled on 26th June 2012, 17th July 2012 and 15th January 2013, and furthermore an oral question on Tuesday 24th September 2013, Income Support benefit is always paid in advance, on either a weekly or four-weekly basis. Any change of circumstance that occurs after a payment has been made and during the period paid for, which affects the value of the claim rate, will result in the need for a payment adjustment in respect of the over or under payment.

This means that small overpayments are an expected and inevitable part of a benefit system that pays in advance, and in most cases simply result from the short-term repayment of extra income that households have received above their actual benefit entitlement. The alternative, which I do not support, would be to make Income Support payments in arrears - which could lead to real hardship amongst low income families.

As part of the States wide 'lean' initiative to improve customer service, officers of my Department have recently launched a same day service that allows many changes to existing Income Support claims to be processed in the customer's presence, subject to them supplying all supporting evidence. Based on the first few weeks performance, approximately 60% of customers visiting the department to notify us of a change of circumstances have benefited from this improved service. This was not a service available previously. For new applications for Income Support, the current time for processing is 10 working days, providing all relevant information is supplied at the outset.

The figure of £21 weekly for the recovery of over-payments is a guide used by officers to determine an appropriate weekly amount to be recovered from ongoing benefit. The recovery of overpayments is always set at a level that the customer should be able to afford, and those overpayments that exceed the guide figure of £21 weekly are typically agreed with customers who have started employment and wish to clear the overpayment as soon as possible.

As stated in my answers to previous similar questions, I do not believe these recoveries cause hardship. It is an important principle that taxpayer-funded benefits must be recovered whenever they are overpaid, particularly when the household has failed to take appropriate action required under the Income Support Law to notify the Department of changes.

2.4 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING INCOME SUPPORT FOR CHILDREN WITH DISABILITIES:

Question

Can the Minister confirm that the net result of R&O75/2012 and R&O47/2011 is to maintain the top-up sum required by Article 6(1) of the Income Support transitional provisions for a household previously in receipt of attendance allowance for a child at 100% from 1st July 2012 and to reduce the TUS for a household previously in receipt of Child Disability Allowance (CDA) (but not attendance allowance) to 40%.

Will he state how many of the 55 households with children claiming Personal Care (PC) components level 3 do so because of the child's disability and how many of those are in receipt of carer's component? How many of those on PC level 3 because of the child's disability were previously on attendance allowance/CDA and how many are getting the equivalent through discretionary payments from the Minister? Are these discretionary payments counted here or elsewhere?

How many of 82 on PC level 1 and 36 on level 2 are claiming because of the child's disability? How many of those were on CDA previously and subject to reductions in TUS above?

Will the Minister give his rationale for reductions in the level of benefits for these households with a child with disability?

Answer

Following question 8028, tabled on Tuesday 10th December 2013, I am pleased to confirm that, as suggested in my answer at that time, my Department's 2014 business plan contains an objective to reform the way that benefits are paid in respect of children with very high personal care needs. A detailed brief for law drafting has been submitted to the Law Draftsman's Department and my proposals will be lodged as soon as the law drafting process is complete.

The effect of various amendments to the Income Support Transitional Order made by myself, and previous Social Security Ministers, has been to extend 100% transition protection for all groups for nearly two years beyond the original timetable, and to further extend 100% protection for claimants previously receiving disability benefits for an additional year. As per my answer to question 8028, I can confirm that R&O.75/2012 maintained the sum payable for a child with a severe disability who was in receipt of Attendance Allowance prior to the introduction of the Income Support scheme in January 2008. In summary, transitional payments for Attendance Allowance in respect of children are now being fully maintained at 100% until the child reaches school leaving age, at which point they can make a claim for Income Support in their own right. I can confirm that previous claimants of Child Disability Allowance, who do not otherwise qualify for Income Support, are currently receiving a transitional payment which is now equivalent to 40% of the value of the historic benefit.

The detailed figures quoted in the question relate to Table 38 in the 2012 Social Security Annual Report. In some instances these represent the number of individuals, not claims. The figures quoted only relate to Income Support households that include children. The report referred to 52 households claiming a total of 55 Personal Care level 3 components. Of these there were 40 claims (and 43 children) that included a Personal Care level 3 component in respect of a child. 36 of these claims were also in receipt of the carer's component.

Of those children in receipt of Personal Care level 3, 28 were either in receipt of Attendance Allowance or Child Disability Allowance before 2008. 9 further claims, in respect of children who were not in receipt of either benefit before 2008, are paid as exceptional payments from the Minister. These are in addition to those counted above.

In terms of other households including a child with lower levels of personal care needs, there were 34 claims (and 36 children) qualifying for the award of Personal Care level 1; 21 claims (and 21 children) qualified for the award of Personal Care level 2. 21 of the total 57 children were formerly in receipt of Child Disability Allowance. There was no direct equivalent to Personal Care level 1 in the previous benefit system and these children may not have qualified for any financial assistance before the introduction of Income Support. Child Disability Allowance was only available to children with a disability, rather than an illness. There is no such distinction in the current system where the actual care needs of the child are considered, rather than the cause of those needs.

The TUS referred to in the question relates to the transitional payments that are made to claimants who were entitled to compensatory “protected” benefit payments at the start of Income Support in 2008 as their entitlement to Income Support was lower than the total of their benefit entitlement under the various previous benefit systems. In almost all cases the reduced entitlement was due to the level of household income. Claims where there was no household entitlement to Income Support in 2008 only received the TUS payments and these payments are now being reduced in the case of previous claimants of Child Disability Allowance. There were 7 claims remaining in this category at the time of the data extract.

The changes in policy and legislation culminating in the current Income Support system have been endorsed several times by the States Assembly and have been subject to extensive scrutiny and public debate since the year 2000. The previous situation of a range of uncoordinated, separate benefits, each with its own entitlement conditions and application process, has been replaced with a single Income Support scheme based on household income. The range and value of support available to families that include a child with a long term illness or disability has been extended, a consistent assessment process has been introduced and a single method established for determining household income. As Income Support is designed to target support at families with lower incomes, some higher income families who would have received benefits under one of the previous benefits available are no longer eligible for financial assistance due to the level of their household income.

However, as noted above, in the case of children with the highest level of personal care needs due to a severe disability or very serious long term illness, support has continued to be provided, irrespective of the financial circumstances of the family. Regulations to formalise this arrangement will be debated in the next few months.

2.5 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE PAYMENT OF RATES ON STATES' PROPERTIES:

Question

Will the Minister state what meetings have taken place between Treasury and St. Helier Parish officials since the Minister stated in the debate on 4th June 2013 on the proposition (P.40/2013) “Parish rates: the States’ liability” that he “*would like to work with the Parish constructively on an open-book basis*” on the rates issue?

Will he further state what progress he has made in “... *finding a solution, and presenting that solution to members well in advance of the next MTFP*” that he was “*committed to*” in June and, if none, will he state why?

Would he state when he intends to bring a report to the Assembly on this issue and the wider issue of taxation of land and will he undertake, as part of any such report, to consider the issue of Land Value Tax (LVT) which has proved successful elsewhere?

Answer

In June 2013 the Minister stated that he would like to work constructively with the Parishes on an open-book basis concerning the States' liability for Parish rates. The Minister is now pleased to advise members that a very productive dialogue is taking place with the Chairman of the Jersey Association of Rates Assessors.

Firstly, as far as quantification of the potential liability is concerned, a considerable amount of progress has been achieved to produce an assessment of the likely costs of rates to the States based on the 2013 position.

This essential background work has been undertaken at no cost to the Public and provides an independent assessment that will inform the next steps to delivering the commitment made to the States Assembly. Once the final estimate of the likely cost of the States paying rates has been established in the next few months, the Minister intends to discuss his proposals with the Comité des Connétables before reporting to the States. An update will be provided in the draft 2015 Budget in July 2014.

Secondly, as part of a broad-based review of property tax looking at how costs could be met, the Minister is considering a number of property tax matters, including the issue of Land Value Tax.

Land Value Tax must be distinguished from Land Development Tax. Land Value Tax can be either an annual or a one-off charge on the owner of a property, based on the value of that property. Land Development Tax, in the format that has been discussed by the Assembly in the past, would be a tax on the uplift in the value of land when rezoned for development. The review is considering both of these types of taxes, with appropriate economic advice.

Thirdly, as far as proposals to pay for the potential liability are concerned, a Green Paper is to be issued alongside the draft 2015 Budget. The responses received will inform a White Paper to be issued in 2015.

2.6 DEPUTY J.H. YOUNG OF ST. BRELADE OF THE CHIEF MINISTER REGARDING ADVISORY AND OVERSIGHT GROUPS:

Question

Will the Chief Minister provide an comprehensive up to date list of all advisory or oversight groups which have been established by members of the Council of Ministers for the development or revision of public policy, the list to include for each group –

- a) details of the constitution of the group;
- b) its terms of reference;
- c) the membership of Ministers, Assistant Ministers and other elected members, if any, and the civil servants advising the group;

- d) the frequency of its meetings;
- e) whether formal minutes are produced and published;
- f) whether the group has any delegated authority from the members of the Council of Ministers for spending decisions; and
- g) the date of the last meeting.

Answer

Yes.

At the meeting of 21st February 2014, the Council of Ministers agreed to publish a list of ministerial groups in response to the third recommendation of the Machinery of Government Review Sub-Committee's Interim Report April 2013 (R.39/2013), which was lodged by the Privileges and Procedures Committee. The recommendation reads;

Recommendation 3 – The Council of Ministers should be required to publish, and to keep updated, a collated list of all advisory and oversight groups formed to progress the development or revision of policy.

The list will be published during March 2014, responding to each of the points a) – g) above.

2.7 DEPUTY J.H. YOUNG OF ST. BRELADE OF THE CHIEF MINISTER REGARDING THE INVOLVEMENT OF NON-EXECUTIVE MEMBERS IN POLICY DEVELOPMENT:

Question

Will the Chief Minister inform the Assembly whether the Council of Ministers recognises the role of democratically elected members of the Assembly in contributing to the policy proposals of Ministers before they are adopted as official States' policy and, if so, would he inform the Assembly in detail of the arrangements the Council of Ministers has made, and currently relies upon, to ensure it is fully aware of the opinions of non-executive members in policy development?

Would the Chief Minister further state whether any non-executive members of the States are included in any the multiplicity of policy or working groups established by Ministers, whether across ministerial departments or within a single department, state whether these groups are operational or for policy formulation and if there is no involvement of non-executive members, what proposals, if any, does the Chief Minister currently have under consideration to address this issue?

Answer

I recognise the essential contribution non-executive members of the States Assembly can make to the development of policy.

This happens in a number of ways. There are formal groups that develop policy, such as the Access to Justice Review Advisory Panel, the Regeneration Steering Group and the Health Transformation Ministerial Oversight Group. There are also workshops held to debate the

development of major initiatives like the Strategic Plan, as well as informal discussions. I am aware of many meetings between Ministers and Members to discuss policy. This week, all States Members have been invited to workshops on the development of “Preparing for Our Future”, the framework being produced for the future development of policy, and the clear intention is to make this process inclusive, bringing in the views of non-executive Members of the States.

I said when standing as Chief Minister that I would support a reinvigorated Scrutiny function. During this term of office I believe Scrutiny has operated more successfully, which is essential for effective government. As well as the Scrutiny process, there is a requirement for Ministers to be accountable to, and to listen and respond to, the States Assembly. In my view, this, and the fact that we have no party politics, all makes the Executive branch of government highly responsive to the States Assembly as it formulates policy, perhaps more so than elsewhere.

The Machinery of Government Review Sub-Committee: Final Report, presented to the States Assembly on 9th September 2013 by the Privileges and Procedures Committee (R.105/2013) concluded that, whilst the States have little appetite for a direct return to the committee system, the range of work conducted by all 3 branches of government is sufficiently challenging and diverse as to provide ample opportunities for all Members to contribute. The Review recommended that Members should benefit from a formal mechanism through which they might express an interest in serving in a particular executive or non-executive capacity, supported by a brief rationale for wishing to pursue those particular roles. This recommendation has been supported by the Steering Group taking forward the Review recommendations and I hope that this will gain the support of the States Assembly in due course.

2.8 DEPUTY J.H. YOUNG OF ST. BRELADE OF THE CHIEF MINISTER REGARDING THE ROLE AND MEMBERSHIPS OF GROUPS ESTABLISHED BY DEPARTMENTS FOR POLICY DEVELOPMENT:

Question

Would the Chief Minister provide an updated reply to the question previously asked by Deputy J.A.N. Le Fondre on 9th October 2012 providing full details of the role and membership of all groups established by all Departments, including Transport and Technical Services (for example working parties, policy, advisory, oversight groups) which are either cross-departmental, of which membership comprises only/mainly States officers, or groups of which membership comprises States officers and external third parties) which influence the workings of a Department, and/or development of Ministerial proposals, decisions or policies, and which have met since 1st January 2012 including the name of the group, attendees, frequency of meetings and remit?

Answer

The detailed list produced on 9th October, 2012 is being updated and will be published in March 2014, including information from Transport and Technical Services. It will demonstrate the cross-departmental nature of the public sector.

2.9 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR HOME AFFAIRS REGARDING DISCIPLINARY CASES AT H.M. PRISON LA MOYE:

Question

Will the Minister advise members how many disciplinary cases there have been in the past 10 years at the HMP La Moye Prison for employees, and in how many of those cases the employee was either dismissed or resigned pending, or after, the action?

Will the Minister provide a summary of any alleged misconduct, in terms of its nature (i.e. sexual, drug dealing, etc)?

Will the Minister, in particular, inform members whether the former member of staff in charge of the drug and alcohol counselling services who is alleged in a national newspaper to have had an inappropriate relationship with a prisoner was the subject of a disciplinary investigation and, if so what was the basis for, and result of, that investigation? Will the Minister make the case notes, if any, for any such disciplinary action available?

Answer

Prior to 2007, data on the number and outcome of disciplinary cases was not collated. Therefore the information requested could only be extracted through an examination of all staff personal files. Further to discussion with the Assistant Minister for Home Affairs, I believe Deputy Tadier has helpfully agreed that I should focus on Gross Misconducts where dismissal is a disposal available to the Prison Governor.

Between 1 January 2007 and 26 February 2014, 16 Gross Misconduct Investigations were initiated. The outcomes were as follows:

- 1 Prison Officer dismissed
- 2 Senior Officers reduced in rank to Prison Officer
- 1 Senior Officer, 3 Prison Officers and 1 Civilian grade given Final Written Warnings
- 3 Prison Officers given Written Warnings
- 1 Senior Officer, 2 Prison Officers and 2 Civilian Support Grades resigned before the disciplinary process was concluded

The nature of the offences committed included:

- 7 of the 16 Gross Misconducts and 2 of the resignations arose as a consequence of events while off duty in the community. 2 related to inappropriate behaviour in public and 5 due to criminal charges;
- 2 involved trafficking (1 x mobile phone and 1 x confectionary and stationery items);
- 1 related to a breach of the States Information Systems policy;
- 1 involved inappropriate use of a Dictaphone;
- 1 inappropriate disclosure of confidential information;
- 1 failing to report a significant breach of security;
- 1 leaving a part of the prison insecure and failing to complete core duties;
- 1 harassment of a prisoner;
- 1 breach of security while on an external escort (left a prisoner locked in the escort vehicle unsupervised).

With reference to the specific questions related to the ex Manager of Drug & Alcohol Counselling service at La Moye, on 14 September 2010 the Prison Governor would have suspended this individual pending an investigation into whether she had been trafficking items into Prison but she immediately resigned and is believed to have left Jersey within a matter of days thereafter. Because

this matter did not proceed to the stage of a disciplinary investigation, it is not included in the figure of 16 Gross Misconduct Investigations set out above.

There has not been an investigation related to any form of sexual activity in the prison.

It is not appropriate to make the case notes in relation to disciplinary matters, or potential disciplinary matters, available.

2.10 DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE RECOURSE AVAILABLE TO AN APPLICANT FOR PLANNING PERMISSION:

Question

Would the Minister state what recourse, if any, is available to a planning applicant whose application is supported on “appeal” by the Planning Applications Panel and who is then, on direction from the Minister, expected to negotiate an outcome with the officer whose reasoning was contested and then overturned?

Answer

Recommendations to the Planning Applications Panel are those of the department, not an individual officer. They are counter-signed by the relevant Director, or in his absence, a Principal Planner. If the Minister disagrees with the Panel’s decision (to depart from the department’s recommendation), the current protocols allow him to direct the department officers to carry out his alternative instruction.

Ultimately, any applicant who is dissatisfied with a planning decision can appeal to the Royal Court under article 113 of the Planning and Building (Jersey) Law 2002.

2.11 DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE APPLICATION OF BUILDING CONTROL REGULATIONS TO LISTED BUILDINGS:

Question

Would the Minister confirm whether the Building Control regulations in regard to listed buildings are applied with flexibility and would he outline what appeal processes exists for owners who are aggrieved by what they consider to be the inflexible application of the regulations?

Answer

Building work carried out in connection with listed buildings is subject to the same building control requirements as other buildings. In all cases the bye-law requirements are applied in a reasonable and appropriate way.

I have published detailed technical guidance which sets out how the functional requirements prescribed for building work can be satisfied for the more common building situations. This guidance provides flexibility in that it recognises there may well be alternative ways of achieving

compliance and as such the solutions provided in the published guidance are not mandatory. A designer simply needs to demonstrate that adequate provision has been made.

In terms of appeal provisions my officers will give advice on appropriate design solutions and always provide a full explanation for decisions made in respect of applications for building permission. Should building permission be refused there is a right of appeal to the Royal Court in accordance with the provisions of the Planning and Building (Jersey) Law 2002.

2.12 DEPUTY T.A. VALLOIS OF ST. SAVIOUR OF THE CHIEF MINISTER REGARDING LEGISLATION AND POLICY GOVERNING THE PROVISION OF HOUSING IN JERSEY:

Question

Could the Chief Minister provide a list of all legislation and policy used by Ministers that relate to all initiatives for the provision of housing in Jersey (both private housing and social housing) and give an analysis showing how the legislation and policy relate and interact with each other for the betterment of the public of Jersey?

Answer

A Strategic Housing Unit (SHU) has been established, under the leadership of the Minister for Housing, to co-ordinate all housing policy. This follows an Assembly debate on “The Reform of Social Housing” (P33/2013).

A Ministerial “Strategic Housing Group” has been established to advise the SHU, with ministerial representation from Health and Social Services, Treasury and Resources, Planning and Environment, and other Ministers as required. Social housing providers and officer groups will support this ministerial group.

This structure will help to develop housing policies for the betterment of the public of Jersey, and will culminate in the production of a housing strategy. This is a complex piece of work. Research is being undertaken in 2014 so the strategy can be published in 2015.

The “provision of housing” as outlined in the question is taken to relate to all laws, policies and functions that govern the supply and management of housing.

The relevant laws:

- Planning and Building (Jersey) Law, 2002
- Building Bye Laws and supplementary planning guidance
- Residential Tenancy (Jersey) Law, 2012
- Lodging Houses (Registration) (Jersey) Law 1962
- Dwelling-Houses (Rent Control) (Jersey) Law 1946
- Statutory Nuisance (Jersey) Law 1999
- Loi (1934) sur la Santé Publique

Various organisations have relevant functions:

- The provision of social housing by the Housing Department and housing trusts
- The development of housing by the States of Jersey Development Company
- The provision of States owned land by the Treasury and Resources Minister through the Property Holdings Department to provide social housing

There are also a range of policies which affect housing, including:

- Our tax and benefit regimes
- Support for home ownership, for example, the Building Loans (Jersey) Law 1950, and the Starter Homes Deposit Loan Scheme
- the Control of Housing and Work (Jersey) Law

Legislation and policies interact with each other in a number of ways, for instance:

- Improvements need to be made in some areas, for example, in coordinating the regulation of housing standards across social housing, registered housing (formerly called unqualified housing) and private rented accommodation. This is why, for example, the Chief Minister's Department, Strategic Housing Unit, Public Health Department, and others, are developing new policies in this area to improve standards.
- We need a focused approach to the issue of affordability in Jersey. This is why, for example, the Strategic Housing Unit is developing a housing strategy, and why the Economics Unit is reviewing barriers to housing supply.
- The Housing Transformation programme will deliver a wide range of benefits for social housing. This includes £250 million investment to improve standards and supply, and the removal of hidden rental subsidies through changes to rent policy and Income Support rules.
- The draft Revised Island Plan aims to tackle the shortfall in social housing provision, providing sites where additional funding from the Housing Transformation Programme can be invested.
- The Residential Tenancy (Jersey) Law, 2012, significantly improves the regulation of landlord and tenant relationships, providing protection against eviction and from excessive utility charges.
- The new Control of Housing and Work (Jersey) Law, 2012, enables registered people to lease property. This gives them the same protection as entitled residents for the first time in more than 60 years.

This work will continue and accelerate.

2.13 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR HOUSING REGARDING THE PROVISION OF CARPETS, FLOORING AND WINDOWS IN STATES AND TRUST ACCOMMODATION:

Question

Will the Minister provide a summary of the history of the policy and practice of providing carpets and flooring in States' accommodation, including all exceptions and, if relevant, state when the policy and practice changed?

Will the Minister advise whether he is aware if the Trust providers also have a similar requirement for new tenants to lay their own flooring?

Will the Minister advise whether there are any plans to require new tenants to provide their own windows in future?

Answer

I would like to start by saying that this is not a new practice at all. The Housing Department has never provided carpets to ingoing tenants. The Department currently provides appropriate flooring to both kitchens and bathrooms in all of its homes. Properties are let without carpets at allocation, unless there are good quality serviceable carpets left behind by the previous tenant.

Where the Department requires a tenant to move to a new homes so that their existing home can be redeveloped or refurbished, the cost of carpeting the new property will be met by the Department. The annual budget is usually in the region of £10,000. This has been increased this year to £40,000 in recognition of the increased refurbishment and development activity.

In 2013 a total of 416 homes were allocated; if a new policy were adopted to provide carpets for that number of homes an additional £300,000 would be added to the annual budget for void property refurbishment. This cost increase cannot be justified and would simply translate into a reduction in property maintenance elsewhere and impact significantly on the ability to deliver other commitments such as achievement of the Decent Homes Standard within 10 years.

I have been in contact with the Islands other social housing providers and our counterparts in Guernsey and the Isle of Man to establish their respective policies and practices. I am not surprised to learn that their practices are overwhelmingly similar to those of the Housing Department.

The answer to the Deputy's third question regarding windows is no.

2.14 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE OPERATIONS OF THE DISCOVERY CHANNEL IN JERSEY:

Question

Will the Minister inform members what activities the Discovery Channel will be engaged in on the Island when it opens an office here and what benefits will accrue to Jersey? What safeguards, if any, does the Minister have to ensure that the office is not just a conduit to funnel profits and revenue streams through Jersey to avoid taxes elsewhere, thereby reinforcing the reputation of the island as a centre for tax evasion?

Answer

As the Deputy is no doubt aware my Department, through its Locate Jersey team, is tasked with attracting highly mobile, premium quality inward investment to the Island.

The company in question will in fact be operating the secretariat function of its business in the Island, in a fashion similar to that of a corporate secretary, albeit with a generally higher level of oversight, required owing to the size and global nature of the business.

As a direct result of a recent process of standardisation undertaken by the organisation, the company has decided to relocate its administrative centre of decision making to Jersey, bringing with it much needed employment and an increased positive international profile for Jersey's Digital sector. In short, the benefits to Jersey are 6 high quality jobs for local people, significant levels of personal income tax arising from these salaries and associated other States income from GST, Stamp Duty and additional local expenditure with local supplier companies.

In terms of safeguards, this business will operate within the same safeguards as any other business operating in the Island, such as the Jersey Financial Services Commission and Control of Work and Housing Law.

2.15 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE IMPACT OF THE MINIMUM WAGE:

Question

Will the Minister state whether he agrees with the following statements and, if so, state what steps he is taking to correct or improve the situation and, if he disagrees with them, state fully why, giving evidence to support his contentions -

1. that Jersey has, or is in danger of creating, a two-tier labour market in which a growing number of workers will earn little more than the minimum wage;
2. without new thinking on the minimum wage there is a risk that its purpose will be perverted and might be seen as a drag on wages;
3. that the minimum wage was set to avoid extreme exploitation but instead is now being seen as a going rate for entry level staff;
4. the minimum wage shows little sign of transforming people's lives as it keeps the majority of people on subsistence levels of wages.

Answer

Data collected by the States Statistics Unit via the average earnings surveys undertaken in 2012 and 2013 provides no evidence that there is a growing number of minimum wage earners in Jersey, or that Jersey has a two-tier labour market. In both June 2012 and June 2013;

- 6 percent of jobs (around 3,000) were being paid at the minimum wage
- Less than 100 jobs were being paid at the trainee rate.
- Less than 100 jobs were being paid between the trainee rate(s) and the minimum wage.

Minimum wage jobs in Jersey are primarily in two sectors that are export oriented and that rely on international competition; agriculture and fishing (48% of jobs in that sector are minimum wage jobs) and hotels, restaurants and bars (40% of jobs in that sector are minimum wage jobs).

Given the low percentage of minimum wage jobs overall and the concentration of around two-thirds of minimum wage jobs in the hospitality and agriculture sectors, the Minister is not aware of any evidence to suggest that the minimum wage has a drag effect on wages generally. Minimum wage increases contribute to annual increases in the average earnings index and often have a differential impact on wages throughout a business.

The minimum wage was intended to remove the worst cases of low pay whilst taking into account business realities and supporting a competitive economy. The intention is to balance the desire for minimum wage increases against the risks for businesses, e.g. job losses if staff costs become unsustainable. The minimum wage is reviewed each year allowing the independent Employment Forum to react to new information and evidence in relation to jobs, competitiveness and the economy. In addition, the States of Jersey has established its intentions regarding the future of the minimum wage by deciding that the minimum wage should be increased to at least 45% of average earnings over a 5 to 15 year period. The Minister reminded the Employment Forum of that objective in 2013.

The Minister is not aware of any evidence to suggest that the minimum wage has become a going rate for entry level staff in Jersey or that it keeps the majority of people on subsistence wages, particularly given the low percentage of minimum wage jobs overall, the concentration of those jobs in the hospitality and agriculture sectors and the comparatively low number of minimum wage jobs in the remainder of the economy.

It has never been the stated purpose of the minimum wage to transform lives. The purpose of the minimum wage is to set a minimum standard in the employment relationship and to create a level playing field between employers, irrespective of their size and sector.

The level of the minimum wage will always be constrained by the need to take into account the two most affected sectors and it is likely that the rate is lower than it might have been if the disproportionate impact on the hospitality and agriculture sectors was not taken into account.

Work is underway to investigate the introduction of a voluntary Living Wage for Jersey.

2.16 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE ISLAND'S CREDIT RATING:

Question

Does the Minister believe that Jersey's credit rating from Standard and Poor's is in danger of being downgraded following the downgrading of the Isle of Man's credit rating from AA+ to AA because it is constrained by its undiversified small economy which makes it vulnerable to external shocks and a global downturn threatens its core industry, finance and, if he does not, would he state why, bearing in mind Jersey's higher reliance on finance than the Isle of Man and the prospect for continued low interest rates for depositors, greater competition from, and regulation applying to, offshore financial centres?

Answer

Jersey's credit rating from Standard and Poor (S&P) was announced on 22nd November 2013. It is AA+ with a stable outlook. The "stable outlook" comment from S&P is a formal part of their rating and provides certainty and confidence in Jersey's future, as expressed in their initial report: "The stable outlook reflects our view of Jersey's high wealth and its strong public policy settings and government finances." Last week the Treasury confirmed directly with S&P that they do not anticipate any changes in Jersey's rating.

In accordance with their Regulatory obligations and their routine cycle, S&P plan to publish an updated report on 23rd May 2014.

For Members' ease of reference, the full text of the S&P initial report is reproduced.

OVERVIEW

- *The States of Jersey has mature political and institutional settings, transparent economic decision-making, and high fiscal flexibility--the latter underpinned by no direct public debt and strong fiscal discipline.*
- *It also has a wealthy, market-oriented, and open economy.*
- *We are assigning our 'AA+/A-1+' long- and short-term sovereign credit ratings to Jersey.*
- *The outlook is stable, reflecting our view of Jersey's high wealth, as well as its strong public policy settings and government finances.*

RATING ACTION

On Nov. 22, 2013, Standard & Poor's Ratings Services assigned its 'AA+/A-1+' long- and short-term foreign and local currency sovereign credit ratings to the States of Jersey. The outlook is stable. Jersey is the 128th sovereign rated by Standard & Poor's.

RATIONALE

The ratings on Jersey reflect our view of its high wealth, strong fiscal flexibility, and public-policy stability. These strengths are moderated by Jersey's dependence on its financial services sector, its lack of monetary policy flexibility, and data deficiencies on the external side that hamper our full assessment of external risks.

Jersey is one of three British Crown Dependencies (the others are Guernsey and the Isle of Man). It has an open and wealthy economy; we estimate 2013 real per capita GDP at nearly US\$60,000. Following six years of economic contraction, we expect Jersey to return to modest real per capita growth of

0.1% in 2014 and to average a similar level over 2013-2015 (1% growth in real GDP terms).

Growth will depend on Jersey's financial services sector (banking, trusts, funds management, and legal, accountancy and investment advisory services) recovering in line with global financial and economic trends. That said, recovery is likely to be uneven and comparatively shallow given the sector's high contribution to GDP (more than 40% in 2012) and the uncertain growth prospects of key European trading partners. The other main external risk to Jersey's growth prospects is the potential tightening of international financial sector and taxation agreements, which would affect off-shore financial hubs globally.

Offsetting these risks are the Jersey government's strong fiscal position and mature institutional arrangements, which are conducive to swift policy responses if required. Broad community and political support for prudent fiscal policies have resulted in balanced budgets on average over the past 10 years. The government has also accumulated financial assets that can be drawn-down to support growth during more difficult economic times, such as the past five years. While we expect the government will continue to stabilize its fiscal position over the next three years, we project that lower taxation revenues stemming from financial system weakness (the sector generates 75% of corporate tax revenues) and higher capital expenditure will delay a return to surpluses until 2015.

The government has no direct debt. Its balance sheet is also not materially at risk from contingent liabilities pertaining to its related entities (mostly housing authorities, utilities, and pension funds), whose debt we estimate to be about 6% of GDP.

Incomplete data constrains our assessment of Jersey's private-sector balance sheets, but they do not appear to be under pressure. While the financial services sector poses risks, these are partly mitigated by Jersey's high per capita income; strong system liquidity and capital; the same lending and underwriting standards as the (mostly U.K.-based) parent banks; a funded banking sector depositors' compensation scheme (of up to £50,000 paid to depositors, with a total scheme cost capped at £100 million or about 2.7% of GDP); and the sector's role in providing offshore banking services to clients of U.K. banks. We do not see immediate risks to the sector nor do we believe that Jersey's government would likely be called upon to support an ailing institution, if required.

Jersey's monetary policy flexibility is limited by its currency board arrangement with the British pound sterling. The Jersey pound is not accepted internationally. We find that this long-standing arrangement is credible in light of the island's fiscal assets (over 100% of GDP) and its economic links with the U.K.

Like other British Crown Dependencies, Jersey does not collect external data and its economic data is limited in coverage and is published with lags, which complicates our analysis.

OUTLOOK

The stable outlook reflects our view of Jersey's high wealth and its strong public policy settings and government finances. We could raise the ratings if more-complete data were available to assess Jersey's balance of payments and external risks, and if we saw an increase in economic diversification.

We could lower the ratings if we saw that Jersey's strong position as a financial center was declining or if the island's very strong fiscal position were to weaken.

2.17 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING A DATA PROTECTION INVESTIGATION:

Question

Will the Home Affairs Minister inform members whether there is an investigation into the Police by the Data Protection Commissioner and, if so, whether it is centred around the role of the Chief Officer of the States of Jersey Police, the Deputy Chief Officer and Human Resources Officer accessing or attempting to access sensitive personal information on a police officer without permission of the police officer concerned?

Answer

It is not appropriate for me to comment on any investigation that the Data Protection Commissioner may be undertaking.

The Office of the Data Protection Commissioner ('ODPC') is independent of government, although the general area of data protection falls within the responsibility of the Chief Minister.

Requirements to report and / or publish its activities are defined by statute (Part 6 of the Data Protection (Jersey) Law 2005) and by any applicable policies:

- Each year, it produces an Annual Report which provides statistics on complaints.
- Article 59 of the 2005 Law restricts the disclosure of information obtained by or disclosed to the Commissioner.
- ODPC has issued a Policy Statement and Guidance on Complaint Handling and a Policy Statement and Guidance on Communicating Enforcement Activities.

2.18 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE IMPOSITION OF SANCTIONS IN THE INCOME SUPPORT SCHEME:

Question

Will the Minister state what figure he has for the application of sanctions under income support for –

- a) Being insufficiently active in seeking work
- b) Leaving a position without "good reason"

Can the Minister inform members whether any of the following constitute a breach of job-seeker's terms and be sanctioned?

- i) Turning down a zero-hours job;
- ii) Missing one appointment with a mentor in six months;
- iii) Being off the island for a short period;
- iv) Being advised by a GP to stop work for health reasons.

Does the Minister believe that the use of sanctions can simply worsen hardship, as has been highlighted in the United Kingdom in a report from certain bishops of the Church of England?

Answer

Members will recall the reasons for recently strengthening the Income Support sanctions, and why these changes were so strongly supported in the debate in October 2013. The sanctions are not aimed at the majority of Income Support claimants, they do not save my Department money and there is no intention to create hardship. They target a small minority of people who are able to work, and able to take up the support offered by my Department to find work, but choose instead to remain reliant on the benefit system.

The debate in October examined the evidence that a stronger deterrent was required to reinforce the message that financial support from the taxpayer is conditional on taking personal responsibility; this involves jobseekers upholding their end of the bargain and actively engaging with the Department to look for suitable work. The taxpayer is funding the costs of the benefit, as well as the costs of the employment services we provide.

Academic evidence clearly suggests that the best way to help people into employment is through targeted support, backed up by a clear system of financial penalties for the minority who do not do enough to find work. The evidence shows that the benefits of work are as much social and psychological as they are financial, and so it is always our aim to help people find employment.

I therefore reject the suggestion that our fair use of proportionate sanctions creates hardship. On the contrary, it is unemployment itself that can lead to hardship and to reduce unemployment it is essential that the support we provide to jobseekers strikes an appropriate balance between incentives and sanctions. I believe that the recent changes to the sanction regime, accompanied by the active and diverse approach to supporting jobseekers through the Back to Work teams does create that balance.

Under the approved regulations, people required to look for work as a condition of receiving Income Support face financial penalties if they do not do enough to look for work. Anyone at risk of financial penalty is given a clear written warning the first time they fail to be actively seeking work. This written warning has no effect on their benefit payments and clearly explains what they must do in order to avoid a financial sanction. People who later choose to ignore that warning will receive a financial sanction if they cannot subsequently demonstrate a good reason why they failed to be actively seeking work. As with all other decisions under Income Support, people issued with a written warning or financial penalty are informed of their right to request a second decision from another officer. If they do not agree with the second decision they then have the right of appeal to an independent tribunal.

Since the new Income Support rules were brought in on 15 October 2013, the following numbers of sanctions have been applied to jobseekers claiming Income Support:

Income Support sanction	Total (15/10/13 – 14/02/14)
Warning issued (no financial penalty)	385
Penalty: first breach of written warning	130
Penalty: second breach of written warning	50
Penalty: third breach of written warning	17
Penalty: giving up work without good reason	57

As a condition of receiving Income Support, all jobseekers are required to agree with the Department the actions they will take to find work, and the conditions that will apply to them in order to satisfy the work requirements of Income Support. As stated above, in the first instance of a person failing to meet one of these conditions they will be sent a written warning that will inform them that their benefit payments are at risk if they fail again to undertake jobseeking tasks.

In response to the specific examples in the question, each of numbered items 1-3 could represent a failure to be actively seeking work, but officers are always required to consider whether a person had good reason for failing in each instance. For example, although being present on the Island in order to look for work is a condition that applies to all jobseekers receiving Income Support; it is equally true that a person could demonstrate they had good reason to be off-Island, such as a family funeral or specialist hospital treatment. Furthermore, in each case the first offence would result in a written warning rather than an immediate financial penalty.

With regards to people required to stop work for health reasons, officers always consider these situations when the customer supplies a valid certificate of Short Term Incapacity. The Income Support guidelines have always incorporated detailed guidance for considering people who have a medical condition that limits their capacity to work, or to undertake certain kinds of work. For example, a person required to stop work on a building site because of a back injury would face no financial penalty for giving up that job.

3. Oral Questions

The Deputy Bailiff:

We now come to oral questions and the first question is by Deputy Martin who is malade, so we will not be dealing with that question.

3.1 Deputy R.J. Rondel of St. Helier of the Minister for Transport and Technical Services regarding the publication of the results of the trial for the new parking charge system at Sand Street car Park:

Would the Minister advise the Assembly whether he proposes to make public the results of the trial for the new parking charge scheme system at Sand Street Car Park and, if so, when will this be available?

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

The evaluation report is in final draft and will be complete within 6 to 8 weeks. Its primary purpose is as a business support document to inform the procurement strategy for implementing the flexible payment system into as many parking locations as possible. The report's analysis and recommendations focus on systems' costs and procurement options for flexible payment technologies. This data is commercially sensitive; however, I am happy to publish a summary report concentrating, in particular, on the system's performance and public satisfaction levels, which are totally positive.

Deputy R.J. Rondel:

I thank the Minister for that detailed answer.

[09.45]

3.1.1 Deputy T.A. Vallois of St. Saviour:

Could the Minister explain why it is going to take 8 weeks to produce the report and also what areas of it are confidential?

Deputy K.C. Lewis:

Yes, it is a work in progress, it has been in progress for a while. It will be finalised in between 6 and 8 weeks. It is just that should we purchase a similar or another system this information would be commercially sensitive.

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

This system is obviously proving extremely popular with the general public. Could the Minister advise the Assembly when he plans to install this into our other car parks?

Deputy K.C. Lewis:

That will be subject to the report. We are just looking at multi-storey car parks at present and some of our, shall we say, walled or contained car parks, it would not be suitable for on-street parking but that will be subject to the report and evaluation.

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

Building on the Deputy of St. Martin's question, could the Minister confirm that part of the study will be to try and see whether the public are totally confused about the many different parking payment systems his department is currently operating?

Deputy K.C. Lewis:

I was not aware that we had many systems. We have a pay card or we have the A.N.P.R. (Automatic Number Plate Recognition). Obviously it is very difficult to manage change but once people got used to the A.N.P.R. I think the good people of Jersey took to it.

3.1.4 Deputy G.C.L. Baudains of St. Clement:

In his opening reply the Minister gave me the impression he is bypassing the trial system and his report will move straight on to possible alternative systems and alternative venues. Would the Minister consider an interim report giving details of the success or otherwise of the trial?

Deputy K.C. Lewis:

I thought that I had made it clear that nothing had been decided yet, I will await the report. The technology is changing rapidly, so we are trying to keep ahead of the game on that one. I am more than happy to release an interim report as soon as possible.

3.1.5 Senator S.C. Ferguson:

Will the department be looking at other systems doing similar work because one is told that if you are close enough to the car in front you can actually get out of the car park without paying? Will he be looking at other more sensitive systems?

Deputy K.C. Lewis:

We will indeed be looking at other systems and I would say to the Senator, do not even think it. **[Laughter]** We have front cameras and rear cameras and they do record the registration.

3.1.6 Senator S.C. Ferguson:

A supplementary. Perhaps the Minister would like to do a practical test. I am not speaking for myself **[Laughter]** but I am speaking for a reputable member of society who was trying to pay for his parking fee but, unfortunately, the machine did not register.

Deputy K.C. Lewis:

There are many factors involved. There could be an obscured number plate but everything is recorded. If there is a system failure it does register in the office nearby. I am delighted that the Senator is keeping to the straight and narrow.

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

In answer to a written question the Minister reports that over 32,500 vehicles have stayed for longer than 6 hours. He says included in this figure will be cars that parked overnight and on non-

chargeable days. My question is that there has been concern expressed about shoppers' car park and the availability of that in St. Helier and I would like to know whether there is any evidence that the fact that commuters are now parking in Sand Street, whether this has impacted on the availability.

Deputy K.C. Lewis:

Yes, we are trying to discourage long-term parking, hence the fees go up exponentially. But that will form part of the report, which I will, of course, make available to Members.

3.1.8 Connétable P.J. Rondel of St. John:

Given what appears to be the success of the Sand Street Car Park, will the Minister look seriously at putting this in place at somewhere like Pier Road where there are always vacancies? Therefore, we could move some of that commuter/extended parking over into that part of town?

Deputy K.C. Lewis:

The Constable of St. John makes a very valid point. We do have spare capacity at Pier Road, sometimes between 250 and 300 spaces per day. That will be something that will form part of the report and we will indeed be looking at Pier Road.

3.1.9 Connétable J. Gallichan of St. Mary:

Following on from Senator Ferguson's intervention, would the Minister like to comment on the rumour that came to my ears last night that 2-digit number plates cause some confusion with the system?

Deputy K.C. Lewis:

I was not aware of that but I would be more than happy to look into it.

3.1.10 Deputy R.J. Rondel:

Would the Minister just confirm exactly when the report will be available for States Members and the public and what form that report will take? Will it be in the form of a White Paper following that? Also, just quickly, has he been liaising with the Jersey Development Company as to their system they use on the Waterfront Car Park?

Deputy K.C. Lewis:

The system most used on the Waterfront is an excellent system. It is not something that I would particularly favour at the moment, a barrier system, because that would interfere with any commuter parking or people wishing to leave at any particular time. Sorry, I forgot the rest of the question.

Deputy R.J. Rondel:

Exactly when the report will be available and what format it will be in.

Deputy K.C. Lewis:

It will just be a summary report in between 6 to 8 weeks' time.

3.2 Deputy G.P. Southern of St. Helier of the Minister for Treasury and Resources regarding the States' liability to pay Parish Rates

What progress, if any, has the Minister made on the issue of the States liability to pay Parish rates and when does the Minister intend to bring a report to the Assembly on this issue?

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

Assistant Minister Noel will answer this question.

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

I can inform Members that a very productive dialogue is taking place with the Chairman of the Jersey Rates Assessors. Firstly, significant progress has been achieved to produce an assessment of the likely cost of rates to the States based on the 2013 position. This essential background work provides an independent assessment that will inform the next steps to developing the commitment made to this Assembly. I would like to thank the Chairman and his fellow rates assessors for the work that they have undertaken at no cost to the public. Once the final estimate of the likely cost of States paying rates has been established in the next few months the Minister intends to discuss his proposals with the Comité des Connétables before reporting to the States. Second, we have asked for a broad-based review of the property taxes to be carried out to look at potential ways of meeting the cost of the States paying rates. An update will be provided as a Green Paper, alongside the Draft 2015 Budget, which will be lodged in July of this year. Third and finally, we are intending to publish a White Paper in 2015 on proposals for the States paying rates to cover that liability.

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

Is the Assistant Minister aware that more than 5 years ago on 11th December 2008, when the Minister stood for election as Minister for Treasury and Resources, Senator Ozouf, a former Parish of St. Helier Deputy, agreed that the States should pay rates, quote: “Because there is an unfairness”? Would he agree to ask the Minister to refresh his memory of last year’s debate when Senator Ozouf spoke against my proposition that the States should pay rates from the documents currently on the Parish of St. Helier’s website?

Deputy E.J. Noel:

I do not have to refresh the Minister’s memory, he has an excellent memory. We are taking this matter forward and, as indicated, have set out that we will be bringing a Green Paper forward, alongside the Budget in July this year. We will be publishing a White Paper next year for implementation within the next M.T.F.P. (Medium Term Financial Plan).

3.2.2 Senator S.C. Ferguson:

Would the Assistant Minister like to give the States some idea of where the funds will come from to pay the rates?

Deputy E.J. Noel:

That is the whole purpose of having a Green and a White Paper is to go out to consultation on this and other works that we are carrying out on property taxes. It will be the outcome of those works that will determine where the States, if they are to pay rates, will find the money.

3.2.3 Senator L.J. Farnham:

Can the Assistant Minister share with the Assembly the estimated costs of the States paying rates?

Deputy E.J. Noel:

We have had some preliminary work. We have just, over last weekend, received an updated version. The Chairman is scheduled to meet with the Treasurer and Treasury officials this Friday but the indication is total costs of both occupiers and fonciers will be less than £2 million.

3.2.4 Deputy M. Tadier of St. Brelade:

The Deputy will be aware that this Assembly is not the only forum whereby the issue of Parish rates can be discussed but also a Parish Assembly, which can be called by parishioners of St. Helier. What would the Deputy's response be if a Parish Assembly were to be called, asking for the Parish not to collect any more of the rubbish in St. Helier from States buildings until the States started paying rates in St. Helier?

Deputy E.J. Noel:

That is a matter for the parishioners as an assembly of St. Helier, it is not a matter that I could pass comment on.

3.2.5 Deputy M. Tadier:

Would there be any contingency from the Property Holdings' properties, for example, if overnight rubbish were to not be collected, where would that money then come from for those services to be provided?

Deputy E.J. Noel:

We will have to deal with that situation as, when and if it arrives.

3.2.6 Deputy T.A. Vallois:

Could the Assistant Minister just make it clear that he stated that in order to pay rates to the Parishes that we would be looking at implementing a property tax?

Deputy E.J. Noel:

No, it was the answer to Senator Ferguson's question whereby how the States would cover this. We are saying that we would consider the different methods of covering the States paying rates after we have done the review, which we have given an undertaking to do, of property taxes.

3.2.7 Deputy J.A. Hilton:

Can the Assistant Minister confirm that if the States Assembly agrees, he is proposing that the money will be made available to the Parish in 2016 within the Medium Term Financial Plan?

Deputy E.J. Noel:

If the Assembly agrees that the States should pay rates then we will have to find that money. We are working towards this being implemented in the next M.T.F.P.

3.2.8 Deputy J.A. Hilton:

Can the Assistant Minister confirm that that is 2016?

Deputy E.J. Noel:

It is from 2016 to 2019.

3.2.9 The Connétable of St. Helier:

Would the Assistant Minister agree with me that Deputy Tadier's question, however well intentioned, shows a fairly fundamental misunderstanding of the purpose of rates? They are not to defray the cost of municipal services for the Parishes but they are a form of local taxation.

Deputy E.J. Noel:

I could not agree with the Constable more.

3.2.10 Connétable L. Norman of St. Clement:

Does the Assistant Minister think that if the States were to pay rates to the Parishes the Parishes could then be liable to rates themselves on the Parishes' own properties at all-Island rate and, therefore, most Parishes would be considerably worse off than they are now?

Deputy E.J. Noel:

That certainly is a distinct possibility of the outcome.

3.2.11 Senator L.J. Farnham:

I just wondered if the Treasury have identified any options of how these rates will be paid for.

Deputy E.J. Noel:

As I have already indicated, we are keeping that side of things open because we need to carry out the work and make an informed decision. What we would not want to see is funds being taken away from departments from providing front line services to pay rates, that would be wrong.

3.2.12 Deputy G.P. Southern:

Just to thank the Assistant Minister for his comprehensive answer and note, with some astonishment, that finally we did get a straightforward answer to a question, which is very refreshing. [Laughter]

Deputy E.J. Noel:

Delighted to be of service.

3.3 Deputy M. Tadier of the Chairman of the Education and Home Affairs Scrutiny Panel regarding recent allegations of misconduct at the Prison by past members of staff:

What steps, if any, will the Chairman and his panel be taking to satisfy themselves that adequate safeguarding mechanisms are in place at the Prison in the light of recent allegations of misconduct by past members of staff? Will the Chairman advise whether the panel will undertake to conduct a review into dismissal procedures at the Prison in relation to cases where there is evidence of gross misconduct?

Connétable S.W. Pallett of St. Brelade (Chairman of the Education and Home Affairs Scrutiny Panel):

The Education and Home Affairs Scrutiny Panel have no intention at this time of taking any steps to review that adequate safeguarding mechanisms are in place at the Prison. In regards to the second part of the question, the panel has no intention at this time of conducting a review into dismissal procedures at the Prison in relation to current allegations of gross misconduct.

[10:00]

3.3.1 Deputy M. Tadier:

Could the Chairman confirm that he received yesterday, along with the Minister for Home Affairs, an email copied into the mainstream media, allegations which seem to come from a current Prison employee stating no less than 7 Prison staff in the past who have alleged to have had gross misconduct have had a mixture of no action or them remaining or being moved on with pension rights and reputation intact? Can the Chairman confirm he has received that email and do the allegations therein concern him?

The Connétable of St. Brelade:

Yes, I can confirm that Deputy Tadier sent an email yesterday regarding allegations made by an anonymous person. All these allegations relate to misconduct or disciplinary matters, which are outside the remit of the panel. But, yes, I can confirm I have had email. I will also say that one comment made at the beginning of that email, just regarding the original allegation - and I quote this from the email itself - is that: "On the whole it was a fairy tale."

3.3.2 Deputy M. Tadier:

That is by no means conveying the tone of the email which ends up saying: "The questions asked should be why have all these incidents been covered up by X at the Prison. Ultimately the buck stops with the governor but it is common knowledge that X, who runs La Moye, makes the decisions. Several officers convicted of violent offences kept jobs because they were personally protected by X." Can the new Chairman of the Education and Home Affairs Scrutiny Panel say that while it may not be his remit to look into individual cases the overarching policy when it comes to dismissal and safeguarding at the Prison very much does fall within the remit of the scrutiny panel? What further evidence does the Chairman need to take these allegations seriously if we are not at risk of bringing the whole system of both scrutiny and the Prison into disrepute?

The Connétable of St. Brelade:

Quite simply, as the Deputy knows because he has been in scrutiny for nearly 8 years or more at various times, anonymous submissions will not be considered. The panel at this current time has nothing in its hand that is not anonymous. I cannot run and it is impossible to run a scrutiny panel by internet, Facebook, Twitter, whatever social media that the Deputy involves himself in. There is a process to follow and all I would ask is that if any member of public, including Deputy Tadier, has issues that he thinks are relevant to the scrutiny panel to go through the correct procedures and the correct process. Do I have concerns? Yes, if he can find me evidence that is not anonymous then there may well be issues that the panel will look at, but at the current time the panel has nothing in its hand that is not anonymous and the only thing I have in my hand is an email of yesterday that is anonymous. So, again, at the present time I cannot see what the scrutiny panel can do to please Deputy Tadier.

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

I must say I find that answer remarkable considering written question 9 outlines a whole series of offences and actions taken against Prison Officers about gross misconduct, about phones being taken in to the Prison and all sorts. So there is evidence in front of him here that shows actions going on in the Prison which need to be investigated. The Prison Governor and the Minister for Home Affairs need to be accountable for these. If I could ask the Chairman, this email that he has got, there are 7 named officers who have either had sexual relations with prisoners, supplied phones, pornographic material whatever, have you ever prosecuted any of these people, or have you had any dealings with these people?

The Deputy Bailiff:

Deputy Higgins it is not the Chairman of the scrutiny panel's job to bring prosecutions.

Deputy M.R. Higgins:

As a Centenier, working as a Centenier?

The Deputy Bailiff:

No, I disallow that question. You are not entitled to ask questions of ...

Deputy M.R. Higgins:

With respect, Sir, could we change to did he have any knowledge of these instances and these people?

The Connétable of St. Brelade:

Of the people mentioned there is only one person on that list that I have knowledge of, although I did not prosecute them at the time. In relation to the answer to question 9, there are quoted on here, I think, 16 gross misconduct reports. Again, that is a matter for the Prison and the Prison Governor, it is not a matter, I do not feel, for scrutiny. This issue has been dealt with and, in fact, as Deputy Higgins knows, topics will be rejected if they have been addressed by others, and they have been addressed by others. Again, if Deputy Higgins had read the last Prison report, which I have here, I will quote from it: “The Prison regime and the quality of learning and skills provision were really very good.” So an independent report has said the Prison regime was very good. I do not think there is anything that having a review will add or improve the service as it currently is at the present time.

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

I do appreciate from when our panel operated that looking at individual cases versus looking at systemic issues is a difficult issue but I wonder if I can ask the Chairman of the panel, would he accept that issues do move along, that reports do get outdated and that it is part of the remit of the panel not to look at individual complaints but it is part of the remit of the panel to look at the regime overall and to see whether it is functioning at an optimal level? Would he accept that that is the role of the panel to look at the regime?

The Connétable of St. Brelade:

From time to time the Deputy may well be right. I think he used the word “outdated report” but the report is current, the report only came out within the last 10 months so as far as I am concerned, and I think of the panel who have also looked at this report, at the time - and I will quote again from the Prison Service that did an independent report - “At this inspection we found an institution that had been transformed both physically and in terms of improved practice from the prison we inspected 8 years ago.” It is vastly improved. I visited it as a Centenier some 6 or 7 years ago when there were some issues that needed to be resolved and I think the previous report picked them up. At the current time I believe that the Prison is running well, it has good officers that are doing a fantastic job up there and in regards to some of these comments that have come back again, whatever the reason behind the comments that have been made on this anonymous email, it is not a matter, I believe, at the time for the panel. I do not believe it will provide an improved service.

3.3.5 Deputy R.G. Le Hérissier:

Just a supplementary? Would the Chairman also be prepared to look at statistics in the areas covered by this alleged anonymous report in order that he can determine whether or not there have, indeed, been some serious developments?

The Connétable of St. Brelade:

Again, this anonymous report deals with matters of misconduct. That is a matter for the Governor and/or the Minister for Home Affairs, it is not a matter for the panel. It is not within the remit of the panel, as I have said already, in terms of disciplinary matters. Some of these could well be grievances that individuals have and, again, as I said, I do not think it will provide an improved service. So if new evidence comes up then we will look at it. At the current time, as I have just said, in the hands of the panels there is nothing at the present time.

3.3.6 Deputy T.A. Vallois:

Does the Chairman not believe that any misconduct, disciplinary or dismissal procedures come under a H.R. (Human Resources) policy which should technically be addressed by the States Employment Board?

The Connétable of St. Brelade:

That is a good question. It may well. It is not a subject that I had thought about. It may well. Again, if the Deputy wishes to bring a proposal for the panel to look at, I am quite happy to look at it. It may well.

The Deputy Bailiff:

Final supplementary, Deputy Tadier?

3.3.7 Deputy M. Tadier:

The Chairman has mentioned various things. He has tried to paint this as being something that only exists in the ether of social media. I remind the Chairman that this email seems to have come from a member of staff, which I did not ask to receive, which was sent to the Minister and it was sent to the media. It makes very serious allegations. The final paragraph says: "The morale in the Prison is the lowest by far in 10 years that I have been there and that the management, including X, run a regime based on corruption, bullying, lies and deceit." These are not my words, these are contained in the email. The Chairman is saying that that person, who is a whistle-blower, needs first of all to make his name public so that we know who he is and that he needs to go back to that very management about whom he is making the complaints. Will the Chairman at least acknowledge that there needs to be a mechanism for whistle-blowers to come forward anonymously and will he confirm that I have told his panel I will get people to come forward to meet the panel in person, confirm who they are so long as their anonymity can be maintained then he as Chairman and the panel can decide how best to deal with those concerns? If it is not something that can be dealt with by the panel, he and the panel - which I have also offered to join for this review - can then refer it on to the relevant body.

The Connétable of St. Brelade:

I think the Deputy knows very well that there is a process that can be followed that does allow people to give evidence where their names can be withheld and their evidence can be used. It is currently within the panel's remit to do that so I do not see why he does not think that process currently exists, it does exist.

Deputy M. Tadier:

I have offered this to the Chairman, I have said that I can bring forward people, he has essentially asked me to put up or shut up, in fact in those exact words, and I have said I am willing to put up so the Chairman should at least accept the offer of listening to whistle-blowers who want to give evidence. They do not send these emails for fun.

The Deputy Bailiff:

Deputy, this is question time not a debate. Will you accept the offer or not, Connétable?

The Connétable of St. Brelade:

If any individual wishes to bring evidence to the panel and they wish their names to remain anonymous, I think the Deputy knows there is a process in place that can be followed to protect their own anonymity if they so wish.

3.4 Senator S.C. Ferguson of the Minister for Treasury and Resources regarding an update of the King Sturge report:

In light of the revaluation of the States Property Portfolio, has the Minister taken the opportunity to have the *King Sturge* report updated and, if not, why not?

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

I will try to similarly answer this question as Deputy Southern complimented my Assistant Minister on and cut to the chase. The Senator links the *King Sturge* report to the revaluation of States property for the purpose of the preparation of the States accounts. There is no requirement to have the *King Sturge* report updated to inform the valuation of the States Property Portfolio. It is not relevant. The States portfolio was revalued in 2012 in accordance with its normal accounting requirements and policy for a 5-year full revaluation of land and building assets. The reason I say that is the *King Sturge* report was commissioned in 2008 as part of the work on the Esplanade Quarter Masterplan and the proposed development at the time with the company called Harcourt. It was provided in confidence to a small number of Members, including Senator Ferguson, who formed part of a governance process for that decision making process at the time. The *King Sturge* report was appointed themselves by further consultants, Trowers and Hamblins, which were commissioned by the States to report on 2 specific matters: did the proposed deal with Harcourt represent best value to the public of Jersey; and, secondly, did the proposed development agreement provide adequate protection to the States and the public of Jersey. The *King Sturge* report looked at the best value element at the time for the development at the time. It is not relevant today. Under the terms of that draft development agreement the developer at the time was to undertake the lowering of the Route de la Liberation as the first phase and to make staged payments to W.E.B. (Waterfront Enterprise Board) totalling £50 million at a fixed stage. Neither of these conditions apply today. This is the fourth time that I have answered or indeed the Chief Minister has answered questions regarding this *King Sturge* report. I have already committed to keep Members informed of the developments that are currently in discussion concerning the Esplanade Square. As far as I am concerned the *King Sturge* piece of work was important at the time but has nothing to do with matters as they stand today.

3.4.1 Senator S.C. Ferguson:

Supplementary? If the *King Sturge* report is not relevant today and has nothing to do with today, presumably then it can be released into the public domain?

[10:15]

Senator P.F.C. Ozouf:

I do not know the answer to that question. I have a copy of it, and it was clearly a piece of professional advice at the time, and I will need to take advice as whether or not it is appropriate to publish it. But what I would say is I would remind the Senator, because she is clearly very interested in this and thinks it links in with States property valuations - it does not - and indeed the current Esplanade Square issues. In the foreword to this document it says that this report is highly confidential and was a desk-based review, and it recommends further that the document remains strictly confidential as it includes commercially sensitive comments and conclusions that might commercially prejudice the States of Jersey or the Waterfront Enterprise Board. I am sure she realises all of that.

3.4.2 Senator S.C. Ferguson:

However the Minister has said that it is not relevant today and if it is not relevant there is no harm in releasing it surely?

Senator P.F.C. Ozouf:

I do not want to particularly go there. There is a court process underway in respect of this original deal and I wish to make no comments in relation to the previous scheme. Clearly that developer is not subject to the scheme, there is a new arrangement in place and there is a court process concerning a claim in relation to that previous entity. So I do not wish to go into any detail, positive, negative or anything in relation to that because there is a court process underway.

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

The Senator has asked the question I was going to ask but a supplementary on it. I think I have lost count as a Member on the number of times we have heard about this *King Sturge* report. Is it right that we have to continually speak in code about a report that none of us have ever seen, about an important public matter which we are going to debate in some months. Can he take that advice and if he cannot publish it come back to us with a statement of reasons? Does he not accept it is important to clear this up once and for all?

Senator P.F.C. Ozouf:

I would love to clear up this issue. This report was part of a due diligence process of a proposal to develop the Waterfront as a whole with one entity including obligations for stage payments and putting in underground roads. That is not what is proposed today. What is proposed is a development led by S.o.J.D.C. (States of Jersey Development Company) in a staged, phased approach with a completely different approach to risk. Also I think the points that Senator Ferguson and the Deputy want to try and make is that apparently a conclusion from that work at the time, which said that there would be a certain value and a return to the States is relevant to today's question as to what the States would get today. The world is completely different from 2007. We have had a financial crisis, there has been a credit crunch, there has been revaluation of properties, all the information concerning today's development as it is possible to disclose in public is available to Members. This, while a very interesting report of the past is not relevant to the economics, risk or finances of today.

3.4.4 Deputy J.H. Young:

A supplementary, Sir? I think the Senator's answer to my question obviously is on finances. Is it not correct that the Masterplan is still current, there are still issues about the viability of the road and that is still the current planning framework which is the fundamental of the debate we are going to have and the decisions to be made. Is it not, therefore, important that this report and its relevance to this Masterplan be released so that we can at least have some basis to form our opinions?

Senator P.F.C. Ozouf:

The *King Sturge* report is held up as the authoritative conclusion of what would have happened in 2007 in the financial results and the risk of the proposal back in 2007. Now, even then that report, as an important factor at the time, was a desk-based review. What I would say to Deputy Young is we have far more information which has been provided to Members by S.o.J.D.C. about the scheme that is proposed, the phasing of the development, the breaking down of the different elements of a plan, a different relation with a developer, a lead developer which is a States owned entity and a phased approach, together with a valuation that is current and up-to-date. So that is the information that the Deputy wants and I think Senator Breckon's proposal is not particularly linked only with these issues rather the very valid concerns Senator Breckon has about movement of people in town. Office development is moving south. They are either going to be on this site or adjacent sites so I think we are confusing a whole series of different issues.

3.4.5 Deputy S. Power of St. Brelade:

I think the Minister is correct to say that this *King Sturge* report of 2007 is probably out of date. My question to the Minister, as he is the guardian of the public purse and property development on the resources side of Treasury, is this: what independent valuation has the Minister sought in recent times to validate or corroborate that the cost of development on the Esplanade car park site, the prospective or indicated rent levels that the States of Jersey Development Company might achieve and the indicated yield levels that might be achieved in any prospective prelet on the Esplanade car park site that this proposed development will meet a profit for the public purse in the foreseeable future?

Senator P.F.C. Ozouf:

First of all Deputy Power and Deputy Young are 2 Members who attended the planning hearing and made observations about Esplanade Square. Some of which are planning, some of which are other issues which are not relevant. So I think I have in my mind that Deputy Power does not favour Esplanade Square, certainly from what I have read from his observations. I say that for context and he is of course entitled to that view. Of course my role is to ensure that all the parties involved in this transaction are alert and that I am satisfied that the advice and the basis on which they are making decisions is sound. I have to say that I am sure Members are impressed, and I hope they are as impressed as I am, with the diligent work that the board of S.o.J.D.C. and S.o.J.D.C.'s advisers are now conducting in order to make decisions. It is very clear that if S.o.J.D.C. are successful in securing the tenancies of a number of the key players that are looking for space then that will be a very positive position for the States of Jersey's public finances. Indeed the public will get a very substantial return for their land which is on the Esplanade. I cannot discuss some of those figures in public because these issues are confidential and in putting those numbers in the public we tell the alternative accommodation providers exactly what the S.o.J.D.C. is doing. They are not doing that and I must be guarded not to put into the place, just as King Sturge said, matters which could commercially prejudice the States of Jersey or the now S.o.J.D.C. That is my dilemma. I wish I could but I cannot.

3.4.6 Deputy S. Power:

Can I just seek clarification on that? I am not asking the Minister to disclose any sensitive information relating to the commercial arrangement that might exist. I simply wanted the Minister to make sure that he had sought corroboration or validation with the projected figures for the Esplanade car park site. Has he done so?

Senator P.F.C. Ozouf:

The answer is absolutely yes, and that is done at a variety of different levels. The executive of S.o.J.D.C., the independent board of S.o.J.D.C., the banks providing finance to S.o.J.D.C. are worried about these issues and concerned with them, and the Treasury has oversight as well. So, yes, in abundance, lots of independent advice and strong decision making.

3.4.7 Deputy G.P. Southern:

Will the Minister address the first part of the question asked by Deputy Young. Is it not the case that the overall Masterplan is still in place and that, whether we are doing it in part or in whole, is still the blueprint to which we are working?

Senator P.F.C. Ozouf:

Absolutely, yes. But what is certainly from a risk point of view a more risk averse proposal is to take that Masterplan in stages and to deliver it in a phased approach, which means that you do not have counterparty risk with one individual, which you can take the upside of the hopefully more buoyant commercial property transactions. Yes, it is still the Masterplan and it has to be delivered, and that is the Minister for Planning and Environment's job, which he has done well.

3.4.8 Deputy G.P. Southern:

Supplementary, if I may? In which of those phases do we lower the road, spend all that money and spend 3 years in chaos?

Senator P.F.C. Ozouf:

That is a separate issue as to whether or not the roads ...

The Deputy Bailiff:

That is quite a long way away from the original question.

Senator P.F.C. Ozouf:

Exactly. It is certainly in the second or third phase of the proposal after the first initial, what I hope to be, incredibly exciting new office development on S.o.J.D.C. but this is obviously a matter for the tenants that are seeking space.

3.4.9 Senator S.C. Ferguson:

Will the Minister not agree that the development has changed? The risk, which is now market risk is being carried by the taxpayer. In the planning phasing letter, which is in the public domain, there was a statement that the States would receive £50 million in 20 years' time, which is approximately £12 million at current values. Does the Minister not think that it would be a good thing to get an independent view on the lines of trust that verify?

Senator P.F.C. Ozouf:

No, the Minister does not agree. As I have explained in the previous answer, the decision making process with S.o.J.D.C., their independent board and their financing, overseen by the Treasury, is giving an appropriate amount of eyes on this transaction. As regards market risk, I would hope that the Senator would be an optimist about our future economic situation, which will mean ... if this Assembly's policies of getting economic growth and more inward investment into the Island... will mean that our very good value office accommodation will appreciate in price, which will help our public finances. So I believe we are in a good position and at the end of a financial crisis, presumably asset prices at their lowest, and if we think we are going to get a certain amount of money today and our economic position improves then the public dividend will be greater.

3.5 Deputy G.C.L. Baudains of the Minister for Home Affairs regarding the policing methods used in relation to 'Jersey lifts':

With regard to the States of Jersey Police exercise whereby officers are using marked cars to catch young people giving lifts to friends, would the Minister advise how many man-hours have been spent to date and the cost of any resources used? Would he also state whether the exercise is expected to be an effective way of proving that any payment is for conveyance and not for any other purpose?

Senator B.I. Le Marquand (The Minister for Home Affairs):

The issue here is in relation to young people potentially carrying passengers for hire or reward, thus committing an offence under Article 6 of the Motor Traffic (Jersey) Law 1935. This issue was originally highlighted to the States of Jersey Police by concerned members of the public based around the issue of insurance cover for those who are offering lifts and the risk to those who are accepting lifts, particularly young women. States of Jersey Police carried out some intelligence work and wrote to several people who are offering lifts on Facebook warning them to stop as they do not want to criminalise people who may have been unaware that they were committing offences.

States of Jersey Police also engaged the media through local radio and the *J.E.P (Jersey Evening Post)* warning of the dangers. This was followed up on 2 evenings when 2 uniformed officers, not undercover officers as reported in the press, stopped vehicles and spoke to the occupants with the intention of reinforcing the message. As was said at the time, the States of Jersey Police reserve the right to instigate more proactive tactics if offences continued. The number of man-hours and the cost has been minimal. The initial approach appears to have had some success and the States of Jersey Police continue to monitor the situation.

3.5.1 Deputy G.C.L. Baudains:

It seems to me that the exercise is doomed to failure because how does anyone prove that any payment made was for the conveyance and not for some other purpose? How does that square with people who are giving their neighbour a lift to work, where surely at the end of the week someone is going to say: "Look, here is a fiver for your petrol" or something? What is the difference?

[10:30]

I am quite sure that virtually all motorists are aware that taking money for hire or reward is an insurance issue; it just seems to me that it is an unproveable case.

Senator B.I. Le Marquand:

The first part of the question relates to the difficulties that are always faced in terms of evidence to prove a particular prosecution and that will always apply to any matter. In relation to the second issue, it is the States of Jersey which passed Article 6 and other related matters and whether or not an offence is being committed, it does depend upon whether the vehicle is being used to carry passengers for hire or reward, that is the test set out in the law. If the Deputy thinks that is an inadequate test then, of course, there could be an approach to seek to amend that in some way. But I can only say what the law currently says.

3.6 Deputy J.H. Young of the Minister for Economic Development regarding the total capital expenditure by the Ports of Jersey and its predecessors on the 1937 Airport Building during the last 5 years:

Will the Minister inform the Assembly of the total capital expenditure by the Ports of Jersey and its predecessors on the 1937 Airport Building during the last 5 years, since the potential problem of intrusion of the building into the one-in-7 safety slope was known? Can he state why this problem was not taken into account before authorising expenditure and whether any other buildings are affected?

Senator A.J.H. Maclean (The Minister for Economic Development):

The demolition of the 1937 Building was always a 2-phase project to ensure business continuity and safety. Phase 1 of the overall demolition involved the top 2 floors for which a planning application was submitted in April 2010. Following planning approval, that work was undertaken between October 2011 and October 2012. The total budget allocated to phase 1 of the demolition was £1.6 million. This involved removing the top 2 floors which critically ...

The Deputy Bailiff:

I regret to advise that we are now inquorate. Thank you. There are still no doubt some Members outside, it would be good if they returned to the Chamber.

Senator A.J.H. Maclean:

I will carry on rather than starting again, if that is all right with Members. The total budget allocated to phase 1 of the demolition was £1.6 million. This involved removing the top 2 floors

which critically included significant asbestos. Planning was made aware at the time of the first application that this was a 2-part project and the second application to remove the remainder of the building was submitted in October 2010 for which, as Members will know, a decision is still outstanding. The 1937 Building has become an even more problematic obstacle to the regulator since it was recently listed. There are other on-site airport structures which contravene aeronautical safety services. These are Hangar 4 and the Airport Fire Service Building. The removal of these structures is contained in the airport's long-term capital programme and a planning application for these will be submitted in due course.

3.6.1 Deputy J.H. Young:

The Minister mentioned the long-term plan. Could he tell us what the urgency is on the demolition of the second phase of the airport demolition, since his comments appear to give the impression it is an immediate requirement? Could he clarify that?

Senator A.J.H. Maclean:

Yes, I can. The picture changed when the decision was taken to list the 1937 Building. Prior to that there was an exemption in place from the regulator because the demolition for the second phase was in the forward capital programme for 2017-2018. As far as the regulator is concerned, providing there is a plan in place that mitigates the risk to an acceptable level.

3.6.2 Deputy J.H. Young:

Does the Minister mean it is the listing of the building rather than its actual demolition that is the problem and if the Minister were to delist it, would that effectively solve the problem, at least for the immediate future?

Senator A.J.H. Maclean:

That really is a question for the regulator I would suggest. Certainly the position, as I said, changed when the 1937 Building was listed as far as the regulator was concerned. It is currently listed. Prior to that it was in the capital programme for demolition in 2017-2018, which was acceptable at the time.

3.6.3 Deputy M.R. Higgins:

The Minister has given the impression that it has only become of concern since 2010 but for over 10 years the Airport Arrivals Terminal has been well known to be breaching the one-in-7 rule, as has the hangar, but no steps were taken at any time to deal with it. So why all of a sudden is it such an issue?

Senator A.J.H. Maclean:

The Deputy is right, in fact it was a C.A.A. (Civil Aviation Authority) report in 1996 that first identified the issue. To say that nothing has been done is not correct, though, because in the intervening period agreement with the regulator has been put in place with regard to all obstacles that affect the airfield and that as long as the regulator is satisfied with that particular plan, in the case of the 1937 Building, that was for demolition in 2017-2018, the regulator accepts that and as such the airport was compliant and the licence was awardable.

3.6.4 Senator S.C. Ferguson:

The regulator was asked recently on the airwaves why London City and Gibraltar, which are both very difficult airports, appear not to be having the same problems, particularly given the advances in technology today. Would the Minister care to say why we are being singled-out whereas other airports have obviously dispensation?

Senator A.J.H. Maclean:

I do not think we are being singled-out. All airports have obstacles to differing degrees. Clearly London City has its own problems, of which it will have agreed with its regulator effective exemption to allow flying to continue. Gibraltar will be much the same. Jersey is certainly not being singled-out. There are currently identified 11 obstacles, 2 of which are on-airfield, the remainder are off-airfield which have mitigation plans in place and therefore are acceptable to the regulator as a result.

3.6.5 Senator S.C. Ferguson:

Supplementary? Yes, I am informed by my friends in the aeronautical business that St. Peter's Church is one of the items. So exactly what mitigating circumstances is he going to give that?

Senator A.J.H. Maclean:

Airports and Jersey Airport could be described as an obstacle rich environment. The plan with the regulators is to agree ways in which those obstacles can be removed, reduced and mitigated as best as possible. I might add that by moving the runway - which has been suggested as one option - to the north, that certainly brings the St. Peter's Church much closer. The concept of seeking to remove that or its spire, I think, is totally unacceptable. It is one of many obstacles. What we seek to do with the regulator is to reduce that number.

3.6.6 Deputy G.C.L. Baudains:

Might I suggest the Minister refers the C.A.A. to Lukla airport in the Himalayas, I think they have more significant problems. **[Laughter]** What I would like him to clarify for me is the fact that he has mentioned that there were other obstacles that were closer to the runway and presumably that is what the C.A.A.'s concern is about, the proximity of these obstacles to aircraft. Yet he tells us that the application to demolish those is not yet made but for the Arrivals Hall it is, could he explain why he is not seeking to demolish the closer obstacles first?

Senator A.J.H. Maclean:

The position changed when the building was listed. At that particular point, as far as the regulator is concerned, that makes the 1937 Building more of an obstacle, more of a threat because there is no plan in place on the basis that having listed the building it reduces, in the view of the regulator, the chances of that building being demolished or having an agreed plan. The other 2 buildings, Hangar 4 and the Airport Fire Service Building are in the capital programme for 2016 and an application will be submitted in due course to allow those buildings to be removed.

3.6.7 Deputy J.H. Young:

The Minister has given us an insight into the bureaucracy of the airport regulation process, concentrating on these plans. Could he confirm that we seem to be, from what he says, in a choice between knocking down 2 listed buildings, either St. Peter's Church or the airport building? Is he not in a dialogue with the Minister for Planning and Environment to delist the airport building now? Is this not the solution so this issue can be properly addressed?

Senator A.J.H. Maclean:

St. Peter's Church is not an option as far as demolition is concerned **[Approbation]** ... I see that the Dean is enthusiastically stamping. **[Laughter]** Quite simply, since this matter came to the fore there has been some further assessments made of the cost of potentially moving the runway and the various other additional buildings beyond St. Peter's Church, which would be affected if the runway went to the north, and that cost could be in excess of £200 million. So I think it is safe to say from a financial point of view it is completely out of the question. With regard to dialogue with the Minister for Planning and Environment, yes, we have had dialogue ... I think I made the point in my opening remarks that this planning application went in in 2010. So there has been quite a lot of

dialogue between officers and indeed between the Minister and myself about this matter. But delisting has not been a subject of discussion because quite simply I urged the Minister not to list in the first place.

3.6.8 Deputy G.C.L. Baudains:

Could I seek clarification on that? Is the Minister suggesting if it was delisted it would not have to be knocked down?

Senator A.J.H. Maclean:

I am not suggesting that but Deputy Young, I think, was suggesting that and that was the thrust of his question. He was asking me to have dialogue with the Minister to encourage him to delist to remove the problem. All I was saying was I had dialogue for a considerable period of time, urging the Minister not to list in the first place.

3.6.9 Deputy J.H. Young:

I need to clarify. My question was aimed at the situation we seem to be in, if the listing continues then, as he said, we are going to be faced with immediate restrictions on our flights. Whereas if the delisting is lifted this will mean that the plan for its future demolition in 4 years' time can take place and we will not be in a position where we will have our flights adversely affected. Will he confirm that is the correct understanding?

Senator A.J.H. Maclean:

That would appear to be the correct understanding. The reason I say that, the regulator has - and these are in his own words - begun to lose patience with the process. I can understand, in some respects, where he is coming from. So to go back and delist - and you would have to ask the Minister for Planning and Environment - having made the decision to list on certain grounds, I would imagine that he is unlikely to want to reverse that decision but that is a matter entirely for him. I think the way in which this threat to aviation in the Island can be dealt with is that an early decision is made to demolish the building and that removes the issue altogether.

3.7 Deputy R.G. Le Hérisier of the Minister for Home Affairs regarding the security checks applied to civilian employees working within H.M. Prison La Moye:

Would the Minister outline the security checks that are applied to civilian employees working within H.M. (Her Majesty's) Prison La Moye and confirm whether there have been any lapses concerning such employees in the last 10 years and, if so, how many have there been and what remedial actions were taken?

Senator B.I. Le Marquand (The Minister for Home Affairs):

The security checks that are applied to civilians seeking employment in the Prison Service are no different to those that apply to other States Departments or, indeed, to uniformed staff, and they include a criminal records check. The ongoing security checks that apply to those in civilian roles in a prison are no different to those that apply to the uniformed staff. Staff are frequently subjected to rub down searches, metal detector screening and bags are also searched. Prison staff are not permitted to take any personal items such as mobile phones, car keys, wallets, *et cetera*, beyond the sterile area, administration and staff facility buildings. If any such items are found during staff searches they are removed and placed in the security office. The head of security will then consider whether disciplinary action is necessary. In regard to lapses concerning such employees, in order to shorten my answer I simply refer the Deputy across to the written answer to question 9 of Deputy Tadier.

3.7.1 Deputy R.G. Le Hérisier:

Can we therefore be assured from the Minister that the procedures in regard to both civilian and uniformed staff are working absolutely well and that there are no problems? He has never had occasion to question the working of these procedures, would that be a correct interpretation?

Senator B.I. Le Marquand:

I think the procedures we have at the moment are very good and are as good as we could have. I do not think I have made any secret that in the past we have had significant problems in the Prison in relation to the area of drugs coming into the Prison and in relation to the area of mobile phones. A number of changes were made in terms of arrangements for prisoners, for outworkers, and things of that nature, in addition improved security, checking facilities and so on.

[10:45]

I am satisfied now that what we have is of a very high level, but there have been problems in the past, I do not seek to hide that.

3.7.2 Deputy R.G. Le Hérisier:

Just for the sake of clarity, can the Minister inform the House whether he was informed of those problems and what the precise nature of those problems were?

Senator B.I. Le Marquand:

I am informed from time to time in relation to disciplinary matters which occur in relation to officers. I cannot say that I was informed of every matter of the items which are down here, because some of them predate... and I cannot recall the details, but in general terms, where there is a significant disciplinary matter, I am informed of it. In relation to matters where there might be a prosecution against a prisoner for possession of drugs within the Prison, I would not normally be routinely informed of that.

3.7.3 Deputy M. Tadier:

Will the Minister advise whether on the related matter he has responded yet to the email that was sent anonymously outlaying the concerns that were highlighted earlier? If so, what response will the Minister be taking to address what still seem to be current concerns regarding morale and existing senior management who still seem to be posing a problem, at least to this complainant?

Senator B.I. Le Marquand:

I take the contents of the email, which was sent to be yesterday, very seriously and will most certainly be following that up. The area of responsibility, obviously I have responsibility as Minister, my Chief Officer of Home Affairs is the line manager of the Prison Governor and we together, no doubt also together with my Assistant Minister, will be considering what is the correct way to go forward on this. I can assure the Assembly I do take such matters very seriously.

3.7.4 Deputy M. Tadier:

To follow on from that, will there be a whistle-blowing facility offered by the Minister so that any concerned current staff or former staff, or even prisoners, may be able to come forward to give information anonymously, obviously to be identified to the Minister or his departmental staff?

Senator B.I. Le Marquand:

I am not aware as to whether or not such a facility already exists within the Prison; I simply do not know whether there is a whistle-blowing facility within the Prison. What I do know, of course, is that information is gathered by Prison Officers and forwarded to the senior officers, and that happens routinely. I will need to consider whether there is a need for a specific process by which a

person could make a complaint at a higher level than that of the Prison Governor. If that was so, then at the Civil Service level that would have to be for the Chief Officer of Home Affairs at the Ministerial level, obviously to myself. I will need to consider that.

3.7.5 Deputy M.R. Higgins:

Does the Minister not feel though that the allegations being made ... for example, he dismissed the Rodrigues story in the *Daily Mail* as being pure fantasy. He has now got here details of another female Prison Officer having an intimate relationship with Curtis Warren, passing and smuggling items and mail, in that prison, and no action was taken. We have also heard in the Royal Court trial where the States were trying to recover, I think, £198 million, or whatever it is, from Curtis Warren, that 35,000 phone calls by Curtis Warren were monitored. How did he get the phones in the first place? If the system is so robust and everything else, why were these things going on? Was it condoned to let him have a phone so they could try and track down the information about what he was up to?

Senator B.I. Le Marquand:

In relation to the second matter, it is clear that Curtis Warren did have access to mobile phones. I do not know precisely how that came about. In relation to the first question, sorry, I have lost precise details of that. I think it was as to whether I was not concerned in relation to the issues of matters going into the Prison and these kind of issues. Of course, I am concerned in relation to these matters, and that is why I am going to look into them.

3.7.6 Deputy M.R. Higgins:

The Minister answered part of it, but the point was that he dismissed the *Daily Mail* story as fantasy and would not investigate. You have now got further allegations being made from someone within the Prison that another officer was having a sexual relationship with Curtis Warren and was passing and smuggling items and mail in and out of the Prison, but no issue has been taken against that person.

The Connétable of St. Brelade:

Sir, could I just make ...? I do not think Deputy Higgins is being correct there in his assertion. The words he uses are not included in that email; I just wondered if he would withdraw them. The word used is "improper" relationship; no mention of a sexual relationship was given.

Deputy M.R. Higgins:

With respect, from other sources, it was a sexual relationship, so it is backed up by someone else.

Senator B.I. Le Marquand:

I am not sure how I am going to answer this question other than to repeat that I am obviously concerned at these new allegations. I said before that I did not believe that the previous allegations in the *Mail on Sunday* were credible; that is still my opinion. I believe that is the opinion of a number of other people who have looked at this independently, and it was quite proper that I say that. But I cannot express a view on these further allegations until have had an opportunity to make inquiry into them.

3.7.7 Deputy R.G. Le Hérisier:

I wonder, in assessing the robustness of the systems or otherwise that were in place, in answer to number 9, and in relation to my question, the Minister mentions that on 10th September, apparently it was only then that the Prison Authorities became aware of the activities of the Drug and Alcohol Counselling Manager. I wonder if the Minister could say whether there was a much longer history and is he not absolutely flabbergasted that for someone who was subject to so many allegations it

only came out suddenly? Why was there not advance warning and why, if the systems were not as robust as he portrays was this issue, or these range of issues, not picked up much earlier?

Senator B.I. Le Marquand:

I think the first thing I have to say is that this particular individual was very highly trusted within the Prison and their work was very highly valued. Over a period of time, there began to be suspicion that all was not well and the Prison Governor put action into place to try to check whether or not that suspicion was justified. What happened was that he came into possession of evidence which enabled him to have sufficient certainty as to the situation in order to be able to challenge this individual directly. The individual, as I said in the answer, thereupon immediately resigned and subsequently we believe left the Island at very short notice. There was a period in which there was suspicion but it took time for that suspicion to be confirmed.

3.7.8 Deputy R.G. Le Hérisier:

Just a supplementary, could the Minister confirm that in regard to that individual as an example, all the proper checks and all the proper follow-up for references, *et cetera*, were done robustly and there was no suspicion at the point of recruitment and in the early years of service? Is that correct?

Senator B.I. Le Marquand:

No, I cannot confirm that. I can confirm that in 2004 there was a criminal record check, but I have been having great difficulty, in fact, in tracking down the necessary documentation. I was away last week and work was done in my absence. I came back on Sunday evening and started working on this and have been chasing very hard the contractual documentation to understand the structure of things. What appears to have happened is this: that in 2003, the person in question started going to the Prison on behalf of the Jersey Addiction Group and clearly was a trusted member of their team and so on. That process continued and in 2004 there was a criminal record check. In 2006, money started to come in from the B.a.S.S. (Building a Safer Society) programme, and it was clear that there was a need to have specialist drugs counsellors, and indeed, the desirability of having one who spoke Portuguese. So this individual then was moved to a contractual basis. I have managed to find some of the paperwork and my staff have found some of the paperwork in relation to that, but what I cannot tell at this moment is what additional checks were done in 2006. That is why I cannot give the assurance that is sought by the Deputy, but I am continuing to work on this. Neither have I been able, in the short period available, to find the contractual documentation in 2006. What subsequently then happened in 2008 was the individual, for the first time, became a States employee. Again, I am not, as yet satisfied as to the process that happened there. I am not saying something went wrong but I simply am not clear in relation to that and will be continuing to make inquiries on that score. I would mention in passing, for the sake of completeness, that this person was so valued that, in fact, they obtained a (j) category status in order to be able to continue their work. This is one of the aspects of the matter that I want to continue to check into. It does appear that, because of the peculiar route in which the person first came to the Prison that some of the safeguards may have been bypassed, but I am not sure about that.

3.8 Deputy J.H. Young of the Minister for Planning and Environment regarding complaints from those subjected to enforcement proceedings for alleged infractions of the Planning and Building Law:

The Deputy Bailiff:

We are now going to come to question 9, but before I call on Deputy Young to put it, may I say this: the question is about complaints by those subject to enforcement proceedings, whether these have been the subject of independent investigation and whether disciplinary action has been taken,

and it is a very general question. It seems to me, from listening to the Deputy and the report on the radio this morning, that it may be directed to a particular circumstance and a particular appeal against conviction which is pending and coming to the Royal Court in the next weeks. Therefore, I remind Members that, by Standing Order 10(10): "A question shall not refer to a case pending in a court of law in such a way as might prejudice the case." The grounds of appeal in the case that I am referring to include an abuse of process claim. The nature of the investigation may therefore be relevant to that ground of appeal. I wish to say from the Chair immediately, therefore, that nothing in the questions or the answers should refer to the case involving the company Kanetech Limited, or its circumstances. I also wish to say that the Minister will know more than I do about whether a question may go to what is involved in the appeal and, in those circumstances, I will take any statement by him that it might prejudice the appeal as absolutely confirmatory that it might and therefore I will stop the question at that point. Nonetheless, because it is such a general question, because it may be that there are other matters which the question is intended to address, I am allowing it to continue but, no doubt, Deputy, you will bear those comments in mind.

Senator P.F.C. Ozouf:

Sir, may I also ask a point of order before the question is asked? I realise that Deputy Young will not thank me for asking this. There are various different laws which preserve the independence of the Civil Service. The difficulty I have, and I just wish to ask if there is any guidance in relation to this. Deputy Young is asking, effectively, a question challenging the actions of officials in relation to taking or advising a breach which ends up in enforcement action. Deputy Young was, effectively, the boss of that department a number of years ago and I just want to ask whether or not it is appropriate. He may or may not know these individuals and these individuals may or may not have reported to him, and for the good separation and the maintenance of the independence of the Civil Service, I ask whether or not any of the individuals whose actions Deputy Young is questioning reported to him in a previous life, and if that is appropriate. It is a genuine question which is based upon the importance of the preservation of the independence of the Civil Service and fairness in asking Ministers questions.

The Deputy Bailiff:

All Members bring an amount of knowledge of previous business to their membership of the States and to the contributions which they make in the States. In some cases, the information which Members might have might be confidential information and they no doubt would be expected to honour that confidence and, if they do not honour that confidence, then it would be open to whichever is the person affected by it to take such steps as he or she thinks would be appropriate for the breach of confidence. It does not seem to me that there is any further guidance that I could give from the Chair and certainly I expect Members, and the public are entitled to expect Members, to bring their experience with them when they come to this Assembly to make a contribution to debates. Deputy Young?

[11:00]

Deputy J.H. Young:

At some stage - I do not think it is appropriate now - I do need to respond to the point of order that the Minister for Treasury and Resources made because he suggested that my question was, I think, badly motivated, and I certainly resent that suggestion. My question is a general one ...

The Deputy Bailiff:

I did not understand it that way, Deputy, and I am sure the Minister would confirm that he did not intend it that way.

Senator P.F.C. Ozouf:

It is not in any way badly motivated, it is just to preserve the independence of the Civil Service, that is why I am asking it. It is not badly motivated; it is just civil service should be independent.

Deputy J.H. Young:

Just one briefly, my question, I think, is aimed at the independent rights of Members to challenge and to question Ministers on important points of public policy [**Approbation**] that members of the public raise with us. Is it appropriate I continue with the ...

The Deputy Bailiff:

At that stage, if you wish to continue with your question, bearing in mind the remarks that I made ...

Deputy J.H. Young:

Yes, please, Sir. Yes. I would just like to say before I ask the question, that it was intended and is intended as a general question about a number of matters. The question: will the Minister inform the Assembly whether he is aware of any complaints from people who have been the subject of enforcement proceedings for alleged infractions of the Planning and Building Law alleging either maladministration, unreasonable or unfair conduct of investigations or improper processes by his officers and, if so, whether he has ensured that these complaints have been subject to independent investigation and whether disciplinary action has been taken?

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

The department receives both informal and formal comments and complaints in relation to its activities and many of these are progressed within normal department operations and help inform service improvements. All formal complaints are recorded and investigated. Any complaints addressed to the Minister are passed to the relevant officers and I do make efforts to chase them for action. The department has received the following formal complaints in relation to enforcement officer behaviour since 2009: 2009 zero complaints, 2010 one complaint, 2011 zero complaints, 2012 one complaint, 2013 2 complaints, 2014 one complaint, via the Data Protection Commissioner. Complaints or comments about the Environment Department activities can be made to the department by phone, submitted via the gov.je website or in writing. Formal complaints made in writing will be investigated by a relevant manager or director. If the complainant is not satisfied with the result of any investigation, they can request that the complaint is reviewed by the Chief Executive Officer. If the complainant is still not satisfied, they can contact the States of Jersey Complaints Board and, in some instances, the complainant may be able to refer the complaint to another independent body, for example, the Data Protection Commissioner. Full details of the department's customer feedback policy is available on the States of Jersey website. Any matter that relates to an employee of the States Employment Board following a formal complaint and investigation would be dealt with by the department Chief Officer or his nominee, in accordance with the States of Jersey disciplinary procedures. I know Deputy Young has a number of queries regarding enforcement activities of the department and I have on many occasions, successfully at the last invitation, invited the Deputy to meet with me and some of my department's senior officers to discuss enforcement activities further. I hope that at that meeting, which is to be convened tomorrow at 10.00 a.m., we can clarify matters and answer any questions that Deputy Young has more easily in a face-to-face meeting.

3.8.1 Deputy J.H. Young:

I may have missed it, and I apologise, I was concentrating, but I did not hear the Minister telling me whether or not there had been any disciplinary processes held within the department during the period that he has dealt with since 2009.

Deputy R.C. Duhamel:

I am happy to discuss the schedule of complaints, of which I have a copy here, some of which may be confidential, with the Deputy tomorrow.

3.8.2 Deputy J.H. Young:

Can we not know the number of disciplinary complaints? I am not expecting him to disclose the details of them, but it is parallel with earlier questions; we surely should know the number.

Deputy R.C. Duhamel:

I will repeat, that information will be available tomorrow.

3.8.2 Deputy M.R. Higgins:

I know the Minister is aware of a number of the complaints, and there are many complaints about the actions of his enforcement officers. One in particular involved an officer going into a home and taking a private diary away from the individual. I am sure that was the subject of complaint to the Data Protection Commissioner, because he had no right to take that information. That was just one example of where officers have gone too far. Will the Minister confirm to the States that he has personally had to apologise to members of the public for the actions of his officers and also some of his other senior officers have also had to apologise for the excesses of some of the enforcement officers?

Deputy R.C. Duhamel:

Indeed, I have, and in the particular case that the Deputy refers to, it was my actions that caused the action that was taken to be taken.

3.8.3 Connétable D.W. Mezbourian of St. Lawrence:

Will the Minister advise whether he thinks the department is adequately-resourced with the correct number of enforcement officers? If he thinks that it is not adequately resourced, how will he resolve that issue?

Deputy R.C. Duhamel:

I think, for the number of complaints that have been received over the years, that the staffing is adequate at the present time.

3.8.4 Deputy R.G. Le Hérissier:

Can the Minister outline what checks and balances are in place within the department when there is a proposal to initiate a prosecution?

Deputy R.C. Duhamel:

I think that might well be straying into information that might be useful for an appeal.

Deputy R.G. Le Hérissier:

Can I object? I have just asked a procedural question which should be open to anyone to hear about.

Deputy R.C. Duhamel:

I did read out the customer feedback policy in part. For formal complaints, it is a 3-tier process that escalates all the way up to a formal request to the Jersey Complaints Board to be convened. It goes through from the relevant line manager to the relevant director through to the Chief Executive Officer and, after then, if satisfaction is still not given, to the Complaints Board.

The Deputy Bailiff:

I think, Minister, the question was not about the complaints process but about the prosecution process. It is a general question which certainly casts no immediate relevance to any pending case. It should be a matter of public record, the way in which the Planning Department monitors investigations and brings potential matters for prosecution forward.

Deputy R.C. Duhamel:

Reports are written by the enforcement officers, they are then presented to the court officials and it is for the court to decide whether or not a prosecution is forthcoming or not.

3.8.5 Deputy R.G. Le Hérisier:

I take it by the “court officials” the Minister is referring to the Crown Officers Department, is he?

Deputy R.C. Duhamel:

Correct.

3.8.6 Deputy M. Tadier:

Does the Minister have the number of complaints that have been made that were asked about a moment ago?

Deputy R.C. Duhamel:

Yes and no.

The Deputy Bailiff:

That invites a supplementary. [Laughter]

3.8.7 Deputy M. Tadier:

Give the fact that these questions are deliberately asked in public for the public record, will he give as much information as he can now to the Assembly and then give any further information that may need to be verified privately, or in whatever format, tomorrow to the Deputy?

Deputy R.C. Duhamel:

I think I would prefer to do it the other way round. As I have stated earlier, I have requested for both Deputy Young and indeed Deputy Higgins to attend the department so that we can discuss issues and clear the decks to their satisfaction. That meeting, as I mentioned, is to in part happen tomorrow. I would much prefer, following that meeting, to then present a more formal report to States Members if they indeed would like me to do so.

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

Will the Minister extend that meeting, as it has generated a lot of interest today, to other States Members who may wish to attend?

Deputy R.C. Duhamel:

I personally would have no objections to any other States Members attending that meeting but, as it is a meeting that Deputy Young was specifically invited to and he has agreed, I think I would leave it up to him if he decided to invite any other Members to attend with him.

3.8.9 Senator S.C. Ferguson:

Would the Minister like to confirm whether he has a code of practice for his enforcement officers, and are they given training in relevant aspects of their particular role, such as planning matters and performance of their role?

Deputy R.C. Duhamel:

There is a code of practice and it is currently being reviewed. Indeed, some of the experiences of the enforcement officers are learned, if you like, from alternative careers.

3.8.10 Deputy G.C.L. Baudains:

Clearly, if an enforcement officer attends upon a landowner, there is likely to be a difference of opinion. Could the Minister assure us that, when enforcement officers attend a site, they do explain to the landowner what avenues are open to that person should they wish to complain or challenge what is happening?

Deputy R.C. Duhamel:

Indeed, and I think that does happen.

3.8.11 The Connétable of St. Lawrence:

Notwithstanding the number of complaints against enforcement officers, does the Minister consider that issues are investigated and dealt with by them on a timely basis and that adequate responses are given to the member of the public who has drawn the matter to their attention?

Deputy R.C. Duhamel:

Absolutely. The customer feedback policy does indicate timetables for formal acknowledgment of the complaint that is being made and the timetable for its investigation. If indeed those timetable outlines are not stuck to, then I would suspect that would give rise to further complaint.

The Deputy Bailiff:

A final supplementary?

3.8.12 Deputy J.H. Young:

I am very pleased at the amount of interest from other Members and if other Members wish to attend the meeting, as far as I am concerned, I am delighted, although I must say I think the answers really would have been better put here in public, but nonetheless. Could the Minister clear up 2 points in relation to his answers: firstly, regarding the information he has given us, as tightly-drawn and sparse as it is on the numbers of complaints, does it include those people who have been through the court procedures where there is no current case at the moment but where the court set aside previous convictions for reason of invalidity of the action in the first place? Secondly, are his enforcement officers subject to disciplinary codes applicable to the Honorary Police, for example?

Deputy R.C. Duhamel:

The figures referred to are contained within a schedule entitled Formal Complaints. So I would suspect that one or 2 of them might well have been acted upon through the court and, indeed, others may well have been resolved through the 3-tier or 4-tier process.

3.9 Deputy G.P. Southern of the Chief Minister regarding the recent I.M.F. discussion paper 'Redistribution, Inequality and Growth':

Has the Chief Minister read the recent I.M.F. (International Monetary Fund) discussion paper *Redistribution, Inequality and Growth* which points out that countries with high levels of inequality suffer lower and less sustainable economic growth rates than those that redistribute incomes more evenly? Will he make the creation of a more equal society a major plank of the proposed long-term strategy: Preparing for the Future?

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

I accept that excessive inequality is not supportive of sustained economic growth if it undermines the health and education of residents. The Council of Ministers is already investing in health, education, social housing and other infrastructure projects. These policies support economic growth and reduce inequality and they support Ministers' aims of ensuring that all Islanders have the opportunity to fulfil their potential, that people who work hard see the fruits of their labours and that the vulnerable are protected.

[11:15]

Preparing for the Future provides a framework for policy development and I hope we can use it to sustain Jersey as a responsible society that offers a positive future for all Islanders.

3.9.1 Deputy G.P. Southern:

A supplementary, Sir. For example, within the strategy, which as he says is long-term, will he set out specific targets for a Gini co-efficient, which is the measure of inequality in a society, and target a reduction in inequality as a major aim?

Senator I.J. Gorst:

As he knows, the framework document has been published and, to date, what I understand was a very useful workshop with States Members, took place yesterday, there is another one taking place on Thursday for other Members that have not been able to attend those. I propose other workshops as well, because we are at the process where we need to consider whether that will be an appropriate target to deliver on the priorities and the aims within that long-term plan. The Deputy has his ability within those workshops to consider whether such a specific target should be included or not.

3.9.2 Deputy M. Tadier:

The Chief Minister said that excessive inequality is not healthy for society. Would the Chief Minister state what parameters of inequality are acceptable in Jersey and why?

The Deputy Bailiff:

Ninety seconds, Chief Minister.

Senator I.J. Gorst:

Thank you, Sir. I think that is a question which does not have an answer. My comments arose from the I.M.F.'s discussion document and, if the Deputy himself has read that, he will be able to understand that there is no straightforward answer to that because some government policies can deliver economic growth and reduce inequality. Redistribution, whether in unequal systems, does not necessarily go to reducing inequality anyway, so it is a very complex answer to what appears to be a straightforward question but is not.

3.9.3 Deputy M. Tadier:

If I may, the Chief Minister also said that those who work hard should enjoy the fruits of their labour. What does the Chief Minister think about those who enjoy the very substantial fruits without necessarily even having to do any work at all, perhaps because they have inherited large fortunes or large pieces of land? Should their hard labour or the lack of their hard labour and their assets be redistributed to those who genuinely are working very hard in our society so that the Chief Minister's adage of those who work hard should enjoy their fruits could be made a reality?

Senator I.J. Gorst:

The question simply goes to prove that what I said in answer to the Deputy's first question is absolutely correct: it is not a straightforward issue. The Deputy seems to be inferring that

somebody that has inherited wealth therefore does not work. That correlation does not exist. Somebody who is incredibly wealthy may work incredibly hard or not; equally, somebody that we may consider is in need of extra support may or may not work incredibly hard. The correlation does not exist.

3.9.4 Senator S.C. Ferguson:

The theory predicates a “reasonable growth.” Has the Chief Minister commissioned any work to review and assess what is reasonable, given that the discussion paper recommends urgent further analysis?

Senator I.J. Gorst:

That again is an interesting point that comes out of the discussion paper. The experts in the papers that were reviewed say in their conclusion, and I am reading: “We need to be mindful about over-interpreting these results, especially for policy purposes.” It is hard to go from these sorts of correlations to firm statements about causality. One of the issues that the paper raises is that there is a dearth of information and statistics on which policymakers should develop policy. I am not sure that we, in our small community, are going to be able to provide the amount of statistics which will be able to prove or not that correlation, and therefore help us develop policy. Of course, we are producing evermore statistics and our independent statistics department are questioning and providing data upon which we as government can produce future policies, and that is as it should be. That is why it follows that policy officials from not only the Statistics Unit but also the Economics Unit are available at workshops for States Members to help us develop those policies going forward.

3.9.5 Deputy G.C.L. Baudains:

Following on from Deputy Tadier’s question, would the Chief Minister agree that the ultimate equal society is a Communist one and, if so, could he advise us if he is aware of any Communist countries that have a superior economic performance to other countries? In other words, does he align himself with the discussion paper from the I.M.F.? Does he believe it is that accurate?

Senator I.J. Gorst:

It is easy to become polarised in these types of debates. I accept the Deputy’s question, he is right, but I do not see a Communist society as being successful, they just have a different type of inequality. Let us remember, if we go back to the States Strategic Plan, we there have priorities of investing in health, investing in housing, investing in infrastructure, investing in long-term planning for the future. The Deputy is shaking his head, but if he has read the report, which he is trying to highlight today, he sees that report points out that, for example: “Public investment in infrastructure, spending on health and education and social insurance provision may be both pro-growth and pro-equality” which is exactly what this government and this Council of Ministers is, and it is exactly what this government and this Council of Ministers’ work programme has sought to deliver. We believe in both.

The Deputy Bailiff:

A final supplementary?

3.9.6 Deputy G.P. Southern:

I hope so. Let us see if we can get a response first. The Minister has quite rightly looked at the caveats rather than the content, but does he agree that, nonetheless, the trend seems to be that lower net inequality is robustly correlated with faster and more durable growth and redistribution appears generally benign in terms of its impact on growth? Does that not, in fact, contain a direction on

which his strategic long-term policy should be based? I have read his outline at the moment for his strategic policy, and it contains not one reference to increasing equality in our society. Why not?

Senator I.J. Gorst:

I think the Deputy must be misreading the long-term strategic framework. We are looking for the future to develop a high-performing economy, an inclusive community. He is failing to see that an inclusive community deals with the issue of equality, and a protected environment. The Deputy accuses me of reading carefully from the I.M.F. report; I would say that is not the case. What I have said throughout my answers this morning: it is not that straightforward. He is trying to make correlations which do not exist and he is not commenting upon such comments as this: "Redistribution that takes from the rich and gives to the poor is likely to reduce the labour supply of both the rich, who are taxed more, and the poor insofar as they receive means-tested benefits that reduce incentives to work." Therefore, it says that you cannot make that direct correlation. If we look at what we are doing as a government, which I have just said, is we are investing in infrastructure, we are investing in health, we are investing in social housing, we are investing in education; policies which deliver economic growth and a more equal society. I do not believe the Deputy can ask for more.

Deputy G.P. Southern:

If I may, Sir, could I ...

The Deputy Bailiff:

I am sorry, Deputy, we have got 2 more questions to go in just 20 minutes and you have had just over 10 minutes on that question. The practice of a supplementary to a final supplementary is not one that is going to be endorsed by the Chair. So we come to question 11 which Deputy Tadier will ask of the Minister for Social Security.

3.10 Deputy M. Tadier of the Minister for Social Security regarding a review of the policy whereby individuals who were hospitalised for more than 28 days lost their entitlement to certain Income Support components:

If it is any consolation, it follows on; it is a practical example of what we have been talking about. Will the Minister advise whether he is prepared to undertake a review of the policy, which means that individuals who are hospitalised for more than 28 days lose their entitlement to certain income support components, including the rent component?

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

In October last year, Members approved the revised Income Support Regulations, an element of which had the effect of stopping payment of the accommodation component of income support in situations where all members of a household were either absent from the Island, in custody or provided with board and lodging at public expense for longer than 28 days. This was a sensible change that prevented the income support benefit being used to pay for accommodation for people in prison or during long-term hospital stays. As both of these types of facility are already funded by the taxpayer, it was important to incorporate the principle that the taxpayer should not be asked to pay for 2 sets of accommodation for the same individual. At the end of the 28-day period, claims are reviewed before stopping the accommodation component, however, the great majority of hospital stays are for periods of less than 28 days. There will be no financial impact to the patient as income support will continue to be paid. In unusual circumstances, I will exercise my right under the Income Support Law to make an exceptional payment to cover the cost of accommodation beyond the 28 days. An example of where this has been used is to support parents

accompanying a child for hospital treatment in England. I am confident that the provision of exceptional payments provides for any circumstances affecting people required to be in hospital for long periods and so I am not prepared to undertake a review of the Regulations which were only approved by Members in October last year.

3.10.1 Deputy M. Tadier:

I do not have the transcript of that debate, but I would hope that, as is often the case with these hefty pieces of legislation, Members would have got up to their feet and said: "Be very careful." I will give an example here of a gentleman who has been standing on his own 2 feet, he has never got in arrears with his States housing payments, always been up-to-date, and because he had an acute mental health issue for an extended period and was hospitalised for up to 3 months, came out, what did he face? He faced an arrears bill which almost put him back in hospital because he was so affected by the stress. The question for the Minister is: why should we be afflicting the most vulnerable in our society? Those who do have to stay in hospital for more than 28 days still have to pay rent and if they are paying rent to the social housing, to the other Minister, how on earth are they expected to find that component, especially if they live on their own, when the adult component and the accommodation component and household components have all been stopped? What kind of system is that for the most vulnerable in our society?

Senator F. du H. Le Gresley:

The Deputy is well aware that, as soon as he alerted me to this case, I took immediate action and a backdated payment has been made. The exact details of that case would not be appropriate for me to discuss in the Assembly. The Deputy asked originally about that he did not have the transcript of when we debated those regulations. I fortunately do have the transcript and Deputy Tadier was one of those who did vote against Article 4 of those Regulations, along with 4 other Members. The issue of hardship was discussed, it was raised by Deputy Southern, and I stressed that: "The Minister retains the right to make payments in exceptional circumstances" and that is exactly what I am doing. There are cases that have come to my attention historically where somebody has not lived in their property for up to 6 months, because they have been hospitalised or they have left the Island, and clearly that is not the correct use of taxpayers' money. This provides a stop gap where we can look at the circumstances. It is unfortunate the case that Deputy Tadier brought to me was, to a certain extent, overlooked and staff are now being more cautious when it comes to the review after 4 weeks.

3.10.2 Deputy G.P. Southern:

On how many occasions have these sorts of circumstances been reported to the Minister where it involves imprisonment for greater than 28 days or hospitalisation for greater than 28 days? On how many of those reports has he exercised discretion and on how many has he refused discretion and stopped the rental component and the other components as well?

Senator F. du H. Le Gresley:

Since the Regulations came into force, which was 15th October, 2 cases have been brought to my attention and both were approved for exceptional payments. None were refused.

The Deputy Bailiff:

A final supplementary?

[11:30]

3.10.3 Deputy M. Tadier:

The reason I raise this, and I appreciate the Minister's discretion has been used in this case, but I also appreciate it is a double-edged sword because his own staff officers have told me privately that they do not like the fact that States Members have to get involved for exceptional circumstances where sometimes it is the policy which needs to be reviewed. So it seems like we cannot always win. It seems to me also that anybody who is hospitalised for more than 28 days will automatically be an exceptional case because it is exceptional in Jersey to be hospitalised for 28 days. If you rely on income support to pay your rent, there is no other way for you to pay your rent. Does the Minister really think that discretionary contact in all of those cases with the, perhaps, inefficiency... in this case it was a staff member who then contacted me and I had to contact the Minister via his staff, it all took a very long time. In the meantime, this individual with acute mental health problems was suffering. Could we not simplify the system and amend the policy so that in all cases of hospitalisation of over 28 days the norm is that the payments are made, perhaps with caveats from the department that the case can still be looked into?

Senator F. du H. Le Gresley:

Perhaps officers have told Deputy Tadier that they are not happy with the policy, but the policy was brought to my attention by the officers, who had been to see income support as being a policy that needed to be reviewed. I brought that policy to the Assembly and 45 Members voted in favour. We have only just approved the policy so it would be most unlikely that it would be my intent to change the policy. I use discretion, and in the case that Deputy Tadier brought to me, I would dispute that there was any delay. I acted immediately he contacted me and the money was paid very promptly.

Deputy M. Tadier:

Can I clarify: the delay was not on the Minister's part. It was probably more so on my part and the person who contacted me; all of these delays do become incremental and that is the point I am making.

The Deputy Bailiff:

Thank you. We come to question 12 which Deputy Baudains will ask the Minister for Social Security.

3.11 Deputy G.C.L. Baudains of the Minister for Social Security regarding the future rent rebate policy:

Would the Minister confirm whether the new scheme to replace rent rebate, for which his department has taken responsibility from the Housing Department, was due to be phased-out by that previous department? If so, would he advise whether it is his intention to continue with that policy?

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

The States endorsed the policy of continued support for rental costs in a series of votes taken in 2006 and 2007, as part of the wider approval of the income support system. The rent rebate scheme has not existed since 2008 when it was replaced by means-tested rental assistance given as a component as part of the income support benefit. If the Deputy is referring to the Income Support Regulations recently approved by this Assembly, the purpose of those Regulations was to allow my department to fulfil its obligations under the Housing Transformation Programme. This programme was agreed by Members and required the Minister for Social Security to make certain amendments to the Income Support Regulations in order to facilitate the change in the identity of the Housing Department. They also confirmed support for households renting in the private rental

market. The approval of these measures continued the principles of support for qualifying low income households renting in both the public and private sector. I have no plans to change my current policy on this matter.

3.11.1 Deputy G.C.L. Baudains:

Is it not the case that support for rent in the private sector is unfortunate in that it interferes in market forces? If there was no support then tenants would only pay what they could afford. Landlords would not leave their properties empty and they certainly cannot move them to another country where receipts might be more favourable. Surely that would save the taxpayer a huge amount of money?

Senator F. du H. Le Gresley:

I am sure Deputy Baudains has a long memory. We have in this Assembly today the Constable of St. Clement who was the President of Housing at the time that the private sector rent rebate scheme was introduced, and it was introduced because of exactly the reasons the Deputy is claiming: market forces were making it very difficult for people who could not find social housing to secure decent housing. That is why the government at the time, the States of Jersey, decided that there should be a private sector rent rebate scheme. Those reasons still stand good today and I certainly would not wish to stop the scheme.

3.11.2 Deputy G.C.L. Baudains:

Yes, I do have a long memory. When I was on the Housing Committee, in I think it was 1998-99, we did believe that the rent rebate for the private sector was unfortunate and was inflationary. Would the Minister not agree that if rents were not supported in the way that they are - and we have just recently, of course, agreed to increase them yet more - then, in fact, rents across the Island and the public sector would come down as well? Because 90 per cent of a smaller figure is a smaller figure.

Senator F. du H. Le Gresley:

I think the Deputy is repeating the same argument that if we do not help people pay their rents then rents will come down. I just do not think that is reality in an Island where there is probably a net shortage of housing, as illustrated by the fact that the Gateway has some 780, I think it is, families waiting to be housed in social housing. We are already supporting in excess of 2,000 households in the private sector, and that number is growing. There is no evidence that there is an oversupply of housing; in fact, quite the reverse.

3.11.3 Deputy G.P. Southern:

Does the Minister not agree that we are now locked into a high rent/low wage society? Is it not time, as is happening in the U.K. (United Kingdom), for a major review of the function, purpose and level of the minimum wage?

Senator F. du H. Le Gresley:

I thought we might stray on to the minimum wage, living wage; we always seem to go there when we discuss these matters. The Deputy will be well aware that my department and the Chief Minister's Department have agreed to carry out research into the proposal for a voluntary - I stress the word "voluntary" - living wage. That work will be focused around the income distribution survey, which has not been carried out for 4 years. It is now due to be carried out this year with the findings being reported in 2015. We need to have firm data which will be available through the Income Distribution Survey to arrive at any conclusions in the line of whether our minimum wage needs to start moving upwards. We have a target, as the Deputy is well aware, of 45 per cent of

average earnings, and the Employment Forum are well aware that is a target that needs to be achieved within the next 10 years.

The Deputy Bailiff:

Minister, if I may say so, that was an extraordinarily tactful way of telling the Chair that I should have disallowed the question as being not related to the one which had been placed. [Laughter] I am not going to allow any further questions in relation to the minimum wage as supplementaries to this question. Are there any supplementary questions? Deputy Southern.

3.11.4 Deputy G.P. Southern:

Is it not the case, however, that the rent element of income support is being used to prop-up in-work poverty?

Senator F. du H. Le Gresley:

No.

The Deputy Bailiff:

Final supplementary, Deputy Baudains?

3.11.5 Deputy G.C.L. Baudains:

I get the impression that with this policy we are going down the U.K.'s failed benefit culture where one becomes reliant on benefits and the taxpayer pays more, and it becomes a catch-22 situation of more benefits followed by increased costs and yet more benefits to cover that. Will the Minister be carrying out an overarching review of this situation in the near future?

Senator F. du H. Le Gresley:

There are always calls to review the amount of money that the government is spending on supporting the less well off in our society. I do believe that income support benefit, which is the benefit which supports those who fall on hard times, through one way or another, is a very appropriate universal benefit, albeit means tested, which probably would be the envy of other countries in the way we have set it up. Certainly, Guernsey have tried and have not had the support of the States. I have no intention of carrying out a further review. We are constantly reviewing income support, as evidenced by the Regulations that I frequently bring to the Assembly, and a full review, in my opinion, would be a complete waste of time.

3.12 Urgent Oral Question

The Deputy Bailiff:

That brings the normal question time to an end, subject to questions without notice, but I have allowed an urgent oral question. I just remind Members that there are 3 tests which the Bailiff uses to assess whether or not an urgent question should be allowed: is the matter one of significant public importance, has the matter arisen since the deadline for oral questions, is the matter so urgent that it would be inappropriate to expect the Member to wait until the next scheduled meeting to ask the question in the usual way. I took the view that Deputy Southern's question to the Minister for Economic Development met those tests and therefore allowed it. Deputy Southern?

Deputy G.P. Southern of the Minister for Economic Development regarding action taken to avert the prospect of serious disruption at Jersey Airport as a result of a baggage handlers' dispute:

What action has the Minister taken, or will he take, to avert the prospect of serious disruption at the airport as a result of the baggage handlers' dispute?

Senator A.J.H. Maclean (The Minister for Economic Development):

It is not appropriate for me to speculate upon what is currently a continuing and constructive discussion between ServisAir and their employees. The airport remains briefed on the situation and is hopeful that a solution will be found soon. However, if for any reason discussions do break down, ServisAir has robust contingency plans to ensure minimal, if any disruption at all, to usual Jersey operations.

3.12.1 Deputy G.P. Southern:

Aurigny refused to adopt T.U.P.E. principles, (Transfer of Undertakings Protection of Employment) and has recruited new posts. Does the Minister support Aurigny's position?

Senator A.J.H. Maclean:

Aurigny is a Guernsey company and clearly they are operating in a way that they feel is appropriate. It is not for me to comment on whether indeed what they are doing is correct or incorrect. I just would expect all companies to operate in a way that is fair and reasonable to staff.

3.12.2 Deputy G.P. Southern:

Sir, if I may? I believe that the dispute could have been avoided if T.U.P.E. regulations were in place. When does Jersey intend to introduce this legislation?

Senator A.J.H. Maclean:

That is really a question for the States Employment Board to consider and I am sure they will give it due consideration when appropriate.

3.12.3 Deputy G.P. Southern:

Will the Minister be supporting the introduction of T.U.P.E. regulations, or even a code of practice which applies to the conducting of business on the Island, when he has that opportunity?

Senator A.J.H. Maclean:

Certainly, the principle contained within T.U.P.E., yes, is something that I would consider is appropriate in most cases.

3.12.4 Deputy G.P. Southern:

Final question, Sir. Will the Minister request of the Chief Minister to bring forward a code of practice to the House on this particular issue of T.U.P.E.?

Senator A.J.H. Maclean:

Matters such as this are ones which are discussed between Ministers from time to time, and certainly I am happy to have a discussion with the Chief Minister. Whether indeed the request that the Deputy specifically has made will come forward is another matter; that is one for Ministers to consider.

4. Questions to Ministers without notice - The Minister for Economic Development

The Deputy Bailiff:

If there are no further questions, we now come to questions to Ministers without notice, and the first question period is questions for the Minister for Economic Development. Deputy Baudains?

4.1 Deputy G.C.L. Baudains:

Would the Minister confirm that the film Knights of Impossingworth has now been abandoned and the company behind it is no longer active? Would he also advise whether his department is funding or providing services in any way to the new company and new film which is apparently replacing it?

Senator A.J.H. Maclean (The Minister for Economic Development):

There has been a change of name, I would grant that to the Deputy, of this particular organisation, but nevertheless the film is progressing. The original grant was given for pre-production work, principally for on-Island spend.

[11:45]

That was carried out, the pre-production work was undertaken. The money was spent in the Island therefore the downside risk was very minimal; that was the way it was assessed. We are delighted that that has happened. We certainly hope that the film will be produced. It is progressing, as far as we understand, and the main filming is due to be undertaken in the summertime.

4.1.1 Deputy G.C.L. Baudains:

Could I have a supplementary on that? Could the Minister clarify whether the film that is due to be made - and perhaps he would advise us when it is likely to be made as well - is Knights of Impossingworth or Crystal Island or crystal something or other?

Senator A.J.H. Maclean:

Yes, the film is called Crystal Island. In fact, that represents a further opportunity for Jersey because originally under the Knights of Impossingworth some of the filming was going to be undertaken outside of Jersey. Now, with Crystal Island, the intention is that all of the film will be filmed here in Jersey. Members will be aware - it has been advertised - casting has been undertaken. A number of local opportunities have been created. The main filming, as I have said, is due in the summertime and various scene shots and other shots have been undertaken, which commenced in January.

4.2 Deputy J.H. Young:

Could the Minister confirm that he has read and is aware of the position of the Ports of Jersey in the matter of the zoning of the field in front of the airport fuel farm and that he has read the inspector's report? Does he support the contention of Jersey Ports to extend the airport perimeter to the area of land in front of that and to incorporate it into the airport? Does he support that proposal, which would prevent existing community uses and blight existing uses?

Senator A.J.H. Maclean:

That is part of an overall consideration by the Ports of Jersey and the airport specifically for better utilisation of land and suchlike around the airport. With regard to my specific support for that, I am prepared to look at the business case and balance that with the views of the community and, in particular, the Connétables involved in the Parishes adjacent to the airport and, indeed, that are relevant to this particular piece of land.

4.3 Deputy R.G. Bryans of St. Helier:

In light of the public lotteries report that has just been lodged and, equally, the previous "Channel Islands Lottery: allocation of profits", I wonder if the Minister could just answer 2 questions: whether there is going to be a summer lottery and, if so, in the allocation of profits it mentions that there is continuing modernisation and improvement of the Channel Islands lottery, the results of which are expected to significantly grow profit in 2014. How will that be done?

Senator A.J.H. Maclean:

The report, I am delighted to say, has been published on the Channel Islands lottery. This year, as Members who have had an opportunity to read the report will see, we have had the largest single amount of money raised from the Channel Islands lottery last year. It was in excess of £600,000 - about £680,000 off the top of my head - and this represented an increase of around quarter of a million above and beyond what the lottery has raised in the past. The intention is to bring a proposition before Members for the allocation of that sum to go to the Association of Jersey Charities and Good Causes in the Island, which I think is to be welcomed. So this significant increase in the success of the lottery is to be welcomed, and that is something that we will continue to develop through 2014. With regard to the summer lottery, the decision has not yet been taken whether there will be a summer lottery this year. Clearly, Members will be aware we have had 2 attempts at encouraging the success and development of a summer lottery. Neither has been very successful to date. We will make the decision shortly as to whether there will be a summer lottery this year. It may well be that our focus needs to be on the core lottery products, which we had been developing very successfully, hence the dramatically increased revenues from last year.

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

Would the Minister confirm whether the contract entered into with Canbedone allows a totally different film to be provided or produced than that first described?

Senator A.J. H. Maclean:

Canbedone and the original Knights of Impossingworth grant was awarded on the basis that the principal amount of pre-production works would be carried out in Jersey. That has happened. The pre-production work has been undertaken. Subsequently, there has been a change with regard to the title of the particular publication or film to Crystal Island. That is bringing more potential business to Jersey if, indeed, it proceeds, as we believe it will, and I think that is a positive thing. I do not believe there is anything inappropriate with the allocation of the funds, the use they were intended for and the way in which we believe they have been spent.

4.4.1 The Deputy of St. Ouen:

A supplementary if I can. Is it the right approach or is it normal, shall I say, for this Government and his department to provide money on an open-ended basis and not be clear about exactly what the grant is going to deliver?

Senator A.J.H. Maclean:

It was not an open-ended grant. It was a grant for £200,000 for pre-production works. That is for the assessment of the possibility of creating a film or filming to occur within Jersey, or the majority initially of that amount. We have to bear in mind the film industry is something that Jersey has wanted to develop for some time, ever since the heydays and successes of *Bergerac*. We have not been particularly successful. One of the reasons is that the Island does not offer incentives in any shape or form to film production companies. What we sought to do with funding the pre-production works was to bridge that gap in order to make something or give something the opportunity to happen that otherwise would not have done so.

4.5 Deputy G.P. Southern:

Does the Minister accept that the decision of Discovery Channel to register its administrative centre here in Jersey by holding a few board meetings here is merely a mechanism for tax avoidance by that company and it does nothing to enhance the reputation of the Island?

Senator A.J.H. Maclean:

No, I do not.

4.6 Deputy G.C.L. Baudains:

I did ask previously - forgive me if I did not catch the answer in the Minister's reply - about Canbedone. Is the Minister supplying any funding or material support to the new company, the company which replaces Canbedone, over and above what was previously granted?

Senator A.J.H. Maclean:

In financial terms, the answer to that question is no. The grant was £200,000, as I have said, for the pre-production work, which was dealt with previously.

4.7 Deputy T.A. Vallois:

Can the Minister confirm that the actual contractual relationship between his department, or should I say the public of Jersey, and the company Canbedone Productions was for the filming of Knights of Impossingworth in Jersey?

Senator A.J.H. Maclean:

I think the Deputy said "for" as opposed to "before". Could you just confirm that was the ...?

4.7.1 Deputy T.A. Vallois:

The title of the contract, conditions of grant from Economic Development to Canbedone Productions Limited for the filming of Knights of Impossingworth in Jersey. Can the Minister confirm that that is the case?

Senator A.J.H. Maclean:

I can.

4.7.2 Deputy T.A. Vallois:

Therefore, could I ask that with regards to the grant that was given, £200,000 towards a project, it would be for: "Expenditure incurred in connection with filming costs arising from the logistical planning, rewriting and general reorganising of the location schedule in order that the film," [bearing in mind that is Knights of Impossingworth] "... may be undertaken significantly in Jersey." So can the Minister, therefore, stand up and tell this Assembly that that £200,000 grant is representative of a new film, a new company, a completely different, separate obligation that E.D.D. (Economic Development Department) had?

Senator A.J.H. Maclean:

If the Deputy wishes, she could draw the conclusion that the £200,000 grant for pre-production work of the title "Knights of Impossingworth" was indeed and has indeed fulfilled its function. It has been paid. The work has been undertaken. However, as often happens with filming, there has been a change on a number of occasions to both the location of all the filming - it is now all going to be undertaken in-Island, or that is the intention - the title of the name, and, indeed, the script has to a certain extent changed as well. If that opportunity is still delivered for the benefit of the Island, that is a positive thing. Certainly, the £200,000 pre-production works for Knights of Impossingworth, as it was then called, to the film production company Canbedone was spent on Island.

4.7.3 Deputy T.A. Vallois:

Sorry, can the Minister, therefore, please just explain whether he will be addressing these issues in terms of not following procedures that are laid out by the States of Jersey?

Senator A.J.H. Maclean:

If the Deputy is referring to her report, the P.A.C. (Public Accounts Committee) report, which I know has been published - it is on Members' desks and I believe she is going to shortly be making a statement about it - then within that report, I have only had a quick scan read of it but I do believe it raises some issues with regard to financial directions across the States of Jersey and those are matters that the Chief Minister and the Council of Ministers will need to consider and act upon in due course. It is a matter for the States to consider all of those issues and implications of the report.

The Deputy Bailiff:

Are there any further questions for the Minister for Economic Development? The Connétable of St. John.

4.8 The Connétable of St. John:

It would appear that the Minister has not got to grips with his department. Would the Minister tell us whether or not the funding is still being given to the rugby club? A couple of years ago we were told £250,000 would be handed to the rugby club. Is that still ongoing and how is that progressing, please?

Senator A.J.H. Maclean:

The Connétable will be pleased to know that I have a very good grip, as a matter of fact, on the department. With regard to the rugby club, it was not £250,000. I am not quite sure where the Connétable got that figure from. It was £75,000. That is the annual sum, unless he wants to add a numbers of years together, and for this year, yes, there is continuing support for the rugby club. I am delighted that from a Jersey perspective it has been very successful. I wish the rugby club success. I hope they stay up. **[Approbation]** They are certainly bringing many high-spending visitors to Jersey in an off-peak period and that is really important.

4.8.1 The Connétable of St. John:

A supplementary: that £75,000 that he refers to, that is on for how many years? Does it not amount to in excess of £250,000?

Senator A.J.H. Maclean:

No. Well, if he wants to add it all together, then it gets not quite to that level. Initially, it was £75,000 with a review at the end of the first year and then for a further 2 years. So, one more year to run after this year.

4.8.2 The Connétable of St. John:

Therefore, it is very close to the figure I mentioned, contrary to what the Minister tries to tell Members.

Senator A.J.H. Maclean:

No, because at the time we had a break after year one, so it was a £75,000 grant for the first year, with a break clause. The total amount that it runs is £235,000 ...

The Connétable of St. John:

Just be honest with the public, please.

Senator A.J.H. Maclean:

The total amount is £235,000 if it runs for the entire period, but the relevant point here is the return on that investment, which has been significant to date and we hope it continues.

4.9 Connétable S.W. Rennard of St. Saviour:

I was wondering whether the Minister could do me a favour. Going back to the film business, we have changed the film. A lot of youngsters auditioned and got quite excited about the auditions. All I have heard from a lot of them is that they were not called for a second time. If the youngsters that were called for a second time auditioned for the first film, which no longer exists, are they going to be in this new film? Can you just reassure me and the youngsters that came for the auditions that there is something at the end of this? Because they all have a dream of being something and I think the rug has been pulled out from underneath them. I would just like some reassurance for them if you could, please.

Senator A.J.H. Maclean:

I am sorry that the Connétable has been confused by the earlier questions, which were more of a historical nature. The film branded now Crystal Island was the one that was doing the auditioning. There was an incredible response from Islanders. I believe that they have selected a number of Islanders to be party to this film. We also believe that the main filming is going to be undertaken in the summertime and I would suspect those that have been identified and selected will have been notified, but that is clearly a matter for the production company themselves. It is, we understand, still progressing.

5. Questions to Ministers without notice - The Minister for Housing

The Deputy Bailiff:

That brings question time for the Minister for Economic Development to an end. We now open with questions for the Minister for Housing. Are there no questions for the Minister for Housing?
[Laughter]

[12:00]

5.1 The Deputy of St. Ouen:

I would like to ask the Minister whether he is planning to respond to the issues raised by the independent planning inspectors following the recent public inquiry on proposed changes to the Island Plan. If so, when does he plan to respond and will it be published?

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

The quick answer to that is yes, I do intend to respond. This is very important work that has been carried out and I am very grateful to the inspectors. The recommendations on the sites that they have suggested are sites that are suitable for affordable housing and rental equate to about 500 new units of accommodation and this fits in with the strategy to provide more affordable homes and more social rented homes. I will be responding shortly.

5.1.1 The Deputy of St. Ouen:

A supplementary: does the Minister accept the comments made by the planning inspectors that challenge some of the figures and positioning and the comments that he has made prior to the public inquiry being held?

Deputy A.K.F. Green:

What I do accept is what the inspectors put in their report: that these sites should come forward, that they should not have been withdrawn last time, and that robust evidence of need was provided by my department. Also, the inspectors were pleased to see a much greater working together between the Planning Department and the Housing Department.

5.1.2 The Deputy of St. Ouen:

One final supplementary: the Minister for Housing seems to be a little bit selective in that his comments seem to be directed to the 3 greenhouse sites rather than the Island Plan as a whole. Perhaps he would like to comment on the findings of the report and express his view on the remainder of the report rather than just focus on the 3 housing sites.

Deputy A.K.F. Green:

It is not for me to comment on why the inspectors made comments that they did. Suffice to say that they brought forward those 3 sites as the most suitable sites for homes in Jersey. They rejected a number of other sites for very good reasons and that is entirely a matter for them.

5.2 Deputy S. Pinel of St. Clement:

I think my question follows on from Deputy Reed's. I understand the urgent requirement for more social housing but, as the Minister is very much aware, I am strongly opposed to any further large developments in St. Clement. Could the Minister give an update as to the status of consideration of the disused greenhouse sites being developed for social housing in St. Clement?

Deputy A.K.F. Green:

It is still very early days. As you know, the inquiry in public and the inspector's report recommended the particular site that the Deputy is talking about in Samarès as the most suitable site for redevelopment in Jersey. This will have to come to the Assembly for debate and that is the time to get into the nitty-gritty. I will say, however, that we are talking to the landowners and looking at options that may be available to us should these sites be rezoned.

5.3 Deputy R.G. Le Hérissier:

Having had very constructive meetings recently with the Minister, could he confirm in public that it is his intention to ensure that the standards in the unqualified sector will meet the best of the standards in the qualified sector? If so, can he say when he intends to implement the imposition of those standards?

Deputy A.K.F. Green:

The Deputy asks a very important question. When we debated P.33 as part of the transformation of housing, I agreed to bring back suitable regulation for social housing. I have since been looking at it in detail and it does seem to me that we need suitable regulation for the quality of all housing in Jersey, be that unqualified, be that private rental, be that social. That is the route that I am exploring at the moment with my officers. It is more work than what we intended. I think that the way that I would like to go is that the standard of housing be determined by one set of regulations and that the other things such as customer interface and softer issues that need to be dealt with by social housing be dealt with by way of a charter. That is work under progress and I do sincerely hope that I can get it to this Assembly before the end of the life of this Assembly.

5.4 Deputy G.P. Southern:

Will the Minister update Members on the progress towards a rental deposit protection scheme, which has been I think 3 years in gestation so far?

Deputy A.K.F. Green:

Yes, it has and I regret that and I have said to the Deputy several times we are close to doing it. We have a report and proposition nearly ready and I do not want to be able to say that to him anymore, so to that end we recently employed on a temporary contract an officer that is an expert in this area. She started yesterday and I hope very shortly - the last time I will say it - that I will bring it back to this Assembly ready for final debate.

Deputy G.P. Southern:

Can I just say I am expecting an elephant after 3 years?

5.5 Deputy J.H. Young:

The planning inspector in his report has clearly relied on the Minister's commitment which he gave to give priority to over-55s in Parish developments within the housing gateway. The inspector refers to the Minister as being the light at the end of the tunnel as a result of the debate. Can he give a commitment that he will publish his proposals so that we can avoid having to have unnecessary debate and amendments if he puts that commitment into detail for us before the expiry of amendments for the Island Plan?

Deputy A.K.F. Green:

The cart is somewhat before the horse here. First of all, the Minister for Planning and Environment needs to bring his report and proposition based on the inspector's report. Then I will publish my comments and bring it forward for debate, but the Minister for Planning and Environment needs first of all to bring back to the States the draft Island Plan so that we all know what we are discussing.

5.6 Deputy R.J. Rondel:

Could the Minister advise Members whether he is satisfied with the number of units of social housing and affordable housing being proposed on States-owned sites?

Deputy A.K.F. Green:

Yes, I am satisfied but what frustrates me is getting on to those sites. I am very pleased to hear that progress is going ahead now with the new Police Station because the quicker that is done, the quicker we can get on to the Rouge Bouillon site, which is the one that is going to give the most significant yield in terms of social housing.

5.6.1 Deputy R.J. Rondel:

Just a supplementary on that: is the Minister fully satisfied that on examples such as J.C.G. (Jersey College for Girls) they are being maximised, the numbers of social and affordable housing, on those sites?

Deputy A.K.F. Green:

I thought that was the real question. **[Laughter]** J.C.G. has doubled in the number of social housing provision to just over 70. What I want to do is instead of keep arguing about it get on with it, deliver those 70 units, deliver the other Category B homes. Let us get on with it rather than keep redrawing the plans and ending up with nothing year after year after year.

5.7 Deputy J.M. Le Bailly of St. Mary:

Is any legislation being worked on which will allow low income couples the opportunity to purchase their own homes at a price which is realistically affordable to them, in the region of £200,000, something that we both know is possible on States-owned land?

Deputy A.K.F. Green:

The quick answer to that is yes, we are working on that. Legislation will be coming forward. I am not quite sure if it is my department, the S.H.U. (Strategic Housing Unit) or the Minister for Planning and Environment, but legislation will be coming forward defining what affordable is and also making it affordable for the rest of the building's existence. For example, we have seen in the past where someone has bought a heavily subsidised home and then sold it on on the open market, and that cannot be right. If a home is sold as affordable it must remain affordable. So there is work with that, but the S.H.U. is carrying out a complete review of housing availability, not just social

housing but housing need. Professor Whitehead is carrying out that work for us and very close to producing that report. I have in mind that we have a number of different schemes. We need to have a strategy for people to exit social housing when they no longer need it, when their situation has improved. For example, when they join us they are in need and they very often have families. The children grow up, get good jobs. The parents sometimes gain qualifications and get better jobs, but at 50 there is no exit strategy. They are stuck in social housing. So I would like to see schemes as we have, the deferred payment scheme, but I would also like to see schemes for young couples coming in such as rent to buy, where the rent becomes part of the deposit and they get a mortgage and pay the rest off in 5 years. There is a whole raft of stuff that we are working on in the Strategic Housing Unit. It is an exciting time and I look forward to bringing some of these things forward to the Assembly.

5.8 Deputy M. Tadier:

Would the Minister advise what the policy is of his department on refunding rents for properties which are deemed to be either wholly or partly uninhabitable?

Deputy A.K.F. Green:

We do not rent out properties that are wholly uninhabitable. We have some properties that are in better condition than others and, as you know, part of the £250 million that this Assembly has agreed is to refurbish the 40 per cent of homes that do need refurbishment. But they are habitable. There are plenty of people living in their own homes in the private sector that would like to have the opportunity to insulate up to modern standards and rewire and plumb. **[Approbation]** I have no policy of refunding rent.

5.8.1 Deputy M. Tadier:

That is contrary to what I know as I believe that I dealt with a case where a property had become partly uninhabitable and rent was refunded duly. Does the Minister acknowledge that the law says if a property becomes uninhabitable ... it does not mean, of course, for building and renting out of properties with the express purpose of them being uninhabitable, but does he accept that this can occur and when it does occur what are the mechanisms that his tenants have in order to report this and to safeguard their statutory rights to their rents being refunded in this case?

Deputy A.K.F. Green:

I have an excellent team working at Housing who work very hard. Tenants who have problems with their housing only have to contact the department for it to be dealt with. In a customer satisfaction survey carried out recently, in the returns that came back 97 per cent of customers were happy with the service provided in terms of responding to work that needs to be done. There has been one case where a structural fault was found after the tenant started to decorate, having just moved in. One case, and that was dealt with by the department appropriately.

5.9 Deputy C.F. Labey of Grouville:

Could the Minister confirm if it is still the case that exiting tenants are required to rip out all carpets and flooring regardless of quality before leaving States accommodation?

Deputy A.K.F. Green:

No, that is not the case anymore. That used to be the case. However, we do have a problem with wooden flooring and that is because of the noise that it makes and wooden flooring generally is not allowed on anything other than the first floor. But when a tenant now leaves a carpet in good repair, then the incoming tenant is asked if they wish to have that carpet, and if they wish to have it then that is a matter for them and the tenant leaving the building. If they do not wish to have it, then it will be taken up. That is at the time when the home is allocated.

5.9.1 The Deputy of Grouville:

Could he just confirm when that practice was changed? I have had recent experience of tenants having been made to rip up very good quality carpeting.

Deputy A.K.F. Green:

I need to talk to the Deputy to get an idea of the case that she is referring to, but as far as I am concerned this policy has been in place now for a couple of years.

5.10 The Deputy of St. Ouen:

As the Minister responsible for the Strategic Housing Unit, what actions is the Minister taking to address the needs of all Island residents and, in particular, the needs of those new to the Island and, indeed, the elderly?

Deputy A.K.F. Green:

I have just said that the Strategic Housing Unit is carrying out a review on all the housing needs, not just the social housing needs but a review across all tenures. Professor Christine Whitehead has almost completed that report and we will be looking at it and studying it and drawing up appropriate action plans.

5.10.1 The Deputy of St. Ouen:

Is he not concerned that we are in the process of reviewing the Island Plan and yet a review is being undertaken to deal with housing needs, which could end up falling outside of the Island Plan process?

Deputy A.K.F. Green:

The problem is we are reviewing the Island Plan not long after agreeing the Island Plan because we did not follow through with the recommendations made last time. I hope that Members will learn from that and accept the inspector's report and not make the mistake of removing sites just because it looks good but does not solve the housing business.

The Deputy Bailiff:

Last question, Deputy Power.

5.11 Deputy S. Power:

The Minister will be aware of the excellent work that his department does in the provision of hostel accommodation across the Island. He will also be aware there is a survey going on on homelessness in Jersey by the Chief Minister's Department. Does he think that his new restructured organisation, Andium Homes, will have an expanded role in the provision of further community living across the Island?

Deputy A.K.F. Green:

I think the quick answer to that would be yes, there may be an expanded role but we need to understand the extent of the problem. A lot of Jersey's homeless are hidden homeless. They are sleeping on friends' sofas and floors and we need to understand the extent of that problem. The best thing we can do for Islanders, which will result in getting people housed adequately, is to increase the supply. That will also improve the rental situation as well.

[12:15]

I urge Members to support the draft Island Plan when it comes forward. We also need to look at other areas such as the provision of housing for people who are elderly who need support but do not yet need to go into nursing homes, and that is work that this department is carrying out as well.

The Deputy Bailiff:

Thank you. That brings question time to an end. Can I announce for the benefit of Members and the public the Public Lotteries: report for 2013 - R.23 - presented by the Minister for Economic Development; the States of Jersey Law 2005: delegation of functions - Treasury and Resources - revised delegations - R.24 - presented by the Minister for Treasury and Resources; and the Land Transactions under Standing Order 168(3) - R.25 - also presented by the Minister for Treasury and Resources.

STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

Chairman, Public Accounts Committee - statement regarding the review of a £200,000 grant to a film company

The Deputy Bailiff:

We now come to item K on the agenda, and the Chairman of the Public Accounts Committee will make a statement regarding the review of a £200,000 grant to the film company.

6. Deputy T.A. Vallois (Chairman, Public Accounts Committee):

Today P.A.C. presents the follow-up to its report of April 2013 concerning the £200,000 grant to a film company. In essence, our report sets out 5 lessons that should be learned from this affair: one, be clear about what you are trying to achieve; 2, action plan effectively; 3, due diligence should be proportionate to the amount of public money involved; 4, exercise due care and attention when drafting contracts; and 5, improve standards of record keeping, particularly those relating to decisions made by Ministers. Each of these lessons could in truth have been learned from our first report. They are really little more than common sense. Unfortunately, P.A.C. was not clear that those lessons were learned in 2013. Our first report was all but set aside by the Executive, which appeared to us to go on the defensive. The Minister for Economic Development rebutted the majority of our original findings by way of a formal response to this Assembly while his department continued to devote resource in support of the film project. At the same time, senior civil servants instructed the Chief Internal Auditor to: "Review the findings and recommendations raised in the P.A.C. report to ascertain if reasonable and based on fact." Members will not need me to explain why this was a most improper instruction. Treasury did at least take positive action in the background. The financial directions concerning management of grants were revised just as P.A.C. had recommended. While the Executive was busy defending, my committee reflected. We tested our findings against the response of the Minister for Economic Development. We took another hard look at the evidence in our files. When the Chief Internal Auditor's report was finally completed in November 2013, we put our offence to one side and considered the findings. We found that once some notably diplomatic language was stripped away, the findings looked rather similar to our own. Having reflected, my committee is even more satisfied that it understands the realities of this case very well. The reality is that the Economic Development Department gave £200,000 to a U.K. registered company that has not produced a film in Jersey. We do not know precisely where that money went or how much of it really was spent on Island. There is no clear evidence that the grant has benefited the Island's creative media industry or aided the tourism industry, these being the 2 documented purposes of the grant. There are clauses in the Canbedone contract that have not been fulfilled by that company and probably never will.

The Deputy Bailiff:

The Chairman is now open for questions on that subject. Deputy Le Hérissier.

6.1 Deputy R.G. Le Hérissier:

Is it the considered view of the P.A.C., therefore, given this quite damning critique, unfortunately, that this project should never have been allowed to proceed? At what point would the P.A.C. have thought that the project should have been pulled or should have been terminated?

Deputy T.A. Vallois:

P.A.C. has never been critical of E.D.D. going towards looking at creative media industries and this goes back; time and time again we have to repeat ourselves. This is about the process and procedures that are in place and what we as States Members expect officers to follow. In those terms, we agree that there should be diversification, as was said in our first report and our second report. We support the Minister for Economic Development in doing so. However, we do expect high standards to be met because this is public money.

6.2 Senator L.J. Farnham:

As a proponent of the film industry, I do sympathise with the department somewhat because I am sure their intentions were clear to develop that industry. Would the Chairman agree that perhaps it is time to establish a screen commission properly structured film fund to ensure this sort of thing cannot happen again while allowing the development of this sort of industry?

Deputy T.A. Vallois:

It is not for P.A.C. to decide on policy or setting up commissions. I would certainly suggest to the Minister for Economic Development that it is something that they consider, particularly because there is an issue with regards to chief officers having to act as political advisers and implementation of policy.

Senator L.J. Farnham:

I should have been a little bit clearer. I should have asked the Chairman if her committee would be more comfortable with such a structure, but yes, thank you for answering.

6.3 Deputy M. Tadier:

Following on very much, is the Chairman aware that preparatory work was done by the department to explore the viability of setting up a film commission or some similar body? If so, would she ask for that preparatory work to be made available either to herself or publicly or to States Members so that the film commission idea can be considered on a cost/benefit and otherwise basis?

Deputy T.A. Vallois:

P.A.C. is not aware of the preparatory work in regards to an actual film commission. However, we are aware that E.D.D. did complete a report on creative industries, which is not publicly available and we have not seen it. In terms of whether that should be considered for the future ... sorry, I am just trying to remember what your question was. I think if we were to go towards a commission - and this is answering back to Senator Farnham's question as well - it would be in our view an appropriate mechanism as long as the correct standards and procedures were put in place, as people would expect. There are members of the public that have addressed Economic Development with regards to setting up a film commission.

6.4 Deputy G.P. Southern:

Does the Chairman have an opinion about who is responsible for what appeared in the last paragraph of her report to be serious breaches of contract?

Deputy T.A. Vallois:

We were extremely critical of the contract that E.D.D. fulfilled ... well, put in place, purely because it was set up with a U.K. company and it was signed by the Chief Officer of Economic

Development as far as we can see without delegation of authority. With regards to the contract, as far as we can see it is null and void.

6.5 The Deputy of St. Ouen:

Is P.A.C. aware that the U.K. company that was used in the original film?

Deputy T.A. Vallois:

The contract was set out between E.D.D., so therefore the public of Jersey, with Canbedone Limited for the film of Knights of Impossingworth. The film that E.D.D. are currently promoting as being made on the basis of the £200,000 film grant is a company by the name of Ship of Lights Limited, which is a Jersey-registered company, and is called Crystal Island.

6.6 Senator A.J.H. Maclean:

Just for clarification, the question about a film commission has been addressed by Economic Development and, in fact, a report was commissioned a few years ago, which KPMG undertook. They identified that probably the most effective way to support a film industry in the Island would be through grant funding. My question specifically to the Chairman is given that all the pre-production activity for the film was undertaken in Jersey and that the P.A.C. is in possession of the specific details, despite what was said in the statement, could the Deputy explain how P.A.C. can justify their findings with regard to in-Island spend?

Deputy T.A. Vallois:

Happily so. We did make that statement in our first report last year and when we received the internal audit report it did state in that internal audit report that there was no clear way of evidencing that that money had been spent in-Island. To be able to stand up and say that that money was spent in-Island is wrong. We were advising that there is no clear evidence that that money was spent on-Island and we are unable to prove that and so is Internal Audit.

6.7 Senator P.F.C. Ozouf:

I am grateful for the complimentary remarks of the P.A.C. Chair for the Treasury action, but certainly I will be asking questions on this issue. However, if I may ask the Chairman, in a world which is increasingly competitive, where we are, some people say, in a global race for economic activity, does the Chairman accept that the P.A.C.'s report runs the risk of even greater bunker mentality and risk aversion by civil servants that are advising Ministers? Does she accept that there is a balance to be struck between, yes, proper process, but the need to take risks?

Deputy T.A. Vallois:

I would suggest the Minister for Treasury and Resources reads our report. It does state in there that we encourage the Civil Service to take risks but as long as the appropriate processes and procedures are in place. The first report identified breaches of financial directions and no delegation of authority to sign a contract. They are clear current procedures within the States of Jersey. Absolutely, we have businessmen on the Public Accounts Committee that are in absolute belief that we should innovate and take risks as long as we do it within an appropriate framework. Unfortunately, our framework is not robust and should be better.

6.8 The Deputy of Grouville:

Does the Deputy consider it would be useful if P.A.C. came forward with recommendations in a more general way to put in place checks for a K.Y.C. (Know Your Customer) of all sectors, much the same as the finance industry is required to do in the private sector?

Deputy T.A. Vallois:

With regards to due diligence, it is set out under the financial directions and that has been cleared up in terms of between which financial direction should be referred to or not. But financial directions I think are another issue which the C. and A.G. (Comptroller and Auditor General) is looking at at present. With regards to K.Y.C. in general, I think what the Deputy needs to bear in mind is the States need to get to grips with what they want grants and subsidies to achieve and to do. There are a large amount of legacy issues with regards to grants and subsidies and if you are intending on giving money to a private company and setting up a contractual relationship with that company, then recognising in the financial sector when you are asked for money due diligence is part of the process, is part of the regime. I am not being funny, but this is public money and if we are going to set high standards across the board and gold standards for public service, we should set that for our Civil Service as well.

6.9 Deputy G.P. Southern:

Breach of financial directions and absence of delegation sound like very serious matters to me. Does the Chairman feel that heads should roll and, if so, which?

Deputy T.A. Vallois:

It is not the P.A.C.'s responsibility to decide whether heads should roll. That is up to the Minister for Economic Development and the Chair of the States Employment Board.

[12:30]

6.10 Senator A.J.H. Maclean:

Given that the P.A.C. report makes assertions regarding the change of title of the film project and the implications for the deliverables from the grant, did the Committee make any contact with the film production company to seek to understand the reasons behind the change and whether the commitments entered into were preserved?

Deputy T.A. Vallois:

No, because there is a contractual obligation between E.D.D. and Canbedone. So when we contacted the department - because this was about procedures and process, not about whether we wanted a film or not - to find out whether a new contract or obligation had been put in place, we were advised no.

The Bailiff:

Very well, I think that brings questions to the Chairman to an end. That completes that matter, so we come to Public Business. Before that, I would just like to make a short statement, if I may. I would have included it obviously under A had I been here at 9.30 a.m.

COMMUNICATIONS BY THE PRESIDING OFFICER

7. Appointment of Deputy Bailiff to succeed Bailiff - Royal approval

The Bailiff:

I am very pleased to inform Members that Her Majesty has approved the appointment of the Deputy Bailiff, Mr. Bailhache, as my successor as Bailiff to take effect from January next year. **[Approbation]** Perhaps I can just say this from the Chair. Mr. Bailhache has given many years of dedicated public service both as Attorney General and more recently as Deputy Bailiff, so I am sure Members, as they have indicated already, will join me in congratulating him and wishing him every success in the office as from January of next year. **[Approbation]**

PUBLIC BUSINESS

8. Draft Shipping (Amendment No. 4) (Jersey) Law 201- (P.3/2014)

The Bailiff:

But you have me until then [**Laughter**] so let us move on to the Draft Shipping (Amendment No. 4) (Jersey) Law, Projet 3, lodged by the Minister for Economic Development. I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Shipping (Amendment No. 4) (Jersey) Law. A, Law to amend further the Shipping (Jersey) Law 2002. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

8.1 Senator A.J.H. Maclean (The Minister for Economic Development):

This proposition is proposing 2 amendments to the Shipping (Jersey) Law 2002, which I will explain separately. The first deals with ensigns authorised for use in Jersey ships. By way of a brief background, the Shipping Law includes provisions for the types of flag flown in Jersey ships and who can authorise them. The familiar Red Ensign is authorised, of course, and the States can authorise modifications. This it did when we introduced the Jersey Red Ensign 4 years ago. Any flag authorised by Her Majesty is also allowed. In contrast, the U.K. Secretary of State was not given the authority by the States to decide the type of ensigns to be worn in Jersey ships. On the face of it, that seemed perfectly sensible to the Assembly at the time given that our constitutional relationship is with the Crown and not the U.K. Ministers. However, before the 2002 law came into force, Jersey boats belonging to 2 local yacht clubs flew colours authorised by warrant from the Secretary of State under the Merchant Shipping Act 1894 as it then applied to Jersey. No saving provision was made by the 2002 law to preserve the status of these warrants when the 1894 Act was repealed. As a result, Jersey vessels are not currently authorised to fly these special flags. This outcome was, of course, never intended. It has taken time to try to find a solution which did not contradict the original intention of the States. I am pleased to say that this proposed amendment will hold safe the status of these special flags as they were authorised before the 2002 law came into force. While re-establishing the status of the particular flags, the law amendment does not grant any new authority to the U.K. Secretary of State with regard to Jersey ships and the flag they can fly, but I am assured that this will place beyond doubt the validity of the wearing of the existing special ensigns. In summary, the change concerning the flying of colours would ensure that there is no doubt legally that the honour of flying a special ensign should be continuous and permanent. Turning to the second amendment, this deals with the United Nations Convention on Transnational Organised Crime. Work has been going on for some time to make sure we are in a position to have a convention known as the Palermo Convention extended to the Island. This convention provides for international standards to help combat money laundering and transnational organised crime. It is important from a reputational perspective that it should be extended so that Jersey can continue to provide the best protection it can against such offences. At the moment, there is a possible gap in the Island's jurisdiction when a crime occurs outside of the Island. This could, as an example, occur when a crime is committed by a non-British national on board a Jersey ship while in a foreign port or foreign waters. I am told that the definition of "high seas" also needed clarification to make clear that Jersey courts could have jurisdiction in respect of offences committed on board Jersey ships in the territorial waters of another jurisdiction. In conclusion, these minor changes regarding jurisdiction for transnational crime are of considerable importance to the Island, its international reputation and the fight against potential money laundering. I propose the principles.

The Bailiff:

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

8.1.1 Deputy J.H. Young:

I need to ask: is there a conflict of interest if one is a member of these clubs?

The Bailiff:

Well, I suspect it is a position that a lot of us may be in [Laughter] but I am sure there is no financial interest. Does any Member wish to speak on the principles?

8.1.2 The Deputy of St. Ouen:

Yes, very briefly. It says underneath the financial and manpower implications that the related cost of likely implications, although there are no immediate costs, will be managed within planned resources. Perhaps the Minister can tell us what those planned resources are and the likely cost that has been allowed for within them.

8.1.3 Senator S.C. Ferguson:

Following on from the Deputy of St. Ouen, presumably this covers things like piracy and ransoms around the world. How are we going to police that?

8.1.4 The Deputy of St. Martin:

Could the Minister just outline why no saving provision was made by the 2002 law to preserve the status of these warrants?

The Bailiff:

Does any other Member wish to speak on the principles? Yes, the Connétable of St. John.

8.1.5 The Connétable of St. John:

The Minister mentioned offences in foreign ports. Is this by Jersey vessels while they are flying the British ensign or does that not apply once the ensign has been dropped?

The Bailiff:

Does any other Member wish to speak? Then I invite the Minister to reply on the principles.

8.1.6 Senator A.J.H. Maclean:

The Deputy of St. Ouen, quite simply we are not clear what any implication might be, but it is not believed to be great. The contention within the report and proposition was that we could deal with that within the budget of Economic Development. I cannot really give any more detail than that. With regard to Senator Ferguson about parity and ransom, no, that is not what this is referring to at all. It is about any offences carried out by crew on board the vessel, not somebody boarding the vessel as a pirate. The Deputy of St. Martin, why was this not picked up before? I do not know. It was missed at the time, I am led to believe, when the 2002 law was put through so this is simply seeking to correct that particular position. With regard to the Constable of St. John, it is in relation to the registration of the vessel that is the most relevant factor. I maintain the proposition.

The Bailiff:

All those in favour of the principles kindly show? Those against? The principles are adopted. Deputy of St. Martin, do you wish this matter referred to your Scrutiny Panel?

The Deputy of St. Martin:

No, thank you, Sir.

The Bailiff:

Do you wish to propose the Articles *en bloc*, Minister?

8.2 Senator A.J.H. Maclean:

Yes, they are very clear. I think I have mentioned the detail in my introduction so *en bloc* if I may.

The Bailiff:

Very well. Are Articles 1 to 6 seconded? **[Seconded]** Does any Member wish to speak on any of the individual Articles? All those in favour of adopting Articles 1 to 6 kindly show? **[Interruption]** The appel is called for? The appel is called for then in relation to the adoption of Articles 1 to 6. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 30		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy J.H. Young (B)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

The Bailiff:

Do you propose the Bill in Third Reading, Minister?

8.3 Senator A.J.H. Maclean:

Yes, Sir.

The Bailiff:

Is that seconded? **[Seconded]** Does any Member wish to speak in Third Reading?

8.3.1 The Connétable of St. John:

Yes. Could we have an indication of the actual costs of this error that was omitted back in 2002, please?

The Bailiff:

Does any other Member wish to speak in Third Reading? Minister.

8.3.2 Senator A.J.H. Maclean:

I do not have a figure of the costs, but the Connétable was probably on the committee at the time. I believe he was a harbours man. [Laughter] I am sure he would be well aware of the costs and we do not hold the error in his account.

The Bailiff:

All those in favour of adopting the Bill in Third Reading kindly show? Those against? The Bill is adopted in Third Reading.

The Bailiff:

We come next to the Draft Drainage (Amendment) (Jersey) Law, Projet 6, lodged by the Minister for Transport and Technical Services. I will ask the Greffier to read the citation.

Deputy R.G. Le Hérissier:

Is this likely to take some time? If so, it might be worth calling for the adjournment.

Deputy J.M. Maçon:

Or we could take P.11 first.

The Bailiff:

Well, first of all, Minister for T.T.S. (Transport and Technical Services), is this a complicated matter?

Deputy K.C. Lewis:

It could be, yes.

The Bailiff:

Very well. Deputy Maçon, sorry?

Deputy J.M. Maçon:

I am happy to take the next item.

9. Draft Employment of States of Jersey Employees (Amendment No. 6) (Jersey) Regulations 201- (P.7/2014)

The Bailiff:

Projet 7 and Projet 11, shall we try and do those before lunch? Do Members agree? Very well, then we will call Projet 7 - Draft Employment of States of Jersey Employees (Amendment No. 6) (Jersey) Regulations - lodged by the States Employment Board. I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Employment of States of Jersey Employees (Amendment No. 6) (Jersey) Regulations. The States, in pursuance of Article 42 of the Employment of States of Jersey Employees (Jersey) Law 2005, have made the following Regulations.

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

Hopefully this is straightforward. It brings clarity with regard to those States employees who are classed as politically eligible and politically ineligible. It removes references to resignation because there was some uncertainty about quite what resignation means and, therefore, after one had resigned should notice then be automatically served or not, and replaces that word with the word "termination", which is much more straightforward and will be understandable to all concerned. At the same time, it makes sure that politically eligible employees who might be successful in being elected have some financial remuneration between the period of election and the day before being sworn into office rather than being without income for that period. Hopefully, it is straightforward and Members will support the clarification with regard to those 2 particular types of employees.

The Bailiff:

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? Very well, all those in favour of adopting the principles kindly show? Those against? The principles are adopted. Senator Ferguson, do you wish this matter referred to your Scrutiny Panel?

Senator S.C. Ferguson:

No, thank you.

The Bailiff:

Very well. Do you wish to propose all the regulations, Minister?

Senator I.J. Gorst:

If I may. They are, as I said, straightforward so I will endeavour to answer any questions that Members may have.

The Bailiff:

Are regulations 1 to 7 seconded? **[Seconded]** Does any Member wish to speak on any of the regulations? All those in favour of adopting regulations 1 to 7 kindly show? Those against? They are adopted. Do you propose the regulations in Third Reading, Chief Minister?

Senator I.J. Gorst:

Yes, indeed, I do.

The Bailiff:

Are they seconded? **[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting the regulations in Third Reading please show? Those against? They are adopted in Third Reading.

10. Jersey Overseas Aid Commission: reappointment of non-States Commissioner (P.11/2014)

The Bailiff:

We come next to the Jersey Overseas Aid Commission: reappointment of non-States Commissioner, Projet 11, lodged by Senator Routier. I will ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked whether they are of the opinion to appoint, in accordance with paragraph 7(4) of the constitution of the Jersey Overseas Aid Commission as set out in schedule 1 to the Jersey Overseas Aid Commission (Jersey) Law 2005, Mr. Geoffrey George Crill as a non-States commissioner for a further period of 3 years.

10.1 Senator P.F. Routier:

The Appointments Commission have taken a view that it is appropriate that Mr. Crill is given the opportunity to serve for a further 3 years. I am delighted that they have agreed to that because Mr. Crill has been a really effective member of our Commission and we would benefit from him continuing to serve. In saying that, may I just also comment on the work that the remainder of the commissioners have been undertaking recently? We have had an exceptionally busy year and I would like to publicly thank each and every one of them for all their efforts. It gives me great pleasure to propose Mr. Crill for a further 3 years.

The Bailiff:

Is the proposition seconded? **[Seconded]** Does any Member wish to speak on the proposition? Very well, all those in favour of adopting the proposition kindly show? Those against? The proposition is adopted.

LUNCHEON ADJOURNMENT PROPOSED

Deputy J.M. Maçon:

I wonder if I could test the mood of the Assembly and whether they would want to carry on with the last item of business before moving to a lunch break. I wonder if I could test the mood.

The Bailiff:

Very well, you propose that, Deputy Maçon.

Senator L.J. Farnham:

To get a flavour, how long does the Constable of St. John intend speaking on the next issue? **[Laughter]**

The Connétable of St. John:

As per usual I am always short.

[12:45]

The Bailiff:

Very well, all those in favour of continuing then? The appel is called for then in the proposition before the Assembly, in which case it had better be seconded. Does anyone second the proposition? **[Seconded]** The proposition before the Assembly then is to continue to complete this last matter before the adjournment and presumably also the arrangement of future public business so that we then cease at that stage. The Greffier will open the voting.

POUR: 32		CONTRE: 4		ABSTAIN: 1
Senator P.F. Routier		Senator S.C. Ferguson		Deputy of Grouville
Senator P.F.C. Ozouf		Senator F. du H. Le Gresley		
Senator A. Breckon		Deputy of St. Ouen		
Senator A.J.H. Maclean		Deputy J.H. Young (B)		
Senator B.I. Le Marquand				

Senator I.J. Gorst				
Senator L.J. Farnham				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy G.P. Southern (H)				
Deputy J.A. Hilton (H)				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

11. Draft Drainage (Amendment) (Jersey) Law 201- (P.6/2014)

The Bailiff:

Very well, so we move now to Projet 6 - Draft Drainage Amendment (Jersey) Law - lodged by the Minister for Transport and Technical Services. I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Drainage (Amendment) (Jersey) Law 201-. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

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

With the leave of the Assembly, I would like to go back to the time when the States enacted the 2005 Drainage Law. That legislation was promoted by the then Environment and Public Services Committee. However, although it was fully understood that the Committee would be responsible under the law for controlling discharge of trade effluent by third parties into the public sewage system, it was never contemplated that the Committee would itself be making such discharges. Consequently, part 3 of the law merely provides a consenting regime that was appropriate to the discharge of trade effluent by third parties. Moving on in time, I would like to thank the Minister for Planning and Environment for drawing to our attention what is now recognised to be a deficiency in the current Drainage Law. I believe that the law amendment now before the Assembly will address that issue. If the amendment law is approved by the Assembly, it will mean that in future in-house discharges of trade effluent from premises operated by my department will be subject to the new stringent certification regime that is set out in the amended law. Before I

proceed to outline the various components of that regime, I would like to assure the Assembly that it is not simply a re-labelling exercise; that is to say from the terms under the effluent consent to that of certificates. It is much more than that since it will introduce a transparent and independent regime in relation to situations where my department will, in effect, be performing a regulatory as well as an operational role, which is perhaps more commonly referred to as the dual gamekeeper and poacher role. The proposed new regime has 4 important elements. Firstly, before issuing or, indeed, varying a trade effluent discharge certificate I will be required to arrange to have these proposals publicly advertised and, of course, to fully consider any objections received. Secondly, any objector who is still dissatisfied will have a right to refer the matter to the Royal Court. Furthermore, the Attorney General will be empowered to refer it to the courts at any stage, not merely at the time the certificate is issued. Thirdly, I will be required to make available to the public relevant information that is held by my department; for example, the results of samples of discharge from trade premises that we operate. This will ensure that in future our operations are fully transparent to everyone in the Island. Finally, it will be a criminal offence if I allow a discharge to be made without a trade effluent certificate being in place. Having said that, I would point out to the Assembly that my department only operates 7 trade premises in the Island to which this new regime will apply. Nevertheless, it is vitally important that this amendment law is enacted. This will bring the Drainage Law into line with other comparable environmental legislation in the Island. However, for the avoidance of any misunderstandings, I would emphasise that the amendment law will not in any way affect the current consented arrangements in respect of discharges by third parties. I propose the law.

The Bailiff:

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? Yes, Deputy Young.

11.1.1 Deputy J.H. Young:

I will just be brief. The Environment Scrutiny Panel was offered the opportunity by the Minister in October. He wrote to the panel setting out what he has just said and the reasons for these changes and asked us if we wanted to review the law. He did provide us with a consolidated version of what the law would look like, the 2005 law, if the amendments are adopted, which was extremely helpful. He explained to us that there was this deficiency in the arrangements with T.T.S. giving themselves approval for their own discharges. Obviously, that does need a proper regime. The new law provides for it. There are the steps the Minister has outlined advertising these certificates, inviting objections from members of the public and the Minister being required to consider that and disclosing documents and, ultimately, the Royal Court appeal. Personally, I have reservations about what the Royal Court will be able to do in effect if a technical matter like this comes before the Royal Court but there we are. There is an appeal process, is there not? Some may see this as a piece of bureaucracy. I personally do not. I think it is important to have in place open and transparent processes particularly where there is this conflict that the Minister has here. 90 per cent of the changes in the law I think are substituting the penalty arrangements for an arrangement that means that the Minister, if he commits an offence, will only be subject to a fine, whereas other people will be subject to imprisonment. **[Laughter]** I do not think that is a very good principle and I find that really hard to take but I think: "Well, what other people are going to be committing offences under this law?" I think, hopefully, the Minister will tell us. It is kind of an aberration of drafting and really it is just a situation that is not going to occur. But it is not a good principle and I hope we do not do it any more where Ministers have softer penalties than other people. So, with that, I am supportive of the principles of this law.

11.1.2 Deputy T.A. Vallois:

Drains usually are not my remit so I am just trying to get my head around the Drainage Law so I just have a few questions for the T.T.S. Minister if he could please just bear with me. Within this amendment, I have particular concerns around changing the regime and the reason why I say that is not because it is not proper but when I have done the research and looked at other jurisdictions, certification for effluent discharge - if I am getting that right - tends to come under environment areas for regulation and I understand that our Environment Department do have enforcement officers. Whether they are good or bad, I am not even going to go there, but they do have enforcement officers. So my question is do T.T.S. have enforcement officers? If so, how many and what else do they enforce? Also, legally, can the Minister certify himself? How does the certification process happen because, to me, when I read the amendment - and I may be completely wrong - it comes about like we are trying to send the message out: "Well, you can do as I say but not as I do"? That is the way I read the amendment so if the Minister could explain the process up to the certification and not what happens after. So the Minister will go: "Yes, I am wonderful, I am doing very, very well at this and we are not breaking the law at all so I have ticked some boxes and I have certified myself." Then people can appeal and everything and go through the bureaucracy of the court and legislation *et cetera*, which is an expensive process, as we all know. So I would just like a better understanding before I put my name to vote for this. Also, the other question I have is surrounding the financial manpower implications which is that if T.T.S. do not have the enforcement officers, then how are there no financial manpower implications? The other question I have is I think where it mentions under Article 27B about publishing a notice in the *Jersey Gazette*. I am a little bit confused that, in this day and age, that we are still required in primary legislation to require a publication for something like this where it is not just the discretion of the department or the Minister to publish it the way they see is the most appropriate. So I would just like clarification as to whether there have been any discussions around the way that is moving forward because that does concern me. I thought that there were discussions a couple of years ago about possible moves to take that out of primary legislation because it should be a more competitive framework in terms of how you publish information for the public from the States departments. I think that is it. Thank you.

11.1.3 The Connétable of St. John:

I will allow the Minister to regain his seat. Within your trade effluent you mention... or your 7 trade licences that you will be giving yourselves, do these include those which are held by other States department, i.e. like Jersey Dairies and the like or are they solely for those like La Collette where you would be removing ...

The Bailiff:

It is within their department.

The Connétable of St. John:

Sorry, within your own department at La Collette where you would be removing effluent from the waste pits and where we have heavy metals and the like which eventually gets spread on the ground because that liquid goes into the digesters, settles on the bottom and then finishes up as sludge cake and is spread on the ground. I presume those are the areas you are telling us within your 7 ...

The Bailiff:

That the Minister is telling us.

The Connétable of St. John:

That the Minister is telling us. My apologies, Sir. It is lunchtime and my body is telling me I need some food. [Laughter] But also within that sludge cake - and it has been a concern of mine for a long time - we have the heavy metals which do get spread on the land and can find themselves back

into the water courses and of course those heavy metals are cadmium and mercury and other substances. I do have a little concern but, yes, we have all the bureaucracy that we are now putting in place. In 2004-05, the law was amended under the Public Services Committee of the day. I have one or 2 concerns within the licence you are going to be permitting to yourself because by going down this route, you will be sanctioning yet again contaminating land and water supplies. There will be nobody to do the checks and balances on your own department.

The Bailiff:

On the Minister's Department.

The Connétable of St. John:

On T.T.S. themselves, Sir, and like the Chairman of the Environment Scrutiny Panel, I have one or 2 little concerns as the Minister would be responsible by way of a fine but the fine would be picked up by the department and, yet, I presume everyone else, i.e. the C.E.O. (Chief Executive Officer) of the department could finish up going to prison for the offence. There is an imbalance here where we are allowing somebody who has been elected to not carry the same burden as somebody who is getting paid although the Minister would be getting paid indirectly through him being a Member of this House. That imbalance is of concern. I would have preferred to have seen this as a stand-alone item within the Environment Department as a licensing authority than licensing one's self as currently happens at the moment. Those are some of the concerns that I have and it is not as though I will not be supporting this but I want to hear what the Minister has to say on those areas. Thank you.

[13:00]

11.1.4 Senator P.F.C. Ozouf:

Without wishing to detain the Assembly to any great length, I just would like, if I may, to make a contextual point where this amendment sits in a law. This law was originally lodged unamended in December 2003 by the then Environment and Public Services Department. It was eventually debated by the States in October 2004. At the time, there used to be jokes about: "What is yellow and sleeps 5?" "It is a public services vehicle" and no doubt a trade effluent vehicle or an effluent vehicle. In the intervening 10 years - and the Connétable of St. John often stands in this Assembly and speaks about infrastructure and drainage - the underlying law which we are seeking to amend is one of those things that happens and is worked on day in, day out, unnoticed. Perhaps it is not the most lovable of subjects; unloved and unrecognised by the public. We are dealing with an important but, nevertheless, quite narrow amendment. I think it is worth saying that in the last 10 years since the operation of the whole of this law which we are seeking to improve today, there has been a massive improvement in the way that drainage is run in Jersey and it is worth saying that because that is a matter of public importance in a world in which sea defences and flood defences - another part of this law - has been the subject of such difficulty in many other places but not in Jersey. I think it is worth reflecting and it is worth perhaps the Minister being complimented in his department on the fact that the general operation of this law has worked incredibly well. There have been huge investments in drainage infrastructure under the guidance of this law separating out foul and surface water, dealing with flood defences and the adoption of more private drainage arrangements within a regulatory context. It is hugely important. His department and his staff are to be complimented particularly on the work that they have done in recent weeks in dealing with extremely difficult circumstances in dealing with the part of the law that deals with flood defences. If this is the only improvement of the law that was taken to the States 10 years ago, then I think his department did a jolly good job at the time. The advisers who are, no doubt, still there did a good job at the time and this is an important but further improvement on an infrastructure and arrangement which this Island should be proud of.

11.1.5 Deputy G.C.L. Baudains:

The Minister, in his opening speech, said that he would be certifying himself. **[Laughter]** In all seriousness, I would like to know is why the opportunity was not taken for the regulation to be done by the Environment Department so that there is a clear separation. There is one particular instance that I have raised in the past before and that is the outfall in St. Aubin's Bay from the sewerage farm. It does not meet required standards and, yet, the Minister will presumably be continuing to certify himself but there is no pressure to make him make that outfall comply. Why was it not done that way? Why was there not a total separation?

11.1.6 Senator B.I. Le Marquand:

Reluctant, though I am, to express any opinion on trade effluent, I do feel obliged to advise to try to correct some misconceptions in relation to the issue as to whether or not it would be appropriate for there to be imprisonment as a penalty for a Minister. This, in my view, is clearly not appropriate. I am going to provide the reasons for that. Firstly, there is a very clear distinction between the Minister which is a corporation sole and has a continuing existence on the one hand and the individual holder of that office on the other hand. This could be most amusingly expressed in this way. Shall we imagine, for instance, that the relevant Minister was to be imprisoned for 12 months? He then resigned and a new Minister came in. That Minister would then have to go to prison. **[Laughter]** He might then resign and it might be impossible to find anybody to fulfil that role. Now we laugh because it is absolutely ridiculous but it does demonstrate the point. If you were going to have such a provision, it could never be the "Minister". It would have to be, in some way, the "individual" who at that moment in time was fulfilling the role of Minister and that is quite a different concept. In reality, Ministers act through their officers. That is why I believe it quite correct that it is the officers who would be held to account and potentially imprisoned in relation to that. I do not see the Minister in this particular case turning on the relevant tap to cause the flow so I hope that has assisted Members in understanding the position.

11.1.7 Deputy R.C. Duhamel:

Just picking up on what Deputy Baudains was saying as to why there seems to be no kind of controls that were being exerted by my department and perhaps the Minister for T.T.S. can explain further in particular with relation to Part 3A of 27A. There is a second set of laws which govern the discharges of soiled water into the general environment and I think it is to be explained in greater detail that those regulations will still apply, whereas this is for trade effluent discharges into a sewer or network which is connected to a public outfall. So, presumably, the T.T.S. Minister will have the right, if he has filled in the right certification, to place substances into his sewer network in order not to poison the organisms at the sewerage plant or indeed into the wider environment. But, nonetheless, he will still have a requirement under the environmental regulations to ensure that any soiled waters that are released into the wider water environment do not cause environmental problems under another law.

The Bailiff:

Does any other Member wish to speak on the principles? Then I invite the Minister to reply.

11.1.8 Deputy K.C. Lewis:

I thank all Members who have spoken. I thank Deputy Young for his remarks. Deputy Vallois mentioned changing the regime. It will not be changed. It is in the process at the moment. This is just clarifying everything and making it more transparent. It will all be clear when I go through all the Articles individually but basically this is something that is in the chain at the present and it will just clarify everything. Things are put in the *Gazette*, as has been mentioned, and also on the States internet site. So, Constable of St. John, trade effluent certificates: T.T.S. do issue a number of trade

effluent certificates and the Dairy was mentioned but if I can cut it right down to the bottom, basically what goes into the sewerage system is down to myself but the Minister for Environment obviously controls what goes into the sea. That comes under his administration and also on the land. Senator Ozouf I thank for his kind remarks. We are working quite hard on foul water separation to separate storm water from foul water which makes it easier to deal with when it reaches Bellozanne. Deputy Baudains mentioned the outfall which I have just mentioned. That does come under the Minister for Environment and Planning. I thank Senator Le Marquand for his clarification and all will be revealed in Article 27A from the Minister for Environment when I go through the Articles.

The Bailiff:

Very well. All those in favour of adopting the principles, kindly show.

Deputy R.C. Duhamel:

Can I have the appel please, Sir?

The Bailiff:

The appel is called for in relation to the principles of Projet 6 and I invite Members to return to their seats so the Greffier will open the voting.

POUR: 39	CONTRE: 0	ABSTAIN: 0
Senator P.F. Routier		
Senator P.F.C. Ozouf		
Senator A. Breckon		
Senator S.C. Ferguson		
Senator A.J.H. Maclean		
Senator B.I. Le Marquand		
Senator F. du H. Le Gresley		
Senator I.J. Gorst		
Senator L.J. Farnham		
Connétable of St. Helier		
Connétable of Trinity		
Connétable of St. Clement		
Connétable of St. Peter		
Connétable of St. Lawrence		
Connétable of St. Mary		
Connétable of St. John		
Connétable of St. Brelade		
Connétable of St. Martin		
Connétable of St. Saviour		
Deputy R.C. Duhamel (S)		
Deputy G.P. Southern (H)		
Deputy of St. Ouen		
Deputy of Grouville		
Deputy J.A. Hilton (H)		
Deputy of Trinity		
Deputy K.C. Lewis (S)		
Deputy M. Tadier (B)		
Deputy E.J. Noel (L)		
Deputy T.A. Vallois (S)		
Deputy M.R. Higgins (H)		
Deputy A.K.F. Green (H)		
Deputy J.M. Maçon (S)		

Deputy G.C.L. Baudains (C)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

The Bailiff:

Deputy Young, do you confirm you do not wish this matter referred to a scrutiny panel?

Deputy J.H. Young:

No, Sir. No, thank you.

The Bailiff:

Very well. Well then, Minister, if you would like to propose the Articles. Unless I have misjudged the mood of the Assembly, I suspect they may wish you to propose them together and take questions. **[Approbation]**

11.2 Deputy K.C. Lewis:

Indeed, and I thank again everyone who has spoken, Sir. The Articles do explain a great deal as in the documents that Members have. Articles 1 to 3 simply make some ...

The Bailiff:

Perhaps I did not explain it quite clearly, Minister. **[Laughter]** I think maybe if you would like to propose them *en bloc* and then take any questions.

Deputy K.C. Lewis:

Very good, Sir. Yes, indeed, I propose them *en bloc*.

The Bailiff:

Are they seconded? **[Seconded]** Does any other Member wish to ask any questions about any of the individual Articles? Deputy Young.

11.2.1 Deputy J.H. Young:

Yes, I apologise for keeping the Assembly but I think I really must raise Article 27E(5), schedule 4, which is cheering Members up. I think it is the last page getting on. These are the lists of matters of information that need not be disclosed and of course this whole proposal is about openness and transparency and that is the whole point of why we have approved this piece of bureaucracy. But here we have a list of things that the Minister can avoid disclosing and it includes, for example: "If the request for the information is manifestly unreasonable or is formulated in too general a manner." Now that is an example so I really need to put a big flag up here and I apologise to the Minister for not having spotted this before but I think if we are going to have transparent procedures in the States, we cannot have these sort of blanket exclusions which has rather the flavour of 2003-05 time and not 2014. There are a number of other things there: "Reflecting the confidentiality of the deliberations of the public authority if the Minister is not satisfied, reliability" and so on so I think I would just like to flag that up. I am not really happy with these exclusions because the whole idea of this is that the information the Minister has is disclosed to members of the public who wish to see it and wish to challenge these things.

11.2.2 The Deputy of St. Ouen:

On a similar theme, 27B requires the Minister to publish a notice in the *Jersey Gazette* and it just crosses my mind that how appropriate is that in this day and age when everybody seeks information from the internet? At the very least, one should require it to be on the www.statesassembly.gov.je website alongside the *Jersey Gazette*. Maybe the Minister can answer this particular question for me.

11.2.3 Deputy T.A. Vallois:

Just picking up on Deputy Young's point about Article 27E, I would like some reassurance from the Minister. I do not think I will be supporting this Article so I would ask for it to be taken separately but I would like some assurance as to how this fits in not only with the Public Access to Information 2002 law but also how it is going to fit into what will be the Freedom of Information Law for the public being able to access the information. Is it really appropriate to have lots of separate pieces of legislation which can be developed underneath one piece of legislation of the Freedom of Information law?

The Bailiff:

Does any other Member wish to speak? Yes, the Connétable of St. John.

11.2.4 The Connétable of St. John:

Yes, I must say, although there was a little bit of banter over things earlier, it is a little bit unfair at this time. The Minister did try to go through Article by Article and Members are now zeroing in on the Minister when he has not had an opportunity to explain them as he went through, which probably might have taken another 10 minutes but it would have been putting it in the right order. In fairness, I have to raise that at this moment - I know it is at the last moment - in fairness to the department and to the Minister.

The Bailiff:

Does any other Member wish to speak?

Deputy T.A. Vallois:

Sorry, Sir. Can I just make a point of order on that? We are all capable of reading the information in front of us.

The Bailiff:

That is a good point.

Deputy T.A. Vallois:

It is within our right to pick out various areas if the Minister wants to take it *en bloc*.

The Bailiff:

Absolutely, Deputy. That is what the Minister in fact said that he would be happy to take questions and answers Members' queries so the procedure has been followed both by the Minister and more particularly by those Members raising questions. It is absolutely as it should be. Does any other Member wish to speak? Then I invite the Minister to reply.

11.2.5 Deputy K.C. Lewis:

Yes, I was not trying to whizz through to avoid any misunderstanding. The new Article 27A provides that in the future my department requires a trade effluent discharge certificate before it can make a discharge into public sewerage systems. 27B provides I can issue or vary a trade certificate but I am required to advertise the proposals in the *Jersey Gazette*. That is the law as it stands. Whether that needs to be changed to advertise in some other form or manner - and I believe it is on

the website as well - then I would be more than happy to go along with that but that is the law as I understand it.

[13:15]

27E provides that: “Subject to some necessary exemptions”, I will be required to: “Make all information relating to a trade effluent certificate available for inspection by members of the public. This provision will introduce into the drainage law the concept of transparency” to which I made reference to on my opening address to the amendment law. So, basically, this is just to be open and transparent and I will be subject to the law.

The Bailiff:

Very well. Does any Member wish to have anything voted on separately because there is reference to 27D I think it was but understanding orders, we can only vote on Article 5 separately. That is Article 5 which brings in, among other things, the new Article 27G, so does anyone want to take Article 5 separately?

Deputy T.A. Vallois:

Yes, please, Sir.

The Connétable of St. John:

Yes, Sir.

The Bailiff:

Very well. Then shall we take Articles 1 to 4 first of all? All those in favour of adopting Articles 1 to 4, kindly show? Those against? They are adopted. So now Article 5. Has anyone asked for the appel? Yes, the appel is asked for then in relation to Article 5. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 32		CONTRE: 9		ABSTAIN: 0
Senator P.F. Routier		Senator A. Breckon		
Senator P.F.C. Ozouf		Senator S.C. Ferguson		
Senator A.J.H. Maclean		Deputy R.G. Le Hérisssier (S)		
Senator B.I. Le Marquand		Deputy of Grouville		
Senator F. du H. Le Gresley		Deputy M. Tadier (B)		
Senator I.J. Gorst		Deputy T.A. Vallois (S)		
Senator L.J. Farnham		Deputy M.R. Higgins (H)		
Connétable of St. Helier		Deputy J.M. Maçon (S)		
Connétable of Trinity		Deputy J.H. Young (B)		
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				

Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				
Deputy G.C.L. Baudains (C)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

The Bailiff:

Are Members happy that we take the rest of Articles 6 to 11 together? Very well. All those in favour of adopting Articles 6 to 11, kindly show? Those against? They are adopted. Do you propose the Bill in Third Reading, Minister? Is that seconded? **[Seconded]** Does any other Member wish to speak on Third Reading? All those in favour of adopting the Bill in Third Reading, please show?

Deputy T.A. Vallois:

Sir, can we take the appel, please?

The Bailiff:

The appel is called for then in relation to the Bill in Third Reading and the Greffier will open the voting.

POUR: 37		CONTRE: 3		ABSTAIN: 0
Senator P.F. Routier		Senator S.C. Ferguson		
Senator P.F.C. Ozouf		Deputy T.A. Vallois (S)		
Senator A. Breckon		Deputy M.R. Higgins (H)		
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				

Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

The Bailiff:

Very well. So that completes Public Business so we now come to the arrangement of public business at future meetings and I invite the Chairman of the P.P.C. (Privileges and Procedures Committee) to speak.

12. Deputy J.M. Maçon (The Chairman of Privileges and Procedures Committee):

It is set out as the Order Paper is with the exception of P.160/2013 which is hoping to be deferred to 1st April. Just to explain to Members why that is as I am sure many are anticipating that debate, in conjunction with the Constable of St. Helier, P.P.C. is looking to bring forward a representative of the Carswell Panel to brief States Members on the findings of that report as it has been some time, as well as possibly we are trying to allow the other side of the debate to be able to submit at that particular briefing. We apologise for the delay but that is what currently our committee is working on just so Members know.

12.1 The Connétable of St. Helier:

Sir, can I just reply to the Chairman of P.P.C. to say that it may be more sensible to look at 29th April. I am not sure what the availability of Carswell will be but he may want to look at the 29th. Both of the sittings have space in them.

The Bailiff:

I think, at the moment, it is a matter for you, Connétable. Do you want ...?

The Connétable of St. Helier:

I would suggest the 29th will give the Carswell panel more chance to put up members and find a time to suit ourselves, Sir.

The Bailiff:

Very well. So you are putting that down for 29th April for the moment?

Deputy J.M. Maçon:

In which case, I propose the Order Paper as tabled.

The Bailiff:

Does any Member have anything to say on the proposal? Very well. Are Members content to take the future business then as amended by that? Very well. That concludes the Assembly's business. We will reconvene on 18th March.

ADJOURNMENT

[13:20]