

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 1st DECEMBER 2015

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[9:30]

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

COMMUNICATIONS BY THE PRESIDING OFFICER

1. The Bailiff:

Returning to the Order Paper, I am pleased in the usual way to welcome His Excellency, the Lieutenant Governor. **[Approbation]**

APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS

The Bailiff:

I understand the Minister for Treasury and Resources may wish to say something.

2. Appointment of Assistant Minister for Treasury and Resources

2.1 Senator A.J.H. Maclean (The Minister for Treasury and Resources):

Very briefly, I wanted to advise Members that following discussions with the Chief Minister I have agreed with a Member of the Assembly to be an additional Assistant Minister for Treasury and Resources. The Member that has agreed to take up that important role is the Constable of St. Peter, Constable Refault. I am delighted that the Constable has agreed to take that position and many Members will be aware that he has in fact been a former Assistant Minister for Treasury and Resources. He has a wealth of experience therefore of the department, which I will greatly welcome in the coming weeks, months and the remaining period of this term. Members will also be aware that the Connétable is an Assistant Minister at Health currently. It has been agreed in conjunction with my colleague and friends, the Minister for Health, that the Connétable will retain his responsibilities as an Assistant Minister for Health as well. Members will be aware that in a previous Assembly Constable Refault has also held dual roles before, and he is comfortable with the fact that he has the bandwidth to fulfil these important functions; so he will be Assistant Minister of both Treasury and also at Health. There is clearly a link between the 2 departments, which is one of the matters that I gave careful consideration to. The very important project relating to a new hospital is a matter both Treasury and the Health Department are very closely involved with. The experience that the Connétable has in property related matters before he came to this Assembly, where he had extensive property experience, is going to be of some considerable value. I would also briefly mention to Members that do not recall, that the Connétable also was the States nominated director of W.E.B. (Waterfront Enterprise Board) in its previous culmination before indeed it became the States of Jersey Development Company. He therefore knows that business and those who work within S.o.J.D.C. (States of Jersey Development Company) and the project intimately, and that is an area of particular focus that he will have responsibility for as Assistant Minister for Treasury and Resources. I hope Members will support the appointment, which I think is very positive. I welcome his knowledge and his experience and I know all in Treasury will welcome him back into the Treasury fold. Thank you very much. **[Approbation]**

[9:45]

The Very Reverend R.F. Key, B.A., The Dean of Jersey:

I wonder if I may just explain to the Assembly that I shall be leaving around 11.00 a.m. because of duties with former Senator Le Main and his wife. Members will be aware that Mr. Le Main has lost 2 children in bygone years and I am going to dedicate memorials in their memory in Grouville and at St. Catherine's, and I wondered if I might be allowed to take the good wishes of the Assembly to this long-serving Senator with me when I go.

The Bailiff:

I am sure Members will want to accept that. [Approbation]

QUESTIONS

3. Written Questions

3.1 THE DEPUTY OF ST. JOHN OF THE CHIEF MINISTER REGARDING CHANGES MADE TO THE SOCIAL RENTAL POLICY IN 2013:

Question

During the States sitting on 17th November 2015 the Chief Minister gave an undertaking to provide analysis as to whether the changes made to the Social Rental Policy in 2013 (including an increase in rents to 90% of market rent) had in fact had the impact shown in the Jersey Income Distribution Survey. Could the Chief Minister provide this information and explain what the government will be doing differently, if anything, to ensure that changes made to Income Support and taxes in the future will not be undermined by housing prices?

Answer

Our incomes have grown by less than inflation since 2010 because of economic conditions. However our incomes are still 50% higher than the United Kingdom before housing costs, and 45% higher after housing costs. Our income distribution is similar to the United Kingdom before housing costs, but widens after housing costs.

This illustrates that economic conditions have been difficult, although they are now improving; that Jersey is a prosperous place, and that housing in Jersey is expensive. Those with mortgages have benefitted from low interest rates over the past five years, while those who rent their homes have not.

The Council of Ministers is tackling this issue by supporting the Minister for Housing in delivering the Housing Strategy. This strategy aims to provide more and better housing by increasing supply from the private sector; by rezoning sites for social housing; by maximising use of existing sites, and continuing to invest the £250 million bond in social housing as part of a sustainable funding model.

The 90% rent policy was designed to create a sustainable funding model. This will enable more social housing to be built and the existing stock, after years of under-investment, to be brought to a decent standard. Having a decent home is central to quality of life and an inclusive society.

This rent policy means that those who can pay do, while those in need are protected through income support. This approach means that people in social housing pay a similar amount, and receive a similar amount of support, to those in private sector rented accommodation.

The 90% rent policy is being introduced gradually. Only a limited number of properties – around 20% - are currently on that rate. Furthermore, over the last 5 years rents in the social housing sector have risen at a slower rate (18%) compared to rents in the private sector (23%). It is therefore difficult to ascribe the introduction of the rent policy to the changes shown in the Income Distribution Survey. At the same time, social housing tenants, in particular those of working age, have seen a relative decline in their income after housing costs over the period.

The Income Distribution Survey provides valuable evidence as we work to improve the lives of islanders and needs careful consideration alongside other evidence. This work is being undertaken by the Statistics Unit, the Social Security Department, the social housing providers, and the Strategic Housing Unit, as part of the programme of work outlined in the Housing Strategy.

3.2 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING DEPARTMENTAL BUDGETS FROM 2009 TO 2015:

Question

Could the Minister provide a table of data identifying baseline budgets for departments from 2009 to 2015 and specify the growth, savings and charges applied for each department in each year and setting out the cost of any restructuring or reform funds during these periods?

Answer

The following table shows the original approved budgets for States departments for each of the years 2009 to 2015.

	2009	2010	2011	2012	2013	2014	2015
	Original	Original	Original	Original	Original	Original	Original
	Budget	Budget	Budget	Budget	Budget	Budget	Budget
	Net Revenue	Net Revenue	Net Revenue	Net Revenue	Net Revenue	Net Revenue	Net Revenue
	Expenditure	Expenditure	Expenditure	Expenditure	Expenditure	Expenditure	Expenditure
	£'000	£'000	£'000	£'000	£'000	£'000	£'000
Ministerial Departments							
Chief Minister	15,844	20,397	21,350	22,952	18,856	19,757	19,849
Overseas Aid	7,731	8,055	8,458	8,881	9,324	9,790	10,280
Economic Development	16,422	15,880	16,079	15,898	18,256	19,459	19,975
Education, Sport and Culture	98,513	99,517	100,157	101,670	104,334	106,178	106,761
Department of the Environment	7,141	6,824	6,749	6,439	5,602	5,606	5,595
Health and Social Services	153,600	168,878	167,639	171,212	184,262	190,621	197,981
Home Affairs	45,587	46,067	48,333	47,976	46,731	47,439	47,794
Housing	-	22,362	(23,287)	(24,557)	(26,798)	(27,971)	(29,339)
Social Security	157,066	171,599	175,068	166,834	183,354	186,207	190,036
Transport and Technical Services	23,705	27,610	28,432	26,938	25,599	25,792	26,439
Treasury and Resources	17,354	22,914	23,784	24,605	30,001	31,412	30,584
Non Ministerial States Funded Bodies							
Bailiffs Chambers	1,253	1,260	1,443	1,589	1,595	1,610	1,627
Law Officers' Department	5,912	6,190	7,589	7,817	7,651	7,722	7,795
Judicial Greffe	3,968	3,982	6,150	6,788	6,640	6,738	6,837
Viscount's Department	1,425	1,422	1,502	1,455	1,368	1,373	1,378
Official Analyst	599	600	602	607	609	614	619
Office of the Lieutenant Governor	743	743	726	688	689	692	695
Office of the Dean of Jersey	22	25	25	26	26	26	26
Data Protection Commission	224	223	222	223	223	224	224
Probation Department	1,544	1,604	1,610	1,960	2,123	2,128	2,132
States Assembly and its services	5,203	5,126	5,203	5,280	5,027	5,114	5,203
Comptroller and Auditor General	729	739	747	754	751	769	787
Total Departments	542,223	586,368	600,940	596,035	626,223	641,300	653,278
Central Reserves			8,862	12,485		6,000	7,000
Net Pay Provision				325	5,900	17,000	25,700
Restructuring Provision			6,000	10,000	5,098	6,540	7,170
- Corporate Procurement savings				(3,000)	(3,451)	(3,451)	(3,451)
Total Net Revenue Expenditure (excluding Depreciation)	542,223	586,368	615,802	615,845	633,770	667,389	689,697
Notes:							
- 2009 to 2012 Net Revenue expenditure of departments is drawn from the Annual Business Plans (as amended) and exclude depreciation							
- 2013-2015 Net Revenue expenditure of departments is drawn from the MTFP 2013-2015 (as amended) and exclude depreciation							

Provision of the remainder of the information requested for each year for each department would take considerable time and resource and cannot be achieved with an acceptable level of completeness within the deadline for responding to written questions. The remaining information requested is readily available on the States Assembly website www.statesassembly.gov.je in the

Department Annexes to the Annual Business Plans for 2009 to 2012 and in the Annex to the MTFP for 2013-2015. Further information is provided in the Annual Updates to MTFP Department Annex for 2014 and 2015.

The Department Annex to the MTFP 2013-15 (P.69/2012 as amended) also provided a comprehensive summary of the savings and users pays initiatives from the Comprehensive Spending Review 2011-2013. Identification of all annual increases would not be practical.

If there is particular information that the Deputy requires that is not readily available in the Department Annexes, the Minister for Treasury and Resources will provide that information on request, or invite the Deputy to come back into the Treasury and meet with the relevant officers.

3.3 THE DEPUTY OF ST. JOHN OF THE CHIEF MINISTER REGARDING REPORTS PRODUCED BY OXERA:

Question

Could the Chief Minister provide the number of reports produced by Oxera, stating what each report was relevant to and the cost applicable to each?

Answer

The table below shows the reports produced by Oxera since 2013 and updates the Chief Minister's answer to written question 7597 from Deputy Vallois in 2013. It should be noted that work this year has also been undertaken by Oxera on business connectivity costs and the proposed merger of JT/Airtel although the reports have not yet been finalised.

Date		Title	Cost
2013	May	Should Jersey's spectrum charge policy change in line with Guernsey's policy of charging spectrum fees above costs?	£11,000
2013	July	Modelling the costs of a long-term care policy in Jersey: Development of a simulation model	£146,000
2014	December	La Collette fuel terminal: Options for provision, regulation and security of supply	£37,000
2015	November	A review of the Jersey regulatory and competition framework	£135,000

3.4 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE RESTRUCTURING OF THE TREASURY AND RESOURCES DEPARTMENT:

Question

On 3rd August 2009 a draft restructuring plan for the Treasury and Resources Department was announced and funds were appropriated to restructure the Department. Could the Minister explain why that plan is no longer accessible on the gov.je website? Could the Minister also state whether the plan was executed in the way prescribed and provide evidence of this? Also, could the Minister detail the full cost of the report and how the content compares to the 2014 report on Financial Management produced by the Comptroller and Auditor General?

Answer

The draft restructuring plan announced by the then Minister for Treasury and Resources would appear not to have been uploaded to complement the media release of 3rd August 2009. The financial details of the plan are contained within pages 129-141 of the Annual Business Plan 2010 available at <http://www.statesassembly.gov.je/AssemblyPropositions/2009/31645-42259-2172009.pdf>.

The majority of the objectives within the document have been implemented including:

- the development of a Common Investment Fund;
- investment strategies for all Funds;
- implementation and oversight of the Fiscal Stimulus programme;
- development of the Fiscal Strategy;
- a review of the shareholder function;
- additional resource to support international tax treaties;
- the introduction of longer term financial planning;
- the development of corporate contracts;
- appointment of a tax strategist; and
- additional resource in the Investigations team within the Taxes Office.

The implementation of many of the recommendations is self-evident and the Deputy will be aware of the Medium and Long Term Financial Plans. In other cases, objectives have not been implemented precisely as set out.

It is understood that this report was produced internally using internal resources.

In terms of content compared to the 2014 report produced by the Comptroller and Auditor General, which was in respect of Financial Management, the 2009 Treasury report covered all aspects of the Treasury's activities.

3.5 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR SOCIAL SECURITY REGARDING REPORTS USED TO MEASURE THE SUCCESS OF THE INCOME SUPPORT SYSTEM:

Question

In answer to question 1240/5(9053) on 17th November 2015, the Minister provided links to a number of reports used to measure the success of the Income Support system. Could the Minister advise how these reports were used to determine recent measures in the Medium Term Financial Plan and in Orders made by the Minister and detail how those measures contribute to alleviating relative poverty in the Island?

Answer

In my answer to question 9053 I provided links to the Social Security Department's annual reports. These documents, which contain extensive detail about the operation of all Social Security benefits, including Income Support, are designed to be accessible to the layperson - with the aim of encouraging wide public scrutiny of the benefit system. Our commitment to financial and operational transparency performs an essential role in letting the public understand how tax-funded expenditure is planned, and how it is then targeted to those households most in need of support. The detail included as part of these reports demonstrates, at a high level, that my Department is prudent with its budget, but also shows that even the smallest parts of the benefit system are considered as part of our forward planning. For example, by analysing Income Support into its constituent

elements and charting expenditure on different groups, the reports demonstrate how we keep all aspects of the Income Support system under review.

Through this thorough understanding of the operation of the benefit system, we were able to propose measures that keep tax funded benefit expenditure more or less flat over the period of the Medium Term Financial Plan, whilst minimising the impact on the majority of claimant households. Some of these measures were adopted as a consequence of the debates surrounding the Medium Term Financial Plan, some were made subsequently by Order. In each case, the measures were supported by material that explained our decisions within the overall context of the information provided as part of the annual reports. Steps were also taken to improve the fairness of the benefit system, which involved increasing payments to some groups whilst removing additional payments that were previously available to others.

The Council of Ministers is firmly committed to promoting social inclusion and addressing relative low income. In approving the Medium Term Financial Plan, the States agreed to prioritise the need to support growth in health and education budgets, and reaffirmed a longstanding policy to support economic growth. These are the essential drivers to improve the life chances of all households in Jersey.

3.6 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING WAITING LISTS FOR CATARACT OPERATIONS:

Question

How long are the current waiting lists for cataract operations? How long have waiting lists been, on average, each year for the past 5 years and what, if anything, is being done to try to reduce waiting lists?

Answer

Ophthalmology is a particularly busy service with over 1,000 patients a month being seen in the clinics and surgery taking place on 21 theatre lists each month.

The specialist expertise of the three consultants now in post means that a significant number of patients requiring specialist procedures can now be treated on-Island. Fewer than 5 patients a month are now being referred to the UK; as recently as Spring 2014, this figure was around 20. Many of these procedures are urgent or the result of emergencies and they always take priority over routine cataract procedures.

As a result, average waiting times for routine cataract operations have increased. While no new investment is planned for the ophthalmology service during 2016, the department will be reviewing processes, systems and procedures to improve efficiency and to deliver reductions in waiting times.

Average waiting times are shown in the table below:

Year	Number of cataract procedures	Average wait in weeks
2011 July-Dec	171	15.09
2012	560	15.66
2013	573	8.57

2014	528	6.12
2015 Jan-Oct	435	9.90

Note: The patient administration system (TRAK) was introduced part way through 2011; information before this point is not readily available.

3.7 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING MEASURES TO REDUCE RENTAL COSTS:

Question

Given the dramatic effect on levels of Relative Low Income that housing costs were shown to have had in the Income Distribution Survey 2014/15, what measures, if any, will the Minister be looking at to bring down rental costs to ensure that no more families end up living in poverty?

Is the Minister considering any changes to the current policy, and what thought, if any, will the Minister give to introducing rent control and to an empty property tax to encourage landlords not to leave properties empty in an effort to drive up rents?

Answer

The Housing Strategy that has been proposed is clear – Jersey needs better and affordable housing. This is why the Housing Strategy sets out four clear objectives – more housing supply, best use of our housing stock, better neighbourhoods, and improved standards.

The primary means of supporting affordability is to deliver an adequate supply of new, good standard housing for our population, while also getting the most out of our existing housing, including reviewing options to get empty homes back into use.

This means using the £250 million housing bond to deliver on the re-zoned sites, to get the most out of existing housing sites, and to improve standards across the board. Alongside this delivery of social housing, the Council of Ministers is focussed on supporting a strong economy to help with the delivery of new private sector housing. The Scrutiny Panel have been very clear that we need deliver more housing.

Our plans will deliver at least 1,000 affordable homes and 3,000 open market homes over the course of the Island Plan.

Evidence shows that rent controls can reduce investment in the rental sector, and thereby reduce supply and quality, and distort the market.

It is vital that we have appropriate data on recent trends. The forthcoming rental price index, which will be published by the Statistics Unit in February 2016, will further inform this debate.

The Income Distribution Survey shows that people in social housing, in particular those of working age, have found the climate difficult. This needs further analysis, and no conclusions should be drawn in advance. In doing this, however, we cannot undermine the funding models that underpin the much needed investment and additional supply of social housing, and need to focus on the objectives outlined in the Housing Strategy.

3.8 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE SUGGESTION THAT JERSEY COULD CONTRIBUTE TO A ROYAL COMMISSION INTO THE DIFFICULTIES FACING SARK:

Question

What consideration, if any, has been given to the suggestion from prominent Channel Islanders of Jersey contributing, both in cost and expertise, to a Royal Commission into the difficulties facing Sark?

Answer

We note that the Chief Minister of Guernsey, Deputy Jonathan Le Tocq has said: “Whether Sark wishes to seek a panel of inquiry to investigate its domestic affairs is a matter for Sark, working with the Crown.” The Ministry of Justice has said that it is a matter for the Sark authorities to consider how they would like to proceed. We also note that a Bailiwick of Guernsey Council is being established, which will bring together representatives of the States of Guernsey, States of Alderney and Chief Pleas of Sark. Jersey participates in the ‘friends of Sark’ group established by the Ministry of Justice, and we stand ready to respond to any, further, official requests for assistance.

3.9 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING CHILD POVERTY:

Question

At a scrutiny hearing on 3rd September 2015 the Minister did not accept that, following the withdrawal of the Income Support single parent component, child poverty might increase; however, in the light of the figures produced in the Income Distribution Survey 2014/15 does the Minister now consider that there is a link between single parenthood and children at risk of being in poverty?

Has the risk of child poverty increased given the significant rise in the proportion of single parent households below the low income threshold after housing costs over the past 5 years (from 46% to 56%)? Does the Minister have an explanation for the change, and if not why not?

What figures, if any, does the Minister have for the impact of the withdrawal of the single parent component on the proportion of single parents and their children living below the low income threshold and what justification, if any, can the Minister offer for the decision to cut the single parent component before seeing the evidence contained in the Income Distribution Survey?

Answer

The information provided in the Income Distribution Survey includes an analysis of relative low income.

The report notes that

“this provides a *relative* measure of low income, within the context of a particular jurisdiction, and relative to all household types, rather than an absolute measure of low income for a particular household. In addition, this measure does not take into account spending patterns, which are likely to vary between household types.

This measure of relative low income does not therefore indicate which households have an income level below that is necessary to maintain a certain standard of living for that household type.”

Whereas relative low income can be taken as a measure of being at risk of relative poverty, it is important that the two concepts are not confused.

Relative low income is calculated from the income distribution of households within a specific jurisdiction. Applying the methodology given in the Income Distribution Survey, it is possible to calculate that the relative low income threshold for a single parent with one child in Jersey, after

housing costs, is £265 per week. An estimate of the equivalent figure for the UK, using the data provided in the survey, is £180 per week.

The Income Distribution Survey groups household by household type. From the 2011 Census, 4% of households are identified as single parents, equating to roughly 1,800 households across the island. This compares with 19% households identified as couples with children, equating to roughly 7,800 households.

In terms of relative low income, the proportions provided in the survey relate to approximately

- 1,000 single parent households and
- 1,700 couple families.

The Income Distribution Survey shows an increase in the proportion of households in relative low income across all household types, with the exception of “couple with no children.” This general trend reflects the local impact of the global recession particularly in terms of wage levels and housing costs.

The Income Distribution Survey provides for a comparison between different sized families, based on equalised incomes.

As noted above, applying the calculation shows that the relative low income threshold for a single parent with one child aged under 13 after housing costs is £265. A single parent is entitled to basic Income Support components, excluding housing costs, of £207. This represents 78% of the relative low income threshold. This is a base figure and any earned income or maintenance income received by the single parent will provide them with a higher household income.

This proportion is similar to the calculation for a couple with one child under 13 shows that Income Support components make up 73% of the relative low income threshold. Again, earned income will increase this value.

Last month the States Assembly agreed to phase out the lone parent component which added an extra £40 per week over and above other components, as part of the MTFP debate. With this component in place, the support available to a single parent would be set at 93% of the relative low income threshold, considerably higher than the support available to a couple with children. As such, the phasing out of the extra £40 is an appropriate change to ensure that the benefit system is fair and well targeted.

The benefit changes approved as part of the MTFP ensure that growth funding can be targeted into priority areas. For example, a pupil premium is being introduced to support all low income children who need additional support at school, to help them achieve their full potential.

3.10 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING INCOME INEQUALITY:

Question

Given that the Income Distribution Survey 2014/15 has revealed a growing income inequality gap (Gini coefficient up to 0.41 90 - 10 shares up to 19) over the past 5 years to the extent that Jersey is now a more unequal society than the U.K., what concerns, if any, does the Chief Minister have about this trend and what measures does he have under consideration in order to reduce this growing gap, and if none, why not?

Answer

The results of the Income Distribution Survey reflect the economic situation over a five-year period of the global financial crisis.

Average earnings declined in real terms between 2010 and 2012, and our economy shrank between 2009 and 2012. This trend has now reversed. The economy grew by 5% in 2014, there has been real earnings growth in each of the three years since 2012, and employment is now at a record high.

We need to continue to grow our economy for the benefit of all Islanders - delivering productivity improvements to support higher profits, higher wages, and improved living standards for Islanders from all walks of life.

Our incomes have grown by less than inflation since 2010, but are still 50% higher than the United Kingdom before housing costs, and 45% higher than the United Kingdom after housing costs. It is however, housing costs that present perhaps the greatest challenge.

Before housing costs, income inequality in Jersey is similar to the United Kingdom. This suggests that the impact of lower interest rates and increases in rents has had a greater impact in Jersey. This could be due to different home ownership rates, mortgage sizes and trends in the rental sector. This needs more evaluation before conclusions can be drawn.

The Housing Strategy clearly states that affordability is a key issue. It focuses on delivering more housing, both from the private and social sectors. It aims to achieve this by delivering the re-zoned sites and continuing to invest the £250 million bond in more and better housing as part of a sustainable funding model in which those in need are protected.

Ministers have developed a coherent plan for Jersey. That plan includes improvements in our town so it becomes a better place to live and work; transformed health and social services that can enhance our quality of life and look after an ageing population; an education system that delivers the best start in life for our young people so they can achieve their potential; and policies that manage demand on our resources while delivering productivity-led economic growth.

This plan, which works towards sustainable public finances, is a coherent approach to delivering the inclusive and prosperous society that ministers are working towards.

3.11 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE FALL IN HOUSEHOLD INCOME:

Question

Given that figures revealed in the Income Distribution Survey 2014/15 show a fall in household incomes of 17% which, when combined with inflation at 13%, produces a reduction in purchasing power of 30% for those in the lowest quintile of the population, will the Chief Minister review the policies to promote social inclusion including benefit levels, minimum wage level, the transition to a living wage, and employment legislation concerning zero-hours contracts in order to urgently address the issue of financial hardship?

Answer

The Income Distribution Survey does not include information on purchasing power. It analyses income before and after housing costs, and reflects the economic situation during a period of global financial crisis. It provides valuable information as we seek to improve the incomes of all islanders, and needs careful consideration alongside other evidence.

For example, questions were asked in the 2014 Social Survey exploring how people were managing financially, which reported:

Households were asked how easy or difficult they find it to cope financially. One in four households (25%) reported finding it either 'quite' or 'very' difficult to cope financially, a proportion which is unchanged from 2010. However, when asked to compare against a year ago about one in three (29%) said their situation was 'a little' or 'much' worse, a proportion significantly lower than found in 2010 when two in five (40%) had felt their situation had worsened over the previous year, and indicating a slightly improved picture in relative terms of households coping financially.

This fits with other statistics, which show that average earnings declined in real terms between 2010 and 2012, and our economy shrank from 2009 to 2012. This is now reversing, with the economy having grown by 5% in 2014, real earnings growth every year since 2012, and employment at a record high. We need to continue to grow our economy, which will support social inclusion.

The strategic plan, as approved by the States earlier this year, explains how this will be done:

- Prioritising education and focusing on providing children with the best start in life to improve outcomes, for example, the pupil premium will support children with the highest needs.
- Investment in health and social services to improve people's health and well-being, including their mental and physical health.
- Continuing investment in infrastructure, including social housing, providing more and better housing, for example, incorporating higher insulation standards to reduce heating costs for tenants, and a better town in which to live and work.
- Improving productivity to deliver higher profits, higher wages, and more jobs for local people, while targeting migration toward higher value activities.

It is also important to ensure our benefits system protects the vulnerable as well as promoting work, and that we have appropriate minimum wage and employment protection.

This is why the Minister for Social Security welcomed the above earnings increase in the minimum wage recommended by the Employment Forum this year – delivering a minimum wage that is at its highest level compared to average earnings since it was introduced. The Minister also expressed optimism that as the economy improves that we will see greater increases in the minimum wage in the future.

An evidence-based approach is needed to ensure that increases in the minimum wage do not lead to reduced working hours or fewer jobs – neither of which would promote social inclusion. Detailed research has shown that 78% of people on zero hour contracts are satisfied with the type of contract, and that less than 10% of people on zero hour contracts were in receipt of income support. It has also shown that the minimum wage, plus income support, already satisfies the requirement for a living wage in Jersey when compared with schemes elsewhere.

Ministers believe that the best way to reduce financial hardship and to promote social inclusion is to help people into work, to deliver earnings growth that is built on productivity growth, and to constrain price rises so people have more money in their pockets.

3.12 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING REDUCTIONS IN FUNDING FOR THE JERSEY EMPLOYMENT TRUST:

Question

Will the Minister inform members what reductions in funding for the Jersey Employment Trust have taken place, or will take place, which will result in reductions in the employment conditions

for those vulnerable workers in sheltered employment with the Trust, along with the nature of those changes?

Do those measures live up to the Minister's promises to protect the vulnerable during her tenure?

Answer

The Jersey Employment Trust (JET) is an independent organisation that receives a block grant from the Social Security Department. Alongside other independent organisations receiving grants from Social Security, the funding to JET needs to be considered in line with overall savings targets set for the Department. In 2015, Social Security will deliver £330,000 of savings, representing 2% of its non-benefit budget. As part of that savings target, the grant provided to JET for 2015 has been maintained at the same level as the 2014 grant.

Departmental cash limits for the next four years are set by the MTFP process. As approved by the States Assembly earlier this year, savings of £90 million in non-benefit expenditure are required by 2019. Combined with the 2015 savings targets, this equates to 18% of net expenditure over five years. If decisions are made to protect specific areas of public spending then the impact on other States services will be even greater. States approval has also already been received for a reduction in the Social Security departmental benefit budget of £9.9 million by 2019 and legal changes to achieve that reduced budget have been finalised.

Detailed plans for 2017-2019 will be finalised next year, but it has already been agreed that in 2016, Social Security will deliver a further £296,600 of savings – 1.8% of the departmental non-benefit budget. Departmental officers have a good working relationship with JET and discussions are ongoing in respect of the future level of the grant for the next four years.

JET is a Charitable Trust which is managed by an independent Board of Trustees. It receives funding from a number of States departments and also raises income directly, from both fund raising and from commercial activities. The 2015-2019 JET business plan includes an aim to become "financially less dependent on the States of Jersey". The Board of Trustees, on the advice of the senior management team at JET, provides direction on service provision and the maintenance and development of income generating activities. The Board takes decisions in the best interests of its clients and to ensure that the overarching aim of the Trust is being fulfilled.

The funding provided to JET from Social Security supports vulnerable people who have a disability or a long-term health condition with employment support and training. Other areas of departmental funding provide support to vulnerable people in other ways. Given the restrictions on the overall funding available to the Department, the way in which these services are provided must be made as cost-effective as possible, both for services provided directly and through third-party organisations. This will help to protect all the frontline services that are utilised by a wide variety of vulnerable groups.

Alongside other Ministers, I am committed to achieving the targets set in the MTFP, to ensure that the island returns to sustainable public finances and that essential growth is supported in the vital areas of health and education.

3.13 DEPUTY J.M. MACON OF ST. SAVIOUR OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING THE COST TO HIGHLANDS OF RUNNING DEGREE COURSES:

Question

In the answer to written question 1240/5(9062) tabled on 17th November 2015 the Minister referred to Highlands funding degree courses. Will the Minister set out the cost to Highlands of

running those courses and detail the amount of money received via the higher education grants system?

Answer

The total cost of running higher education courses at Highlands College was £900,000 for the academic year 2014-15. This includes full-time and part-time lecturing costs, university exam charges and teaching materials.

Highlands received £491,000 from Student Finance for the academic year 2014-15. This related to tuition fees for 101 students. This, plus the fees received directly from other students, covers the direct costs of running higher education courses at Highlands. Overall, it is effectively cost-neutral to the college.

3.14 DEPUTY J.M. MACON OF ST. SAVIOUR OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING INCREASES IN TUITION FEES:

Question

In the answer to written question 1240/5(9061) tabled on 17th November 2015, it was suggested that the increase in tuition fees would be limited over the next few years. If this is not seen as a high priority by the Council of Ministers, what funding will be available, no matter how large or small, in order to meet those increases without the ability to bid for further monies in future years?

Answer

The UK green paper 'Fulfilling our potential' indicates that university fees could go up by inflation for universities that reach level 1 of the Teaching Excellence Framework (TEF) in future.

Inflation in UK is currently -0.1%. There is no indication from Universities UK or the department of Business, Innovation and Skills that fees will go up any more than this, but if all courses were affected by a 1% increase the cost would rise by £55,000 a year. It is likely this could be absorbed within the higher education budget of £9 million.

3.15 DEPUTY J.M. MACON OF ST. SAVIOUR OF THE CHIEF MINISTER REGARDING RECORDS RELATING TO THE APPOINTMENT OF THE CHIEF EXECUTIVE OFFICER OF THE STATES OF JERSEY:

Question

Will the Chief Minister make available the Minutes or other records of the Jersey Appointments Commission meetings relating to the appointment of the Chief Executive Officer of the States of Jersey in 2011, 2012 and 2015?

Answer

The Chair of the Jersey Appointments Commission has been consulted over the release of minutes and/or other records as described. The Chair is content to release the relevant minutes with any redaction that may be necessary in order to comply with the Data Protection Law.

Accordingly, the minutes are being reviewed to see if redaction is necessary and will be provided once this has been completed.

3.16 DEPUTY J.M. MACON OF ST. SAVIOUR OF THE CHAIRMAN OF THE PRIVILEGES AND PROCEDURES COMMITTEE REGARDING TOURS OF THE STATES ASSEMBLY:

Question

Would the Committee please explain what action, if any, it is taking in order to engage the public by giving tours of the States Assembly and developing a better understanding in the adult population of the work of the States, including what impediments, if any, there are to this and how the Committee will overcome those?

Answer

As the Assembly is aware, staff at the States Greffe already run a very successful initiative involving local schoolchildren who visit the Chamber every Monday throughout the school year. There are also visits arranged on an ad hoc basis for secondary schools as well as students from Highlands College. At present adults wishing to undertake a tour of the Chamber as part of a club or interest group can do so by prior arrangement with the Greffier and his staff.

Consideration has been given to increasing the public's access to the States building but it is not as simple as it appears. It is an operational building and also houses the Bailiff's Chambers and Judicial Greffe. The needs of the Courts have to be considered and unlike other Assemblies, where the operational areas are quite discreet, there is very little opportunity to segregate the public away from working areas. Furthermore there has been an increased use of the States Chamber as an additional Court facility and it is currently necessary for the Greffe to make arrangements with the Bailiff's Judicial Secretary in advance in order to ensure access to the Chamber outside of the States meeting or Year 5 visits calendar. It would pose practical problems for the Judiciary if the Chamber was reserved on a regular basis during the working week specifically for tours. Under the present security guidelines, the Greffier is obliged to have an Usher present for any visit which takes place after office hours and to meet the associated overtime cost.

The Privileges and Procedures Committee is very keen to look at ways in which it can improve engagement with the public within its current budget and is certain that the introduction of web cam broadcasts early in 2016 will improve the public's understanding of the work undertaken by the States Assembly on their behalf. In addition a film allowing for a 'virtual' tour of the Chamber will soon be completed and uploaded to the statesassembly.je. website.

3.17 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING PAYMENTS MADE TO THE ACTING POLICE CHIEF WHO RESIGNED IN 2010:

Question

Will the Chief Minister advise members whether the Acting Police Chief who resigned during 2010 was paid any money other than the salary owed when he left his employment and, if so, will he detail the amounts and the reasons for the payments?

Answer

The employment of the Deputy Chief Officer of the States of Jersey Police terminated on 31st December 2010 by mutual agreement. He was paid the appropriate contractual sums due under his contract.

3.18 DEPUTY M.R. HIGGINS OF THE MINISTER FOR HOME AFFAIRS REGARDING INFORMATION LEAKED BY A FORMER DETECTIVE SUPERINTENDENT TO THE MEDIA:

Question

Will the Minister advise members whether the former Minister for Home Affairs or Acting Chief Officer of Jersey Police reported a Detective Superintendent who was seconded from Lancashire Police and who leaked information regarding Operation Rectangle to a U.K. journalist whilst a serving police officer, to (a) the Lancashire Constabulary or (b) to Operation Elveden, which investigated police leaks to the media, and if not why not?

Answer

The Detective Superintendent was seconded from the Lancashire Constabulary to the States of Jersey Police between 8th September 2008 and 27th August 2009 to undertake the role as Senior Investigating Officer to lead the Operation Rectangle investigation into historic child abuse.

He returned to his home Force (Lancashire) on 27th August 2009 until his retirement from the police service on 2nd September 2009.

Prior to leaving Jersey he gave a number of interviews to local Jersey media about his role.

On 3rd October 2009, the Mail on Sunday published an article which was critical of the Operation Rectangle investigation. The article contained references to a “leaked report by financial auditors” and details of costs and expenditure incurred during the investigation.

Reference is also made in the article to having spoken with the former Detective Superintendent seconded from the Lancashire Constabulary the night before publication including several quotes from him.

Whilst giving evidence before the Independent Jersey Care Inquiry on Friday 20th November 2015, the former Detective Superintendent admitted to providing information from an interim report compiled by an accountant. The former Detective Superintendent explained that he “believe[d] strongly that it was in the public interest that the evidence of not just poor financial management, but corrupt practices in financial management were made public because the information I was being given [was that] this information wasn’t going to be made public”.

This disclosure was made by former Detective Superintendent after he retired from the police service and without the knowledge of the States of Jersey Police. Such a disclosure would not have been authorised by the States of Jersey Police.

As former Detective Superintendent had retired from the police service by this time, he was beyond the reach of any disciplinary proceedings by the Lancashire Constabulary and as he was no longer a serving officer no referral was made to the Lancashire Constabulary by the States of Jersey Police.

Operation Elveden was established by the Metropolitan Police on 20th June 2011, almost 2 years after former Detective Superintendent retired from the police service. Operation Elveden was supervised by the Independent Police Complaints Commission. The terms of reference for the enquiry was “to investigate alleged criminal offences that police officers or public officials have accepted money for supplying information to journalists”.

A referral was not made to the Metropolitan Police or the Independent Police Complaints Commission about the former Detective Superintendent’s disclosure as neither had jurisdiction in Jersey as a Crown Dependency.

3.19 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING PAYMENTS MADE TO A FORMER DETECTIVE SUPERINTENDENT FROM LANCASHIRE POLICE:

Question

Will the Minister advise members whether the Detective Superintendent from Lancashire Police who was seconded as the Senior Investigating Officer for Operation Rectangle during 2008 and 2009 was (a) paid any money from the States of Jersey when he left the Island after his secondment and for what purpose and (b) state how much and for what reasons he was paid after he left the Island?

Answer

No payment has been made to the former Detective Superintendent from Lancashire Police following his secondment to the States of Jersey Police. His salary was paid directly by the Lancashire Constabulary which was reimbursed directly to the Force from Jersey.

3.20 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE NUMBER OF PEOPLE ISSUED WITH REGISTRATION CARDS UNDER THE CONTROL OF HOUSING AND WORK (JERSEY) LAW 2012:

Question

Will the Chief Minister advise members of the total number of people who have been issued with registration cards under the Control of Housing and Work (Jersey) Law 2012 since the law came into effect, to date, breaking down the numbers into first time registrations, subsequent registrations and providing the nationality and country of origin of those registered?

Answer

The figures in Table 1 below show all those people applying for registration cards under the Control of Housing and Work (Jersey) Law 2012, since the law came into effect on 1 July 2013, reported by nationality.

Applying for a registration card does not mean people are new to the Island, as everyone needs a registration card when moving house or changing jobs. When issuing cards we ask for an applicant's nationality, not country of origin.

Table 1

Nationality	1/07/2013 - 30/09/2015
British (Jersey Born in brackets)	33,242 (18,327)
Portuguese	6171
Polish	3455
Romanian	1211
Irish	929
French	415
South African	255
Indian	203
Bulgarian	174

Latvian	174
Thai	174
Filipino	150
Italian	150
Hungarian	116
Kenyan	116
German	114
Spanish	113
Dutch	99
Australian	96
Canadian	73
Swedish	68
Zimbabwean	67
Czech Republic	65
New Zealander	65
Slovak	59
American (USA)	58
Russian	46
Austrian	37
Pakistani	37
Lithuanian	36
Bangladeshi	35
Brazilian	29
Chinese	26
Belgian	24
Cypriot	19
Finnish	19
Swiss	19
Slovenian	18
Malaysian	17
Maltese	17
Mauritian	17
Sri Lankan	15
Turkish	15

Norwegian	14
Venezuelan	14
Danish	13
Egyptian	12
Ugandan	12
Jamaican	11
Malawian	10
Moroccan	9
Zambian	9
Estonian	8
Ghanaian	8
Greek	8
Icelandic	8
Croatian	7
Israeli	7
Singaporean	7
Argentine	6
Tunisian	6
Cuban	5
Japanese	5
Mexican	5
Belarusian	4
Gambian	4
Grenadian	4
Peruvian	4
Saint Vincentian	3
Tongan	3
Bosnian	2
Cambodian	2
Guyanese	2
Jordanian	2
Libyan	2
Nepalese	2
Senegalese	2

Vietnamese	2
Bahamian	1
Barbadian	1
Iranian	1
Kazakhstani	1
Lebanese	1
Nigerian	1
Samoan	1
Ukrainian	1
Total	48,468

The figures in Table 2 below show all those people applying for registration cards under the Control of Housing and Work (Jersey) Law 2012, as new arrivals to the Island since the law came into effect on 1 July 2013, reported by nationality.

When issuing cards we ask for an applicant's nationality, not country of origin.

Table 2

Nationality	1/07/2013 - 30/09/2015
British (Jersey born in brackets)	2699 (339)
Polish	885
Portuguese	823
Romanian	499
French	186
Irish	144
South African	88
Indian	83
Italian	69
Spanish	65
Bulgarian	64
Latvian	55
Hungarian	53
Dutch	50
German	47
Australian	37
Czech Republic	31

New Zealander	28
American (USA)	26
Zimbabwean	26
Pakistani	25
Austrian	24
Canadian	24
Filipino	23
Slovak	20
Swedish	20
Lithuanian	16
Thai	15
Bangladeshi	10
Belgian	9
Chinese	9
Cypriot	9
Mauritian	9
Brazilian	8
Finnish	8
Greek	8
Maltese	8
Slovenian	8
Swiss	8
Russian	7
Estonian	6
Malaysian	6
Norwegian	5
Croatian	4
Mexican	4
Cambodia	3
Egyptian	3
Ghanaian	3
Jamaican	3
Kenyan	3
Moroccan	3

Nigerian	3
Singaporean	3
Sri Lankan	3
Argentinian	2
Belarusian	2
Cuban	2
Danish	2
Belarusian	2
Turkish	2
Venezuelan	2
Vietnamese	2
Zambian	2
Albanian	1
Barbadian	1
Bruneian	1
Guyanese	1
Israeli	1
Japanese	1
Lebanese	1
Malawian	1
Nepalese	1
Peruvian	1
Senegalaise	1
Tunisian	1
Total	6308

3.21 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING SUPPORT FOR THE WORK OF THE GRACE TRUST AND OTHER CHARITABLE ORGANISATIONS:

Question

When discussing the work of the Grace Trust in delivering support on “in times of the most desperate need” on BBC Radio Jersey on Friday 20th November the Chief Minister stated that “we should not always expect that government will provide that support”. What vision does the Chief Minister have for the role of government and charitable institutions in supporting the vulnerable and the poor in Jersey?

Answer

Charities and voluntary organisations provide support to vulnerable people in our community. That includes, but is not limited to, those whose vulnerabilities arise from their personal circumstances (such as age; health; mental well-being; substance misuse; life experiences) or are as a result of living on a low income.

These organisations are often well placed to reach those in need, in part because some vulnerable people mistrust government and also because the organisations can develop specialist services and adapt more quickly to changing needs.

Government supports such organisations through:

- direct support to individual organisations working in key areas of need
- helping charities and voluntary organisations to flourish - for instance by introducing the Charities Law, by ensuring the success of the Channel Islands Lottery
- providing relevant developmental support - for instance by holding information sharing events

Government provided grants and subsidies to hundreds of organisations in 2014. Some organisations, like Family Nursing and Home Care (£7million in 2014), Les Amis (£2.3million) and the Shelter Trust (£1.1million) are paid to provide valuable services for the community under partnership arrangements.

In addition to supporting such voluntary organisations, the government is responsible for the direct provision of services to vulnerable people (through benefits, mental health provision and social services) and for delivering policies that support vulnerable islanders.

The 2015 to 2018 Strategic Plan sets out a range of actions which aim to address some of the key causes of vulnerability. These include improving the housing stock and providing more social housing; delivering the 1001 Days agenda; bringing forward a disability strategy; investing in education and transforming health and social services for an ageing population.

4 Oral Questions

The Bailiff:

We come to Oral Questions and I note that under Questions without notice it is the Minister for Education, Sport and Culture and the Chief Minister, so if the time given to the oral questions for the Chief Minister, in particular, and there are several for him, is cut short Members will be able to come back during Questions without notice.

4.1 Connétable C.H. Taylor of St. John of the Minister for Treasury and Resources regarding the annual cost of collecting Vehicle Emission Duty:

Could the Minister advise the Assembly what the annual cost of collecting Vehicle Emission Duty is and state what the manpower requirements associated with this are, including the number of full-time equivalent staff required?

Senator A.J.H. Maclean (The Minister for Treasury and Resources):

I would ask my Assistant Minister to deal with this matter. He has been intimately involved in drawing up proposals for V.E.D. (Vehicle Emissions Duty). I would just make it clear to Members, that is my other Assistant Minister. Clearly the one just appointed has not had time to consider such matters. But my other Assistant Minister is Deputy Noel.

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

Vehicle Emissions Duty is an excise duty liable at the time a vehicle is first registered in the Island, imported to clear any liability and pay the V.E.D. to customs and immigration services in the same manner as all other excise custom duties and import G.S.T. (Goods and Services Tax), namely on the Customs and Excise System for Administration of Revenue known as C.E.S.A.R. Three customs and immigration officers are responsible for assisting the public with their online declarations and duty payments, including V.E.D. The cost of administering V.E.D. is not separately identified. Since the introduction of duty in 2010 no additional full-time equivalent staff have been required and the annual service budgets have not been increased. On a day-to-day basis there are 3 customs administration officers responsible for assisting the public with their declarations and duty payments, not V.E.D. specific. These officers deal with the customers' enquiries in the Customs public office as well as answering telephone mail enquiries. These officers also provide support to the Passport Office when required.

4.1.1 Deputy M. Tadier of St. Brelade:

The Assistant Minister will be aware, and also with his Transport hat on, that there are talks going on in Paris at the moment to do with climate change, known as COP21. Could the Minister outline what role V.E.D. plays when it comes to the overall fight in climate emissions, combatting climate change and what other tools there are in his box at Treasury?

Deputy E.J. Noel:

V.E.D. is designed to change behaviour to encourage those purchasing new vehicles or purchasing second-hand vehicles being imported into the Island to encourage them to buy vehicles that are low emissions. The proposals that we are going to be debating in 2 weeks' time in the Budget enhances those proposals to encourage more Islanders and businesses to import and register low emission vehicles.

4.1.2 Deputy M. Tadier:

Does the Assistant Minister accept that Vehicle Emissions Duty, as a tool for combating emissions, is limited because it does not capture any vehicles which are already in the Island, and that if he and his Ministers are serious about tackling emissions and Jersey doing its part in the global fight against climate change that he needs to be looking at more ways to tax consumption of fossil fuels rather than simply importation of vehicles, some of which may be very modern and not particularly consuming?

Deputy E.J. Noel:

Another proposed Budget measure is the increase on duty on fuel, which will hopefully please Deputy Tadier in that respect, therefore taxing further duties on the consumption of fossil fuels. We are separately, wearing my Minister for Transport and Technical Services' hat, having discussions with the motor industry because they have brought forward a proposal to my department about bringing in an emissions duty on an annual basis for vehicles. It is not something that we look necessarily favourably on at the moment but we are in discussions with the industry to see how their proposals might work in the future. As I said, it is not current policy.

4.1.3 The Connétable of St. John:

I find it extraordinary that the Minister is unable to identify a cost for collecting this tax and I would ask him to do some more homework and to come back with an actual figure for the Assembly. Would the Minister do so please?

Deputy E.J. Noel:

I am afraid that I am advised that is not possible. The marginal cost of collecting V.E.D. is very small compared to the other duties that those 3 officers do. Detailed time records are not kept by staff and to do so would increase the cost and reduce their productivity.

4.2 Deputy M. Tadier of the Minister for Home Affairs regarding camera surveillance:

Can the Minister confirm which of the 7 recommendations listed on page 13 of S.R.1/2014 (Camera Surveillance in Jersey), presented to the States in January 2014, have been accepted and have been, or will be implemented by the time any new cameras are installed?

Deputy K.L. Moore of St. Peter (The Minister for Home Affairs):

I have noted the recommendations regarding town centre C.C.T.V. (closed circuit television) made by the Education and Home Affairs Scrutiny Panel in its report on camera surveillance in Jersey. I can confirm that all 7 recommendations have either been implanted or are in hand.

4.2.1 Deputy M. Tadier:

Can the Minister confirm further to the ministerial response received on that report that the recommendation to do with signage will also be implemented because there is a suggestion, which is recommendation 4, that it is not the preferred option or was not the preferred option of the previous Minister that additional signage, or indeed any signage, be put up in the town centre to inform the public that C.C.T.V. is in operation?

The Deputy of St. Peter:

I can confirm that appropriate signage is in the process of being prepared or purchased and will be erected before any new cameras are installed.

4.2.2 Deputy M. Tadier:

Will the Minister give an indication of what is meant by “appropriate signage” and what consultation there will be around that before any new cameras are put up?

The Deputy of St. Peter:

Members will be aware that last week the police announced they are conducting a consultation on C.C.T.V. They are explaining setting out the areas of the Island where they feel it would be appropriate to add further C.C.T.V. cameras, or to move some within the town area due to a change in activity for members of the public and locations of various outlets that require, for their purposes, some coverage by C.C.T.V. for various reasons. That would be a part of the consultation.

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

Can the Minister confirm that the proposals currently under consideration are not in fact an expansion of the powers of the police, for example, to monitor the whereabouts of every car coming into and out of town on an automatic basis with automatic number plate recognition?

The Deputy of St. Peter:

In the Scrutiny Panel’s report, recommendation 2, touched upon the idea and the abilities of C.C.T.V. cameras to pinpoint their facial recognition and also number plates. It is not proposed at this time that any C.C.T.V. used will provide any advance video content; that being the use of facial recognition or number plates beyond that that is used in car parking.

4.2.4 Deputy G.P. Southern:

Can the Minister confirm that in order to do the move, as I have outlined, that would require her to bring a proposition to the States allowing that they should do so?

The Deputy of St. Peter:

That is a point that I would have to check with my advisers.

4.2.5 Deputy M. Tadier:

It regards recommendation 7, that there has been a recommendation by the previous panel, which said that where CCTV cameras are positioned so as to be able to unintentionally perhaps look through private properties and into their windows, the response was that consideration will be given to how to best ensure property holders are aware of the extent to which C.C.T.V. coverage around the town area would affect them. Could the Minister confirm what consideration has been given in addressing recommendation 7 by the previous panel/

The Deputy of St. Peter:

This was recognised and the system already automatically masks a number of residential windows in the town area and during the development of the current project the States of Jersey Police have spoken to other businesses, residents and official partners about the impact of the proposed new rules. Any concerns have been or are being addressed.

4.3 Deputy K.C. Lewis of St. Saviour of the Minister for Economic Development regarding gas tariffs:

Further to news that the Island's gas tariffs are changing yet again, what action, if any, is the Minister taking to prevent gas prices rising beyond the reach of people on low income?

Senator L.J. Farnham (The Minister for Economic Development):

Members will know that Senator Ozouf is responsible for the relationship with the Jersey Competition Regulatory Authority. It is this authority that has been entrusted by the States with making sure that unregulated markets, including gas work in the interests of Jersey consumers through competition legislation. By commissioning back in April this year the independent review by Oxera of the J.C.R.A. (Jersey Competition Regulatory Authority) and agreeing the terms of reference for the J.C.R.A. fuel market review, the Council of Ministers has acted to make certain that the highest priority is being given to and every action being considered to ensure the consumers' interests are best protected both in the gas market and the wider economy. If I understand the Deputy's question rightly, he may be suggesting that the States step in to regulate pricing. As I have said recently in the Assembly, it is not currently proposed to introduce price regulation to the sector because formal price regulation is a significant step that would require the States to use exceptional powers contained within the law and should not be undertaken lightly, particularly as it would have costs associated with it that could ultimately be borne by the consumer. Officers are currently working with the J.C.R.A. to determine the actions required to meet the 23 recommendations from Oxera to strengthen the competition framework. In addition, officers are also working with C.I.C.R.A. (Channel Island Competition Regulatory Authority) to establish whether further analysis of the gas market, or of the margins contained within that market, is required to shine more light on the situation. Members will of course be kept informed of the next steps and timescales.

4.3.1 Deputy K.C. Lewis:

I thank the Minister for his reply and I am aware that Senator Ozouf is looking into this. Would the Minister inform the Assembly when this review will be published? Last time the gas company

put up the price of gas it was because, and I quote: "People were using less." Does the Minister not find this approach ludicrous?

Senator L.J. Farnham:

The first statement of findings of the review of the fuel market was published on 20th November and is available on the J.C.R.A. website, and I am quite happy to forward the link again to Members if necessary. It is all there. I am not sure when the full report will be published. It is not mine to publish. It is the J.C.R.A.'s but I do know that they are meeting on 9th December and are being pushed by Senator Ozouf.

4.3.2 Deputy G.P. Southern:

First, can I complain this is the second week on the run that the Minister responsible for this particular issue has not been here in the House? I think it is a shame that such is the case. Instead we get a bland non-answer from the Minister. Can the Minister accept that in the paragraph, which sums up the findings of the J.C.R.A., there is no mention at all whatsoever of the continuing descent in price for propane in the wholesale market, something like another 27 per cent over the course of the last year?

[10:00]

Will he publish figures to show what proportion of the gas price we are paying is down to the price of wholesale gas, i.e. the fundamental thing that we are selling? What proportion is due to other factors? Will he seek to advise Jersey Gas Company that in the light of this reduction in price of wholesale propane they should be considering a further tariff cut before the cold weather sets in, in January?

Senator L.J. Farnham:

The figures required to answer the Deputy's question are not available to E.D.D. (Economic Development Department). They are sitting with the J.C.R.A. who are working on the study of the gas market. I understand that the assessment already given is unlikely and I think it is unlikely to be sufficient to give Members or consumers the comfort that they need about the level of gas prices at this stage. But we have to make sure we are comparing apples with apples. The gas product we import over here is not natural gas. We do not have natural gas in Jersey. It is a liquid petroleum gas. It is air-mixed at La Collette and distributed. Gas volumes have fallen by over a half since 2003 and the gas company have maintained the same costs and overheads. Also in line with the U.K. (United Kingdom) Competition and Markets Authority, they have ruled that the cost of capital employed is within the remit. The report suggests there are no excess profits being taken at this stage. However, we are all concerned that the price of gas has not fallen in line with market prices and that is something I know the Senator is very keen to get to the bottom of.

4.3.3 Deputy G.P. Southern:

I do not wish to receive the Minister's comfort on this unless it is to say that he and his Assistant Minister will be actively pursuing negotiations with the Jersey Gas Company so that we can see, if appropriate, a reduction in the price of gas to both domestic and commercial users this winter before the cold weather sets in. Will he do so?

Senator L.J. Farnham:

That work is already being done via the J.C.R.A. fuel study, which is currently underway.

4.3.4 Deputy M. Tadier:

Does the Minister accept that individuals listening to this Assembly who may be elderly, retired and on fixed incomes, are fully aware that when it comes to it the Council of Ministers is quite able

and willing to take swift and decisive action when it comes to reducing their amount of disposable income so that they have less money in the bank to pay their bills this winter? But when it comes to doing something which is proactive and helpful for their interests they seem to be more reticent to do it. Will the Minister perhaps respond to that point first?

Senator L.J. Farnham:

The Deputies do not have the monopoly on caring about these people. The Government have taken action. In fact they have taken action long before this and the action they have taken is by commissioning the review of the fuel market. That is decisive action. This Government believes in free market, it believes in free choice, it believes in strong competition and it believes in strong regulation. Those are the things that are going to help the less well-off in our society to deal with this problem and that is why the Government has commissioned these reports, and Senator Ozouf is working hard to see them through to their conclusion.

4.3.5 Deputy M. Tadier:

We, or any other States Member, may not have the monopoly on caring but the Minister does have the monopoly on being able to take action against Jersey Gas when their prices are not coming down. Will the Minister accept that if we have a situation where wholesale prices are falling, and they are the lowest that they have been for 5 years, and that those savings are not being passed on to the customer, then that is essentially, on the face of it, a case of profiteering taking place. Where there is profiteering going on, and it has to be said in a company in which the States of Jersey has an interest, then it is his duty, and it is incumbent on him with an Island-wide mandate, to look after the very people who put him in office. The question is: will the Senator be taking action, stop giving us platitudes and help people to see their gas prices fall for this winter and in subsequent winters?

Senator L.J. Farnham:

I have already stated that the Government has taken action by commissioning this review, but let me be clear. If this review manages to find evidence of excessive price taking or profiteering by the gas company, upon advice, it would have no problem with stepping in to rectify the problem. Ultimately that will be the decision of this Assembly but I want to make it clear that if evidence of excessive profits had been taken then we will act.

4.3.6 Deputy K.C. Lewis:

The Minister has just said that he believes in free choice. Unlike the U.K. one does not have a choice in Jersey of supplier. One either uses gas or one does not, that being the choice. The literature sent around recently: "How will the gas tariff affect me? You will see an increase in the amount of standing charge you pay but a decrease in the cost per unit. Some will see a small increase and others a small decrease, depending on the volumes of gas they use." Even if one cuts back considerably on the gas they use there is still an increase in the standing charge. I think the Minister has gauged the mood of the Assembly. Will he undertake to treat this as a priority with his colleague, Senator Ozouf?

Senator L.J. Farnham:

Yes, it does appear the gas company are giving with one hand and taking back with another. I can confirm again, we are, through Senator Ozouf, giving this the highest priority. We do want to make sure that the market is working properly for consumers and we undertake to try to get to the bottom of the matter as soon as possible.

4.4 Senator Z.A. Cameron of the Minister for Home Affairs regarding armed police on duty in the Island:

Are armed police currently on duty in the Island and if so, why and when was this decision made?

The Deputy of St. Peter (The Minister for Home Affairs):

The police have an armed capability, which is able to respond 24/7 to spontaneous incidents. Additionally, when the strategic assessment or the threat levels dictates, an armed response is deployed as a tactical option in the interest of security. There is a standing authority signed by the Chief Officer, which allows for the deployment of armed officers where appropriate and available.

4.4.1 Senator Z.A. Cameron:

In the light of increasing concerns about security and radicalisation, does the Minister know how many guns are in private possession in Island homes?

The Deputy of St. Peter:

That is part of the Constable's portfolio in that they collect firearm certificates and it is indicated to me that, yes, we are aware of the guns that are in people's possession on this Island.

Senator Z.A. Cameron:

But she does not have those figures currently to hand?

The Bailiff:

It is not within her responsibility, Senator.

4.4.2 Senator Z.A. Cameron:

In the light of this, has any thought been given to reviewing the way gun licences are issued on the Island?

The Deputy of St. Peter:

At the moment, I am content that there is a proper process that is followed by the Constables in the relevant Parishes.

4.5 Deputy G.P. Southern of the Minister for Social Security regarding the reduction in grant to the Jersey Employment Trust:

Has the Minister imposed a grant reduction on the Jersey Employment Trust and, if so, does she accept that this influenced the board's decision to cease any role currently operating at a loss, leading to the termination of the contracts of horticultural assistants, who are people with disabilities in supported employment, and replacing them with seasonal contracts, and will she advise what full-time alternatives she will be proposing?

Deputy S.J. Pinel of St. Clement (The Minister for Social Security):

I can confirm that the Jersey Employment Trust grant from Social Security for 2015 is set at the same level as the 2014 grant and is worth £1.8 million. Cash limits for the next 4 years are set by the Medium-Term Financial Plan process. Departmental officers have a good working relationship with the Jersey Employment Trust and discussions are ongoing in respect of the future level of the grant for 2016 and the following 3 years. I am very pleased to be able to confirm today that I have had discussions with the Jersey Employment Trust over the last few days and the board has agreed to withdraw the threat of immediate redundancy in respect of a small number of horticultural assistants [**Approbation**] and has agreed that J.E.T. (Jersey Employment Trust) will work in partnership with States departments during the first half of 2016 to identify alternative

opportunities for sheltered employment. I remain fully committed to the provision of a full range of employment opportunities, including sheltered employment, and will be encouraging all States departments to consider suitable projects in their own areas.

4.5.1 Deputy G.P. Southern:

I thank the Minister for her prompt and effective reaction to being asked this question and to learning about the impact of the cuts she has proposed. I congratulate her for that. But will she look at the sheet accompanying question 5, which shows that over the year there have been 5 decisions increasing cuts throughout the year, starting way back in January and going through to March, June and now November, which have continually shifted the goal posts of this body and, I believe, other bodies, which are grants aided, and deliver services to the public in various ways? Does she consider that this is an efficient and effective way to organise the provision of services in this case for the disabled, in particular, and their employment chances? Does she think this is a good way to behave over the year?

Deputy S.J. Pinel:

I thank the Deputy for his congratulations. There is always a way round difficult situations. As regard the way forward, this is not something that ... the Jersey Employment Trust is a grant-funded body but an independent board. There has been no political presence on the board for a year so the board have decided their way forward with the business plan. We were informed of it fairly recently and we are working together to move forward so that the withdrawal of those redundancy notices is implemented and we will work forward with them to make sure that there is some employment for these people.

4.5.2 Deputy G.P. Southern:

In particular, I understand that the gardening service has been withdrawn at the moment. Is she confident that that will not be cut from the range of activities that J.E.T. supervise up at Acorn.

Deputy S.J. Pinel:

The gardening service that the Deputy refers to is a separate business from Acorn and I cannot guarantee that it will be cut. It was the suggestion of the board that it would be seasonal work rather than full-time work and so, as I said in my previous opening speech, that we will work together with other departments to make sure that there is suitable sheltered employment for the people concerned.

4.5.3 Deputy G.P. Southern:

There is more, Sir. One of the longer term problems with the services provided by J.E.T., and in particular at Acorn, is that they are at present completely unaware of what plans are to be set out for the potential outsourcing at T.T.S. (Transport and Technical Services). Will T.T.S. and Parks and Gardens provide a major outlet for the nursery services for the pot plants that they provide? Has the Minister been in contact with the Minister for Transport and Technical Services and has she had any preliminary conversations about what the future holds over the next 2 years rather than over the next one year or the next 4?

Deputy S.J. Pinel:

I think I have already answered that question by saying that over quarter one and quarter 2 of 2016 we are going to be in discussion with the Jersey Employment Trust and other departments to establish a way forward.

[10:15]

4.6 Deputy J.M. Maçon of St. Saviour of the Chief Minister regarding introducing a mechanism to validate the signatures of those who were not able to physically sign their name on a will:

Does the Chief Minister support introducing a mechanism so that those who cannot physically sign their names on a Will are able to have it validated under Jersey law and, if so, when will this change be introduced?

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

Yes, I do. The Legislation Advisory Panel are considering it at their next meeting and they hope to be able to bring forward changes for debate later next year.

Deputy J.M. Maçon:

No further questions, thank you.

4.7 Deputy S.Y. Mézec of St. Helier of the Chief Minister regarding social inclusion and tackling relative low income:

Given the Chief Minister's commitment to the Strategic Priority of "promoting social inclusion and tackling relative low income" what specific measures, if any, does he have under consideration to reducing the 90-10 shares ratio from its current peak of 19 and, in particular, to lifting one in 3 children and pensioners out of relative low income in the period of the current Medium Term Financial Plan?

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

The plan for Jersey will benefit all Islanders. We are investing in priority areas of health, education, infrastructure and economic growth. An extra £168 million for capital projects over the next 4 years, that is £96 million for Health, £27 million for Education and £20 million to boost economic and productivity growth. We of course recognise that housing affordability is a major challenge, and that was highlighted by the income distribution survey. We want to ensure a consistent supply of good quality housing, that is why we have revised the Island Plan and are investing £250 million in improving and building more social housing. These are the measures we are putting in place to improve the life chances of all Islanders, especially those in need of extra help at school.

4.7.1 Deputy S.Y. Mézec:

I made specific reference in the question to the actual numbers we have that define what levels of relative low income we have here. Can we take it from the Chief Minister's answer that by the end of this period of the Medium Term Financial Plan those numbers will not be as bad as they are and that the proposals he is suggesting will have a tangible effect on what is recognised as being the appropriate way of measuring relative low income and making sure that people's incomes are improving and that housing costs are not having such a detrimental effect as they are on levels of poverty in the Island?

Senator I.J. Gorst:

That is our plan. Of course we are from time to time directed off our plan, sometimes by this Assembly that refuses to rezone sites to improve the supply. The supply element is absolutely critical in dealing with affordable housing. We will continue to push and bring forward the policies that we think are going to deal with these issues, as I think the Deputy would wish us to. The income distribution survey in 5 years' time will show whether we have been successful or not.

4.7.2 Deputy M. Tadier:

Even the Tory party in the U.K. have made moves towards recognising the need for a living wage moving towards that, and to tackle some of the similar housing shortages they have got by suggesting a tax in buy to lets over there so that more houses become available either to purchase or for affordable renting. Are there any such plans for the Jersey Tory party to do the same?

Senator I.J. Gorst:

I am not sure whether the Deputy has asked the Jersey Tory party whether they are going to do the same.

4.7.3 Deputy M. Tadier:

Obviously that is just a little bit of levity. But is there any plans [Laughter] ... I look forward to the day when they finally come out. In the meantime, are there any plans for the Council of Ministers to introduce a living wage into the Island where people can afford to live off that without relying on Government handouts, and is there any plan to introduce buy to let taxes on second, third and tenth and twentieth homes?

Senator I.J. Gorst:

The Deputy knows the position when it comes to the living wage and the States has before them a recommendation to update the minimum wage in line with the Employment Forum's recommendation. The Minister for Social Security has asked the Employment Forum in their review of the coming year to consider a living wage. The Deputy also knows the report that was recently published, that brings together the minimum wage, together with benefits, that shows favourable comparison with elsewhere. But I equally accept that that is a work in progress and we will see what the Employment Forum recommends. The Minister for Housing, of course, has only recently published the draft housing strategy and there is a lot more work to do on what policy levers might be able to deliver on that strategy.

4.7.4 Deputy J.A. Martin of St. Helier:

Could the Minister please explain, and this goes back to a couple of weeks ago ... the cost to most people on low incomes are the percentage of their rents and the Minister has locked all new social tenants into 90 per cent of the market. That, in some cases, is a third or more of their income. So can he explain how even with some more supply he thinks this will help that part of the market, which in his own words, in the last answer, said was the biggest chunk of outgoing.

Senator I.J. Gorst:

Supply is about encouraging home ownership as well as ensuring the supply of social or affordable housing for rent. I have provided a written answer to the Deputy of St. John today about the change to 90 per cent of the market, and the questioner will see from that, that currently I think there is only around 20 per cent of those in social rented who have moved up to the 90 per cent. That was a change which delivered an affordable investment into housing into the future. Some people who are paying that will be supported by income support and others, who do not qualify because their family income is higher than the qualification amounts for income support, it is right that they pay more but they are still not paying the same as in the private sector. We also see from that question that the rents in the public social sector have risen more slowly than those in the private sector.

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

The Chief Minister in his earlier answer said that we will find out in 5 years' time if he has been successful in bringing down the income inequality. Will the Chief Minister instead undertake to produce an annual survey so we can see how effective his measures are, because the truth of the matter is a lot of the capital projects he mentioned are going to take many years to come in. I

would like to see what he is doing in the interim, so I think the Chief Minister needs to speak with the Statistics Office and get up-to-date figures for Members. Does the Chief Minister agree to getting a revised, updated version of the income distribution survey in less than the 5 years?

Senator I.J. Gorst:

There are no plans for that. There is no budget for it and there are other reports that if we had extra funding that we might wish to branch out into prior to changing the timing of the income distribution survey.

4.7.6 Deputy G.P. Southern:

The Chief Minister, as is his wont, has used the word “affordable” very flexibly there when he refers to affordable housing for the Government funding. The truth is that the word “affordable” refers to affordable to the person that attends who lives in particular housing. Is that not the case? When will the Chief Minister come to this House with an impact assessment of the measures that he has taken over benefit levels, £10 million of cuts, on top of the damage that was done by the recession of which he knew little until recently? When will he come to the House with that impact assessment to show the impact of the £10 million cuts on the standard of living currently endured by many in our society?

Senator I.J. Gorst:

It is not directly connected with this question but if my memory serves, so this is about the income distribution survey that looks at the past. The changes to benefits will have effect in the future. The Deputy said in his question that he acknowledged that the results that we see in the income distribution survey are as a result of the economic downturn. Having said that, it is my recollection that that impact assessment will be produced either just before or at the same time as the M.T.F.P. (Medium Term Financial Plan) 2 addition; so by the middle of next year.

4.7.7 Deputy G.P. Southern:

Can the Minister explain why he is not able to produce information on what is a major change of funding for those on low income in a shorter time period than waiting until the middle of next year?

Senator I.J. Gorst:

It is not a matter of waiting. It is a matter of that is the timetable that we set and that is the commitment that I recall we gave to the Assembly at the time. If it is available earlier then of course it could be published earlier.

4.7.8 Deputy S.Y. Mézec:

In some of the Chief Minister’s answers he rightfully identified the fact that it is housing costs which are having the most drastic impact on the figures for relative low income and he also talked about trying to alleviate that problem by improving supply in the market for housing. Does he not accept that that is a contradictory position when you consider the facts that the Government, as it stands currently, has no control whatsoever over population levels in the Island and the amount of people coming in, and does he not therefore accept that relying on the supply element of the housing market is increasingly difficult when the population is going up as a result of people coming into the Island, not just of a high birth rate? Would he therefore undertake to take other assessments about what can be done, aside from just improving supply when that is clearly not going to be an option because of his failed population policy or lack of until now?

Senator I.J. Gorst:

I am not quite sure where the question was there, but I stand by the policy that supply is important. We might argue about the work that the Housing and Work Advisory Group do in limiting job

applications in the economy, and that is a difficult work that they do week in week out, but if the Deputy were to look at Dame Kate Barker's excellent piece of work, looking at housing in the United Kingdom, it is absolutely clear that the same in Jersey is the same in the U.K.; that Governments have not provided the supply and not removed the blockages to providing housing supply for all sorts of perfectly understandable reasons. But unless we start to do that the problems that we experience, the statistics that we see in the income distribution survey, will remain. I for one do not want to be associated with that.

4.8 Deputy L.M.C. Doublet of St. Saviour of the Chief Minister regarding the 'Jersey Women in Business' report:

Has the Chief Minister received and considered the *Jersey Women in Business* report recently sent to him by the Jersey Community Relations Trust and, if so, does he accept the recommendations contained therein and what plans, if any, does he have to implement them and within what timescale please?

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

I am aware of the report but have not yet had time to thoroughly digest its recommendations. I have however asked Human Resources, in conjunction with the Social Policy Unit, to review the report and to bring forward an appropriate action plan. The States of Jersey already of course operates a flexible system for many staff, which enables employees to accommodate their family commitments alongside their working lives. The organisation itself is committed to family friendly policies, which enable many people to work part time and there are many other work streams as part of workforce modernisation that I think will help give effect to the recommendations in the report.

4.8.1 Deputy L.M.C. Doublet:

I hope to return to this then once the Chief Minister has had a chance to read it. Could I just press on, on one specific recommendation on page 10? This was that the States of Jersey should set aspirational agenda equality targets of 50 per cent, and this is not a quota and this is an aspirational target for senior states appointments and States-funded bodies or boards to have 50 per cent of women and men on those bodies. Could I just ask the Chief Minister what his opinion is of that recommendation please?

Senator I.J. Gorst:

I think that diversity on boards of the body suggested and in senior positions is extremely important. I think the challenge for our organisation and those associated with the States is the same challenge that others experience. One does not want to see diversity as a matter of quotas but one wants to ensure that people are all the time encouraging applications from diverse applicants because the value that they bring to boards, I think, is extremely important.

[10:30]

So that particular one is one that I personally would have a lot of support for. We would need to understand what an aspirational target would mean in practice, and that perhaps is where the difficulty would arise. But if we can find a methodology that is going to help and encourage that then I would be in favour of it.

4.8.2 Deputy A.D. Lewis of St. Helier:

Would the Chief Minister also be prepared to have this similar discussion with the chairman of P.P.C. (Privileges and Procedures Committee) to try to encourage more women to stand for election for the States, as I think if we look around us we have very few ladies among us, and that does not

send out the right signals perhaps across the private and public sector. Would the Minister be prepared to discuss that matter with the chairman of P.P.C.?

Senator I.J. Gorst:

Of course I would but I am sure any other Member could equally do so and Deputy Doublet might wish to do so together with other members of the Community Relations Trust to present the report to P.P.C. as well.

4.9 Deputy M.R. Higgins of the Chief Minister regarding documents requested by the Independent Jersey Care Inquiry:

Will the Chief Minister advise Members how many documents requested by the Independent Jersey Care Inquiry from the States of Jersey are still outstanding and explain the periods they have been outstanding and the reasons why?

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

The disclosure exercise has required a vast array of physical and electronic documents to be reviewed and disclosed. In October 2015 alone 71,244 electronic documents were disclosed. The inquiry continues to make requests for documents up to the present day. As at 30th November, which was yesterday, all documents requested will have been disclosed by all departments by 4th December, which is the end of this week, with the exception of newly received requests and documents potentially requiring the consent of the Royal Court for disclosure. The inquiry is likely to continue to make further requests as it continues to hear witness testimony.

Deputy M.R. Higgins:

I thank the Chief Minister for his answer.

4.10 Deputy M. Tadier of the Minister for Transport and Technical Services regarding plans to charge for disabled parking:

Will the Minister confirm whether he has any plans to start charging for disabled parking which is currently free?

Deputy E.J. Noel (The Minister for Transport and Technical Services):

I have always been entirely open on my long-held view that parking should not be free and that some form of discounted charge should be considered in the round for disabled parking. Indeed I have discussed this publicly with the media just prior to Deputy Tadier submitting this question. I am not alone in this view. The concept of charging is a way of removing the motivation for abuse of the blue badge system. It was put to me early in my term by a voluntary group who work directly with the disabled. However, for equity I must make it clear that such a proposal would only be contemplated as part of a comprehensive package of measures to improve mobility for all Islanders with disabilities. At present charging is not policy and there are no firm proposals but with my ministerial colleagues I am resolved to break down the barriers to mobility and as such every option must remain open at this time.

4.10.1 Deputy M. Tadier:

It would be nice if we knew about these tendencies before the Minister put himself up for election in this Assembly but nonetheless could the Minister explain what he means by the abuse of disabled parking badges, and his proposed solution that we should perhaps consider removing free parking from all disabled people to stop what he sees as abuses of the blue badge scheme?

Deputy E.J. Noel:

I am advised by this organisation that does deal directly with the disabled and their mobility issues that there is some limited abuse and, in fact, there is some historical data that the blue badge has been removed from individuals for abusing the system. That is all I have to say on that.

4.10.2 Deputy G.P. Southern:

Before going to the press had the Minister discussed this at Council of Ministers level and, more importantly, had this been agreed as a potential policy area?

Deputy E.J. Noel:

No, it was a private conversation with a member of the media. It is not policy. It is not even a policy under discussion. It is merely a view that I hold. When I walk down Broad Street and I see expensive sports cars and expensive vehicles parked in disabled bays I see no reason why some of those individuals should not contribute to the cost of their parking and that money redistributed to those who have disabilities that need more assistance.

4.10.3 Deputy P.D. McLinton of St. Saviour:

I guess it is important that we do not confuse disability with inability to pay. So would the Minister look, possibly, into means-tested disabled parking? Also if the Minister is against free parking would he confirm he is looking into States Members paying for their parking as well?

Deputy E.J. Noel:

I have already had that conversation with P.P.C. about taking away the effectively no cost to either the States Assembly or to individual Members for their parking requirements.

4.10.4 Deputy M.R. Higgins:

If the Minister is going to be taking away everyone's parking is he also going to remove it from all civil servants, including chief officers?

Deputy E.J. Noel:

This has come a long way from the original question, but that is something we will have to look at in the round depending on what future we want for St. Helier. Many cities in the U.K. are looking at the cost of parking in terms of redistributing those charges. Is it right that some people can park in the basement of office buildings and not have it be taxed as a benefit in kind while others who do not have that facility have to pay their parking in public car parks? It is something we need to look at, no conclusions to be drawn, but these things do need to be researched.

4.10.5 Deputy M. Tadier:

It is a long established principle that people with a certain disability are granted free parking and access to the blue badge scheme and the Minister, I would suggest, has no mandate for changing that unless there is evidence that there is public opinion and contrary opinion from States Members. Notwithstanding his dislike of expensive cars, could he suggest that all this has arisen because he made a statement when he stood that he wished to give disabled people free bus passes and when he has been asked to deliver on that he comes out with effectively what is a shroud-waving exercise saying: "But if we deliver that we may have to take away disabled people's free parking." Is that not correct? Could we not altogether find a much more acceptable way to fund such a modest scheme without penalising the very people that we are trying to help?

Deputy E.J. Noel:

I do not believe that Deputy Tadier was listening to the answer to his original question from myself. I said at present there is no policy and there are no firm proposals. It is something that I will have a discussion with my colleagues when we discuss the outcome of the work that is being done by the Chief Minister's Department to break down the barriers of mobility for everyone in the Island that has mobility issues.

4.11 Deputy G.P. Southern of the Minister for Social Security regarding Income Support payments to single parent households:

Given the information revealed in the Income Distribution Survey 2014/2015 that more than half, 56 per cent, of single parents are in a relative low income does the Minister consider that the decision to remove income support payments of over £2,000 over time from single parent households throughout the next 2 years in the recent M.T.F.P. is appropriate?

Deputy S.J. Pinel (The Minister for Social Security):

Having previously received congratulations from Deputy Southern with reference to his previous question I am hesitant to correct him in his second. However, for the record, the phasing out of a single parent component will take place over 3 years rather than 2 years as suggested in the question. The detailed timetable is set out in the recent Income Support Regulations and phased payments will continue up until October 2018. The Medium Term Financial Plan has set us challenging targets to make sure that we achieve the twin goals of a return to sustainable public finances and essential investment in the key public services of health and education. For Social Security this includes holding the benefit budget flat over the course of the next 4 years. My proposals to achieve the benefit targets are based on improving the overall fairness of the benefit system. One area where support was previously uneven related to the additional support provided to single parents, and this has been addressed by the changes recently approved by this States Assembly. The results of the income distribution survey show that the changes that have been made do indeed create a much fairer balance between the support available to single parents and that available to couples who have children. The full details of this analysis are included in the written answer on Members' desks; that is written question 9. In summary, the survey identified a total of 2,700 families with children with household incomes below the relative low income threshold after housing costs. Of these households nearly two-thirds, 63 per cent, comprised 2 parent families. A much smaller percentage, 37 per cent, were single-parent households. The recent benefit changes have created a better balance between the supports available to a single parent with that available to a 2-parent family and I confirm that these changes are appropriate.

The Bailiff:

Minister, I should be grateful if you would pass back to your officials who assist you with your answers that that answer took 2 minutes and 35 seconds and that was too long because the guidance is one and a half minutes.

4.11.1 Deputy G.P. Southern:

Nonetheless I congratulate the Minister there for putting me right on the period of which she is reducing the incomes of single parents, over 3 years and not 2. But does she not accept that while we refer to low income thresholds and relative low income that is attached to the phrase and puts those people at risk of poverty? Does she accept that those single parent families, 56 per cent of them, who are below the relative low income threshold, are in fact at risk of poverty and does she not accept that removing £2,000 additionally from their incomes puts them at greater risk of poverty?

Deputy S.J. Pinel:

No, I do not and the Deputy knows that I do not entertain the word “poverty” very easily because it is relatively low income and, as I said in my opening statement, that the removal of this lone-parent component over 3 years is merely putting it in touch and fairness and balance with couples with children.

4.11.2 Deputy G.P. Southern:

The Minister uses the words “fairness” and “balance” with no evidence that that is an accurate description at all. Does she not accept that the removal of this particular component moves those single parents and the children in those single-parent families down from 93 per cent of relative low income threshold, i.e. almost on a living benefit, down to 78 per cent at one fell swoop, so a reduction of 15 per cent in the standard of living of these particular parents just like that on the basis of no evidence, and we are only getting the evidence now about how much damage has been done by the recession now that we have the information from the I.D.S. (income distribution survey)?

Deputy S.J. Pinel:

The Deputy keeps referring to the household income distribution survey. The timing of the Medium Term Financial Plan did not coincide with this so we have had this information latterly from the I.D.S. I do not accept that the proposal by the Deputy that this is an immediate retraction of components is correct. It is timetabled over 3 years and is producing a balance between couples with children and lone parents with children.

4.11.3 Deputy S.Y. Mézec:

This figure of 56 per cent is not pulled out of thin air. There is a specific formula that is used to arrive at that figure. Given, technically, the abolition of the single-parent component for income support, which is going to see these people £2,000 a year worse off by the end of it, what number does she anticipate that 56 per cent rising to? If she has no idea what number that will rise to, will she undertake to do the work to find out how that is likely to be affected by this move?

Deputy S.J. Pinel:

I just wish to correct the Deputy. He said £2,000 a year. It is not. It is a phased reduction over 3 years.

[10:45]

It is not £2,000 a year. The amount of people, as we have been through many times before, certainly in the Medium Term Financial Plan, affected by this are about 1,500 people and it will be a gradual reduction in their components not an immediate reduction.

4.11.4 Deputy S.Y. Mézec:

I did not get anything that even approached an answer to my question there. I think that was just being pedantic frankly. The question I am asking is that 56 per cent of single parents are in relative low income, what number of those people in that position does she believe this change will make that rise to? If she does not know what it will rise to will she give the Assembly an undertaking to do the research, and I am being very specific there, to do the research, not just say one thing and pull a number out of thin air, actually look into it and find out how many more single parent families are going to be pushed into relative low income as a result of this change? It is a very simple question and a very simple undertaking. Is she prepared to do that?

Deputy S.J. Pinel:

We have already done that research on ...

Deputy S.Y. Mézec:

What is the number then?

Deputy S.J. Pinel:

I will produce the number for the Deputy. I have it front of me but in order to produce what he wishes I can hand the paper over to him.

4.11.5 Deputy G.P. Southern:

Could the public know what that answer is because it was a specific question asked of the Minister and she is saying: "I will pass it over on a piece of paper" and the public will not know what the answer is?

Deputy S.J. Pinel:

Right. The income distribution survey goes by household types and from the 2011 survey and Census, bearing in mind that the I.D.S. is based on 5 years' previous information, 4 per cent of households are identified as single parents equating to roughly 1,800 households across the Island. This compares with 19,000 households identified as couples with children, equating to roughly 7,800 households.

The Bailiff:

Final supplementary.

Deputy M. Tadier:

I did have my light on.

The Bailiff:

I know you did but we have had 12 minutes already on this question. Final supplementary.

Deputy M. Tadier:

It is one hour. We have done one hour of questions and there is an hour to go.

The Bailiff:

Final supplementary, Deputy Southern.

4.11.6 Deputy G.P. Southern:

Final supplementary. What Members have just heard was completely and utterly specious. The answer did not address the question of what will that number grow to from 56 per cent. The question avoided before that was, does the Minister accept that this move, over 3 years, losing these households £2,000 a year, eventually, not immediately, will in fact reduce the incomes of those households and those children in those households by 15 per cent from 93 per cent of relative low income to 78 per cent of relative low income thus making more of these families at risk of being in poverty?

Deputy S.J. Pinel:

No, the Deputy quotes a huge amount of percentages. All we have is the household income distribution survey, based over 5 years, and the research that the Social Security Department did very thoroughly in producing their proposals for the Medium Term Financial Plan. It is very difficult to predict whether, given the incentive on the maintenance disregards for lone-parent families, there will be more or less so I cannot answer that question on a forecast.

4.11.7 Deputy G.P. Southern:

The question was: does she accept the numbers which have come directly from her written answer to question 9? Does she accept her own figures or not? Is she now denying them?

Deputy S.J. Pinel:

No, they are in question 9, as I referred to in my opening speech.

4.12 Deputy M.R. Higgins of the Chief Minister regarding the supply of the Sharp Report to the Independent Jersey Care Inquiry:

Will the Chief Minister advise Members whether the States of Jersey have supplied the Independent Jersey Care Inquiry with a complete and unredacted copy of the Sharp Report into child abuse at Victoria College together with all the appendices to that report and if not why not?

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

The Independent Jersey Care Inquiry was supplied with a complete and unredacted copy of the Sharp Report by the States of Jersey on 27th February 2014.

4.12.1 Deputy M.R. Higgins:

Supplementary. Can the Chief Minister also confirm that all the appendices were given as well as the actual main report?

Senator I.J. Gorst:

I can reiterate what I said: with a complete and unredacted copy.

Deputy M.R. Higgins:

Again, I thank the Minister for his answer.

4.13 Deputy S.Y. Mézec of the Minister Chief Minister regarding outsourcing in respect of the Transport and Technical Services Department:

Would the Minister advise what consideration, if any, has been given to the idea of outsourcing the majority of the Transport and Technical Services Department and what consultations, if any, have taken place with the workers' representatives?

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

All States departments are reviewing the way they provide services as part of our reform programme and all are facing budget constraint over the period of the Medium Term Financial Plan. My colleague, the Minister for Transport and Technical Services, is leading on his department's change programme. They have started a programme of reviews and are looking at all options for delivery, including outsourcing. Some of the work has started and informal union discussions have taken place. Formal consultation with staff and unions start this week and the first round of briefings, as I understand it, will be on Thursday and Friday.

4.13.1 Deputy S.Y. Mézec:

Supplementary. I had to change the wording of my question from what I initially wanted to ask but it obviously refers to the recent freedom of information request where the summary report was released about the review of States activity; stop, reduce and outsource, which seems to entertain the idea of outsourcing and I believe it is words are: "It is recommended that a strategic decision be made that T.T.S. will exit service delivery and begin to outsource all of its activities as soon as possible." What consideration to that recommendation, as of yet, has been had and does he, on the face of it, believe that that is a sensible recommendation that he would seek to pursue?

Senator I.J. Gorst:

I think I have already answered that.

Deputy S.Y. Mézec:

Well, could he answer it in a way that is easier to understand then please? Yes or no basically.

Senator I.J. Gorst:

I have said all States departments - that includes T.T.S. - are reviewing the way that they provide their services and that includes reviewing the option of outsourcing.

4.13.2 Deputy J.M. Maçon:

The Chief Minister stated that the functions are being reviewed. When is the timescale for those reviews to be completed?

Senator I.J. Gorst:

As I also said, we are talking here about T.T.S. and the Minister himself has got a question, question 16 - I am sure we have time for it - and he will be able to provide, I am sure, all the details to satisfy Members' questions.

4.13.3 Deputy G.P. Southern:

When the Chief Minister and his Minister for Transport and Technical Services have succeeded in outsourcing the vast majority of their services will he be negotiating the closure of the Acorn Nurseries in Trinity at the same time because they will have precious little market on which to supply handicapped and people with learning difficulties in work to maintain their living standards?

Senator I.J. Gorst:

That is the Deputy's assertion. I do not accept it. The Deputy has heard what the Minister for Social Security has said in answer to his question earlier. The Minister for Social Security has the full support of the Council of Ministers in ensuring that there is appropriate provision of sheltered employment as well as open employment provided by the Jersey Employment Trust. Ministers are well aware of the symbiotic relationship between the services that T.T.S. currently provide and the services that J.E.T. provide and they will continue to work to ensure that sheltered employment is provided for.

4.13.4 Deputy G.P. Southern:

Does the Minister accept that the outsourcing policy is based on a free market or is he going to curtail that market to make sure that Acorn, in particular, with its sheltered workshop, is kept going?

Senator I.J. Gorst:

I am not sure I accept the premise of that question either. I stand by what I have said, that Ministers, with the full support of the Council of Ministers, the Minister for Transport and Technical Services and the Minister for Social Security are working towards ensuring that there continues to be sheltered employment and we see no reason why sheltered employment cannot continue to be based around the services that J.E.T. is currently providing in relation to the services that T.T.S. are providing as well in the market gardening sphere.

4.14 Deputy L.M.C. Doublet of the Minister for Social Security regarding the allocation of named contacts to clients of the Social Security Department:

Further to the response given during questions without notice on 3rd November 2015 by the Minister for Health and Social Services what consideration, if any, has the Minister given to introducing a system whereby individuals are allocated a named contact within the Social Security Department to save the time and distress of explaining their situation repeatedly to different officers and if so how will this be progressed and when?

Deputy S.J. Pinel (The Minister for Social Security):

Providing excellent customer services is a priority in my department and officers are always looking for ways to continue improving the service that we deliver to the public. Each day officers assist around 1,000 customers face-to-face and handle over 400 phone calls. This equates to approximately 350,000 customer contacts per year. Where possible initial contacts are dealt with by members of our customer service centre who are trained to be able to answer the majority of enquiries at the first point of contact, either by telephone or at reception. To aid this process social security information is held on a single I.T. (information technology) system that allows staff to check and record individual's details. However, the department deals with a wide range of benefits and services and more complex enquiries may be directed to a specialist in the relevant area.

4.14.1 Deputy L.M.C. Doublet:

I thank the Minister for her answer. Is the Minister aware of the amount of distress that is caused by this? This is something personally that parishioners who contact me are needing help with this department and is something that is causing them great distress. Does the Minister accept that if she did try to implement something like this it would not only save the distress for people dealing with her department it could also save time and money for her department in terms of streamlining the processes?

Deputy S.J. Pinel:

I understand where the Deputy is coming from but it would not save money, it would cost an awful lot more money inasmuch as a named adviser for a client would be, possibly, sitting round waiting for that named client or those named clients for some time during the day and not being able to deal with other clients. We have implemented, further to questions previously, that all front-facing staff now wear name badges, which they were very reluctant to do before because of being stalked in some cases. These are magnetic name badges and they have introduced a level of respect between the staff and the client. Magnetic because without a tie the member of staff cannot be threatened and we have moved a long way in the process in the last few years with establishing client and adviser contact. If the client, as purported by the Deputy, has a distressing situation then they can request a private meeting in a private room. They do not need to be seen in the reception area.

4.14.2 Deputy J.A. Martin:

I think the Minister is missing the point and it is good to hear that the people on the front desk do now have name badges but I know, as Deputy Doublet knows, many people who ring up, they spend an hour or more on the phone asking their rights and they are told: "We cannot give our name to you." So if you have to ring back you have to start the process again. So it is not about the name of the adviser even, I think it is that you would like the name of the person who is giving you the advice. Secondly, I have noticed recently as well even if I, as a Deputy, email on a case I will get back an answer from an income support adviser, no name. I do not even know who I am dealing with. So what has a customer got to do? It really needs some improvement. Does the Minister not agree?

Deputy S.J. Pinel:

I understand the Deputy's point that, yes, a name should be given.

[11:00]

Bearing in mind, as I mentioned in my opening remarks, that the number of calls per day are considerable we are always looking to improve our situation and I will take the Deputy's point on board.

Deputy J.A. Martin:

Truly, a supplementary and a bit of advice. Maybe if you understand some times that it is not always suitable to give out a name but there must be a system, even if it is another, so the person knows who they are identifying and who has already given this advice because people do deny they did it and also you cannot stress the amount of times that people are put through again and again and moved around the department.

4.14.3 Senator Z.A. Cameron:

As a former G.P. (General Practitioner) I would like to reiterate the stress that is caused by having to give their story countless times to different individuals and frequently the advice received is different each time. It creates a feeling that they are not being listened to. It prevents that building of trust with the department and I would suggest wastes a lot of people's time and also where you are providing a service it means that the person providing that service remains unaccountable for their advice.

The Bailiff:

The question is?

Senator Z.A. Cameron:

Does the Minister not agree that perhaps offering some continuity of care might improve relationships and the service that her department is able to provide?

Deputy S.J. Pinel:

I thank the Senator for her question but, as I referred to in my opening remarks, we have an enormous amount of people crossing the reception and phoning every day and all staff are equipped to deal with most questions. If it is a sensitive issue, medical or benefits, whatever, they have a one-to-one adviser but a lot of the questions that we get through the phone, email, on the reception desk, are possibly just giving in a medical certificate, applying for a maternity grant or a parent applying for student credits. These are not going to have to be dealt with sensitively or as sensitively as somebody who is asking about a personal situation. So if somebody wants a personal adviser and a personal interview they can request it.

4.14.4 Deputy G.P. Southern:

Does the Minister have the figures to back up her statement that allocating named advisers to particular clients would be vastly more expensive than the current system? Is it still the case that the argument for not having named individuals attached to a client is that it eliminates the danger of collusion between the officer and the client which might produce some fraudulent claims and fraudulent beneficial looking at those claims as was stated to the Scrutiny Panel some 8 years ago when income support was being devised?

Deputy S.J. Pinel:

I do not know quite how to answer that. I was not in politics 8 years ago.

Deputy G.P. Southern:

Can we just deal with the first part of the question then? Will she produce the figure on the back of her ...

The Bailiff:

Honestly, Deputy, your question went on for such a long time I think the Minister and most of us had forgotten what it was by the time you reached the conclusion of it. It really does help to have a short, crisp question.

4.14.5 Deputy J.M. Maçon:

I think the Minister has missed the point. I do not believe the question is asking for this to be done for every case that approaches the department but in those cases, like I have done in the past, where you have a client who has regular contact with the department, in those situations I have requested that a specific officer follow a case that has been allowed. Can a mechanism, in order to do that, not be brought in? Not for every case, I absolutely accept that, but for clients who are repeatedly having to go back to the department.

Deputy S.J. Pinel:

That is already in place.

4.14.6 Deputy K.C. Lewis:

I have been very fortunate in recent times that when I have been in Social Security with a client I have had named officers but if the officer does not wish to give a name surely an officer or adviser of 51, or whatever number is allocated to them, so that, as has been said before, clients do not have to repeat the entire case whenever they are speaking to somebody new.

The Bailiff:

You are right, it has been said before. Minister, have you got anything to add?

Deputy S.J. Pinel:

No, I think I have answered that question.

4.14.7 Deputy L.M.C. Doublet:

I am a bit surprised that the Minister seems to be dismissing this especially given other departments have recognised it, I think, at the 1,001 Days event. On Monday we heard that - is it the Early Help Approach - this problem has been recognised and families will be given a named person. Could the Minister please reconsider given that so many Members feel this is an important issue and perhaps offer this service to more of the people that contact her department and maybe just use a bit of common sense. It does not have to be like she describes, people sitting in a room waiting for a phone call, but maybe just a little bit of flexibility and humanity and maybe expand this out to more people and offer it instead of waiting for cases to become so severe that they are desperate for it?

Deputy S.J. Pinel:

I think I appreciate what the Deputy is saying. There is a lot of hearsay involved in this; I have heard it myself, and we have moved on. We are constantly reassessing our services hence there is now a personal adviser for people who need it and a personal interview room should they request it.

4.15 The Connétable of St. John of the Chief Minister regarding immigration controls:

Given that currently anyone can obtain a job as a registered employee and after 5 years' residence become entitled and able to change jobs leaving the employer free to take another registered

person, who may have just only arrived in the Island, could the Chief Minister explain how this controls immigration?

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

Could I ask my Assistant Minister with responsibility for population to act as rapporteur?

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

Every 2 weeks the Housing and Work Advisory Group consider applications from employers to employ registered staff. It is very clear that these permissions are important and businesses feel the same way. New migrants do not have access to benefits and come to Jersey to work. We are limiting these permissions to work and we are considering whether we can make different rules to remove permissions from business licences when people qualify after 5 years. Currently, when reviewing licences, we have been withdrawing unused registered licences. However, we have to support economic growth and not over-burden businesses. This is a difficult balancing act.

4.15.1 The Connétable of St. John:

The Minister said they do not have access to benefits. However, after 5 years they do have access to benefits. What studies and impacts have been made to find out what cost this is to the Island?

Senator P.F. Routier:

I am not sure whether that is a question to the Minister for Social Security but certainly it was recognised when the income support legislation was brought in that someone who had been in the Island for 5 years, it should be a right that they should be able to receive benefits and they have to wait to 10 years for benefits. I recognise the issue which has been raised but I think it is only natural that we should be supporting people who have been here for 5 years.

4.15.2 Deputy M. Tadier:

Does the Assistant Minister recognise that cohabiting couples who have been together for some years but less than 5 years living in the Island are effectively discriminated against compared to those who are in a married relationship where one partner is from the outside, and what is the current situation when it comes to viewing their applications favourably for a licence?

Senator P.F. Routier:

Is the Deputy referring to people with licensed applications as opposed to registered?

Deputy M. Tadier:

That is right. So somebody who would previously have been unqualified for the 5-year period, being unable to work whereas if they were recently married and just come to the Island they would be able to work straightaway.

Senator P.F. Routier:

There is certainly an issue with regard to people who have a licence post, their partner being able to work, but when it comes to registered that is not the case. If the Deputy would like to forward me any particular details of particular people I can certainly look at that if there is any dissatisfaction, but certainly we do hear appeals on a regular basis for particular people but it is an issue. I know that it is with regard to registered people.

4.15.3 Deputy M. Tadier:

I think the underlying point is that if the current regulations are supposed to act as a population policy it is not succeeding because there are individuals who are already living in the Island, may have been here for 3 or 4 years, who are here and they will either be here working and contributing

or they will be here not working and not contributing and so targeting those people does not help the population situation. It just means that there are individuals living on one wage rather than 2 and perhaps increasing relative poverty in our Island. Is that something which the Assistant Minister could comment on?

Senator P.F. Routier:

Certainly in my opening comments I mentioned what is ... I think the most recent survey is 92 per cent of people who have come to the Island who are in the registered category are in work. There is a small amount of people that are not in work and obviously are not benefiting our community. I think there are some people who come to our Island, as you describe, who are sharing accommodation but the Government are not supporting them and they are not taking up any housing because they are sharing accommodation.

4.15.4 Deputy J.A. Martin:

I think the Assistant Minister for Population again misses the whole point. The last 5 words: “explain how this controls immigration” and it is like Deputy Tadier has just mentioned, for years we have tried restricting work, restricting housing practices and it is not controlling immigration. Will the Assistant Minister just admit this? He has not got the correct tools to say this is controlling or a control of immigration in the Island and if it is it is failing miserably.

Senator P.F. Routier:

I think the Deputy is aware and Members are aware that people who are from within the U.K. and from Europe, wider, have the ability to come to our Island, and our system of controlling access to work and to housing is our mechanism for controlling the number of people in the Island. It is the tool we have adopted. We do not have border controls. We have had this discussion many a time. We have the tool and some people do not think it is effective enough but it is effective because of the amount of appeals that we hear, the amount of refusals we have given. We have taken away 3,000 permissions in the last couple of years from registered businesses. It is the mechanism that we have and that is what we have to work with and Members have supported that in the past.

4.15.5 Deputy G.P. Southern:

Does the Minister accept the figures produced by the Statistics Department which suggests that when we went from a 10-year qualification period to a 5-year qualification period large numbers of registered workers stayed on the 5 years but did not stay on, would not stay on, for 10 years causing an increase in the population rise which was noted in the inter consensus years? Does he accept that that argument still applies, that 5 years we do retain a lot more registered workers who then become entitled?

Senator P.F. Routier:

I think the Deputy’s explanation of what happened ... we have not changed anything. It was always 5 years for work and 10 years for housing but when the legislation was being considered it was considered that it all should be 10 years but it was thought by many people that was an inappropriate thing to do because it was going to restrict people coming to the Island completely, because we do need to have some people come into the Island, because they would not be able to access benefits if they did fall on hard times.

[11:15]

There is an issue. Certainly with regard to the difference between 5 and 10 years but we are managing it. It is a very difficult topic to deal with and we deal with it assisted by the Minister for Housing, the Minister for Social Security and the Minister for Economic Development and we need

to look at these things in the round. We do need people to come to our Island to do certain tasks and we have an inflow and outflow every year of people coming and going to this Island.

4.15.6 The Connétable of St. John:

People who come in as registered employees, how many of them bring a family and are thereby using resources from education and other facilities and have you done any impact studies and are they available?

Senator P.F. Routier:

I have not got that detail with me but that would be something I would need to ask the Statistics Unit. There is a rough guideline of, is it, for every job permission we recognise that it is 2.1 as an average of people that come to the Island?

The Connétable of St. John:

I asked what the cost was and could we find out what the cost is to the Island of those additional people?

Senator P.F. Routier:

I would imagine that would be extremely difficult. It would depend on the jobs that the people were doing. If they were able to support themselves, which in many cases is what is happening to people because they have no access to benefits, that the only area which would be would be access to education and no doubt some sort of calculation could be made with regard to the cost of that, and also access to health, but they would have the same conditions as our ordinary population after they had been here for 6 months for health. Certainly I can ask the department to work on some figures for you.

4.16 Deputy J.M. Maçon of the Minister for Transport and Technical Services regarding outsourcing and privatisation:

What aspects of his department and portfolio, if any, does the Minister intend to outsource or privatise, or terms similar to that effect, over the term of this Assembly and in the longer term?

Deputy E.J. Noel (The Minister for Transport and Technical Services):

In line with the Strategic Plan agreed by this Assembly all departments have been required to undertake a comprehensive programme of zero-based budget service reviews including consideration as to whether there is an obligation to provide a service. T.T.S. is moving into a period of significant change. Extremely challenging saving targets have been set for the department and there is an expectation for States departments to slim down in size and reform the way services are delivered even in the departments that are expecting substantial growth over the next 3 to 4 years. T.T.S. is in the process of comprehensive reviews of both its technical and non-technical services, which will enable T.T.S. to continue to provide essential public services to the Island and manage the finances in a sustainable manner in the longer term. The majority of these reviews will be completed during 2016 and into 2017. Only as each review is completed will the department be able to say whether it intends to reduce, cease or outsource any of the services provided in that particular area.

4.16.1 Deputy J.M. Maçon:

As these reviews are completed will the Minister be bringing a proposition to the Assembly for endorsement to change those services in that way, should that be the conclusion of the department?

Deputy E.J. Noel:

It is not our intention to change any services provided to the population. We will continue to provide those services or we may do it in a substantially different way than we are currently doing it.

4.16.2 Deputy M.R. Higgins:

Can the Minister give an indication, first of all, of the size of the workforce at T.T.S. and, secondly, the size of the population in some of the areas that they are considering privatising or delivering in another non States way?

Deputy E.J. Noel:

T.T.S. currently has just a little over of 500 F.T.E.s (full-time equivalent). That number will be reducing from, I do not like to use the term, but natural wastage; people retiring and not filling vacancies, and some people have gone for the voluntary redundancy package. So the numbers will reduce from that just over 500 F.T.E.s but we are looking at every single aspect of T.T.S. over the next 18 months, so I cannot really comment on the second part of the Deputy's question.

The Bailiff:

For the benefit of the listening public, F.T.E.s, you mean full-time equivalent posts?

Deputy E.J. Noel:

Yes.

4.16.3 Deputy M.R. Higgins:

Supplementary? Could the Minister tell us how many people have taken voluntary redundancy from that staffing figure he gave us?

Deputy E.J. Noel:

I do not have the figure to hand. I have a figure in my head but I am not sure if it is correct so I will get clarification and circularise that figure to Members.

4.16.4 Deputy G.P. Southern:

Firstly, will the Minister give an indication of when he will come to the House with some firm proposals about the way forward? Secondly, in the report from the adviser there was a suggestion along with some figures to suggest that his department was less efficient, or departments in general were less efficient, in Jersey than they were elsewhere and I think the comparison was with Guernsey. Will he undertake to bring those figures and that research to the department so we can clearly understand what the inefficiencies are?

Deputy E.J. Noel:

The comparison between Jersey and Guernsey is not an apples and apples comparison; it is an apples and pears. We provide very many different public services to our cousins in Guernsey so it is not easy to compare the 2 islands in the way that that report did.

4.16.5 Deputy G.P. Southern:

Nonetheless, will he give us a timescale when he intends to report back to the House with intentions, and can he produce figures that do give some sort of comparison so we can understand what is going on?

Deputy E.J. Noel:

As each review is completed through 2016 and 2017 the outcomes of those reviews will be implemented.

4.16.6 Deputy J.A. Martin:

The Minister keeps to referring to these reviews that are looking at all aspects of his ministry, the T.T.S. Department and to what he will need to either reduce, cease or outsource and then he says people at the same time are jumping ship and taking V.R. (voluntary redundancy). Now, should the Minister not be designing the “should look like at the end” before he decides who he is letting go in the middle? To me, would the Minister not agree, a shambles of a way to run a T.T.S. Department?

Deputy E.J. Noel:

This Assembly has tasked not only T.T.S. but every single States department to reduce in size and to make savings. We have agreed. This Assembly has agreed £70 million worth of staff savings over the life of the M.T.F.P. I have been tasked to implement that and that is what I am doing.

4.16.7 Deputy J.A. Martin:

Supplementary. I am not denying that this House has agreed this. I am asking the Minister; he should surely know what he wants to achieve at the end and not start cut, cut and find out at the end he may not have the right employees to do the operation, how the reviews say they should be done. It is quite simple. Is the Minister not getting that?

Deputy E.J. Noel:

The good Deputy Martin is conflating 2 issues here. The V.R.s that have been accepted do not have any impact on frontline services, do not have any impact on the services that we provide to Islanders and therefore we can accept those individuals who have come forward and requested V.R. for the Public Service Voluntary Redundancy.

4.16.8 Deputy A.D. Lewis:

I am aware that this has been looked at before but as the Minister gradually implements a new parking charging strategy, which I know he is reviewing at the moment, will he be considering whether ownership of the car parks should remain within the public sector in the future?

Deputy E.J. Noel:

I am not sure how that relates to this particular question.

The Bailiff:

The original question was so wide it seems to be quite difficult to contain supplementaries.

Deputy E.J. Noel:

That review will take place and we will act on the findings from that review.

4.16.9 The Connétable of St. John:

The principle of outsourcing, and, sorry, I am a new entry to this Assembly, but the principles to me seem important and will the Minister come to this Assembly prior to implementing outsourcing or will he just go ahead on a Ministerial Decision?

Deputy E.J. Noel:

We have been tasked by this Assembly to reduce costs in the payroll of the States by some £70 million over the next 4 years. I am afraid that you cannot do that without some people moving on from States employment.

4.16.10 The Connétable of St. John:

The question was: will you come back to this Assembly before outsourcing projects rather than individuals being laid off or whatever? The principle of outsourcing, will it come back to this Assembly or not?

Deputy E.J. Noel:

We are here to provide public services to the Island in the most efficient way. It does not need for any department to come back to this Assembly if they decide to outsource those services and provide those services to the public in a more efficient and less expensive way than they are currently doing now.

The Connétable of St. John:

I take it as an answer, no.

4.16.11 Deputy J.M. Maçon:

My question did cover the department and portfolio. One of the recommendations within the report was also looking at the sports facilities. Is that also under review and when is that review to be completed and reported upon to the Assembly?

Deputy E.J. Noel:

That does not come under my remit either as Minister for Transport and Technical Services or as Assistant Minister for Treasury and Resources. That review is being done by Economic Development and by the Assistant Minister there with responsibility for sport.

5. Questions to Ministers without notice - The Minister for Education, Sport and Culture

The Bailiff:

We come now to questions to Ministers without notice. The first question period is for the Minister for Education, Sport and Culture.

5.1 Deputy P.D. McLinton:

Following the somewhat baffling talking out of a Private Member's Bill recently in the Commons regarding the compulsory teaching of first aid to school children, and also following on from a question I asked the Minister back in July, is the Minister still supportive of the compulsory teaching of first aid in schools? Secondly, what progress, if any, has been made towards this outcome?

Deputy R.G. Bryans of St. Helier (The Minister for Education, Sport and Culture):

I thank the Deputy for his question. One important thing to take note of that we do here in Jersey that is not done in the U.K.; we still have what we call P.S.H.E. (Personal, Social, Health Education) which is to do with personal, social and health education. We have that as a compulsory part of our curriculum. They do not have it in the U.K. I think the working towards involving that with the first aid is where we are moving. I could not say what has happened since then. We had somebody looking at that situation so I would have to report back to the Deputy.

5.2 Deputy L.M.C. Doublet:

Could the Minister please provide an update on the situation with the provision of Jérriais lessons in schools please? Particularly, has he looked in the research as we discussed in the last public hearing with the Education and Home Affairs Scrutiny Panel into what is the best way to both train teachers to teach Jérriais and to deliver this to children, which is the best way for the children to learn?

Deputy R.G. Bryans:

Thank you to the Deputy for the question. We have progressed somewhat since the last discussion regarding Jérriais. The consideration has been made and I think we have made it public that the concerns that we had was to do with the Jérriais teachers reaching retirement at some point in time. So a decision was made along with themselves to come up with a new concept which was to train local teachers who are qualified in teaching modern languages to learn Jérriais. We have already gone out and asked several young teachers to look at that and we have had some replies about that. So the concept would be moving forward that we would acquire teachers through the school who are already in the education system to go out to the schools on a temporary basis to pick up the threads that have already been made with the Jérriais; that has already been done extremely well with the 3 teachers that we already have in place.

5.3 Deputy M. Tadier:

Would the Minister confirm whether or not he still maintains support for the principle that school fees in the private sector should be exempt from G.S.T.?

Deputy R.G. Bryans:

This is another part of the system that is under review at the moment. I think we have talked in the past about school fees in particular. It is part of our review that we will come back to the House with regard to in the beginning of 2016, so it is still under review.

[11:30]

5.3.1 Deputy M. Tadier:

Could he provide a figure for, say, if school fees were subject to the 5 per cent G.S.T. like any other goods and services in the Island what that would raise in terms of revenue based on current figures?

Deputy R.G. Bryans:

I do not have that figure but I am sure we could look at it for him.

5.4 Deputy A.D. Lewis:

I would like to ask the Minister about policies designed to encourage children and staff to cycle to school. How linked up is the thinking with the Sustainable Transport Policy? In other words, is the Minister discussing this with T.T.S., ways of making it safer for school children and staff to cycle to school?

Deputy R.G. Bryans:

Yes, we have a very good relationship with T.T.S. in particular. Although this is not something that has passed by me in terms of recent meetings, I have to say, so I want to refer back to the Minister for Transport and Technical Services to see where we are on that but I accept the idea from the Deputy.

5.4.1 Deputy A.D. Lewis:

A supplementary. Would the Minister be able to tell me, perhaps not now but in the future, exactly how many children do occasionally or regularly cycle to school?

Deputy R.G. Bryans:

Yes, I am sure we can provide some sort of figures for that. Thank you.

5.5 Deputy G.P. Southern:

Education standards in Jersey were recently subject to comparison with the Scandinavian education system, especially Finland, where there is low emphasis on perpetual testing and that salaries, attractive salaries, are paid to teachers to attract the best, and teachers are left to get on with teaching. Is that not an approach that the Minister would support in Jersey?

Deputy R.G. Bryans:

Thank you to the Deputy. To take up the last part of his question there, autonomy for teachers was very much a part of the 4 principles that we set out at the beginning which was: creating a new curriculum, which we have done; raising standards, which we are working on; working with families, which we are working on, and the autonomy which gives teachers the opportunity to work more effectively to make their own decisions within their schools. With regard to their income, that is something for the States Employment Board but I understand where the Deputy is coming from.

5.5.1 Deputy G.P. Southern:

A supplementary, if I may? It goes along with we have a system which, while it respects the authority of the teacher, is attached to a minute-detailed testing system, does that not get in the way of delivering good education? You do not fatten the pig by testing it.

Deputy R.G. Bryans:

I think the Deputy may be aware, and if not, one of the things that we are intending to do in the new year is to come back to the whole Assembly to give a presentation on what Education is doing at the moment. It is such a wide remit I am not sure that the Assembly fully appreciates some of the areas that were under consideration; in particular we have taken on board a new system whereby teachers can provide up-to-date information which is very live and current and relates to each individual student, and that in itself would alleviate some of the pressures with regard to testing.

5.6 Deputy S.Y. Mézec:

The front page of the *Jersey Evening Post* yesterday informed us - thankfully Deputy Doublet has brought this to the public's attention - that spending on education in Jersey as a percentage of G.D.P. (Gross Domestic Product) is comparatively very, very low when compared to many of the European countries. Is the Minister satisfied with this position? How does he see that changing over the next few years and would he like to see that amount increase as a result of the extra investment that Education is getting over the next few years?

Deputy R.G. Bryans:

Yes, I would like to see it increased. Which Minister would not want to sit in front of his department and say: "Yes, we have got extra funding"? But of course, as everybody accepts at this moment in time, and, as I said at the end of the article, we are not in the position to do that. The reason for this article being written in the first place was an open conversation with the *J.E.P.* (*Jersey Evening Post*) where we pointed out to the reporter the particular table that is being quoted. So, yes, I would like to see increased funds but it is not applicable. I think what it does do is it shows the testimony to the great teaching that goes on, the fine learning that is accepted, and the good students that we have got.

5.7 Deputy L.M.C. Doublet:

Could the Minister explain to the Assembly how the new initiative for testing children on their physical abilities in P.E. (physical education) is going to improve their learning of physical education?

Deputy R.G. Bryans:

This is usually an area which my Assistant Minister, Constable Pallett, would take up as the Minister for Sport but I do know, having worked with him, that we know a healthy body creates a healthy mind and we also know that we are very aware of the statistics relating to obesity in children. So, like I say, the Constable is always really focused on wanting to make sure there is currently a very high level of P.E. that is adopted within the schools and this will be maintained.

5.7.1 Deputy L.M.C. Doublet:

Sorry, I am not sure that answered the question. It was on the principle really of does assessment purely for assessment sake, so testing children on what they can do, how does that improve the teaching and learning around P.E.?

Deputy R.G. Bryans:

It is not the assessment that we are so concerned about, it is about the physical health of the child. So the assessment itself is necessary for us to identify a sort of baseline, as it were, so that we can identify whether the children have advanced in physical abilities or not.

5.8 Deputy M. Tadier:

Does the Minister accept the scientific consensus that the starting age of school in Great Britain and in Jersey by extension is too young and that the optimum age for starting formal education should be towards 6 or 7 year-olds?

Deputy R.G. Bryans:

Thank you to the Deputy. I do not know that the consensus is scientific but I know that, as was quoted earlier, areas like Finland ... in fact today on BBC Radio at 3.00 p.m. there is an education programme relating directly to that particular aspect. I think myself and Deputy Doublet are very concerned about making sure that we have the wellness of our primary school children at heart when we make any considerations but at this moment in time, with the system that we have in place with regard to the nurseries, with the primary schools, I am quite confident that we have made the right decision about the age they should start school.

5.9 Deputy G.P. Southern:

What explanation does the Minister have for the relatively low percentage of G.D.P. in Jersey compared to the U.K.?

Deputy R.G. Bryans:

I do not know that I have an explanation. I could say that in terms of G.D.P. it does not affect the way in which we address how we work in Education. What we do is identify the budget and then we place the allocation of those monies according to need.

5.9.1 Deputy G.P. Southern:

Will the Minister agree to produce some further research on this area and come to the States with that information?

Deputy R.G. Bryans:

I thank the Deputy because it is not something I considered before but I can certainly put it into the presentation, which I said I would make in the first quarter of next year.

5.10 Deputy L.M.C. Doublet:

Could the Minister inform the Assembly if he has collated the results of a recent survey he sent out to all teachers, and if this has not been done yet, could he inform the Assembly when he expects to achieve this, please?

Deputy R.G. Bryans:

No, I have not seen the results of that and, yes, as soon as we do, it will be passed out. Thank you.

5.11 Deputy A.D. Lewis:

Was the Minister concerned about how the police handled the case of the tragic death of a student in Trinity recently, particularly with regards to the welfare of the students arrested in connection with the case, and will he be discussing the matter with the police authority sometime soon?

Deputy R.G. Bryans:

It was discussed very much when the case was live and post that situation. Our problem was at the time because of the enormous tragedy, the enormous emotional content of the case and because we were dealing with minors, that the police felt that they had the requirements to deal with the matter in which they did. We were concerned because we could not at that point in time - and I think I mentioned this at the last Assembly - contact the boys who allegedly were involved in the case until much later. So it is something that is on our mind and we will talk to the police beyond this point. Thank you.

Deputy G.P. Southern:

I have forgotten the question I was going to ask. [Laughter]

6. Questions to Ministers without notice - The Chief Minister

The Bailiff:

Well if there are no other questions for the Minister, the Chief Minister gets an extra go. I am sure Members will be pleased about that. So we now turn to questions for the Chief Minister. Members will note that there is a statement the Chief Minister is going to make later on about Syrian refugees and there will be questions opened for Members after that. Deputy Tadier.

6.1 Deputy M. Tadier:

The Chief Minister is, no doubt like many of us, concerned about the situation in Sark at the moment. Does he agree that what Sark perhaps needs is some kind of political assistance in the long term but is it something immediately that C.I.C.R.A. could look at to see what the situation is with business practices in that Island?

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

If I could answer the actual question and it has to be no. Of course I think the question was trying to ask a more complex question about Sark and I refer the questioner to what the Ministry of Justice in the United Kingdom said, and that was that the best solution for moving the issues which Sark find itself in has got to be one generated locally. I am supportive of the Council of the Bailiwick which Guernsey, Alderney and Sark will be setting up. The first meeting will either be later this year or the beginning of next year. I have again reiterated our offer of support in any way that we can to the Ministry of Justice and to my fellow Chief Minister in Guernsey, and we continue to stand ready if we are asked to provide any support assistance, be that technical or political, that should be required. I am aware that the 22 Channel Islanders who wrote the open letter have now been invited by the Chief of Police to visit Sark. That may not be possible this year but I understand it will be possible in early course next year. A local solution has to be the best answer.

6.1.1 Deputy M. Tadier.

A supplementary, and it was probably my fault for not asking a concise-enough question, but I think the question I meant to ask was, it seems that the problems in Sark, at least in part, if not largely, stem from anti-competitive practices which are being imposed on that Island by 2 individuals who seem to have, if not a monopoly, certainly a very influential market share, who have been able to bring that Island to its knees, so to speak, economically. Given that fact, if it is true that there are anti-competitive practices going on, is that not something that the Channel Island Competition Regulator could look at in the first instance?

Senator I.J. Gorst:

I think that is to simplify the issues that people might be concerned about in relation to Sark and I would not want to pass judgment upon that today. I suspect that the Channel Island Competition Authority operates under Jersey legislation and under Guernsey legislation and therefore has no *locus* in Sark but perhaps the Solicitor General may wish to advise because I think it would ultimately be whether there was *locus*.

The Bailiff:

Not during your question time, Chief Minister. **[Laughter]** Deputy Mézec.

6.2 Deputy S.Y. Mézec:

It was only after we had moved on from question 12 that I realised I felt that the Chief Minister had given an answer which was slightly ambiguous so I just want to clear up one aspect of that question which he can do with a simple yes or no answer. The question I think refers to the unredacted chart report and it also makes reference to the appendices. Can we exclusively ask about the appendices? There are 6 of them. Has the Independent Care Inquiry received all 6 of those appendices, yes or no, in an unredacted form?

Senator I.J. Gorst:

I gave the answer that I did, that the complete report in an unredacted form has been provided.

6.2.1 Deputy S.Y. Mézec:

So there is no ambiguity whatsoever, when he says “complete report”, he also means the appendices, all 6 of them, is that correct?

Senator I.J. Gorst:

As I understand it, the ambiguity is about the number of appendices that were part of that report and that is why I answered in the way that I did. My understanding is that there were not 6 appendices but that the full complete report with appendices was submitted in an unredacted form.

6.3 Deputy A.D. Lewis:

Is the Chief Minister aware of the common practice of hiring staff via an agency to circumnavigate the 5-year rule? If so, does he not agree that it would be better to be more transparent with this and simply allocate more licences, thus avoiding the extra cost of using agencies for small businesses?

Senator I.J. Gorst:

I am aware of the issue but I am not sure that the suggestion that the Deputy raises works because that would mean then that employment agencies that have an important part in the marketplace would not have licences and therefore would not be able to function.

[11:45]

6.4 Deputy L.M.C. Doublet:

I wanted to ask the Chief Minister about the question we touched on in July of this year during questions without notice about the stress policy for States of Jersey employees. The Minister told the Assembly that the stress policy for employees was being revised. Could we have an update on this? We were also promised figures related to how many people are currently off sick with stress-related illness. I am not sure we have been provided with those, could the Chief Minister give those now, please?

Senator I.J. Gorst:

I do not have that with me but they will be provided and I will ensure that they are provided by the end of this week, both elements.

Deputy L.M.C. Doublet:

Also an update on the stress policy, please?

Senator I.J. Gorst:

Indeed, both elements of the questions: the stress policy and the figures.

6.5 Deputy T.A. Vallois of St. John:

It has come to my attention that the Chief Minister plans to request the Assembly to go in camera for my proposition on P.137. Could he explain why that is the case and why he has not had the decency to discuss this with me in advance?

Senator I.J. Gorst:

Quite simply because I have not yet made that decision. I asked for the advice of the States Employment Board yesterday and I am still in 2 minds as to whether that would be an appropriate way forward but I am more than happy to discuss the matter with the Deputy.

6.6 Deputy G.P. Southern:

Having seen the cuts in the grants provided to J.E.T. I note in response to question 21, the written question, that the Minister lists Family Nursing and Home Care, Les Amis and Shelter Trust as large recipients of grants. Can he produce a table showing the top 10 recipients and whether those grants have been frozen or reduced over this year when looking at 2016 budgets so that we can understand, and with the response from the institutions as to what they have cut or changed to deliver the service so that we can understand what is happening to grants on the Island to charitable and third-party institutions?

Senator I.J. Gorst:

As the Deputy knows, those figures and that list came out of the published accounts. Each organisation will, because of the nature of the service that it is providing, be in a different position. So some of those organisations will be providing more services in the future and therefore be receiving more funding for those services. Some organisations will not be having an upgrade to their budget during the course of the Medium Term Financial Plan and there may be others. I will certainly investigate and try and produce something, even if it is not quite as detailed as the Deputy wishes. It may group organisations into particular categories on that scale that I just explained.

6.7 Deputy S.Y. Mézec:

The Chief Minister can correct me if I have got this wrong here but with the appointment of the Constable of St. Peter to be the new Assistant Minister for Treasury and Resources, bearing in mind that he is already an Assistant Minister for another department, under the Troy Rule does that not mean he can theoretically still have another Assistant Minister to another department? If that is

the case, has he considered it and what will they be looking into doing? For the record, I am not applying for a job. [Laughter]

Senator I.J. Gorst:

Yes, I wondered when a Member of the Assembly would cotton on to that particular fact. The Deputy is quite right. I, like the Minister for Treasury and Resources, am grateful to the Connétable of St. Peter for taking on this role and I think it will work well for both departments. It was only agreed this week. A number of conversations had to be undertaken before the Minister was in a position to announce what he did earlier today, and therefore I am going to consider how we might appropriately fill, and in which department that could be, the position that we find which is vacant for a further Assistant Minister.

6.8 Deputy M. Tadier:

Perhaps it will be a Minister for Children rather than an Assistant Minister. But the question I was going to ask is to do with the Sharp Report. How many appendices does the Minister understand that there were to the Sharp Report and of those appendices how many, to his knowledge, were given to the Care Inquiry?

Senator I.J. Gorst:

I understand that there was one. Whether there were subdivisions within that one might be another matter.

6.8.1 Deputy M. Tadier:

So irrespective of how many subdivisions there were in that, to the Chief Minister's knowledge was any of that appendix given to the Care Inquiry and, if it was, was it given in its entirety or was it given in its partial form?

Senator I.J. Gorst:

My understanding is that the full appendix in its unredacted form was provided.

6.9 Deputy G.P. Southern:

Does the Chief Minister agree with what I think is a new policy announced by the Minister for Transport and Technical Services that he has absolutely no need to return to the States with any of his outsourcing proposals and that it is covered by the general acceptance of this Chamber that £70 million of cuts have to be delivered? Is that policy?

Senator I.J. Gorst:

I have no wish to second-guess the Minister for Transport and Technical Services in regard to the work that he is doing but I accept his argument in the Assembly. Of course there may be cases where there needs to be a legislative change to enable outsourcing and that obviously would be treated differently.

6.9.1 Deputy G.P. Southern:

As a matter of principle in first instance, the Minister proposes that the policy will be that nothing comes back to this House unless it is exceptional, is that the case? Surely it should be the other way around.

Senator I.J. Gorst:

I do not think that is the case. If it is governed by legislation or there is a particular reason that a Minister may wish to come back to get the reinforcement of the Assembly, I think that is a fair process.

6.10 Deputy M. Tadier:

Will the Minister give serious consideration to creating a Minister for Children now that there is at least space under the Troy Rule, but of course there may be other reasons why he would wish to do that? Would he outline his current position and whether he will undertake to give that further consideration?

Senator I.J. Gorst:

Maybe I have to check the security of my communication instruments. Consideration is being given, not simply to a position that would be responsible for children and how that might work, but for children and families. We are in the early stages of having those considerations but we do think it is an important part of government policy that needs to be reviewed and we need to make sure there is appropriate bringing together of the different strands and appropriate political responsibility for them. If we were to think about appointing such an individual, the first piece of work would be bringing together those strands and seeing how it could work in the Jersey system.

6.10.1 Deputy M. Tadier:

So would that entail a new ministry or simply a Minister who was attached to a pre-existing department?

Senator I.J. Gorst:

Well currently it would have to be the latter of course because that is all that is in existence.

6.11 Deputy G.P. Southern:

I have got over my shock at the last answer but at this time, can the Minister inform Members what progress on achieving an accurate and complete population register have we made over the past few months?

Senator I.J. Gorst:

I do not have the details to my fingertips. I know that officers in my department are working with the Statistics Unit and I will endeavour to get an update.

The Bailiff:

That brings Questions without notice to the Chief Minister to an end. Can I just give notice to Members that we have a third and fourth amendment to the Budget: the third amendment lodged by the Deputy of St. Mary, and the fourth amendment lodged by the Connétable of St. John; copies should be on Members' desks. There is nothing under J. Under K the Chief Minister will make a statement regarding Syrian refugees. Chief Minister.

STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

7. The Chief Minister - statement regarding Syrian refugees

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

In September I made a statement setting out my determination to explore what we as an Island could do to support the thousands of Syrians forced by violence and fear to flee their homes. I believe that we must respond to this crisis and must help those desperate people. It is the right thing to do. Through the Jersey Overseas Aid Commission we are making a very real contribution to the lives of people in the region, and I welcome that, but as we know the need continues to grow as more people are displaced, as winter comes, and as the resources and capacity of neighbouring countries are stretched to their limit. Jersey has been supporting Syrian refugees since 2013

through the work of the commission and has so far provided £1 million in aid to aid agencies in the region. An additional considerable sum will soon be ring-fenced for disbursement in 2016. The Jersey funds are being put to use at the very heart of the crisis in the Zaatari Camp in Jordan, a refugee camp so vast it has now become the country's fourth largest city. Here, tens of thousands of Syrian and Jordanian families are facing the prospect of an extremely harsh winter. Our funds are being used right now in the frontline relief of efforts by the British Red Cross, U.N.I.C.E.F. (United Nations Children's Fund) and Oxfam that are helping these families at a time when they are at their most vulnerable. In the immediate short term, some of the funds donated by Jersey are being used to provide suitable warm clothing, health kits, and necessary drugs to the refugees in Zaatari, half of whom are under the age of 18. In addition to this, cash grants are also being provided to the heads of those families, enabling them to budget for their continuing needs over the coming months. This is a measure that, as well as helping to address the immediate crisis, also has a beneficial impact on the local economy. In terms of infrastructure, our funds are also feeding into work to provide sustainable water and sanitation facilities in the Zaatari Camp in Jordan and in other areas north-west of Amman. Over the last 3 months we have also been liaising with Home Office officials to establish whether it would be possible to resettle a number of Syrian families in Jersey via the U.K.'s Vulnerable Persons Relocation Scheme. As Members are aware, Jersey does not have its own procedures for asylum. We are reliant on U.K. processes and if we were to resettle refugees via the U.K. Relocation Scheme we would be obliged to ensure parity with the provisions made under that scheme. This would include immediate access to work, education and health services, plus the provision of housing and the provision of benefits or an equivalent income. We could find ways to make appropriate provision, either by using powers that exist in law or by bringing forward new statutory provisions but doing so would present a significant risk because under the European Convention on Human Rights as enacted by the Human Rights (Jersey) Law 2000 we cannot treat one group of refugees differently from another. If we were to make special provision for Syrian refugees we would leave ourselves vulnerable to a legal challenge on the grounds of discrimination and this would mean that any refugee, whether or not they were Syrian, who was living legally in the U.K. and who entered Jersey could potentially, from their point of arrival, be entitled to the same special provisions. We cannot expose Jersey to that risk. Our Island simply would not have the capacity to manage the impact on housing stock, on public services or on the work market. Of course that does not mean that Syrians or other groups of refugees are not welcome in Jersey; they are but they would need to come here on the same basis as other residents in the U.K. or Europe.

[12:00]

It is also worth noting that even if we had been able to provide for refugees, what is referred to as secondary migration can happen at any time, that is, refugee families deciding to join families in Jersey or leave in order to join other refugees elsewhere in the U.K. I know that most Islanders want to help. Many are already actively involved in raising money to support work in the region or are engaged in providing practical help and support to the thousands of displaced people who have reached Europe. Recognising the very valuable contribution of local charities, we have now introduced the new Payroll Giving Scheme which will make it easier for Islanders to donate money in a tax-efficient way. An employee can simply make a weekly or monthly donation directly from their salary and, providing the total donation is £50 or more over the course of the year, the Taxes Office will ensure that the charity in question receives the tax paid; in short, for every £100 donated, the charity will receive an additional £25. The details of the scheme went live yesterday on the States website. As the Island's largest employer I will be asking that the scheme is promoted through the States, thus enabling the many staff who are already generous in their support to make most of their donations. I hope that other Island employees will do likewise. In addition, we will review whether a separate charitable fund should be set up to support people in

the region. This would be in addition to the monies already provided by Jersey through the Overseas Aid Commission.

The Bailiff:

Thank you very much. I just give notice to Members that P.82, which we are going to come and deal with immediately after questions to the Chief Minister on his statement, may cover ground involving the Prosecution Service at the time when I was Attorney General and I have therefore asked the Greffier to preside over that debate. I invite now questions to the Chief Minister on the statement. The Connétable of St. Lawrence.

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

I have been surprised at the number of calls that I have taken as Connétable from parishioners who feel strongly, to put it mildly, that as an Island we should not be accepting refugees to live among us. I make no comment on that other than to say I have been surprised at how strongly they hold those views. I would like the Chief Minister to make it clear to us all now whether or not we will be taking in families into the Island because he does not state that specifically in here. I would like him to say one way or the other, please.

Senator I.J. Gorst:

I am sorry, I know it was a long statement, but it does say that because of the human rights' implications we will not be able to resettle people under the United Kingdom Vulnerable Persons Relocation Scheme because of the potential for more than simply the 5 families that we would have considered to be able to challenge any special provisions that we would have had to put in place to give parity with the U.K. provision. I find it difficult to have had to reach that decision but on the advice I have received it was the only logical decision to arrive at. Having said that, I am extremely grateful for all the work that the Overseas Aid Commission have undertaken, the generosity with which they have considered applications for work into the grants and the leadership that of course the former chairman started to show and the current chairman has shown in dealing with these applications head on and the setting aside also of extra monies again for next year to deal with issues as they arise on the counties and it is extremely important that we show that we can play our part. One of those areas is no longer open to us but I know the commission continues to work actively with the international agencies.

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

Not wanting to split families but wanting to offer safety and shelter, would the Chief Minister advise the Assembly whether consideration was given for the Island to offer temporary homes with Jersey families to Syrian children currently living on the camps or bordering Syria or would the reasons of his statement prevent that too?

Senator I.J. Gorst:

That was part of my initial consideration but the same stumbling block that applies that we do not have our own provisions for dealing with refugees or own facilities and therefore would have to have worked with the United Kingdom Home Office under the scheme that they have in place, that is no longer an option, I believe, and Ministers accept, that is available to us.

7.1.3 Deputy M. Tadier:

The Minister stated that we would be obliged to ensure parity with the provisions made under that scheme and therefore come to, it seems, like an automatic conclusion; therefore, we cannot do it. But of course we could say that we are quite happy to ensure parity with the provisions made under the U.K. scheme as part of a civilised society and as part of the wider great British community.

So would the Minister explain why he has come to the decision of not being able to meet our potential obligations under that scheme if we were minded to do so?

Senator I.J. Gorst:

Once again, I find myself perhaps having given too much information in the statement because I have not said that at all. In the statement I said that we could have provided parity to the scheme for those families ...

Deputy M. Tadier:

A point of order. I was just quoting verbatim from the statement: "We would be obliged to ensure parity with the provisions made under that scheme." That is what it says in his statement.

The Greffier of the States (in the Chair):

Yes, the Deputy is asking you why you decided that offering parity was not an option.

Senator I.J. Gorst:

I have not said that. If he looks further down the statement he will see that I said: "We could find ways to make appropriate provision."

Deputy M. Tadier:

So what I am asking essentially is that the Minister, in response to the Constable of St. Lawrence, has said that the conclusion is that we have decided we will not be taking them. I am asking him what the reason is: whether that is an inevitability or whether that was a political decision that has been made because it was too difficult or politically unworkable.

Senator I.J. Gorst:

I wonder, was the Deputy in while I was reading the statement out. Was he in the Assembly?

Deputy M. Tadier:

I do not think it is question time for me. The Minister has eyes and he knows that I was sitting here. Would he simply answer the question that I asked is: why could we not offer parity under the U.K. scheme?

Senator I.J. Gorst:

That is not the question. Shall I read the statement again because I answered those questions in the statement? It is quite clear that we could offer parity under the scheme and we could use, as I said, either existing powers in the law or bring forward new statutory provisions. But it is by offering that parity that then provides or gives rise, I am advised, to a risk that that same parity would be available to the other 20,000 people that the U.K. is bringing into the U.K. under the Vulnerable Persons Scheme. We would then be at risk that any one of those 20,000 could move to Jersey - and under previous schemes as well, and under people who have refugee status in the U.K. - and could challenge us by saying that we would have to offer parity to them as well. It is that issue that has led me to accept, and the Council of Ministers, that as much as I may have wanted to help in this particular way, that it is no longer possible to do so.

The Greffier of the States (in the Chair):

I will come back to you, Deputy Tadier, next time. Deputy Martin.

7.1.4 Deputy J.A. Martin:

Yes, so we do not know how wide: it could be 20,000 or, as you say, refugees already there, and I fully understand that. My question to the Minister though is, because a lot of people in Jersey,

different people obviously that the Constable of St. Lawrence speaks to, who are wealthy and have property, once these 20,000 people are established in the U.K., is there anything stopping the wealthy of Jersey taking one or 2 people into their homes without any other benefit from the State? No special rights to work, no special rights to housing. I think that is the question I would like answered.

Senator I.J. Gorst:

Again, I made that clear in the statement. Any one of those individuals, like any other resident of the United Kingdom, could move to Jersey but they could not move under the scheme. So it would be a case of they would be resettled in the United Kingdom under the scheme and go to whatever geography they are and then make a secondary decision, which is why I referred to the term of “secondary migration” as they do to come to Jersey. If they did that, they would not be treated in any way differently from any other resident of the U.K. coming to Jersey. So they would have to wait for 5 years to access benefit, 10 years to buy a house, 6 months for the health issue, so they will be treated exactly the same.

7.1.5 The Connétable of St. Martin:

On 8th September this year the Chief Minister made a statement to the Assembly regarding the migrant situation in Europe during which he announced the opening of a refugee fund into which Islanders could donate. Could the Chief Minister advise the Assembly how much has been received in that fund from public donations and whether any as yet has been allocated towards the crisis or is the refugee fund the one referred to in the concluding paragraphs of his statement today?

Senator I.J. Gorst:

It is the one referred to in the statement. We purposely did not push it or promote it until we were in a position to inform members of the public what that money would be used for.

7.1.6 Deputy M. Tadier:

So the Minister said that it could be possible if we adopted the scheme that all 20,000 of the entire refugees could be eligible to come here. But the bigger question I guess is, would we be able to restrict the numbers? So would we be able to say: “We have got 100 spaces allocated to Jersey and we could take those, irrespective of their national background”?

The Greffier of the States (in the Chair):

I think that has been answered in the statement but the Chief Minister may wish to clarify. Anything you wish to add, Chief Minister?

Senator I.J. Gorst:

That is the whole point. We set off from the premise that we would speak to the U.K. Home Office and say that we would play our part in resettling refugees under this scheme but we could, by nature of our geography and resource, only accept a limited number of families but we could only accept a limited number of families under the scheme if we were offering parity. So we then moved to the: “Okay, I could make the argument in this Assembly and in the public domain to offer parity.” As soon as we did that and this Assembly were to agree that parity were to be offered, the fact that we might in the first instance say only 5 families were going to come, we would be open to challenge under the European human rights law that others who had been resettled in the U.K. - not only under this scheme but there was a previous similar scheme accepting Afghani refugees and there are others with refugee status in the U.K. - could then come to Jersey and challenge to be offered that same parity.

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

I just wanted to ask the Chief Minister a question in relation to the last paragraph of his statement about a separate charitable fund being set up, and which he just answered in relation to a previous question that it has not been promoted, whether the Council of Ministers would consider that this was an appropriate time to consider the matter of increasing our donation to the Overseas Aid Commission to specifically help those families in the refugee camp in Jordan by matching public donations pound for pound by the States of Jersey?

Senator I.J. Gorst:

We have not considered that particular proposal but I have asked officers yesterday to consider how we could help people in the region but it would have to be in conjunction with the commission. The commission do a fantastic job and have built up excellent relationships with aid agencies, providing emergency support and ongoing support in refugee camps as they are doing. There would have to be a tangible benefit from setting up such a fund. The commission's budget, while may not be growing as much as we would wish in the Medium Term Financial Plan, does see small amounts of growth.

[12:15]

7.1.8 Deputy R.J. Renouf of St. Ouen:

The Chief Minister has spoken about working under the U.K.'s Vulnerable Persons Relocation Scheme but would it be feasible for us to set up our own scheme and apply a numerical limit to the numbers entering that scheme, as the U.K. does seem to do so, speaking of a cap of 20,000?

Senator I.J. Gorst:

The Deputy asks a very good question. It is a question that I asked directly of my advisers, both political and legal, and it seems to me, having received that advice, that it is not possible for us to do that even if we were to mirror what the U.K. does. We do not have the facilities and I am not sure that we have the locus to do such a thing.

7.1.9 The Connétable of St. Martin:

Thank you for a third question, Sir. With an estimated loss of over 200,000 lives to date, displacement of 6.5 million civilians in Syria itself with over 4.2 million Syrians seeking refuge in neighbouring countries making it the largest refugee displacement since World War II, would the Chief Minister tell the Assembly of his reaction to some of the views expressed at the lunchtime Syrian refugee debate that was held at the Town Hall on 7th October?

Senator I.J. Gorst:

I have no pleasure in having to stand here today and tell Members of the Assembly the conclusions which I, supported by my colleagues, have reached but I see no way around where we have reached. I was extremely disappointed by the reaction of some of those in our community. **[Approbation]** The decision that I relay to the Assembly today is in no way based on that reaction. It is a technical legal hurdle which is not surmountable in my view and in the view of the advisers that I have. We are a very open, I think, supportive society for those who come and live in our community and I hope that it will continue and I really hope that, for example, the Jersey Muslim community which is well integrated into our community and the Jersey Jewish community who are also, do not feel that they are not accepted and valuable parts of our community because, to me, they absolutely are. The other thing I have got to say is that while there might have been a lot of noise from those who were, in some cases, scaremongering and speaking in ways which can only be described as hate, I received personally many, many communications showing Jersey people to be at their absolute best and wanting to do anything to move heaven and earth to be able to play

their part in supporting those who find themselves in such a distressing situation because of the result of violence and war and hatred in their own communities.

PUBLIC BUSINESS

8. Ex Gratia payment to Mr. Roy Boschat (P.82/2015)

The Greffier of the States (in the Chair):

That concludes the time for questions to the Chief Minister so we come to Public Business. The first item is the *ex gratia* payment to Mr. Roy Boschat and I ask the Deputy Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion to approve the making of an *ex gratia* payment of £360,000 to Mr. Roy Boschat as compensation for loss of business and reputation arising from the actions of the former Deputy Chief Officer of the States of Jersey Police and to request the Minister for Treasury and Resources to make the payment from central contingencies or, if insufficient funds are available for 2015, to request the Council of Ministers to make provision in the Draft Medium Term Financial Plan 2016 - 2019 for this payment to be funded.

8.1 Deputy T.A. McDonald of St. Saviour:

In 1986, Mr. Boschat started his own business, a company operating a breakdown truck in Jersey. He worked hard to make it a success by working long hours and responding to phone calls at all hours of the day and night 365 days a year. He did not take holidays of any sort and literally put his heart and soul into building up the work and the ever-increasing customer base of satisfied customers. These customers included the States of Jersey Police, a number of hire car companies, 9 out of 12 Jersey Parishes, insurance companies, commercial companies and many individuals as well. Taking everything into consideration, he quickly became the most popular, presentable, readily available and efficient breakdown man in the Island. In addition, he had been undertaking night calls for the owners/operators who were getting on in years, the last of whom retired in 2005. Mr. Boschat had now been in business for some 20 years and had established a thriving business and throughout these years, had managed to keep his prices well below those of his competitors which, in a small community such as Jersey, was a very important plus point in his favour. As a direct result of his own efforts and hard work, he had become very well-known and recognised by the public, as were his vehicles which were always clean, tidy, well maintained and were in fact permanent mobile adverts for the business. In mid-2005, complaints were made to the States of Jersey Police by 2 of his competitors that the bulk of the police towing and recovery work was being undertaken by Mr. Boschat's company and that the work was allegedly being influenced by grace and favours being given to a number of police officers by Mr. Boschat. As a direct result, the Chief Inspector of Operations instigated a review and restatement of the towing and recovery policy operated by the police force at that time. Mr. Boschat was responsible for all tows of vehicles owned by the States of Jersey Police force. The new Deputy Chief Officer of the police force appeared to have convinced himself that the allegations made against Mr. Boschat were true and he adopted a hands-on policy approach to proving this to be very much the case. On 30th November of 2005, the Deputy Chief Officer wrote to Mr. Boschat advising that there would be specific standards for his company to adhere to if he wanted to be included on the proposed rota. It also stated that no specific allegation of a criminal nature had been made against him by the 2 complainants which was not the case of course. The Deputy Chief Officer sent another letter to Mr. Boschat the very same day advising him that he had 14 days from receipt of that letter to ensure that all of his vehicles complied with a PAS543 of 2012 accreditation as opposed to a

standard inspection. It also advised that if the criteria were not met by 31st December 2005, his company name would be removed from the rota. I must point out that that PAS543 of 2002 was not, at the time, a Jersey standard. No such copy of these regulations existed anywhere in the Island. It is also very questionable as to whether it was lawful for the States of Jersey Police to insist on compliance with a United Kingdom standard without any local consultation. In May or June of 2006, 2 circulars were sent to all officers on the instructions of the Deputy Chief Officer requiring them to report any favours accepted from Mr. Boschat. Statements later supplied by the States of Jersey police only revealed social contacts with him. On 5th September 2006, Mr. Boschat was arrested, his house searched and his computer removed for forensic analysis while at the same time, instructions were issued by the head of operations that Mr. Boschat's company was not to be used until further notice. A memorandum was sent out to the Deputy Chief Officer by the head of operations that same day confirming that Mr. Boschat had been informed that in light of the evidence that had been gathered on the corruption and bribery charges, he was to be removed from the rota of towing companies called out by the States of Jersey Police. The States of Jersey Police then set in train a complicated process to require companies to tender should they wish to be included on the rota for the towing contract. On 12th September of 2006, the Deputy Chief Officer sent a letter out to 9 of the 12 Connétables and all States businesses. This letter stated that Mr. Boschat was involved with a significant number of cases of misuse of police computers and was also likely to be charged with the offences of bribery, corruption and conspiracy to defraud. It also accused Mr. Boschat of dishonestly obtaining business from the States of Jersey Police. There were further insinuations of complete dishonesty. The Deputy Chief Officer maintained that it was his duty to bring these matters to the attention of all interested parties. Following Mr. Boschat's arrest, word was actively circulated to many of his customers - it is not known by whom - losing him clients, causing him problems and also problems with his business insurance. No action was every brought based on the allegations of bribery and corruption, no evidence was ever produced to substantiate the accusation and these facts were confirmed to Mr. Boschat by the Deputy Chief Officer in the letter dated 20th November of 2006. Following the collapse of the case at the end of 2006, Mr. Boschat lodged a complaint against the Deputy Chief Officer concerning the way that he had been treated but this caused problems as there was no provision in the law for complaints to be made against the Deputy Chief Officer. At about the same time, the States of Jersey Police commissioned a report from Sussex Constabulary concerning their current contracting arrangements for vehicle recovery. Their head of policing or road policing, a Superintendent Paul Morrison, subsequently produced a comprehensive report, some of the findings and recommendations of which are as follows in an extract: "The current system was poorly organised. It noted that vehicle recovery costs were concealed within court and case costs and that tighter budget setting needed to be put in place. There was also a total lack of a clearly defined policy." It also criticised the double standard being applied to Mr. Boschat which was not considered ethical. This point was emphasised in the final recommendation which read as follows: "Recommended that the States of Jersey Police invites Roy Boschat back on to the recovery operation scheme. The ethical issues of double standards demean the professionalism of the force. The serious operational deficiencies found [and this is third party redacted information so somebody's operating practices and their impact on the frontline policing] cannot be underestimated."

[12:30]

Despite the fact that Mr. Boschat was never prosecuted for any offence, the States of Jersey Police kept his firm off the rota and totally contrary to Superintendent Paul Morrison's recommendations that he should be reinstated. I also feel a need to point out that strenuous efforts were made by the then senior officers of the States of Jersey Police to prevent circulation of the Sussex Constabulary report to Mr. Boschat. In fact, it was not until 2014 that the report was released. That is some 8

years later. As a direct result of the letter sent by the Deputy Chief Officer to the Connétables and so on, Mr. Boschat lost Parish and States work and, as a result of his arrest, he lost most of his other contracts as well. It was, however, the immediate loss of the States of Jersey Police and States work that almost devastated the profitability of his business which was based on a high turnover and a high performance but at an economic price. This demonstrates the effect on his turnover. His turnover went from almost £170,000 in 2004 down to less than £88,000 in 4 years and then down to just over £38,000 by 2012. It is also a fact that, in 2007, the cost of vehicle recovery to the States of Jersey Police force soared. This was questioned in the Assembly by the then Deputy Ferguson of St. Brelade. The reply identified the significant increase in the towing charges from the 2 companies that were on the rota plus the fact that the States of Jersey Police were still not ensuring that, where appropriate, charges were passed on to the owners of the vehicles which had been towed. At about the same time, a case was being brought against the third party on the basis of alleged inappropriate access to the States of Jersey Police computer and this to identify the owners of various registration numbers. Now it should be noted that it was normal and accepted practice for the vehicle recovery firms to contact either the States of Jersey Police or the Driver and Vehicle Standards Department in order to establish ownership details of vehicles due to be charged for towing fees. This was permitted under Article 31 of the Data Protection (Jersey) Law of 2005 and both the States of Jersey Police and Driver and Vehicle Standards were quite used to receiving these requests. In July of 2007, Mr. Boschat gave evidence for the defence at the trial of the third party who had been charged with a number of offences under the Computer Misuse (Jersey) Law of 1995. During his evidence, Mr. Boschat readily admitted asking the accused to check on one registration number held on the police computer. Now under normal practice, if Mr. Boschat had asked the Driver and Vehicle Standards for the information, it is probable that no charge would have been raised. However, this self-incriminating admission was then used as a basis for bringing a charge and a case against Mr. Boschat. A number of hearings were heard in the Magistrates Court and representation by an advocate was becoming a significant cost to Mr. Boschat, so much so that he resorted to representing himself. The final hearing was held on 28th August 2008 when the Magistrate dismissed the charges on the grounds that Mr. Boschat had not been warned about self-incrimination. It was noted that Mr. Boschat had been appearing as a defence witness and not as an accused person. The advocate - when he had one - had not rehearsed the evidence that Mr. Boschat would give which went on to support the prosecution case. If the evidence had been rehearsed prior to the case, I am certain that Mr. Boschat would not have been called as a witness. It should be noted that the Deputy Chief Officer of the States of Jersey Police had in fact retired at the end of 2008 prior to the final hearing on 28th August of that year. This proposition is a vitally important one from Mr. Boschat's perspective and in an effort to simplify a complex and protracted matter, a timeline of events has been provided for perusal and already distributed at Appendix 3. I feel the real need to bring a number of other important considerations to everybody's attention, the first being what I will call "the grounds for complaint by other tow truck operators". The original complaint by the other operators was, in my opinion, not considered rationally. Mr. Boschat obtained the business or work simply because his charges were significantly lower than theirs. He had also been in business for some 20 years and had a real wealth of hands-on experience in all such duties under all conditions, at all locations and with all types of vehicles needing to be towed and some, I can assure you, were from some very precarious and dangerous locations as well. The States of Jersey Police had jumped to the conclusion that the tasks were awarded because of favouritism. This is not the case. The tow charges were lower and the firm had all the equipment required to undertake all types of towing. That equipment was well-maintained and in excellent working order. Mr. Boschat's extensive experience allowed him to perform efficiently and very effectively and, most importantly of all of course, safely. The collision investigator from Driver and Vehicle Standards wrote to senior police officers on 12th December of 2005 complaining about the inappropriateness to stick blindly

to the rota which was operational at the time and especially in certain circumstances requiring a very specialised approach in response. He had required the vehicle to be removed following a serious collision and in such a way as to maintain the integrity of the vehicle prior to a forensic examination. He knew from past experience that he was able to rely on Mr. Boschat to provide such a service and in a totally professional manner which would assist to safeguard evidence of any and every sort. Mr. Boschat was not called to the scene and the operator who attended handled the vehicle in a very unsatisfactory manner. This isolated incident speaks volumes about the excellent service that was in fact the norm for Mr. Boschat who knew and fully understood exactly what was required of him and especially under such vitally important circumstances. In November of 2005, a new policy had been issued which required all requests for towing to be effected by the control room who would work to the rota. At about the same time, Mr. Boschat was given 2 weeks from 30th November to bring his vehicles up to the PAS543 of 2002 standard with an extension to 31st December to allow for Christmas. This he achieved but at considerable expense to his business. The actions undertaken by the States of Jersey Police were totally unreasonable in view of the fact that, despite examining Mr. Boschat's computer and searching his house, no evidence was found on which to charge Mr. Boschat on the grounds of corruption or fraud or any of the other accusations made by the Deputy Chief Officer in his letter to the Connétables, nor indeed by Superintendent Pearson in his letters to Mr. Boschat. At a much later stage, 2008 in fact, all 3 tow truck operators were required to tender for inclusion on the States of Jersey Police rota. During the selection process, there were discussions about one particular operator not being up to the standards of the other 2. It was decided in emails on 5th February of 2008 that the third operator would be given 6 months to get up to the standard required but it appears that this did not happen until 21st October 2008, some 9 months or so later, this in total contrast to the totally short period of time given to Mr. Boschat to do the same. The initial informal rota that had been established in 2005 consisted of Mr. Boschat and 2 other recovery firms in existence. The original policy strongly advised that the owner should make the choice of recovery vehicle unless it was covered by a contract. In November of 2007, a new tender was advertised. Mr. Boschat was told that because of the information held on record by the States of Jersey Police, he would not be allowed to tender. This was on the instruction of the Deputy Chief Officer. It is notable that the recommendation in the Sussex Police report regarding towing operations in Jersey was quite emphatic in that Mr. Boschat should be reinstated on the towing rota. Given this recommendation and the contents of the letters to the Connétables, it is not surprising that copies of that particular letter and the report did not reach Mr. Boschat until 2014. It must also be noted that the process of setting up a Service Level Agreement turned out to be considerably more complicated than the States of Jersey Police originally envisaged. At the end of 2008, there were still ongoing discussions as to the charging policy that should be adopted. The 3 towing companies on the rota charge clients differing sums for performing the same work. The States of Jersey Police was concerned that the public should not criticise them for any high or differential charging and were in fact quite anxious that the States should take that responsibility. The Sussex Police also pointed out in their report that imposing a recovery company on a vehicle owner where they have no fiduciary duty to do so or to insist on the vehicle being towed away is probably not legal. Mr. Boschat had formally complained about his treatment by the Deputy Chief Officer after the accusations of corruption were withdrawn at the end of 2006. It transpired that there was no provision in the law to deal with such a complaint but, eventually, it was arranged that the Devon and Cornwall Police would deal with the investigation.

The Greffier of the States (in the Chair):

Deputy, I am very hesitant to interrupt you.

Deputy T.A. McDonald:

I am looking at the time Sir.

The Greffier of the States (in the Chair):

I just wonder how long you had to go because I am sure many Members will wish to go the Soup Kitchen. There is a presentation.

Deputy T.A. McDonald:

Absolutely, yes.

LUNCHEON ADJOURNMENT PROPOSED

The Greffier of the States (in the Chair):

Do you wish to break or do you think you can finish in 5 minutes?

Deputy T.A. McDonald:

I too would like to go to the Soup Kitchen, Sir. I will not rush this. We will wait, if that is all right with you, Sir.

[12.45]

The Greffier of the States (in the Chair):

Very well. Are Members content to adjourn and reconvene at 2.15 p.m.?

Deputy J.A.N. Le Fondré:

Sir, can I just, as you say, remind Members that there is the presentation by Corporate on the interim report in the J.O.A.C. (Jersey Overseas Aid Commission). It is meant to be at 1.00 p.m. but shall we say 1.10 p.m. to allow people just to get their soup and if you want to come and join us, we would be delighted to see you.

The Greffier of the States (in the Chair):

I hope there is some soup left for Members. There was such a crowd there when I came through. Very well, the States stand adjourned until 2.15 p.m.

LUNCHEON ADJOURNMENT

[14:15]

The Greffier of the States (in the Chair):

The Assembly is quorate. Deputy McDonald, you were rudely interrupted, you may continue your speech.

Deputy T.A. McDonald:

It appears to me that I lost my place; I will have to start again. **[Laughter]**

The Greffier of the States (in the Chair):

I think not.

Deputy T.A. McDonald:

I will finish the paragraph I was reading earlier on. At the trial of a third party under the Computer Misuse (Jersey) Law 1995, Mr. Boschat's self-incrimination on a single count meant that the States of Jersey Police immediately re-opened the possibility of charging Mr. Boschat under the

same law, and against legal advice. Once Mr. Boschat had been charged, the investigation of the complaint was suspended; however, the investigation was re-opened as soon as the case was dismissed. It should be noted that the Chief Officer of the States of Jersey Police was confirming to the Chief Executive Officer of the States that there was nothing substantive in the complaint well before the investigation was re-opened. This is perhaps an exaggeration, as the report did not rule out misconduct. The Devon and Cornwall report on the complaint runs to 33 pages in summary, 126 pages of written statements and 429 pages of exhibits. The redacted copy provided to me was 6 pages long and is included, obviously, as an appendix to this proposition. The significant results, however, are as follows, and this comes from paragraphs 1, 3 and 5 of that redacted report: "Mr. Boschat was prevented from tendering for the States of Jersey Police vehicle recovery rota. The investigating officer considered that there was no evidence that Mr. Harper committed any criminal offence." It was suggested that the States of Jersey Police review the actions concerning Mr. Boschat's application to be included in the tendering process as breaches in legislation or policy could provide vulnerability for civil action. The Deputy Chief Officer communicated with the 12 Parishes, telling them not to employ Mr. Boschat, and raising concerns regarding his integrity. The report states that the 10 contacted representatives of the Parishes, to enable whether such communications had or had not been received, and this implies that copies were not kept on record. However, copies have been provided and are with the evidence collected. The investigating officer stated that the replies do differ in tone; on the balance of probabilities Mr. Harper did send out such communication and the States of Jersey Police may wish to review the actions of Mr. Harper in terms of how this can have restricted Mr. Boschat's trade and income.

The Greffier of the States (in the Chair):

I think we have referred to the gentleman as the "Deputy Chief Officer" to date, Deputy, and perhaps you could try to ...

Deputy T.A. McDonald:

"D.C.O.", Sir?

The Greffier of the States (in the Chair):

Well, I am sure that is how we used to refer to him.

Deputy T.A. McDonald:

Thank you. In that case, The D.C.O.'s restraint on Mr. Boschat's trade via the D.C.O. directing that the States of Jersey Police should not call Boschat Recovery Services for members of the public or public bodies who elect to use his service at the scene or road traffic collisions or to remove obstructions. The investigating officer noted that the Sussex review of recovery procedures said: "The rota system at present is considered to be unlawful. The overriding principles are that the owners have their vehicles recovered at their own expense and have the choice of recovery operators. Where necessary, for public safety or reasons of incapacitation of the actual owner, the police need to use their powers and, at that point, a rota system should be activated." The investigating officer concluded that the States of Jersey Police may wish to review the actions of Mr. Harper in terms of how this could have restricted Mr. Boschat's trade and income. It was also noted that there was no evidence of any criminality but, since the D.C.O. had retired, there was no potential for misconduct proceedings. Over the past few years Mr. Boschat has made strenuous efforts to obtain restitution for the injustice which has been visited upon him. With the assistance of a number of politicians, and notably Sir Philip Bailhache, he has obtained legal aid in order to assess whether there are any legal avenues open to him. The police, in turn, are willing to admit that Mr. Boschat has been treated extremely badly. As a result of the actions taken against Mr. Boschat, he has lost his business, his house and his marriage. He has also

broken down and, in fact, he has almost been destroyed by it all. Unfortunately, it was thought that direct legal action against the police was not possible as any action was now time-barred. Advice had been obtained from 2 firms of lawyers and, in their opinion, the only option left was the States Assembly. The proposition was tabled for 23rd June but, prior to that, I was approached by the Minister for Home Affairs and requested to withdraw it, and this to enable the States of Jersey Police to have an opportunity to revisit the case. I discussed the matter with Mr. Boschat prior to agreeing to the request, but advised the Minister that he had only agreed to that request so long as the decision was reached within a maximum of a week to 10 days. Sadly, nothing was forthcoming and, after 2 weeks or so, my lines of communication with the Minister fell silent and I decided, following consultation with Mr. Boschat, to put the proposition back on the Order Paper as soon as possible to avoid further delays. At this time, Mr. Boschat decided, and I suspect out of total and utter frustration, to approach the Judicial Greffe with a view to taking his case to the Royal Court in a real attempt to find a resolution. He took with him an email dated 24th July 2014 from the current D.C.O. of the States of Jersey Police, and this was written to former Senator Ferguson. This forms the addendum to the proposition, but it is such a vitally important document that I feel the need to read it out in full: "Dear Senator Ferguson. Thank you for your message. As we discussed recently, our position in respect of Mr. Boschat's intended action against the States of Jersey Police remains unchanged. He has clearly been wronged as a result of the actions by a former Deputy Chief Office. Mr. Boschat has been informed that the States of Jersey Police would not resist any legal action taken against the Force and full compliance with any court order would be observed. You will be aware that Mr. Boschat's civil claim received in December 2012 was submitted to our insurers for attention but was deemed out of time. My understanding when we last spoke was that Mr. Boschat may now have found a route for legal remedy beyond this; again, the States of Jersey Police would be co-operative in this regard. This would, however, necessitate some form of legal action. Under financial regulations, the police could not settle a claim made without some legal basis. If Mr. Boschat has found one, we can progress. In the absence of a legal route, perhaps the only solution would be for a proposal to be taken to the States for consideration of agreeing a settlement. If there is greater clarity on what options may be available to Mr. Boschat I am content to seek legal advice from a States of Jersey Police perspective on what might be possible outside of our insurance policy to come to some form of solution." I accompanied Mr. Boschat on Wednesday, 9th September to a meeting with the Master of the Royal Court and also the advocate representing the States of Jersey Police so that they could together present their side of the facts of the case for consideration. Awaiting a decision from that meeting meant that the matter was now in the hands of the Royal Court and the proposition could no longer be heard by this Assembly until a decision was reached. This led to a number of delays until the final approved version of that decision was released on 5th November this year. As one would expect, the final judgment ran to some 20 pages, which I have no intention of reading out, but I do feel the need to make reference to paragraph 1. In this, the Master of the Court states: "Before I set out my decision, it is right to record that I regard the conduct of the defendant, i.e. the States of Jersey, in not responding to requests submitted by the plaintiff in 2010 for over 4 years as wholly unacceptable and, if not, deplorable." Sadly the outcome was that Mr. Boschat's claim was, in fact, struck out, and this means that the case would not be heard by the Royal Court and that Mr. Boschat's one and only form of finding resolution of any sort is now via this Assembly and this proposition. I hasten to add, however, that I am being somewhat economical with the truth because there is, in fact, another potential option open to Mr. Boschat, and that is for him to attempt to take action against the 2 firms of lawyers who had acted for him in the past and who had failed to point out that he could have issued proceedings given the clear complaints he had made prior to 2009 and the recognition of those complaints in the Devon and Cornwall Police reports released in July of 2009. Sadly, this is not an option open to him at all by virtue of the potential cost involved, which could easily run to many, many tens of thousands

of pounds, money which he does not have, even following the sale of his home. Mr. Boschat is still in debt to this very day and advocate's fees have already played a very large part in contributing to these debts. Mr. Boschat therefore appeals to the States Assembly on the grounds that the accusations of obtaining work by grace and favour were untrue. He undertook the bulk of the States of Jersey Police work because he was prepared to work all hours, he was the most experienced and was also the lowest-priced company. The letter written by the D.C.O. to the Parishes and other States departments, while not criminal, was not based on evidence or a conviction in court and was, in my opinion, libellous. The action preventing Mr. Boschat applying to tender for the rota was based on allegations which had not been evidenced.

[14:30]

(4) Prevention of any Members of the States of Jersey calling Mr. Boschat on behalf of members of the public, in all the circumstances, was a restraint on his trade and (5) the police were aware that the other 2 firms on the rota were skewing the callouts and took no action against them. These are the facts, as I have them, of Mr. Boschat's case, and they are obviously fully supported by the evidence, the documentation of which you have been supplied.

The Greffier of the States (in the Chair):

Is the proposition seconded? **[Seconded]** Does anyone wish to speak on the proposition?
Connétable of St. Lawrence.

8.1.1 The Connétable of St. Lawrence:

Notwithstanding the information that was circulated to Members yesterday in an email from Deputy Mézec, I wish to address principally the recent court case and summary of judgment, about which we have heard from the proposer. Recent civil proceedings brought by Mr. Boschat against the States of Jersey Police arose from a dispute between himself and the former Deputy Chief Officer, which began in 2005. Mr. Boschat commenced civil proceedings against the States of Jersey Police by means of an order of justice which was served on 5th August 2015. Broadly, Mr. Boschat's claims were in respect of defamation, the tort of unlawful interference in the contractual relations of others, breaches of statutory duty by a police officer and the tort of misfeasance in public office. On 24th August 2015, the Law Officers' Department, as legal advisers to the States of Jersey Police, wrote to Mr. Boschat stating their intention to issue summons seeking to strike out the entirety of the order of justice and requesting further and better particulars of his claim, setting out cogent reasons why he asserted that his claim was not prescribed by law, i.e., was not out of time. In response to that letter, Mr. Boschat wrote to the Law Officers' Department on 26th August 2015 to say that prescription had been suspended, stating that the impediment which prevented him from bringing a claim within the 3-year period was his lack of knowledge of the Act giving rise to the cause of the action, i.e., he was not in physical possession of a letter sent by the former Deputy Chief Officer in September 2006 to each of the Parish Connétables, and we have heard from the proposer that that letter had been sent. As we have also heard from the proposer, Mr. Boschat's action was struck out by the Master of the Royal Court on 7th October 2015. Now, as part of his case, Mr. Boschat complained that he needed documentation in order to commence proceedings. He had apparently been told by his legal advisers that until he received documentation he was not in a position to commence proceedings, and we have just heard reference made to the fact that potentially Mr. Boschat could take a claim against his 2 legal advisers. Mr. Boschat first made a request for disclosure of police records and other correspondence in 2007 and was provided with a redacted copy of a Devon and Cornwall Police report. He was provided with information in 2007. He wrote again in 2010 requesting further material. His letter was passed to the then Information Manager of the States of Jersey Police, whose role it was to deal with subject access requests. There followed regular dialogue with Mr. Boschat to seek clarification

from him of the material he required, however, he continued to extend the nature of his request for documents. Effectively, Mr. Boschat was making multiple subject access requests under the aegis of one application. It was not, however, until 2014 that Mr. Boschat had a full response, and that was following the appointment of a new member of staff following the resignation of the previous incumbent who had been dealing with Mr. Boschat. As we have heard, the Master of the Royal Court in his judgment on the recent civil proceedings was indeed critical of the States of Jersey Police in not having responded promptly to requests made Mr. Boschat, and the Master viewed the delay as, to quote: “Wholly unacceptable.” I believe that a link to that judgment was sent to Members yesterday, so I hope that they have had the opportunity to review it. We know that it was wholly unacceptable and the States of Jersey Police acknowledge this criticism and apologise for the delays in this case. I can confirm that the disclosure process has been fully reviewed and additional resources have been appointed to deal with subject access and Freedom of Information requests. The processes introduced are now more streamlined and efficient, however, having delivered the criticism of the States of Jersey Police, the Master, in his judgment, did conclude that Mr. Boschat, and I quote: “Was not under a practical impossibility from commencing proceedings by 28th July 2009.” In his judgment he wrote: “A reasonable person could have issued proceedings” and that was meant to imply that Mr. Boschat could have issued proceedings within the prescribed time limits and, accordingly, as he had not done that, Mr. Boschat’s claims were deemed as time-barred and his claims were struck out. As Members know, there are time limits in law and, in civil law, almost all law suits must be brought within a legally-determined period known as prescription. Article 2(1) of the Law Reform (Miscellaneous Provisions) (Jersey) Law 1960, legislation passed by the Assembly, sets out the limitation periods for tort and for breach of trust or statutory duty, at 3 years. The intention, of course, of this law is to facilitate resolution in a reasonable length of time. Another purpose of the law, of course, is to protect defendants as well as to provide a reasonable timescale for a claimant to bring a case. I understand that there are a number of reasons for the existence of time limits. A plaintiff with a valid course of action should pursue it with reasonable diligence. A defendant might have lost the evidence to disprove a stale claim or a long dormant claim, and I am quoting now from *Halsbury’s Laws of England*, fourth edition: “A long-dormant claim has more cruelty than justice.” Now, it is possible to argue that time has not begun to run where a claimant is impeded from bringing their claim either as a matter of law or as a matter of fact. In the latter case, a matter of fact, it is important to consider not only what a plaintiff knew about the possibility of bringing a claim, but also what they could have found out on reasonable enquiry. The prescription is triggered and time begins to run once all the elements of the cause of action are in place so the claim can be brought. However, this rule could produce an unjust result if, through no fault of their own, the claimant has no knowledge of the breach until it is too late to bring the claim. When the specified time period within law passes, a claim can no longer be filed. We know that, as Members of the States Assembly, we have a number of responsibilities: we make new laws and regulations, we approve the amount of public money to be spent by the States every year and we also approve the amount of tax to be raised. It is not the function of the States Assembly to undermine the role of the courts or to be used as an alternative to due legal process. We, as an Assembly, make laws that apply equally to all Islanders and institutions. If a law is considered to be wrong, we are able to bring a proposition to the Assembly to change the law, not to override it. In my opinion, it would be a dangerous precedent to set for the Assembly to override the principle that due legal process should not be followed through the appropriate route. While, of course, there are 2 sides to every story, independent scrutiny is provided by our courts. As I said earlier, Mr. Boschat’s claims originate from events in 2005, and we have heard in great detail from Deputy McDonald about this. It is important that we understand fully the sequence of events which have led to the present situation. As we have heard, during the early 2000s, the States of Jersey Police had in place a tow contract with a number of local firms to assist with the recovery of broken-down, abandoned or stolen

vehicles or vehicles involved in road collisions, and Mr. Boschat was one of the approved contractors. As we have also heard, and I repeat, in 2005, the former Deputy Chief Officer became aware of concerns raised by other tow companies alleging that Mr. Boschat was receiving a disproportionate amount of work due to favours he was providing to some States of Jersey Police officers. In parallel with that, however, a serving police officer was being investigated for alleged corruption and computer misuse offences. For reference, that was known as Operation Mercury. The officer had established a business in acquiring and selling low-digit cherished vehicle number plates. He had developed a relationship with Mr. Boschat to help in identifying and locating potential number plates of interest.

[14:45]

The officer was, however, breaching the law by utilising the Police National Computer and/or driver and vehicle database to obtain information for what was considered his personal use. On 5th September 2006, both the officer and Mr. Boschat were arrested on suspicion of bribery and corruption and conspiracy to defraud. Both were interviewed and, indeed, premises were searched, as we have heard from Deputy McDonald, for evidence. The officer and Mr. Boschat were released from custody later that day, pending further enquiries. On the following day, 6th September, the former Deputy Chief Officer wrote to Mr. Boschat confirming that, he, and I quote now ...

Deputy J.A. Martin:

Sorry, Sir, could I interrupt; I think there is a point of order. If I can just ask a question of the Constable. We are learning some very interesting information, and I was just checking, and I know the speaker is talking as a Constable, also the Constable is the Assistant Minister for Home Affairs, and I was wondering where the comments were that all this information should be in, and I really think it is a point of order.

The Greffier of the States (in the Chair):

A point of order requires a ruling from the Chair; all the Chair can say is there are no comments. It is a matter for Home Affairs, I think.

Deputy J.A. Martin:

I really think, to make decisions, the proposer should have seen these.

The Greffier of the States (in the Chair):

Well, you can perhaps make those comments when you speak, Deputy.

The Connétable of St. Lawrence:

Sir, I would submit that what I am doing is responding to the comments that we have heard today from the proposer.

The Greffier of the States (in the Chair):

Please continue, Constable.

Deputy G.P. Southern:

Surely, Sir, that does not give us sufficient time to consider the arguments, nor indeed, the presenter of the proposition to consider the arguments being proposed?

The Greffier of the States (in the Chair):

Do not forget it is a point of order for the Chair; Ministers are free to present comments and it is a matter for the Assembly to judge the consequences of whether there are comments or not.

Deputy M.R. Higgins:

Again, like many other Members, we are hearing an awful lot of detail verbally. I am trying to follow the train of thought and everything else. Is there any way in which, perhaps with Deputy McDonald's assistance, that we can withdraw this proposition from today to get formal written comments so that therefore we can come back to it, maybe in 2 weeks' time, or whatever, with the full information that we should have to be able to decide this issue?

The Greffier of the States (in the Chair):

I think you would have to propose that the Assembly move on to next item of business, Deputy, if you wish to proceed in that way, unless the Deputy himself is ...

Deputy M.R. Higgins:

Sir, I hope Deputy McDonald will forgive me for this. I think if he wants to stand any chance at all, he should agree to a reference back.

The Greffier of the States (in the Chair):

It would not be a reference back, we would simply move to the next item. It would be relisted for a future sitting. Are you formally proposing that, Deputy?

Deputy M.R. Higgins:

Yes, Sir, I am.

The Greffier of the States (in the Chair):

Is that seconded? **[Seconded]** Standing Orders require the matter be put to vote without debate, so ...

Senator I.J. Gorst:

Sir, could you just remind us of implications of moving to the next item on the list?

The Greffier of the States (in the Chair):

It means the proposition could be relisted for a future sitting and the debate can resume. The Deputy would be entitled to speak again.

The Deputy of St. Peter:

Sir, can I just remind Members that, during the course of this debate, a number of points will be made and it will ...

The Greffier of the States (in the Chair):

Deputy, I am afraid a proposition has been made and it needs to be put to the vote and the Standing Orders say it must be put without debate.

Senator A.J.H. Maclean:

Sir, just on a procedural matter, would it be the next sitting that it would automatically go to if it was supported?

The Greffier of the States (in the Chair):

It is a matter for the Assembly, I would imagine the next sitting is probably more than full already. That will be a matter for Members at the end of the sitting.

Senator A.J.H. Maclean:

It was that point that I was going to raise ...

Deputy J.A. Martin:

Sir, this is a procedural matter and I am not going to discuss it, but if we vote to move on, does that automatically mean that the Minister for Home Affairs Minister will have to produce ...

The Greffier of the States (in the Chair):

Well, no, it does not; that is a matter for her. I would imagine she would hear the views of the Assembly if that vote were taken. Very well, the vote is for or against the proposition of Deputy Higgins that the Assembly move to the next item of business. Do you wish for the appel? The appel is called for. If Members are in their seats, the Greffier will open the voting.

POUR: 15	CONTRE: 23	ABSTAIN: 0
Connétable of St. Martin	Senator P.F. Routier	
Connétable of St. John	Senator A.J.H. Maclean	
Deputy J.A. Martin (H)	Senator I.J. Gorst	
Deputy G.P. Southern (H)	Senator L.J. Farnham	
Deputy of Grouville	Senator P.M. Bailhache	
Deputy J.A. Hilton (H)	Senator A.K.F. Green	
Deputy J.A.N. Le Fondré (L)	Senator Z.A. Cameron	
Deputy K.C. Lewis (S)	Connétable of St. Peter	
Deputy M. Tadier (B)	Connétable of St. Lawrence	
Deputy M.R. Higgins (H)	Connétable of St. Mary	
Deputy J.M. Maçon (S)	Connétable of St. Ouen	
Deputy S.Y. Mézec (H)	Connétable of Trinity	
Deputy S.M. Wickenden (H)	Deputy E.J. Noel (L)	
Deputy S.M. Brée (C)	Deputy of St. John	
Deputy T.A. McDonald (S)	Deputy S.J. Pinel (C)	
	Deputy R.G. Bryans (H)	
	Deputy of St. Peter	
	Deputy A.D. Lewis (H)	
	Deputy L.M.C. Doublet (S)	
	Deputy M.J. Norton (B)	
	Deputy of St. Mary	
	Deputy G.J. Truscott (B)	
	Deputy P.D. McLinton (S)	

The Greffier of the States (in the Chair):

Constable, you may continue your speech.

The Connétable of St. Lawrence:

Notwithstanding the call for comments to have been issued, I do think that Members have been involved in far more difficult debates with far more detail and we have always reached a successful outcome without the comments being provided. But I would say that, as Assistant Minister for Home Affairs, I do recognise the comments that have been made today and take it on board for future reference. I have just advised Members that the States of Jersey Police officer had breached the law by utilising the Police National Computer and, following that, Mr. Boschat and the officer were arrested, their premises were searched for evidence and they were subsequently released from custody. The day after their release from custody, the former Deputy Chief Officer wrote to Mr. Boschat confirming that he would not be called on by the States of Jersey Police in respect of towing or any other work, until further notice. On or around 12th September 2006, the former Deputy Chief Officer wrote to, as I understand, and not as the proposer has said, the 12

Connétables regarding Mr. Boschat's breakdown recovery business. In the letter, the former D.C.O. referred to the investigation by the States of Jersey Police and stated that, because of the nature and extent of the evidence gathered, the States of Jersey Police had found it necessary to remove Mr. Boschat's business from the authorised list that they held as a result of the direct connection with that business of a man arrested as a result of the investigation. Subsequently, the police officer, who was subject to investigation, was suspended from police duties on 10th September. At the conclusion of the investigation he was charged and convicted of 5 offence of computer misuse at the Magistrate's Court on 12th July. However, he had previously tendered his resignation from the police service on 4th July, prior to going on trial. No charges were proffered against Mr. Boschat as a result of this investigation but, as we have heard, he did appear as a defence witness for the officer at his trial. We have heard from Deputy McDonald that, while giving evidence at the officer's trial, Mr. Boschat incriminated himself by admitting under oath that he had procured the officer to commit a criminal offence by requesting that he carry out computer checks on vehicles. However, at no time while giving evidence on oath was Mr. Boschat given a warning by the Magistrate, counsel, or any court official about the law in respect of self-incrimination. The matter of Mr. Boschat's self-incrimination was investigated by the States of Jersey Police and a file was submitted to the Law Officers' Department. He was subsequently charged on 3rd April 2008 with a criminal offence, under Article 14 of the Computer Misuse (Jersey) Law 1995, and his first court appearance was on 30th April 2008. Further court hearings took place and the case was heard finally on 28th August 2008. At that hearing, Mr. Boschat successfully applied to the court for the evidence relating to his self-incrimination to be excluded. Following direction from the Magistrate, the prosecution offered no evidence against Mr. Boschat and the case was, indeed, dismissed. During the course of the police investigation, Mr. Boschat made a formal complaint about the actions of the former D.C.O. and, in January 2007, the Deputy Chief Constable of the Devon and Cornwall Police was appointed to investigate Mr. Boschat's complaints. A complaint statement was obtained from him in the presence of his advocate, however, due to Mr. Boschat having been charged with a criminal offence, the matter remained sub judice and could not be progressed until 28th August 2008. The former D.C.O. retired from the States of Jersey Police on 31st August 2008, before the conclusion of the complaints investigation. A further statement of complaint was recorded from Mr. Boschat on 7th and 8th October 2008, setting out concerns that were later to form part of his civil action. It is evident that, at the time of making that statement in 2008, Mr. Boschat had sufficient information to commence civil action against the States of Jersey Police, so some 7 years ago it is clear that he had sufficient information to proceed with his civil action. Returning to the former D.C.O., no disciplinary action could be taken against him because, as we know, he was then no longer a serving officer. The investigation had focused on whether any criminal offence had been committed by the D.C.O. and it had concluded that there was no evidence of criminality in his actions. Now, what this background demonstrates, I believe, is that there were legitimate concerns about Mr. Boschat's relationship with a serving States of Jersey Police officer and they did justify a full and detailed investigation which led to, as we have heard, the prosecution and conviction of the States officer. There was evidence of criminality at the heart of the case and, had it not been for the absence of a warning on the law of self-incrimination being given to Mr. Boschat by the court when he was giving evidence, it seems most probable that Mr. Boschat himself would have been similarly convicted. Looking around the Chamber, I sense a feeling of unease among Members and I am sure they feel, as I do, that this is a very uncomfortable position in which to find ourselves. Nevertheless, we have got to consider the proposition that has been laid before us and, what we must remember is that we are being asked to approve an *ex gratia* payment to Mr. Boschat as compensation for loss of business and for loss of reputation. In fact, Deputy McDonald today has appealed to us. Of course, it has been my very unpleasant lot to explain to Members that there was evidence of criminality at the heart of this case and, had it not been for the absence of a warning on the law of self-incrimination

being given to Mr. Boschat by the court, it seems probable that Mr. Boschat would have been similarly convicted.

[15:00]

I repeat what Deputy McDonald has told us earlier in that he told us that Mr. Boschat admitted self-incrimination; that is clear. In conclusion, I am sure Members fully recognise and applaud the good intentions shown by Deputy McDonald in bringing this proposition. If I was seated I would also be showing approbation. However, what we must remember is that this Assembly has established time limits for bringing claims for damages, and I hope I have explained those clearly. We must also remember that this Assembly is not a court of law. We are not best placed to adjudicate upon individual cases, particularly I would submit when the Royal Court has already done that. The Master of the Royal Court has concluded that, on an objective test, Mr. Boschat had the knowledge necessary to bring a civil claim well before relevant documents were eventually disclosed to him. That civil case was struck out by the Master of the Royal Court on 7th October, and accordingly I would urge Members to do the same with this proposition today.

8.1.2 Deputy S.M. Wickenden of St. Helier:

First of all I would like to congratulate Deputy McDonald on his very articulate speech for his first proposition in the States. There are some aspects of this case which are very uneasy. I think it is quite deplorable that it took 8 years to get certain levels of information, whatever the reason. Something could have and should have been done better. I do not agree with the letter being sent out to the Constables but the former Deputy Chief Officer did not have any legal right to instruct the Constables, as far as I am aware, in that manner and it was up to the Constables to make their decision on how they would deal with it. There are a number of facts within this proposition that I would like clarified, if Deputy McDonald would not mind. There was a question by a former Senator about costs of recovery and in the proposition it says that the costs went up significantly after Mr. Boschat left. But when I do the figures - and I hope Deputy McDonald may do the figures to see if I am wrong - dividing the cost per year of recovery by the amount of recoveries, to me it looks like the prices went down by 2007. Could he in closing maybe clarify if I am right or wrong on that point? This all started in a way because allegations of favours and gifts were being given to police officers, and at no point within this proposition do I see an affidavit or anything from Mr. Boschat saying that he denies wholeheartedly that any of this happened. Maybe, if possible, would the Deputy tell us whether the position of Mr. Boschat within his dealings with him was that at no point did a police officer, before the allegations, receive favours or gifts from himself. I will leave it at that, thank you.

8.1.3 The Connétable of St. Martin:

I only wish to speak briefly. Much has been said about Mr. Boschat's conduct, however, he remains an innocent man. He has not been convicted of any offence. We are not here today to act as judge on any allegations or suspicions about his behaviour. We have heard about another person, a former police officer who was convicted after being charged and appearing before the court. Mr. Boschat has not been, and - as the Constable of St. Lawrence has just said - we are not a court of law so we cannot have it both ways. We cannot say that there are time limits imposed, so we are a court of law, but then on the other hand we are finding somebody a suspicion of guilt when they have not been. I am concerned about the use of the time limit and I would hate to see that being used as an excuse this afternoon. It is a moral stance that we are taking. How would we deal with a States employee who is in a similar situation? We would probably give them a lump sum and pay it off. Surely Mr. Boschat was probably a States employee or a type of States employee because he was contracted to do some of that work. If he was not then do we deal with members of the public, different contractors, differently than we do to States employees? Finally,

I would just like the Deputy in his summing up to explain how he has come to the figure of £360,000 because I cannot find it, or my adding up is not quite correct.

The Deputy of St. Ouen:

I would just like to declare to the Assembly that I have a conflict of interest in this matter arising out of my legal practice and, therefore, I will not be taking part in the debate or voting.

8.1.4 Senator P.M. Bailhache:

Mr. Boschat has been coming to see me as a constituent intermittently over the last 2 or 3 years and I have been trying, with Deputy McDonald, to give him advice, not all of which, I have to say, he has taken. He is indeed in some respects his own worst enemy, and as the Assistant Minister explained his conduct, has not always been above reproach. But Mr. Boschat has suffered a grave injustice at the hands of the States of Jersey Police and that has been admitted by a very senior police officer. If Mr. Boschat had pursued his action against the police before the courts at the proper time I think that he would probably have succeeded and have been awarded damages. But he did not do that and the Royal Court has ruled his belated action out of time, so now he appeals through Deputy McDonald to this Assembly. I said on another occasion in the previous Assembly that such appeals should, in my view, only succeed very rarely. Sadly the public administration does misfire from time to time and if we were regularly to try to right wrongs done by our officials we would do little else. The remedy for writing these wrongs lies in the courts, if it lies at all. But sometimes the Assembly is persuaded that the unfairness is so great, or the misconduct so gross, that some acknowledgement of the wrong should be made. We expect our police force to be independent and impartial in their dealings with members of the public, and the vast majority of police officers do not disappoint us. We expect police officers to play by the rules and not to pronounce or to imply guilt before a suspect has been convicted in a court of law. Mr. Boschat was arrested on 5th September 2006 but he was not at that stage charged. On 12th September, a week later, the Deputy Chief Officer of the time - and you do not wish him to be named, Sir, but I hope there is no misunderstanding as to which Deputy Chief Officer we are talking about - wrote to every Constable and every States business having undertakings with Mr. Boschat. The letter is at page 18 of the Deputy's proposition. It is quite difficult to read and I expect that many Members will not have struggled their way through it but I would like to read the last paragraph of it, where the Deputy Chief Officer says: "It is clear from all of this" and lots of unsubstantiated allegations have been set out before: "and from further intelligences that other agencies using this company" that is Mr. Boschat: "are themselves vulnerable to the same type of attack on their integrity. There are also issues of public protection and the use of public money. For these reasons I see a clear need to disclose these matters to you under the conditions outlined at the start of this letter." Which were that they should not be passed on to anybody else: "While the States of Jersey Police have no wish, nor indeed the right, to seek to influence your internal decision making, I feel that it is our duty to make this information available to you to give you every opportunity to carry out your responsibilities in the way in which you think best." The Deputy Chief Officer was correct to state that the States of Jersey Police had no right to seek to influence internal decision making, but that was exactly what he did. Those weasel words had the devastating effect that no doubt they were intended to bring about. Mr. Boschat's business went downhill and eventually collapsed. When the report of the Sussex Police, which thoroughly investigated the States Police vehicle recovery system, recommended - and the Deputy did read this out but I will just repeat it - the Sussex Police recommended that the States of Jersey Police invite Roy Boschat back on to the recovery operators' scheme, the ethical issues of double standards demean the professionalism of the force. But the Deputy Chief Officer did nothing. The reason for that was that he had decided in his own mind that Mr. Boschat was guilty, even though he had never been convicted in a court of law. That did not, in my view, demonstrate the independence and impartiality that we are entitled

to expect of the States of Jersey Police. To be fair to the States of Jersey Police in its current incarnation, that has been expressly acknowledged. None of this, I might say, has been referred to in the self-serving note from the Deputy Chief Officer, which has been circulated to Members by Deputy Mézec. So where does this leave me in relation to this proposition? I believe that Mr. Boschat has suffered an injustice at the States of Jersey Police and I would have hoped that some means could have been found to acknowledge that injustice and to pay some modest compensation. But Mr. Boschat has not been willing to accept any amendment of the Deputy's proposition and the Assembly is faced with the stark choice of approving or rejecting the recommendation that a payment of £368,000 from public funds be made to Mr. Boschat. That, to my mind, is not acceptable and I shall be reluctantly voting against the proposition.

[15:15]

8.1.5 Deputy G.P. Southern:

We have heard 2 full accounts of this particular case, one from the Assistant Minister for Home Affairs and one from the proposer. The Assistant Minister for Home Affairs warned us about this slippery slope argument, that we must beware of second guessing what the courts should or should not have done, and yet she herself fell right on to the slippery slope when she started second guessing the court's decision. I do not know how many times she used the word "probable" or "probably" but effectively she stated that it was probable that Mr. Boschat should have been convicted, thereby second-guessing a court of law, which is not what we are here to do. However, we can establish the facts. Was Mr. Boschat unfairly treated by the police force? The answer must be time and time again, whether it is in the delays in responding or whether it is in the initial charges and the letter to the Constables, which was totally out of order, the answer is yes. Without going into *Jarndyce v Jarndyce* and being here for 3 days or 3 weeks or 3 years or 30 years, whatever Dickens established, we - by virtue of elimination - become the last resort. So the question is: was Mr. Boschat unfairly treated by the police? The answer is yes. Did he manage to get satisfaction out of the courts? The answer is no. Ultimately, when it comes down to who is responsible for the actions of the police? It is this body here, they are our police that we expect to be neutral, uphold the law, and behave properly. The fact is that we have an innocent man here who was badly treated by the police, railed to get restitution from the courts, we are the last resort, and I think I am in favour of voting for this proposition.

8.1.6 Senator P.F. Routier:

I would just like to follow up on the previous speaker. He outlines the position reasonably well but he omitted to mention the amount which we are being asked to consider paying to this gentleman of £360,000. As we heard from Senator Bailhache, there has been no attempt or any reasonable proposition brought to us to justify that amount, to give any indication that it is the correct amount for us to consider, and that is the stumbling block certainly for me. There is no justification for that amount so I am unable to support it.

8.1.7 Deputy J.A.N. Le Fondré:

I was very interested in the comments from Senator Bailhache because it reiterated, in principle, where I was coming from, which is that we have seen in the recent court ruling that was sent around by the Minister for Home Affairs where the comments are made by the person giving the judgment: "Before I set out my decision it is right that I record that I regard the conduct of the defendant" which was the Chief of the States of Jersey Police, obviously they are the defendant in the case now but they are talking in a wider sense: "in not responding to the request submitted by the plaintiff in 2010 for over 4 years as wholly unacceptable, if not deplorable." Obviously they carry on and as we have heard it then falls out on a legal technical argument of being time barred. So it was quite interesting listening to the arguments from Senator Bailhache because, yes, if on the

face of it the man was innocent then the Deputy Chief of Police of the day in my view should not have sent a letter around that said what he said. If he was found guilty, yes, you are justified but at the moment you are either innocent or you are guilty and at that point he was innocent. This is the difficulty, because sometimes we do have these cases in front of us and sometimes they are hideous. We talk about: "It is public money, how dare we spend X amount on an individual." I was just asked from the Minister for Housing whether I had enough fingers because I am very, very rapidly trying to do a calculation from page 33. Now, if my maths is remotely correct the turnover since 2006, if you take 2005 as the base point of £160,000 a year, the cumulative turnover drop, in other words in the first year it drops roughly £40,000 and in 2006 to 2007 it drops £70,000 from £160,000. Then it is dropped £80,000 because it drops another £10,000, so cumulatively adding that up the turnover seems to have dropped between £400,000 and £450,000 odd. That is kind of the damage that seems to have been done as a result of that letter. If one assumes that is then going to have the net effect on profit, we do not know. But if you were looking at - I have forgotten - it used to come under what they used to call forensic accounting, if somebody has a road traffic accident or something along those lines, they are trying to make assumptions on what the damage is to them, what the damage is to their future life, where would their career go and things like that. Those type of compensation areas do get quite significant, but if the turnover drop - and I say turnover, how that translates to profit we do not know - seems to be £400,000 to £450,000 odd, without taking at face value the comments about loss of house, divorce, personal trauma, whatever you like to call it. So the trouble is although £360,000 is quite a significant sum of money, if you put it into that context it seems to be, on the face of what we have, not unreasonable, but we do not have any evidence to back that up. What happens if we reject it, I do not know, because does it come back with a smaller sum of money? Is there some form of negotiation process that can happen between the relevant parties to get to an amenable state? That would be a great place to be, some form of mediation. But on the face of it, looking at this proposition in front of us today, I am going to have to support it. I think the 2 things standing back from it, we have one of our agents, somebody who does work for the States of Jersey, the Deputy Chief of Police, has gone and done certain things; then we have - and I am not too sure of exact title but it is I believe Deputy Chief Officer, and it is named in the judgment so I presume it is public - wrote to Senator Ferguson, and this is in the addendum to the proposition, and stated the plaintiff had clearly been wrong as a result of actions by a former Deputy Chief Officer. It is in the addendum. In fact I always thought it was a little odd that it was signed off at the bottom by States of Jersey Police "Inspiring Confidence". Ultimately they set out various points in there and they go down a legalistic point, yes, the court is the right place to be. This is not about legalistic arguments, this is about standing back and did one of our employees undertake certain actions which, on the face of it - I will certainly defer to Senator Bailhache's comments on that, he is far more learned in that area by any sense of form - did he do wrong? It would seem he did do wrong. So, on that basis I can support the proposition as the numerically indicative evidence laid out on page 33 seems to indicate the kind of sums of money of the damages that were caused.

8.1.8 Deputy J.A. Martin:

I will be very brief, I did not really intend to speak on this. I have read the case made by the Deputy, which runs to 47 pages. I will emphasise again that I really think for a true, proper one side and the other side we should have had the comments from Home Affairs. I think - and I may be corrected by the Constable - that the first date the Constable mentions is some time in 2004. But unless you were keeping and taking everything through ... and anybody knows who has ever presented as a Back-Bencher and you have to do every bit of your own research and then you are up against a ministry, that is not a problem, or the Council, not a problem, but not to have written, concise comments is really, really not correct. I do not blame the Constable of St. Lawrence for that at all, and she did apologise and she feels in the future they will do it better. Coming back to

the proposition, I have read it, as I say. I listened with interest to the comments of Senator Bailhache who commented on Mr. Boschhat as someone who does not always help himself. Well, I think this man - just reading and hearing - has gone from being a successful, married businessman who was buying his own house, to having his reputation destroyed in Jersey and lost everything on the case of some say-so. As I say, the letter that went to all the Constables - and I know this happened to be the Constable of St. Helier - should have been enough at the time ... the Constable should have talked to the D.C.O. of Police because he should not have been telling him this information in this way. What for? The man's reputation was destroyed. Is it the right amount of money? Well, if Deputy Le Fondré tells me it is calculated right, it is right. But what price, your reputation? This has been ongoing and ongoing and I totally agree with the Constable of St. Lawrence, we are not a court, today we will either decide whether this has been treated wrong. When you are under so much pressure, your world is falling apart, your marriage is breaking down, you have lost your house, and you keep, keep, keep asking the officials for information and they keep stalling, stalling, stalling. You have also apparently got bad legal advice, well, you cannot have much more bad luck than that, can you? But really I think it was one that I was not sure, but now having really concentrated over the last couple of days on what is in this proposition and the research done, the damage done to somebody in the community who is providing a service, and it sounds like really a couple of other companies got the oomph because they were not getting enough, but this man was doing it cheaper. Then, yes, there was an allegation that was proven, the police officer was proven to do the wrong. He should not have been doing it in the first place. Yes, he was asking for information, the police officer should have put him right straight away and said no. It was a self-incrimination, Mr. Boschhat admitted quite openly that he thought he was doing good, he was asking for these addresses of people so probably the police could claw back some money for the work he was doing. So I am very sorry, as I say, I do not know if it is the right amount but I do think the case has been made, but I really would have liked to have read the other side at the same time and I am sure everyone else would have done. It would have made it a lot easier. The Minister for Home Affairs still needs to speak but then again it will only be verbal, it will be very difficult for Deputy McDonald to sum up. Well, I would say it would be difficult but then he is an ex-policeman and I am sure he has made all his notes and he will get it right. Thank you, I leave it there.

8.1.9 The Connétable of St. John:

Just very briefly, taking one point, he had the opportunity of taking the matter to court. I think it needs to be stressed that if you go and see a lawyer and say: "I want to sue the States" the first question the lawyer asks is: "Are you sure?" It is trying to sue big brother and it is not an easy task in any way. That is not always a simple, straightforward recourse and I have every sympathy with this case. The bottom line is he has been treated wrongly. The only issue I think that perhaps is at the back of people's minds is whether the sum of money is correct or not. What price is a man's career and his livelihood? I leave that with Members to resolve.

8.1.10 The Deputy of St. Peter:

It is important to remind Members of the key points in this case, and there are very much 2 sides and they are in fact quite simple; simple enough to I think understand in a verbal sense.

[15:30]

I apologise if Members would have preferred to receive these as comments but we live and learn and I hope that the Assembly will forgive me on this one occasion. Put quite simply, there is no evidence that has been provided to demonstrate how the level of quantum sought by Mr. Boschhat has been assessed. As other Members have noted, there is insufficient financial information contained within the proposition to demonstrate how Deputy McDonald has determined the figure

£360,000 as the amount that he believes Mr. Boschat should receive. In the action that was brought against the States of Jersey Police in August this year that was struck out by the Royal Court on 7th October. The amount sought then was £600,000. Again there is no clear rationale for that figure. For instance, Mr. Boschat has not presented his company accounts for examination. It would appear that the figures have been selected at random. However there is some information in Deputy McDonald's appendix and if Members want to look at appendix 2(i) on page 33 of the proposition, in very simplistic terms you can look at the annual turnover provided in this document against the States of Jersey Police spend against towing. In 2005 the towing spend was £22,405. In 2006 it was £27,212 and in 2007 it was £38,840. Members will see by comparing those simply against the turnover that those figures are a very small percentage of the annual turnover of that business and so the question is how and whether the loss of States of Jersey Police business had a detrimental effect on the business to the extent it is being claimed. Additionally, Mr. Boschat has not demonstrated a clear link between the loss of his business and the actions of the former Deputy Chief Officer of the States of Jersey Police. There may have been other factors in play. There is in general a clear lack of evidence to support his claim. I shall not echo the earlier comments so clearly put by my Assistant Minister. When complaints were made to the police about potential inappropriate relationships between some police officers and Mr. Boschat the States of Jersey Police had legitimate grounds to investigate and they did so in accordance with the law. Not only did the investigation reveal criminality on the part of one officer that led to his successful prosecution and expulsion from the service, but also identified a number of other officers who benefited from a close association with Mr. Boschat in having been offered and making use of his holiday villa in Spain, for example, or who had obtained fuel from him at a reduced price. This is not the kind of behaviour that the public expects from its police officers. Integrity, trust and confidence are paramount to successful policing and any breaches simply will not be tolerated. While these incidents did not amount to criminal offences those officers had clearly breached force policy and were given advice about their actions and that behaviour would not be seen or accepted in the States of Jersey Police today. Suffice to say Mr. Boschat's behaviour in this is not without fault either. Had an appropriate warning about self-incrimination been given to him by the judge presiding at the trial of the officer, Mr. Boschat, as we have heard, may also have been convicted of a criminal offence. That is why this case is so different to others brought to the States Assembly in the past. Turning to his civil claim against the States of Jersey Police and the proposition we are asked to consider today, it is clear that Mr. Boschat had every opportunity to bring a civil claim against the police force well within the prescription period provided in law. Mr. Boschat had been advised by at least 3 law firms during the period and should not have been in any doubt as to the need to act within the statutory time frame. Members may ask why I asked Deputy McDonald to withdraw his original proposition back in June. This is due to avoid the Assembly being used as a de facto court of law, as we are being asked to do today, and in determining also whether any settlement should be reached in this case. The Department of Home Affairs sought legal advice and found there was no remaining legal mechanism available. Following my communications with Deputy McDonald, Mr. Boschat then decided to summons the States of Jersey Police, resulting in a strike-out judgment that was circulated to Members yesterday and that has been well explained. In that judgment the Master deals with the matter of the email published as an addendum to this proposition. I will quote from that. It can be found at page 66, if Members are able to find it quickly: "The fact that the email stated that the plaintiff had clearly been wronged as a result of actions by a Deputy Chief Officer does not matter. In any event the email also makes it clear that the plaintiff had to find a legal basis for his claim at which point the author indicated that the claim would progress. Sadly, while there was a legal basis for a claim to be issued by the plaintiff in 2009, and possibly earlier, the claim had clearly become time-barred by 28th July 2012." Those are the words of the Master of the Royal Court. The trail of correspondence and documentation referred to during civil

proceedings clearly demonstrates that Mr. Boschhat was aware in 2006 of the events that he alleges gave rise to the course of action. He was certainly aware of those events no later than 8th October 2008, the date he provided a statement setting out 5 specific complaints that was significantly more than 3 years before he commenced the most recent claim in August 2015. Mr. Boschhat has sought advice from a number of different lawyers who represented him at various stages. He and/or they should have known when he received the 2008 Devon and Cornwall Constabulary reports on or shortly after 28th July 2009 that he could have brought a claim. The 2008 report specifically makes reference to vulnerability to civil action. To the extent that Mr. Boschhat did not know the detail of the events he alleges gave rise to a course of action, for example, the precise contents of the letters from the former Deputy Chief Officer to the Parishes in September 2006, he could have known because he was aware of their substance and could have obtained them by way of disclosure in court proceedings had he chosen to commence them. There is no obvious reason why Mr. Boschhat did not bring an action against the States of Jersey Police within the prescribed 3-year period. That is why I argue this is not a simple case of righting a wrong today. While the Master of the Royal Court was sympathetic to the case he explained that on an objective test he considered that Mr. Boschhat had the knowledge necessary to bring a claim well before documents such as the former D.C.O.'s letter to Parishes was eventually disposed to him. Accordingly the claim was struck out as being out of time. Mr. Boschhat has had every opportunity to bring a civil claim through the proper legal process. The States Assembly is not the correct forum, as many Members have acknowledged, for people to pursue claims against the States. It should not be used as an alternative to proper legal procedures and this should be done through the formal court process. Indeed, the uncomfortable nature of this debate and the correspondence that has been circulated bears testament to that. Mr. Boschhat had the opportunity to bring a claim in 2006 but failed to do so within the prescribed time period. It is his inaction that has led to this matter now being time-barred. If this proposition is adopted my department would have to find £360,000 it does not have. This year we have reduced spending by 2 per cent and great efforts are being made to remodel working practices to create further efficiencies going forward in order to offer the best value for money to the public. 87 per cent of the States of Jersey Police budget is made up of staff costs and making a payment in this order, which is 1.5 per cent of that budget, will result in an adverse effect on essential frontline services.

The Greffier of the States (in the Chair):

I am sure you do not wish to mislead the Assembly inadvertently but the proposition says the payment will come from central contingency or provision would be made in the next M.T.F.P. There is no suggestion the money would come from your budget in the proposition.

The Deputy of St. Peter:

It is a fine point, Sir, but I am led to believe that it was...

The Greffier of the States (in the Chair):

I just draw your attention of the wording of the proposition before the Assembly.

The Deputy of St. Peter:

But I am led to believe that it would fall back upon the Home Affairs budget at some point.

The Greffier of the States (in the Chair):

It is not what the proposition says.

The Deputy of St. Peter:

Eventually, Sir, all monies for next year are already allocated, as we did so in October. As we are at the end of our financial year the funds have been already allocated. I submit that this proposition should be rejected.

8.1.11 Deputy M. Tadier:

I think this is clearly uncomfortable for many Members and it is not an ideal situation to be in. I join those who have commended Deputy McDonald on his first proposition today, putting it forward eloquently as he has done. I also do not think it is right to say as a blanket rule that it is wrong for there to be an overlap in some circumstances between the Legislature and the Judiciary. In a functioning democracy there should be a healthy tension and a mutual check between those 2 offices of Government. It is unrelated, but perhaps a good example and a slight paradox, is that we have seen in Northern Ireland with the recent judicial review that has taken place on the abortion issue, we have a court saying that people's human rights are being abused and it is ultimately up to the Legislature to come back and make sure those laws are put in place so that women in Ireland can have their full human rights respected. Similarly it should be the same in any other jurisdiction, Jersey included, that on occasions it is right for the courts to criticise Government for certain things that are not being done and in some cases similarly it is right perhaps on occasion for the Assembly, in cases where there have been apparent injustices that either cannot or have not been reasonably resolved by the courts or the legal processes, to look at those on a case-by-case basis. I do not think that is a problem. I have an issue with if we stepped into the breach to resolve injustices in the Jersey legal system or indeed in the public sector every time there was a case we could have every agenda every week in this Assembly filled with those grievances because I think that is the state of play we have in Jersey. Some very correct questions have been asked.

Senator I.J. Gorst:

I wonder if I could interrupt. I am not sure about another...

Deputy M. Tadier:

If it is a point of order, Sir.

Senator I.J. Gorst:

It is a point of order because he is insinuating that what happens in another place, the Judiciary are not behaving in an appropriate manner. I nearly jumped up and said it when another speaker was speaking. I think he should be very careful in how he criticises...

Deputy M. Tadier:

If he is making a point of order I would like to know which Standing Order he is referring to so the Chair can rule on it. Otherwise I will be quite happy to proceed in my seat.

The Greffier of the States (in the Chair):

The Chief Minister will be given the opportunity to speak if he wishes.

Deputy M. Tadier:

I am surprised he has not already or issued comments to this. The point is it is by no means imputing false motives but it does recognise that the Chief Minister knows more than any of us as he is chairing a legal review at the moment, and there were several reviews going on into justice in the Island. The point I was going to make is that the Constable of St. John who spoke most recently on the subject said that how do you get justice sometimes in tort cases in the Island when we know full well that we hear from constituents whom are told that unless you have deep pockets then I am afraid you cannot get justice in these cases, whether it is to do with suing a States department or due to other issues. That should lead us to be doing, and I remind people again that

we have several reviews going on at the moment, all these States Members and individuals who know of these issues should be making submissions, and I personally think that rather than having these kinds of debates, and it may well be I could bring a similar proposition to the States in the near future for somebody who has been an abuse survivor who has not been able to get any compensation themselves from a particular scheme, that could easily be discussed in this forum. But it seems to me in the future we need to look at instating a legal ombudsman in Jersey. We have a financial services ombudsman. We do not have a legal ombudsman to resolve some of these issues that could be resolved and we do not have a public sector ombudsman, both of which I think are long overdue. Those are 2 issues that I think are of concern. The other issue that for me is very much the elephant in the room, and I do not think this where the Deputy is coming from, but it has to be seen in the wider context that we have a live child abuse inquiry going on at the moment and we know that the former Deputy Police Chief is a key witness in that.

[15:45]

We know that there have also been individuals, the Deputy is not one of them, but there have been individuals supporting this particular case who we know have been strong opponents of the child abuse inquiry. I do not know if it is right to conflate those 2 issues but I know there are people in wider society who have followed those issues quite closely who do see a link between the 2. I also do not see necessarily the argument that just because somebody is not found guilty does not mean that they are an appropriate person to employ as a particular contractor. Similarly, not everybody who does find themselves on the receiving end of a conviction in Jersey who indeed ends up in our prison is necessarily guilty. In some cases they could be victims of circumstance. I think we are all mature enough to know that miscarriages of justice can and do occur. Hopefully not too often, and that is the real system we live in. Some of these letters have been referred to that were written from Mr. Boschhat to Mr. Harper. One example finds itself on the Right of Reply website written on 4th August 2006. It says: "Dear Lennie. Congratulations, you once again made the headlines. While we all know you are doing a crap job" it says in letters. I am quoting that, Sir.

The Greffier of the States (in the Chair):

Deputy, please, appropriate editing. You know to edit the text of things like this.

Deputy M. Tadier:

I thought we had a Hansard to do that, Sir.

The Greffier of the States (in the Chair):

Members do not need that sort of language in the Assembly, please.

Deputy M. Tadier:

I am sorry, Sir. I am quoting verbatim but I will refrain from doing that: "You are [4 letter expletive] at your job. The good part is that at least you are keeping the reporters at the *J.E.P.* in work. As soon as the paper came out on Friday people were calling to say Lennie's got himself into another fine mess. What is interesting is that the public are saying that when the next Senator election comes round [he has copied in Senator Kinnard] she will lose her seat. Would you please, please give the *J.E.P.* a different photo? I had 7 of those and have used all of those on the dart board. I can understand why you do not want to go back home. At least here you are quite safe. You never hear of people's houses being firebombed or having their cars torched. I am sure you know what I mean. Yours sincerely, Roy Boschhat." It seems to me that already, and this is in 2006, clearly relations between the 2 men were, let us say, slightly tired if that is not overly euphemistic. I think this is the problem we have. We do not know necessarily what the

decision-making processes are when you are taking on contractors and we know probably there are informal ways to go about a business in Jersey and there are probably more formal ways that the States increasingly, certainly in the modern world, needs to be aware of. It seems to me that there were relevant and quite right concerns the police had about the tendering processes. I am not going to say any more than that but it has been said, and I think we have all had a chance to read the letter that was circulated by the former Deputy Chief of Police in which he puts his case forward, and he has not really had anybody in this Assembly to put his point of view across. I think we need to take that into account.

8.1.12 Deputy M.R. Higgins:

I have always hated this type of proposition and debate, even though I have certainly brought one myself in this House. When people feel that people have been wronged obviously they want to try to help and if further remedies are not there then obviously they look to the States. However I want to make a few comments. One, I am particularly annoyed with the Council of Ministers and the Department of Home Affairs for not producing comments in sufficient detail. In fact I even warned Deputy McDonald last week. We spoke on the telephone and I said to him: "Have you heard the comments yet from the Council of Ministers?" He said: "No." I said: "Well, just watch them because they are very good at delivering it on the day of the debate so therefore you have no chance of being able to see what they are going to say and counter it." That is the first. That is one of the reasons why I am unhappy. We had both the Assistant Minister and the Minister for Home Affairs with prepared speeches, well thought out, well-crafted and so on so they put their point across. But putting Deputy McDonald at a disadvantage because he had not had sight of them and States Members at a disadvantage because we did not have sight of them, and we could have been asking questions as well. On that particular point I am angry. Whether we should be supporting the proposition is another thing. I will come to that in a second. There are a number of issues mentioned here, and again it comes back to the fact we do not have it in writing so you cannot look at the detail. I have noticed there are 2 problems that have been alluded to in terms of the police. One is the original one and the actions of the former Deputy Chief Officer and whether what he did was correct. The second one, and by the way it also raised through the fact that information was not applied during his time period, but he left in August 2008 and yet Mr. Boschat was trying to get information from the States of Jersey Police up to 2014, the current regime. I know from others I have been trying to help who have been trying to get information out of the States of Jersey Police it is like drawing teeth. The problem has been that no one has been prepared to take them to task. In the last sitting of the States I received an answer to a written statement I asked of the Chief Minister about complaints that had been made against States departments and also about Subject Access Requests made to the States departments and whether those departments were providing the information within the 40 days laid down in law. I have to say every States department except the police had met that requirement. The police had complaints and I asked, for example, how many were outstanding over a year. They had ones outstanding over a year and in fact I have to revisit those and go back through all the cases people have come to me on to see if those figures were correct. Bear in mind it is the former Deputy Chief of Police...

The Deputy of St. Peter:

Point of order, I can help the Assembly.

Deputy M.R. Higgins:

It is not a point of order because what you are going to do is try and say I am wrong.

The Deputy of St. Peter:

On a point of order I believe that S.A.R.s (Subject Access Requests) were thousands and there were only 3 outstanding.

Deputy M.R. Higgins:

Rubbish, they are very important ones because many of the people who have been complaining to me and asking me to take the police to task are former police officers who cannot get information out of the States of Jersey Police. Anyway, what I am trying to say is here we have a problem I think with the States of Jersey Police with Subject Access Requests. I also believe we have a problem with the Data Protection Office because they have not been pursuing them. Just to give you an example if it, one of the complaints I have been dealing with was dealt with by the Data Protection Officer who did absolutely nothing and who is now working for the Data Protection Office with the Commissioner and he is supposed to be going back to the department to complain about the fact that he had not handed over the information. If that is not a conflict of interest I do not know what is, so we have a problem when it comes to subject access, not only affecting Mr. Boschhat but others as well. Deputy Tadier mentioned the idea of a legal ombudsman. I have been working on a proposition to the States for quite some time and I regret I have not finished it. It is for what is called a Parliamentary Commissioner of Administration or popularly known as a Parliamentary Ombudsman. His job is to deal with many of the things we deal with. If we brought one in I would agree with Deputy Noel, who constantly wants to reduce the size of the States, because if we had a Parliamentary Commissioner who was investigating all complaints against States departments and could award damages and give instructions to define what they can do, unlike the Jersey Complaints Authority that does not have the teeth and has been ignored by Ministers, if we had that body where members of the public could go to, one, it is available to the public because it would not cost them in the same way it cost them to go before the courts. **[Interruption]** With respect, I think it is but I will come back to the point on this. I am trying to say we have problems in the States and in the way we run our Government and the way the Parliament is run. The Constable mentioned earlier that nobody can afford to go to court against the States because we know the States have Crown Advocates who have lots of money and the individual may end up spending so much money but again they lose their house or anything else, and also there are major problems for the quality of answers. Let me just come back to ... I will bring that proposition because it is an example of why we need it. I hope Members will support it when it does. As far as this particular proposition is concerned, I really do not know which way I am going to go but I do not like the fact that the sum has not been properly and independently quantified. We all know that Members in this House get up and we have a go at the fact the Minister for Social Security is freezing allowances and everything else and hurting the poorest on the Island and we are talking about, I do not know, £360,000 here. If that figure had been - as the courts do when their costs are looked at - taxed, in other words looked at by an expert to see if they were reasonable, that is one thing. No, I really do not know. I have said a number of points here, but I am expressing my dissatisfaction not only with the Council of Ministers for, I would say, the contempt for Deputy McDonald and the Assembly. Maybe when I leave this place I will get it right. As I say, it is one of these things. You can look at it. We have been given information which if you were in court you would be told to ignore, but we are not a court and it is very difficult to ignore some of the comments that have been made and some of the background information. I really do not know how I am going to vote on this particular one.

8.1.13 Senator I.J. Gorst:

I just wanted to look at the point that the mover of the proposition made, I think, great play in his opening speech of and that was the words of the Master. I just wanted to also look at that particular point in this ongoing saga. It is my understanding that the Master concluded on an objective test that he considered by Mr. Boschhat had the knowledge necessary to bring a claim well

before relevant documents were eventually disclosed to him, so the fact that they had taken a long time to disclose the Master said was in effect immaterial, and yet the mover placed great play upon that, that if things had been different, there might perhaps have been a different outcome. Yet the Master, part of the judicial apparatus, said that that was not the case and he recorded that the conduct of the police in not responding to the request submitted for over 4 years was unacceptable. But despite that, he concluded that a reasonable person in the position which Mr. Boschat found himself could have issued proceedings and it was not practically impossible from commencing such proceedings by 28th July 2009 and therefore he struck out the claim. What the mover in actual fact is asking us to do is override ... sorry, I see the Solicitor General leaning forward. I am not sure if he is wanting to interrupt. But it seems to me that what the mover is asking us to do is override the decision of the Master. This is unlike other claims that have come here where people, we feel, have been wronged. This has gone through an appropriate judicial process and the Master has ruled that it should be struck out, that the individual concerned should have taken actions and was in a position to have taken those actions. Therefore I do support what the Assistant Minister and Minister for Home Affairs said, and unlike some other Members of the Assembly, who have criticised them for not giving comments, I think the detail is relatively straightforward and it is just that. Does this Assembly wish to act as a second judicial and legal process? I am not sure that it should find itself in that position. Then of course we come on to the point that Senator Bailhache so ably raised, and that was we have no indication whatsoever that even if we did want to sit as a court of law and make that decision, which we should not be doing, we not have any evidence which tells us whether this amount is a reasonable amount or not.

[16:00]

The Greffier of the States (in the Chair):

Did you want to intervene, Solicitor General?

Mr. M.H. Temple Q.C., H.M. Solicitor General:

Yes. I think the Master, in his decision, has set out the potential causes of action that were available to Mr. Boschat and there are 4 heads of claim. As I have heard the proposition explained, the 4 heads of claim do encompass all the matters that have been raised by the Deputy this afternoon. What the Assembly is being asked to do is not exactly override the decision of the Master; I think what is being asked by Deputy McDonald is, in view of the decision of the Master, to act effectively as an insurer of last resort. In its discretion, the Assembly is being asked to pay what Mr. Boschat could have obtained had he pursued an action in law in respect of the heads of the claim that were open to him. I hope that assists.

Senator I.J. Gorst:

Could I just ask the Solicitor General, he obviously is a more eloquent speaker than myself, but is he not suggesting that the reality of Members accepting the move of the court position would indeed be overriding the decision of the Master by paying out money? He uses the term “acting as insurer of last resort.” That in effect would be an insurance company saying: “We do not accept that the Master believes it should be struck out. We are not striking it out. We are going to make a payment.” Perhaps it is the difference between the lawyer and the politician’s view of the world; I am not sure.

The Solicitor General:

In terms of what is meant by “override” I think there are various interpretations of that word. On one level, yes, the Assembly, if it were to vote in favour of this proposition, is de facto overriding the decision of the Master. On another level, it is taking account of the decision of the Master and it is acting as a last deep pocket; in view of the Master’s decision of striking out Mr. Boschat’s

claim. It is being asked to disperse from its own pocket what Mr. Boschat could have obtained through legal action in the court.

The Greffier of the States (in the Chair):

If no other Member wishes to speak, I will call on Deputy McDonald to reply.

8.1.14 Deputy T.A. McDonald:

I pick up this document, the proposition, it is 40-odd pages and I wonder to myself how the devil can anybody condense 10 years of a man's life, losses, stress, heartbreak and everything else into that proposition. Here we are, more facts have been introduced by various people, a very difficult thing. I believe it was mentioned, I think, by Deputy Southern our lack of resources, that we do not have the facilities, we do not have the P.A.s (personal assistants), we do not have the secretaries, we do not have the wherewithal to come here to present beautiful speeches and so on. I would like to thank everybody who has spoken and I have listened carefully. I am afraid I am not a shorthand typist, but I have done my best to make notes as we have gone through. But what I do want to emphasise is that I can say, hand on heart, and to the best of my knowledge and belief, Mr. Boschat did not get the evidence that he wanted, he does not have the evidence that he wanted, the details, the information, to this very day. When he did receive any form of documentation that he requested, it was so heavily redacted it was hardly worth the paper that it was written on. I think his first request for disclosure was in 2007, but at the end of the day, he still does not have it. I did not go off at tangents looking at the data protection law and the time of response, 40 days and so on, but can we all remember that at that time, Mr. Boschat was being represented and given advice by advocates? Now, part of that advice I know was that to go forward paperwork was required. In other words, the advice he was given - and I could not tell you by whom, nor would I if I knew - but he was told that you cannot proceed with court cases, Magistrates' Court cases, Royal Court cases, without documentary evidence, without paperwork, in other words. This is one of the reasons why if he had the money, if he was in a position, I think he would have a very, very good case against the advocates that were advising him at the time. What else have we got? So many different things. We have got this law of *empêchement*. Obviously this, to Mr. Boschat, looked as though it was the answer to a maiden's prayer, because he had been told that everything was time-barred: "Forget it" et cetera, and then somebody - and again, from memory, I cannot remember who it was - discovered this law of *empêchement* and this seemed to provide the opportunity of saying: "No, hang on, this 3-year rule is a lot of nonsense. This is not correct." I think it was at that stage that Mr. Boschat decided that it was time to up his game, for want of a better word. Now, while we are looking at upping the game in figures, the figures that have been produced, very rough figures in the proposition, were based on figures that were kept by Mr. Boschat and his sister and advisers, et cetera, et cetera. It was worked out that the actual loss to him as an individual over that period of time was over £1 million, £1.2 million. I can say that when we were discussing the proposition and everything else associated with this matter, I said: "This is ludicrous. We cannot approach the States looking for the sum of £1.2 million. We cannot even ask for £500,000." The situation that we are in at this moment in time is basically unprecedented, in many ways, almost as unprecedented as all this is. But I said: "What I would say is I am happy with the figures you have produced and I am sure others will be." The sum of £360,000 was basically to try and get back Mr. Boschat's house. He wanted a roof of his own over his head once again. Now, I never thought I would have to stand up and talk about such things in the Assembly, but I think I do have a bit of an advantage over other Members, because I have been on the receiving end of something very similar. Believe you me, it is heart-breaking when you have to give up a house to get yourself out of debt, to use that money to try and pay for advice and advocates and so on. This figure of £360,000 was agreed that it was a reasonable sum which would have put the roof of a small cottage or a flat over his head, at the end of the day.

That is where that figure came from and I have no embarrassment about talking about it. What else do we have? I made myself a comment that we are not here to judge the man - we are not here to judge anybody, in reality - but I think if we had to judge on anything, it would be how was Mr. Boschat treated by the system. By the system, I am talking about the States of Jersey Police and the wherewithal that goes with the whole thing. How was he treated by the system? I honestly believe he was treated badly back in the times of the former Deputy Chief Officer that he had all the problems with, and I think he has been treated just as badly in many ways by the current incumbents, because yes, they were quite happy ... or not quite happy, they were going to consider some form of compensation, restitution, call it anything you want, until it came to the crunch. After having said: "Look, we are not going to fight any case" et cetera, I think somebody must have said: "Hang on, this is an awful slice of our budget" or whatever. That is when things changed. I agree with everything Constable Le Troquer said. Sir Philip Bailhache described Mr. Boschat as his own worst enemy, and I think from my knowledge of him, I would not disagree with that for one moment in time. But again, I can understand, I know what it is like to be out of the loop. You are at loggerheads with the Government, with the States of Jersey, nobody is talking to you. You do not have money to progress things. Believe you me, the stress and the strain is phenomenal. Now, we all react differently to those things. I know I did, and I tried to behave as a gentleman should all the way through, but obviously we are different and Mr. Boschat adopted a totally different stance. I cannot criticise that. One thing I can assure you is I can understand how everything became so embittered. Senator Routier mentioned the figures. Yes, how did we come by it? I have laid the cards on the table there. Deputy Le Fondré discussed innocent or not; Deputy Martin mentioned money and so on; the Constable of St. John quite rightly said ... when you come to seek justice against the States of Jersey, when you go to seek legal advice I can take you back 7 years to my own particular *contretemps* with the States. When I went to see my own advocate and asked him would he be good enough to assist me to try and get the sum of £42,000 back from the States of Jersey, he said: "Yes, Terry, I will, with pleasure, but you need to write me a cheque now for £350,000 to take your case on because it will go on for weeks, months and possibly years." Needless to say, I did not pursue that matter, but bear in mind that was the sum mentioned to me personally back in 2007. I agree entirely with Deputy Tadier. I think there is a need for a legal ombudsman - we will use that description for the moment - and I think that needs to be looked into. I agree entirely and I thank Deputy Higgins for his input, all about the prepared speeches, the unexpected coming from the Minister's department and so on, and again, he spoke extremely well about data protection issues, getting information from States departments. For us, it can be hard enough, but for outsiders - and when I say outsiders, in other words, people who are not States Members or who are not civil servants - it can be frightening. Senator Gorst mentioned the play on the Master's words. I do not think I played on the Master's words, I think I cherry-picked that opening paragraph, because obviously that was the whole thing, that is what the Master said and so on. Our Solicitor General, again I cannot disagree with any of this comments. Insurer of last resort? Yes, not the sort of thing that we should be doing on a regular basis, not our place. We are not judges, we are not here to judge on people or about people or what went wrong, but I am still convinced in my own mind that Mr. Boschat was wronged. He has been wronged by a succession of senior officers in the force. The one thing I always promised myself - and luckily, I suppose very luckily, I was elected unopposed - but part of my speech would have been that one of things that I fully intended to do if I gained a seat in this House was to make sure that nobody was ever treated in this wretched fashion and manner, like I had been in my time. Then suddenly I became a States Member, bumped into Roy Boschat, I knew him.

[16:15]

Obviously I am a former police officer myself. I knew him, bumped into him. We compared cases, if you want, and I was under the impression that his case was over and done with. When I

found out that it was not, that is what started it. I do believe totally in justice and fair play and the bottom line for me is I have done my best with limited resources, et cetera, limited experience, limited ability, but I do believe Mr. Boschhat has been treated badly and that really is what it is all about. I make the proposition.

The Greffier of the States (in the Chair):

Do you wish for the appel, Deputy? The appel is called for. I invite Members to return to their seats. The vote is for or against the proposition of Deputy McDonald. If Members are in their seats, the Greffier will open the voting.

POUR: 8		CONTRE: 32		ABSTAIN: 0
Senator Z.A. Cameron		Senator P.F. Routier		
Connétable of St. Martin		Senator A.J.H. Maclean		
Connétable of St. John		Senator I.J. Gorst		
Deputy J.A. Martin (H)		Senator L.J. Farnham		
Deputy G.P. Southern (H)		Senator P.M. Bailhache		
Deputy J.A.N. Le Fondré (L)		Senator A.K.F. Green		
Deputy S.M. Brée (C)		Connétable of St. Clement		
Deputy T.A. McDonald (S)		Connétable of St. Peter		
		Connétable of St. Lawrence		
		Connétable of St. Mary		
		Connétable of St. Ouen		
		Connétable of Trinity		
		Deputy of Grouville		
		Deputy J.A. Hilton (H)		
		Deputy of Trinity		
		Deputy M. Tadier (B)		
		Deputy E.J. Noel (L)		
		Deputy of St. John		
		Deputy M.R. Higgins (H)		
		Deputy J.M. Maçon (S)		
		Deputy S.J. Pinel (C)		
		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		
		Deputy of St. Peter		
		Deputy S.Y. Mézec (H)		
		Deputy A.D. Lewis (H)		
		Deputy L.M.C. Doublet (S)		
		Deputy S.M. Wickenden (H)		
		Deputy M.J. Norton (B)		
		Deputy of St. Mary		
		Deputy G.J. Truscott (B)		
		Deputy P.D. McLinton (S)		

9. Ratification of the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information to improve international tax compliance based on the Common Reporting Standard for the Automatic Exchange of Financial Information approved by the Organisation for Economic Co-operation and Development (P.117/2015)

The Greffier of the States (in the Chair):

The Assembly comes now to a proposition in the name of the Minister for External Relations, with I think the longest title of any proposition I have ever seen. I will ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of the opinion to ratify the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information to improve international tax compliance based on the Common Reporting Standard for the Automatic Exchange of Financial Information approved by the Organisation for Economic Co-operation and Development, as set out in the appendix to the report of the Minister for External Relations dated 1st October 2015.

9.1 Senator P.M. Bailhache (The Minister for External Relations):

In Berlin on 29th October 2014, 51 jurisdictions, including Jersey and Guernsey, signed a Multilateral Competent Authority Agreement as part of putting the commitment to Automatic Exchange of Information and the Common Reporting Standard into action. This agreement is based upon another convention, the Multilateral Convention on Mutual Administrative Assistance in Tax Matters, which has been signed by 90 jurisdictions and extended to Jersey, or ratified by the United Kingdom on behalf of Jersey. The Common Reporting Standard is one which has been embraced by most of the civilised countries of the world and the agreement is now sought from this Assembly to ratify the Multilateral Competent Authority Agreement. I move the proposition, and I am content to try to answer any questions.

The Bailiff:

Is the proposition seconded? **[Seconded]** Does any Member wish to speak? All those in favour of adopting the proposition, kindly show. Against. The proposition is adopted.

10. Draft Taxation (Implementation) (International Tax Compliance) (Common Reporting Standard) (Jersey) Regulations 201- (P.118/2015)

The Bailiff:

We now come to the Draft Taxation (Implementation) (International Tax Compliance) (Common Reporting Standard) (Jersey) Regulations 201- (P.118/2015) lodged by the Minister for External Relations and I ask the Greffier to read the citation in draft.

The Deputy Greffier of the States:

Draft Taxation (Implementation) (International Tax Compliance) (Common Reporting Standard) (Jersey) Regulations 201-. The States, in pursuance of Article 2 of the Taxation (Implementation) (Jersey) Law 2004, and following the decision of the States taken on the day these Regulations are made, to adopt P.117 of 2015, have made the following Regulations.

10.1 Senator P.M. Bailhache (The Minister for External Relations):

These Regulations give legal effect to the agreement, the ratification of which the Assembly has just agreed to. As I mentioned in relation to that process of ratification, the purpose of the agreement is to improve international tax compliance based on the Common Reporting Standard approved by the O.E.C.D. (Organisation for Economic Co-operation and Development). The agreement makes provision so that parties to the convention can give effect to the agreement in respect of other parties to the convention, the convention being the Convention on Mutual Administrative Assistance in Tax Matters. I want to draw Members' attention to one matter in relation to the Automatic Exchange of Information, which has been occupying the attention of the

Ministry for External Relations for some time. Members may recall that in 2013, Jersey was placed on a blacklist by France and removed only after considerable diplomatic effort. Jersey remains, however, on the blacklists of a small number of other countries, including 8 in the European Union. I take the view that international co-operation is a 2-way street. Other countries should not expect to receive unqualified co-operation if they themselves operate a penal regime in relation to Jersey which makes life difficult for our industry or their clients or indeed for individuals resident in Jersey. I hope that the representations that have been and are being made - firmly, in some instances - will have the desired effect, because it seems to me that it would be incongruous if the Assembly adopts these Regulations that Jersey should appear on the tax blacklist of any other country. These are very important Regulations which give effect to a significant global movement to crack down on tax evasion. The Government of Jersey is proud that we were one of the early adopters of the Common Reporting Standard. The financial services industry has been fully supportive of the Government's stance and wishes to support all the relevant international standards in relation to tax. I think I have said enough on the principles. I am happy to answer any questions and I propose the principles of the Regulations.

The Bailiff:

Is the proposition seconded? **[Seconded]** Does any Member wish to speak on the principles? Those in favour of adopting the principles, kindly show. Those against? The principles are adopted. Deputy Le Fondré, does your panel wish to scrutinise this?

Deputy J.A.N. Le Fondré (Chairman, Corporate Services Scrutiny Panel):

No, thank you, Sir.

The Bailiff:

Minister, do you wish to propose the Regulations *en bloc*?

10.2 Senator P.M. Bailhache:

If I may, Sir, yes. The Regulations set out the detail of the way in which information is to be gathered in by financial institutions, passed over to the competent authority, which in the case of the Government of Jersey is the Comptroller of Taxes, and subsequently transmitted to the countries in question. I am happy to answer questions, and I move the Regulations *en bloc*.

The Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak? Those Members in favour of adopting the Regulations, kindly show. Those against? The Regulations are adopted. Do you propose them in the Third Reading, Minister?

Senator P.M. Bailhache:

I propose the Regulations in the Third Reading.

The Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak? Those in favour of adopting the Regulations in Third Reading kindly show. Those against? The Regulations are adopted in Third Reading.

11. Draft E.U. Legislation (Transmissible Spongiform Encephalopathies) (Jersey) Regulations 201- (P.119/2015)

The Bailiff:

We now come to the Draft E.U. (European Union) Legislation - with some other language in brackets - P.119, and I ask the Greffier to read the citation of the draft.

The Deputy Greffier of the States:

Draft E.U. Legislation (Transmissible Spongiform Encephalopathies) (Jersey) Regulations 201-. **[Approbation]** The States, in pursuance of Article 22 of the European Union Legislation Implementation (Jersey) Law 2014 have made the following Regulations.

The Bailiff:

Minister, you wish to propose the principles?

11.1 Deputy S.G. Luce of St. Martin (The Minister for Planning and Environment):

I am sure some Members will remember with fondness the last proposition I brought to this Assembly, the subject of which was equine dentistry. I am sure some Members will also have been looking forward this debate on T.S.E.s (transmissible spongiform encephalopathies). European Community Rules in the fields of veterinary, animal health, food and animal feeding stuff legislation must be part of the law of Jersey to meet obligations set out in Protocol 3 of the Act of Accession to the United Kingdom to the European Communities 1972. European Community Regulations in these areas are of direct effect and application in Jersey. To comply with these obligations for international trade, Jersey must administer and enforce regulations in these subject areas under domestic law. Several distinct T.S.E.s have been recognised for a number of years as occurring separately in humans and animals. Scrapie, a T.S.E., has been recognised in sheep in Europe since at least the 18th century. Bovine spongiform encephalopathy, better known to Members as B.S.E., was first recognised in 1986, and in the following years recognised as occurring in other animal species. In humans, a new variant of C.J.D. (Creutzfeldt-Jakob disease) was described in 1996, with evidence of similarities between the B.S.E. agent and that of the new variant, C.J.D. Since B.S.E. was first recognised, strict controls have applied in Jersey; controls and surveillance continue to date. The controls have been revised from time to time, based on current scientific advice, and currently include regulation of animal feeding stuffs, including a ban on feeding animal protein to farm animals, reporting and investigating suspicion of disease with identification and culling of offspring and cohorts when disease is confirmed, monitoring disease incidents in other species, brain stem sampling of fallen cattle - those are animals that have died or been culled on the farm - application and enforcement of procedures in slaughterhouses and cutting plants such as the removal of S.R.M. (specified risk material). S.R.M. of cattle, sheep and goats are the parts most likely to carry the infectious agent and the controls mirror those applied in the U.K. and are founded on independent expert advice from the European Food Safety Authority. The last confirmed case of B.S.E. in Jersey was in December 2002. Numbers in the U.K. are now extremely low, with only one case detected by active surveillance in 2014 and 2 reported cases this year. The disease can only be confirmed post-mortem because there is no validated test for live animals. Although all necessary controls have been applied in accordance with E.U. legislation, adoption of the Regulation ensures the necessary legal framework to apply international standards and provide the means of approval for controlled facilities and functions are in place. This underpins the long-established controls and demonstrates not only to local stakeholders, but also to the international trading partners, that international standards are applied in Jersey. These Regulations apply specific and technical controls based on the current scientific evidence and advice from acknowledged world experts. I propose the principles.

The Bailiff:

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

11.1.1 Deputy J.A. Martin:

Yes, it is a small general point and I will not cover any Articles. It just under the manpower and financial implications that states: "There are no financial or manpower implications" but there does seem to be in general in a lot of the Articles more work for the States vet, the Health Department, Public Health. Of course I totally agree, we need these Regulations, but I just wonder where the Minister gets that statement from.

[16:30]

Other than that, I support the principle of needing these Regulations, but I really want to know that they will not cost us anything, which I doubt that is true.

11.1.2 Deputy A.D. Lewis:

Just a minor question. If in some instances these diseases can only be detected post-mortem, how do we know we have got an infection in any of our herds at the moment, particularly as we now do import some animals? A quick question for the Minister.

The Bailiff:

Does any other Member wish to speak? I call on the Minister to reply.

11.1.3 The Deputy of St. Martin:

I will deal with the last question first and correct the Deputy. We do not import any animals from outside of the Island. The only way to confirm a case of B.S.E., as I stated, is post-mortem, in which case the animal is slaughtered and the brain is dissected and samples are taken in order to locate the disease. If it is confirmed that the animal has B.S.E., cohorts, which are animals within 12 months of the same age from the same herd, are also slaughtered and that is how we deal with that. Dealing with Deputy Martin's question about the cost of amendments, I would just reiterate that this, although it is a little bit more than a tidying, will not change anything that we do currently on-farm as regards the identification of the disease; it will not change anything at the abattoir or it will not change the way that vets or farmers work at the moment. This is just an updating of the Regulations to make sure that we continue to comply with E.U. legislation. I will come back to the Deputy. I will speak to the States veterinary officer about this question and come back to the Deputy again if there are any other changes other than what I have just said.

The Bailiff:

All Members in favour of adopting the principles, kindly show. Those against? The principles are adopted. Do you wish to propose the Regulations and schedules *en bloc* or are you going to take them separately, Minister?

11.2 The Deputy of St. Martin:

En bloc.

The Bailiff:

Seconded? [Seconded] Does any Member wish to speak? Deputy Martin.

11.2.1 Deputy J.A. Martin:

I do not wish to speak, I just would ask the Minister then if he could take Regulation 11, because 1, 2 and 3 gives powers to appoint extra persons. I am presuming they are extra persons and I am saying there will be a cost. As the Minister does not know the cost, I would just like that Article taken separately.

The Deputy of St. Martin:

In that case, Sir, can I propose Regulations 1 to 10, 11 and then 15 to 22 and the 7 schedules?

The Bailiff:

I think you have probably passed the bridge for that purpose, Minister.

The Deputy of St. Martin:

Would it help, Sir, if I could assure the Deputy on the question she raised specifically around Regulation 11?

The Bailiff:

You certainly will have a chance to speak in reply in a minute, Minister, but does any other Member wish to speak? Deputy Le Fondré.

Deputy J.A.N. Le Fondré:

No, it is not to speak, it is to ask for clarification. I have forgotten the precise order of events, but at some point should it not have been referred to the Environment Scrutiny Panel, Sir?

The Bailiff:

You are quite right, and I thought about that and saw the Connétable of St. Helier was not there and my note does not tell me who the vice-chair is of that panel. Deputy of St. Mary, does your panel wish to scrutinise this legislation? No. Thank you, Deputy Le Fondré. Does any other Member wish to speak? Deputy Martin has indeed asked to vote on Article 11. I am sorry that it has taken so long to find the relevant Standing Order, but I have now found it, so we can do that. We will take the vote perhaps on, Minister, Regulations 1 to 10, but not until you have spoken on Article 11, Regulation 11, and answered the Deputy's point.

11.2.2 The Deputy of St. Martin:

Article 11 makes provision for the appointment of inspectors that the Deputy referred to. I would just like to assure her that at the moment the States veterinary officer acts under powers that are delegated from myself, but she then also has the power to appoint officers. We have practising veterinary officers who can substitute for her as States Vet, and indeed, she also has an assistant veterinary officer at the Department for the Environment. This Regulation 11 also allows the Minister for Health to appoint people in similar roles to do similar types of inspection. I would say to the Deputy that these people already exist, they are already appointed under the current scheme of things and I cannot see that changing.

The Bailiff:

Deputy, do you still wish to take Regulation 11 separately?

Deputy J.A. Martin:

Yes, Sir, as it took so long to do so, I would rather I could.

The Bailiff:

Thank you very much.

Deputy J.A. Martin:

I am still not convinced that I want to vote against it, Sir.

The Bailiff:

Very well. The first vote will be on Regulations 1 to 10. All Members in favour of adopting Regulations 1 to 10, kindly show. Those against? Regulations 1 to 10 are adopted. We will now take a vote on Regulation 11.

Deputy J.A. Martin:

The appel, please.

The Bailiff:

The appel is called for. I invite Members to return to their seats. The vote is on whether to adopt Regulation 11 of the legislation and I ask the Greffier to open the voting.

POUR: 34		CONTRE: 4		ABSTAIN: 0
Senator P.F. Routier		Deputy J.A. Martin (H)		
Senator A.J.H. Maclean		Deputy G.P. Southern (H)		
Senator I.J. Gorst		Deputy M. Tadier (B)		
Senator L.J. Farnham		Deputy S.Y. Mézec (H)		
Senator P.M. Bailhache				
Senator A.K.F. Green				
Senator Z.A. Cameron				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy of St. John				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Peter				
Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy S.M. Wickenden (H)				
Deputy S.M. Brée (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

The Bailiff:

We now come to the remaining Regulations and all the schedules. Those Members in favour of adopting them, kindly show; those against. They are adopted. Do you wish to propose the Regulations in the Third Reading, Minister? Seconded? **[Seconded]** Does any Member wish

to speak on Third Reading? Those Members in favour of adopting them in Third Reading, kindly show. Those against? The Regulations are adopted in Third Reading. Before we go on to the next item of business, I can draw to the attention of Members that there is a fifth amendment to the Budget Statement lodged by the Connétable of St. John and a copy should have been circulated to Members.

12. Draft Commissioner for Standards (Jersey) Law 201- (P.120/2015)

The Bailiff:

We now come to P.120, the Draft Commissioner for Standards (Jersey) Law lodged by the Privileges and Procedures Committee and I ask the Greffier to read the citation of the draft.

The Deputy Greffier of the States:

Draft Commissioner for Standards (Jersey) Law 201-. A law to establish the office of Commissioner for Standards and to make provision to connected purposes. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

12.1 Connétable L. Norman of St. Clement (Chairman, Privileges and Procedures Committee):

Hopefully, this is a relatively straightforward proposition, because it gives effect to the decision the States made a little while ago. The Code of Conduct for Elected Members came into force in December 2005 and it follows very closely the codes in other parliaments, but of course the existence of a code means that some mechanism needs to be in place to adjudicate on alleged breaches and our current Standing Orders give that role to the Privileges and Procedures Committee. As a result, my committee has to receive complaints, make an initial assessment of whether there is any prima facie case that the code might have been breached, investigate the complaint and then adjudicate on whether or not the code has been breached, and if so, recommend what action should be taken. Although there has never been a large number of complaints, experience has shown that this is extremely difficult for one single body to undertake all of the steps easily and fairly. It is particularly hard for the P.P.C. to carry out any meaningful and in-depth investigation into the complaint, and it is also difficult for the various stages of the process to be carried out separately from each other. For example, in making the initial decision on whether there is any substance to a complaint, it is difficult for P.P.C. not to sway the actual investigation and adjudication stages. Furthermore, although I hope my committee and its predecessors have always attempted to deal with complaints as objectively as possible, it is in practice hard and uncomfortable to sit in judgment on a colleague. It is now several years since P.P.C. decided that there needed to be a better way to deal with complaints under the code and investigations in other jurisdictions showed that the post of an independent Commissioner for Standards worked well. This is important to stress, that the establishment of a Commissioner does not totally exclude P.P.C. from the process, as it is important if our parliamentary autonomy is to be preserved for any judgment on a Member's behaviour to be made by his or her peers in the Assembly and not by an external person whose decisions could then be subject to review by the courts. Once the Commissioner has completed his or her investigations, he or she will prepare a report for P.P.C. setting out conclusions and a recommendation. P.P.C. will then need to meet to adjudicate on the complaint and this will of course be the first time the committee has had to consider the matter, unlike the present process, where the committee has been involved from the outset. I propose the principles.

The Bailiff:

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

12.1.1 Deputy J.M. Maçon:

Just very briefly. I remember presenting this to the Assembly the first time for the “in principle” decision, that within that process there was a problem between the Code of Conduct for Members and the Code of Conduct for Ministers, because there is a duplication. Whether the Chair can advise us whether the Code of Conduct for Ministers has been reviewed, stripped out, so that there is not this duplication and whether this Commissioner will be looking at States Members solely and not at the Ministers when they discharge the function of Ministers at the time and how that matter has been dealt with.

12.1.2 Deputy S.M. Wickenden:

Notwithstanding the great work from the Privileges and Procedures Committee and the requirement for a Draft Commissioner of Standards, I am not going to be supporting this proposition. I want to explain why. With the public sector reform work that is going on, with the voluntary redundancies, the compulsory redundancies going on and the need to make savings, I think it is not right to be creating a new position right now and have financial implications on it when other people might be losing their livelihood in this manner. I think it is not right now. Maybe after we have made the savings this could be brought forward. I have every faith in every Member of this Assembly that they will act accordingly with rules and will not have to have any complaints against us. I have every faith in the Privileges and Procedures Committee to deal with these, if it does happen, in the interim, but I do not think this is the right time right now to be creating a new position with financial implications.

12.1.3 Deputy G.P. Southern:

Really it is just to reinforce the request of Deputy Maçon, who said: “In what way is this new position going to clarify any distinction overlap or confusion between a breach of a ministerial code of conduct and a breach of the Members’ code of conduct?” Having taken a case where that ended up bouncing between the 2 and taking ages to reach any conclusion, I would be very concerned if this overlap or confusion was left in the law. It must be clarified, it must be clear that there is a single body to which we can go to, whether it is ministerial or otherwise.

12.1.4 Senator Z.A. Cameron:

Like Deputy Wickenden, I will not be supporting this proposition. At the end of the day, States Members are answerable to the electorate. If there is any serious breach, then we have P.P.C., who can deal with things in the interim. I think this is an unnecessary expense.

[16:45]

12.1.5 Senator L.J. Farnham:

I was just wondering how much work there would be for this person to do. I am not sure, perhaps the Connétable will share with the Assembly or give the Assembly an idea of just how many complaints we are dealing with. How many have we had, for example, in the last month or 2 or in the last year to give us some better idea? While I understand we all need to behave ourselves - and some of us do more than others - I question whether there is a need.

12.1.6 The Deputy of St. John:

Just in terms of what has been mentioned already with regards to the code of conduct, what may be helpful is the report which was issued by the Council of Ministers on 10th February under R.11, which is the Code of Conduct and Practice for Ministers and Assistant Ministers, but where it states in terms of a breach of that code, it refers to appendix 2, but there is no suggestion that that would

then be referred to P.P.C. or would be dealt with under a Commissioners for Standards. Whether the Chief Minister would want to clarify whether it would be going beyond that in any particular circumstances or whether the Chairman could advise therefore what would happen, that the 7 principles of public life are within both codes, so we will have a Commissioner for Standards investigating a States Member for breaching that code, but then if it is a Minister, we will have the Chief Minister investigating that particular breach. To a certain extent, it is double standards, so how will that be dealt with?

12.1.7 Deputy M. Tadier:

What we cannot estimate here is the saving that is attached. It is very easy to stand up and say during these austere times why are we creating this post, which is going to cost some amount of money. What we cannot do is see the savings that will be made with the 7 members of P.P.C. who have to convene when they could be doing other work, either as a committee or individually, which could then be putting their time and money to effective use, because those 7 individuals are paid and they are paid not necessarily to sit around a table to be in judgment on their peers, which they currently have to do. As a former member of P.P.C. I know that certainly it is not just about justice being done, it is also about the public perception around here. There is a perception that when a complaint is made, and it may be from a member of the public - and it may turn out to be not upheld, it may turn out to be upheld, it could be vexatious, whatever - is that it is very difficult, for many reasons, and these have been discussed previously, both for that panel, the committee to make the decision and, more importantly, for it to be seen to be independent, because they will either say: "Oh, they are just being judged by their mates, so they are going to go easy on them" or they will say: "Oh, this individual is an outsider. He is not part of the club/she is not part of the club. How can they expect to get any justice from a committee which is made up of one or another type of States Member?" Now, in my experience it could be seen that sometimes it is difficult to get justice, not because P.P.C. members are not likely to let somebody off lightly, but sometimes they entertain complaints which in other jurisdictions would be dismissed quite quickly, either as vexatious or not or not falling there, because they want to be seen to be thorough in their examinations. We have even had times when many Members have excused themselves, I think unnecessarily, from deliberations purely because they did not want the perception of any bias or injustice there when there had been perhaps personality clashes or suggested personality clashes with the person who was being investigated. I think it is quite right to avoid all of these things and that we do proceed in this manner. I still think we need to look at unelected Members. We know that we are subject, as elected Members, to the code and Ministers are subject to the code, which has already been touched upon. I would hope that this individual can look at Ministers and ordinary Members, but also look at the non-elected Members of our Assembly who are able to speak and contribute to debates in their various different guises. I think also what we will see is that there needs to be a distinction, because it should be the role of a parliamentary ombudsman not simply to use the stick, but also to uphold parliamentary privilege, which I think is quite difficult at the moment for a committee to do, especially at a time when we have an unelected President of the Assembly. What I am trying to say is that I think there can be times when behavioural issues, which often come before parliamentary disciplinary matters, elsewhere would usually be to do with matters of integrity, so when we see things brought up in the U.K., they tend to be very serious and they tend to be allegations of corruption, of cash for questions et cetera. We all know the types of things that come before their equivalents in the U.K. It is not tending to be somebody who says something which somebody thinks might upset somebody's sensitivities. We have many examples of that in the U.K. not even being brought up, let alone being the subject of disciplinary matters. I think we need to have an ombudsman who will be willing to hold up the principles of free, open and fair, democratic, robust debates where it is needed, but to come down on the serious

allegations to do with the integrity of States Members. I think if that can be achieved, then it needs to be welcomed.

12.1.8 Deputy J.A. Martin:

Yes, I will be brief, because Deputy Tadier did cover a lot of what I ... well, I only wanted to say very little, but in his longer speech he covered it. I think this is the fifth now Privileges and Procedures Committee and this has been the biggest contentious issue. It is about the public and States Members complaining against other States Members, but the public who complain about States Members' conduct or the breach of the code cannot see that 6 or 7 other States Members sitting in judgment is fair. We have seen it time and time again and we had quite a big debate when this was brought in principle. I do hear what some people are saying about the cost. Deputy Wickenden says if we are all very good, but he is a very new Member, and over the years some people do breach it or some people do not, and we sit in judgment. It is not about our time as the P.P.C. and what that costs, it is absolutely about there is somebody there who knows the law probably, looks at it, can look at the case and then advise the P.P.C., because as I say, as it says in the proposition, they do not make the final judgment. But at least I think then we will be coming to some much better form of independence for the people who we represent, who are bringing complaints. If it is one a year, 2 a year, 10 a year, members of the public want it independently decided. This new Commissioner for Standards will be able to do that.

12.1.9 Deputy P.D. McLinton:

It is really an observation. I wonder if the Chairman could clarify under financial and manpower implications on page 6, I will mention the sentence: "The exact level of this payment will need to be determined by the committee, who considers that a daily rate of some £300 to £400 is likely to be appropriate." If we move on to the: "Hopefully not exceed £8,000 to £10,000 per annum" the figures seem a bit sketchy. I wonder if you can maybe put a bit more meat on the bones of that, because we are being asked to vote for something which seems very fluffy indeed financially.

12.1.10 Senator P.F. Routier:

I would just like to pick up on the point of how this affects Ministers. What is being proposed here is silent on that, which I am to a certain extent disappointed about, because obviously Ministers are States Members, so they can obviously be investigated under that process. But I have had the uncomfortable position of being delegated the responsibilities by the Chief Minister to look at a couple of complaints in recent times, and I would much prefer for the Commissioner to be able to do that; certainly from my point of view, that would be the right thing to happen. I would hope that we can progress what is before us today and then in the future obviously any Minister who is a States Member can be covered by this legislation, which is fine, but if it is specifically about their ministerial role, I would hope that we can forward it on to the Commissioner in due course.

Deputy J.M. Maçon:

A point of clarification, if I may, Sir. When these proposals were being dreamed up, the Committee did put it to the Chief Minister of the day whether the Ministers should also fall under this remit, and for the reasons given at the time, the Chief Minister decided that not to be the case, just so Members are aware of the context.

Senator P.F. Routier:

I was just speaking from my own personal experience.

12.1.11 Deputy J.A.N. Le Fondré:

Just briefly. I am glad to follow after the previous speaker, Senator Routier. If I have understood it correctly, the Code of Conduct for Ministers is the responsibility of the Chief Minister. I would certainly endorse what Senator Routier has just said, that it does seem appropriate that the Commissioner for Standards, if they are approved today, would ultimately be the court for matters to do with Ministers as well. I suppose as a request to the Chief Minister - he is concentrating - perhaps if he was minded to support his Assistant Chief Minister in his views and possibly the other views of the Assembly, could he give us an indication one way or another whether he is supportive of that principle or not and, if he is, whether in his view it would be possible, say, to amend the appropriate code in, let us say, 6 months to achieve what has been referred to. In other words, to bring Ministers under the Commission for Standards as well.

12.1.12 Connétable J. Gallichan of St. Mary:

Just very briefly. I seem to remember historically, having also been a chair of P.P.C., having faced many of these issues before. It was always said that the powers were limited in the event of a complaint being upheld and there were various difficulties, as has already been said, about drawing a complaint together. We seem to have gone from almost nothing to a procedure where there will be level 4 fines and 5 years' imprisonment for this, that and the other. I am just wondering how the Committee came to set the milestones to decide where we would go in the penalties, almost from nothing to quite dramatic penalties. That is all.

Deputy G.P. Southern:

On what I think might be a point of order, having already spoken in this debate, is it possible for me to refer this back because I feel that this central question about the Ministers not coming under this remit is an absolutely vital one which we should get right. They have to come under this remit otherwise we end up with situations where one Minister is passing judgment on another Minister and that does not happen.

The Bailiff:

Deputy, I wonder if it is as much a point of order re the reference back as legal advice from the Solicitor General you wanted to have as to the nature of the construction of the powers of the Commissioner for Standards.

Deputy G.P. Southern:

I am grateful for your advice and I think you have already asked the question. The Solicitor General is smiling.

The Bailiff:

Solicitor General, perhaps you can help? The question is whether or not the Commissioner for Standards is able to investigate an alleged breach of the Code of Conduct for Ministers as opposed to an alleged breach of the Code of Conduct for Elected Members? If I may respectfully suggest to you, it is clear that he can investigate complaints against Ministers in respect of the Code of Conduct for Elected Members, I think the question is whether or not he can investigate a complaint about an alleged breach of the ministerial code.

The Solicitor General:

As I read the Code of Conduct for the Ministers, it says that it is intended to build upon the Code of Conduct for Elected Members. That seems to me that the 2 are separate. So it seems to me that the reference to "code" in this draft law is a reference just to the Code of Conduct for Elected Members, it does not expressly refer to the Code of Conduct for Ministers. The off the top of my head view is that the Code of Conduct for Ministers is not something that is directly subject to the remit of the proposed Commissioner for Standards.

The Bailiff:

There you are, Deputy; do you still wish to propose a reference back? It seems to me that it is more likely if you do not think it goes far enough you would simply vote against it. But it could be referred back, tell me what you want to do.

[17:00]

Deputy G.P. Southern:

Once again, I am grateful for your advice and I was coming to that conclusion myself. I will vote against it perhaps and bring an amendment later on because that is the way I do things.

The Bailiff:

You cannot bring an amendment because the proposition would have gone if it is not adopted. The Connétable of St. John.

The Connétable of St. John:

Just a point of clarification, when does the Minister cease to become a Member of the Assembly?

The Bailiff:

Is that a point of clarification from the Solicitor General?

The Connétable of St. John:

Yes, I am indebted to you.

The Solicitor General:

I think the Minister remains a Member of the Assembly until he is no longer elected to this Assembly. **[Interruption]** I do not know where that is coming from, but the question is, is it not, when he is no longer a Minister then he will still remain subject to the Code for Elected Members.

The Bailiff:

Deputy Tadier, you have spoken already? A further question?

Deputy M. Tadier:

Yes, Sir. It seems to me that the ministerial code is in addition to the Members' code and so there may be breaches of the ministerial code which would not be breaches of the Members' code conceivably. But probably not the other way around, so what we need to know is that because Ministers are Members could the ministerial code be interpreted more generally as being Members? Is it possible to take a broad interpretation of the word "Member" to include the ministerial code and for the Commissioner to be given those duties in addition based on this proposition?

The Solicitor General:

My reading remains that the 2 are separate documents. Where a document imposes obligations on an individual that document, as a matter of construction, needs to be quite narrowly construed. Unless there is an express reference in the draft law to the code for Ministers being included within the remit for the Commissioner for Standards in my view the Commissioner for Standards would not have jurisdiction in respect of a Minister's action as a Minister.

12.1.13 Deputy D. Johnson of St. Mary:

I have just been reading paragraph 9(3), it says: "On the Commissioner's own initiative or if requested by the P.P.C. to give advice on any matter related to standards of conduct of alleged

Members of the States, including proposed changes to the code.” I was wondering if the States is not to approve the proposition as now is and have the code amended at a later date.

12.1.14 Deputy A.D. Lewis:

Maybe I am missing something here, and I thank the Solicitor General for his clarification, but we are all Members of the States of Jersey or the States Assembly therefore I would have assumed from reading the proposition that we are all covered by the same code as Members. If we then misbehave as Ministers or Assistant Ministers or Chairmen of Public Accounts Committee or whatever post we may hold, surely we are still Members of the Assembly therefore the code should apply. I am not quite sure why the actions of a Minister would be any different, because we are talking about code of conduct here for all States Members. I am just slightly confused as to why a Minister’s actions would be any different to a private Member, a Back-Bencher or a member of Scrutiny. That is what I am slightly confused about. I do not really feel to date that the Solicitor General has quite clarified that. Maybe I am alone in this but that is the way I see it.

The Bailiff:

As I understood the Solicitor’s advice, it was that the draft law did not apply - “did not converge a restriction” was the language he used - on the Commissioner for Standards in relation to breaches of the ministerial code but that it did apply to Ministers in relation to alleged breaches of the elected Members’ code. As Deputy Tadier pointed out earlier, there may be some things which amount to a breach of the ministerial code that do not amount to a breach of the elected Member’s code.

Deputy J.A.N. Le Fondré:

Whether it is from yourself or from the Solicitor General, can I ask a point of clarification? From memory the ministerial code therefore has different or additional paragraphs in it compared to the code of elected Members, that is the problem, is it not?

The Bailiff:

It is a different code.

12.1.15 The Deputy of St. Ouen:

I am trying to think of a concrete example to use. I understand in the ministerial code of conduct there are provisions that set out how Ministers must conduct themselves when exercising their powers as Ministers under certain legislation. So, for example, if a Minister is deciding on whether to grant an application under the Control of Housing and Work (Jersey) Law, the code would require him to receive an application and consider it impartially and hear perhaps from the applicant and to deal with an application in a certain way. He is doing that work as a Minister, he is not doing it as an elected Member of the States. So in the Code of Conduct for Ministers there is that provision and no doubt other provisions as to how to proceed; how to conduct yourself as a Minister, which in those sort of provisions would not be in place in the Code of Conduct for Elected Members. There is similarly a Scrutiny code on how Scrutiny members should conduct themselves when exercising the Scrutiny function. So there are other codes that, in my view, should perhaps be brought within the remit of the Commissioner so that all standards and all actions, whether we are Ministers or Scrutiny members could be subject to proper scrutiny by this Commissioner.

Deputy M. Tadier:

May I raise a point of order on that? It is Standing Order 85, to move on to the next item on the basis that it seems to me what we have in front of us does not do what it says on the tin. Even though many of us support the principle, it does not, from what we have heard from the Solicitor General, include Ministers or the scrutiny function and I think many of us would like it to do that.

So I can I propose moving on to the next item which would give the Committee time to reword and hopefully speak to Ministers about including them and scrutiny in this important piece of work.

Deputy A.D. Lewis:

I would second that.

The Bailiff:

Well, 16 Members have spoken so far, I do not regard this proposal as an abuse of procedure or an infringement of the rights of the minority and therefore in accordance with Standing Order 85 I accept that proposition that we move on to the next item. There is to be no debate upon and do you call for the appel? The appel is called for. I invite Members to return to their seats. The vote is on whether to move on to the next item of business which would close off the debate on P.120 today. I ask the Greffier to open the voting.

POUR: 22		CONTRE: 16		ABSTAIN: 2
Senator L.J. Farnham		Senator P.F. Routier		Connétable of St. Lawrence
Senator A.K.F. Green		Senator I.J. Gorst		Connétable of St. John
Senator Z.A. Cameron		Senator P.M. Bailhache		
Deputy G.P. Southern (H)		Connétable of St. Clement		
Deputy of Grouville		Connétable of St. Peter		
Deputy J.A. Hilton (H)		Connétable of St. Mary		
Deputy J.A.N. Le Fondré (L)		Connétable of St. Ouen		
Deputy of Trinity		Connétable of St. Martin		
Deputy K.C. Lewis (S)		Connétable of Trinity		
Deputy M. Tadier (B)		Deputy J.A. Martin (H)		
Deputy of St. John		Deputy E.J. Noel (L)		
Deputy M.R. Higgins (H)		Deputy J.M. Maçon (S)		
Deputy S.Y. Mézec (H)		Deputy S.J. Pinel (C)		
Deputy A.D. Lewis (H)		Deputy R.G. Bryans (H)		
Deputy of St. Ouen		Deputy of St. Peter		
Deputy L.M.C. Doublet (S)		Deputy S.M. Brée (C)		
Deputy S.M. Wickenden (H)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

13. Draft Employment (Minimum Wage) (Amendment No. 12) (Jersey) Regulations 201-(P.122/2015)

The Bailiff:

We come to P.122 the Draft Employment (Minimum Wage) (Amendment No. 12) (Jersey) Regulations lodged by the Minister for Social Security and I invite the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Employment Minimum Wage Amendment No. 12 (Jersey) Regulations 201-. The States, in pursuance of Articles 17, 18 and 104 of the Employment (Jersey) Law 2003, have made the following Regulations.

The Bailiff:

Minister, would you like to propose the principles?

13.1 Deputy S.J. Pinel (The Minister for Social Security):

The minimum wage regulations permit employers to count only 2 benefits in kind towards minimum wage pay, either living accommodation or living accommodation with meals. This amendment to the Regulations will increase the maximum amounts that an employer may count towards minimum wage pay. The increase is proportionate to the minimum wage rise that will apply from 1st April next year. The Employment Forum has produced a carefully balanced report again this year and I was pleased to accept their unanimous recommendation. I propose the principles.

The Bailiff:

Seconded? [**Seconded**] Does any Member wish to speak? Deputy Southern.

13.1.1 Deputy G.P. Southern:

Yes, just briefly, because of the format with which we do this I would want to make some comments about the report but that is not what we are doing because it is about minimum wage regulations which may be in the report but are not in the proposition. So I will cease from bothering the Assembly.

The Bailiff:

Does any other Member wish to speak? Deputy Andrew Lewis.

13.1.2 Deputy A.D. Lewis:

I have quite a lot to say on this and I notice the time. I am not quite sure at which point during the proposition I should speak about this proposal.

The Bailiff:

If you wish to speak on the principles of it, you should speak now. If you wish to speak on the drafting of Regulation 9 as amended, which is a narrow point of drafting, you speak later.

Deputy A.D. Lewis:

I shall speak now then. The last time we had a debate about minimum wage I spoke at length about this and I do not plan to speak quite as long. However, sorry, I am being a bit distracted by voices behind me. My concern about this piece of legislation, or this amendment, is it does not go far enough. The subject was debated some time ago in the States and at that time I said much the same. I know, having discussed this with a number of colleagues in recent days and recent months, where discussion has taken place about the need for the implementation of a living wage, the same has been mentioned. I simply feel that we are not heading quickly enough towards a minimum wage that reflects the living wage, not because it is just the right thing to do, but because of the economic benefit that would be felt by every sector of our community. Well why? Because the trickle-up effect of spending in the economy. For years, western economies promoted the concept of the trickle-down economics, in other words if we create the right environment so that the rich get richer, the wealth will trickle down. I am afraid that this concept is somewhat flawed really, it has failed. If the Government wishes to accelerate redistribution of wealth they must start at the bottom of the income spectrum. A wealthy man or woman will not spend all their money, they will invest it, they will buy pensions, investment products, they will not go out and buy 100 pairs of trousers. Perhaps there is the exception here and maybe some people do that and buy 100 pairs of shoes, I am not quite sure. However, but add a few pounds to somebody's wages at the bottom end of the income spectrum and they are more likely to spend it all in the economy because they have to, hence the trickle-up effect. Therefore, a higher minimum wage will of course help this happen. The notion of a living wage goes back many years, it is

nothing new, in fact it was first proposed by Sir Mark Oldroyd in 1894 and it was about having a basis of assistance needed for a worker and their family. It should be reasonable for them to have time for rest and recreation and cater for reasonable home comforts, although perhaps his version of home comforts in those days was somewhat different to today. His argument was that the living wage could be funded by increased efficiency and greater consumption that would help fuel demand. His argument was ethical as well as economic. The living wage was seen as a way of recognising the moral work of the labour itself; in essence workers were to be afforded the dignity of providing for themselves by the fruit of their labours. Of course, at the start of the 20th Century, Benjamin Rowntree, who will be infamous and known to many of you, developed the first toolkit to calculate the living wage by factoring in essentials of life such as food, rent, clothing, fuel, and other items required by a family. Interestingly enough, the Social Security Department in a recent report has said it would be far too difficult to calculate the living wage, although Benjamin Rowntree, back all those years ago, felt that it was not. Rowntree presented a case that the nation depended on the living wage to ensure that its workers were fit and healthy enough to work and take part in the wider community, in other words a fair or minimum wage should be sufficient to allow a person to discharge the duties of citizenship. Today's concept is no different ...

Deputy G.P. Southern:

Sir, a point of order if I may.

The Bailiff:

Would you sit down, Deputy Lewis.

Deputy A.D. Lewis:

Yes, Sir.

The Bailiff:

If it is a point of order.

[17:15]

Deputy G.P. Southern:

I believe it is a point of order, Sir. The Regulations talk about amounts substituted for board and lodgings and that is all. They do not bang on, which is why I sat down, about minimum wage, living wage, any other conditions at all whatsoever. This should not be taking place now. It is another debate for another day.

Deputy A.D. Lewis:

Sir, I was coming on to that, but I am happy to concede.

The Bailiff:

If you were going to come on to the question of accommodation and food then that is within the term of relevance as far as I can see.

Deputy A.D. Lewis:

Bearing in mind the hour and we are heading towards a recess and we are going to have to come back tomorrow, I am happy to concede and allow the Minister to respond and anybody else to speak.

The Bailiff:

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

13.1.3 Deputy S.J. Pinel:

I thank both Deputies for their intervention, but particularly Deputy Southern because he is absolutely correct, this is about the offsets, not the living wage. **[Laughter]** Deputy Lewis and I have discussed the living wage at length and I am sure it will happen again but this is purely about the offsets, which is the accommodation and/or accommodation and 3 meals a day. Thank you.

The Bailiff:

All those in favour of adopting the principles kindly show. Those against? The principles are adopted. Deputy of St. Ouen, do you wish to scrutinise these Regulations?

The Deputy of St. Ouen (Chairman, Health and Social Security Scrutiny Panel):

No, Sir.

The Bailiff:

Do you wish to propose the Regulations *en bloc*?

13.2 Deputy S.J. Pinel:

Yes please. Regulation 1 specifies the maximum amounts that may be attributed to accommodation and food when calculating whether an employer has paid the correct minimum wage. Regulation 2 provides that the Regulations will come into force on 1st April next year when the minimum wage itself will also increase.

The Bailiff:

Is this seconded? **[Seconded]** Does any Member wish to speak? Those in favour of adopting the Regulations kindly show? Those against. The Regulations are adopted. Do you wish to propose it in the Third Reading?

13.3 Deputy S.J. Pinel:

Yes please, and may I also take this opportunity to thank the members of the Employment Forum for their recommendation. I would like to ask for the appel please.

The Bailiff:

Seconded? **[Seconded]** The appel is called for. I invite Members to return to their seats. The vote is on whether to adopt in Third Reading the Employment (Minimum Wage) (Amendment No. 12) Regulations and I ask the Greffier to open the voting.

POUR: 37		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator A.J.H. Maclean				
Senator I.J. Gorst				
Senator P.M. Bailhache				
Senator A.K.F. Green				
Senator Z.A. Cameron				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				

Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy of St. John				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Peter				
Deputy S.Y. Mézec (H)				
Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy S.M. Wickenden (H)				
Deputy S.M. Brée (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

14. Draft Employment (Amendment No. 9) (Jersey) Law 201- (P.123/2015)

The Bailiff:

We now come to the Draft Employment (Amendment No. 9) (Jersey) Law 201- at P.123 lodged by the Minister for Social Security and I will ask the Greffier to read the citation.

The Assistant Greffier of the States:

Draft Employment (Amendment No. 9) (Jersey) Law 201-. A law to amend further the Employment (Jersey) Law 2003, the States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

14.1 Deputy S.J. Pinel (The Minister for Social Security):

The amendment to the Employment Law clarifies the procedure for appeals to the Royal Court against decisions of the Employment and Discrimination Tribunal. A number of issues have been identified with the current draft. It is not clear, for example, whether a person must apply for leave to appeal within the 4-week time limit or whether they must bring the appeal itself within 4 weeks. There is also no discretion for the Tribunal to vary the 4-week time limit, which might be unfair on the appellant. We have revised Article 94 in consultation with the Bailiff, the Judicial Greffe and the Tribunal, with advice from the Law Officers' Department, and all parties are satisfied with the replacement Article 94. It is important that we make this change as soon as possible to clear up any uncertainties and to provide the appropriate flexibility to the court. I understand that Rules of Court can then be prepared that set out the detailed procedure for appeals from the Tribunal to the Royal Court. Now I propose the principles.

The Deputy Greffier of the States (in the Chair):

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? If no Member wishes to speak then I ask Members to vote on the principles. The principles are

adopted. The Deputy of St. Ouen, this falls to your panel, do you wish to scrutinise the Regulations?

The Deputy of St. Ouen (Chairman, Health and Social Security Scrutiny Panel):

No, we do not.

The Deputy Greffier of the States (in the Chair):

Then, Minister, how do you want to take the Articles, *en bloc*?

14.2 Deputy S.J. Pinel:

En bloc, yes. Article 1 of the draft law sets out the new Article 94, which provides that leave to appeal must first be sought from the Tribunal and, if refused by the Tribunal, leave to appeal may be sought from the Court. The new Article 94 also provides that an application for leave to appeal must be submitted within 28 days of the Tribunal's decision and that the Tribunal has discretion to vary that time limit. Article 2 provides for the law to come into force on the day after it is registered. I propose the Regulations.

The Deputy Greffier of the States (in the Chair):

Are the Articles seconded? **[Seconded]** Does any Member wish to speak on the Articles? Deputy Southern.

14.2.1 Deputy G.P. Southern:

I have just heard the word "vary" when I was expecting to hear the word "extend". I propose "vary" enables the Tribunal to reduce the length of time in which one may appeal, and that would seem to me wrong, it should be 48 days, 4 weeks or longer, rather than variable might be shorter.

The Deputy Greffier of the States (in the Chair):

Does any other Member wish to speak? Then I call upon the Minister to reply.

14.2.2 Deputy S.J. Pinel:

Deputy Southern's question is perfectly reasonable; it is within 28 days, so as long as it is not longer than the 28 days or 4 weeks that is where the variation may come into play. I propose the Articles.

The Deputy Greffier of the States (in the Chair):

How do you wish to take them; do you want to take them *en bloc*, do you want a standing vote, would you want an appel, Minister?

Deputy S.J. Pinel:

I propose them *en bloc* and I would like to have the appel please.

The Deputy Greffier of the States (in the Chair):

Very well, the appel has been called for. I would ask Members to return to their seats and I ask the Greffier to open the voting.

POUR: 38		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator A.J.H. Maclean				
Senator I.J. Gorst				
Senator P.M. Bailhache				
Senator A.K.F. Green				
Senator Z.A. Cameron				

Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy of St. John				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Peter				
Deputy S.Y. Mézec (H)				
Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy S.M. Wickenden (H)				
Deputy S.M. Brée (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

The Deputy Greffier of the States (in the Chair):

Do we take the law in Third Reading?

Deputy S.J. Pinel:

Yes please.

The Deputy Greffier of the States (in the Chair):

Does anybody wish to speak in Third Reading? Sorry, is it seconded in Third Reading?
[Seconded] Does any Member wish to speak?

Deputy S.J. Pinel:

I maintain the proposition in the Third Reading, thank you.

The Deputy Greffier of the States (in the Chair):

If all Members would like to vote? Very well, then the Law has been approved in third reading.

15. Draft Taxation (Implementation) (Disclosure Facility) (Repeal) (Jersey) Regulations 201- (P.124/2015)

The Deputy Greffier of the States (in the Chair):

We now move to the next item of business, which is the Draft Taxation (Implementation) (Disclosure Facility) (Repeal) (Jersey) Regulations 201- and I will ask the Greffier to read the citation.

The Assistant Greffier of the States:

Draft Taxation (Implementation) (Disclosure Facility) (Repeal) (Jersey) Regulations 201-. The States, in pursuance of Article 2 of the Taxation (Implementation) (Jersey) Law 2004 have made the following Regulations.

The Bailiff:

Minister, do you wish to propose the principles?

15.1 Senator P.M. Bailhache (The Minister for External Relations):

The Assembly made the Taxation (Implementation) (Disclosure Facility) (Jersey) Regulations 2013, which gave effect to an obligation set out in a Memorandum of Understanding between Jersey and the United Kingdom. The obligation to which Jersey assented concerned a disclosure facility available to residents of the U.K. for U.K. tax purposes, but who were clients of Jersey financial institutions. The Regulations required the Jersey financial institutions to notify their current clients about the disclosure facility and to remind them of its contents. The United Kingdom Government has now confirmed that the current disclosure facility is to come to an end on 31st December 2015, as proposed by the United Kingdom Chancellor in his Budget Statement in March of this year. As a result, the existing Regulations will cease to have effect as there will no longer be an obligation to remind customers of the facility and these Regulations accordingly seek to repeal the Regulations of 2013. I think it might be worth mentioning to Members that the extravagant figures mentioned at the time when the disclosure facility was first introduced of tax, which was expected to be recovered by the United Kingdom Exchequer, were indeed extravagant. The view taken by the Government of Jersey was that tax evaders had been discouraged from using Jersey for so long that the amount of tax to be recovered as a result of this disclosure facility would be small. That prediction has proved to be correct because the yield from settlements as at March 2015 for the whole of the 3 Crown Dependencies was £21.5 million as against the expected £1 billion announced over the expected 5-year life of the disclosure facility. So I accordingly move the principles of the Regulations.

The Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak on the principles? Those in favour of adopting them kindly show? Those against. The principles are adopted. Deputy Le Fondré, do you wish to scrutinise this?

Deputy J.A.N. Le Fondré (Chairman Corporate Services Scrutiny Panel):

No, thank you, Sir.

Senator P.M. Bailhache:

I move the Regulations *en bloc*.

The Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak? Those in favour of adopting the Regulations kindly show? Those against. The Regulations are adopted. Move into Third Reading?

Senator P.M. Bailhache:

I move the Regulations in Third Reading.

The Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak in Third Reading? Those in favour of adopting them in Third Reading kindly show? Those against. The Regulations are adopted.

16. Draft E.U. Legislation (Payment Services – SEPA) (Jersey) Regulations 201-(P.125/2015)

The Bailiff:

Then we come to the Draft E.U. Legislation (Payment Services - SEPA) Regulations, P.125, lodged by the Chief Minister. Perhaps we should, it is 5.30. You have 2 minutes, Chief Minister. Lodged by the Chief Minister and I will ask the Greffier to read the citation of the draft.

The Deputy Greffier of the States:

Draft EU Legislation (Payment Services - SEPA) (Jersey) Regulations 201-. The States, in pursuance of Article 2 of the European Union Legislation Implementation (Jersey) Law 2014 have made the following Regulations.

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

These Regulations are referred to as S.E.P.A. (Single European Payments Area) Regulations for convenience. They have been prepared in order for Jersey to make an application to the European Payments Council, which is known as the E.P.C. (European Payments Council), so that Jersey can join the Single European Payments Area, which is also known as S.E.P.A. We have made these applications and changes in concert with the 2 other Crown Dependencies and as a result of consultation and with the support of the Jersey Bankers Association. This legislation has been developed largely by the Jersey Financial Services Commission with the support of officers in my department and aided by the law officers and our Brussels officers. As I have said, we have co-operated with the Isle of Man and Guernsey and they will be presenting a similar approach and they will allow speedier and better euro payments and also provide better customer protection. They in effect look so complex when we get to the Articles but that is because we have to show compliance with the E.U. Directive that deals with these matters. I maintain the principles.

The Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak on the principles? Those in favour of adopting the principles kindly show? Those against? The principles are adopted. It is now 5.30 p.m., Chief Minister, do you wish to continue now? These are quite complicated Regulations. I am not sure whether it is appropriate to take them at a canter or whether Members wish to ... Very well, that seems to be the consensus, Chief Minister.

[17:30]

Senator I.J. Gorst:

I can canter or gallop, much I am sure to the surprise of Members. As I said, the reasons ...

The Bailiff:

I am sorry, before you do that, I will ask Deputy Le Fondré if he wishes to scrutinise them.

Deputy J.A.N. Le Fondré (Chairman, Corporate Services Scrutiny Panel):

No, thank you, Sir.

The Bailiff:

Are you quite sure, Deputy? [Laughter]

Senator I.J. Gorst:

I could have said, in the longer version of the speech I was going to say that the Regulations have been shown to the Scrutiny Panel, as I understand it.

Deputy J.A.N. Le Fondré:

I do not think they have been, certainly not to Corporate Services.

16.2 Senator I.J. Gorst:

Okay. I do not wish to have an argument across the Assembly about that so if I am incorrect I apologise and I will consult with officers in that regard. The Regulations do give effect to the provisions of the E.U. Directive which ultimately will allow us to make an application to be included in S.E.P.A., as I say. As you said, they are complex and detailed and if any Member has any questions on them I have lots of details here and I will answer or endeavour to answer any questions that any Members may have.

The Bailiff:

Seconded? [Seconded] Does any Member wish to speak on the Regulations? Those in favour of adopting the Regulations, kindly show. Those against? The Regulations are adopted. Do you wish to propose them in the Third Reading, Chief Minister?

Senator I.J. Gorst:

If I may, Sir, thank you.

The Bailiff:

Seconded? [Seconded] Does any Member wish to speak in the Third Reading? The appel is called for. I invite Members to return to their seats. The vote is on whether to adopt the E.U. Legislation (Payment Services - SEPA) (Jersey) Regulations in the Third Reading and I ask the Greffier to open the voting.

POUR: 37		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator A.J.H. Maclean				
Senator I.J. Gorst				
Senator A.K.F. Green				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy of Grouville				

Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy of St. John				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Peter				
Deputy S.Y. Mézec (H)				
Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy S.M. Wickenden (H)				
Deputy S.M. Brée (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

Before I announce the next item P.130/2015, Chief Minister, I understand you wish to withdraw it.

Senator I.J. Gorst:

I was just going to say that, yes. There needs to be an amendment and I will withdraw it and relodge, thank you.

Senator P.F. Routier:

Can I propose the adjournment?

The Bailiff:

The adjournment is proposed. The States now stand adjourned until 9.30 tomorrow morning.

ADJOURNMENT

[17:33]