STATES OF JERSEY

STANDING ORDERS: ANSWERS TO QUESTIONS

Lodged au Greffe on 21st October 2011
by Deputy G.P. Southern of St. Helier

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

(a) to agree that appropriate amendments should be made to Standing Orders to make new provisions in relation to the answering of oral questions to provide that –

(i) where lists of data are required in order to answer a particular oral question, these may be circulated to members in printed form at the time the answer is given;

(ii) answers given shall address the content of the question being asked and be confined to the subject matter of the question; if the presiding officer is of the opinion that the answer given fails to do so, he shall draw the member's attention to these requirements in Standing Orders and ask the member to attempt to address the content of the question more directly;

(b) to request the Privileges and Procedures Committee to bring forward for approval the necessary amendments to give effect to the proposals.

DEPUTY G.P. SOUTHERN OF ST. HELIER

REPORT

This amendment to Standing Orders addresses 2 issues. The first concerns the distinction between oral and written questions. While it is appropriate that a question which requires a substantial list or table in order to answer it would ideally be asked as a written question, there are occasions, after the written deadline has passed, when such a question needs to be asked as an oral.

On such occasions I have witnessed 3 approaches to delivering a response from Ministers. Some have started to recite from the list, which is time-wasting and ineffective; others have simply complained that the question is not suitable as an oral and have insisted that the questioner re-submits the question in written form at the next meeting; yet others have answered with reference to the list or table previously circulated to members.

The first 2 options are, I believe, unsatisfactory to all. Whilst some members might suggest that the third option does not need emphasis, I believe that drawing members' attention to this option is appropriate and may lead to more informative answers and more efficient use of States' time.

The second amendment is, I believe, far more important and, some might say, sensitive. Question time has become one of the most effective ways of holding Ministers and others to account publicly for their actions and policies. It has become an integral part of the Scrutiny process, either providing initial information which forms the basis for further in-depth investigation, or a forum for response to Scrutiny.

However, as Ministers have become more used to the format of question time, I sense an increase in the use of a technique I shall call the "non-answer". The response may contain all the right words and phrases and may be expressed fluently or haltingly, but nonetheless it fails to address the question. Here I do not mean answers which are unsatisfactory to the questioner, or those with which the questioner does not agree politically; nor answers to loosely-phrased questions which do not pin the response down; but those which simply ignore the question, or answer a completely different question, often at length.

Members may recognise what I mean in the examples I have given in the Appendix These examples are from recent months and not hard to find. Of course some questioners have become skilled at spotting these non-answers and attempting to deal with them on their feet. Others may be less adept and may appreciate some help from the Chair.

Placing a requirement for a Minister or other member to provide an answer which addresses the question is, I believe, quite straightforward. To then require the Chair to enforce the rule is more problematical. However, we are unique in the world, at present, in being able to call on the services of 2 highly trained and experienced lawyers to judge the answers put forward. Who is better placed to spot evasive or irrelevant answers, and to distinguish those from responses over which there are merely political differences?

Furthermore, we would not be alone in attempting to address this issue. Some parliaments have imposed a similar requirement. The New Zealand Standing Order requirement, on which I have based part of my amendment, is as follows –

"**377 Contents of replies**

(1) An answer that seeks to address the question asked must be given if it can be given consistently with the public interest.

(2) The reply to any question must be concise and confined to the subject-matter of the question asked, and not contain—

(a) statements of facts and the names of any persons unless they are strictly necessary to answer the question, or

(b) arguments, inferences, imputations, epithets or ironical expressions, or

(c) discreditable references to the House or any member of Parliament or any offensive or unparliamentary expression.

(3) Replies shall not refer to proceedings in committee at meetings closed to the public that have not yet been reported to the House or (subject to Standing Order 111) to a case pending adjudication by a court.".

Of the 12 Standing Orders of the States of Jersey that refer to questions (9–15 and 63–66), most are directed at the process or are concerned with improving the quality and content of the questions. Very few concern themselves with the quality and content of the answers. And yet it seems to me axiomatic that it is the quality of the answers that we ought to be concerned with.

Financial and manpower implications

There are no financial or manpower implications for the States arising from this proposition.

APPENDIX

EVASIVE AND NON-ANSWERS: EXAMPLES

1. Deputy G.P. Southern of Assistant Minister for Treasury and Resources regarding the removal of additional 2% on Social Security contributions

2.12.2 Deputy G.P. Southern:
Does the Assistant Minister now accept the words of his Minister for Treasury and Resources when he said in the Fiscal Strategy Review: "No single measure will achieve the twin objectives of raising money in a fair way"? Does he agree that watering-down the increase by 2% of social security contributions on class 2 contributions, which include the 1(1)(k)s is a backing away from that commitment to fairness and balance?

Deputy E.J. Noel:
Fairness and balance in connection with our wealthy residents is one that they provide us with direct taxation of £13.5 million a year. That is from a group of 130 people. We should be expanding that number and encouraging them. That is exactly what the new policy under Amendment 39 does. It makes us more competitive to attract more wealthy residents to come and locate here, to bring their businesses here and to add to our economic prosperity.

2.12.3 Deputy G.P. Southern:
Will the Assistant Minister address the question of backing away, watering down the 2% additional on 1(1)(k)s. which is his Minister's commitment to fairness?

Deputy E.J. Noel:
Wealthy residents contribute going forward if the amendment to the tax law is approved at least £125,000 a year. That is a substantial amount of tax. It should be welcomed.

Deputy G.P. Southern:
Again, I point out that the Assistant Minister has completely failed to address the question.

The Bailiff:
The question, Assistant Minister, was about the 2%.

Deputy E.J. Noel:
We have to look at this in the round, not just in isolated pockets. It is the overall contribution to our society that these individuals make that is important, not individual elements.

Conclusion: Successful avoidance, despite a nudge from the Chair.

2.2.1 Deputy D.J.A. Wimberley of St. Mary of the Chief Minister regarding the optimum population level for the Island:

In the light of the forthcoming debate on the Island Plan, can the Chief Minister advise the Assembly what the Council of Ministers considers to be the optimum population level for the Island and outline how this target is to be achieved?

Senator P.F. Routier (Assistant Chief Minister – rapporteur):
The Council of Ministers is tied to the decision of this Assembly that was debated and agreed in the 2009 Strategic Plan. Those targets will be reviewed in 2012 when the figure from the census will be available. The targets are currently being managed through the Regulation of Undertakings and Development and Housing Laws. However, Members will be debating the new mechanism, the Control of Housing and Work Legislation, in July.

2.1.1 The Deputy of St. Mary:
I noticed the masterful evasion of the question. I did ask whether the Council of Ministers had any idea what the optimum population level for the Island might be. I would have thought that is of some relevance to the Island Plan which we are about to debate. Could you answer the question, please, or that part of the question?

Senator P.F. Routier:
The answer to the question is fairly obvious. The Council of Ministers are tied to what the States Assembly has decided. It is not a Council of Ministers decision. It is the House that has made the decision in the last Strategic Plan to set those figures and they are publicly known figures that everybody has signed up to within this House. So it is not the Council of Ministers' view that is important in this; it is the Assembly's view.

The Deputy of St. Mary:
I have to ...

The Bailiff:
I am sorry, Deputy; you have had 2. I will come back to you at the end.

Conclusion: The Assistant Minister successfully avoided stating any figure for population, let alone an "optimum" figure. He did not even address the question with a statement that there is no optimum figure, even though the current policy is that population peaks at around 100,000 before declining once more. No help from the Chair.

3. Deputy G.P. Southern of the Minister for Social Security regarding the removal of the additional 2% Social Security contribution from employees

The Minister will be aware that many Members voted for a whole package of measures, including the raising of G.S.T. (Goods and Services Tax) up to 5%, and including up to £65 million-worth of cuts in the public sector; on the grounds presented by the Minister for Treasury and Resources that the total measures were fair and balanced. Does he still believe, having cut some of that balance out of the recipe, this is still fair and balanced?

Deputy I.J. Gorst:
I believe that the Council of Ministers committed to cutting first and taxing second. As the Member will know, there is a slight improvement in the financial tax received and the forecast. I, therefore, believe that it is right not first of all to reduce the cut but to ensure that if we perhaps might need contributions – and I will be clear here that the Minister for Treasury and Resources said at the last Sitting it is a deferment – if this money is needed I for one believe that the first area it should go, if there is an improvement in taxes, it should go into the pension pot. So it is not a matter of these individuals in effect being let off, as some people have tried to say. It is a fact of wanting to secure the long-term care benefit, that will be an increase in contributions and, as I said quite clearly – I cannot remember whether it was last week or the week before now, I think it was the week before – we will need to raise contributions for pensions to make the pension sustainable in the medium and longer term; and that I am absolutely committed to.

2.4.3 Deputy G.P. Southern:
Will the Minister answer the question: does he consider the overall package still to be fair and balanced?

Deputy I.J. Gorst:
When we take into account the fact that we are going to need to raise contributions for long-term care and for the pensions then, yes, I believe it is.

Conclusion: Yes it can be done. A fairly straight answer; but why the need for the long and meandering non-answer first?

4 Deputy G.P. Southern of the Minister for Treasury and Resources regarding the balance between company and personal taxation:

Does the Minister accept the data that I have circulated today, which suggests that personal tax over the past decade has doubled, while company tax and revenues from the companies have at least halved?

Senator P.F.C. Ozouf:
There is nothing new in any of that information circulated by Deputy Southern. In fact, I think it is quite useful because Members can look at it, and they can remind themselves of the difficult situation that the Island faced when needing to deal with the Code of Conduct view of our original taxation policy in relation to the exempt and non-exempt and the consequences of that to our revenues, which cost the Island £100 million, which of course was deferred later than the other Islands but we kept hold of that revenue as long as we could. Also, the impact of the economic downturn, which further impaired our revenues in 2009, 2010 and 2011. I certainly hope that our corporate revenues on the back of rising interest rates in subsequent years will rise from these levels.

2.17.2 Deputy G.P. Southern:
Can the Minister justify the fact that for 2011 the estimate for company tax is a mere £65 million, and for personal tax, which includes Impôts and G.S.T. (Goods and Services Tax), it is £436 million from the pockets of ordinary working people in Jersey?

Senator P.F.C. Ozouf:
He has obviously been practicing his lines in relation to this point-scoring issue. I am afraid I am happy to take responsibility for all matters in the Treasury and to the effective collection of income tax, but I am afraid I cannot atone for the competitive world in which we live, which caused a lot of the decline in our corporate tax revenue. The need to move to a 10% rate was one of the most important contributors to the original £100 million deficit of Zero/Ten and I am afraid I cannot atone for the global turmoil which has seen our corporate tax revenues fall, but I am optimistic that we will see them rise in subsequent years.

2.17.8 Deputy G.P. Southern:
Given that in answer to written question 22 the Minister said: "To gather the data requested in this question will take a significant amount of resource." I am pleased to hear that the Minister will set one of his officers working on these figures and, before we get the spin that he puts on them, will he confirm that the general trend from doubling of personal tax and halving of company tax is in fact correct?

Senator P.F.C. Ozouf:
That question is a bit rich from the Deputy in calling spin when he has rehearsed his lines and trying to make points, which have already been discussed in this Assembly many times before about the balance of corporate and personal tax. So, there is no spin in relation to what I say. I say facts and I am asked to give information. What I also will do is I will attempt to direct my officials into the areas that are likely to get us more tax revenue in the longer term, and I do not want my officials wasting their time on rehashing data, which is only going to serve the purposes of Deputy Southern in point-scoring in this Assembly against me.

Conclusion: A master-class in avoidance. No acceptance; no justification; no confirmation. In fact there is no attempt to address the question at all. To add to this we have the spurious accusation of point-scoring which, I presume, can be aimed at any questioner asking a difficult question. I believe that we should attempt to improve on this sort of answer.

5. Deputy J.A.N. Le Fondré of the Minister for Treasury and Resources regarding the proposed plans for States of Jersey Property Holdings and the States of Jersey Development Company Limited.

3.9.5 Deputy J.A.N. Le Fondré of St. Lawrence:
I am trying to work out which question to go for. The Minister has raised a whole range of issues but I think the one I am going to go for out of what he has touched on, he has referred to a review being performed on the property function. I think he has said that today and he has also said that in the press last week. Could he confirm that the individuals performing it are interims from H.R. and Treasury who have little or no property experience? The significance of that is that P.93/2005, which he says is very laudable, was on the basis of expert advice from KPMG, Deloittes, DTZ, over a whole number of years and is a 2 to 3 week review or whatever it is going to be is going to generate the value that he is expecting or is it just a waste of time and a predetermined outcome?

Senator P.F.C. Ozouf:
I would understand why Deputy Le Fondré would want to stand and ask questions about this issue and obviously he and I will have to agree to differ in relation to a number of issues of Property Holdings and I regret that. I would just inform him that the issues in terms of looking at Property Holdings are being ably and properly overseen by my Assistant Minister and the Acting Chief Executive, and it is at the very highest level of States decision-making that these issues are being dealt with. I wish to say I have full confidence of their oversight of this important review which is currently being undertaken.

3.9.6 Deputy J.A.N. Le Fondré:
He has not answered the question. The people doing the review, do they have expertise in properties?

Senator P.F.C. Ozouf:
I have no doubt at all that there are going to have to be some further input in relation to issues. **[Interruption]** Yes, the Acting Chief Executive is Head of Resources and I have full confidence in him.

Deputy J.A.N. Le Fondré:
That is not answering the question. Do the people doing the review have expertise of a significant depth in property?

Senator P.F.C. Ozouf:
Certainly I am absolutely clear that there needs to be challenge across the board and checks and balances in relation to these issues and if he is doing the bidding for individuals that are having their issues challenged then so be it, but I have a problem in relation to Property Holdings, I have a problem with the standard of service that Property Holdings have given States departments and it must change.

Deputy J.A.N. Le Fondré:
He still has not answered the question. Can I also just point out that he has said ...

The Deputy Bailiff:
No, this is question time, Deputy, it is not ...

3.9.7 Deputy J.A.N. Le Fondré:
Yes, Sir, this is a question for the Minister. He still has not answered my first one but the point is that on a number of occasions he has said that the maintenance function is being transferred. That is an integral part of P.93/2005.

The Deputy Bailiff:
So it was not a question.

Senator P.F.C. Ozouf:
It was not a question and I have been very clear, the budget, which is the issue that Senator Shenton dealt with ...

The Deputy Bailiff:
It is not speech time either; it is not a question so therefore you do not have to answer it.

Senator P.F.C. Ozouf:
It is irrelevant.

Conclusion: The questioner rather hid the question in his opening approach, but quickly warmed to his subject. The Minister made no attempt to address a clear and precise question about the property experience or lack of it of those conducting the review. Once again I believe we must attempt to bring Ministers into line in the quality of the responses that are produced for the Assembly and the public. The first step, surely, is to try to ensure that answers at least attempt to address the question.