

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 2nd NOVEMBER 2021

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Jul 35

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4,691 35

9,237 35

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12,021..... 35

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1,425 35

5,056 35

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[9:30]

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

COMMUNICATIONS BY THE PRESIDING OFFICER

The Deputy Bailiff:

1.1 Tribute to former Deputy Anne Dupre

Members will be aware that former Deputy Anne Dupre passed away last week. Deputy Dupre was born Anne Cairoli on 24th October 1947 in Jersey. She attended Convent FCJ, when it was based in David Place in St. Helier, and she began her career as a civil servant at the Housing Department where she worked from the age of 16 to 22. During this time she met and married her husband, Clary, whose father - also Clary - was himself of course a very well-known politician as Deputy and Senator, and perhaps best known as president of the Tourism Committee during the heydays of the Island as a holiday destination in the 1960s and 1970s. The couple had 2 daughters but sadly Mrs. Dupre was widowed when her husband, Clary, died aged 46. She was actively involved in the Battle of Flowers for over 40 years, first with the Beeches Old Boys with her late husband, and then with the Parish of St. Clement. She worked in the Jersey Citizens Advice Bureau in its early days at the Town Hall and was assistant manager there for a number of years before working for nearly 18 years as a medical secretary. Mrs. Dupre was an active volunteer and served on the council of Jersey Hospice for some 16 years. She was also an active member of the FCJ Past Pupils Association. She successfully stood for election and served one term as Deputy of St. Clement from December 2008 until October 2011. She was appointed as Assistant Minister for Education, Sport and Culture and had special responsibility for cultural matters during her time in office. She is survived by her 2 daughters and 3 granddaughter and our thoughts go out to her family at this very difficult time. I invite Members to stand for one minute silence. **[Silence]** May she rest in peace.

Deputy M. Tadier of St. Brelade:

It relates to Written Questions that I have submitted to the Treasury, which I have asked for an analysis of a financial impact of certain changes to social security contributions, and that has not been answered. They have not given me the figures that I require.

The Deputy Bailiff:

It might have been better if we waited until we came to the Written Questions, but you have raised it now. Two of your questions; can you identify which number they are on the list of questions?

Deputy R.J. Ward of St. Helier:

I would like to raise a similar point.

The Deputy Bailiff:

Perhaps one at a time please. Deputy Tadier, can you indicate which ones you are concerned with? There are 54, I do not want to trawl through them all looking for your questions.

[9:45]

Deputy M. Tadier:

That is okay. I did have them up in front of me. One of them is ... I have the code for it, it is Written Question 414.

The Deputy Bailiff:

That is number 25, yes.

Deputy M. Tadier:

I do not have the other one offhand but I have only submitted 2, and it is probably sequential.

The Deputy Bailiff:

It is 26; the next one.

Deputy M. Tadier;

It is just that I have asked for an analysis of the impact. I have not been given any of that, which is unfortunate. It means I need to either submit another question or that they need to come back with a fuller answer.

The Deputy Bailiff:

In compliance with Standing Orders, I will consider the matter and revert to you within the delay permitted by Standing Orders.

Deputy M. Tadier:

Thank you.

Deputy R.J. Ward:

I would like to raise Standing Order 12(4); so Written Question 426/2021, the answer given I believe is not the full answer because there has been information given ...

The Deputy Bailiff:

Do you want to identify which question that is on the list?

Deputy R.J. Ward:

Written Question 426/2021.

The Deputy Bailiff:

That is your question 37 on the list, yes.

Deputy R.J. Ward:

Sorry, I do not have that reference. I just have the question that was sent to me. It simply has not been answered. Previously in this Assembly we have had figures given for the costs that I have asked for and on this occasion they are saying they now cannot find the costs. In addition to that, question 427 and question 428 simply have not been answered at all, saying that no reply was received. I note 2 other Members questions - 430 and 440 - have also not been answered in a similar way. I would like to raise a serious concern about whether this Assembly and its written question system is just being ignored entirely.

The Deputy Bailiff:

You would like me to make a ruling on those 3 specific questions that you have mentioned?

Deputy R.J. Ward:

The other 2 have simply not been answered. I do not know what the ruling would be.

The Deputy Bailiff:

Not at all?

Deputy R.J. Ward:

She is saying there is no answer coming. There is another one that says an answer will be coming forward on Monday but it has missed any deadline. I am not entirely sure what the ruling is, but that is entirely up to you, but certainly with 426 I do not believe that that is a full answer to the question.

The Deputy Bailiff:

I have marked that you are concerned with 426, 427 and 428 and if there is any further detail you wish to add to your concerns then please email me, so it is in front of me when I consider the questions.

Senator S.Y. Mézec:

It is to add to that Written Question 430, which is one of mine, has simply had no answer as well. There are, by my count, 4 questions for which no answer at all has been submitted by the time stipulated by the rules of this Assembly. I should add, that last week there were 2 questions where that did not happen either. This is really taking the mickey out of this Assembly by the Executive and they should have some sort of ruling put in place for them to answer questions, as they are required to, because it is not respectful of the Members of this Assembly. We are trying to get information so that we can do our jobs.

The Deputy Bailiff:

There is simply no answer at all to that question that you have asked, is that right? I am looking through the answers now. Yes, I see a response has not been received. Thank you for that, I will consider that and make a ruling and indicate any other concerns that I may have.

Deputy I. Gardiner of St. Helier:

I would like to add Written Question 440, which was my written question, and there was no answer received at all as well.

Senator K.L. Moore:

I am in the same position. I have lodged a written question and not received a response.

The Deputy Bailiff:

Which one was that?

Senator K.L. Moore:

It is not noted; there is no response.

The Deputy Bailiff:

Standing Orders are there to be complied with and it is the will of the Assembly that these matters should be complied with. [Approval]

APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS

2. Nomination of Senator S.Y. Mézec as a member of the Health and Social Security Scrutiny Panel

2.1 Deputy M.R. Le Hegarat of St. Helier (Chair, Health and Social Security Scrutiny Panel):

As the chair of the panel, I would like to nominate Senator Mézec to become a member of the panel. We have still significant work to do and we look forward to being able to work with Senator Mézec and an extra member of the team.

The Deputy Bailiff:

Is the nomination seconded? [Seconded] Are there any other nominations? Accordingly, I declare Senator Mézec has been appointed as a member of the Health and Social Security Scrutiny Panel.

QUESTIONS

3. Written Questions

The Deputy Bailiff:

I will make the rulings requested within the period permitted by Standing Orders.

3.1 Senator S.C. Ferguson of the Minister for Health and Social services regarding transport for Saturday clinics at the General Hospital (WQ.390/2021)

Question

Will the Minister state what provision, if any, is made for patient transport for clinics that operate at the General Hospital on Saturdays (in particular the renal clinic) and, if there is no provision, will he explain why not?

Answer

Only essential clinics run on a Saturday and the patient transport arrangements are proportionate to the services offered. There are very few patients that require transport on a Saturday and it would be uneconomic to run a patient travel service akin to that run on weekdays. Patients are encouraged to make their own travel arrangements, but when this is not possible a taxi is arranged. Renal clinic patients that attend dialysis on a Saturday are part of clinic scheduling, which allows the nursing team to anticipate any challenges such as transportation and ability to attend appointments. When patients are not able to travel independently or relatives are not able to support, the nursing team/admin team will book a taxi for travel to and from the hospital without charge to the patient.

3.2 Connétable of St. Brelade of the Minister for Home Affairs regarding the vetting process of police officers (WQ.391/2021)

Question

Will the Minister explain to members what steps, if any, he has taken to ensure that the current vetting process for the recruitment of police officers to the Island (for officers or either U.K. or non-U.K. origin) is robust and one in which Islanders can have confidence?

Answer

The appalling murder of Sarah Everard in March 2021 by a serving Metropolitan Police Officer has focused attention on the vetting of Police Officers in Forces across the UK. The States of Jersey Police is monitoring very closely the developments in the UK associated with vetting and will adopt any emerging good practice.

The Chief of Police commissioned a peer review inspection of Counter Corruption measures within the States of Jersey Police in 2020. This was delayed due to Covid, but in August this year, two UK experts spent a week with the States of Jersey Police reviewing the organisation's Counter Corruption measures, including vetting.

The final report, including recommendations, was delivered last month and work is now under way to address these points. The experts are due to return to SOJP in April 2022 to review progress.

All Officers within the States of Jersey Police are thoroughly vetted before joining, including those transferring in from other Forces, as are all Police Staff and volunteers. Vetting is repeated every 10 years, and Officers are required to disclose any change in their circumstances in the intervening period.

The SOJP Vetting Unit complies with the College of Policing policy & procedure on Vetting of Officers & Staff, including UK Transferees, which incorporates counter corruption checks.

3.3 Senator S.W. Pallet of the Minister for Health and Social Services regarding the mental health facility at Clinique Pinel (WQ.392/2021)

Question

Will the Minister provide members with the following information regarding the construction of the new mental health facility at Clinique Pinel –

- (a) the date upon which the contract was signed with the building contractor to deliver the new facility;

Answer

- A letter of Intent was issued on 24.08.20
- Works commenced on 21.09.20
- The formal contract (JCT 2011) was signed on 29.09.20

- (b) the agreed completion date for the project, as detailed in the contract;

Answer

- The original contract completion date was 31.01.22
- A 5-week time extension has been granted owing to exceptionally inclement weather, revising the contract completion date to 07.03.22 (revised contract period 76 weeks)

- (c) whether the construction of the facility is on schedule for completion by the agreed date, and if not, why not;

Answer

- The works are currently at week 56 of 76 (@ 30.09.21)
- The contractor has recently tabled a revised completion programme which shows a revised completion date of 09.09.22.
- As noted at item (f) below, additional works have been required to remedy a number of 'legacy issues' relating to the existing building/structure and additional/essential 'upgrade works' to address safeguarding issues that were identified once the building was vacated
- The contractor has cited the current 'spike' in construction work and construction costs as a principal reason for not being able to secure sufficient labour
- Revisions have been made to the original phasing schedule in an attempt to help the contractor by providing more work opportunities. However, the contractor is now reporting that with the difficulties it is experiencing in securing labour, it is unable to benefit from these changes
- JPH have met the contractor's management team over the last three weeks to review why we have not seen the progress we would expect at this point in the contract, and to review options on how we can assist and progress matters

- (d) the current anticipated completion date, if other than that agreed upon in the contract;

Answer

- As noted in Question (c), the contractor is reporting a revised completion date of 09.09.22

(e) whether the contract includes penalties for late completion, and if not, why not;

Answer

- Penalties (or Liquid and Ascertained Damages [L&ADs] as they are referred to in the contract) are included within the main contract
- The contract is phased and is being undertaken in sections. This was primarily because both buildings have remained occupied throughout the works. The L&ADs are therefore applicable per phase
- L&ADs will be applied if the contractor cannot demonstrate why the agreed contract completions dates have not been achieved

(f) whether any changes have been made to the contract, and if so, the details of all such changes and who authorised them;

Answer

- There have been a number of changes to the contract since works commenced. These relate to:
 - (i) Additional ‘client-related works’ associated with the existing building finishes (safeguarding improvements)
 - (ii) Additional ‘legacy-related works’ pertaining to the existing building/structure (i.e. compliance)
- (g) whether any part of the new facility, such as the ‘place of safety’ suite, will be ready to receive patients prior to the completion of the whole facility, and if so, by when; and

Answer

- The latest programme (issued on the 04.10.21) shows that most of the ground floor of Clinique Pinel will be handed over by the 07.03.22. This will provide 20 of the 26 anti-ligature en-suite bedrooms (which includes the ‘place of safety’)
- (h) the current recruitment processes in place to ensure the necessary staff are available in time for the facility to open?

Answer

- The intention is to transfer existing staff into the facility, so no specific recruitment processes are required

3.4 Deputy M.R. Higgins of St. Helier of the Minister for the Environment regarding the power to hold civil servants to account (WQ.393/2021)

Question

Will the Minister explain what powers he holds in the event that an officer in his department is found to have failed to carry out their duties and functions under law (whether wilfully, recklessly, negligently or incompetently), and, in particular, will he advise –

- (a) what actions he can take in such cases, and what sanctions are available to him;
- (b) the number of times he has used these powers in this regard since he became Minister; and
- (c) what ability he has within these powers to rectify any identified failure on the part of an officer and to put any persons (both natural and legal) affected by such failure back to the position they were in beforehand?

Answer

A dereliction of duty, whether intentional or otherwise, can be addressed through internal policy – formal disciplinary, investigations, etc - or legal mechanisms where appropriate. It should be noted that depending on what duty has not been fulfilled, remedies, and the individual(s) required to ensure that said remedies are met, will differ. By way of examples:

- i. The [Public Finances \(Jersey\) Law 2019](#) contains specific article(s) in relation to '[Offences and related provisions](#)'.
- ii. The [Code of Conduct](#) for Government employees encourages employees to raise concerns with line managers and it may be for Director General and their officers to address issues in the first instance.
- iii. The States Employment Board are responsible for Government employees and have their own powers to review and investigate any supposed failures by officers and consider redress as appropriate/within their power.

Since becoming Minister, I have not had to use any powers available to me directly to address failures, if any, by officers when carrying out their duties.

In the scenario that a failure has been identified and that redress in some form is required for a natural or legal person, any powers to resolve this, whether with the Minister or otherwise, will depend on the specific issue at hand, the relevant legislation and the powers afforded therein.

3.5 Deputy K.F. Morel of St. Lawrence of the Minister for Treasury and Resources regarding the amount of Jersey currency used by Islanders between 2018 and 2020 (WQ.394/2021)

Question

Will the Minister inform the Assembly of the total amount of Jersey currency used by Islanders in 2018, 2019 and 2020; and provide the Assembly with details of the amount of interest gained by the Treasury in each year as a result of this use?

Answer

1. Currency in circulation

The full value of Jersey Currency in circulation (both notes and coins) as at the end of each recent Financial year is detailed in the table below.

Year-end values have been supplied reflecting the audited positions quoted in the annual accounts.

Currency in circulation

31/12/2018	31/12/2019	31/12/2020
£'000	£'000	£'000
110,803	112,950	115,191

2. Net Return

The value of currency in circulation is recorded as a liability and offset by assets held in the Currency Notes and Coinage Fund. The Currency Notes and Coinage Funds hold assets in excess of the liability value of Currency in circulation to allow for volatility in the value of the low-risk portfolio.

The purpose of the Funds is to back the value of Jersey currency in circulation; this value fluctuates during the year in line with the cyclical demands for Jersey currency by the general public, peaking in December during the Christmas period.

Money received from the issuance of currency is invested in line with the Currency Fund's published investment strategy. The strategy is designed primarily to protect the value of the assets backing Jersey Currency in issue but also to generate a modest return.

As the portfolio is primarily invested via the Common Investment Fund profits are reflected as unrealised gains on units rather than interest, but the full net investment return is summarised in the following table:

Net Investment Return		
31/12/2018	31/12/2019	31/12/2020
£'000	£'000	£'000
-881	6,498	4,805

3.6 Senator S.W. Pallet of the Minister for Children and Education regarding Child and Adolescent Health Services (C.A.M.H.S.) positions (WQ.395/2021)

Question

There were 25.6 full time equivalent Will the Minister provide the following information in respect of the Child and Adolescent Mental Health Services (C.A.M.H.S.) –

- the total number of positions/roles within C.A.M.H.S. under the States of Jersey Target Operating Model as of 1st September 2021;
- the total number of vacancies that exist within the positions/roles provided in response to paragraph (a) as of 1st September 2021;
- a full and comprehensive list of all positions/roles within C.A.M.H.S., stating the title of the position/role, the nature of employment (i.e. full, part-time, etc.) and whether the position was vacant on 1st September 2021; and
- the total cost of providing locum, bank staff or temporary staff to cover vacancies within C.A.M.H.S. between 1st January 2021 and 1st September 2021; and whether this cost was covered from within existing budgets and, if so, from which budgets?

Answer

(a) posts (FTE) within CAMHS establishment as of 1st September 2021.

(b) On the 1st September 2021 there were 1.91 FTE vacant posts (0.5FTE Nurse Practitioner, a 0.41FTE Clinical Psychologist and a 1FTE Medical Secretary). Furthermore, four permanent posts were backfilled by agency staff.

(c) The Table below shows a comprehensive list of all positions/roles and status within CAMHS as of 1st September 2021

Name of Role	Type	Status	FTE
Head Health and Wellbeing	Permanent	Permanent staff member	1
CAMHS Manager	Permanent	Backfilled on an act up basis by a permanent member of staff	1
Lead Nurse	Permanent	Backfilled on an agency basis	1
Prescribing Nurse Practitioner	Permanent	Permanent staff member	1
Nurse Practitioner	Permanent	Permanent staff member	1
Nurse Practitioner	Permanent	Permanent staff member	1
Nurse Practitioner	Permanent	Permanent staff member	1
Nurse Practitioner	Permanent	Vacant	0.5
Nurse Practitioner	Permanent	Backfilled on an agency basis	1
Nurse Practitioner	Permanent	Permanent staff member	1
Parent Infant Psychotherapist	Permanent	Permanent staff member	1
Systemic & Family Psychotherapist	Permanent	Permanent staff member	1
Systemic & Family Psychotherapist	Permanent	Permanent staff member	1
Consultant Clinical Psychologist	Permanent	Permanent staff member	0.89
Clinical Psychologist	Permanent	Vacant	0.41
Clinical Psychologist	Permanent	Permanent staff member	0.81
Clinical Psychologist	Permanent	Permanent staff member	1
Clinical Psychologist	Permanent	Backfilled on an agency basis	1
Assistant Psychologist	Permanent	Permanent staff member	1
Clinical Senior Social Worker	Permanent	Permanent staff member	1
Office & Administration Manager	Permanent	Permanent staff member	1
Receptionist	Permanent	Permanent staff member	1
Administrator	Permanent	Permanent staff member	1
Data Officer	Permanent	Permanent staff member	0.4
Associate Specialist Psychiatrist	Permanent	Permanent staff member	0.6

Name of Role	Type	Status	FTE
Consultant Child Psychiatrist	Permanent	Permanent staff member	1
Child Psychiatrist	Permanent	Backfilled on an agency basis	1
Medical Secretary	Permanent	Vacant on the 1/9 but subsequently filled	1
TOTAL			25.6

- (d) The total cost of covering CAMHS permanent staffing establishment vacancies with agency staff between 1st January 2021 and the 1st September 2021 was £340,573. This has been covered from within the existing CAMHS budget.

3.7 Senator S.W Pallet of the Minister for Health and Social Services regarding Adult Mental health positions (WQ.396/2021)

Question

Will the Minister provide the following information in respect of the Adult Mental Health Services –

- the total number of positions/roles within Adult Mental Health Services under the States of Jersey Target Operating Model as of 1st September 2021;
- the total number of vacancies that exist within the positions/roles provided in response to paragraph (a) as of 1st September 2021;
- a full and comprehensive list of all positions/roles within Adult Mental Health Services, stating the title of the position/role, the nature of employment (i.e. full, part-time, etc.) and whether the position was vacant on 1st September 2021; and
- the total cost of providing locum, bank staff or temporary staff to cover vacancies within Adult Mental Health Services between 1st January 2021 and 1st September 2021; and whether this cost was covered from within existing budgets and, if so, from which budgets?

Answer

Answer		
a)	Total FTE in Adult Mental Health Services	314.31
b)	Total FTE vacancies in Adult Mental Health Services (recruitment planned)	66
	18 vacancies are covered by agency nurses, 4 by medical agency staff, with 20 other agency staff (such as social workers). There is significant recruitment activity against the vacancies with 27 roles about to go out to advert and a further 23 posts at more advanced stages of recruitment (ie out to advert, interview or job offered). A revised approach to recruitment campaigns for social workers involves HCS engaging with Highlands College and its future social work graduates about working for HCS.	
c)	See list below	

d)	Total cost of providing bank/locum staff to cover vacancies (£)	506,607
	Total cost of providing agency staff to cover vacancies (£)	1,410,723
	Total cost of providing temporary cover to vacancies (£)	1,917,330
	Covered from existing Mental Health budgets which have underspend against vacant establishment.	

Full list of positions/roles in Adult Mental Health

Post Description	Full Time FTE	Part Time FTE	Vacancy FTE	Grand Total
Admin and Clerical Staff	1.00		1.00	2.00
Administration Assistant		0.54	1.00	1.54
Administrative Services Manager	1.00			1.00
Administrator	1.00			1.00
Advanced Clinical Practitioner A and D	1.00			1.00
Arrest Referral Officer	1.00			1.00
Assistant Clinical Psychology		0.61		0.61
Assistant Psychologist	2.00			2.00
Associate Specialist Psychiatry	1.00			1.00
Capacity and Liberty Assessor	4.00			4.00
CLA / Trainer			1.00	1.00
Clinical Lead	1.00	1.38		2.38
Clinical Lead, Crisis			1.00	1.00
Clinical Lead, Home Treatment Team			1.00	1.00
Clinical Nurse Spect/Dep TL Supp Doc	1.00		1.00	2.00
Clinical Psychologist	5.00	1.35	2.13	8.48
Clinical Psychologist Older Adult Com MH	1.00			1.00
Clinical Psychologist Special Needs	2.00		1.00	3.00
Community Liaison Nurse Lead	1.00			1.00
Community Partner	1.00		3.00	4.00
Consultant	5.00	0.80	1.00	6.80
Consultant Alcohol and Drug Dual Diag.	1.00			1.00

Consultant in Old Age Psychiatry	2.00			2.00
Consultant Nurse	1.00			1.00
Consultant Psychologist (Forensic)			1.00	1.00
Counsellor	1.00	0.43	2.76	4.19
CSDL Implementation Lead			1.00	1.00
Deputy Mental Health Law Administrator	1.00			1.00
F2 - Psychiatry	1.00		0.60	1.60
General Manager - Mental Health	1.00			1.00
Head of Mental Health			0.20	0.20
Healthcare Assistant - Beech Ward	20.00	3.05		23.05
Healthcare Assistant - Cedar Ward	13.00	0.84		13.84
Healthcare Assistant - Orchard House	15.00		2.00	17.00
Healthcare Asst Community Care Elderly		0.80		0.80
Junior Doctor - F1	1.00			1.00
Lead Allied Health Professional - Mental	1.00			1.00
Lead Nurse - In Patients	2.00			2.00
Lead Nurse - Mental Health	1.00			1.00
Lead Social Worker	1.00			1.00
Medical Secretary	2.00	0.57	3.43	6.00
Medical Secretary - Psychology Services			1.00	1.00
Medical Secretary Alcohol and Drugs	1.00			1.00
Mental Health and Capacity Law Admin	1.00	0.68	0.32	2.00
Mental Health Improvement Lead	1.00			1.00
Needle Exchange Worker		1.04		1.04
Nurse Specialist - Substance Misuse	1.00	1.01		2.01
Nurse Specialist Substance Misuse Detox	1.00	1.00		2.00
Nurse Team Leader	1.00		0.50	1.50
Occupational Therapist	1.00		1.00	2.00
Occupational Therapist - Memory Clinic	1.00			1.00
Occupational Therapy Assistant	1.00			1.00
Office Manager		0.68	0.32	1.00
Office Manager - Psychological Services	1.00			1.00
Practice Development Nurse	1.00			1.00
Primary Care Support Worker	5.00			5.00

Psychological Therapist	5.00			5.00
Psychological Wellbeing Practitioner	3.00			3.00
Psychologist - Memory Clinic		0.81	0.19	1.00
Receptionist/Administrative Assistant	2.00			2.00
Secretary/Admin	5.00			5.00
Senior Health Care Assistant	3.00			3.00
Senior Healthcare Assistant	15.00		3.00	18.00
Senior II Occupational Therapist			2.00	2.00
Senior Nurse Orchard House	1.00			1.00
Senior Practitioner	1.00			1.00
Senior Practitioner/Authorised Officer	4.00			4.00
Senior Primary Care Support Worker	4.00			4.00
Senior Psychological Therapist	2.00	0.81	1.19	4.00
Senior Sister/Charge Nurse - Beech Ward	1.00			1.00
Senior Sister/Charge Nurse - Maple Ward			1.00	1.00
Senior Sister/Charge Nurse - Oak Ward	1.00			1.00
Senior Staff Nurse - Beech Ward	11.00	0.61		11.61
Senior Staff Nurse - Cedar Ward	8.00	0.75		8.75
Senior Staff Nurse - Orchard House	9.00		4.00	13.00
Service User Manager	1.00			1.00
Sister - Liaison Service	1.00			1.00
Sister / Charge Nurse	5.00	1.90	8.60	15.50
Sister / Charge Nurse - Alcohol and Drugs	3.00			3.00
Sister / Charge Nurse - Beech Ward	1.00			1.00
Sister / Charge Nurse - Memory Clinic	1.00		0.60	1.60
Sister / Charge Nurse - Orchard House	2.00		1.00	3.00
Sister / Charge Nurse Comm Care Elderly	1.00		2.00	3.00
Sister/Charge Nurse 5 - Cedar	1.00			1.00
Sister/Charge Nurse, Home Treatment	6.00			6.00
Snr Sister/Charge Nurse - Acute Team	2.00		6.00	8.00
Snr Sister/Charge Nurse - CBT Therapist	1.00			1.00
Snr Sister/Charge Nurse - Cedar Ward	1.00			1.00
Snr Sister/Charge Nurse - Prim Care T2	2.00	0.85	1.15	4.00
Snr Sister/Charge Nurse Memory Clinic	1.00			1.00

Social Activity Organiser-Orchard House		0.81		0.81
Social Worker			2.00	2.00
Social Worker - Older Adult Mental HLT	1.00		2.00	3.00
Social Worker Alcohol and Drug Service	1.00			1.00
Staff Grade			2.00	2.00
Staff Grade in Psychiatry	3.00		1.00	4.00
Substance Misuse Worker - Young People	1.00			1.00
Team Leader, Crisis Resolution HTT	1.00			1.00
Team Leader Alcohol and Drugs Service			1.00	1.00
Team Leader, Senior PT	1.00			1.00
Team Manager	1.00			1.00
Team Manager - Special Needs	1.00			1.00
Team Manager Older Adults MH	2.00			2.00
Ward Clerk - Cedar Ward	1.00			1.00
Ward Clerk - Orchard House	1.00			1.00
Grand Total	227.00	21.31	66.00	314.31

3.8 Deputy J.M. Maçon of St. Saviour of H.M. Attorney general regarding company policies on mask- wearing (WQ.397/2021)

Question

Will H.M. Attorney General advise whether –

- (a) finance companies have the right pursuant to company policy to require an employee to wear a mask in an office environment for Covid reasons;
- (b) it would legally be a disciplinary matter, or grounds for dismissal, should that employee choose not to comply with that aspect of company policy; and
- (c) the answer to paragraph (b) would differ dependent upon the employee's reason for refusal, for example on the basis of religious beliefs?

Answer

The response below is expressed in general terms. It is not, and should not be taken as, legal advice. Any finance company seeking to require employees to wear masks should obtain specific legal advice, tailored to its circumstances.

(a) The relationship between employer and employee is governed by Jersey employment law and the contract of employment entered into between those parties. The terms of employment contained in the contract must be agreed by both parties. A contract may include clauses which require an employee to comply with company policy. Even so, employees are only required to follow reasonable management instructions of their employer. An employee is not obliged to carry out orders which are unlawful, beyond the scope of their contract, or which can be said to be clearly unreasonable. It is not unlawful in general terms to request an employee, as part of their terms of employment, to wear personal protective equipment. Whether it would be clearly unreasonable to do so or within the scope of a contract is a question of fact to be determined on a case-by-case basis.

(b) If a requirement is contained in an employee's contract, which has been agreed to by both parties, or if it is a reasonable requirement, then there may be grounds for the employer to initiate disciplinary procedures for an employee's failure to comply with such a requirement. Reasonableness is a question of fact but, in general terms, under Jersey health and safety legislation employers have a duty to protect the health of employees, anyone on their premises and anyone else affected by the business. A requirement or instruction for an employee to wear a mask in the course of their employment in pursuit of these purposes may then be a reasonable requirement, but it will dependant on the specific circumstances in question. However, in the case of non-public facing roles, and in the absence of a contractual requirement, an instruction to wear a mask may be an unreasonable management instruction, particularly if other measures are available to employers, such as social distancing or working remotely.

An employer may dismiss an employee if the employer has a fair reason for so doing but must consider the employee's circumstances and any reasonable grounds for non-compliance. Fair reasons which are set out at Article 64(2) of the Employment (Jersey) Law include, for example an employee's conduct, or because the employment would contravene a duty, or a restriction, imposed by enactment. Balanced against this is the employee's right not to be unfairly dismissed. Whether dismissal was fair or not depends on whether the employer acted reasonably or not and is to be assessed on a case-by-case basis.

(c) An employer must consider the individual employee's circumstances and grounds for refusal. However, an employer may not directly or indirectly discriminate against an employee on the basis of a protected characteristic in way that would be unlawful under the Discrimination (Jersey) Law 2013. If an employee can show that their treatment by the employer was discriminatory on the basis of their protected characteristic then the employer's conduct in undertaking the disciplinary exercise may be unlawful. Protected characteristics under the 2013 Law include characteristics such as sex, age and disability amongst others, but do not include religion. Furthermore, an act of discrimination will not be unlawful under the 2013 Law if it is done necessarily for the purpose of complying with a statutory requirement or any condition or requirement lawfully imposed pursuant to legislation.

If the employer in question is a public authority or is a private entity acting pursuant to a statutory requirement, it may be that the employee could bring a claim that either the act of the public authority or the statutory requirements amounts to an infringement of rights guaranteed to them under the European Convention on Human Rights (ECHR), which is incorporated into Jersey law by the Human Rights (Jersey) Law 2000. The right to private life (Article 8 ECHR), which includes a right to personal autonomy within its scope, and the right to freedom of thought conscience and religion (Article 9 ECHR) are, however, qualified rights meaning that interference by the state with these rights can be justified if it is in accordance with the law and proportionate to achieving a legitimate aim. A mandatory requirement to wear as mask would likely engage Article 8 ECHR and, if it conflicted with a religious or some other conscientious objection, Article 9 ECHR. However, it may be that the mandatory requirement to wear a mask could be justified if it can be shown to be proportionate to the protection of health.

Finally, Article 14 ECHR guarantees the right to non-discrimination in the enjoyment of rights guaranteed under the ECHR. If an employee is able to show that a right guaranteed to them under the ECHR, for instance the right to private life or the right to religious freedom, is engaged by the requirement to wear a mask, and can show that they have been treated differently on the grounds of a status protected under Article 14 ECHR (which includes religion and disability), it may be that the employee can establish a discrimination claim under the ECHR. Discriminatory treatment would not be unlawful under the ECHR if the discriminatory measure is capable of being justified. That is a question of fact to be determined on a case-by-case basis.

3.9 Connétable of St. Brelade of the Minister for Children and Education regarding vulnerable children and young people housed in hotel or holiday accommodation (WQ.398/2021)

Question

Will the Minister advise how many vulnerable children and young people in the Government's care are currently being housed in hotel or holiday accommodation in the absence of foster or residential care setting availability in the Island; and will he outline present Government policy regarding the provision of accommodation for those vulnerable young people over 18 years old once they have left the Government's care?

Answer

There are currently no children under the age of 18 years who are in the Minister's care who are being housed in a hotel or holiday accommodation. All children and young people under the age of 18 years are cared for either in foster homes or residential care settings.

We currently have 3 of our care leavers staying in a hotel.

The Government's policy on the provision of accommodation for care leavers is contained within the Care Leavers Offer which states: -

When you are ready to move on from the fully supported pathway, we will ensure you are housed in suitable accommodation. This has been defined as either a self-contained studio or one-bedroom flat but we appreciate that for some young people, the option to share might be a more suitable or desirable option.

The cost of the accommodation is funded through Social Security if the care leaver is unemployed and claiming Income Support. The Children's Social Care Service provide two Supported Accommodation Homes, including 4 training flats, for 18- to 21-year-olds. Andium Homes are responsible for prioritising care leavers on their housing list. There is considerable demand for housing and whilst care leavers are within the priority group, Andium is not currently able to provide suitable homes for the three care leavers living in hotels. Appropriate housing is also sought from the private sector but demand is outstripping supply currently, and private landlords do not prioritise care leavers.

3.10 Connétable of St. John of the Assistant Chief Minister regarding the Our Hospital project Clinical Director (WQ.399/2021)

Question

Will the Minister advise –

- (a) the exact wording of the brief given to the Our Hospital project Clinical Director; who wrote and approved the brief, and what approval process was followed;
- (b) whether the Clinical Director's brief extends to choosing paint colours and wall art, and if so, why;
- (c) to whom the Clinical Director reports, and whether this includes the Director General for Health and Community Services and the Political Oversight Group;
- (d) when the Clinical Director's contract is due to expire, whether there is any intention to extend the contract, and if so, on what terms;
- (e) what day rate is paid to the Clinical Director;
- (f) how much has been paid to the Clinical Director since June 2019 to date, broken down by salary, travel and subsistence; and

- (g) whether there are any other payments due to the Clinical Director on completion of any stages of the Our Hospital project?

Answer

- (a) The brief provided to the Clinical Director is as follows:

- To provide liaison between Heads of Care Groups, Specialty clinical and service teams and the Project Team
- To advise the Project Board via Quality and Safety Care Group on potential patient safety risks
- To be a ‘critical reader’ of material produced in support of the Our Hospital Project (clinical department designs, feasibility of proposed services changes, workforce plans and so on).
- To be a member of key Assurance Committees supporting the Our Hospital Project and other groups such as the relocation works group, client project team forums, clinical forums and the Project Board
- To work with external non-clinical advisors as and when they contribute to the Project
- To support the final approval and sign-off of department floor plans and other service plans with the relevant clinical and operational leads for those departments
- To provide assurance to the Medical Staff Committee and other clinical forums that the clinician voice continues to inform the Project and that patient safety and opportunities for clinical innovation remain guiding principles for the Project.

The brief for the role was written by the Project Team for Our Hospital and approved by them as the team responsible for delivery of the project.

- (b) The Clinical Director’s brief does not extend to choosing paint colours or selecting wall art. He is not responsible for making any choices himself and has not done so. However, some attendees of the Clinical User Groups have considered the interior design and art strategies and their impact on the healing environment.
- (c) On a day to day basis the Clinical Director reports to the Project Director. He is also accountable to the Director General for Health and Community Services (as the Senior Reporting Officer for the Our Hospital Project) and to the Chief Executive Officer (who chairs the senior officer steering group) and to the Political Oversight Group.
- (d) The Clinical Director’s contract was due to expire in July 2021. As his services will be required up to the commencement of the build phase, his contract has been extended on the same terms and conditions until July 2022. This has been approved by the States’ Employment Board.
- (e) The Clinical Director is paid £1,000.00 per eight-hour day.
- (f) From joining the Our Hospital Project in July 2019 until 31 August 2021, the Clinical Director has been paid £278,375. Air fares and accommodation have been paid by the Government of Jersey in the sums of £4,116.93 and £5,969.81 respectively. There is no allowance for travel to and from the port of entry and no allowance for subsistence.

There are no other payments due to the Clinical Director.

3.11 Connétable of St. John of the Minister for Treasury and Resources regarding Jersey Telecom (JT) tax and dividend receipts (WQ.400/2021)

Question

Will the Minister provide a table detailing the amounts received from Jersey Telecom (JT) in terms of both dividend and tax for each year from 2016 to 2020; and will she also set out the forecast revenue income in dividend and tax payments to the States of Jersey from JT for the years 2021 to 2025?

Answer

The dividend payments and corporation tax payments received from JT are disclosed within, and can be readily determined from, JT's publicly available annual financial statements. However, the figures for the last five years are as follows:

	2016 (£)	2017 (£)	2018 (£)	2019 (£)	2020 (£)
Tax	1,907,005	1,998,184	2,423,822	2,342,201	1,407,157
Ordinary Dividends	5,496,000	4,692,000	4,790,000	4,775,000	4,105,000
Preference Dividends	200,000	200,000	200,000	200,000	200,000
Total	7,603,005	6,890,184	7,413,822	7,317,201	5,712,157

The expected dividend and tax payments to the States of Jersey from JT for 2021 are as follows, which are contingent on the performance of the business for the rest of the year:

Tax: £3.3 million

Dividends: £42.2 million, which includes the special dividend

JT is in the process of refreshing their 5-year plan which will be incorporated into their 2022 Business and Operating Plan to be agreed by the Shareholder. This will include a dividend forecast based on the updated financial outlook and projected tax payments.

3.12 Connétable of St. John of the Minister for Housing and Communities regarding building costs per square metre (WQ.401/2021)

Question

Will the Minister state what data are held by the Government on the current building costs per square metre, together with the methodology for calculating these costs, for each of the following –

- (a) flats;
- (b) semi-detached houses;
- (c) detached houses;
- (d) office buildings;

and will he advise whether the report entitled '[Development in Jersey](#)', prepared by Altair in 2019, was accepted by the Government as being an accurate reflection of such costs?

Answer

The Government does not hold data on the current building costs per square metre. The Government does however reference this information as required from the Royal Institution of Chartered Surveyors for example on Page 9 of the [Draft Bridging Island Plan - Viability Note. April 2021](#).

The briefing paper prepared by Altair referred to as the [Policy briefing on development barriers](#) was reviewed by the Housing Policy Development Board held on the 11th of June 2019. The views of the Board can be found under Item 4 of the [3rd meeting of Housing Policy Development Board](#).

3.13 Connétable of St. Martin of the Minister for International Development regarding aid funding for Afghanistan (WQ.402/2021)

Question

Will the Minister state the total value of the funding commitment provided by the Government of Jersey to assist with the ongoing crisis in Afghanistan (including, but not limited to, that provided by Jersey Overseas Aid); will she provide a breakdown of the aid provided and advise how these funds will be applied; and will she further advise whether there is any commitment to provide ongoing funding in the longer term for this issue.

Answer

As far as I am aware, the only financial support offered to address the ongoing crisis in Afghanistan has been from the Island's international aid agency, Jersey Overseas Aid (JOA). As Minister for International Development, I can confirm that the following three allocations (totalling **£375,000**) have been made by JOA:

1. British Red Cross, £100,000

Building on the Red Cross Movement's 30+ year history in the region, the response is centred around the reach and resources of the Afghan Red Crescent Society (ARCS) who, in collaboration with the International Federation of the Red Cross (IRFC) and International Committee of the Red Cross (ICRC), have targeted vital health care services, WASH and financial aid to vulnerable families since the escalation in violence.

2. United Nations High Commissioner for Refugees (UNHCR), £150,000

UNHCR's emergency response prioritises preparedness in host countries (Iran, Pakistan, Tajikistan, Turkmenistan and Uzbekistan) as well as the immediate needs of around 600,000 new internally displaced persons in Afghanistan. The response will focus on protection, cash grants for persons with specific needs, psychosocial counselling for Gender Based Violence (GBV) survivors, shelter and core relief items such as sanitary materials and hygienic supplies.

3. Street Child, £125,000

Street Child will provide protective services for 15,000 children in two Afghan provinces with the highest proportion of displaced persons caused by the ongoing conflict. The proposed project has 4 integrated interventions that address the immediate needs of vulnerable children, especially girls who are particularly at risk of early marriage, trafficking and exploitation.

No further commitments have been agreed by JOA Commissioners at this time. My officers are closely monitoring the situation and receive regular updates and reports from humanitarian actors including the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) and UNHCR. We will continue to assess the situation and respond appropriately based on the needs identified by our humanitarian partners and the resources available to me. However, without pre-judging the decisions of the Commissioners, the fact that Afghanistan is now one of the most severe humanitarian crises in the world – and poised to get much worse over the winter – means future assistance from Jersey is very possible.

3.14 Connétable of St. Martin of the Minister for International Development regarding the Island Identity project (WQ.403/2021)

Question

Will the Minister provide members with an update on the progress made to date with the Island Identity project?

Answer

Further to my response to Deputy Macon's question on 5 October 2021, I can confirm that since launching publicly on the 5th of May 2021, the project has been open for consultation. The consultation officially closed on the 12th of October 2021. During this period, we have engaged with many islanders through various channels to gather as much feedback as possible. This has been through the Island Identity website, Government of Jersey social media channels, Parish Hall roadshows, Parish magazines, the Jersey Evening Post and other online and in-print publications. We have also engaged and gathered views from various Arms Length Organisations, business leaders and third sector organisations.

The consultation survey has been translated into Portuguese, Polish and Romanian.

We have continued meeting with Government departments to assist policymakers internalise and begin putting into practice some of the ideas generated throughout this project.

In parallel, we have initiated workstreams that will cement the overarching objectives and specific goals of the project.

Current projects include:

1. The commissioning of Jersey-related resources for schools, civil servants, visitors, newcomers to the island, businesses, and anyone who wishes to learn more about the island. Once the work has been checked, this will be added to the Island Identity website
2. The mapping of educational resources that exist externally to areas of the curriculum that will help teachers teach about the Island
3. The commissioning of research into the experience of minority communities on the island through the Jersey Policy Forum
4. Gathering contributions from various voices from around the island and giving them a chance to contribute to an essay series concentrating on the project's main themes and publishing views on the Island Identity website and social media
5. Facilitating the distribution of children's books about the island
6. Providing the Youth Service with resources to aid young people in engaging of the concept of 'identity' through session plans, which will hope to translate into work with the Youth Parliament
7. Meeting with Institute of Directors and other organisations to advance Island Identity through their agendas

Through engagement so far, Government departments, ALOs and other organisations are considerate of identity in the formulation of policy pipelines. We are now well positioned to continue dialogue with relevant departments, providing research and support to stakeholders and departments responsible for delivery.

3.15 Connetable of St. Martin of the Chief Minister regarding the barriers to accommodating refugees (WQ.404/2021)

Question

Will the Minister outline what barriers (including legal ones) have been identified to prevent Jersey from accommodating refugees fleeing persecution, and state what discussions, if any, have been held over the last 5 years with representatives from the United Kingdom and other jurisdictions to understand how any such barriers to resettlement may be overcome?

Answer

Jersey has a proud history of supporting refugees in various ways, whilst recognising the challenges and limitations of our highly constrained Island setting. In this respect, Jersey is different, in legal and practical support terms, from the United Kingdom. It is not possible to ring-fence the provision to a selected group of refugees, without opening up Jersey to all refugees, because of the non-discrimination obligations in both international instruments and Jersey law.

Instead, Jersey provides other means of support. For example, last month Jersey Overseas Aid (JOA) committed £375,000 in response to the crisis in Afghanistan. With almost half of Afghanistan’s population assessed as requiring humanitarian assistance, Jersey pledged funds to three organisations to provide lifesaving support to those most in need. £150,000 to the UNHCR (the United Nations High Commission for Refugees), £125,000 to British NGO ‘Street Child’ and £100,000 to the British Red Cross.

Numerous discussions have been held with UK Government Ministers and officials over the past 5 years in respect of these matters, as it is consistent with Jersey’s constitutional status.

3.16 Senator S.Y. Mézec of the Minister for treasury and Resources regarding JT’s Internet of Things division (WQ.405/2021)

Question

With regards to the recent sale of JT's Internet of Things (I.O.T.) division, will the Minister advise –

- (a) how much JT has paid to the States of Jersey in terms of dividends and corporation tax in each year for the last 5 years;
- (b) what proportion of these payments can be attributed to the performance of the I.O.T. division;
- (c) what projections, if any, the Treasury had for the next five years in terms of the expected revenue arising from JT, prior to the decision to privatise the division;
- (d) the current revenue projections for this time period, now that JT only retains a minority stake in I.O.T; and
- (e) whether or not the now privately-owned I.O.T will pay corporation tax?

Answer

- a) The dividend payments and corporation tax payments received from JT are disclosed within, and can be readily determined from, JT’s publicly available annual financial statements. However, the figures for the last five years are as follows:

	2016 (£)	2017 (£)	2018 (£)	2019 (£)	2020 (£)
Tax	1,907,005	1,998,184	2,423,822	2,342,201	1,407,157
Ordinary Dividends	5,496,000	4,692,000	4,790,000	4,775,000	4,105,000

Preference Dividends	200,000	200,000	200,000	200,000	200,000
Total	7,603,005	6,890,184	7,413,822	7,317,201	5,712,157

- b) In terms of the percentage of dividends and tax payments attributable to the IoT division, the Minister believes this to be negligible, since the Earnings Before Interest Tax Depreciation and Amortisation (“EBITDA”) of the division was insignificant before 2018, £2.1m in 2019 and £6m in 2020. The value of the IoT division was based on future benefits, not on historical ones. Whilst the IoT division did make a healthy contribution to the Company’s EBITDA, the sale of the majority stake in JT (IOT) Ltd secures a future revenue stream (JT (IOT) will be JT’s biggest customer) which is expected to grow as the new owners inject significant investment in IoT.
- c) Prior to the sale of the majority stake in JT (IOT) Ltd by JT, projections for future dividends were for inflationary increases for the ensuing five years.
- d) JT is in the process of refreshing their 5-year plan which will be incorporated into their 2022 Business and Operating Plan to be agreed by the Shareholder. This will include a dividend forecast based on the updated financial outlook.
- e) The Minister cannot comment on the tax arrangements of a private company.

3.17 Deputy I. Gardiner of St. Helier of the Minister for Infrastructure regarding the accounts for the Bellozanne sewage plant project (WQ.406/2021)

Question

Will the Minister provide the accounts for the Bellozanne sewage plant project, including all payments made to contractors since 2018, broken down by date, value, and description of the goods or services covered for each payment; and will he explain the reasons for the increase in the overall budget for the plant, setting out an itemised breakdown of the costs that make up this increase?

Answer

The current STW project is a single contract with nmcn PLC for the design and construction of the Sewage Treatment Works (STW) at Bellozanne. Applications for payment are received by IHE from the contractor on a monthly basis. Payment is made to the contractor on the basis of the Activity Schedule, submitted in the original tender submission, as defined in the contract and valued for the works completed during the month. The value and date of the payments made to the contractor are identified in Table 1, below.

The initial approved budget for the STW project was £79,502,000 and the current budget allocation is £75,502,000, as identified in Table 2 below (and on page 131 of the Government Plan 2022-25 [GP 22-25], table 19). The remaining £4,000,000 shortfall in funding is due to be allocated in 2023 to meet the project cashflow requirements.

Of the previously approved and allocated budget at the end of 2020, £7,990,000 was not allocated to the project by Treasury and Resources Minister in 2021, but was ring fenced in reserves to make it available in 2022 for the STW project. This is included in the GP 22-25 for 2022 under ‘Capital –

Major Projects' but is effectively a reallocation of funding already agreed in prior years not carried forward into 2021 under the Public Finances Law.

A Business Case has been approved for the increase in budget of £1,850,000 in 2022 and is included in the GP 22-25 Capital Allocations on page 136 (table 20). The increase in funding is for costs incurred by the project as a result of the Covid-19 pandemic.

The current total funding required for the STW project is £81,352,000.

It should be noted that there are other items not included in the current total funding required (£81,352,000) but packaged under the STW portfolio in the GP 22-25 as they relate to Liquid Waste projects allied to the STW. These include:

- Biosolids Storage Facilities £2,383,000;
- STW Odour Mitigation (States of Jersey Proposition No. P.115/2017) £1,500,000; and,
- Bellozanne STW Outfall Rehabilitation £1,000,000.

The revised total value of the STW portfolio is therefore £86,235,000 as identified in table 19 of GP22-25 and table 3 below.

3.18 Deputy I. Gardiner of St. Helier of the Minister for Infrastructure regarding the lead contractor, NMCN, for the upgraded Bellozanne waste-water facility (WQ.407/2021)

Question

Will the Minister provide members with the following information regarding the performance of NMCN, the lead contractor in delivering the upgraded waste-water processing facility at Bellozanne

- (a) the date upon which the Minister, or the leading officer in his department, first became aware of the financial difficulties that NMCN were experiencing;
- (b) what safeguards, if any, existed in the contract with NMCN in terms of protection against financial loss due to the potential bankruptcy of a major contractor;
- (c) what mitigating measures, if any, the Government took upon becoming aware of the threat of NMCN going into administration; and
- (d) whether or not local contractors were notified of the issues surrounding NMCN; if yes, when they were notified, and if not, why not?

Answer

- a) The Project Sponsor was made aware that nmcn PLC issued a trading update (Regulatory News Service Announcement) on 15 October 2020. The trading update confirmed that nmcn had undertaken an extensive exercise to review all major contracts and the review was expecting a loss before tax of between £13.5 million and £15.0 million for the year.
- b) nmcn PLC do not have parent company. Therefore, a parent company guarantee was not available. The safeguards that exist include:
 - a. Performance Bonds; and,
 - b. Retention.
- c) The financial status of nmcn has been subject to close scrutiny and monitored regularly by Officers from IHE, T&E and Commercial Services for any actions required as appropriate.

Options were presented to IHE by the project's legal consultant on 20 August 2021 in anticipation of nmcn PLC becoming insolvent. However, the options were limited and defined by the contract. Options for early termination of the contract would have resulted in significant financial exposure and programme delay to IHE.

- d) The local supply chain was engaged by nmcn PLC through subcontracts for the supply of goods and services. The Regulatory News Service Announcement on 15 October 2020, and subsequent announcements relating to nmcn PLC's financial status, is publicly available information. Amended and new clauses were included in the original contract with nmcn PLC, designed to provide IHE with a mechanism to deal with any non-payments to the local supply chain. IHE has monitored the situation regarding payment to the local supply chain in preparation for implementing the amended and new clauses, if warranted.

3.19 Deputy I. Gardiner of St. Helier of the Assistant Chief Minister regarding space allocated for future growth at the new hospital (WQ.408/2021)

Question

Following the answer to [Written Question 381/2021](#), will the Minister advise what space (in square metres) has been allocated for future growth of the new hospital?

Answer

The new hospital has been designed carefully for future growth. The Demand and Capacity models used to inform the Functional Brief are based on 2036 population and health needs and the layouts are sized for this level of future growth. Space in the hospital will be fully utilised in the interim and reconfigured as necessary.

To accommodate potential future demand, the new hospital has been designed to be flexible: As healthcare changes, the use of areas in the hospital can be adapted, flexing for changes in certain services. The design also includes areas that could be used to accommodate future growth or alternative uses. There are also parts of the Overdale campus that could accommodate additional buildings.

A final schedule of accommodation will be available following approval of the Clinical and Operational Client Group in November 2021 and will be included in the planning application.

Although not a precise figure at this stage, an estimated 15% of the space will be adaptable for future use. That equates very approximately to 10,000 square metres on the current drawings but could be subject to change.

3.20 Deputy R.J. Ward of St. Helier of the Minister for Children and Education regarding teaching staff on performance improvement plan (WQ.409/2021)

Question

Will the Minister state how many teaching staff at Island schools are currently on performance improvement plans (PiPs)?

Answer

Fewer than five (5) teachers are currently on performance improvement plans. The exact number cannot be disclosed to avoid any possible identification of individuals.

3.21 Deputy R.J. Ward of St. Helier of the Minister for the Environment regarding the cost of achieving climate neutrality (WQ.410/2021)

Question

Given that a potential cost of several hundred million has previously been indicated by the Government in relation to achieving climate neutrality in the Island, will the Minister explain what specific cost has been identified, how it was determined, and what the figure includes?

Answer

A definitive cost is yet to be identified as this will be dependent on the recommended detailed policies which are currently under development and due to be published in December this year in the Carbon Neutral Roadmap ('the Roadmap'). The Roadmap will contain all pertinent information as to the mechanisms, underpinning rationale, and the direct costs of the policies that will be put forward to address the climate emergency. The Preferred Strategy for Carbon Neutral will be published in mid-October and it provides information on progress to date, next steps and five strategic policies including one that addresses the policy development process.

The previous cost of achieving carbon neutral to which the Deputy refers in the question is explained in Section 5.2 - Developing long-term policy options of the Carbon Neutral Strategy (P.127/2019). This provides a detailed assessment of the *potential* decarbonisation policies for our key sources of pollution – heating and transport. An estimate of the direct costs to Government of these policies was given in the underpinned [technical report](#) carried out by Oxera.

This early work has been built upon to develop the final policies that will be put forward in the Carbon Neutral Roadmap and will draw on the following sources:

- [Pathway 2050](#) and [Carbon Neutral Strategy](#)
- [Citizens' Assembly recommendations](#)
- Climate Conversation feedback
- Experience from Jersey and schemes run in the past
- Case studies from the UK, Europe and the world
- Aether and Oxera models about the rate of change required to achieve the emissions reduction targets
- Discussion in the Carbon Neutral Steering Group and feedback from Council of Ministers
- Policy Officer workshops and stakeholder discussions

3.22 Deputy R.J. Ward of St. Helier of the Minister for Children and Education regarding pupils eligibility for Jersey Premium funding (WQ.411/2021)

Question

Will the Minister state the number of pupils, across all Key Stages, who are currently eligible for Jersey Premium funding, with the figure broken down by Key Stage?

Answer

The table below details the number of pupils in each Key Stage who were eligible for Jersey Premium funding in the summer term (May 2021).

Key Stage	No. Pupils eligible for Jersey Premium
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Foundation Stage	451
Key Stage 1	503
Key Stage 2	984
Key Stage 3	618
Key Stage 4	384
Key Stage 5	249
TOTAL	3189

Confirmed Jersey Premium figures for the academic year 2021/22 will not be available until late December/early January. Education/CYPES Department receive data from Customer and Local Services each November and May. This data is matched to the latest pupil census and schools receive funding every January.

3.23 Senator K.L. Moore of the Chair of the States Employment Board regarding civil servants who are members of the organisation “Common Purpose” (WQ.412/2021)

Question

Will the Chair advise how many civil servants, if any, are recorded as members of the organisation ‘Common Purpose’ and how many employees have received training from that organisation; and will he provide a table showing this information per department?

Answer

Memberships that are not a regulatory or statutory requirement for a professional role are not held. There is no valid reason under data protection legislation to collect this data.

There are less than five employees in Strategic Policy, Performance and Population department that have attended training from this organisation¹. There are no further records of any employees attending any training.

In 2021, following an open procurement exercise, an approved list of learning and development providers was created, Common Purpose is not a provider on this list.

3.24 Senator S.Y. Mézec of the Chief Minister regarding the cost of adverts through the Jersey Evening Post (WQ.413/2021)

Question

Will the Chief Minister provide a breakdown of how much the Government has spent taking out adverts in the Jersey Evening Post for each month since it ceased to be a legal requirement to publish the Jersey Gazette through the Jersey Evening Post?

Answer

This answer assumes that the information request above refers to the vote by the States Assembly to bring into force the Official Publications (Amendment No. 2) (Jersey) Law 2017. The Official Publications (Publication of Jersey Gazette) (Jersey) Order 2018 was signed on Friday 13th July 2018

¹ Less than five is a category used when the actual number of individuals could lead to them being personally identified.

and came into force on Saturday 19th June 2019 requiring Jersey Gazette notices to be published online at www.gov.je/gazette

The monthly spend by the Government of Jersey on **advertising and publicity (inclusive of recruitment advertising)** is demonstrated in the annual tables below.

2019

Month	Jun	Jul	Aug	Sept	Oct	Nov	Dec
Spend £	4,691	9,237	-	12,021	4,520	1,425	5,056

2020

Month	Jan	Feb	Mar	April	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec
Spend £	-	8,300	-	6,144	-	15,647	500	-	-	13,138	4,009	34,071

2021

Month	Jan	Feb	Mar	April	May	Jun	Jul	Aug	Sept
Spend £	-	15,877	-	2,851	614	8,310	11,326	-	29,333

3.25 Deputy M. Tadier of St. Brelade of the Minister for Treasury and resources regarding the taxation of Social Security contributions (WQ.414/2021)

Question

Will the Minister provide members with an analysis of the financial impact of all employees' Social Security contributions being made exempt from tax; and will she state what consideration, if any, has been given as to whether it would be morally right to introduce a policy whereby such contributions would be made so exempt, in light of the fact that the Social Security pension itself, when claimed, is assessed as part of one's tax liability?

Answer

The Government has recently responded to two Petitions around the taxability of the States old-age pension and Social Security contributions. One of these closed in October 2019; and one remains open.

Social Security contributions fund a social-insurance scheme which provides a range of benefits, including the States old age pension. If a tax deduction was available for these contributions, it would materially reduce the State's income and this reduction in tax revenues would have to be recouped through other taxation measures in order to maintain public services.

For employed people, Social Security contributions are paid both by the employee and the employer. The employer's contribution – some 6.5% up to the Standard Earnings Limit (SEL) and a further 2.5% between the SEL and the Upper Earnings Limit (UEL) – is not subject to income tax and is a deductible expense of doing business.

I support the existing policy and the financial impact of changing it could cost many millions of pounds, which would put pressure across all public services, many of which are of significant benefit to low wage earners.

It should also be remembered that some people work and pay employee contributions in Jersey for part of their working lives before moving to work and settle somewhere else. These people could benefit from income tax relief whilst they live and work here, but they will not be Jersey residents later in life when their pensions would be subjected to income tax if it exceeded the taxable threshold.

Finally, such a change would be essentially regressive in nature. Many lower-wage workers do not pay tax at all and thus would receive no benefit from this move. Higher wage earners who do pay higher rates of tax would see the most benefit.

3.26 Deputy M. Tadier of St. Brelade of the Minister for Treasury and Resources regarding exempting Social Security pensions from tax (WQ.415/2021)

Question

Will the Minister provide members with an analysis of the financial impact of exempting Social Security pensions from tax; and will she state what consideration, if any, has been given as to whether it would be morally right to introducing such a policy, in light of the fact that Social Security contributions are liable to tax?

Answer

The Government has recently responded to two Petitions around the taxability of the States old-age pension and Social Security contributions. One of these closed in October 2019; and one remains open.

It was previously estimated that around half of pensioners pay no income tax at all because their States old-age pension, combined with any other income, remains below the income-tax thresholds. Exempting the Social Security pension from income tax would benefit only those pensioners who currently pay tax. Such a change would therefore essentially be regressive in nature.

The vast majority of private and state-provided pensions are taxable but a significant proportion (estimated to be 50%) of Jersey pensioners pay no income tax. This is because Jersey enjoys relatively high tax exemption thresholds before which income is taxed.

In particular, if a Jersey resident pensioner's only source of income is the States old age pension, he or she will not pay income tax: a single pensioner in receipt of a full States old age pension would receive around £11,750 in 2021 but would not pay income tax until their income exceeded £16,000. A married pensioner in receipt of a full States pension would receive around £19,500 but would not pay income tax until their income exceeded £26,100 (note this threshold assumes the married pensioner was born before 1952).

I support the existing policy and making the old age pension exempt from tax could materially reduce States income by many millions of pounds, without providing any benefit whatsoever to the lower income pensioners. The reduction in tax revenues would have to be recouped through other measures in order to maintain public services, many of which are of significant benefit to low-wage earners.

3.27 Connétable of St. Brelade of the Minister for Home Affairs regarding States members' personal safety (WQ.416/2021)

Question

In light of the fatal attack on Sir David Amess in his U.K. constituency, and the recent instances of terrorist extremism in other parts of the world, is it the Minister's intention to issue guidelines to Jersey politicians to ensure their continued personal safety whilst in office?

Answer

The Minister, on behalf of the State of Jersey Police and the Justice and Home Affairs Department, extend our heartfelt condolences to the family, friends and UK Members of Parliament following the tragic murder of Sir David Amess earlier this month, as we did in similar circumstances following the murder of Jo Cox MP in West Yorkshire in 2016. Thankfully, these are rare events, but are of course devastating when they occur.

The assessed threat and risk to local Jersey politicians is low, generally in keeping with much lower levels of violent extremist crime in Jersey.

The States of Jersey Police has a range of intelligence sources available to it which are dynamic and constant. The Honorary Police network across and into all Parishes of course also allows for excellent community intelligence. Any potentially adverse harmful intelligence directed at any individual is positively and proactively tackled in a range of forms, depending upon the nature of the intelligence.

That said, we are not complacent – neither can we ever completely eliminate risk. Any States Member who has any safety concerns can contact their dedicated SoJP Community Police Officer directly who will be happy to advise, including when holding constituent public surgeries.

The SoJP are also actively monitoring and assessing the UK Policing response to this tragic event in order to identify any developing best practice.

3.28 Connetable of St. Brelade of the Minister for Children and Education regarding the draft Children and Young People (Jersey) Law (WQ.417/2021)

Question

Will the Minister advise members of the timeline for bringing the draft Children and Young People (Jersey) Law to the Assembly for debate?

Answer

The Minister is planning to lodge the draft Children and Young People (Jersey) Law 202- with the Greffier of the States ahead the Christmas recess, which would enable an Assembly debate early in January 2022.

3.29 Deputy M.R. Higgins of St. Helier of the Minister for Treasury and Resources regarding applicants to the Covid-19 support schemes (WQ.418/2021)

Question

Will the Minister advise members of the name of every business that has received financial support under the Government's Covid-19 support schemes, setting out in each case the amount given to each recipient under each scheme, and the date these funds were received?

Answer

The Government's Covid-19 business support schemes include:

- Co-Funded Payroll Scheme (CFPS)
- Business Disruption Loan Guarantee Scheme (BDLGS)
- Visitor Accommodation Support Scheme (VASS)
- Fixed Cost Support Scheme (FCSS)
- Visitor Events and Attractions Scheme (VAES)

As of 30th September 2021, 67 approved facilities for local businesses have been provided by Jersey banks through the BDLGS, whereby the States of Jersey guarantees 80% of the total amount lent. Of that figure 50 lending facilities are still active, against which £2,348,163.20 is guaranteed by the States.

As the underlying loans are between local banks for local businesses, the terms of the agreements with the banks participating in the Business Disruption Loan Guarantee Scheme, the Minister is unable to publish details of the amounts guaranteed for individual borrowers.

Payment data for claims made under the CFPS during 2020 and for the VAES between October 2020 and June 2021 are already in the public domain and are available on gov.je.

Data relating to claims made for the CFPS during 2021, VEAS claims after June 2021, and claims made under the remaining business support schemes are subject to an on-going audit process. This data will be published following the completion of related audit processes. The expected timing of publication for data to the end of September 2021 is as follows:

- CPFS by 31 December 2021
- VASS by 30 November 2021
- FCCS by 30 November 2021
- VAES by 31 December 2021

A further report providing final data will be published from April 2022 once all relevant schemes have closed.

If this information were to be published now it would be likely to include payments that will be challenged as part of the audit process and may end up being reduced. This would potentially give a distorted picture and mean that a permanent record (via an answer to this question) would have been created that may not be wholly accurate and would differ from the fully audited versions, which will be published as set out above.

3.30 Deputy M.R. Higgins of St. Helier of the Minister for External Relations and Financial Services regarding the Charities (Jersey) Law 2014 (WQ.419/2021)

Question

Will the Minister advise whether, under the Charities (Jersey) Law 2014, local charities are prohibited from being registered with the Jersey Charities Commission if they have a member of the States Assembly on their Committee or Board of Directors and, if so, explain why?

Answer

Article 5(2) of the Charities (Jersey) Law 2014 states that:-

“(2) An entity that otherwise meets the charity test, nevertheless does not meet that test, despite paragraph (1), if its constitution expressly permits its activities to be directed or otherwise controlled by, or any of its governors to be –

(a) a Minister;

(b) a member of the States Assembly; or

(c) any equivalent of such a person in another jurisdiction, acting in that capacity.”

This is based on the principle that the governors (which term includes the directors of a company where the company is the charity) of a charity should be independent, including from political control

or influence, and must act only in the best interests of their charity avoiding any conflict of interest or loyalty, and ensuring that the charity is run so as to fulfil its charitable purposes.

The Charity Commissioner has produced Guidance on this in his Guidance Note 2 “The Charity Test” at paragraphs 39 – 45. The full section of the Guidance should be read but it is noted that the Commissioner indicates in the Guidance that a States Member can be a governor of a charity ‘*provided that the person has been appointed in a personal capacity and that there is no actual requirement in the given entity’s constitution for such a person, as an office-holder, to be a governor.*’ The Commissioner also indicates that in some circumstances it is permissible for a Parish Constable, a Crown Officer, the Dean or the Lieutenant Governor, to be a governor, by virtue of her or his holding one of those offices, depending on the circumstances.

<https://charitycommissioner.je/wp-content/uploads/2017/12/CC-Guidance-Note-2-The-Charity-Test-2.pdf>

Accordingly, in certain situations it is possible for an entity to be registered as a Jersey charity where a governor is a member of the States Assembly; it is a matter for the Charity Commissioner to apply the charity test according to the particular circumstances of each application.

3.31 Connétable of St. John of the Chief Minister regarding the Government’s external relations in respect of the slaughter of dolphins (WQ.420/2021)

Question

Further to concerns expressed by the Assistant Chief Minister to the media regarding the slaughter of dolphins in the Faroe Islands, will the Chief Minister state what action, if any, has been taken by the Government to highlight the issues of animal rights abuses and whaling practices with –

- (a) the Government of the Faroe Islands;
- (b) the U.K. Government; and
- (c) the Island Games Association and the Jersey Island Games Association;

and will he also state what action has been taken, if any, to raise concerns regarding these issues with other jurisdictions, in particular Japan, Iceland and Norway?

Answer

Given the relationship held directly with the Government of the Faroe Islands, the Government of Jersey has taken the following steps:

- On 29th September 2021, the Head of UK Affairs, based in the Jersey London Office, wrote to the Head of Representation in London of the Government of the Faroe Islands.
- On 1st October 2021, the Minister for External Relations wrote to the Minister of Foreign Affairs and Education in the Government of the Faroe Islands.

Senator Farnham has written to the Chair of the International Island Games Association regarding this matter, and to the Chairs of the Committees of each member island and to Ministers in each participating jurisdiction.

Further to the response to a Freedom of Information Request published on 22nd October, no correspondence has been undertaken to raise concerns regarding whaling by Japan, Iceland or Norway.

3.32 Connétable of St. John of the Minister for Children and Education regarding the waiting list time in days for the Child and Adolescent Mental health Services (C.A.M.H.S.) (WQ 421/2021)

Question

Will the Minister state the average waiting list time, in days, for patients referred to Child and Adolescent Mental Health Services (C.A.M.H.S.) for each month between January 2018 and September 2021?

Answer

The table below shows the average waiting list time and includes children and young people referred for neuro-developmental assessment, along with those referred to CAMHS.

	Waiting list time in days			
	2018	2019	2020	2021
January	13	59	55	23
February	22	64	71	11
March	25	45	46	26
April	38	31	37	20
May	40	25	19	26
June	19	27	31	33
July	18	26	14	42
August	30	46	28	47
September	37	55	21	20
October	34	48	17	
November	41	55	18	
December	40	52	29	

Existing data shows the number of days from when a referral is received to when the initial assessment is completed on the system.

Referrals are triaged upon arrival to CAMHS and many initial contacts occur quickly with input from CAMHS practitioners, that lead to initial assessment reports.

There is now a CAMHS Duty and Assessment team that screen all referrals and provide input the same day if indicated. As part of the CAMHS redesign there will be additional investment in the Duty and Assessment Team and specialist CAMHS to address increasing referrals to the service.

As part of the CAMHS redesign and improvement to CAMHS data, we are exploring being able to capture referral to initial contact / case opening data which will provide a clearer picture of the speed of input.

Future data also needs to separate referrals for neurodevelopmental assessments from referrals for Mental Health concerns, given different time scales for both, an average set of data does not distinguish between.

3.33 Connétable of St. John of the Minister for Children and Education regarding recruitment in the Department of Children, Young People, Education and Skills (C.Y.P.E.S.) (WQ.422/2021)

Question

Will the Minister advise whether any jobs in his department that have been, or are being, advertised in the U.K. relate to positions currently filled by local staff on zero-hour contracts and, if so, why; and will he state whether any such jobs are being offered with a higher wage than is currently being paid and, if that is the case, will he also state the percentage difference between the respective wage rates and the reasons for any such difference?

Answer

Roles that are difficult to recruit to are advertised both on and off island, roles are not exclusively advertised off Island. Of the current roles advertised off island, none are covered by local staff on zero-hour contracts.

Supply staff employed on zero hours contracts are often engaged for a fixed term arrangement to cover teaching vacancies in schools, particularly where there is a gap between the leave date of the previous post holder and the start date of the new appointment. This may include teaching vacancies advertised off island.

Supply staff engaged on zero hours contracts are paid the salary that is commensurate with their own length of service and increment achieved on the teacher's pay scales. Therefore, it is possible that the new appointee may receive a lower or higher salary than the supply staff due to a different level of experience.

For civil service posts the advertisement will state the evaluated grade applicable to the post.

Due to the variability from role to role and supply staff pay rates it is not possible to give a percentage difference.

4. Oral Questions

4.1 Deputy G.P. Southern of St. Helier of the Minister for the Environment regarding the Regulation of Care (Jersey) Law 2014 (OQ.215/2021)

Following the transfer of responsibilities under the Regulation of Care (Jersey) Law 2014 to his portfolio, will the Minister explain what responsibilities under the law fall to him and advise whether he has undertaken any assessment of whether it remains appropriate for those responsibilities to sit with him?

Deputy J.H. Young of St. Brelade (The Minister for the Environment):

The Chief Minister formally transferred functions related to the Regulation of Care Law to the Minister for the Environment position in October 2020. This coincided with the first wave of COVID-19 and required me to work with the Jersey Care Commission on regulatory issues related to the provisions of care home and homecare services during the emergency, including associated temporary changes to the law. Pursuant to that, I brought the Regulation of Care amendment to the law, Temporary Amendment No. 2 Regulations to the Assembly in November last year. Of course in that time I have had to speak with the Commission and Inspectorate on practical regulatory issues arising. Early next year, I will be bringing to the Assembly new regulations that extend the Commission's remit to Children's Services, including children's social work and mental health services regardless of whether these are provided by government or an external provider. This follows the public consultation on the draft legislation on 17th September. That will be a huge milestone in our work to ensure that children in Jersey benefit from high-quality independently assured social care services. With regards to the future, I have instructed officers to bring forward options for ongoing political oversight of the Care Commission as the role develops. I am clear there needs to be independence from the Minister for Health and Social Services and Minister for Children and Education, both of which are responsible for providing the service that is subject to the regulations carried out by the Commission. I have asked in developing these options consideration

is given how the Government of Jersey might best ensure the appropriate separation of operational delivery and regulatory functions across all services.

4.1.1 Deputy G.P. Southern:

I am pleased to see at least some progress being made, according to the Minister, on this particular issue. But if I could refer him to Article 38 of the care law: “The Commission shall, when requested by the Minister [and the Minister is the Minister for the Environment] prepare a report upon an aspect of health and social care as requested by that Minister and submit the report to that Minister. Would he consider investigating the terms and conditions under which homecare service agents are provided and ensure that the conditions are such that people want to become a carer? At the moment we have dreadful shortages and part of that is the fact that the terms and conditions, according to the ethical charter for homecare, which this Assembly has passed, are not in place. Could he say whether he is prepared to have an investigation into that very aspect?

Deputy J.H. Young:

The Deputy raises a really valid point that there is not any question that we have an acute need for care staff and that the issues of their pay and conditions is an issue which is absolutely germane to that. There has not been a formal request for me under the Article that the Deputy has raised. But there have been informal discussions, certainly with the officers, and that has been communicated through to the Commission. At the moment, that informal response is that there is a view that the details of employment conditions and pay and terms and conditions are not matters that fall within the regulatory scan of the regulatory law. That is the information I have. If the Deputy requires me to go and progress this in a formal way I am quite prepared to do so. That will obviously include the legal advice as to whether or not that regulatory law has the vires. But there is no question this issue about the terms and conditions of care staff is critical to make sure these services can be staffed appropriately. I do remember, I think the Care Commission have themselves commented on the shortage of staff at the present time, and that is clearly not just a problem unique to Jersey, it is U.K. (United Kingdom)-wide as well.

4.1.2 Deputy R.J. Ward:

Can I ask a question, I think it was linked to what was just said? Does the Minister believe that the care charter that protects staff from excess hours and protects right in the workplace is a positive step for a care provision on the Island?

Deputy J.H. Young:

Yes, very much. At my age I am hoping to see my days without having to need a care home. The Care Commission is a relatively new body. It is vital. From my interactions with the Commission and the Inspectorate during the COVID time, I can tell you I was very impressed with the Commission’s work. I think Members should be proud that we have such a body and they are driving and wholly behind the issue of children’s services. We all know there are issues about childcare services; the Commission are driving that on. But I will add this to the list. I do have a question: here is a body being charged with care standards, is it right and was it the intention of law that we give them the job of regulating pay conditions? I am not sure. I will take that issue as a formal request.

4.1.3 Deputy R.J. Ward:

I did have a supplementary until that very last sentence. Does he not feel that that is his job to regulate those conditions and the rights of those workers given that he has the oversight of the Care Commission?

Deputy J.H. Young:

Why do we have regulation? We have regulation to ensure that the policies that this Assembly sets and the laws are delivered. We have to work within the structure of the law. At the moment, the advice I have had, is this steps outside the law. But the Deputy raises a point in this Assembly so I will act on it formally and put formal requests to have that made clear. I will be frank, if it requires a change in the law and the Commission are behind it, then I will initiate it.

4.1.4 Senator S.Y. Mézec:

It follows on from the question from Deputy Ward. If the Minister accepts that there is a link between the terms and conditions of people working in the care sector and the quality of service that they are able to provide for those they are caring for, and he accepts that the Care Commission have raised it as an issue, the question then follows is: what exactly is the Minister doing about it and will he not undertake more action to ensure that the care sector becomes a better place to work in so that we can attract the right calibre of candidates and fill those roles so that the people they look after are getting the care that they deserve?

Deputy J.H. Young:

The Senator makes a very good argument, as he always does. But I have agreed already to follow this up formally. I do not know if I can go more than that.

4.1.5 Deputy M. Tadier:

Is it the Minister's analysis that our care sector is too heavily reliant on the private sector and because of that there is necessarily an inherent profit motive, which may impact on delivery of service putting profits before people?

Deputy J.H. Young:

No, I can see this is obviously a question that is loaded with politics and it is not one I want to go here at the moment. This Island has been well-served by our care homes for decades.

[10:00]

I am not going to stand here and say: "No, we have a nationalise it all." No. But we do need to start developing policies. The question is: is government a first-place provider or a provider of last resort? In the end if we have a shortage of those facilities then I think government would have to step in. We have a number of facilities within the Minister for Health and Social Services' domain and it may be we need to find out whether they are sufficient. I think Members have raised a lot of issues that I will add to my portfolio of regulatory work in just about every other area and ask the Commission please to report along these matters.

4.1.6 Deputy M. Tadier:

I am slightly bemused that the Minister does not want to answer a political question given that he is a politician. But does he not acknowledge that where a business is run for profit rather than, for example, I do not know, a Parish home like the very good one we have in St. Brelade, it may not be run for the same motive, that there is a risk that the money does not go to the people who are providing the care directly? That in itself could be an issue before we even start about regulatory issues.

Deputy J.H. Young:

What is the question?

The Deputy Bailiff:

Is there a question at the end, Deputy?

Deputy M. Tadier:

I feel like we are in some sort of Kafka play at the moment. I asked a question and the Minister is seeming to not want to answer today. There seems to be theme here in the Council of Ministers, whether it is written questions or oral questions.

The Deputy Bailiff:

It is important you come to a question and not a comment. Have you got a question to ask the Minister?

Deputy M. Tadier:

I think I did ask a question. Does the Minister not agree that what I have said is an issue?

Deputy J.H. Young:

I hear it is an issue about written questions. I suspect the issue about answers to written questions are basically tied in with procedure that needs to be sorted out.

The Deputy Bailiff:

I do not think Deputy Tadier was getting at that. What was your question, Deputy Tadier?

Deputy M. Tadier:

I will leave this, the Minister seems incapable of answering the question today so I will not bother. Thank you.

4.1.7 Deputy G.P. Southern:

I am pleased that the Minister rather than talk about informal progress, because I have had 2 years of informal progress trying to progress the ethical care charter and nothing has happened, he has moved towards saying formally progress this issue. The problem is that the Care Commission deals only with the service received and the standards received by the patient. The patient has a separate, but not attached to the States, contract with the provider. This is about making the conditions under which providers of care in people's homes can work and stay healthy at the same time. I am pleased to hear that he wants to make some progress, and I look forward to meeting with him and making some progress in the very near future because I have been waiting 2 years.

The Deputy Bailiff:

Was there a question at the end there? **[Aside]** It is question time so it is important we ask questions.

Deputy S.W. Wickenden of St. Helier:

Can I raise a point of order please? Article 10(3) of Standing Orders says that questions will be framed primarily as to convey information rather than seek it. We are getting into this point where people are trying to make speeches not ask questions.

The Deputy Bailiff:

I think I am alive to that point but thank you for reminding me.

4.2 Deputy M. Tadier of the Minister for Health and Social Services regarding recruitment of Health and Care workers (OQ.222/2021)

Is it the Minister's assessment that there is a recruitment crisis for health and care workers that is affecting service delivery; if so, will he state what steps he is taking to address it; and if not, will he explain why not?

Deputy R.J. Renouf of St. Ouen (The Minister for Health and Social Services):

There is no recruitment crisis in H.C.S. (Health and Community Services). The organisation has a vacancy rate of 5.3 per cent currently, which is not unusual for an organisation of that size. However,

we do have areas in some specialties in which recruitment is a challenge as we are competing in a highly competitive labour market, and of course Members have asked me about the issues in many previous questions. As to what is being done, much could be said of the various training programmes run by H.C.S. but I have limited time to do so. In the last 3 months we have recruited more staff than leavers. Wider than H.C.S., we do need to recognise the pressure in the residential and domiciliary care sector for staff that support homecare, residential and nursing care. This is a topic that has been covered in a previous question. There are similar pressures in that sector to the pressures we see presently in hospitality. Many staff appear to have left the Island, perhaps as a result of Brexit or COVID. It is also pertinent that in primary care, G.P.s (general practitioners) are working exceptionally hard in the face of increased attendances and surgeries and they report difficulties in attracting G.P.s to work in the Island. I hope that helps.

4.2.1 Deputy M. Tadier:

Focusing particularly on the part of the answer the Minister gave about the residential sector, would he explain what he thinks are the main pressures or problems with recruiting and what he thinks is the job of his department, if anything, and the Council of Ministers to mitigate those problems?

The Deputy of St. Ouen:

Pressures: that it is a tough job. I believe the people who work in care are very special persons and are rare enough that they have become crucial to the sector. We are trying at the moment to increase the numbers of people working by the help-at-home initiative. Members may have seen the publicity given to that. Money has been released as part of the fiscal stimulus with the aim of recruiting 100 new staff and upskilling 50 existing staff in the sector. That money is to fund their salaries while they are training because that is an issue for some of these providers who have to train new entrants. They have to be taken on to the books but while training they cannot offer their services as carers.

4.2.2 Deputy R.J. Ward:

Does the Minister have concerns over the level of skills of those who are being attracted or entry into the care sector given the vulnerability of those that they are caring for?

The Deputy of St. Ouen:

I have not been alerted to any risks as a result of a lack of skills. There is a robust training programme in which those entering can move through the ranks and qualify at different levels and achieve different skills. Indeed some move through the levels of qualification as a carer to move on to a nursing degree. The question of whether care is being delivered in an unskilled, inappropriate way would be dealt with by the Jersey Care Commission. But as a general rule, I believe our care delivered in the Island is of an excellent quality.

4.2.3 Deputy R.J. Ward:

Is there a concern that because there is such a need - you mentioned 100 people needing to be recruited - and some care workers are starting at quite a low level of skill - I cannot think of a better phrase - but thrown into the industry immediately and really put under pressure from day one? It does put them in an almost impossible position with low wages and a very difficult situation. That is the issue we have with recruitment and retention.

The Deputy of St. Ouen:

I do not know the details on how a carer is trained but I do know that a carer who is just entering the sector is not permitted to work on their own. They have to work with an experienced carer until such time as they have acquired the requisite level of skill and qualification. There are safeguards around this. There are robust training programmes, everyone who applies for a job has to enter a training module, and this is standard. As to salaries, the present help-at-home initiative is offering a starting

salary of £12.75 per hour, which of course is over the living wage. I think carers can move through the different levels to a higher degree than that.

4.2.4 Senator S.C. Ferguson:

There are certain areas in health where there are long waiting lists and expensive equipment, which his sitting idle for half the time. Why does the department not employ additional temporary staff to reduce the lists?

The Deputy of St. Ouen:

They appropriately do employ more staff and we attempt to move through the lists as quickly as we can. There is a constant view on how we can get through our lists but of course sometimes it is even difficult to recruit locum staff. But that certainly happens and we do employ them.

4.2.5 Senator S.C. Ferguson:

Why does the department not put its mind to it? If you employ staff to work overtime and utilise the equipment for 24 hours instead of 12 then you could reduce the waiting lists very quickly. It would be a temporary measure and then once you manage to reduce the waiting lists you could keep on top of it. It would be cheaper in the long run to employ people to clear the waiting lists rather than this half-hearted approach. Why does the department not put its mind to it?

The Deputy of St. Ouen:

I do not agree we have a half-hearted approach. We do employ locums to catch up on work. We employ teams sometimes that come over just to move into the list and get things done. We do offer overtime where appropriate, but it is not possible to run the health service on a 24/7 basis without having to increase staffing levels massively if we have to supply services around the clock. That is all I can say to that.

4.2.6 Senator K.L. Moore:

Is the Minister aware that many families are struggling and ever-approaching crisis points in their attempts to care for their loved ones in their own homes due to the current lack of staff available for domiciliary care? What does the Deputy propose to assist those families?

The Deputy of St. Ouen:

Yes, I am aware of the challenges, very much so, as are the social care team who makes very effort to help in this respect and we will prioritise resources to make sure that as much care is given. But it is the case - we have seen in other sectors, hospitality being one - that at present there are pressures because so many of the staff that used to work in these sectors are just not available. Whether that is a temporary situation or whether it is for the longer term, the whole administration and Government needs to work through. But at the moment we are going out with the help-at-home initiative to local people and telling them that a career in care can be very satisfying and rewarding, and that is running with the help of the fiscal stimulus funding to ease these difficulties.

[10:15]

4.2.7 Deputy G.P. Southern:

Will the Minister commit himself here and now to working with the Minister for the Environment to ensure that the terms and conditions under which home carers are recruited and retained put up no artificial barriers and make the process as easy as possible?

The Deputy of St. Ouen:

I will co-operate with my fellow Minister. We want to make sure that the sector is effective in delivering in care but of course I have no powers in terms of fixing the employment terms and conditions of private businesses.

4.2.8 Deputy G.P. Southern:

I am hearing the tale coming back again. Does the Minister accept that his predecessor's decision to transfer homecare services into the private sector, away from the Jersey Family Nursing sector who provided the best training and the best service at the time ... does he think that his predecessor's decision to transfer away from that particular service was a mistake and will he seek to reverse that mistake?

The Deputy of St. Ouen:

I think the Deputy needs to realise that homecare has moved on since that time in that there is far more care being delivered in people's homes than there ever was and we have far more providers to do so. It is not possible to reverse and we do not want to; we wish to ensure that all the care that is needed is available and the private companies with their high training needs and programmes are in a position to do that.

4.2.9 Deputy M. Tadier:

The Minister talked about the job being a difficult one. Is he aware, whether itinerant or peripatetic, care workers who go from home to home to provide care are still not being paid their travel time? If he is, does he think that is a good practice that will incentivise people to work in the sector?

The Deputy of St. Ouen:

I am aware that different companies operating in this area have different rules. Some pay for travel time, some pay an allowance for the use of a vehicle. It is important that staff feel that they are properly remunerated and that they are not bearing the burden of having to move around from client to client during the working day. Exactly how that is done is perhaps a matter for discussion with their employers.

4.3 Deputy K.F. Morel of St. Lawrence of the Minister for Treasury and Resources regarding Debt rating (OQ.227/2021)

Will the Minister explain why one of the stated aims of the recently published debt framework, R.132/2021, is to maintain an investment grade rating of BBB- and above given that this represents the lowest investment grade rating on the Standard & Poor's and Fitch's scale?

Deputy S.J. Pinel of St. Clement (The Minister for Treasury and Resources):

Rating agencies such as S.&P. (Standard & Poor), who provides the States of Jersey's credit rating, research the financial health of each bond issuer and assign ratings to them based on that assessment. The agencies create a hierarchy of ratings to help investors assess an issuer's credit quality compared to others. Bonds with BBB- and above are considered investment grade. Bonds with lower ratings are considered speculative and often referred to high yield or junk bonds. Investor appetite for such bonds is generally limited and to have such a rating could lead the States to experience difficulties in issuing debt in the future. I acknowledge that a BBB- rating is several notches below the current AA- which was affirmed by S.&P. in July of this year. I continue to aspire to ensuring that Jersey's credit rating is as high as possible but I am also conscious that unforeseen events such as changes to the States balance sheet or economic situation can impact on the rating over the medium term. With that in mind, maintaining a minimum investment grade rating is, therefore, advantageous to ensure that States bonds are attractive to the widest range of potential investors.

4.3.1 Deputy K.F. Morel:

I thank the Minister for the lesson in the things that rating agencies undertake. But companies in a BBB- category can carry interest rates that are approximately 4 per cent higher by today's standards - and obviously in different eras that can change - than the best investment grade, AAA+. Why is

the Minister for Treasury and Resources prepared to consider issuing debt in such circumstances and why has she not set tighter rules for Jersey's debt framework?

Deputy S.J. Pinel:

There are very tight rules set for Jersey's debt framework, as the report explains. The level of BBB- is not set with the intention of an expectation of future downgrades and it lies about 6 notches below the AA- where we sit at present, so it is considerably lower. It simply acknowledges the cut-off point between investment grade and junk bonds, as I explained, and at this time I am not aware of any reason why S.&P. may be considering a downgrade.

4.3.2 Senator S.C. Ferguson:

We are in a position where it appears that we are going to have quite a significant capital programme which requires us to get a higher level of debt. Does the Minister really not realise that the rating could compromise future attempts to raise funds and will require a higher rate of interest as Deputy Morel has said?

Deputy S.J. Pinel:

The proposals for financing, for instance, the capital project of the hospital have all been taken into huge consideration and analysis. As I have said repeatedly, the high level of our 2 major reserves and the interest revenue that they achieve is the collateral required by bond issuers in order to give us the credit rating that we have got and issue that level of debt. We have gone into this very considerably and carefully.

4.3.3 Senator S.C. Ferguson:

But a lot of the so-called support for the rating is money which belongs to taxpayers, the Social Security Fund and things like that, or the property which will take for ever to realise. Does the Minister not realise that she is abandoning the long-held view in Jersey that we should have a minimum of borrowing and really conduct ourselves as prudent householders? We are throwing away a reputation that has taken years to put together and she is just throwing it down the sink.

The Deputy Bailiff:

What is the question?

Senator S.C. Ferguson:

Does the Minister not realise that with this approach she is going into a high debt policy set up rather than the old well-thought-out policy of not being a debtor nation?

Deputy S.J. Pinel:

I would not dream of throwing anything down the sink; I am incredibly prudent when it comes to this and that is why issuing debt at a much lower interest rate than taking money - taxpayers' money, as the Senator referred to - from any of the reserves which return a much higher investment rate is a very prudent way of doing it. I understand what the Senator is saying is the Island has not had massive debt before, but neither has it had to build a brand new hospital, and so the prudence is very much there.

4.3.4 Deputy S.M. Ahier of St. Helier:

The S.&P. ratings published on 19th July 2021 state: "We therefore expect net debt will begin improving again by 2023." Does the Minister have similar expectations?

Deputy S.J. Pinel:

Yes, inasmuch as obviously investments are very volatile, but the analysis that was done on all of this, the likelihood of the Strategic Reserve alone being able to repay the borrowing by 2060 was

97.9 per cent. So, yes, the analysis has been done and one has to take into account the volatility, but a long-term issuer of the bonds will take that into account as well.

4.3.5 Deputy S.M. Ahier:

The S.&P. report goes on to say: “The full investment returns from 2021 to 2024 will contribute to a lowering of Jersey’s net debt position.” Is this the Minister’s intention or will she allow S.&P. rating to decline?

Deputy S.J. Pinel:

I am not in charge of the S.&P. rating assessment but all our intentions are that by 2024 we will not have a deficit.

4.3.6 Deputy R.J. Ward:

Can I ask the Minister: has a risk assessment of the worst-case scenario of a rating of BBB- for the effect on the Jersey economy been undertaken?

Deputy S.J. Pinel:

Every single risk assessment has been undertaken otherwise this would not have been in the framework.

4.3.7 Deputy R.J. Ward:

Would she share that risk assessment and what are the main features that we would face in that worst case scenario?

Deputy S.J. Pinel:

We have published the report of the framework and the information is in the report.

4.3.8 Senator K.L. Moore:

Could the Minister outline the engagement with industry that she has undertaken prior to setting this new lower standard, and what is their feedback to her with regard to the impact that this lower standard would have upon the Island’s reputation as a high quality, well-regulated finance centre?

Deputy S.J. Pinel:

I have to correct the Minister; it is not a lower standard that has been set, it is just the lower end of the investment strategy and, as I said before in an answer, that it is 6 notches below the AA- standard at which we stand, which is very high compared to other jurisdictions at the moment, and we maintain that rate all the time we have the collateral in the reserves to back it up should it be required.

4.3.9 Senator K.L. Moore:

The Minister has simply not answered my question. I refer to this as a lower standard because the Minister is setting the sights not only of herself but of the Island to low in the view of many people. I would simply like her to answer the question (a) what consultation has taken place with the industry, (b) what is the feedback and (c) she can now answer, if she will, why she has set her sights so low for the Island.

Deputy S.J. Pinel:

I thought I had answered that. We have not set the sights low for the Island at all. The BBB- is not set with a future expectation of downgrade, it simply acknowledges a cut-off point between investment grade and junk bonds.

The Deputy Bailiff:

You have not answered the point about consultation with industry or feedback, have you, that you were asked by Senator Moore?

Deputy S.J. Pinel:

Sorry, Sir. Yes, there was huge consultation across the board, as is detailed in the debt strategy framework, and the banks that are doing the assessment of bond issuers with Jersey-based banks with a significant presence in the Island, and they will have their results I think 22nd November.

[10:30]

4.3.10 Deputy K.F. Morel:

Every time we issue debt our rating is likely to drop and interest rates will rise. My understanding of the debt framework is that the Minister for Treasury and Resources is willing to issue as much debt as she can while not tipping into junk bond territory. Does she believe that Islanders, weary of new levels of debt, would expect the Minister for Treasury and Resources to take a far more cautious approach, and will she amend the debt framework to reflect this?

Deputy S.J. Pinel:

The debt framework will be adjusted when the debt is issued, when it is taken out, so for the hospital with the breakdown of how that has been issued and how it has been achieved. So that will be public knowledge when it has happened, it will be adjusted then, but that is not at the moment.

Deputy I. Gardiner:

Before I am asking my oral question I would like to ask for your ruling. Previously I raised that there is no answer given to Written Question 440. In the meantime the written question answer was given, I found it online, and it is not satisfactory from my perspective. Why I am raising it now, because it is likely to impact the answer to my oral question. They are connected. The question was will the Minister provide the breakdown of expenditure on the Our Hospital project from 1st September to itemising the payment made by amount, date, and recipients. My oral question is connected to this and I would like to ask for your ruling if the answer is sufficient before I ask my oral question.

The Deputy Bailiff:

Generally the Presiding Officer under Standing Orders has some time to consider these matters and normally I would consider them with the written question and answer in front of me and that is what I propose to do in this case and give a response later today so you need to press on with your oral question.

4.4 Deputy I. Gardiner of the Assistant Chief Minister regarding Financial reports on Our Hospital (OQ.219/2021)

Will the Assistant Chief Minister commit to providing regular reports to the Assembly on all spending associated with the Our Hospital project, and if not, why not?

Senator L.J. Farnham (Assistant Chief Minister):

I thank the Deputy for the question. In my response to Written Question 441 from the Deputy, not 440 as that is a separate question, I have committed in agreement with the Treasury to half-yearly reporting aligning to the States annual report and accounts and the half-yearly financial reporting cycle. We did provide regular updates for States Members on the hospital and some of that information does include financial updates most recently in relation to the outline business case. In addition to that I propose, subject to further discussion with the political oversight group now that P.80 has been approved and we have the overall budget in place, to provide regular finance updates with the general updates to States Members which will continue now throughout the project process.

The answer to the question is, yes, we will and that will be on a regular basis to be agreed with the political oversight group.

4.4.1 Deputy I. Gardiner:

I am grateful to the Deputy Chief Minister for his answer and I welcome in 6 months the reporting. However, I am concerned regarding the expenditure details, as the current expenditure category level does not provide a clear picture of spending. Would the Deputy Chief Minister consider providing a breakdown of the expenditure category sufficient cost information to enable effective scrutiny?

Senator L.J. Farnham:

Yes, absolutely. In relation to the Written Question 440, which asks for a breakdown to the level of recipient almost at invoice level, and it is not usual to provide that sort of detailed information publicly, bearing in mind the commercial sensitivities of a lot of the negotiations that are currently underway. But I do undertake to categorise the expenditure and provide it in as much detail as we possibly can. It is a balance of transparency and commercial sensitivities. But, like I said, I want to impress that the oversight group and I are very keen to provide as much detail to Scrutiny and States Members as we possibly can.

The Deputy Bailiff:

Yes. Why was the answer to 440 given late?

Senator L.J. Farnham:

Sir, I have to take full responsibility for that. I did not complete the answer until late yesterday evening and it was submitted first thing this morning, which I apologise to the Assembly.

The Deputy Bailiff:

When did you receive the question?

Senator L.J. Farnham:

The question was received last week at some stage.

4.4.2 Senator K.L. Moore:

My question has a little information that might assist the Deputy Chief Minister in understanding some of the reluctance from his team to provide questions, although we are grateful for his warm words this morning. A member of the public overheard 2 members of the project team discussing their work on the hospital project as they were travelling to Jersey on Sunday evening. One person spoke to the other and said: "Did you give them any numbers? I never give them any numbers when they ask for them", seeming quite pleased with themselves; that is the view of the member of the public. The dark-haired man said that there had been requests for numbers but the indication seemed to be that the numbers, including of beds, were still moving about as they had not been finalised yet. The above had apparently been discussed with another person, i.e. the changing numbers. They then continued to talk about other matters. Will the Deputy Chief Minister, in light of this helpful information from a member of the public, take his project team in hand and tell them that the time for obfuscation and playing games in relation to the facts that are genuinely required and expected by both members of the public and Members of this Assembly who are trying to hold the Government to account, it is time to stop playing games? Will he take them to task and ensure that these games stop?

Senator L.J. Farnham:

While I do not recognise any of the suggested behaviour in the Senator's previous comments, we have all of the detailed information and, in fact, I did have all of the detailed information that Deputy Gardiner asked for in Written Question 440. I was presented with a complete breakdown, line by

line, of every single invoice and expense that was incurred between 1st September and 26th October. Subject to a further 2 discussions with the project team, it was decided that a lot of that information was commercially sensitive and it would not be wise to release it publicly in the way requested by the Deputy. I do recognise the problem, we are certainly not playing games. I would ask Scrutiny to join us in not playing games and get on and focus with constructive scrutiny of the project so we can deliver this together.

4.4.3 Deputy I. Gardiner:

I welcome the Deputy Chief Minister the discussion that should be open. I would like to ask if he would consider looking at the 6-months' reporting on the consultants. We have already established a process to report on the consultants with a possible breakdown and to find a way to have more detailed clarity on expenditure in risks and updated cost of the project every 6 months going forward.

Senator L.J. Farnham:

Yes, I would be pleased to do that. We are looking at ways we can provide some categories of the expenditure. Like I say, my hesitance to answer the Written Question 440 in the detail that the Deputy would have liked, as I said, is about commercial sensitivity and that being in the public eye. I would be happy to share more detailed information of course with Scrutiny and with other States Members on a confidential basis and I undertake to work in that way moving forward.

4.5 Senator K.L. Moore of the Minister for Home Affairs regarding the Armed Forces Steering Group (OQ.228/2021)

Will the Minister provide the Assembly with an update to the work and achievements of the Armed Forces Steering Group?

Deputy G.C. Guida of St. Lawrence (The Minister for Home Affairs):

The Armed Forces Steering Group last met in 2017. The formal group has not met since that time, however, the government's commitment to the covenant has been preserved. I am witness to this because our interests started immediately under Constable Norman and the subject of the covenant was on our agenda every single week. It was greatly facilitated by the fact that our director general and our new prison governor were both, if not veterans, ex-servicemen. Work has been undertaken by my department over the last year to bring new momentum to the covenant across government and we will soon be holding an event to recommit to the important promise that was made to our veterans. I must add that, again, I was witness to physical cases where the government helped veterans, in this particular case Home Affairs, which financially helped 2 veterans that were referred to us by the British-led role with the British Legion and needed help with problems with travelling and COVID and we provided the financial help, as recommended by the covenant. Senior officials from all government departments met in August this year to discuss how we could better support veterans and these ideas will be pursued by a reformed steering group once the covenant has been re-signed.

4.5.1 Senator K.L. Moore:

I am grateful to the Minister for his honest appraisal of the work to date and I would ask the Minister, as we remember the fallen and we all wear our poppies with pride at this time of year, will he commit to reinstating the Armed Forces Steering Group so that there is a more consistent momentum behind the commitment to the Armed Forces Covenant that the previous Government had agreed?

Deputy G.C. Guida:

Absolutely. The steering group is an essential part of the covenant, so there is no way that we can conduct the covenant without it. It is definitely something that we will make sure exists after the covenant has been re-signed.

Senator L.J. Farnham:

I wonder if I may ask that the *défaut* be raised on Senator Gorst, who has joined us remotely, if that is possible, Sir, and if it is I would like that to be done.

The Deputy Bailiff:

Yes, there is no objection; the *défaut* is raised on Senator Gorst.

4.6 Deputy R.J. Ward of the Minister for Children and Education regarding School funding (OQ.217/2021)

Will the Minister advise what his policy is on the level of funding that should be available to school budgets to spend on teaching materials, headroom funding, once the basics of staffing and running costs are covered, providing the answer is either a per pupil amount or as a percentage of the school budget?

Deputy S.M. Wickenden (The Minister for Children and Education):

I thank the Deputy for his question. There is currently no set policy across all state schools for headroom. Currently in budgeted allocations right now, for non-staff and non-premise-related, expenditure sits at roughly 5 per cent to 7 per cent of the budget. School funding is much broader than just the percentage of headroom funding that a school has within its budget, it includes many other factors of equal importance setting a fixed percentage could limit the flexibility in the consideration of other factors that is required when setting budgets for schools at differing levels of means.

4.6.1 Deputy R.J. Ward:

Does the Minister have a comparison of that level of headroom funding with schools in the U.K. and other jurisdictions so as we get a picture of what is available in terms of resourcing for our schools and so they do not have to rely on P.T.A.s (Parent Teacher Associations) and private donations to have the basics of the needs of the classroom?

[10:45]

Deputy S.M. Wickenden:

I do not have a comparison to hand, though I could probably ask my officers to try and find such a comparison or the Deputy could himself. We have increased our funding in schools to offset the deficits that have been created, as I explained in the Scrutiny Panel hearing yesterday with the Deputy. In the next Government Plan we are increasing that over above the deficit by £1.8 million, so that we do not have to have schools going over budget.

4.6.2 Senator S.Y. Mézec:

Does the Minister have any indication on what the difference in position on headroom funding is between the free state schools and the fee-paying schools?

Deputy S.M. Wickenden:

No, I do not.

4.6.3 Senator S.Y. Mézec:

Would he regard not knowing such a thing as being inadequate and does he consider that the current position on headroom funding, which leads to situations that Deputy Ward just mentioned before about even not being able to afford basics or having to do private fundraising for it, is completely inadequate and certainly not putting children first?

Deputy S.M. Wickenden:

Despite the Senator's posturing there, I do not get involved in the day-to-day administration of schools and their budgets. I do know that headteachers have a high level of autonomy for how they

spend their budgets and they can reprioritise non-staff spending and staff spending, which can also reduce levels of budgeting if they do it into staff level. But despite the Senator's posturing there, I do not get involved in the day-to-day running of every school.

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

As part of the education reform programme there was a review of the A.W.P.U. (age weighted pupil unit) that the amount of funding schools get per pupil; I wonder if the Minister can advise the Assembly about the progress of that work, which is directly related to the overall budgets for schools.

Deputy S.M. Wickenden:

Sorry, Sir, could the Deputy just ask the question a bit shorter, I have just missed a part there?

The Deputy Bailiff:

Could you repeat the last part of your question or perhaps summarise the question? Do you want the question, do you, Deputy Wickenden?

Deputy S.M. Wickenden:

Yes, please, Sir.

The Deputy Bailiff:

Could you repeat the question, please, Deputy Maçon?

Deputy J.M. Maçon:

As part of the education reform programme, can the Minister tell the Assembly the progress of the review of the A.W.P.U.?

Deputy S.M. Wickenden:

The school funding review that has been going on. We are at a point now where we are just finalising the detail of the report and just making sure quality assurance checks are happening and we should have something ready to go to this Assembly by December this year.

4.6.5 Senator T.A. Vallois:

The Minister mentions that he is not in charge of day-to-day projects that are running in schools, yet there has been no non-staff inflation, which affects headroom, since 2014 in schools. What are the risks and the potential damage it may make to further headroom issues in schools with option D of the efficiencies programme whereby non-staff inflation will be impacted when efficiencies cannot be made by C.Y.P.E.S. (Children, Young People, Education and Skills)?

Deputy S.M. Wickenden:

I thank the Senator for her question. The non-staff pay inflation amount has not been drawn upon since 2014 by C.Y.P.E.S. and C.Y.P.E.S., as in the education part of C.Y.P.E.S., was removed from the efficiencies programme. I have not allowed any money to be taken out of the budget for education on that basis because it would affect the running of schools. I refused any reduction in spending or in budgeting in that way. By not having this money means that if there are inflationary costs that come about in 2022, more money would need to be sought by the permission of the Minister for Treasury and Resources and the Council of Ministers.

4.6.6 Senator T.A. Vallois:

Could the Minister explain, therefore, the centrally-held funds for the non-staff inflation, how will the Minister go about making a case should there be an issue with regards to inflation? If he could provide an example that would be helpful.

Deputy S.M. Wickenden:

I do not know if I can give an example. I have only been the Minister for Children and Education for 6 months and I have not had to make that case. If such a request was made it would be done on detailed information given by the schools and the department about the need for extra funding for inflationary reasons. I would have to take that information to the Council of Ministers and ask that monies were made available from budgets held centrally or other Ministerial budgets to make sure that we get that passed and that will be a decision by the Minister for Treasury and Resources and the Council of Ministers.

4.6.7 Deputy R.J. Ward:

Can I ask the Minister, would he support a minimum level of headroom funding, as that would enable the schools to ensure that the provision of resources is kept at a consistent level and it would mean that that money would not be lost in the wider issues over funding and, indeed, it would enable the Minister to expose those issues of funding earlier and deal with them appropriately?

Deputy S.M. Wickenden:

The school funding, as a whole, has been subject to an external independent scrutiny by the independent school funding review. This review included all aspects of school budgets that, when combined with headroom funding, would deliver sufficient resources to ensure high-quality education in the schools. As I explained earlier, in the Government Plan over and above what was declared as a deficit for all schools, we are putting an increased £1.8 million budget into schooling, so they have appropriate funds plus a bit more to be able to budget for their year.

Deputy R.J. Ward:

I did ask the question about whether the Minister believed there should be a set headroom funding level and I got the same answer about spending in schools and the school funding review, which I believe is a school funding formula he is talking about. I just wonder whether we could ask in this Assembly for the points that we ask to be answered because it is getting increasingly difficult.

The Deputy Bailiff:

It is important the questions are answered.

Deputy R.J. Ward:

Sir, it is increasingly difficult to get any answer. I just know that today's Susie Dent's word of the day is bloviation; just might want to look it up.

The Deputy Bailiff:

All right. Before you asked your supplementary but I did not see it, Deputy Alves did ask to ask a question in the chat. I am not going to offer you a chance to ask another final supplementary, Deputy Ward, but I am going to invite Deputy Alves to put her question to the Minister.

Deputy C.S. Alves of St. Helier:

It was a question around the funding formula and when it would be published and applied but I think Deputy Ward pretty much covered that in his question.

4.7 Senator S.Y. Mézec of the Minister for the Environment regarding Provision of Affordable Housing (OQ.224/2021)

Following the publication of "Plan B" sites for the bridging Island Plan, to provide contingency to protect the level of supply for affordable housing if some "Plan A" sites were removed, will the Minister explain whether he will support P.96/2021 and the 25th and 41st amendments to the bridging Island Plan which would, if adopted, protect the overall supply of affordable housing without needing to rezone more greenfields??

Deputy J.H. Young (The Minister for the Environment):

A very important question which highlights the big choice that is available to States Members in the Island Plan and going to be dealt with at the planning inquiry. Of course the plan seeks to provide not only that we get an adequate supply of new homes during the bridging plan bid for the short-term plan but also that we meet certain needs. There are 2 key things in terms of the States zones proposed in the plan, whether they be the Plan A or the Plan B, they help to ensure a supply of family homes, which will be provided as houses, as opposed to flats, which, as we know, is a predominant development at the moment. Also, secondly, to help maintain and grow the rural suburban communities to support Parish life and community facilities in the future, so it is key 2 important objectives, as well as supply. The Senator asked about P.96, which is going to be debated, I think, in 3 weeks' time and of course what I have been informed is that the P.96 deals with the waterfront sites and affordable homes on them. I am advised that the development of those sites has not been included within the numbers or anticipated during the planned period because it is thought that they will not be delivered during that time. Therefore, to sort of see them as a substitute for the other sites is not inconsistent. But, nonetheless, I will be quite clear, my personal view is I do support the premise that underlies the Senator's proposition P.96. But when and during the planned period that we develop those waterfront sites as many as we can do should be affordable homes. At the moment we are going to have that debate in 3 weeks. I will wait until I see the information from S.o.J.D.C. (States of Jersey Development Company) before I decide to vote but certainly, in principle, I am behind that. On the other 2 points of the Senator's question, amendments 25 and 41, just to simplify, amendment 25 reviews the policy that requires a portion of affordable homes on every single housing site that gets developed and that is an issue that is going before the inspector in a few weeks' time. The other amendment, amendment 41, is that every States-owned site should have affordable homes. Those are, I have to say, well-researched amendments, very well-documented. Where we stand on that, I have published some comments on them for the inspectors. The inspectors will judge and hear the evidence and I will make my conclusions after having heard the inspector's report. There we are, my additional view is a response but, in principle, I am in favour of both, however, past tense to introduce the first one has just simply failed.

4.7.1 Senator S.Y. Mézec:

I want to ask the Minister if he will go further than in principle because, if I may say so, that is a copout which is regularly used by Ministers to sound good but to not vote for the change that would tangibly improve the situation. I would like to ask the Minister for the Environment, rather than telling me he supports what I am trying to do in principle, will he commit to establishing rules which will provide an increased supply of affordable housing, which enables him to protect our open green space, which is so valued in this Island, by voting in support of propositions which are on the table, which, if adopted, will lead to more affordable housing in the Island, rather than luxury investment apartments for which there is no demonstrated need to resolve this housing crisis?

Deputy J.H. Young:

I think I tried to say that I 100 per cent want to achieve as many affordable homes as we can. The Senator, I think, is not clear whether he wants me to commit now to how I am going to vote in 3 weeks' time on P.96 or what I am going to do about the 2 amendments. I think, hopefully, that Members will understand that that would be wrong, it would be prejudging. I have got to listen to the evidence. The judgment that I, as Minister, have to make is that the final plan that comes to this Assembly in March I have got to make sure that it has got enough provision in it for affordable homes. If it is not, then, trust me, I shall be absolutely expecting that. The Senator says in principle that is too weak. For me, it is a real commitment. There are so many, we have got 60 amendments; there are numerous, numerous choices of this site, that site, that site. We have got to let that inquiry work in a couple of weeks' time and then we will be having this debate. I think this is a big debate. I see the Senator shaking his head. I have set out the best position I can do and we will be having this debate again, which we need to have.

4.7.2 Connétable R.A. Buchanan of St. Ouen:

I just wanted the Minister to confirm, notwithstanding the propositions put in by Senator Mézec, which I have to say I also support, is he totally behind rezoning green fields, as set out in the interim Island Plan?

[11:00]

Because in my mind part of our failure on this Island has been the lack of courage in looking at appropriate greenfield sites which need to be rehoused for family homes and which we have allowance for a few and we have seen the consequences in terms of the price rising. I just want him to give me a commitment that he is committed to the A and B sites in the interim Island Plan and will do his best to get those through.

Deputy J.H. Young:

Before I got elected I indicated 2 things; I wanted to see adequate affordable home supply and I saw the need for the village communities to be allowed a modest degree of growth to allow them to be sustainable in the future. Those are the principles which I started this approach. But what we have been faced with is a housing crisis where we are having to propose more greenfields than I would wish to do. It is not something I could avoid. It is not something I wanted to do. But I feel it is my duty to at least bring proposals through to let Members make that choice. What I have tried to do with the officers is to make sure the sites that are put forward on the Plan A list are the most sustainable and the ones that cause the least damage to our Island environments. I have to face the fact that the amendments we got from States Members have the potential basically - I will be frank - to destroy that strategy. I hope that Members will make those choices. There are some sites on the B list I do not personally want to see. We have to make these choices. As we stand here today, it is really important we let the planning inquiry process work, where every one of those sites on the Plan A and the Plan B sites will be aired before the inspector and those that have objected ... I have had hundreds of objections on the Plan B sites, got a huge amount of objections on Plan A sites. The choice is simple: what can we do? We can do nothing and not meet the supply. We can have a sustainable supply on the right sites or we can have it completely unsustainable and spoil the countryside; that is the amendment.

4.7.3 The Connétable of St. Ouen:

Can I just ask the Minister - and I am sort of asking him to agree with me really - is he satisfied that the process used to decide on the sites that are going to be rezoned in the green zone is robust? Because certainly in my view, having looked very carefully at the process that is being used to achieve the new sites, I think it is very robust and we should defend it. Is he satisfied that that process is robust and can he defend it?

Deputy J.H. Young:

If I was not I would not have agreed to sign off the draft plan. I have relied upon professional judgments and that is really important. I have confidence in the Plan A sites. Plan B, I have had to put those forward because what if some of those Plan A sites do not run, as the Senator's questions highlights, what do we do then? I think the issue raised by Senator Mézec, the question is right: what is the contribution from the States for other sites for affordable homes?

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

The Minister has just said that when he came into this Assembly he wanted to see adequate affordable housing supply. He has also just said that he wants to build as many as we can, and he used those words. But does the Minister agree with me that in order to address this crisis and in order to see off the very many objections he has to Plan A and Plan B, that when it comes to States-owned sites, and

I mean to include with that the S.o.J.D.C. sites and the sites owned by Ports, that where we develop them for housing that they should be 100 per cent affordable housing?

Deputy J.H. Young:

Where I am is if we develop single States-owned sites and they are viewed as a single site I think my answer is, yes; where we develop the single sites. But in the case of the S.o.J.D.C. and the waterfront, what we have done is we have asked that body to develop that whole area and, by the way, not just give us housing, give us all the other things we want. We have a choice again, we can have affordable housing and nothing else in the waterfront, and that would be the case if we had 100 per cent affordable housing or we can have the other things we want or we can put our hands in our pockets and fund it; that is the preference I have got. I have told the Chief Minister, I do not really care when we make the choice of affordable housing on the waterfront what the money numbers are. Because at the moment the argument that will run - and I know it will come when we have that debate - well, if we have 50 per cent affordable housing on the waterfront you are going to lose £49 million. No. What it means is the £49 million we thought that we are going to get is surplus, we are not going to get it; that is another ... I have been as strong as I can and being where I am but it is the majority, it is the Assembly decision and not mine.

4.7.5 The Deputy of St. Martin:

I just want to take the Minister back to the halcyon days of 2011; he and I sat on the Environment Scrutiny Panel and he chaired it and I vice-chaired it and there was a planning policy called H3, which brought forward proposals to build affordable land, social and private open-market housing on the same site and it did not succeed. Two or 3 years later we had delivered nothing. I ask the Minister why he thinks it is going to work now.

Deputy J.H. Young:

I think the Deputy has a good question but I think a slight misunderstanding in my answer perhaps and maybe I am not clear enough. The Senator's question to me at the start of this discussion was about the amendments. Amendment number 25 of Senator Mézec that he asked me to commit to brings back H3 policy, resurrects it; it is virtually the same. The inspector will have to judge that. Why did it not work? It is because the industry in the private sector refused to play ball and did not co-operate. It works everywhere else; it works in the U.K., it works in cities. It was in the A.E.C.O.M. (Architecture, Engineering, Construction, Operations and Management) housing report. I supported it. But past efforts to get such proposals through this Assembly have failed. Members have backed off taking a percentage of value out of developments time and time again.

4.7.6 Deputy M. Tadier:

Does the Minister think there is a risk that his legacy will be that he will be known as the Minister for the Environment who concreted over the countryside?

Deputy J.H. Young:

No, because if that is where we end up then I shall probably be out the door. No, I am not prepared to stand in this Assembly ... I have got a final Island Plan due for approval that does what the Deputy said.

4.7.7 Deputy M. Tadier:

The Minister mentioned past attempts to introduce a land transaction tax, I think, but does he accept that until we have taken other measures to try and, effectively, use current housing stock, which is out of commission, i.e. dilapidated houses that are unoccupied for whatever reason, also to address the fact that many units that are being sold off-Island, often in the dozens, if not hundreds, to people who do not live here, that until we address those issues it is pointless to try and build new housing

stock and that we should first address the former issues I mentioned before trying to concrete over the countryside? Does the Minister agree with that?

Deputy J.H. Young:

Despite my personal sympathies, this issue is going to be discussed and aired at the planning inquiry. I am sure the Minister for Housing and Communities is going before that because the Deputy raises a wider issue about the relationship between the use of existing properties and ownership of existing properties. What the Island Plan seeks to do, which is propose for policies for future development.

4.7.8 Connétable S.A. Le Sueur-Rennard of St. Saviour:

I was really intrigued in his speech because the Minister says that he is trying to retain Parish life and I find that if it was not so sad it would be laughable. Because the Five Oaks area in my Parish was a Parish life but now he is overcrowding it with all sorts of things. Does the Minister not feel we would have been much better to have an immigration policy and then do the housing and not, like the Deputy from St. Brelade was just saying, concrete over the green areas? I have already had this conversation with the Minister to say that he is leaving a concrete jungle. We will be an airport and a finance industry but if you want to see the countryside you can take a ferry or take a smaller plane to the other islands but we will not have it here. Somebody has got to take the bull by the horns and say: "I am sorry, an immigration policy has to be forwarded because we cannot keep doing this." Does the Minister not feel that he is not retaining Parish life, at least not in St. Saviour?

Deputy J.H. Young:

My reference to Parish life was about accepting the fact that we have got an ageing demographic in the Parish communities. The Parish communities generally were developed with young families probably, I do not know, I was not there in the 1960s or early 1970s and now I get reports from just about every Connétable that we have got people in those Parishes that are looking to right-size, that provides opportunities for people what used to be called downsizing, we now call it rightsizing and that will be part and parcel of those affordable housing sites. My view would be is that people in the countryside who have lived their life in those areas, their friends, their families, their whole social life, they work in those areas, are not likely to want to come and right-size in the middle of town. I think that is an important objective. The other thing is to just provide enough life blood of ordinary working families to help those Parishes, and that is what I meant. On the other issue, obviously the Connétable is very, very passionate and it is absolutely right she is opposing the proposal for fields in St. Saviour. The problem is, is that the strategic policies that we are working with try and put our predominantly housing within this built-up area; so strategic expansions. That is the policy choice before us and we have got the inquiry and the final decisions, again, will not be mine; they will be the Assembly's in March.

4.7.9 The Connétable of St. Saviour:

I may be wrong but the Minister has just said that is to keep families and things together. But according to Senator Mézec, he does not think ... and I am not having a go at him, I am just quoting something he has said. Senator Mézec has said that everybody should be entitled to live anywhere on this Island, so that contradicts that. He is not trying to hold families together who have lived in Parishes, he is just trying to find homes for people. I am sorry, he is dead right, I am sorry that I am quitting because I would love to continue this fight because this is going to be a fight. In Plan B we have got small fields right on a route to school that I have just made safe and he is going to load it up with cars and people again. No, I am sorry, the Minister is completely wrong, unless I have got it wrong. Are you saying now that in St. Saviour when the homes are built they are going to be for St. Saviour's parishioners?

Deputy J.H. Young:

There is another amendment, I think, on the Island Plan about the proportion of homes allocated to Parish communities and to all Island, I think. I know that the Minister for Housing and Communities has this actively under study at the moment. I have asked the Minister for Housing and Communities and the Minister for Housing and Communities has agreed to ensure that by the time we make the final decisions on those sites we have clarity about what the rules are there.

4.7.10 Deputy R.J. Ward:

I think some are at pains but just to ask a very simple question: is it not the simple fact that in order to have affordable homes you build affordable homes? Every time in a States of Jersey development site or any site owned by Jersey that we do anything other than provide affordable homes, we put fuel to the fire of all the problems that you have been talking about for the last, I do not know how long, in this question session. Is it not the case, Minister, that it is simple; let us have affordable homes on States-owned sites and that will address the issue quicker than any other solution you can come up with?

Deputy J.H. Young:

I hope the Deputy has got his name down for the planning inquiry and will go and make his case. Because there is an amendment in there to do exactly that and the planning inspector will judge. From my point of view, I want to see holistic communities and have a site-by-site choice, rather than just a blanket this is what we do. I cannot go further in saying in principle. I absolutely support the Senator and I support the intentions behind to achieve at least a minimum site proportionate of affordable homes on those sites.

[11:15]

There will be a level which is just not enough and I will not go along with but we have got to do that on a case-by-case basis.

4.7.11 Senator S.Y. Mézec:

The Minister has spoken of his intention with the bridging Island Plan to meet the necessary supply for affordable housing in Jersey. But does he recognise that his plan as it currently stands fails to do that because his own projections for affordable housing in the bridging Island Plan are for 1,500, which is half the number of applications there currently are on the Affordable Housing Gateway? Does he not accept the point that Deputy Tadier made, that his political legacy will be a legacy of failure if he does not take a stronger position of leadership on this and commit himself to supporting policies which will increase the supply of affordable housing in Jersey and that saying he agrees to something in principle is not good enough? Will he commit here and now to take that leadership and say whatever failures that have been in the past, whatever mistakes there have been, that he will not put his name to them, he will be on the right side of history and vote in support of a position which will tangibly increase the supply of affordable housing, rather than just give us words? Because it is the families of this Island that will suffer if all they get is words from their leaders.

Deputy J.H. Young:

Legacy, the right side of history, would that not be nice? I am going to make my judgments after I hear what the inspectors say, what the outcome of this is. I have told the Assembly that there is a line in the sand that I will not go beyond. An adequate level of affordable houses on States-owned sites and personally I want to see a contribution from privately-owned sites as well. I want to see that and that is why the comments I have published to the inspector are supportive in principle, but I cannot prejudge here today. We are now 5 months away from that decision. There is a lot of water to go under the bridge in this and to stand here now and prejudge is not what I am prepared to do.

4.8 Connétable M.K. Jackson of St. Brelade of the Minister for the Environment regarding Sand extraction (OQ.226/2021)

Given reports that there is, potentially, sand available for extraction at Simon Sand in St. Peter for some 10 to 15 years, will the Minister explain what indications have been given to the landowner regarding the long-term strategy for the site and, if none, will the Minister explain why that is the case?

Deputy J.H. Young (The Minister for the Environment):

I think in a complex matter I would ask the Connétable to distinguish between perhaps the sand reserves that it already has and which is available within the area that already has got planning permission, and the information I have is the operator considers that that is 3 years' supply but also, I think, which is probably the gist of the Connétable's question, areas of land outside the approved site where reserves might exist but there is no permission. I think the indication to be given to the owner of these are of the current States-approved policies of mineral expansion, which is in the current Island Plan. The policy's advice to the owner are those in the current Island Plan. Of course the one that we are proposing to go forward has not changed and that is that extraction of sand, which was originally due to cease in 2018 and a historic restoration of the site be completed and planning permission was extended until 2023 to enable that, with a condition requiring restoration and that is where we stand. I know that the owners of Simon Sand, as well as closing their site, have made representations to the contrary, which is going to go to the planning inspector, where all of the arguments that were put forward in the responses will be considered.

4.8.1 The Connétable of St. Brelade:

Given that the department has not been proactive in assisting the landowner in evaluating the eventual outcome of the site, would the Minister agree that in order to progress this it will be better to give some guidance to the family so that they are enabled to progress this, the redevelopment after the ceasing of operations, and they can redevelop to the satisfaction of all parties? Bearing in mind it is a private property and it has to be an income stream, and it has to be satisfactory for members of the public and, of course, an ability to deal with the P.F.A.S. (perfluoroalkyl substances) situation?

Deputy J.H. Young:

I am sure the Connétable knows, as everybody else does, that we have got a huge area of open water there now and the site is in the Coastal National Park and the site is riddled with major environmental issues and risks. It overlies the St. Ouen's Bay aquifer, which is a really important fresh water resource, which underlines the whole of the bay, which is of relatively low-nitrogen water. At the moment Jersey Water cannot extract water from that area sufficiently. They are able to take a small amount but hardly any and in the future we need to have that source exploited. Going further to extend an area of sand would bring in major risks that would need to be assessed environmentally; that work has not been done. We have commissioned, as Members know, a study and so it should be out now. What I would like to clear up is the Connétable has suggested that the officers have not helped the team; they have. They have helped them and advised them on the original restoration plan; I have got the details here. But what we have had is we have had a new one, a new restoration plan. My understanding that this goes much farther and would require a new planning application, and it will also require a waste management licence because it would bring in 1.5 million tonnes to 2.5 million tonnes of solid waste into the Coastal National Park. Therefore, these things are environmental aspects that we have to get investigated. This should be no surprise that the policy is about ending that site's extraction; it has been known for decades.

4.8.2 Connétable J.E. Le Maistre of Grouville:

Could I ask a point of clarification? I do not think the Minister intended to but he sort of implied almost that the environmental problems down there were perhaps the making of the landowner, when I think he was referring to the P.F.A.S. and other pollutants down there and not the landowner.

The Deputy Bailiff:

A question for you, Minister.

Deputy J.H. Young:

I think he is quite right and if I suggested that it is the landowner's fault that we are in that situation it is wrong and I withdraw that implication; of course it is not their fault. They have, if you like, suffered from the problems of P.F.A.S. contamination originally from the airport situation, which has migrated and there is, therefore, a risk of that P.F.A.S. migrating into that area and the greater area. If you have open water the more likely you are to run the risk. It is not the only risk, there are lots of others. There is the issue about restoration of the area, there is the issue of the risk of bird strikes because of the prevalence of water birds in that large open area; all of those things need to be studied environmentally. That is where the officers have given advice and that is what we are seeking to do for the owner but it is not the owner's fault that these situations happened.

The Connétable of Grouville:

Thank you, Sir, it was really a point of clarification but I do have a question as well.

4.8.3 The Connétable of Grouville:

Would the Minister accept that the landowner will need to get other material to fill in the large area of water? They have had 110 years of the extraction of sand. If that hole was to be filled in, material will have to be brought in.

Deputy J.H. Young:

As I said, we have now had an update, a new restoration plan submitted by the owner, and what that does is it sets out a completely changed landscape within the quarry or more or less seek to restore it to a dune landscape, if you like and, as I said, the importation of tonnes of material. What we have said, that needs a new planning application and that also would need a waste management licence. That is the advice given to the applicant and at the moment we do not have that application but that is a possible thing for the owner to do. The current policies of the Island Plan say that sanding should end and the restoration should be a more modest restoration, as was approved in 2004. I have got the details of that and I think that there is, clearly, again another major choice here for the Island. In the meantime, sand is being imported satisfactorily.

4.8.4 The Deputy of St. Martin:

I am really pleased that the landowner submitted a restoration plan but would the Minister agree with me that had plans come forward sometime since 2004, like they were supposed to do, that we would not be in this situation?

Deputy J.H. Young:

Yes, very much so.

4.8.5 Deputy I. Gardiner:

I would like to ask the Minister if he can see a way forward to maintain on-Island sand supply for the construction industry and at the same time to address our ambitions around climate change where we would like to have carbon neutrality and reduce our impact through exporting.

Deputy J.H. Young:

Yes, the Deputy makes an absolutely correct point, that importation of sand involves carbon consumption. What I am pleased about is that I am informed by the officers that private sector suppliers have stepped into the breach and there is a plant under construction - it is not yet commissioned - to be able to recycle material, increase recycling of these building materials to create and equivalent material which can be used, maybe not for every single sand application but for a very great number of them. That is what I am told is in progress and I think that is a good example of

private industry responding to what is a crisis. As I said, the current sand operator, they closed the quarry at short notice and there is still an approved area still left but, nonetheless, it has been closed.

4.8.6 Deputy I. Gardiner:

Would the Minister check if the quality and ... first of all, I welcome recycling and I think we need to go forward with the recycling and to create different types of sand. Is the Minister aware if this will be a substitute to the sand provided by the quarry and if a way forward can be found to have a smoother transaction, not from today until tomorrow, over the years, which will probably require balance and steps from both sides to get it forward?

Deputy J.H. Young:

I am not a technical expert and I will arrange to get that information and circulate it to Members. But of course we have been lucky; the dune sand of course is a windblown sand, which means it is fine-grained, whereas obviously other sources may be different. Sand is not just sand, it varies and I will get a technical report for the Deputy.

4.8.7 The Connétable of St. Brelade:

Would the Minister agree that much of the area was a solid-waste dump until soon after the war and part of the owner's plan to remediate was to remediate some of those areas? They have, I understand, submitted an updated strategy but the department have not made it clear why it cannot be accepted. Given that the remediation of that site will take many years to accomplish, would he agree that his department needs to work more closely with the present owners so that the Minister's goals, as well the owner's, can be achieved in a short time?

Deputy J.H. Young:

There is obviously a case for dialogue but I do not accept the premise that that has not been the case. There are choices here and the landowner wants to go in a certain direction, and I think the landowner is fully entitled to pursue that by putting in a planning application because it is new, putting in a waste management licence and the processes will deal with it. It can either go the way of the approved route or seek to do something bigger and different. On that choice I do not think the landowner has made it yet; that is where we are.

The Deputy Bailiff:

Thank you. We have got through half of the questions now but about two-thirds of the time, so Members may wish to bear that in mind when considering the length of their questions and answers.

[11:30]

4.9 Connétable P.B. Le Sueur of Trinity of the Chair of the Privileges and Procedures Committee regarding Jersey Electoral Authority (OQ.213/2021)

Given that the Island is approximately 8 months away from the elections in June 2022, will the chair advise what progress has been made towards establishing the Jersey Electoral Authority?

Deputy C.S. Alves (Chair, Privileges and Procedures Committee):

I thank the Connétable for his question. The commencement act for the law changes made by this Assembly to the Public Elections Law 2002 cannot be lodged until the law has returned from the Privy Council, which is hoped will happen this month. The law itself cannot be brought in until after 22nd December; that is the 6 months before the election date. However, we have launched the recruitment process this week to encourage Islanders with an interest in elections to come forward to be part of the first Jersey Electoral Authority. The J.E.A. (Jersey Electoral Authority) will consist of *ex officio* members, who are the Judicial Greffier and the Greffier of the States, a representative of the Parishes and up to 4 members of the public from whom a chair will be selected.

4.9.1 The Connétable of Trinity:

I thank the chair for her comprehensive answer. The next elections will introduce wholesale changes to the electoral processes; changes that will impact on candidates and electorate. These important J.E.A. positions have only just been advertised, leaving the interview, selection process to be completed and if the Appointments Commission wish to be involved in this decision or the process, this could result in further delays. Does the chair think that given the time that will be left after the process had been done, that there is adequate time to the Commission to set their policies and procedures in place?

Deputy C.S. Alves:

I would like to think that, yes, that there is enough time. The J.E.A. will not run the polling stations or count the votes or announce the results of the election. This will remain the role of the Autorisé, supported by the Judicial Greffe and the Parishes. It is very much business as usual for aspects of the election. The J.E.A. will simply be adding value and independent oversight to a robust system that already exists and was praised by the election observers.

4.9.2 Deputy J.M. Maçon:

Can the chair confirm that as part of the recruitment process that one of the key criteria that candidates will need to be able to express is impartiality and objectivity in order to be considered to be on the J.E.A.?

Deputy C.S. Alves:

I thank the Deputy for his question. The law excludes certain individuals from being appointed, these include anybody who has been a States Member in the last 12 months or is engaged in an occupation, whether that is paid or unpaid, which is seen to be a conflict. I have every faith in the Judicial Greffier and the Deputy Greffier's judgment in ensuring that the membership is impartial and apolitical. Once appointed the members will be also offered unconscious bias training.

4.9.3 Deputy J.M. Maçon:

What is being done to prevent the usual faces from applying and is the committee trying to attract a more diverse panel in this regard as well?

Deputy C.S. Alves:

I thank the Deputy again for his question. In the recent advertisement that we have put out, I have quoted that the States Assembly has a strong commitment to diversity and that we would really like the J.E.A. to be a balanced group of people in terms of gender, ethnicity, age, disability, sexual orientation, social-economic status, experience and skills. So in that ad that has gone out, I have asked and encouraged applicants, which will achieve that balance. It was mentioned earlier about whether the Appointments Commission would be involved in this. They have met this morning and this has been confirmed that we will have Kate Wright appointed as the commissioner for this role and that she will be supported by Simon Nash with the recruitment.

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

P.P.C. (Privileges and Procedures Committee) recently lodged R.165 Research Project: How might the Standing Orders of the States of Jersey respond to the formation of political parties? Is it the chair's intention to debate this before the next election?

Deputy C.S. Alves:

I thank the Deputy for his question. The report has been published. We intend to set up a sub-committee to look at the report and the recommendations that are coming out of that report. We will also take into account anything that comes out of the Democratic Accountability Sub-committee

which is chaired by Senator Vallois, so we are hoping that we will be able to put things in place and get any Standing Order changes through before the next election.

4.9.5 Deputy G.P. Southern:

Could the chair inform Members what has got in the way of the development of a single Island-wide register? With the development of the new larger areas, some areas will have even more, I think, possible polling sites and the existence of a single register would be best exploited in order to raise a polling station.

Deputy C.S. Alves:

That is kind of out of the remit of this question but I am quite happy to answer that. We were originally quoted a price for that. Unfortunately, due to COVID, there were delays that were experienced in getting this up and running and there was also a change in the project manager who then reassessed this project and came back to us with a quote that was significantly higher and just made it unachievable in time for the next election. So I am sure the Deputy is aware that I am really disappointed that this has happened because this was an area that I really wanted to see in place in time for the next election and I hope that the next P.P.C. will be able to look at options to ensure that this will be in place for the election after the next one.

Deputy G.P. Southern:

Supplementary if I may, Sir.

The Deputy Bailiff:

Yes, but try and make it connected to the original question, will you not?

4.9.6 Deputy G.P. Southern:

I shall attempt to, Sir, with your judgment. Can the chair indicate whether, in those areas that have 3 polling sites, each of those polling sites can be used by any of the voters in that election or not?

Deputy C.S. Alves:

So based on what has been passed, the current set up for the new districts are that voters will still have to vote within the districts that currently exist so, for example, although St. Saviour comes together to be one Parish and one district, the same polling stations will have to be used. So if you originally voted in the Maufant area, you will have to continue to vote in the Maufant area.

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

Can the chair tell us whether she really thinks one year is sufficient for people who have left the States when, in the past, we have previous people who, for example, went on the Electoral Commission. Definitely 2 out of 3 that I can think of were minded to go for a particular course of action and were not as objective as they should have been, so how is she going to achieve objectivity on the part of this panel?

Deputy C.S. Alves:

I thank the Deputy for the question. Just to reiterate the point that we do have the Appointments Commission involved in this process so they will ensure that there is objectivity there. Whether the 12 months is sufficient or not, personally, I think it is good to have somebody with some experience. However, if it does cause too much of a conflict, I think there are safeguards in place and there are enough people involved who will be able to counteract this and bring this up. The J.E.A. itself will evolve and they may suggest changes to their own membership in due course so this is really just a starting point.

4.10 Deputy M.R. Higgins of the Chair of the States Employment Board regarding Payment of damages (OQ.214/2021)

Further to Oral Question 151/2020, will the chair advise whether the matter to determine the amount in damages to be paid to Mr. Amar Alwitary following his successful legal action for a breach of contract against the Health and Social Services Department and the subsequent talks to decide the quantum of damages has concluded? If so, will he advise the Assembly of the amount that the Government has agreed to pay?

Senator J.A.N. Le Fondré (Chair, States Employment Board):

This States Employment Board inherited this case in 2019. Now the matter of Mr. Alwitary, a consultant ophthalmologist, arose from a situation in 2012 by the Royal Court who subsequently found he had been unlawfully dismissed. So this has been going for some 9 years and commenced on 2 S.E.B.s (States Employment Board) before the present one. The S.E.B. has done its very best to limit the damage as much as possible and has taken and followed extensive local and U.K. professional advice. So in terms of the numbers, the amount of the settlement is substantially less than has been put into the public domain and, therefore, as a result of the out-of-court settlement and following an act of the court, I can provide the following official statement: "The matter was resolved by way of a confidential out-of-court settlement whereby the States Employment Board has agreed to pay Mr. Alwitary £2,369,000 gross in respect of his claimed losses as a result of the termination of his contract of employment and neither party is entitled to comment further on the terms of the settlement. The net sum retained by Mr. Alwitary after he has settled his tax and other liabilities remains confidential. Some matters relating to costs remain outstanding and subject to further court determination and neither party can comment on this."

4.10.1 Deputy M.R. Higgins:

Can the Chief Minister also tell us, in terms of damages, what additional sums have been paid to cover legal costs?

Senator J.A.N. Le Fondré:

As I said at the very end of my statement, some matters relating to costs remain outstanding and subject to further court determination and neither party can comment on this.

4.11 Senator S.Y. Mézec of the Minister for Home Affairs regarding Accessibility of emergency services (OQ.225/2021)

Will the Minister outline what the process is for people with severe hearing impairments to contact the emergency services if they cannot speak over a telephone and will he further state what training, if any, emergency services responders have received to support individuals in this position?

Deputy G.C. Guida (The Minister for Home Affairs):

I am delighted to answer a question that has nothing to do with fishing. All 3 emergency services have dedicated mobile phones that allow those with severe hearing impairment to text the required service in the event of an emergency. All of these numbers are available on the Jersey Deaf Society website and published to the local deaf community. While there is no formal training provided, each service has a way of dealing with this. So, for example, the fire services do engage with charities and others around supporting deaf people and, for example, give specific smoke alarms for free for people who are hearing impaired. The ambulance service has provided some training on sign language and some books with statements written in them for specific medical conditions that people can point at, so there has been informal training in all services to deal with the matter.

4.11.1 Senator S.Y. Mézec:

I am grateful for that answer. I asked the question following a conversation with a young person who had some concerns over these areas. The Minister referred to a text message service. Could he confirm that that is rolled out across all of the emergency services?

Deputy G.C. Guida:

Yes, it is rolled out for all the emergency services. I checked myself and it is also on the government website so it is a service that it is available to all.

[11:45]

4.11.2 Deputy R.J. Ward:

The new integrated I.T. (information technology) system used in the joint police, fire and ambulance - the name of which I should remember because I have asked you about it a number of times but it has just left me - does that take account of those with hearing impairment? Is that a step forward in enabling people to contact the emergency services given that it is a new system?

Deputy G.C. Guida:

The answer is that I do not know and the system that we use now basically is cell phones, so there is a cell phone number. Anybody can use that cell phone number to text. The fact that the control room is now combined makes it much easier because a single number will get you any of the services. The new system could take this into account. It could use other methods of communication and this is something that we will look into.

4.11.3 Senator S.Y. Mézec:

The Minister said that there was no formal specified training for those working in emergency services when they encounter people with hearing impairments but he listed other things that they do. Does he think that there would be any benefit in formalising that training in any way?

Deputy G.C. Guida:

Yes, absolutely.

4.12 Deputy M. Tadier of the Minister for the Environment regarding Air quality monitoring (OQ.223/2021)

Further to the answer to Written Question 170/2018 in which the Minister stated that air quality across the Island is generally very good, will the Minister state the locations at which real-time air quality monitoring is currently being carried out around the Island?

Deputy J.H. Young (The Minister for the Environment):

Firstly, the Deputy's question gives me a chance to correct really I think my written answer. It should have said it is generally very good but there are exceptions in our urban areas. So I apologise for that omission there. Now the answer is there are 2 real-time air monitors located at Halkett Place above the market and at Howard Davis Park. These units have a monthly check to ensure they are working properly and they need to be sent to the U.K. annually for calibration and repair. We have that relationship that is longstanding and it works very well. Unfortunately, there are only a further 2 real-time monitors that remain working out of the 46 that we installed in schools and this was under an arrangement by a firm called Air Sensor who supplied these monitors to us free of charge. That is very, very disappointing. The data that we have is on the websites. There are 3 websites and the public can get them and, obviously, air quality monitoring is vitally important for Jersey but particularly around schools and congested streets. Obviously, the areas that we would like to do more monitoring on is around Rouge Bouillon, Helvetia, St. Luke's, those on Wellington Hill because obviously the evidence is that children's lungs are susceptible to poor air quality and it can negatively impact on their health as an adult. Of course that is one of the reasons why I think as well, in our climate change work, the removal of polluting vehicles in the streets is an issue. Anyway, so what I am going to do is I am instructed there is going to be a new programme of monitoring that will be risk-based and done with a U.K. company with experience in this and that of course means money

and therefore I am exploring the Climate Emergency Fund because, at the moment, there are no monies available for the project in the Government Plan.

4.12.1 Deputy M. Tadier:

That is all very interesting. I thank the Minister for the detail. The question arises in the context from not a town resident but a resident of Mont les Vaux in the St. Aubin/St. Brelade area who have pointed out to me that if there are only 2 live monitors and they are in town, how can the Minister assert that the air quality in the Island is generally very good? So he has possibly answered that indirectly but my supplementary would be to ask, first of all, is it necessary to get a U.K. company to come in to do air quality testing? Is this not something which should be within the remit of his department to do on the Island from within budget and, if not, why not?

Deputy J.H. Young:

As I said, my written answer should have had clarification. The wind speeds in Jersey are generally very high. Open areas generally enjoy better air than the urban areas so apologies for that. Can we do this ourselves? Well, if we get funding for it, then we will have to go to tender and I would be delighted if there is a local company that are prepared to help us with this but I have to say the resources are not cheap. It is important, if we are going to publish this data, that it is accurate, calibrated and reliable and that requires quite a lot of scientific skills. For example, it was recently pointed out - just to illustrate things that can go wrong - the monitor at Howard Davis Park is being affected by rain and upon checking that, it was found out that the unit was faulty. So this is the kind of specialist work and so I think I can tell Members that I am looking at the moment at around about £200,000 to set this up and so on. When we get things setup, I am sure we can run it within our own resources.

4.12.2 Deputy M.R. Higgins:

Can the Minister expand on this company that was monitoring the air around the schools when they stopped recording the information or when the machine stopped working and why no action was taken to ensure that schools were being monitored?

Deputy J.H. Young:

I think the Deputy raises a good point and it may be something that the Public Accounts Committee will need to look at if they are able to. I was informed about this project, as you know, early on in my Ministry and I was informed that this company had been introduced through Digital Jersey. I do not understand these terms. They call it a sandbox project, which is the idea that you can offer a firm to come along and trial technology free of charge and obviously it gives them a good test bed. Unfortunately, the project found that the pieces of equipment were not robust enough. They did not work. They were adversely affected by weather. Apparently they said: "Well, there are high winds and salt spray in the Island and that is just not good enough. We just cannot get them to work." I know that the director general has been communicating with a company. I think at the moment it is fair to say that we agree to disagree. I understand that the contractor or at least the firm is looking for a payment of £160,000. There was never a contract signed in order to be able to sort this out and my view is we should do this properly. Do it properly and restart the project, so I am sorry that I have been quite open about it but that is the position.

4.12.3 Deputy M.R. Higgins:

Can the Minister again tell us when it was discovered that the thing was not working and why steps were not taken immediately to try to get monitoring again of the schools?

Deputy J.H. Young:

I cannot be exact on the date. I will have to come back but I do believe that I have answered questions in the Assembly before on this. I think I have pointed it out at least 6 months ago, if not, longer. The

contractor I think has put forward the reason that they could not get the engineers to the Island during COVID and so on. There are all these excuses flying around but, nonetheless, that is the case. The action that I want to take - and I did ask the officers - is I want a new programme because Deputy Tadier is right. This is vital work and I have this week said: "This has to be an integral part of climate emergency work because it is a by-product." When we deal with vehicle issues, we deal with the air pollution issues. At the moment, none of the monitoring shows us that we are above the E.U. (European Union) limits but we know the E.U. limits are going to be tightened. My assumption is that Members will want to tighten Jersey's air quality limits even if we are not in the E.U. nonetheless, so that is still the direction of travel. At the moment, I am afraid it is about resourcing and money, I am sorry.

4.12.4 Deputy R.J. Ward:

Could I urge the Minister to just take it as read that something needs to be done about air pollution around schools such as Rouge Bouillon, Springfield, First Tower, town schools, Janvrin, the colleges during drop-off and all of the schools there because of the number of vehicles that are travelling to them? Unless the Minister can sit there and guarantee us that our children are breathing air that is safe for them, then it would be much better to take action now to stop cars idling outside schools, for example. Would the Minister at least commit to make that sort of action and perhaps, for once, support a free bus service so that children can go to school without being dropped off?

Deputy J.H. Young:

I might as well be open on this. I will be supporting a free bus service. I think we have messed around on this too long. I also think we need to connect to a school bus service for free but I will deal with that on another day but, nonetheless, yes, I will go with that. Now what can I do here? I have tried to be careful because this is a project that has gone wrong. We have to get it back. We do not have a law at the moment and I think the Minister for Infrastructure and I will work closely together on this because of the question of emissions standards in vehicles. We have polluting vehicles by the tonne in Jersey that would not be allowed anywhere near an inner-city area anywhere in Europe but nonetheless I think I can commit to doing that to see what we can do within existing frameworks to do something about school drop-off areas. It is not within my powers but I would like to see an arrangement where people do not sit there with their engines running, polluting playgrounds and the rest of it.

4.12.5 Deputy R.J. Ward:

Can I say to the Minister that I promise I would never be critical of you if you erred on the side of caution, took action and made the air cleaner around schools without the evidence that you are looking for because it would be better for our children. Can I ask whether the Minister would just get somebody in government somewhere to start a campaign about idling around schools and educating parents about polluting around schools as a matter of urgency because we are not taking any steps? We are waiting but we are not acting so could I urge the Minister please just to say: "Yes, I will take some action tomorrow"? I am happy to come and support and knock on the car windows and say: "Please stop your car idling" as I have done a number of times and nobody has hit me yet.

Deputy J.H. Young:

I will commit to working with the Minister for Children and Education and the Minister for Infrastructure. I do not see any reason why we could not have a campaign. We have a big comms team. Let us get them on the task.

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

The Minister is right in saying that he has told the States before that these air quality monitoring sensors are not working but does he not think that it is a shocking indictment to this Government that here we are with the C.O.P. 26 (Climate Change Conference) thoughts happening in Glasgow and, in Jersey, we cannot even do air quality monitoring? They have been doing it in other urban centres

for decades and we are talking about having a test bed. Will the Minister not treat this as a matter of absolute priority to work with the Council of Ministers so that Jersey can get its act together on air quality monitoring particularly in the urban areas.

Deputy J.H. Young:

I absolutely agree.

4.12.7 Deputy M. Tadier:

We already know the place in the Island which has the worst air quality, and that is the tunnel, and my question to the Minister as the final supplementary is if, when we know the information about where the air quality is bad, he does not do anything about it and the department does not do anything about it because they allow people to walk through the tunnel perhaps 4 times a day with a pram and they think that is okay, what is the point in spending £150,000 and giving that to the U.K. company to tell us where the air quality is bad if the Minister is not going to do anything about it? Would it not be better to spend that money on doing what we know needs to be done in the Island?

Deputy J.H. Young:

Of course the Deputy is right. One of the frustrations in my job is the legacy of complete laissez-faire about our environment. We have seen change in recent years, thankfully, but trying to turn around a situation where we do not have laws, we do not have the resources, we do not have the people in place, it is not going to happen straightaway. One of the things that I am committed to doing is I will do absolutely everything I can during my tenure and my plan is to produce a legacy report with the priorities for Members. I am open to Members bringing amendments to the Government Plan. There is an invitation on this because I think it is crucial.

The Deputy Bailiff:

Thank you. There is only about 12 minutes left for the last 4 questions, I do remind Members.

4.13 Deputy M.R. Higgins of the Minister for the Health and Social Services regarding Data Breaches (OQ.221/2021)

Has the Minister received any advice from the Office of the Information Commissioner that members of the public are not in breach of data protection legislation if they secretly record meetings that they have with social workers to keep a record of such meetings provided the recordings are not made available on social media?

[12:00]

The Deputy of St. Ouen (The Minister for Health and Social Services):

This matter has been discussed with the Office of the Information Commissioner and our understanding is that, while social workers can expect to be recorded, issues can arise when the person making the recording uses it for something other than their own personal use. Personal use might be, for example, to aid recollection of a conversation or to share with a legitimate party who was not present during the conversation such as a legal representative or family member. However, if the recorder uses the recording for other purposes, i.e. it is subsequently published more widely than their own household, then it is my understanding that they would become a data controller and the full scope of the Data Protection Law will take effect.

4.13.1 Deputy M.R. Higgins:

Would the Minister say that it is acceptable for any civil servant to basically threaten people who have recorded a conversation and tell them that they were in breach of the Data Protection Law when they were not and this happened on occasions? Would he certainly encourage, throughout the whole

of the civil service, that they must not try to discourage people from using these recordings for legitimate purposes?

The Deputy of St. Ouen:

Any threats issued at any time are unacceptable but I think the parameters are clear here. Where it is established that the recording is for personal use only, then that is permissible and this means that there must be a conversation at the outset from the person intending to make the recording to inform the officer that it will be recorded and to confirm how they intend to use the recording. I think it is a bit of give and take with good communication on both sides.

Deputy M.R. Higgins:

With respect, the Information Commissioner told me personally they do not have to tell people that they are recording.

The Deputy Bailiff:

Well, you are commenting now on an answer.

4.14 Deputy G.P. Southern of the Minister for Children and Education regarding Putting Children First (OQ.216/2021)

Following comments made by Haute Vallée’s chair of governors at a recent Scrutiny Panel Hearing, will the Minister advise what action he intends to take to reassure students and staff at the school that he is committed to putting children and young people first?

Deputy S.M. Wickenden (The Minister for Children and Education):

I am committed to putting children first. I am ensuring the extensive work of my officers in carrying out a consultation with schools to continue to deliver improvements to the funding and provision within them. Following the independent school funding review, £11.2 million of additional money will be going into the education system next year, £2.3 million increased funding to Jersey Premium, students with low prior attainment, special educational needs in English and additional language, £5.5 million to fund the deficits within schools, £300,000 in additional funding for education, psychology, mental health and well-being and over £1 million for teacher training. The new school funding formula will distribute much of this funding to where it is needed. It is still undeveloped and my officers are continuing to work with the schools representatives to finish the task. When time allows between diaries, I will be going to speak to the head of Haute Vallée and hopefully the chair of the board of governors and I can tell you that, at a Children’s Day where we attended Haute Vallée School this year. A BBC reporter went up to children at the school and asked them the very question: “Do you think this Government is putting children first?” and they said: “Yes.” They said: “Yes, I do believe they are. If they were not, we would not have a Children’s Day” is the answer. So, I will be speaking to the school and trying to work out where this breakdown in communications came from and ask what I can do more.

4.14.1 Deputy G.P. Southern:

It is my understanding that when the pledge to support young people and children was first made, the Minister did not sign it. Can the Minister inform Members what his objection to the signing of the pledge was and what has changed in the intervening time?

Deputy S.M. Wickenden:

I made that quite clear in media statements why I was not signing the pledge at the initial outset due to the fact of not being a Minister, not being an Assistant Minister and being a Back-Bencher, the wording of the pledge set out to make me sign something that said I would achieve something that was not within my power. As soon as I became Assistant Chief Minister and Assistant Minister for Social Security and had the power to enact on the words of the pledge, I signed the pledge.

4.14.2 Deputy R.J. Ward:

Just on that last answer, is the Minister therefore implying that if you are not in Government then you cannot act to put children first?

Deputy S.M. Wickenden:

No, it is not what I am saying at all. I was saying the wording of the pledge itself made promises to do certain acts that were not within the power of me in the position I held.

4.14.3 Deputy R.J. Ward:

Can I ask the Minister how he suggests that, if you are not in Government, you do act to put children first if you have signed the pledge?

Deputy S.M. Wickenden:

I do not think that I could answer the question on other people's behalf.

4.14.4 Deputy G.P. Southern:

I wish the Minister would answer on his own behalf. The Minister says that his remarks about digging up the roads were misquoted. If that is the case, what did he say?

Deputy S.M. Wickenden:

Anyone can listen back to the Scrutiny hearing yesterday where I did say the words the pot is the pot, what do you want us to do, to stop digging up the roads never left my mouth to anyone unless I was reiterating what was said by the chair of the board of governors. What I did was explain to the former chair of the board of governors while at a meeting how the Government Plan works with funding allocations, saying that if we were to put more money in one area, it has to come from another area. A discussion would have to take place with the Minister responsible for that area to ask if they have less money in their budgets, what would that look like and what services would that change within their department? It was merely an information to the former chair of the board of governors on how funding and allocations of funds works within the Government Plan.

The Deputy Bailiff:

We have had the final supplementary but I have just seen, Deputy Tadier, I think you have asked a question in the chat which I overlooked. You can ask it but I was anxious that Deputy Ward's question is reached and perhaps Deputy Gardiner's.

4.14.5 Deputy M. Tadier:

I was going to ask, the Minister said that he has now signed the children's pledge because he can now do something about it, but does he acknowledge that earlier he said that if he wanted more money for education he could not do that himself, he would have to go to the Minister for Treasury and Resources and it would have to be decided by the Council of Ministers? Does he still accept that he has not really got any power to put children first because it is subject to the Minister for Treasury and Resources and the Council of Ministers agreeing with him?

Deputy S.M. Wickenden:

I have the power to go to my officers to ask for a report to be written to give the evidence so I can go to the Council of Ministers to ask for the funding to be changed or for extra funding. That is within my power as the Minister, to go to the Council of Ministers, to go to the Treasury Department, to have officers work on evidence that I can bring forward for that. So I do not agree that I do not have the power to put children first; the power is in my remit to go through the process as set out in the laws of this Island.

Deputy M. Tadier:

I suppose a supplementary ... I do not know if I can.

The Deputy Bailiff:

I do not think there is time otherwise we will never get to Deputy Ward's question.

4.15 Deputy R.J. Ward of the Chief Minister regarding ...

Will the Minister state the total number of individuals currently residing in Jersey that are classified as 2(1)(e) high-value residents, and advise whether or not any serving States Members hold this status?

Senator L.J. Farnham (Deputy Chief Minister - rapporteur):

The Chief Minister has asked me to respond in my capacity as chair of the Housing and Work Advisory Group. Revenue Jersey received 220 tax returns for the year 2020 of assessment from individuals classed as high-value residents; so 220. I do not think it is appropriate to disclose the tax status of any individual, whether they be a Member of the States Assembly or an Islander, in this current forum in response to this question.

4.15.1 Deputy R.J. Ward:

Does the Minister believe, given the role we have as States Members, that should be something which should be declared in the declaration of interest if your residency is via being a high-value resident?

Senator L.J. Farnham:

I would have to think about whether as Members we should have to declare our tax status. I am afraid I cannot decide on the hoof possibly but it would need further thought, perhaps a debate.

4.15.2 Deputy S.M. Ahier:

Does the Minister intend to carry out a review of the 2(1)(e) scheme in 2022 since there has not been one since December 2016?

Senator L.J. Farnham:

We are currently reviewing the requirements for entry into the Island under this status. The aim is to limit the numbers somewhat. The average number of permissions granted over the last 5 years has been 18 per annum and to do that we have been raising the entry criteria, so we are reviewing that process currently. There are no firm plans to have another full review prior to the end of this Government. However, I would say that in light of the challenges we are facing, especially in relation to housing, I think, after having further discussions with members of the Housing and Work Advisory Group, we might change our mind. I can say, given the current situation, the urgent situation around housing, I think it is likely we could look at that more closely during the course of this Government.

The Deputy Bailiff:

I regret to say that the time for asking oral questions has now come to an end.

Deputy G.P. Southern:

I think I have a point of order. Could the chair consult with Members as to, if there is a 2(1)(e) represented in this Chamber, when we discuss directly how much we charge 2(1)(e)s that they should declare an interest?

The Deputy Bailiff:

Yes, that is a matter which can be considered. We now move on to the urgent oral question that has been approved to be asked by the Connétable of St. Brelade to the Minister for the Environment in respect of the current fishing disagreement with France. I will allow 10 minutes of supplementary questions in relation to that question when it has been asked.

[Please note that the Minister for Children and Education provided the following response in writing in accordance with Standing Order 63(9) to the Oral Question from Deputy I. Gardiner of St. Helier which was not asked before the end of the time allowed for Oral Questions due to time constraints.

Question

Has the Minister received the results of the primary school estate review in St. Helier; and, if so, will he update members on the outcome of the review?

Answer

On Friday last week I received a briefing from officers on the latest draft of the report. The outcome is a wealth of detailed analysis has been carried out and a range of potential scenarios are included in the report. These detail options for new schools on new sites, and possible extensions to current schools. The report will be further progressed before recommendations are discussed by the Corporate Asset Management Board, the Regeneration Steering Group and the Council of Ministers. Sites will be identified in accordance with the Deputy's proposition (as amended) P.43/2021]

5. Urgent Oral Question - Fishing

5.1 The Connétable of St. Brelade of the Minister for the Environment regarding ...

With your leave, I will just alter a couple of the words of the question in the light of activities late last night. Given that border inspection posts have been threatened to be closed by the French Government in St. Malo and Granville, will the Minister advise what further action, if any, the Government intends to take to prevent E.U. fishing vessels from working in Jersey waters while Jersey vessels may be prevented from landing catches in their usual markets? I will leave the last part of the question as it, I think, has already been covered by the question.

Deputy J.H. Young (The Minister for the Environment):

I am probably going to need to amend my answer in view of the overnight news. I would like to start by saying that the border inspection post cited in the question, there is no border inspection post in Granville. We have been seeking a border inspection post in Granville for almost a year now and that, despite promises, has never manifested. There is, however, a border inspection post in St. Malo which we have had to use, and I have not had reports yet about whether it is open today or not but certainly it was threatened; we were told on Friday afternoon it was going to be closed. Following discussions between representatives of the French Government, the E.U. Commission and the U.K. Government with our officer input throughout yesterday and political input we know of course now the French Government announced it is not going to implement the proposed retaliatory measures. I have not yet heard what the intention is other than what I heard on the radio this morning, that there are to be meetings on Thursday.

[12:15]

We will of course continue to work closely with parties during those discussions and I think we have to be hopeful - I do not think one can put it stronger than that - that the current situation can be resolved through these diplomatic channels. So to specifically answer what action are we taking to prevent E.U. fishing vessels from working in Jersey waters, at the moment none. I have asked though for advice about the suggestion that was put forward by the Jersey Fishermen's Association. I formally asked for that advice to go through our lawyers because my stance on it is, whatever is done - if that is necessary, and we hope it is not - it needs to be done in accordance with law and in accordance with compliance of the agreement that Jersey signed. Now on the matter of economic support, obviously Members know that this sits outside my Ministerial remit and sits within the remit of the Minister for Economic Development, Tourism, Sport and Culture ...

The Deputy Bailiff:

I think that part of the question was withdrawn, was it not?

Deputy J.H. Young:

I do beg your pardon, thank you.

The Deputy Bailiff:

Is that right?

The Connétable of St. Brelade:

Yes, in the light of the developments last night, we have not arrived at that yet but we may well have cause to do so and I would like to address that in a supplementary later on, if I may.

The Deputy Bailiff:

Well there will be one supplementary, will there not, I would have thought? Do you want to ask that question now?

5.1.1 The Connétable of St. Brelade:

Well, yes, I can put it in such a way that if the situation prevailed whereby border inspection posts remained closed and our fishermen were prevented from landing their catches in France, would the Economic Development Department, would the Minister, would the Government be in a position to support our fishermen swiftly, as they will be unable to learn a living?

Deputy J.H. Young:

Yes, I have been provided in a note details of both the support that has been in place so far to the industry, because the industry has had disruption all along, and also what is in the pipeline. I will leave it to later on for the Minister concerned to elaborate on that. But phase one support for the fishery support scheme, fixed cost and salaries for May to August 2021 ran successfully. Eighteen fisheries claimed support and 7 businesses claimed fixed cost support. Phase 2 of the fishery support scheme has been approved and is pending Treasury approval and we hope that will be open for applications very shortly. Phase one of the freight support, this is for exporters who export produce to Europe, forms are going out and applications are invited this week. Phase 2 of freight support is ready to be allocated depending on conditions. This will be for the remainder of this year. So I think from those details, I have summarised them, I feel confident that all Ministers, myself, the Chief Minister, the Minister for External Relations and Financial Services, we are all clear, our industry has already been disrupted, if we get more disruption we have to support the industry while we get through this difficult period of the agreement.

5.1.2 Deputy M. Tadier:

I have to say this whole episode pains me as a Francophile and francophone but I am wondering whether we are getting to the position where the French are going to tell us to stop fishing in our own waters and our own Ministers roll over and say: "Okay, we will not fish in our waters but you can come and fish here if you want to." Has the Minister seen a suggestion put forward by a member of the public where it was suggested that he should ban all fishing for a period, let us say, of 6 months or a year and that we should - and this was not the suggestion - but presumably that we should pay our fishermen and fisherwomen to be furloughed for that period as well as providing a breathing space for negotiations to happen? It would mean that nobody, French or Jersey, would be able to fish in our waters but it would also mean that our fishers would not be at a loss because they could be compensated. Is that something that the Minister has considered as a potential positive although it would be a radical step?

Deputy J.H. Young:

No, I have not seen that proposal. I have seen the request of the Jersey Fishermen's Association who met in-committee last, I think, Saturday. They proposed a period - both Jersey boats and E.U. boats - where fishing was suspended in certain parts of their fishery which I think were the most sensitive parts. We were asked to consider that. At the present time, our officers are certainly taking advice on that because, as I mentioned, whatever is done needs to be in accordance with the legal rules. We have not had a chance to discuss that politically. Efforts have gone into resolving the issue of the number of licences because it is the number of licences that has brought us to this point. I am sure Members know we have issued 162 licences and there are a number of licences which I believe the French accept are not justified and should be withdrawn, and there are a small number at issue. So I think that is where we have got to, that is where our priority has been. But nonetheless, none of us can predict the next few days, and so I think taking advice on whatever options are put forward, we will need to do. The agreement does have, I am advised, clauses within it for dispute mechanisms and so on. What I do not know yet are the details of how, when and who that would go by, how that would be done if it was necessary. But all efforts are working to avoid that situation but never sticking outside the rules of the Trade and Co-operation Agreement because I think that would put Jersey in a very bad position, an indefensible one.

5.1.3 Deputy M. Tadier:

Could the Minister state that if Jersey wanted to say: "These are our waters and the only people who can fish in our waters are Jersey-registered fishing vessels. If you are not from Jersey, if you are from the E.U., you must stick to your own waters", is that a position that is now possible. If it is not currently possible, what steps would need to be taken in order to make that happen? This goes to the very heart of what level of autonomy we have.

Deputy J.H. Young:

All the advice I have had that under international law, under our obligations in statute and under contracts and agreements internationally, that would not be possible. That is all the advice I have had. If you want chapter and verse on that, I think it would need - and I would perhaps invite the Deputy - questions to the Attorney General at the appropriate time because my understanding is, no, that would not be possible and, frankly, nor do I think it would be sensible, it would absolutely enflame the situation.

5.1.4 The Deputy of St. Martin:

It is absolutely right that we continue to abide by the terms of the T.E.C.A. (Trade and Economic Co-operation Agreement) and act within the law. It is also absolutely right that we continue to try to find ways to allow those French fishermen who have legitimately got a living from fishing in our waters to continue to do so in the future. But does the Minister recognise the frustration of the local fleet where they find themselves fishing literally sometimes a stone's throw away from French boats and yet those French boats can return lobsters to the French continent without going through a border inspection post? Yet, the Jersey lobsters landed literally a few metres away from them come back to Jersey and either have to go through a border inspection post or, worse still, potentially in the future, not be able to be landed in a French port at all.

Deputy J.H. Young:

Not only do I understand it, it pains me, and I ask: "How did we get to this place?" Of course, over the years, absolutely right, as the Deputy says, historically Jersey and French fishermen have shared these waters around these islands for decades, if not centuries. Informal agreements have gone on, friendships are there, personal knowledge, all those family connections, and none of the distortions that have now arisen have occurred. But of course why did it happen? We had a Bay of Granville Agreement that was indeed far from perfect but I am told it took 9 years for politicians who were responsible at the time, decades ago, to get that agreement. It basically worked to a degree but of

course in recent years it worked much less well and of course when Brexit came along, it soured it, soured the relationships. We did not design the T.E.C.A., it was put together in a few days at the end of negotiations where other parties were at the table, and we had one choice: take it or not. We chose to take it and I think we need to honour that and see it through. I hope I have picked up in that answer all the points of the Deputy. If I have not, I apologise, I will pick them up.

5.1.5 Deputy M.R. Higgins:

No one would accept that the old French fishing boats that want a licence should have one because they cannot prove that they are in our waters. We know the French politicians have an election coming up early next year and are going to fight for this and posture and all the rest of it. Can the Minister tell me, though, with 160 licences having been issued, and more possible, has there been a watering-down of our position and the evidence that the French have got to do? Because, if I am not mistaken, I think our own fishermen believe there are far more licences being issued than they expected.

Deputy J.H. Young:

I will try and give as best guidance I can but of course out of the 162, we have given a number of temporary licences, 49, and those licences will be temporary because they will expire at the end of January 2022. The purpose of that is to allow those fishermen to complete the production of evidence. They are on that list because there was some evidence but not enough to fulfil the qualifying criteria. They were put on that list; therefore, the task now is for the E.U. and the French to produce that information. If that information does not come, then those licences will end and we will then be back to the 113 licences where we are fully satisfied they are in the category that Deputy Luce spoke of, those people that have fished traditionally in our waters, relied on Jersey waters for their means and are permanent ongoing licences that we issue, and that is 113. As I say, there are still 55 out there, as it were, where there is no evidence whatsoever.

The Deputy Bailiff:

The 10 minutes that I allowed for responding to this urgent question have expired but in view of the fact that there are 2 Members who still wish to ask questions, I think I am entitled under Standing Order 15 to extend the time for them to ask their questions; I believe the Connétable of St. Ouen and Deputy Ward.

5.1.6 The Connétable of St. Ouen:

I think I heard in the Minister's response that all licences that have been issued so far have been in conformity with the T.E.C.A. or are working their way towards conformity but one of the earlier questions suggested that we have watered-down our position. Could the Minister just clarify, so that we are absolutely clear about this, in the medium term there will be no watering-down of the provisions of the T.E.C.A. and if a French fishing vessel wants to fish in Jersey waters, they have to provide the appropriate evidence as set out in the T.E.C.A. and that there will be no variation on those terms?

Deputy J.H. Young:

I cannot give the undertaking as Minister, and Deputy Guida and I have worked very closely on this. Deputy Guida, in everything he has said has said the same, in order to gain licences E.U. vessels need to meet the qualifying criteria, and the agreement is quite specific about that, and they need to produce the evidence. Where we have got that evidence we have given them licences, as I said, 113. We have got enough evidence, there is no need to go over that issue again. But I think the data flows have been confusing; I think Members know that from the various comments. We have had to use lots of different determinative sources. The data flow from the E.U. through the U.K. to Jersey has been, I will be frank, shambolic. Shambolic. We have had to unpick this and our officers have worked flat out. Even late this weekend, we have not got enough time, but I could go into all the

data sources we have had to do. We have not put those temporary licences on that list with no foundation and that is why we have resisted the others and said no, they cannot go on that orange list because there is no evidence. Give us the evidence. Having said that, if one of these boats comes out of the woodwork later in time and says: "Here is the evidence" they will get a licence.

[12:30]

5.1.7 The Connétable of St. Brelade:

Am I able to ask a final supplementary? Would the Minister agree that this situation needs to be resolved for the long term and that short-term fudges, if I may refer to the continued extensions as that, are just not acceptable to our fishing fleet who had to make decisions as to whether they should continue to invest in the industry or not and that he will consider as paramount the need to preserve our fish stocks in our waters for future generations?

Deputy J.H. Young:

Absolutely, but I would highlight one matter. I am sorry to have to highlight it, I think I need to put it on record, at the moment the issue to be resolved definitively is the number of licences. There is an issue where we have to jump that hurdle, which is negotiations in some form over what is called the "nature and extent clause" which is the details of these licences that allows what type of fishing métier and the limits of that, catch limits and all those sorts of things. At the moment the E.U. has required us to suspend that and we have got no choice in that, so I am afraid there is a journey to be done. I am sure the Connétable's supplementary is absolutely right, that is why we are going to have to keep at this for some time.

The Deputy Bailiff:

We now move to Questions to Ministers without notice. The first period is set aside for questions to the Minister for Housing and Communities.

6. Questions to Ministers without notice - The Minister for Housing and Communities

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

We hear all the time about affordable housing but, for certainty, will the Minister please tell us what is the Government's definition of affordable housing?

Deputy R. Labey of St. Helier (The Minister for Housing and Communities):

The Government's definition of affordable housing has just been published. It is on the government website, it runs into 3 pages, but effectively it is making available housing to buy or rent for those who would not be able to afford to do so on the open market.

6.1.1 The Connétable of St. Lawrence:

For those intending to purchase, what does the Government expect an affordable home to cost?

Deputy R. Labey:

I have not been asked to alter those benchmarks yet, the financial benchmarks; that will inevitably happen in the coming year. But it is important we have the affordable housing definition so that when we are negotiating for sites in the bridging Island Plan that those sites are designated for affordable housing which will affect the purchase price, otherwise we will not be able to deliver affordable housing on these sites, so that is why it is important at the moment.

6.2 Senator S.Y. Mézec:

Does the Minister think that a potential total contribution of 173 affordable homes out of 1,250 on the government-owned land of the waterfront and South Hill is a satisfactory contribution when there are 3,000 applications live on the Affordable Housing Gateway?

Deputy R. Labey:

The Affordable Housing Gateway figures, currently there are 1,426 people wanting to purchase on the Gateway. There are another 641 who want to move from private rental to avail themselves of Andium services on the Gateway, so that gives us 2,067. There are also 423 current residents of Andium Homes who want to move to a different Andium Homes property, so you get 2 bites of that cherry as they will be releasing, so it is not as much as 3,000. Andium Homes has committed to the delivery of 3,000 new homes by 2030; 2,000 of which will be for affordable rental and 1,000 for affordable sale. Over the same period, 600 homes from Andium's existing stock will be offered to first-home buyers. Andium has already delivered 553 homes, are on site delivering a further 590 new homes and are in contract for delivery of a further 676 homes. This provides 1,819 new homes with opportunities identified on alternative sites to achieve the overall target of 3,000. We want to smash the Gateway waiting list, no question, and we need to smash it before 2030 after which the waterfront homes will be delivered.

Senator S.Y. Mézec:

Rather than a supplementary question, could I instead raise a point of order under Standing Order 65(4)(b) which is that in questions without notice the answer has to be relevant to the question. The key part of my question was whether 173 affordable homes out of 1,250 on the waterfront and South Hill was a satisfactory contribution and I do not believe he offered a straightforward answer to that specific point.

The Deputy Bailiff:

Well, the Minister did provide you with detail of 3,000 homes in the pipeline, 1,800 of which were being built or about to be built which, in my view, is sufficiently relevant to the question but you can ask a supplementary.

Senator S.Y. Mézec:

Well, really, all that is context, it is not whether he is satisfied with the current proposal. I would like him on record, since there is a proposition coming up on this, whether he thinks the current proposal is satisfactory or not. He did not say in his answer ...

The Deputy Bailiff:

Well you can ask a supplementary question.

6.2.1 Senator S.Y. Mézec:

I think that should have been a point of order because I think his answer was not relevant, so I have to waste my supplementary which is asking my initial question again. Is he satisfied with 173 affordable homes out of 1,250 on land we own being a satisfactory contribution to the affordable housing that the Island needs or would he prefer it to be a substantially greater amount?

Deputy R. Labey:

I had nothing to do with the development of either South Hill or the waterfront. That happened in 2018, 2019, 2020 when I was not Minister for Housing and Communities. I had nothing to do with it, I inherited it. The first thing I have been able to do productively with South Hill or the waterfront site is to get one chunk of revenue from South Hill, which is the commercial value of the site which was going back into government coffers of £13 million, and I have managed to hypothecate that to assist with affordable housing. Now, I want to know what the Senator's 30 per cent or 50 per cent is going to do to my £13 million and whether there will be anything left of it after that. I also need to know other figures on 30 per cent and 50 per cent and the implications for the waterfront scheme as a whole. It is not unreasonable to want to have that information and we are going to be putting the chief executive officer of both Andium Homes and the States of Jersey Development Company and

the Treasurer before the Assembly in advance of the debate so that we can drill down and get these questions answered.

Senator S.Y. Mézec:

Can I attempt to make the same point of order again, please?

The Deputy Bailiff:

I am not sure you have answered the question, Minister. Do you want to ask the question again?

Senator S.Y. Mézec:

Well, I would raise a point of order, I am asking if he is satisfied. I think that can be answered with a yes or no and we have not had ...

The Deputy Bailiff:

Well it can certainly be answered. Ask the question one more time so it is clear in the Minister's mind what you are asking.

Senator S.Y. Mézec:

There are proposals through the S.o.J.D.C. to produce 1,250 properties on government-owned land on the waterfront and on South Hill. Currently, only potentially 173 of those will be allocated for affordable housing. I would like the Minister to answer - and he can do this yes or no if he would like to - whether he is satisfied with that as a proportion? Is that something he is comfortable with, happy with and thinks meets his aspirations for affordable housing in the Island?

The Deputy Bailiff:

Answer the question, Minister.

Deputy R. Labey:

I will not be satisfied until we have caught up with the 2,000 fewer homes than we should have built in the decade from 2010 to 2020, until we have smashed that waiting list on the Gateway, until we have provided all the affordable products that we can to satisfy the market. But I have to say, I am concerned about elements of the Senator's proposition, if we combine with banning States of Jersey Development Company to develop category (b) housing units on States-owned land, ban that, at the same time as introducing mandatory (h)(3) for the private sector, that worries me because, while the affordable housing is a total priority of mine, we absolutely must supply the open market, otherwise it is going to continue to inflate and that has ongoing issues with our ridiculous housing prices.

6.3 The Connétable of St. Helier:

What assistance can the Minister give the residents of Marett Court in St. Helier who are being given notice to quit? Is his department working with Andium to provide homes for these residents, many of whom are elderly?

Deputy R. Labey:

Well I can talk about this because it affects quite a lot of the residents. A significant number of residents of Marett Court who are with one landlord have been served notice to quit, to leave, because the landlord is disposing of those apartments, which of course he is entitled to do so. It has caused a lot of problems, at times stress, because, as the Constable says, some of these residents are in their 70s or 80s and some of them have been there for 2 or 3 decades or more. So, in the summer I spoke to the agents of the landlord and asked for a sympathetic treatment of these people and very careful handling. I informed them that it would be some time before so many of them could be relocated and they would have to be patient; the agents and the landlord would have to be patient. I also have consulted with Andium Homes, firstly, to say: "Well could you buy the whole lot of them and then

gradually sell them off?" But what they have done is written to all the residents affected, I say to the Constable, to inform them that they are confident - Andium are confident - that they can rehouse them through the course of 2022. So my advice - and this is really important - is that these tenants must stay in their Marett Court property unless they can find elsewhere to go privately. They must stay there until they have suitable accommodation to go to. They must not make themselves homeless, they are not being evicted. The courts are the ones that can evict, not landlords.

6.3.1 The Connétable of St. Helier:

I am grateful to the Minister for his clarification and his reassurance. The wider issue of housing conditions in Havre des Pas will be well known to the Minister as he is a Deputy for No. 1 District and attends the monthly meetings of the residents with the other Deputies which I chair, one of which is going to be tomorrow. Does the Minister think that the Government is doing enough for Havre des Pas residents generally? This is a highly, very densely occupied part of St. Helier with very little green space, very little parking for residents, does he feel that perhaps the Government Plan should have more in it for Havre des Pas than is currently the case? Thank you.

Deputy R. Labey:

Well, I have gone into bat for Havre des Pas since I arrived in this Chamber in 2014 and I am sorry that we have not done more. I am sorry that the Green Street one-way is not completed and we have a slight compromise with it which is worrying me and I hope we can one day move to something better. I think that it is important that residents of a particular area - and I am pleased if it is going to be designated as a site of special interest or whatever it is in the new Bridging Island Plan - when they take ownership of the area in which they live and want to see improvements, I think it is very important that government listens to them and residents groups are a very good way for residents to make their voice heard.

6.4 Deputy G.J. Truscott of St. Brelade:

I emailed the Minister about a month ago with details of a U.K. company called ZED PODS who specialise in providing affordable modular homes. I would just like to know if the Minister made contact with that company and, if he did, could he just advise what transpired from that meeting?

Deputy R. Labey:

I have not yet done that, I apologise to the Deputy. As the Assembly I think will know, I have set up a working party to scope modern methods of construction and the ZED PODS would seem to fit into that. But one of the things that came out of my Housing Partnership Board, which had its inaugural meeting in September, was other work being done by other parties, including Andium.

[12:45]

So what I am going to do now is have my M.M.C. (Modern Methods of Construction) join forces with Andium's and others so that we all work on the same thing together. But I will get in contact with the ZED PODS people.

6.5 Deputy G.P. Southern:

I understand that Marett Court's single landlord owns the majority of the flats there, I just wondered was the Minister aware of the identity of the landlord and is he or she a resident of the Island or are they foreign landlords just profiting from residencies on the Island?

Deputy R. Labey:

I do know the name of the landlord on this occasion. I do not think they are a foreign landlord, I am pretty certain they are based here. I did ask for a meeting with the landlord and his agents; I only got a meeting with the agents. But it is not the majority of flats in Marett Court we are concerned with this issue, it is about 40.

6.6 Senator K.L. Moore:

Given the anecdotal evidence, both from the Comptroller of Revenue and from other sources that a significant number of people have left residence of the Island, what updates has the Minister received or research has he done that he might be able to share with us to understand the continuing causes and contributing factors to our ongoing housing crisis in light of this change in numbers of people residing here?

Deputy R. Labey:

This is anecdotal because the supposed mass exodus that happened around the start of COVID has not been reflected, for instance, in the school population. We might expect, if it was transient workers, to see a drop in the population of school children, for example, with English not as their mother tongue or first language, and that has not happened. So, whether members of a family have gone and left other parts of their family, we do not know. That is work that has to be done, and it is not something that I have looked into. But what I am doing, we have got the Housing Advisory Service up and running, the homelessness strategy, I have got a market review now into how best we can target the money for assisted purchase for people. They will also be looking at my ideas to introduce a scheme to flip empty properties. They will also be scoping the situation as regard to shortfalls and the demand for key worker accommodation, how we can deliver that. That is a short, sharp review that will give me their report and results by Christmas.

6.6.1 Senator K.L. Moore:

Could the Minister confirm that he is going to have a more robust and up-to-date method of being across housing supply and needs within our community going forward?

Deputy R. Labey:

Yes, absolutely and totally. One of the things I missed off my list just now was the new housing strategy and regeneration function, which is another recommendation of the Policy Development Board we have enacted. That has been up and running now from 1st September. It is very busy and very useful and already paying dividends and that is going to help us.

The Deputy Bailiff:

That concludes the questions for this Minister.

LUNCHEON ADJOURNMENT PROPOSED

The Deputy Bailiff:

Yes, the adjournment is proposed. Does any Member wish to speak on the adjournment? The States stand adjourned until 2.15 p.m.

[12:49]

LUNCHEON ADJOURNMENT

[14:18]

The Deputy Bailiff:

The second question period consists of questions for the Minister for Economic Development, Tourism, Sport and Culture.

7. Questions to Ministers without notice - The Minister for Economic Development, Tourism, Sport and Culture

7.1 Senator S.Y. Mézec:

In answer to a written question provided last week, a question from the Constable of St. John, listed the actions that this Minister and others have taken in response to the appalling slaughter of dolphins undertaken in the Faroe Islands. It was noticeable because it was very different from any sort of list of actions we have tried to require for their actions against the Arab dictatorships for their slaughter of human beings. Would the Minister agree that there is a philosophical inconsistency here when this Government seems to be able to be more free to talk rightly about the slaughter of dolphins but not the slaughter of human beings? Would he think that a different approach on our response to international human rights abuses would be a good thing?

Senator L.J. Farnham (The Minister for Economic Development, Tourism, Sport and Culture):

Jersey is aligned with many countries in believing that the progress of human rights in countries is best dealt with through a process of constructive engagement, be it through political activity or through economic and business ties. I share the Senator's and Members' concerns in very poor human rights records in some of these countries. But we also have a responsibility to protect the environment and protect the planet and look after the wildlife on it. There is absolutely no excuse, no reason or rationale, for the absolute unnecessary and brutal slaughter of over 1,400 dolphins in a single day in the Faroe Islands. I have written to the Island Games Association because, while sport sometimes should transcend politics, it should not be a safe haven for the perpetrators of such brutal slaughter.

7.1.1 Senator S.Y. Mézec:

I entirely agree with what the Minister has just said and I would welcome him making the communications that he has said he has taken. But could I urge him in the same light to undertake similar measures when it comes to those countries all around the world, but in particular with our engagements with the Arab dictators whose human rights abuses are unforgiveable and appalling, where it appears no such communications have been made, like the strong ones made about the situation in the Faroe Islands. Would he undertake to apply the same standard at least there?

Senator L.J. Farnham:

Like I said previously, we believe dealing with countries, as many other countries do, countries with poor human rights record is best dealt with through the process of constructive engagement. We will continue that constructive engagement. I am not saying that my correspondence with the International Island Games Association, not with the Government of Faroe, is not constructive, it just sets out a challenge for the International Island Games Association to consider whether we should engage in sporting activity in the Island Games with such nations. We are engaging in what I see as constructive engagement with all countries.

7.2 The Deputy of St. Martin:

This morning we heard from the Minister for the Environment on his views on the fishing dispute and it is not really within his remit to comment on financial matters and financial support. Could I ask the Minister please what financial provisions he has put in place in the last few hours and days, if indeed at some time in the future border inspection posts are closed to our fisheries exports? What provisions does the Minister have in place for our fishing fleet, indeed, or those who derive an income from fisheries produce?

Senator L.J. Farnham:

Phase 2 of the fisheries support scheme has been approved by my department and is pending Treasury approval. We hope that phase 2 of the scheme will be open imminently. But that of course is fixed costs and payroll support. That will run from the beginning of September to the end of December. Although I would say recent news from the debate suggests that the French are not going to be imposing sanctions, so hopefully that will allow our fishers to continue to ply their trade. But, either way, I want to provide reassurance to the Deputy, to the Assembly, and to our fishing fleet, that we

will provide adequate financial support throughout this crisis to ensure they can sustain themselves and their livelihoods. There is no doubt about that. My department will provide full support and full financial support for their endeavours. Phase one of the freight support scheme has been approved and that will allow retrospective claims for the period of March to July earlier this year. We are also reintroducing that phase 2 for freight assistance from September to December. So there is a comprehensive package of support ready to go.

7.3 Deputy S.M. Ahier:

Now that the independent review of the regulation of BetIndex Limited has been released, will the Minister advise whether he and the Jersey Gambling Commission agree with the review's key findings?

Senator L.J. Farnham:

I will have to come back to the Deputy on that. I am not in a position to answer that at this stage pending further discussions with the Gambling Commission.

7.3.1 Deputy S.M. Ahier:

They are available obviously on the Government U.K. website for the Minister. Did the Jersey Gambling Commission contact the Jersey Financial Services Commission to determine whether BetIndex should be regulated by them?

Senator L.J. Farnham:

As I have said, I am happy to provide the answers to these questions, but I do need further meetings with the Gambling Commission to discuss some of the unanswered questions that I have. So I undertake to come back to the Deputy or meet with the Deputy and the Gambling Commission so we can explore in more detail some of the concerns he has.

7.4 Deputy G.P. Southern:

Will the Minister inform Members exactly what schemes he has to increase productivity in our low-paid sectors?

Senator L.J. Farnham:

As previously explained to the Assembly and the Deputy, we are currently running a pilot productivity scheme aimed at helping small to medium-sized enterprises, providing financial support to small to medium-sized enterprises that will have to prove productivity gains in their businesses. That is a scheme that is currently running. We are also going to repeat that in the early part of next year. In addition to that, we are currently working up productivity support or financial support measures for helping those industries to bridge the move to living wage. In addition to that, we have funds allocated in the Government Plan, £10 million for 2022 and £10 million for 2023, aimed at economic recovery on the back of the pandemic. I have asked officers to work up further productivity-based schemes with some of those funds. So I cannot give any more exact detail than that at this stage other than that it is and remains a priority.

7.4.1 Deputy G.P. Southern:

Once again, we are meeting a Minister avoiding answering the question. The question was specifically can he tell us about, i.e. give some sort of description, of what these productivity deals constitute? Because saying that we give money to various people and people are working things up is neither here nor there. It means nothing.

[14:30]

Senator L.J. Farnham:

As I have explained on previous occasions, and I will explain it again, the pilot scheme, for example, is aimed at helping small to medium-sized enterprises improve their productivity. That means essentially they have to produce more economic output with less resource. So, however they do that, is up to them to innovate, whether that be an increased automation of their business or other aspects, that is how we improve productivity. So that would be, for example, as we know the productivity measure is brought about by the compensation of employees added to the profitability of business. So businesses in the pilot scheme - and the Deputy really should listen, he might find it quite interesting - the businesses in the productivity scheme that we are working on now, the pilot scheme, will be required to prove they have had productivity gains in their businesses. If the Deputy is looking for another meaning on productivity then I am happy for him to explain it to me. But that is the current basis of the pilot productivity scheme to improve productivity in business.

7.5 Deputy J.M. Maçon:

Licensing Law: I wonder if the Minister can tell the Assembly how long we have been waiting for the new Licensing Law to come forward? Because, as I understand it, at the end of the last Assembly the Assistant Minister had a scheme and package ready to go. I wonder if the Minister could explain where we are with the Licensing Law?

Senator L.J. Farnham:

Coincidentally, this was discussed at our Ministerial meeting last Friday and I understand the Assistant Minister, if he has not already, will be lodging a proposition, which seeks to start the process of modernising the Licensing Law. I believe the first proposition, which is partly to do with Deputy Ash's proposition of last year, will seek to introduce a statement of policy that the Assembly can refer to when making decisions. But it is imminent and perhaps the Assistant Minister would be kind enough to provide Members with an update at some stage on timing.

7.6 The Connétable of St. Saviour:

It is regarding the Opera House. I want to know what the Government wants to do about it. I do not want it to be the normal government buildings going to disrepair and then have to be knocked down or replaced. Something has to be done to preserve our Opera House. I have brought the subject before, you promised me something would be done, and it would not be seen, but nothing has been done. All through the pandemic, something could have been done, it looks absolutely disgusting. It needs a lovely wash down the front for a start would be very, very useful.

Senator L.J. Farnham:

The Opera House has been awarded funds from the fiscal stimulus programme for refurbishment. That work is due to be completed by June 2022. The procurement process is being followed in line with States policy. We, like other States Members and members of the public, are keen to see the work completed as soon as we possibly can. I share the Constable of St. Saviour's views - I am sure we all do - that the Opera House is a really important and key arts asset and we need to make sure we restore it to its former glory as soon as we possibly can. But the process is now fully in motion.

7.6.1 The Connétable of St. Saviour:

Sorry, could I just, you said it is fully in motion and there is money from the stimulus fund. Have you provided the Opera House with enough money?

Senator L.J. Farnham:

I believe so. The answer to that is yes. Deputy Morel is working closely with all of the stakeholders and there are ample funds to complete the work that is planned.

7.7 Senator K.L. Moore:

Could the Minister explain the rationale for offering a pay-out to the fishing industry in circumstances where local suppliers are currently sitting on stocks of shellfish? Our fishers say they cannot go out to fish without a market, while the local hospitality cannot secure enough crab and even local processors and wholesalers are unable to purchase sufficient amounts of live crab to satisfy demand. Therefore they are having to import it.

Senator L.J. Farnham:

The rationale behind providing financial support to our fishers during this period of crisis brought about by Brexit should speak for itself. Because, if we do not provide financial support, we do not provide payroll support, we do not provide fixed-costs support and we do not provide freight assistance, then our fishing industry will be severely and significantly depleted. I do also understand the other part of the question, which is ironic insofar as probably 70 per cent or 80 per cent of the seafood we consume on-Island is imported. That is a question we have been wrestling with for some time now. We have spoken about perhaps creating facilities on-Island, which will enable fishers and local producers to meet the high standards demanded now by the large retail multiples for selling the produce. It is not an easy solution but the Senator is right, it is a conundrum that we have to solve and we continue to work to try to find a solution.

7.7.1 Senator K.L. Moore:

I am right in understanding that this is a timing issue. The Minister has failed to implement the fish processing plant that he has much talked about but not delivered. Therefore, we are in a position where we are having to pay fishers compensation because they cannot go out to fish, yet meanwhile our hospitality industry is importing fish stocks rather than having a sustainable local supply. How and when will the Minister address this impasse and allow local people and visitors to enjoy local fish stocks?

Senator L.J. Farnham:

Firstly, just to correct the Senator, I have never promised to deliver a fish processing plant, although I have suggested it as a good idea. That is something for the private sector to work with. In fact, we do have some really good facilities over here, but we are allowing a free market economy to prevail. For example, the hospitality and catering industry in simple terms can import products perhaps more efficiently and more reliably and at a lower price from large U.K. wholesalers and distributors. Local fishers can get a better price for their goods by exporting to France. That is at the crux of the matter and there is no simple solution to that. Although we will continue to work to find a solution. I cannot promise to deliver, with taxpayer funds, a fish processing plant. But we will work with the private sector to help facilitate any such endeavours into the future.

The Deputy Bailiff:

We have come almost to the close of time but we were delayed by one or 2 technical issues, so one final question from Deputy Ward.

7.8 Deputy R.J. Ward:

Does Jersey having a lower minimum wage and a higher cost of living than, for example, the U.K., have a negative impact on business or industries in Jersey in retaining and attracting staff?

Senator L.J. Farnham:

I am not sure what the relevance is of a comparison with the Jersey and the U.K. The attractiveness of staff coming to Jersey in certain sectors is due to a number of reasons. It is not so much minimum wage levels at the moment because, for example, certain sectors of the economy, including hospitality, have seen hyper-wage inflation at the backend of the pandemic. I would suggest there would be very few, if any, workers in those industries still on the minimum wage because of the supply and demand issues in that sector. The bigger problem for attracting staff, not just in the lower-

paid areas, but in the higher-skilled areas as well, is of course the availability of affordable accommodation. We all know that is our key challenge at the moment.

7.8.1 Deputy R.J. Ward:

That was including the cost of living part of the question that I asked. Is that not part of the need for a productivity payment to take account of the need for a high-skill/high-wage workforce rather than a low-skill/low-wage/low-rights workforce. Would the Minister be an advocate for that? Or which of those would the Minister be an advocate for?

Senator L.J. Farnham:

I thought I had; I will try harder to be an advocate for that. But of course we all know this Island does not just need lower skills or higher skills, it needs a complete mix; every job in this Island is valuable. We need to make sure that we can provide the support and the backup to ensure that all sectors, all businesses, all areas of commerce, have availability to the right numbers of staff and the right skills. The big challenge is of course to ensure that we can provide access to labour markets without having a long-term impact on our population challenges. But I shall certainly continue to promote where I can the fact that we want to become more productive. A good example of that is our rural economy strategy and the way we are looking at different and more-valuable uses of our farming land.

8. Questions to Ministers without notice - The Chief Minister

The Deputy of St. Martin:

Could I have a point of order? Last week the Assistant Greffier circulated States Members with an email about attendance in the Assembly and part of the letter says: "P.P.C.'s view is that the link to the Teams should only be made available to those Members unable to attend the Chamber for health reasons rather than being made available to everyone as a matter of course." I was rather hoping the Chief Minister might have been here to answer questions in person.

Senator J.A.N. Le Fondré (The Chief Minister):

I can answer that question as long as it is part of the 15 minutes.

The Deputy Bailiff:

I am sure that has been heard and noted. Thank you.

Senator J.A.N. Le Fondré:

If I can make the point, one of my family members ...

The Deputy Bailiff:

Let us move on to the questions.

8.1 Deputy M. Tadier:

Earlier we heard from the Minister for the Environment that Jersey cannot control who fishes in its territorial waters. Is it a concern of the Minister that we do not have control over our territorial waters?

Senator J.A.N. Le Fondré:

The fundamental point is that there have been overlapping fishing rights in our waters for a very long time. At the latest evolution of those shared rights is laid down in what we call the T.C.A. (Trade and Co-operation Agreement). Therefore, the fundamental issue, as the Minister alluded to earlier, is making sure that we get the right data to demonstrate that fishers can, if they are seeking a permit to fish in our waters, have the data that demonstrates that they have previously fished in accordance with the T.C.A.

8.1.1 Deputy M. Tadier:

We are making this more complicated than my question is asking for. Can the Minister confirm whether we have the theoretical ability, if we wanted to, to say at a very near point in the future: “The only people we wish to fish commercially in our waters are our fishermen.” Do we have the ability to do that? If we do not, is that a concern for the Chief Minister?

Senator J.A.N. Le Fondré:

Under the international agreements, my understanding is that we cannot discriminate between different nationalities of fishing boats effectively. That is the agreement that was arrived at in negotiations between Jersey, and also Guernsey and the Isle of Man have similar provisions, because that is felt to be in the wider interests of, in this instance Jersey, but also the Crown Dependencies. So, on that basis, on the basis it is to the wider benefit, that we did participate in that international agreement and then I do not have a concern. I do have a concern that, if data is not forthcoming, when we believe it is a perfectly reasonable request, and was previously the data we are partially seeking was a legal requirement under the Bay of Granville.

[14:45]

8.2 Deputy S.M. Ahier:

What action is the Chief Minister taking to ensure that our diesel-fuelled powerplant can be maintained for an extended period if it becomes necessary?

Senator J.A.N. Le Fondré:

Sorry, I got “diesel fuel” and I did not hear the word after that?

Deputy S.M. Ahier:

Yes, our diesel-fuelled powerplant can be maintained for an extended period if it becomes necessary?

Senator J.A.N. Le Fondré:

I have addressed that publicly in the past. In essence, under all normal circumstances, we have sufficient power in the power station to supply the Island’s ordinary needs. There are always caveats there for exceptional circumstances. Equally, on a slightly wider issue, certainly as of 2 or 3 weeks ago we were fully stocked up on fuel on the Island.

8.2.1 Deputy S.M. Ahier:

Is the hospital generator still fit for purpose and does it require any maintenance to ensure that it can run at full capacity?

Senator J.A.N. Le Fondré:

I am not sighted on that level of detail. I will go and ask the question. I would make very strongly the assumption, because it is there, not just for these circumstances, but obviously for any other emergency. Therefore, it does need to be ready to kick in at relevant points in time. So my assumption is yes. Obviously, if there is any change to that, I will inform Members and also take the necessary action.

8.3 Senator S.Y. Mézec:

Earlier this year, a review into Jersey’s Children’s Homes conducted by the Independent Children’s Homes Association recommended the closure of Greenfields as a secure facility. Or, to put it another way, a child prison. Stating that its use was neither efficient nor effective. Does the Chief Minister agree with that recommendation?

Senator J.A.N. Le Fondré:

I have to say, I would need to go back and relook at the report, but if that was the recommendation then my understanding is certainly the fate of Greenfields or the future of Greenfields has been under discussion for some time. There have been programmes of work put in place to try to deal with that future.

8.3.1 Senator S.Y. Mézec:

Being specific, it is arguing for the closure of the facility as essentially a child prison. Is that something that the Chief Minister would want to see happen in Jersey, given all the lessons that we are supposed to have learned from the Care Inquiry and moving towards other systems of justice that put the needs and interests of the child first?

Senator J.A.N. Le Fondré:

As I was saying, I have no reason not to agree with that. I am saying I cannot recall the details of the report. So, with that caveat in mind, I can see no reason in principle for disagreeing with the Senator.

8.4 The Connétable of Grouville:

At the last sitting, the Minister for Treasury and Resources said that the reward to those who found the Le Catillon coin hoard would be paid by the end of the week. It has been 9 years and 4 months since it was uncovered. I have been asking questions for over a year. I keep getting told that it is sorted. When is the payment going to be made and why has it not been paid by now?

Senator J.A.N. Le Fondré:

I almost anticipated this question because I am probably equally as frustrated. In fact a number of Ministers are equally as frustrated with the delay. The background to this, and ironically it was probably about a year ago, is issues around making sure that payments of a one-off or special nature need to be dealt with in a very, very careful way, as a number of us bear the scars on. Quite literally, although from memory, I cannot remember if it was unanimous or by a significant majority, of Council of Ministers have made their position very, very clear in relation to resolving the issue of the coin hoard. We also need to be very clear as Members that the Crown is not obliged to sell that coin hoard to us or to the public. But it is obviously working very closely with us to resolve the issue. That, in essence, it is the governance side that has been slowing down the implementation of the decision, which the Council of Ministers agreed to some months ago. We have been very clear to officers that they need to expedite this as swiftly as they can. I hope what I have said today will also incentivise the relevant officers to do exactly that. But I do share the Connétable's frustration. I would have hoped, to be honest, to have been in the position to say: "It is resolved" before the summer and we are not there yet. It is very much a matter of i's being dotted and t's crossed. As I said, I am as equally frustrated as the Connétable. I was advised that I could use the word "imminent". I made the point that it has been imminent for quite a number of weeks.

8.4.1 The Connétable of Grouville:

I do not think he is as frustrated as I am. I have been asking questions for a year. Is he in charge? Should he not be able to make this happen? He did not answer the question: when is it going to happen?

Senator J.A.N. Le Fondré:

As I said, in terms of when, I go back to the point, I have been told "imminent". I have been told there is one final element to be done. From past experience of the last few weeks, I am told that will be during the course of this week. I hope the relevant officers are listening to this. They will certainly be reminded of it very shortly. As to the level of frustration, I take the point that the Connétable has been asking questions for quite a long time. Our levels of frustration are fairly high. Finally, yes, we are in charge, but there is a structure that the Public Finances Law puts in place around such payments. With the experiences of what happened roughly a year ago, officers are being very, very

cautious. Therefore, it is a matter, we have given the decision, we are trying to make sure of the processes and make sure they do obviously fit within the law. That is what the holdup is. We are working on it. I would like to see it done very, very soon.

8.5 The Connétable of Trinity:

Next year will be the Queen's Platinum Jubilee. I believe, although I will stand corrected, that in the U.K., the May bank holiday weekend will be removed to Thursday, 2nd June. There will be an additional bank holiday on Friday, 3rd June, to create a 4-day weekend. Are there any plans coming forward for similar arrangements locally to mark this unique achievement?

Senator J.A.N. Le Fondré:

I think the Connétable is slightly ahead of us. But I believe that is a discussion that is coming to Council of Ministers very shortly. Once the decision has been put there, I will take great pleasure in updating the Assembly in due course. But it is a decision that will need to go to Council of Ministers first before ultimately coming to this Assembly. Just to reiterate, it is very much a unique situation and I am entirely in agreement that it is a special one.

8.6 Deputy R.J. Ward:

I note in the Government Plan on page 194 of the main plan and on page 36 of the annexe there is allocated £1,390,000 and £3,226,000 for a chief of staff and one being a restructuring in Justice and Home Affairs for a chief of staff. I wonder whether the Chief Minister can explain what the chief of staff is, as in the role that has been created there.

Senator J.A.N. Le Fondré:

Sorry, I have just about got to the page, I will have to come back to the Deputy once I have read the detail on the page that he is alluding to and the annexe. But I will do so in due course.

Deputy R.J. Ward:

May I ask that the question is answered in terms of what the role of the chief of staff is? As Chief Minister, surely he should know the roles of the structure of the organisation of which he is a very key part.

Senator J.A.N. Le Fondré:

I am sorry, the question was also very much around the budgets and the purposes of those budgets and that is the context.

Deputy R.J. Ward:

Okay, I will ask a similar level of question: is Broad Street going to be renamed the West Wing? Is that why we are having a chief of staff? That is as pointless a question as the answer. I do not have a supplementary.

8.7 Senator S.Y. Mézec:

I would like to ask the Chief Minister if he agrees with the statement of his Minister for Social Security recently that Jersey is out in front - I think was the phrase used by the Minister to describe Jersey's minimum wage - when as of next year in fact it will not be out in front, it will be lower than the U.K.'s?

Senator J.A.N. Le Fondré:

It would be very rare for me to disagree with the Minister for Social Security. I believe she was specifically referring to our positioning vis-à-vis the Crown Dependencies as opposed to the U.K. But equally, I do make the point that in terms of certainly if this is about the minimum wage in the

public sector, but certainly within the public sector over the last few years in a number of areas pay has been more than inflation.

8.7.1 Senator S.Y. Mézec:

Then just to confirm from the Chief Minister then that he does consider Jersey's minimum wage to not be out in front compared to the U.K.'s, which of course has a lower cost of living?

Senator J.A.N. Le Fondré:

I did not say that. I said it would be very rare for me to disagree with the Minister for Social Security.

8.8 Deputy I. Gardiner:

We all know that the integrated technology solution will cost in excess of £63 million at least. We have learned recently that the electronic patient records will cost £9.2 million. During the Public Accounts Committee hearing yesterday we know there are 900 applications that should be connected to the I.T. system to make the I.T. work. For our question, how much the I.T. of the organisation will cost in total approximate bill that we are facing the answer was from the C.O.O. (chief operating officer): "I do not know." Would the Chief Minister know the approximate number of how much the I.T. bill will be?

Senator J.A.N. Le Fondré:

I cannot give a total figure off the top of my head, the point that we have done around the I.T. investment into the system so far, because frankly there was way insufficient investment done in the past. What we are trying to do is get those systems up to a point where they are in a far better place than they were when we came in. Hopefully, in fact I am in the process of checking that, we will be getting quite a lot more detail on that on the briefing that I think is coming this Friday, which is a mixture of the S.E.B. side and also an update on briefings we gave to Members in the end of 2019 in advance of the then Government Plan. But the reason I suspect it was said we do not know is because it is how long is a piece of string and over what time period? There is going to be required in this world a continuous and greater investment in I.T. if we want to bring an organisation up to fit for purpose, to deliver services more efficiently, and to deliver services in the way that Islanders over time will expect. I can certainly say that anecdotally a conversation with one officer who was saying: "It is slightly distressing that some smaller businesses can receive information on their mobile phone about their business far more officers in the States can around their departments." That is the magnitude of the problem ahead of us. I thought it was 700; if it has gone up to 900 applications that the Deputy refers to, it is an illustration of the problems we face. Because I suspect that not all those 900 applications are compatible with each other, easily talk to each other and transfer information across, or all operate on new systems rather than archaic systems. So apologies for not being able to answer the direct question, although I suppose I have said I do not have the answer to hand. But it does give the context as to why we do not yet have that answer to hand. We are focused on phases 1, 2, 3 and 4 of the I.T. programme and getting hose in play. They are really critical and have been very critical, for example, in dealing with the COVID crisis and working from home remotely. As well the securities of the system.

[15:00]

PUBLIC BUSINESS

9. Social Security (Amendment of Law - Minimum Earnings Threshold) (Jersey) Regulations 202- (P.79/2021) - deferral of proposition

The Deputy Bailiff:

Time has now run out. There is nothing under J or K, so that brings us on to Public Business. The first item of Public Business is the Social Security (Amendment of Law - Minimum Earnings

Threshold) (Jersey) Regulations lodged by the Minister for Social Security. For the purpose of this debate, the main respondent is the chair of the Health and Social Security Scrutiny Panel. The debate resumes following the adoption of the principles on 15th September and the referral to the Scrutiny Panel.

9.1 Deputy J.A. Martin of St. Helier (The Minister for Social Security):

Firstly, let me apologise, I asked my secretary to send around to all States Members on Friday ... I got the comments from Scrutiny, they were on time, but they brought up some really different points that we were going to cover on States Members briefing on Monday. Also, in the meantime, I have been contacted by Revenue Jersey who have some real issues with this. They thought it was going to be a small course of legislation and there is lots going on behind the scenes with massive businesses out there. So I said on Friday I was going to defer without understanding, I should have understood, the Greffe contacted me straight away, that I have to ask permission because it was today, November that was set the date. I do not think States Members got all the information that they need and I put a briefing in for Friday, 19th November, so Revenue Jersey can come as well. We will then have the debate and obviously if people are still not convinced they can vote against it. But I would rather States Members vote with all the facts and I have been told it is very, very important that they put their point across. I have been speaking to industry for 2 years who think this is going to be done. So I am in the hands of the Assembly. I ask for this to be deferred to the next sitting, so I can bring States Members up to full speed.

The Deputy Bailiff:

Your proposition, Minister, is to defer the continuation of the debate until 23rd November, is it?

Deputy J.A. Martin:

Yes.

The Deputy Bailiff:

Is that proposition seconded? [**Seconded**] Does any Member wish to speak on the proposition?

9.1.1 Deputy K.F. Morel:

I thank the Minister for her introductory comments. The question that I would like the Minister to respond to is, when this was initially lodged, we had a proposition during a debate to refer it back for more information because we could see. I personally raised in the Assembly that day that there was information missing from this proposition, information about its consequences on the poorest in the Island particularly. So I would really appreciate the Minister explaining to me why she could not, back then, just concede the reference back request, because it was clear as day that there was information missing. The Minister refused that and by one vote I believe won that particular proposition. But here we are now with the Minister asking us to defer it because, by her own admission, there is not enough information, exactly as she was told 4 weeks ago. So if she could respond to that in her summing up I would be grateful.

9.1.2 Deputy R.J. Ward:

Four weeks ago it was me who brought the reference back and said that there was no information in this on the consequences of this change. In fact, the consequences will have negative impacts that have not been thought through for the lowest earners and the most vulnerable in our society. But, for some reason, which seems to be a habit now, as a sort of reflex, it was opposed. Those reflexive oppositions to good ideas are what are showing this Government up to be both inadequate in the way it is dealing with policy and legislation and also really frustrating for increasing numbers of Members of this Assembly. The reference back should have been agreed. There should have been a more thoughtful piece of legislation brought to this Assembly. But indeed it was not. Now what we have are principles that are fundamentally - and I voted against those - flawed. With detail in regulation

that is even more flawed and full of holes. We are asking this Assembly to make a decision. The only decision to make is to reject this proposal entirely and come back afresh in a few months' time with something that is meaningful. Because we have got ourselves in a very bad position. So I would ask the Minister to withdraw this entirely. I would not vote for the deferring of this now. I would just vote against it full-stop. Because we need to remove this from our legislation. It will not work, it is badly thought through, it is badly presented, and it will have consequences that will be bad for Jersey. As a States Member, I cannot vote for that.

9.1.3 Deputy K.G. Pamplin of St. Saviour:

I rise in respect to the work done following the promise we made as the Scrutiny Panel. To remind Members, I am the vice-chair and this has been in consultation with my 2 fellow panel members. As the Minister, which we thank her for, made reference to, we did return this piece of work as agreed with the Assembly at the last sitting. That was following the debate on the principles of this proposition. That also followed our previous work that led to the previous comments paper we produced for Members pre that debate. During the debate, Members started to share concerns, which drew reference to ours in that comments paper. Then, as others have just stated, a reference back debate was narrowly defeated by one vote. So, based on that and other decisions, we decided to call it in to do a timely, targeted piece of work, and return it back in time for today, as we have done, to assist Members. This was achieved by a panel of 3 members supported by their smaller team of 2 officers and, like many others, under a great pressured workload that we all have at this state of the year. I say, nevertheless, following constructive engagement, presented work with thanks to the Minister and her team. I want to make my next point very clear, speaking as myself, picking up from feedback from Members, which it is a pleasure to do so now returning to the Assembly, seeing everybody in person. But from hearing from all sides of the Assembly in the last day and a half, the motivations of some of our scrutiny work. So speaking as an independent Member and a committed Member to provide impartial constructive scrutiny work in the vein as a critical friend, the Ministers we hold to account on the public's behalf. Our work has always been based on well-researched questions and information based on what we presented or discovered. If you are not prepared for one of my Scrutiny hearings, good luck to you. Also, some have also said today that: "Scrutiny deliberately delays pieces of work, Deputy." I hope that is not being suggested for this particular piece of work that we have concluded. Our comments, as the Minister said, was lodged and emailed to Members last Friday around midday and we have not brought an amendment, for example. This panel has not deliberately or otherwise blocked or called in other pieces of work without due consideration. I believe this is the first time we have done so in 3½ years. We have a very good constructive relationship with both the Ministers and their departments. But, as I outlined at the beginning of this short speech, the Assembly during that in-principle debate supported our decision to do so. I stress we kept our commitment to meeting that Assembly decision to return it to assist Members with their voting in Second Reading that we all presumed would be today. I also wish to draw Members' minds to the very light Order Paper concerning Public Business that could see us possibly finish today, or at the very least tomorrow morning. However, the next sitting in 3 weeks' time has 11 items, including the debate on assisted dying. If shortening of lodging of one day is agreed on that proposition, Senator Mézec's affordable housing proposition and, after question time earlier, that could be a heated debate. A debate on the minimum wage brought by Deputy Southern and a deferred draft COVID-19 Enabling Provisions debate that was very heated as well, which caused the Minister to defer to this sitting. Those are all predicted, as I highlighted, to be very lengthy, technical and possibly emotional debates, not including some potential amendments to at least the assisted dying debate. That is in 3 weeks' time. We have provided our Scrutiny work with our position and it is for Members if they agree with our work and our conclusions on their own independent voting decisions and of course based on what the Minister will put forward in her summing up and presentation of it. I believe we could have that debate today in summary based on our Scrutiny work to assist Members. As I have also outlined, the pressures of the next sitting, which

I remind Members is the last sitting before our final sitting of 2021, the Government Plan in December. We have 2 sittings scheduled before the end of this year. I am also grateful we just heard from the Minister for the first time of the intention that Revenue Jersey have provided information. Of course we did have a meeting with the Minister and her team at the very beginning when we started our work on this where this was coming, which was Revenue Jersey. So I do find it surprising that right at the last minute, following our work, they now want to provide further information. We did request that. So I only do that to be a helpful Member to fellow States Members. I have also just literally minutes before we started received a message from our Scrutiny officer with the Minister saying they would like to meet us to update us, which we gratefully received. This is all very last-minute. So I present all I have just said to assist Members, it remains in their hands if they wish to have this debate today or not. I hope that was helpful.

9.1.4 Deputy M.R. Le Hegarat:

I will just reiterate what Deputy Pamplin has said in relation to this particular matter. This was lodged in August and brought to us in September. At that time it was considered to be a piece of work that was ready to go. Now we find ourselves here at the beginning of November being told that we now wish to defer. We have done a comments paper; we have done the work on it, and as far as I am concerned the matter needs to be run today. However, what I would like to highlight, which I was trying to do very quickly, but I will not be able to potentially be the primary responder because in approximately half an hour or so I will have to leave because I have a hospital appointment. So if that matter does fall back to my panel, I would ask that the vice-chair could take that role.

9.1.5 The Connétable of St. Ouen:

I have listened very carefully to the arguments put forward by the Scrutiny Panel and I have a great deal of sympathy with the fact that they have done a lot of work, which has gone into the proposition. But, nevertheless, the Minister has made it extremely plain that she is not happy to debate this today because there is further information to come from Revenue Jersey. I, for one, would not be comfortable to vote for this proposition, or indeed vote pour, without that information. In effect, we are being presented with an incomplete picture and we should follow the Minister's recommendation and defer the proposition until the next sitting.

9.1.6 Deputy J.H. Young:

If I can ask the Minister a question, obviously coming to this afresh I was one who shared the reservations about this in detail. But obviously the points that Deputy Pamplin are making are absolutely right; it is the agenda for the next sitting is really scary in terms of its scope and indeed the issues we have to deal with. So I am very, very worried about just putting another item on. Of course we have the Government Plan and I do wonder if the Minister could tell us what would be the consequences if this matter goes over to the new year? Because, to me, this is a change, but is it time-critical? Could the Minister tell us that, so it would at least help me to know which side to support. Because I do not feel comfortable about adding something to an already very crowded and difficult agenda. We do seem to have comments, so I would like the Minister to respond to that.

9.1.7 Deputy G.P. Southern:

This is a right shambles. What is the solution? Is it possible that this should be deferred properly until the first quarter next year? Would that do any harm? I do not know. But it is for the Minister to say. As far as I am concerned, when people come to this Assembly this badly prepared I do not feel able to vote on anything. I would rather kick it into the long grass until we are properly ready.

9.1.8 Senator S.Y. Mézec:

It is just to add to that, there is absolutely nothing stopping the Minister from relodging some sort of equivalent proposal after this. So if we vote to not allow a deferment now and to ask the Minister then to either withdraw it or for the Assembly to throw it out, once there has been a real good think

over it, that further information found and presented to Members, this can, if necessary, be brought back at a much more manageable time and the Assembly can deal with it probably in a much more effective way at that point. But it is very clear that what is on the table right now is not satisfactory, so let us get it off the table now and put it back on the table at a later time. But the next sitting is clearly inappropriate for it to be then.

The Deputy Bailiff:

If no other Member wishes to speak, then I call upon the Minister to reply.

[15:15]

9.1.9 Deputy J.A. Martin:

No one is more annoyed than me that I have been put in this position because this was supposed to be a small piece of legislation to change hours to money and it was okay if it went through and it was okay if it did not go through. That is sort of what I was told. Over the last few days, when it got called in, and when the paper came in from Scrutiny, as I say, there has been over a 2-year piece of work. We have done every company out there who do a payroll, to do the payroll different. They have invested in kit. They have geared up to do this. There has been a 2-year lead-in time and I am getting emails left, right and centre, from Revenue Jersey saying: “This is imperative. We do not know what will happen basically but let us try to explain to States Members why it is imperative.” It is not me. I have had to change this little bit of legislation that is not happening at the moment. But there is a bigger story. So they have asked me if I can defer it for one week. I have the States Members briefing in. They will tell you. What happens, it is 1st January by the way, Deputy Young, 1st January, 2 years, all the employers out there, and they have been consulting with their employees. It is evidenced by Scrutiny. But, if you still do not want the change, I do not know what is going to happen. I do not know how they will do it. They admit, I apologise ... I will admit for them we should have made sure the legislation was changed 2 years ago before we told everyone to go out and buy these new bits of kit and this is how you are going to collect tax and social security. We have not done it. So I am in the hands of the Assembly. You either want to know the extra information, how bad this could be for Jersey, or you push me to go ahead with the debate today, take it out. We will not be able to have the debate, like Senator Mézec says, again in this quarter. So it will go over to the start date in January that everyone is keyed up for. I really ask Members ... the sitting next time is going to be a long sitting. Do you want to make the right choice for the workers? It is not just about low-paid workers. It is about people who will be collecting money differently. How will they be paid? I am not even sure. I do not know those answers. But Revenue Jersey needs to put that to you. So I really ask you to support a 2-week delay. We will have the States Members briefing. We will also talk to Scrutiny - 2 Scrutiny Panels now apparently; the one that scrutinised Treasury and my panel - to just give these extra things, which I did not know about. I knew why I was doing it but I did not know how imperative it was. I make the proposition; I really hope that you can move this 2 weeks and get the right information for people who want to get paid.

The Deputy Bailiff:

Is the appel called for? Thank you. The appel has been called for. So to remind Members, the proposition is to defer the continuance of this debate until the session beginning 23rd November. I ask Members to cast their votes. If all Members, either in the Assembly or remotely, have had the opportunity of casting their votes, I close the voting. I can announce that the proposition has been adopted.

POUR: 25		CONTRE: 18		ABSTAIN: 0
Senator L.J. Farnham		Senator T.A. Vallois		
Senator S.C. Ferguson		Senator K.L. Moore		
Senator J.A.N. Le Fondré		Senator S.Y. Mézec		
Connétable of St. Helier		Connétable of St. Brelade		

Connétable of St. Saviour		Connétable of Grouville		
Connétable of Trinity		Connétable of St. Martin		
Connétable of St. Peter		Deputy G.P. Southern (H)		
Connétable of St. Mary		Deputy M. Tadier (B)		
Connétable of St. Ouen		Deputy M.R. Higgins (H)		
Deputy J.A. Martin (H)		Deputy of St. Martin		
Deputy of Grouville		Deputy L.M.C. Doublet (S)		
Deputy K.C. Lewis (S)		Deputy K.F. Morel (L)		
Deputy J.M. Maçon (S)		Deputy M.R. Le Hegarat (H)		
Deputy S.J. Pinel (C)		Deputy S.M. Ahier (H)		
Deputy of St. Ouen		Deputy R.J. Ward (H)		
Deputy R. Labey (H)		Deputy C.S. Alves (H)		
Deputy S.M. Wickenden (H)		Deputy K.G. Pamplin (S)		
Deputy of St. Mary		Deputy I. Gardiner (H)		
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				

The Deputy Greffier of the States:

Those voting pour: Senator Farnham, the Connétable of St. Helier, Connétable of Trinity, St. Mary, St. Ouen, Deputy Martin, Deputy of Grouville, Deputy Lewis, Pinel, Labey, Wickenden, Deputy of St. Mary, Deputy Ash, Guida, Deputy of St. Peter and of Trinity, and then voting in the chat, those voting pour: Senator Ferguson, Senator Le Fondré, the Connétables of St. Saviour and St. Peter, and Deputy Maçon, the Deputy of St. Ouen, Truscott, Young, the Deputy of St. John and Deputy Alves.

10. Competent Authorities Ministers: Release of minutes of meetings to Scrutiny (P.86/2021) - amendment (P.86/2021 Amd.) - reduction of lodging period

The Deputy Bailiff:

The next item is the Competent Authorities Ministers: Release of minutes of meetings to Scrutiny, lodged by the Corporate Services Panel. There is an amendment by the Council of Ministers, which needs to be the subject of a proposal to reduce the minimum lodging period before it can be debated. Chief Minister, do you wish to make a proposition under Standing Order 26(7) that the lodging period be reduced to allow the amendments to be debated at this sitting?

10.1 Senator J.A.N. Le Fondré (The Chief Minister):

Yes, please. I did email everybody yesterday afternoon and once again I apologise for the oversight that caused me to be in the position of having to ask the permission of the Assembly.

The Deputy Bailiff:

Is the proposition to reduce the lodging period seconded? **[Seconded]** Does any Member wish to speak on the proposition to reduce the lodging period?

10.1.1 Deputy R.J. Ward:

I may have just jumped the queue, but that might not be such a bad thing. I am afraid so often we have been here and we have reduced lodging periods. All of us have had to consider whether to do that and sometimes there have been late amendments because things have changed or things have been lodged at the last moment or a Scrutiny Panel has done some work and that is all the choice we

have had. But the reason for this that we were sent the other day, last night, whenever it was, was that the amendment was presented to the Council of Ministers and lodged a week before the sitting. What appears to have happened is that the Council of Ministers could not get their act together to talk about the amendment before the lodging period was ended. So, therefore, we will come to the Assembly and we will say we could not meet as a Council of Ministers, we could not get it together, we could not email around, we could not talk to each other in time, so we will just disregard the Standing Orders of this Assembly. Now, the context of today is quite astounding, given so many questions over whether questions have been answered. Questions over the quality of answers of questions in this Assembly. Now we are getting to a point where what we are going to do, and let us think very carefully about this, regardless of what place on the political spectrum you come from, about the Standing Orders and the processes in this Assembly that we are standing in. Are we going to say, when the Council of Ministers cannot get itself sorted to discuss an amendment, we will just disregard the Standing Orders? That is okay. We will just let them do that. This is not a good idea. I cannot accept the reduction of this lodging period on this occasion because it is simply the wrong way to do it and sets a precedent for the future which is at any time our Standing Orders now become completely correlated with the meetings of the Council of Ministers. That is what we are accepting if we accept the reduction in lodging period. That is not the way this Assembly should work. Otherwise, let us get the Standing Orders and let us just bin them. Because they serve no purpose for us whatsoever. We have no processes. All we are waiting to do is at the gift of the Council of Ministers and according to their timetable. I urge Members in this Assembly to not reduce this lodging period because this is not a suitable way for this Assembly to act and proceed if you are going to genuinely say that we have any rules and Standing Orders for this Assembly. I urge Members to not accept this reduction in lodging period.

10.1.2 Senator K.L. Moore:

I will not rehearse the points made by the previous speaker, but I will simply reiterate to the Assembly that this proposition lodged by the Corporate Services Scrutiny Panel was lodged on 6th September. The Council of Ministers managed to cobble together a fudge and bring it to the Assembly a week ago, their amendment. It is simply unacceptable. It shows that they are totally ill-prepared. Their eye is not on the ball and they simply have not even brought a credible amendment that deserves any thought or consideration. So I would beg the Assembly to just move on and not accept this reduced lodging period. Because we have before us a sensible proposition that will assist Scrutiny and, in turn, the public to understand the workings and the decision-making process of the competent authorities Ministers. The amendment is an irrelevance and therefore let us stick to Standing Orders, let us stick to the proper process and those people who can bring reasonable arguments to the Assembly in good time.

10.1.3 Senator S.Y. Mézec:

No, no, no. There must surely come a point where enough is enough. The Government is really taking the mickey with this one. They have not made any case whatsoever as to why reducing the lodging period would be in the public interest. We are in this situation because they did not get their act together in time and it is as simple as that. The proposition has been lodged for long enough for them to have discussed it early and to put together an amendment. In the email explanation that we have had, we have not been given a reason for why this has been lodged late. As Deputy Ward said, what precedent does it set where the Government can make no effort whatsoever and the Assembly just rolls over and lets them have a reduced lodging period because they have asked, because it is extra convenient for them. It strikes me as being an abuse of the procedures we have in this Assembly to allow for reduced lodging periods. Just to make this final point that I do not think has been made by previous speakers, that the Chief Minister says in his email that there is value in debating the full points. Well, there is no value in doing so, because we can have a debate on the standalone proposition about the Scrutiny Panels receiving the minutes and we can decide either for or against

that. Their amendment is to remove minutes from the proposition and replace it with papers and a summary of decisions made. If the Assembly votes against the Scrutiny proposition to have minutes handed over, there is nothing whatsoever stopping the Government from voluntarily doing that work and handing over those papers. So they are not prohibited from doing what they are now proposing they do. They do not need the Assembly's permission to do that. They can go ahead and do it. So there is no public interest in debating this because they can do it without the Assembly's consent anyway and nobody would have a problem with that. But they are asking us to set aside the long-established rules of this Assembly because they did not get their act together in time. That is not good enough.

[15:30]

In a week where they failed to abide by the rules of producing answers to written questions on time, 4 questions they failed to do that with. A week after they failed to do that to 2 questions. I really do urge the Assembly to assert itself as the sovereign decision-making body of the Island and remind the Council of Ministers who is boss, we have set these rules, and the Government is not above those rules. I urge Members not to support reducing the lodging period for this.

10.1.4 Deputy G.P. Southern:

The actions of this Assembly and this Government and these Ministers have gone from shambolic to worse. In a sense we have almost brought it on ourselves because we accepted, in the time of COVID, the time of real emergency, that there were urgent decisions to be made and we had extra meetings to have those meetings and to fully discuss what was happening. We have been slack. But at some stage we have to get back to where we should be, behaving according to Standing Orders with some sort of rationale, dominance instead of just: "Oh, we did not do this, terribly sorry, but please accept it?" No. The time has come to say: "No, enough." This is not a vital issue and for once we should stand here and say: "Enough." Do not accept that it is okay to have reduced notice. Let us oppose that. Let us stop that. Let us stop it now and perhaps these Ministers will get their act together and start behaving efficiently and getting stuff in within the timeframe to us in order to decide.

10.1.5 Deputy J.A. Martin:

I think the email that was sent around is quite clear; there was a misunderstanding. The amendment was presented to us in time and we had a good discussion. But the person who lodged them quite clearly says they thought they had lodged a week before, but was told because it was a panel it should have been 2 weeks. It was a genuine mistake, an absolutely genuine mistake. I am fed up with this "shambolic Government" from people who sit behind me not doing too much. We have very busy agendas. I can dare what I like. Anyway, no, sometimes you just have to speak out how you feel. This literally is a good amendment, we could clear it, it does what the Corporate Services want us to do, to release the papers from C.A.M. (Competent Authorities Ministers) and then we can have a 5-minute debate and it will all go through. But, no, let us stick on protocol. Let us not do this. Oh, let us come back with something else. And because we are all such a shambles because we are not doing it on time. I absolutely refute that. Please accept the slightly ... yes, it is a week late. It was a week late basically on purpose because we thought we only had to lodge it a week before. Sorry, mistake made. If you have never made a mistake, hold your hand up. I say to the Assembly again, it is, how many months away from the elections, and we are already playing these stupid games. Just get on and do the work. Allow this amendment today. Have a good debate on what we put together.

10.1.6 Deputy I. Gardiner:

I understand mistakes can be made but we are all very clear usually on Standing Orders. I am the youngest - not the youngest - I think that since I have been elected 2½ years ago I made very clear checking with the Greffier when I need to lodge my amendments. The only reason that my amendments were lodged late was when I needed to react to the amendment of the amendment to

make sure that it is coming. But I accept now, I understand, that it was some sort of mistake. I have a question to the Chief Minister, as a usual practice - we do not have to do this - but it is a practice when you bring the amendment forward that you engage with the proposer to have some sort of discussion about a possible amendment. Again, if it is any of the members of the Corporate Services did not speak or can speak. My question: was there any engagement - if yes, what engagement, and if not, it is not - between the Chief Minister or representative from the Council of Ministers with the Corporate Services to discuss a possible amendment?

10.1.7 The Connétable of St. Helier:

From the newest Member to the oldest Member in the Chamber, I do not know how many times I have benefited from the Assembly's willingness to accept a late amendment from me. It would therefore seem churlish to me not to allow the Council of Ministers to do it on this occasion. It would also seem to me rather illogical. Surely, Members want to have a debate on the amendment. If we do not have that chance, some Members will vote against the proposition who might otherwise have supported it. So it does not make any logical sense not to have the debate on the amendment. I think the final point I would make is that the public must get really fed up of hearing the States having long debates about what to do next. That is what we are doing now and I suggest that we get on and have the debate. [Approbation]

10.1.8 Deputy M. Tadier:

Of course, for those who are footstamping, the corollary of what the senior Member of St. Helier, who I think was perhaps having a senior moment in terms of his logic, was saying, is that we do not need the Standing Order anymore. Because if we follow his logic and we say: "Because Members have allowed me to reduce the lodging period for mine, I must therefore reduce it for all" means that we simply should not have lodging periods for amendments. But that is not where we are and I take it back to what the Standing Order says. In the past it used to be that a matter had to be of such urgency to Jersey that it would be prejudicial not to debate it. That was changed to whether it is in the public interest but that case has not been made by the mover of this proposition and that is what we are seeing time and time again. While it was commonplace during the pandemic to reduce lodging periods, it was done because it was deemed to be, I think, in some cases urgent and there was definitely a public interest test there that was met. But what we have seen here is that we do not need this, as Senator Mézec has said, because we will have a debate on the pros and cons of releasing the documents and that the Council of Ministers are at liberty to release what they want. I think in the context of a week where we have seen, I would call it a contempt shown by the Council of Ministers for, not just Standing Orders, but for the Assembly and by extension, therefore, for the public by not even attempting to answer questions in some cases and not even submitting answers. But that simply cannot go on and that is irrespective of who the Government is. The processes do matter and, while it is of course right that we allow latitude on certain occasions, I do not think this is one. I do not see how we can tell people out there to abide by rules in life if we do not apply them to ourselves. Thank you, I will leave it there.

The Deputy Bailiff:

Does any other Member wish to speak on this proposition to reduce the lodging period? If not, I call upon the Chief Minister to reply.

10.1.9 Senator J.A.N. Le Fondré:

I think I will try and keep it as short as possible. It is, I would hope, a relatively simple and straightforward amendment but I will not get into the merits or otherwise of it which obviously some Members started to do. If I can take the words of the Connétable of St. Helier, I think he encapsulated quite a lot of what I wanted to say, i.e., there have been various times in my political life when the Assembly, and indeed the Council of Ministers, have worked to shorten lodging periods for whatever

the reasons are. It has been very clear a mistake was made. I offer my unqualified apologies on that basis and I am still unclear exactly why that mistake was made. But for whatever reason an assumption was made somewhere that it was a week lodging period; that assumption was wrong. So while the person doing the lodging and producing the reports, et cetera, once the Council of Ministers had established the position - it was a while ago - they were working to a week lodging period. I was only informed of that late yesterday afternoon as being an issue and, fairly obviously, I did not find it satisfactory and that is the position I am in today in front of the Assembly. I absolutely offer my complete apologies on that subject. It is very much a matter for the Assembly. I would hope it would allow us to have a sensible debate and the amendment adopted. Obviously the amended proposition would get the full backing of the Council of Ministers. The unamended proposition will leave some issues which we will elaborate on during the debate. In relation to Deputy Gardiner's question, unfortunately, we did not have an engagement with Corporate Services; equally we did not receive an engagement, as far as I am aware, when the proposition was originally lodged because we could have had a discussion around the issues of requesting just the minutes but some of it had been rehearsed in the past. I think that is more a matter for the debate as well. I cannot really add anything else. I think all Members will probably have made their position fairly clear. I would ask the Assembly, again, I apologise unreservedly for the oversight. I do not think it is acceptable but that, as they say, is where we are. It was not done with disrespect to the Assembly, it was a mistake that was made and I think we will just have to make sure that what I thought were good processes in place to avoid this happening are reviewed to ensure that this does not happen again. I do not think I can add anything else other than to seek the view of the Assembly by way of a vote and I guess I call for the appel.

The Deputy Bailiff:

The appel has been called for. I ask Members to return to their seats and the Greffier will now open the voting and will place a link in the chat of those not in the Assembly to make things easier in terms of calculating the outcome of votes. If you agree that the lodging period should be reduced, you vote pour; if you do not then you vote contre. If all Members have had the opportunity to cast their votes, either in the Assembly or in the chat or the link, then I ask the Greffier to close the voting. I can announce that the proposition to reduce the lodging period has been adopted.

POUR: 26		CONTRE: 15		ABSTAIN: 0
Senator L.J. Farnham		Senator T.A. Vallois		
Senator J.A.N. Le Fondré		Senator K.L. Moore		
Connétable of St. Helier		Senator S.Y. Mézec		
Connétable of St. Brelade		Connétable of St. Martin		
Connétable of Grouville		Deputy G.P. Southern (H)		
Connétable of Trinity		Deputy M. Tadier (B)		
Connétable of St. Peter		Deputy of St. Martin		
Connétable of St. Mary		Deputy L.M.C. Doublet (S)		
Connétable of St. Ouen		Deputy of St. John		
Deputy J.A. Martin (H)		Deputy M.R. Le Hegarat (H)		
Deputy of Grouville		Deputy S.M. Ahier (H)		
Deputy K.C. Lewis (S)		Deputy R.J. Ward (H)		
Deputy M.R. Higgins (H)		Deputy C.S. Alves (H)		
Deputy J.M. Maçon (S)		Deputy K.G. Pamplin (S)		
Deputy S.J. Pinel (C)		Deputy I. Gardiner (H)		
Deputy of St. Ouen				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				

Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				

The Deputy Greffier of the States:

Those voting pour in the Chamber: Senator Farnham, the Connétables of St. Helier, St. Brelade, Grouville, Trinity, St. Mary and St. Ouen, Deputy Martin, the Deputy of Grouville, Deputies Lewis, Higgins, Pinel, Labey, Wickenden, Deputy of St. Mary, Deputies Ash, Morel, Guida, Deputy of St. Peter and the Deputy of Trinity. Those voting pour in the chat: Senator Le Fondré, Connétable of St. Peter, Deputy Young, Deputy Truscott, the Deputy of St. Ouen.

[15:45]

Those voting contre in the chat: Senator Vallois, Deputy Tadier, the Deputy of St. John, Deputy Alves and Deputy Doublet. Those voting contre in the Chamber: Senators Moore and Mézec, the Connétable of St. Martin, Deputy Southern, Deputy of St. Martin, Deputies Ahier, Ward, Pamplin and Gardiner.

11. Competent Authorities Ministers: Release of minutes of meetings to Scrutiny (P.86/2021)

The Deputy Bailiff:

We now move to the debate Competent Authorities Ministers: Release of minutes to Scrutiny lodged by the Corporate Services Scrutiny Panel. The main responder is the Chief Minister. I ask the Greffier to read the citation.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion that, on request by the Scrutiny Liaison Committee, any approved minutes of meetings of the competent authorities Ministers should be shared in confidence and without redactions by the Chief Minister with that committee for distribution to the relevant Scrutiny Panels.

11.1 Senator K.L. Moore (Chair, Corporate Services Scrutiny Panel):

The Corporate Services Panel lodged this proposition to enable oversight and understanding of decision-making in response to the COVID pandemic by the competent authorities Ministers. Contrary to the suggestion of the Chief Minister in the previous debate, we have raised the issue of sharing of minutes on a number of occasions with him, mostly in informal sessions that the Scrutiny Liaison Committee have held with the Chief Minister periodically when he finds time to meet with us, but also in open public hearing sessions. Because one of the main purposes of Scrutiny is, as Members are aware, to hold the Government to account, and in order to do that it is of assistance if we can understand the decision-making process that has led to the decisions that are made. Often, as we have raised with the Chief Minister on several occasions, it is very difficult for Members to understand how decisions suddenly appear when we are not party to the process that has gone on behind closed doors. So, the competent authorities Ministers hold the core powers, whether as Ministers ... sorry, there are some chuckles. I am surprised to see that it is the Minister for Home Affairs chuckling because usually it is other Members that have a different name for the competent authorities Ministers but I will not go into that at this point because I would not consider it to be parliamentary. So, the competent authorities Ministers hold the core powers, whether as Ministers or as competent authorities, in response to emergencies and threats to our community. Those Ministers have met formally at least 41 times in the past year and there has been no suggestion as to when those Ministers or that grouping will be disbanded other than when the global pandemic is over.

The competent authorities Ministers is a small group by nature and its decisions impact the Island greatly. It is critical then that this decision-making body receive the due oversight, particularly in this time when Ministers have held heightened powers and abilities to bring forward emergency legislation. There is a clear need and will for transparency in decision-making by the general public within the Island and by members of Scrutiny. I have seen in the minutes of S.T.A.C. (Science and Technology Advisory Cell) a specialist secretarial staff within the Greffe produces detailed and impartial records of meetings. The panel finds it concerning that the Chief Minister insinuates that competent authorities Ministers would specifically avoid deliberations in a formal setting. Following the adoption of a proposition from Deputy Pamplin, those minutes are now published and the members of S.T.A.C. have, it appears, been comfortable with their safe space being shared with members of the public. It has been most useful to have access to those minutes to understand and look back at the deliberations of the S.T.A.C. at those key points in decision-making over the past 18 months of pandemic. The proposition, however, did not go as far as to request publication of the exempt minutes. I am back now on the Corporate Services particular proposition. We do acknowledge these may contain confidential information, however, sharing them with Scrutiny would enable due oversight to help understanding outside of the competent authorities Ministers. The primary purpose of Scrutiny of course being to hold the Government to account. This is made difficult without the relevant information to hand and the relatively new creation of the competent authorities Ministers meetings as a regular decision-making fixture has posed an additional difficulty for us. The proposition is simple. To assist Scrutiny in carrying out its functions, to be the critical friend when required to provide confidence to this Assembly and to the general public of the decision-making during the pandemic.

The Deputy Bailiff:

Is the proposition seconded? [**Seconded**]

11.2 Competent Authorities Ministers: Release of minutes of meetings to Scrutiny (P.86/2021) – amendment (P.86/2021 Amd.)

The Deputy Bailiff:

There is an amendment lodged by the Chief Minister and, as I understand it, that amendment is not accepted, is it? No. The Greffier will now read the amendment.

The Deputy Greffier of the States:

Page 2 - after the words “the Scrutiny Liaison Committee”, for the words “any approved minutes” substitute “agendas, papers and actions agreed”. After the words “without redactions by the”, for the words “Chief Minister” substitute “Competent Authorities Ministers”. After the words “that Committee for distribution” insert the words “, in confidence,”.

11.2.1 Senator J.A.N. Le Fondré (The Chief Minister):

Thank you. Firstly can I thank the Assembly for at least agreeing to have this debate. We will obviously see what the outcome is. I absolutely agree with the principles that Scrutiny is there to act as a critical friend and to hold the Government to account. Obviously all Ministers appear in front of Scrutiny at various times and, indeed, we answer - I would hope - any and every question that is put to us by the relevant panels or ... we do our best to answer questions in the Assembly as well. The difficulty with this, which I am going to go over in a little bit more detail, is the actual consequences or potential consequences of the unamended proposition, particularly if it also gets applied to other bodies eventually that is not part of the proposition, if then started applying to minutes of other bodies, for example, the States Employment Board or the Council of Ministers, i.e. as a precedent. I am sure any politician worth their salt will recognise the terminology used at times about when they receive advice about whether something does establish a precedent which might cause concern in the future. The other issue that I will need to refer to, which is covered under the

protocols in the Government Scrutiny, is the provision of legal advice, which the original proposition did not address because it sought unredacted minutes which obviously do contain legal advice specific to Ministers. In the same way that legal advice provided to Scrutiny Panels is kept confidential to that panel, obviously the usual precedent says that advice provided to Ministers or to bodies such as competent authorities or Council of Minister or whatever, that legal advice is specific to that particular body. The purpose of this amendment is reconcile P.86 proposition with the code of engagement between Scrutiny and the Executive. Crucially it is to preserve what we call the very frank and candid discussions which are essential to the decision-making process of C.A.M. I think we all accept that none of us, when we started our role in 2018, were anticipating a pandemic. We are now in 2021, towards the end of it, and we are not yet out of the pandemic, although obviously to date Jersey has come through it very, very well. The decision-making process at times has had to be swift and obviously at times has had to consider very difficult issues. The long-held principle for the content of both Ministerial and Scrutiny meetings is that they are confidential, and that is in line with best practice in the U.K. and elsewhere. We do not see the minutes of C.O.B.R. (Cabinet Office Briefing Rooms) or the Cabinet being published. That helps to ensure that decisions can be made following full and frank discussions between Ministers and officers without reservation or hesitation. I was previously in the role of president of the then Chairmen's Committee so I can fully understand the rationale behind the proposition that has been brought. I do fully respect and recognise the desire for that transparency in decision-making. I can definitely recall a number of conversations between myself and then Scrutiny colleagues and members of the previous Government over access to minutes of Ministerial meetings. Categorically it is something that myself and other members of the then Chairmen's Committee raised with the then Council of Ministers, of which Senator Moore was a member at that point, over access to minutes at that point of Ministerial meetings. The point that the Executive made, very, very strongly at that time, which I assume she supported at that time, which I believe still stands now, is that providing full and unredacted minutes even confidentially to a small group fundamentally alters the nature of such meetings. I believe the then Minister for External Relations very forcefully made those arguments to us categorically on behalf of the then Council of Ministers. I will just touch on as well that unfortunately in confidential briefings there have at times been leaks. I know one was at officer level within Scrutiny, which was very unfortunate, and there have been leaks from panels themselves. Given the nature of some of those decisions that we had to deal with and sometimes dealing with quite specific and personal nature and decisions that have to be made dealing with individuals ... when I say "individuals", circumstances affecting small groups. It is important that freedom to deal with those areas is there. It is human nature to behave, interact and speak differently depending on one's audience. A discussion I might have with a Minister, for example, might differ slightly if other Ministers are in the room potentially, or if officers are present or if that conversation is in public. Context matters. Introducing an observed element into the specific decisions within competent authorities meetings will, I fear, change them. Members may well be of the opinion that this is a price worth paying to ensure that Scrutiny have access to the minutes and are able to appreciate the difference of opinion between Ministers. I would contend that discussion of C.A.M., and we are still in a pandemic, will be weaker, potentially less candid and potentially less useful because of that. Ministers should be free to be told: "No, Minister, you are wrong." We do not really want meetings unduly influenced and Ministers feeling that they have to make points for political purposes or not make points because they know that, for the sake of argument, 18 members of Scrutiny will read those minutes. We also do not want to drive discussions into the margins of those meetings. As we said in the report to this amendment, the proposition could incentivise the formative interventions by Ministers or officers with the express intention to curry favour with a particular Scrutiny Panel. Similarly there is a real danger of officer advice being more circumspect or even withheld entirely for fear of looking foolish in hindsight. There will not be any blue-sky thinking for fear it will be minuted and misinterpreted in those minutes. That will not only make the discussion with the competent authorities far less useful but will also weaken our pandemic response itself. We are, after all, still in a pandemic and we are entering the winter phase. For an

example, without a safe space for frank and candid discussions we might never have had original ideas such as the Spend Local card or the safer travel policy or the community taskforce. Each of which were refined during C.A.M. discussions before the final policy was agreed. There is a concern there that there would be less, if you like, blue-sky thinking if all discussions, and indeed more importantly some of the disagreements, were shared. We also recognise the point that oversight from Scrutiny and understanding of what is going on is incredibly important. As I said, I have been on the other side of this argument, as it were, but at that point as president of the Chairmen's Committee and all of the members of the Chairmen's Committee of that day accepted the argument about having a free space to converse. What this does, and I would hope it is respecting the principle of transparency that we are trying to get to, is this amendment will enable Scrutiny properly to review all the agendas, all the papers, all the officer advice with the exception of legal advice, as per the code of engagement.

[16:00]

That is quite important because the original proposition does not address the issue of legal advice and essentially requires it to be provided unredacted. That then also causes us an issue because that is addressed in the code and is obviously not addressed in the proposition, so there is a conflict between those 2 in our view. Scrutiny will therefore be able to see the same detail as Ministers and would understand the basis for the C.A.M. decisions. We think that is a good way forward as a basic compromise. Also we will make sure we provide Scrutiny with a record of all actions agreed and decisions reached, with a summary of the decision provided as well. Therefore without compromising the confidentiality of the individual positions of Ministers of disagreements within C.A.M. We believe taken together this would provide the relevant panels with the decisions reached by the C.A.M. and the evidence used to inform and make those decisions. In our opinion, that is transparent and accountable government while observing international norms of how Governments make decisions. Now, I absolutely understand why panels would like our minutes but I would ask Members to see that we are putting forward what I hope is a good faith amendment as part of a reasonable solution. That has exercised our minds quite considerably in terms of how do we address, as I said, the provision of legal advice when that legal advice is recorded in the minutes. Bear in mind, it specifically says the minutes cannot be redacted. This then achieves vision of all the information being received as Ministers in making the decisions. From my perspective one would hope it is a fairly straightforward debate, one either agrees with the proposition that we are suggesting from a reasonableness point of view or one goes down the view that actually all we want is the minutes of the competent authorities Ministers. There are potentially unintended consequences that arise out of that and what we are trying to do is avoid that and allow Ministers to continue to have their safe space in the same way that Scrutiny members do as well. Therefore I do ask Members to vote in favour of this amendment to provide more data and transparency to Scrutiny without impairing the actual decision-making process of the competent authorities Ministers, which has been so integral to our pandemic response. On that basis, I make the amendment.

The Deputy Bailiff:

Is the amendment seconded? **[Seconded]** Does any other Member wish to speak on the amendment?

11.2.2 Senator K.L. Moore:

Members are perhaps wondering why the Scrutiny Panel did not simply accept the amendment, albeit that it had come in late. We most certainly did consider accepting this amendment and there have been a number of reasons why we have not. Firstly, it has been interesting to listen to the Senator's expressions in his speech and one of the points that he made was: "Well, if we agree to this there will be all sorts of other requests to share information." If I could share with Assembly Members there is currently a situation where the States Employment Board minutes have been requested by the Corporate Services Panel. We received them and we hold in our possession some weeks of minutes

pertaining to the early part of this term when there was a different chair. However, it stops at that point. The Public Accounts Committee do have States Employment Board minutes. There are plenty of anomalies in the system already and there are already examples of minutes being shared with Scrutiny Panels. Therefore, it makes sense to apply the same norm in this instance and to simply allow, under the code of practice and confidentially, the Corporate Services Panel to receive these particular minutes to assist our understanding of the deliberations that do take place. We have also considered the code of practice that we have and we have always abided by that. There is no evidence of leaks coming from members of Scrutiny Panels during this term of Government. The leaks generally tend to come from Government. The panel also notes the Council of Ministers has sought to provide briefings to Scrutiny, but these tend to happen prior to public announcements and generally in very short timeframes before those public announcements. Therefore there is no opportunity to do any further research or give proper consideration to other options that may have been available at that time. The amendment could, in fact, create further work for officials who, as we have seen today in some of the issues that have been very apparent in the Assembly with questions unanswered and late amendments being lodged, officials are already stretched clearly within Government and operating different rules for different minutes and different panels only will cause confusion and lead to further mistakes. It would be far simpler simply if it were in the ethos of openness and transparency and inclusive government, which is what we are supposed to experience, that these minutes could be shared rather than adopting, as I referred to earlier, a fudge and a workaround option that makes it look like there is transparency but in fact there is not. We already receive the Council of Ministers agendas and papers and those agendas and papers tend to be the very same papers that go to the competent authorities meetings on the COVID topics. It has become very apparent that in fact these papers are considered by 3 different bodies, the Emergencies Council, the competent authorities Ministers and also the Council of Ministers too. Therefore the considerations are made, not once, not twice but in triplicate, which cannot possibly be a very good productive use of anybody's time in particular. However, it does fill us with some sense of curiosity to understand how and why these many meetings do occur to consider the same matters time and time again. I simply ask Members to think logically about this. This is about adopting similar principles and treating like with like. Minutes with minutes, panels with panels, we can all be treated on a level playing field and I hope that Members will not adopt this amendment and will support the Corporate Services Panel's proposition.

11.2.3 Deputy J.H. Young:

Openness and transparency are the fundamental principles, I think, of Government. I find myself in a position where I think the Chief Minister knows when he puts the question. Having made a sort of analytical case for reasons why we need to tone this down, he asked a question: is it a price worth paying for openness and transparency? I think it is and I certainly expressed that view when this came along. Obviously having sat at the Council of Ministers' table, I was interested in what the Senator said that the minutes of C.A.M. are seen by Ministers. I cannot recall that myself. I do not think I have seen a set of C.A.M. minutes. I was not aware there were 41 meetings. Obviously what came out of that is the sort of big decisions and of course I am aware that during the early part of COVID, when we had arguments over closing of schools, we lost a Minister for Education but what went on? I do not know, still do not know. What was the balance of advice? I am hoping that in the fullness of time we have this inquiry and look back at lessons learned. I think it is going to be really important that we know what the various alternative views were. I think we should trust the Scrutiny Liaison Committee. We appoint them, we elect them in this Assembly, they are ours, they do a job for us, for the public. I agree with the Chief Minister on the point of legal advice. I think that is really difficult because it puts the States and probably contravenes Standing Orders if material gets into the public domain, which discloses the advice that we have about the dos and don'ts and such matters. Maybe even Members might say: "Crikey, you should have put in an amendment to this." Okay, hands up on that, I missed that particular point. But I do trust the Scrutiny Committee. I think

they can exercise that judgment on what they do. Of course there were a couple of things in here which did worry me a bit and I must admit I do not think that I ... to be honest with you, I do not know what happened with the draft of the report with the amendments. I am pretty certain I would not have endorsed it because it has got a paragraph in here that really quite surprised me. It says: "One of the reasons why we need to make this toning-down amendment is that Ministers and officers must be at liberty to express their views without being unduly influenced [and this is the phrase] to give performative intervention for the sake of the minutes." What does that mean? People see it as a theatre. When I am at Council of Ministers there is only one issue I have got in my mind: is this in the interests of the Island or not? Performative interventions and then it goes on: "Equally, participants could be dissuaded from giving an opinion or be circumspect with their advice [and here are these words] for fear of looking foolish in hindsight." Crikey, if that is the way politics is, I do not want any of it. Performance, looking foolish. The Chief Minister spoke about politicians worth their salt, well maybe my viewpoint does not make me worth my salt. I would prefer to deal with openness, the truth, say what you think, as I am doing now, and it will not make me popular. On balance, I would like to see an amendment that dealt with the issue of the legal advice but I think having a situation where real big decisions have been made about, which affect people's lives and businesses and also life and death decisions. I think it is important that there is a record of that and I trust that our Scrutiny team will exercise ... I do not think they are going to go on a search for the guilty, if that is what the fear is. No, it is about lessons learned. As Deputy Martin reminded us earlier, and I think she spoke so well, put your hands up who has not made a mistake. There we are. I am going to not vote for the amendment and I not going to speak again but I shall certainly be voting for the main proposition.

11.2.4 Deputy K.F. Morel:

I think that was an excellent speech by Deputy Young and raised many of the points that I want to make. But also at risk of repeating myself, not from today's debate so far but from previous debates that we have had on various issues over the past 3 years. I remind Members that in my mind I am a States Member first and all my other positions, whether it is Government or Scrutiny or anything else, come second to that. I think often, particularly Members of Government, not just this Government, previous Governments too, need to remind themselves that they are States Members first and Members of the Government second and they serve as Members of the Government at the leisure and the pleasure of the States Assembly. I am not sure which end of my speech I want to start at but I will try and find where the beginning is. All of this brings to my mind one of the real concerns I have about Ministerial Government and it is interesting because at the moment I am also reading a draft of the democratic accountability report that has been ongoing for the last few months.

[16:15]

My big concern about Ministerial Government is an observation that I made when not just looking at this Assembly and this jurisdiction but many other jurisdictions, principally major nations around the world. I realised that in a system of Ministerial Government the moment you create that Executive Government and separate it in some way from the legislature, you end up in a situation where that Government and those Ministers want an increasing amount of powers and they want decreasing amount of accountability and they want decreasing amount of transparency. That is what I see happening here but I have also seen it happening in the U.K. The Henry VIII laws that the Prime Minister did invoke with regard to certain provisions around Brexit. We see the games that are played in the U.K. constantly to avoid accountability of the Government by opposition parties in that case because they do not have a real scrutiny system in the U.K. In the U.S. (United States) we see it happening where the executive under the U.S. administration was doing everything it could to avoid accountability to Congress and accountability to the people in many different ways. We have seen the extreme that that has led to in the U.S. Because when you have a Government without accountability and when you have a Government without transparency, when Ministers operate in

that sort of environment, then they begin to operate in a very untoward manner and they can start making decisions which benefit them, rather than benefit the people of the jurisdiction that they are operating in. That is the context in which I view this proposition and this amendment. I do note and I do think it is important to note that in this Assembly we switch roles; 2½ years I served in Scrutiny and I am incredibly proud of that. I have spent just under a year on the edges of Government learning from that and it is that learning that I am trying to bring to this particular debate. After the election most of us who are returned have no idea whether we are going to be in Ministerial Government or in Scrutiny. If there are Ministers, and I am sure there are Ministers here today who will be in Scrutiny next time, they will suddenly realise why it is that propositions like this crop up and why it is that Deputy Pamplin fought to get the S.T.A.C. minutes released. They will understand that when they are in Scrutiny but there are many Members of this Government who have not served in Scrutiny. What surprises me - and this is the lesson I think we all need to learn - is that there are Members of this Government who were in Scrutiny in the last Assembly and their behaviour has changed quite significantly. When they were in Scrutiny they wanted that transparency and they wanted that accountability and quite rightly so - I backed them then and I back them now - and now they are Ministers they are not so keen. It is that fact and it is not just these Ministers, it happened under the previous Assembly and it happened in the previous Assembly before that and this is the problem, we are on a journey whereby each successive Government takes more and more power for itself, weakening the legislature at each turn. P.1/2018, one of the last acts of the previous Government was, in my view, a dishonourable act and it weakened this legislation significantly. It was something that the then Chief Minister should not be happy when he looks back at that because he got that wrong very clearly and it weakened this Assembly. I know that there are parties, not the one that I sit next to, who are approaching this election with a view that they want Scrutiny out of the way; that they see that in government Scrutiny, in their view, is in the way. That worries and concerns me enormously. That is why I have raised in this Assembly that Scrutiny needs to be protected if we are going down the route of party politics, which I am less and less convinced we are by the way. But it is that attitude which Ministers in this Assembly today do hold, that they believe that Scrutiny is wrong because it stops them achieving what they want to achieve in their temporary positions. Always remember this: you are a Minister temporarily, you are a blip in time and there will be people after you who have to pick up the reins where you left and you may well end up back in Scrutiny, and you will be wanting that transparency back again. As Islanders, we deserve transparency. COVID has really brought some elements to the floor, principally elements such as the Emergencies Council Law or the Emergencies Law, which is not fit for purpose, and I brought this up in Scrutiny when we had a briefing on it in 2019; the Emergencies Council Law has no protection in it. The Chief Minister could invoke that law at any point, irrespective or not of whether there is an emergency. The next Chief Minister could be elected Chief Minister one day and the next day invoke the Emergencies Council Law and set up the competent authorities and rule this Island from the competent authorities as long as that Chief Minister wishes. There is nothing in the law to stop that happening. There is nothing in the law that says when the competent authorities should be disbanded when an emergency is stopped, dare I say; nothing at all. This Island had been ruled by the competent authorities since March 2020. We have had 41 meetings of the competent authorities, probably 35 of which I have had no clue were taking place. We have no real understanding of what goes on in the competent authorities. Ministers who are not in the competent authorities should be angry about that because they do not know what is going on in the competent authorities. I do accept competent authorities have been benign, in the main I believe they have acted in the Island's interests but that is not something that we can guarantee in future years. We see that when we look at the U.K. and when we look at the U.S.A. and other Governments around the world. We cannot trust that the competent authorities will always be benign. We cannot trust that future Ministers will always be benign and act in the right way. It is for that reason in an Island where we have no military, we have no nuclear secrets, we have no biochemical weapons, we have no, to my knowledge, intelligence services. We do not need secrets in this way. The term "safe space", if I turn to that, it is one of

those terms which makes my skin crawl. If you need a safe space as a politician then you really should not be a politician, it is that simple. We stand up and put our heads above the parapet on a daily basis and it is tough and there are times when I know just in my minor role in Government or my role in Scrutiny it has been really tough and I wondered whether I should not have kept my mouth shut. I do wonder that by the way quite often, whether I should not have spoken out about X or Y or whatever it may be. It is a tough job and I do know that but safe spaces are not for us. We discuss things that determine other people's lives, that determine the future of other people's lives, the way they interact with each other, the safety, the laws under which they go. All of that should be noted, minuted and made available to this Assembly and to the Scrutiny Panels that oversee the work of the Government and I use that term "oversee the work of the Government". The Government, as I started, comes from this Assembly, it serves at the pleasure of this Assembly and it can be stopped by this Assembly. It really is about democracy. This debate, while seen as minor ... we saw earlier today how apparently minor debates can become much bigger debates than we expected. This minor debate is about democracy at its absolute heart, and democracy in this Island, which I vow to protect as long as I can and as long as I have a vote in this Assembly. I will do everything I can to maintain the power in this Assembly. I know there are people who wish otherwise, who want to just rule with an iron fist and get through what they wish to get through, regardless of what other people may think or what effects those may have. That is the context in which I am speaking. Now, more specifically about the minutes. I find it amusing, to be honest with you, when we have a report which talks about minutes as though they are a transcript. Minutes are not a transcript. I would say it is almost a mistake in the original proposition to ask for the unredacted minutes. The reason I say that is because minutes are by their nature a redaction. No set of minutes tells you exactly what was said in that meeting. In fact, a well-trained and very experienced minute-taker will exercise the discretion of a minute-taker when writing those minutes. Indeed, I have been in the odd meeting or 2 and said: "Please do not minute that." Usually because I have used a word I should not have used. That is what happens with minutes. They are an outline sketch of the conversation that took place. So when competent authorities Minister A says to competent authorities Minister B: "I do not agree with your proposition on this matter", and that takes place as a conversation, we will have in the minutes a note which says: "A discussion took place between competent authority Minister A says to competent authority Minister B. The outcome of which was ... and they agreed on such-and-such a matter." That is what it says. It does not tell you in great depth what each Minister said, how they insulted each other, how they threw their arms up in despair at the other's ridiculous arguments and so on and so forth. It just gives you that outline sketch. Islanders have a right to know what competent authorities Minister A said to B in that meeting, given that that meeting in the past year has taken away the rights and freedoms of Islanders. There is no way that this amendment, which is a weakening amendment, should be allowed to pass. Scrutiny want those minutes. Scrutiny should have those minutes. I do trust Scrutiny. I know for a fact that when I was in Scrutiny, the confidentiality of confidential documents was our highest priority, because we know in Scrutiny that the moment Scrutiny leaks things, the Government will be all over it, telling the world how Scrutiny has leaked and Scrutiny cannot be trusted. Scrutiny does not leak. Council of Ministers leaks. That is where leaks take place, not in Scrutiny. Yes, Deputy Young is absolutely right when he says you can trust Scrutiny with regard to confidentiality. I back him entirely on that. That was entirely my experience. Scrutiny is scared of the Government throwing up its arms in despair at Scrutiny. It knows that it is in a weaker position than the Government. It does not have the resources, the same length or the same depth of resources, as Deputy Ward said earlier today. This amendment fails to acknowledge the reality of minutes: they are not a transcript. It fails to acknowledge the needs of Islanders in being able to see entirely transparently how decisions with the Emergencies Council are made. As an aside, the Emergencies Council Law needs to be seriously updated and it needs to happen fast. It was meant to happen in 2019. It did not happen. I do not know why. Strangely enough it has been in use for the 2 years since. It worries me that, to be honest, there is nothing in law to stop the Chief Minister keeping the Emergencies Council and the competent authorities

operating until the end of this Assembly. It does not matter what the pandemic is doing, there is absolutely nothing to stop them doing that. I am sure he will not and I hope to goodness he will not do that. Please, I ask Members reject the amendment. Scrutiny want the minutes. The minutes are not a transcript. Ministers do not need such a safe space as they are talking about. Ministers can always ask for a comment to not be minuted; that is absolutely fine. Scrutiny is asking for the approved minutes, so they are minutes after they have gone to Ministers for their approval. Believe me, they do not need any further redaction. Yes, please do reject this amendment. It is unnecessary.

11.2.5 Deputy D. Johnson of St. Mary:

I am pleased to follow Deputy Morel, but I can assure you I will be somewhat briefer than him. I would like to go back to the basic point that is provision of minutes in redacted form. The panel on which I currently serve has recently been through this experience. We did receive minutes heavily redacted going over a 2-year period. We could not make head nor tail of it. We had to go back and the Minister concerned did relax his requirement and we got them in a better format. The purpose of our receiving them or requesting them was to enable us to fully understand the motivation for this, that or other provision. Without that information they were useless. It is not an academic argument. If Scrutiny is to have a full understanding of what is going on at Ministerial level, we do need to see redacted minutes. As Deputy Morel says, they are minutes and minutes themselves are not a verbatim account of what happened. If there are embarrassing things which they do not wish to be made available even to Scrutiny then they can be amended at that stage. I do accept the point by the way, that officers might be more concerned about their own identity being revealed. I accept, because that is the code, that they would not be named, but that does not apply to Ministers.

[16:30]

That is my main point. Again, as Deputy Morel said, these minutes are not being made available to the public. They are being made available to the Scrutiny Panel in confidence. I am sure all panels have this complication on occasion. The panel on which I currently serve and on which Deputy Morel was chairman included information received from External Relations. We are extremely conscious of the sensitivity that some information we received could have, if revealed ... and I suspect sometimes we might receive information prior to other Ministers, and quite right too. All panels are acutely aware of the sensitivity. The minutes are not being made available to the public. Again, as Deputy Morel said, if we did let slip any confidential information, we would be hounded, and correctly so, for having done that and it would upset the whole Scrutiny balance. I do not see the need for that. If the Ministers accept the integrity of Scrutiny to treat matters with confidentiality there is no need to resist providing minutes unredacted. The other point I have - I am sorry I am a lawyer in this - comparing the original proposition with the amendment. The original proposition requests any approved minutes of meetings of the competent authorities to be shared in confidence. The amendment is a similar request for agendas, papers and actions agreed at meetings to be shared. My own interpretation is that term papers would include minutes, so I am not quite sure on that basis, even if the amendment was passed. I do question whether that prevents minutes being provided in unredacted form. That is my basic point: there should be no need to redact minutes if Scrutiny is prepared to do its job and if the Ministers want it to do its job.

11.2.6 Deputy M. Tadier:

I was looking back on a couple of propositions that I had lodged in the past to do with greater transparency when it comes to Government and their meetings. I was reminded that in both 2011 and 2014 I had submitted propositions to ask the Council of Ministers meetings to take place in public. Not for the entirety of their meetings, because even I acknowledge that there would be matters that they wish to discuss on a B agenda, which were potentially policy and formation. The reason I lodged the proposition was because I became aware that there was a lot of lip-service being paid to transparency, accountability and openness, but then when push came to shove the actions did not

follow the words. I was heartened that, even though the proposition lost, some of the people who had committed in their manifestos to openness and transparency, including my good colleague at St. Brelade, Deputy Truscott. He will probably remember this. He was one of those who got elected in 2014 and put in his manifesto that he was committed to openness and transparency. He did indeed vote for that proposition, which I thought was a moderate one, because it was about greater engagement with the public. That said, what Deputy Morel said, I do not entirely agree with it. It is valid for Ministers, similar to Scrutiny Panels to be able to speak freely and openly and have perhaps zany ideas, to have blue-sky thinking, to think about counterfactuals that they would not necessarily want the media to report on, simply because I do not think any of us can fully trust context to always be taken into account. It is right that there are items that any politician ... Deputy Morel may wish to be careful of what he wishes for, because he may well be a senior Minister after the next election and he will need those safe spaces to know that ideas are being discussed that are not going to end up being misinterpreted on the front page of the *Jersey Evening Post*. That said, this is not quite what we are debating here today. It does seem a bit of a mishmash. The point here is that this is not knowledge that is going to be made public. This is about Scrutiny having access to meaningful information that is not being redacted beyond recognition. The point is that we do not really know what the minutes say. One would hope that minutes are taken to satisfy the people who attended the meeting, to make sure that what was written is a fair reflection of what they meant. That is certainly what I look for in minutes at meetings where I have attended and where I have spoken, to make sure that what I have said has not been misinterpreted and that all of the important points have been recorded. Similarly, I do not think it can be taken as read that there will be nothing interesting or controversial recorded in the minutes, because it depends on the terms, if you like, the understanding that was made when those minutes were recorded. There are probably lots of ideas that need to be taken into account after this discussion today as to what in fact we expect minutes to record. It is fair to say that if you do not expect the minutes to be made public then you can be more free and easy with what you record in the minutes; if it is only for your enclosed group to have access to them. That said, the principle is that the Scrutiny Panel should have access to all the information that they wish to have access to. I will leave the thoughts there.

11.2.7 Deputy M.R. Higgins:

I will be brief, because Deputy Tadier said a number of things I was going to say. Looking at the amendment, there was one paragraph that Deputy Young mentioned as well: "Ministers and officers must be at liberty to express their views without being unduly influenced to give performative interventions for the sake of the minutes." I agree with Deputy Young about that particular phrase; it is not a performance, you are saying what you think. At least I would hope they would. They should be able to say what they say in private meetings what they should say in public, because I do not believe there should be a difference between the 2. It says: "Equally, participants could be dissuaded from giving an opinion or be circumspect with their advice for fear of looking foolish in hindsight." Some of the people who are giving this advice are very, very well paid high civil servants, who were earning 2, maybe 3 times the salary of a States Member. I would like to think that the advice they are giving is sound and would not be thought to be foolish. If it is not, I would like to know. These minutes should be available to the Scrutiny Panel to be able to look at. I might add, by the way, this argument was also given by the law officers about us seeking their advice. I remember meetings to do with the Children's Commissioner and whether she should have full information. Deputy Mézec was not prepared to go along with full disclosure on that. What I am trying to say is the officers were arguing that we should not have the information because law officers would not be prepared to give their opinion. They are highly professional people, with lots of knowledge and experience, and I cannot believe they would fear not giving their information out. They are doing it in good faith. It should be accepted in that way. We should not be put off seeing minutes simply because they would be dissuaded in giving their opinion. I do not believe that. If they are, they are in the wrong job. I will support this.

11.2.8 Senator S.Y. Mézec:

Deputy Higgins gives me an opportunity to correct him while still supporting the ultimate position of opposing this amendment so minutes can be produced. His recollection of my position when the Children's Commissioner Law was being created may well have been a reflection of meetings that he attended that I was in as well. Buried somewhere in the Council of Ministers records will be minutes showing that I support full disclosure for Children's Commissioner. As all things that Government does, they end up being a democratic piece of work where you occasionally have to beat other people's positions to get something over the line. Were those minutes available, Deputy Higgins would not be able to inadvertently misrepresent my position there. Is it not a good thing to have minutes accessible to those who are holding people in power to account? He has helpfully provided an example of why this amendment should be opposed and the main proposition supported. It is important for those who are holding Government to account to have the information at their disposal so they can do that job properly. The amendment as proposed by the Council of Ministers gives Ministers and their staff extra work when really it would be much simpler to simply pass them on the minutes. I, for one, think Scrutiny can be trusted with that. Therefore, I would urge Members to oppose the amendment from the Council of Ministers and support the main proposition.

Deputy R. Labey:

I just wondered if I could ask a question of the Attorney General at this point. Is it the case that if this proposition is approved unamended that legal advice given by Crown officers to this committee would be in the minutes and distributed to Scrutiny as they are asking for?

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

It may be that you think that the wording of a proposition is a matter for you rather than for me. However, for my part, if it assists, the proposition as unamended refers to "shared in confidence" and without redactions by the Chief Minister with that committee for distribution to the relevant Scrutiny Panels. For my part, I would view the words "without redactions" as meaning that the minutes are to be distributed without redactions or legal advice. As I say, the wording of a proposition is traditionally a matter for the Presiding Officer.

Deputy R. Labey:

In which case, could I ask the Attorney General if that would compromise his office in any way?

The Attorney General:

Yes, is the short answer. I believe it is accepted by Scrutiny that legal advice is confidential and there is a public interest in public authorities whom I advise not being inhibited in seeking legal advice for fear that in some future date the fact that they sought legal advice and the contents of that legal advice would be disclosed. It is pretty much universally accepted that the right to take legal advice is confidential. It is a fundamental principle that lawyers, when they give legal advice, there is confidentiality in that advice. The advice is not normally published. Those principles are recorded in the current code of practice for engagement between Scrutiny Panels and the P.A.C. (Public Accounts Committee) and the Executive, which is P.56 of 2018. There is a section on legal advice, which is at paragraphs 36 through to 39. The reasons for confidentiality are expressly accepted in that code of practice.

[16:45]

There is an exception in paragraph 39 whereby: "Panel and P.A.C. members recognise and accept that Ministers and their officials will maintain their claim to legal advice privilege except in exceptional circumstances, if questioned by a panel/P.A.C. and will not seek to interfere with that privilege. Such exceptional circumstances are likely to arise only where there is a co-ordinated law officer, Ministerial and Scrutiny/P.A.C. approach to the release of the advice, where there would be

no adverse impact on actual or possible legal proceedings in court and where there would be no undesirable press as a result. In such circumstances, the written prior permission of the Attorney General must be obtained before the advice is disclosed to a panel/P.A.C. and also before any legal advice or reference to it is published by the panel/P.A.C.” That is the existing and agreed code of practice which governs legal advice. In this case I am aware, because I have reviewed the minutes, that legal advice is recorded in the minutes. In my view, that legal advice would be capable of redaction and I would urge, if the Assembly is minded to go down with any release of minutes for Scrutiny as a very bare minimum, the legal advice does need to be redacted from those minutes. It should be a relatively straightforward task and would not, in my view, take much time. I am not, having reviewed that legal advice, persuaded that it would come within the exception which is set out in paragraph 39 of the code of practice, which I have just read out. I trust that assists.

Deputy R. Labey:

Yes. I would like to thank the Attorney General. It was certainly very helpful. Could I just ask one further thing? The proposition unamended is unequivocal and expressly states “without redactions”. So if the Assembly passes the proposition unamended the minutes surely have to be presented unredacted as expressly stated?

The Attorney General:

That is the logical consequence of the passing of the proposition. It may be that Scrutiny would take a different view and would agree that the legal advice should be redacted. However, on the strict wording of the proposition the legal advice would not be redacted from the minutes.

Deputy M.R. Higgins:

Could I ask a question of the Attorney General, Sir?

The Deputy Bailiff:

Yes. There are questions in the chat as well for you, Mr Attorney. You are the second one in time, Deputy Higgins. The first one in time comes from Deputy Tadier.

Deputy M. Tadier:

I have 3 related questions. I will try and make them as concise as possible. The first question: is it the case that while there is a presumption of confidentiality in legal advice generally, that it is possible to waive the confidentiality? Could the Attorney General clarify how that waiving of the confidentiality be achieved? Would it be sufficient for him to waive the confidentiality or for the Council of Ministers to do so?

The Attorney General:

Yes, I can assist the Deputy with his question. It would take both the competent authorities Ministers and me as well to waive the privilege in the legal advice, because in relation to law officers’ advice, both the party who seeks the advice and to whom the advice is given and also the law officers themselves both have privilege in the advice. It would need both myself, the law officer and the party who sought the advice to agree that the confidentiality and the privilege in that advice can be waived.

Deputy M. Tadier:

The supplementary to that is: if it is the will of this Assembly that the minutes be released unredacted then would that be taken as a signal to both parties that the public interest would lie in the legal advice being disclosed?

The Attorney General:

The Assembly obviously is a sovereign body and has powers to resolve this proposition in the way it chooses. However, I would hope that each and every Member of the Assembly would understand the importance of the principle of a party being able to take confidential legal advice. That is a central principle which I believe is pretty much universally accepted in most modern democracies.

Deputy M. Tadier:

I will make this the last question, although I had another one, but I have used it up as a supplementary. Does the Attorney General acknowledge that his department is different from that of normal lawyers in the sense that he often gives legal advice in public? That is exactly what he is doing to us now. Of course, if we ask him a question now, which is exactly the same as what he would be asked in confidence by the Council of Ministers, he is presumably duty bound to give the same answer. Is that correct? Does he acknowledge that there is a case when the public interest is met that legal advice could be disclosed if not to the public certainly to a Scrutiny Panel?

The Attorney General:

Yes, I do accept that I would give, if I am asked to advise on the same question, in the way that I am asked in the Assembly I am asked questions and I give legal advice, then I provide the same answer to the Assembly as I would give in private to a Minister, a Back-Bencher or a member of a Scrutiny Panel. It would be the same answer, but obviously when I give advice to the Assembly, by definition, that is in public, whereas when I give advice to a Minister, a Back-Bencher or to Scrutiny that is done confidentially and in private. That is a different situation from my giving public advice to the Assembly. In terms of the public interest in disclosure of legal advice, I believe that is dealt with in the code of practice for engagement between Scrutiny Panels, the P.A.C. and the Executive and it is already dealt with in paragraph 39, which was the paragraph I read out a few minutes ago, which does accept that there are exceptional circumstances, but it does require co-ordinated law officer, Ministerial and Scrutiny/P.A.C. agreement to the release of the advice. As I have said earlier, for my part, I do not agree that the advice that has been given confidentially and in private to Ministers would fall within that exception in this case.

Deputy M.R. Higgins:

First of all, would the Attorney General agree that if the information is being shared between the competent authority and Scrutiny it is not necessarily being shared with the public and it is not the same sort of problems about the information getting out to the public? It is going to be given on a confidential basis. If it is retained in that way then the law officers have nothing to worry about. Is that not the case?

The Attorney General:

It is envisaged, I believe, in the code of practice that confidentiality would apply. There are 2 limbs that are covered by paragraph 39. There is both disclosure to the panel or P.A.C. and then there is the second question of publication of that advice. There are 2 different situations. This proposition is dealing with the first of those 2 situations, which is disclosure to P.A.C. Nevertheless, disclosure to P.A.C. is dealt with in accordance with those principles which I have just read out in paragraph 39. It takes a co-ordinated approach and it needs agreement between law officers, Ministers and Scrutiny in order for those, if this is truly one of those exceptional circumstances. As I have said, this, in my view, is not one of those cases.

Deputy M.R. Higgins:

Following through, Sir? I must admit, I find part of that argument difficult to understand here, because for a start the Scrutiny Panel is receiving the same information as was given to the Minister. It is as simple as that. If it is confidential, I do not see what the issue is. I would also say, too, is it not the case that law officers regularly give advice to Ministers on particular issues and also give different advice to Scrutiny Panels who would be asking questions on the same topic. It does not

necessarily follow it is always exactly the same advice that is given. Therefore, in this particular case, all we are saying is the information that has been given to the competent authorities is going to go to Scrutiny. They will be able to read it. They are not going to publish it, but they will have a much better understanding of the advice.

The Attorney General:

I am at risk of repeating myself, in that I have reviewed the minutes, I have reviewed the legal advice given and, in my view, this is not a situation where I can agree to disclosure of the legal advice. It covers a multitude of situations. It was given confidentially. I do not believe that it would fall within the exceptional circumstances that are set out in paragraph 39 of the code of practice.

Deputy M.R. Higgins:

One final question, if I may, going back to what Deputy Tadier mentioned: if it is the will of the Assembly that this is done, will that override what is in the document you have just mentioned?

The Attorney General:

That puts the competent authorities Ministers and me in a very difficult situation. It is precisely that sort of situation which the code of practice, I assume, in part is designed to avoid. The will of the Assembly will have been made clear on this proposition. In terms of whether competent authorities Ministers comply with that request, it will put them in a very, very difficult situation, one which they will have to think about quite carefully. Certainly it puts me in a very awkward situation.

Senator T.A. Vallois:

Just briefly. I thank the Attorney General for providing the information, but I find this question rather superfluous in terms of the original proposition. The Attorney General does not suggest any amendments to the code of conduct between Government and Scrutiny. It does refer to unredacted minutes. However, you have referred to exceptional circumstances and you referred to the logical consequence in response to Deputy Labey, but not the legal consequence. Can I ask: if this proposition was passed unamended, the code of conduct could still be used with reference to the fact that legal advice is not shared and that you have superiority over that decision-making and that we can enable a process to move forward in that respect?

[17:00]

The Attorney General:

I thank the Senator for her question. I go back to the advice I gave in relation to Deputy Labey's question, in that the wording of the proposition states "without redactions". The wording of the report which accompanies the proposition makes no reference to redactions for legal advice and them not being provided. While the Senator may herself have that view, others might have a different view on the wording of the proposition and require the provision of the legal advice.

The Deputy of St. Mary:

I apologise for pursuing the Attorney General further, but my question is a very simple one and goes back to my address. The main change between the amendment and the original proposition is that the proposition refers to requesting approved minutes without redaction. The amendment refers to agendas, papers and actions without redactions. Is a case for arguing that the word "papers" includes minutes in any event, in which case it would perhaps make the amendment unnecessary?

The Attorney General:

I thank the Deputy for his question. There is that argument. Nevertheless, the report to the amendment does state expressly it is excluding legal advice. The reference to agendas, papers and

officer advice (excluding legal advice) is at least clear what is intended by the amendment, that it is not intended to include the provision of legal advice among papers.

The Deputy of St. Mary:

I thank the Attorney General for that. I was not intending to cover legal advice. It was a simple point really: if legal advice was not involved and officers were simply asked to redact minutes for whatever reason, would that not be covered, ignoring the question of legal advice?

The Attorney General:

Sorry, we seem to be at cross purposes. I am not entirely sure what the Deputy means by his question. The wording of the amendment is to provide agendas, papers and actions agreed at the meeting excluding legal advice, then the obligation is to provide those documents unamended. The report to the amendment expressly states that it is to exclude legal advice.

The Deputy of St. Mary:

Sorry to again say it: if, therefore, I was ignoring any legal advice, and I accept the point made about legal advice, if there is no legal advice involved, would not on request of papers by the appropriate panel, would that not be a request for the committee to produce minutes in unredacted form, assuming there is no legal advice involved?

The Attorney General:

Again, we are in the territory of what does the wording of the proposition as amended mean. It may be that that is a matter for the Presiding Officer.

The Deputy Bailiff:

Yes, that is more a matter for me. The question you have just asked, Deputy of St. Mary, if you want to ask that of me again. It is clear that the intent of the amendment is to remove minutes from the ambit of the proposition. That is the way I construe it, if that answers your question.

Deputy M.R. Higgins:

Sir, could I ask a question of you as well on interpretation?

The Deputy Bailiff:

I just want to get through the questions for the Attorney General first. Deputy Ward has a question for the Attorney General.

Deputy R.J. Ward:

It is getting increasingly difficult to really unpick the implications that are being suggested. I suppose it is about privacy of the law and the code of conduct. I interpret this, and I may be wrong, that if we are agreeing this as unamended it would mean ... and this is the question, so forgive me, I have to give it a context so I can try and understand it myself as much as anything, if we agree this it means that minutes will be sent to the Scrutiny Panel, not publicly but to the Scrutiny Panel, and we will see those minutes. Surely the code of conduct kicks in - I cannot think of a better way of putting it - as soon as minutes go to the Scrutiny Panel. The issues around redaction of law officers' advice and what that advice is would kick in there. The rights and wrongs with that are another issue. Whether or not Scrutiny should see those is another issue. It is being conflated here. I have asked the Attorney General: would it not be within this proposition to simply say: "Yes, the minutes that you get, as with any minutes that come to the Scrutiny Panel, the same code of conduct kicks in, i.e. you do not get access to the legal advice that was given and whether the legal advice was there"? The example is if you get minutes from the Council of Ministers, if legal advice was there we would not see that either, because there is a code of conduct for Scrutiny and it kicks in. I hope that makes sense. That is the thing that is confusing me.

The Attorney General:

I hope this will assist the Deputy, in that the code of practice is very clear at paragraph 38 that it is accepted that advice given by law officers to a Minister or to the Council of Ministers or to departmental officials and/or the fact that advice has been sought will not be disclosed. That is at odds with the wording of the proposition as unamended, because it does expressly state it is to be without redactions. The only way that the minutes or potentially other papers could be disclosed where they contain legal advice is to redact that legal advice before it goes to Scrutiny.

Deputy R.J. Ward:

If there was legal advice in minutes of Council of Ministers that are sent to Scrutiny Panels, would the Scrutiny Panel automatically not get those minutes or would they just be redacted?

The Attorney General:

We are going somewhat round in circles. In my view, they should be redacted. But on the wording of the proposition they go to the Scrutiny Panel unredacted.

Deputy I. Gardiner:

As P.A.C. and engagement between States Employment Board and the law officers were mentioned, I looked through the minutes and when we receive minutes we did not receive legal advice within the minutes. We said that was follow legal advice. The legal advice was discussed later on in private meetings. Now, the current proposition, mentioned P.A.C., or at least during the proposal mentioned P.A.C., and the minutes that are requested was 7 other pages he received from S.E.B. when the legal advice was deducted by default because of the code of conduct. Now, if my understanding, I am not sure if it is the Attorney General or to yourself, if my understanding is correct then as P.A.C. was used as an example that received the minutes and confidentiality, which we are very grateful. Will it be the same precedent for the minutes of the confidential services please?

The Deputy Bailiff:

Obviously I am not giving legal advice. That is a matter for the Attorney. As to the effect of the proposition that on request any approved minutes of meetings of the competent authorities Ministers should be shared in confidence and without redactions, by the Chief Minister with the committee for distribution to the relevant panels, on the face of it that would lead to minutes in their entirety being disclosed, which, if there was reference to legal advice in those minutes, would include legal advice. The point that is made by the Attorney is of course this is not legislation; it is a proposition. It does not create law. But, as Deputy Tadier reminds us, it is a declaration by the Members of the Assembly as to their view of the public interest and an indication as to how the Assembly believes, if adopted, these matters should be dealt with. Having said that, the proposition does not purport to expressly disapply or depart from the code of conduct, which is a point that was made by Senator Vallois and Deputy Ward. It is really perhaps in some respects a matter for the proposer to deal with in her summing up as to whether or not her intention and wish in respect of the desire to receive minutes without redactions does extend to departing from the current practice so that it would include advice from the Attorney General if contained in the minutes. If that is the case, then it gives rise to a potential future conflict in the way the Attorney has described.

Senator K.L. Moore:

If questioning is still a possibility to the Attorney General, I would like to ask the Attorney what rules and guidelines there are for the Greffe in their minute-taking and whether there are particular guidelines that are set out to help them when they do take those minutes with regard to legal advice. What is your understanding, Mr. Attorney, of that advice?

The Attorney General:

I am not really sure that is a legal question. It is about guidelines for the Greffe.

The Deputy Bailiff:

It is not a legal question. Anyway, if you do not know the answer you do not know the answer.

The Attorney General:

No, I do not know the answer.

The Deputy Bailiff:

That is a question that the Greffe would be able to answer for you.

Senator K.L. Moore:

Indeed. But if perhaps the Attorney had given us the opportunity to understand his position before this sitting then it might have been possible. I would imagine that, as the Attorney has taken such efforts to look back at the code of practice, et cetera, ahead of this meeting then he would in fact be aware of what those guidelines are, as I am.

Deputy R. Labey:

Mr. Attorney, can I just ask, as a result of the significant advice you have given us, could you just confirm that, if this proposition was passed unamended, would you find it difficult to provide advice to the Ministerial group in question?

The Attorney General:

I refer to the ruling that you have just given or the guidance that you have just given in relation to what the wording of the proposition means and whether the mover of the proposition would concede that legal advice is not to be provided. That would be material to my answer.

[17:15]

But if the mover of the proposition were to say, no, she wants the legal advice to be included among the minutes, then it would put me in a much more uncomfortable position because I would constantly be thinking: "In the future, how would this advice, as it is recorded in the minutes, look to some third party who the advice is not given to, who does not understand the context of the advice, how would that look and how would it look if it is published to the world at large who will also not be in the same position as the person who has asked for the advice in that particular situation?" So it would put me in a more difficult position. In response perhaps to other questions that might arise from that answer, Members do need to understand that law officers are giving advice on sensitive issues. It is very important that advice is frank and does not flinch from expressing the legal consequences of certain actions that may follow if the advice is not agreed with or if it is agreed with. So it is very important that any lawyer, and particularly law officers, are able to give frank advice. I do say that it is the same advice that is given to Ministers, to the Council of Ministers, to Back-Benchers. Again, Back-Benchers need to be confident that the advice that is given to them by law officers is confidential, is frank, and does not flinch away from the consequences of following or not following the advice on the particular question that is being asked. So that is the overall policy context for why legal advice is confidential and why law officers' advice, it is particularly important that it does remain confidential and that it is only in exceptional circumstances, as set out in paragraph 39 of the code of practice, that it is disclosed or possibly even published.

Deputy R. Labey:

The Attorney says the advice is the same to all. I have been told in the past the advice given by law officers to Government can differ from the advice that has been given to Scrutiny Panels and to Members. Because very often the advice goes beyond an interpretation of the law and may

recommend a course of action and so on. So there are things that are not strictly legal that are part of that advice, which may not be shared. Is that correct or not?

The Attorney General:

It may be that the Deputy is aware of specific instances of advice, which may have differed. But, as a matter of general principle, no, it is not correct. If the same question is being asked in the same circumstances, it will be the same legal advice. It may be that in the past there have been developments, which are different or are new to when advice is given to a Back-Bencher from when it is given to a Minister. The reason, I would assume, for any difference is that there have been developments, which might explain any difference between the 2 sets of advice. But as a matter of general principle, if the same question is asked about the same facts, the same circumstances, the same advice is given.

Deputy R. Labey:

So I do not know if it is a point of order, but if it is I do not know when I will ask it. Is it not the fact that this amendment unamended does not change the code of conduct and so therefore legally the code of conduct still applies? So therefore I understand the notion of redacted, and that is unfortunate that word is there, but the code of conduct will still apply, which means that legal advice would not be passed on? Because it is the code of conduct that underlies the use of legal advice throughout what we do in Scrutiny, Council of Minister, Back Benches, et cetera.

The Deputy Bailiff:

I have answered that already. It does not expressly attempt to alter the terms of the code of conduct. But there may be an argument that by implication it does. Chief Minister, do you have a point of order or a question of the Attorney?

Senator J.A.N. Le Fondré:

It is a question. I am not too sure if it is from you or if it is from the Attorney General, so if I could ask the question and then just see where it lands. So we have 2 scenarios at the moment. One that is the mover of the original proposition needs to clarify that legal advice can be redacted, or alternatively that is not the intention and obviously there are consequences as a result of either of those pronouncements. But the other question is: what happens when Ministers have, for example, opined or made a decision based on that legal advice? Would it be appropriate to redact that as well, because one has the context of the legal advice that Ministers would be opining on? Therefore, if the legal advice has been redacted, what is the position for any comments by the Ministers in arriving at their decision based on the legal advice?

The Deputy Bailiff:

Possibly we are leaving the point and it is getting slightly too complicated. We do not need to resolve that question for the purpose of this debate. If you think you need to, then you can ask a question of the Attorney in due course about that. Deputy Labey, do you want to resume your speech?

11.2.9 Deputy R. Labey:

I have never argued against any move or voted against any move to increase openness and transparency since I have been in this Chamber since 2014. But the Attorney General is unequivocal and the writing is surely on the wall for this proposition unamended. We can come back tomorrow and spend the morning finding ways to get around it but there are 2 unfortunate words, which is “without redaction”. There is no getting around that. I speak as someone who has benefited hugely from one-on-one advice from the Attorney General and the Solicitor General, not when I became a Minister, but certainly with some issues that really deeply troubled me when I was chairman of the P.P.C. and also chairman of the Planning Committee. Also just as a non-Executive Member in the first term. So we have to listen to what we are being told here, not drive a coach and horses through

this important convention, which, when you have benefited from it, realise how valuable a source it is to us so there is no way I can vote for the proposition but I will vote to amend it and that will go somewhere. I think the point the Chief Minister was trying to make is you get to a position where discussion follows legal advice and so the legal advice percolates through a discussion. Clearly, there has to be redaction before the minutes can be released.

Deputy J.H. Young:

Clarification, if I may. I would like to ask Deputy Labey whether or not he was aware that in past events on planning decisions it has been suggested, I believe by lawyers, that there would be legal advice available in public to the committee. I just ask whether that was a matter Deputy Labey was aware of when he spoke about the Planning Committee there?

Deputy R. Labey:

I will not go into the reason why I sought legal advice but it was an issue that was deeply troubling for me and I was incredibly grateful for the time and advice given to me by the Attorney General.

11.2.10 Deputy S.M. Wickenden:

I think I need to ask you really in one area because this is the part where in the amendment I ask for an additional piece to be put in. It is about the area of confidence. The unamended proposition talks about the minutes being released from the competent authority Ministers without redaction by the Chief Minister to that committee, being the Scrutiny Liaison Committee, as constituted, and then it is for distribution to the relevant Scrutiny Panels. Does the confidence and the confidentiality pass through from the Scrutiny Liaison Committee to the Scrutiny Panels in the wording, as she would see it?

The Deputy Bailiff:

Yes, it does because there is reference to in confidence twice, is there not?

Deputy S.M. Wickenden:

Only in the amendment. In the unamended version what would you see?

The Deputy Bailiff:

I thought you were asking about the amendment. I would interpret that to mean that the sharing in confidence would be with the Scrutiny Liaison Committee and all Scrutiny Panels, which I anticipate was what was intended by the proposer.

11.2.11 Senator T.A. Vallois:

Just briefly, I would like to speak on the basis of ... I think some of the questions to the Attorney General and the arguments about whether things are unredacted or whether the code of conduct still sits or not, as a member of the Corporate Services Scrutiny Panel, member of the P.A.C., member of the Privileges and Procedures Committee, we have a shared code of conduct between the Government and Scrutiny. There is nothing in the unamended version that suggests we are going to amend the code of conduct. The code of conduct therefore still stands. I think it is important to understand that I speak from experience of having to sit on competent authorities Ministers' meetings and, at this point, I think it is really important to thank and congratulate the expertise and the ability of the secretariat of the Greffe because they have done extraordinary work during the last 18 months in terms of supporting minute-taking. Not just for competent authorities, for Council of Ministers and other various bodies that they serve. They are extremely professional in the way that they carry out their work. The reason why I say that is because I think sometimes there are spurious arguments made to what I feel like sometimes is trying to hide something that others should not be seeing. I think we need to be reminded of Deputy Morel's speech around that importance of transparency but the sharing of information about overseeing the role of Government. We have to recognise this

Government is not willing to have a form of committee of inquiry over the pandemic because the pandemic is not over. If that is the case, at the very least we should be asking to see the deliberations and the context in the way in which decisions have been made. I think that is extremely important. I think by asking it from a Scrutiny perspective, rather than asking it to be published to the whole of the Island, will enable the context to be provided for areas like, as an example, P.A.C. are currently doing a COVID review on the back of a number of C. and A.G. (Comptroller and Auditor General) reports but they may have to go further than that because they will have to report before the next elections because of course the elections are coming up very fast. But it is an important piece of work when there is a reluctance to have a form of committee of inquiry. Asking for minutes is important to identify the context in which elected officials have determined the information that they have been given by officials in order to make the decision that they are making. I will make it categorically clear to the whole of the States Assembly that we will abide by the code of conduct because we are not amending the code of conduct. We can have an argument on specific words and what is stated in the report but we are not amending the code of conduct. I think that is really important to emphasise, seeming as the questions that are being made to the Attorney General.

[17:30]

I think it is also important to reflect on the Chief Minister's speech on this amendment because he saw frustrations during his time as president of the Chairmen's Committee in the last term; I shared those frustrations. But I think there has to be a bigger and further discussion about what openness and transparency means and what that means for the public in terms of deliberating what decisions are made upon their lives and how that is reflected in an appropriate and proportionate manner. I do not think it is appropriate to say that elected officials should be hiding somewhere and having workshops behind the scenes because it is not conducive to that wider thinking. There are a number of Members in the Assembly that can ... we have seen it in Scrutiny in terms of Home Affairs, as an example, where we have had briefings with the Minister where we have looked at things because we have not been directly involved. Sometimes you cannot see the wood from the trees and somebody comes up with a question or identifying an issue, there may be a learning issue going forward. With the absence of having a form of committee of inquiry, having to recognise that the States Assembly works as a whole. It is not the Government versus Scrutiny. It is not Government versus Back-Benchers. It should not be any of that. It should be us all working together on behalf of the public. I think when we make the arguments about policy and development, I understand that because we have freedom of information legislation that refers to a requirement to keep that under the hood in terms of policy and development,. But once that policy is in place there is a bigger question, and this has been a fight many times during my time in Scrutiny, about the importance of releasing the information and understanding of the context and why then decisions were made. Learning from why those decisions were made and whether we can do better going forward. That is really the premise of why this is important because it goes back to the point of Deputy Morel's argument about democracy. I understand all the arguments that have been made about the legal ramifications and the arguments about certain wording and certain information of reports but I would like to try and reassure Members that the purpose of the proposition unamended was to try to be that critical friend and try to assist where there is no other way of doing so, and identifying a context around the decision-making that elected officials - not the advisers - have made around impacts on people's lives. From my point of view, I think the amendment dilutes the purpose of the original proposition. We already receive papers and agendas, like we do in private briefings as States Members, and I have got a bit of an issue about the amount of private briefings that we have in terms of openness and transparency to the public. From my point of view, and I would ask sincerely to fellow Members after the time I have spent, not just as a member of Scrutiny but in my time whether as an Assistant Minister or as a Minister in the States, that we can do this in the right way, we have to come together to do this in the right way. The purpose of the proposition is to come to a joint understanding in the importance of overseeing decision-making and sharing that learning and improving the outcomes for

the public going forward. I would ask Members not to support the amendment and to support Scrutiny in their proposition for the minutes because, like I said, we are not amending the code of conduct. That will still be in place and therefore we will be expecting to ensure that what we do in terms of the Scrutiny function is oversee and hold to account the way that Government works and learn from what we have done and improve for the future.

Senator K.L. Moore:

May I propose the adjournment?

The Deputy Bailiff:

The adjournment is proposed. Seconded? **[Seconded]** Does anyone wish to speak on the adjournment? The assembly is adjourned until 9.30 a.m. tomorrow morning.

ADJOURNMENT

[17:35]