

Statement by the Chairman of the Corporate Services Panel

For States meeting on 31st January 2006

The debate in the States on P.196/2005 on 17th and 18th January 2006 hinged on two key international aspects -

- that maintaining unequal ages of consent for consensual homosexual acts as opposed to heterosexual acts would be in breach of Jersey's commitments on the European Convention of Human Rights (ECHR); and
- that failure to adopt the proposition could jeopardise the position of the United Kingdom under the convention (as asserted by the Chief Minister).

These questions clearly come under the remit of the Corporate Services Panel. At the same time, the Panel is aware that there are important social and health implications which are properly within the remit of the Social Affairs Panel which is making its own response to the referral of this proposition to Scrutiny.

The Panel understands the concerns felt by some States members, as well as members of the public, regarding the perception that the Island might be obliged by an external authority to introduce legislative changes against the wishes of a strong body of local opinion. Accordingly, we believe that it is important to investigate fully the extent of the Island's responsibility to comply with judgements of ECHR and the potential implications for the Island's international reputation and relationship with the United Kingdom of not adopting the proposed reform of the law.

We believe that we are in a good position, as a non-executive and non-partisan group of members, to provide an independent, critical view of the issues involved.

We also believe that it is important to provide an opportunity for the public to submit relevant evidence in an open forum and have already received requests from individuals to appear before the Panel in a public hearing.

For these reasons, we have decided to undertake a scrutiny review of the Island's obligations under ECHR to reform the law and have drafted the following terms of reference -

1. to examine the Island's current commitments under the ECHR;
2. to review the constitutional position of a decision not to reform the current law
3. to review previous and current legal challenges in the European Court of Human Rights
4. to consider advice from the Law Officers.

In preparation we have conducted a preliminary review of the Minutes of the Legislation Committee going back to the circumstances surrounding the States decision in 1990 to decriminalise homosexual acts between consensual male adults in the Island. We have also looked at research papers prepared by the Home Office when the United Kingdom government was considering the equalising the age of consent, as well as copies of recent relevant ECHR judgements. We are also awaiting written advice from the Law Officers.

We believe that we will be in a position to report to the States on the Island's responsibilities under ECHR within a period of eight weeks.