

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 14th NOVEMBER 2017

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[9:31]

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

QUESTIONS

1. Written Questions

1.1 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE CHIEF MINISTER REGARDING PEOPLE CONTRACTED TO WORK FOR THE STATES: [1(584)]

Question

Will the Chief Minister provide a breakdown of how many people he has contracted to work for the States since October 2014 who have charged over £400 per day; and will he further provide details of which Departments they have worked for, what type of work they have undertaken and to which politician they were ultimately accountable?

Answer

Yes. My officials will provide a breakdown when the information has been collated.

1.2 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE CHIEF MINISTER REGARDING WORK BEING UNDERTAKEN BY THE DESIGN COUNCIL: [1(585)]

Question

Will the Chief Minister explain –

- (a) when and where contact was first made by a representative of the Jersey government with the Design Council;
- (b) when a decision was formally made to contract the Design Council to undertake work for the States; and
- (c) on which projects they are currently leading and what the States is paying for this work?

Answer

Contact was first made with the Design Council in London in March 2015 in relation to the concept of Design Thinking and how this could benefit the States of Jersey.

In May 2016, a further meeting was held to discuss design thinking, and also to discuss the interaction with Design Council (CABE) formerly the Commission for Architecture and the Built Environment, and how this could benefit the States of Jersey in its master planning work.

These meetings resulted in a design thinking half day session for Council of Ministers and Corporate Management Board, and key delegates both officer and political from the States of Guernsey, on the 25th January 2017. This was at a cost of £6,440.

As a result of this half day, a joint piece of work with the States of Guernsey was commissioned on 17 July 2017, to use design thinking for six service challenges (3 in Guernsey and 3 in Jersey). This work is scheduled to run from September to November 2017 at a cost of £67,500. The cost is shared equally between the States of Jersey and States of Guernsey (£33,750 each).

In addition, the Environment Minister is currently using advisors from the Design Council (CABE) and their wider Built Environment Experts panel, for his work on the Esplanade Quarter Masterplan

review. This work was agreed on 19 May 2017. The core contract was £49,300 and a further cost of £10,950 has been incurred in additional engagement work, taking the total to £60,250.

1.3 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE LOAN PROVIDED TO LOGFILLER LIMITED FROM THE JERSEY INNOVATION FUND:[1(586)]

Question

In relation to the loan provided to Logfiller Ltd from the Jersey Innovation Fund (JIF), will the Chief Minister advise –

- (a) whether the then Minister for Economic Development accepted all of the recommendations made by the JIF Board and, if not, why not;
- (b) whether the States secured any rights over intellectual property before the loan was granted;
- (c) why all of the loan was released in one go, given that the loan was to assist with cash flow for the business; and
- (d) whether his Department considers the absence of any terms in its agreement with Logfiller to be the cause which led to the loss of £400,000?

Answer

- (a) The then Minister for Economic Development accepted the recommendations of the JIF Advisory Board.
- (b) The States did not secure rights over Logfiller's intellectual property before the loan was granted. This was not recommended by the JIF Advisory Board, and the Minister accepted the recommendations of the Board. The Comptroller and Auditor General's report on the Innovation Fund expressed concerns that the consideration of all reasonable security was not evident in all cases.
- (c) The JIF Advisory Board's recommendation to the then Minister for Economic Development proposed the advancement of £500,000 to enable Logfiller to 'rapidly scale the business', 'create a significant number of full time jobs in the Island' and 'support the needs of the business in the first year'. The Minister accepted the recommendations of the JIF Advisory Board.
- (d) This matter is under investigation by the Jersey Financial Crimes Unit. The liquidator's proceedings are also ongoing. We do not wish to prejudice this work. It would therefore be inappropriate for us to comment on this point at this time.

1.4 DEPUTY J.M. MAÇON OF ST. SAVIOUR OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE WAITING LISTS FOR GASTRIC BYPASS SURGERY: [1(587)]

Question

Will the Minister request his Department to publish –

- (a) the number of people on the waiting list for gastric bypass surgery;
- (b) how many such people are in the urgent category;
- (c) how long each of them has been waiting for this surgery;
- (d) over the past five years, how many people have been moved up the waiting list;
- (e) how many of these people were moved up the waiting list due to their health deteriorating or other conditions developing as a result of not receiving this surgery in a timely fashion; and
- (f) what the increased cost to the Department has been, if any, from not being able to provide this surgery in a timely fashion?

Answer

- (a) the number of people on the waiting list for gastric bypass surgery;

There are several stages that a patient goes through before they are accepted for gastric surgery (bypass/banding/sleeve).

There are currently 14 patients waiting to be allocated a date for surgery by our UK partner hospital (Portsmouth).

There are 7 patients prioritised to see the surgeon at the next clinic appointment (consultant visits the island).

There are 143 patients waiting assessment and onward referral.

- (b) how many such people are in the urgent category;

21; these are the 14 awaiting a surgical date and the 7 waiting to be seen in the next clinic.

- (c) how long each of them has been waiting for this surgery;

Individuals may be identifiable from a response, but can say that of the 14 awaiting a surgical date, 93% have waited 18 months or less.

Of those waiting for the next clinic, all have been referred or re-referred in 2017.

For those on the 'routine' list, waits vary considerably and may be due to a variety of reasons including pre-surgical weight loss programmes, requests to wait until personal circumstances suit, watch and wait etc.

45% have been referred since 2015; 55% were referred between 2007 and 2014.

- (d) over the past five years, how many people have been moved up the waiting list;

This is almost impossible to answer as the list is dynamic and regularly reviewed by the consultant and dietician, with input for other professionals such as GPs.

There have been 68 patients receiving surgical intervention in the last 5 years, 22 of those in 2017.

There have been 43 removals from the waiting lists for a variety of reasons including not being fit for surgery and where the patient has changed their mind about surgery.

- (e) how many of these people were moved up the waiting list due to their health deteriorating or other conditions developing as a result of not receiving this surgery in a timely fashion; and

Again this is almost impossible to answer.

Patients are re-prioritised on a regular basis (as they are within any specialty) if their condition changes and a greater priority is warranted. How many of these are due to their weight issue is not possible to say without looking at the notes of every patient. Similarly, without assessing every patient's medical history it is not possible to ascertain how many patients have other health needs relating to their weight.

If the patient's GP or other health care professional caring for the patient believes that the patient needs re-prioritising, they contact the service and the patient's waiting status is re-assessed.

- (f) what the increased cost to the Department has been, if any, from not being able to provide this surgery in a timely fashion?

Again this is impossible to answer as per answer to (e).

1.5 DEPUTY J.M. MAÇON OF ST. SAVIOUR OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING REQUESTS TO USE DEPARTMENTAL UNDERSPENDS TO REDUCE WAITING LISTS FOR GASTRIC BYPASS SURGERY: [1(588)]

Question

Has the Minister received any request from the Minister for Health and Social Services for the use of departmental underspends towards ensuring that the Department of Health and Social Services is able to perform more gastric bypass surgeries and to reduce the waiting list for such surgeries and, if so, what was the Minister's response to that request?

Answer

There has been no request from the Minister for Health and Social Services. The 2017 carry forward process has not yet started.

1.6 DEPUTY J.M. MAÇON OF ST. SAVIOUR OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE USE OF UNDERSPENDS TO REDUCE WAITING LISTS FOR GASTRIC BYPASS SURGERY: [1(589)]

Question

Will the Minister use underspends within his Department's budget to address the waiting lists for gastric bypass surgery and, if not, why not?

Answer

The Department has been attempting to secure additional gastric surgery capacity for several months, but NHS providers have been unable to offer any spare capacity due to their own demands.

Further exploration of the private sector has been made, assuming the price is in line with NHS Trusts. One organisation has responded positively and we are working with it to try and take advantage of its offer before the end of the financial year.

1.7 DEPUTY J.M. MAÇON OF ST. SAVIOUR OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE MANNER IN WHICH HIS DEPARTMENT PUTS CHILDREN AT THE CENTRE OF ITS WORK: [1(590)]

Question

Given the report of the Independent Jersey Care Inquiry (R.59/2017), will the Minister advise how his Department puts children at the centre of what it does and explain whether this includes, as an example, the examination of waiting lists for gastric bypass surgery and, if not, why not?

Answer

The Independent Jersey Care Inquiry made it clear in its report that one of the lessons to be learned was that: “*The welfare and interests of children are paramount and trump all other considerations*”. This is a lesson for all States Departments and the wider community.

The initial response to the Care Inquiry from the Council of Ministers (P108/2017) has been submitted to the States Assembly and is scheduled for debate in December 2017. HSSD is taking a significant role, along with other stakeholders, in improving services which support improved outcomes for children, including working to develop a new Jersey Children’s Plan, in which the welfare and interests of children as a guiding principle is paramount.

The Inquiry Report set out the necessity of culture change to improve the circumstances of children. Culture change across the system is a work in progress and will take concerted effort by all parties supporting children.

There are no children on the waiting list for gastric bypass surgery. Such surgery for under 18s would only be considered in exceptional circumstances and would be carried out at a specialist paediatric centre and only after maturity had been reached.

1.8 THE DEPUTY OF GROUVILLE OF THE MINISTER FOR THE ENVIRONMENT REGARDING THE PUBLIC ENQUIRY INTO THE FUTURE HOSPITAL: [1(591)]

Question

Will the Minister request from the independent planning inspector leading the Future Hospital public inquiry an explanation as to why the inspector is holding the open submission forum when there are no detailed plans or building model to refer to and whether the inspector will be holding another forum when these are ready?

Answer

I don’t believe it is necessary to request an explanation from the planning inspector in relation to the current Future Hospital Planning Inquiry. Jersey Property Holdings has submitted an application for *outline planning permission*. If this application is approved, the applicant will be required to submit a *reserved matters* application for consideration. This two part planning application process was established a few years ago to allow applicants to establish whether the scale and nature of a proposed development would be acceptable before a fully detailed proposal is put forward and any substantial costs are incurred.

It is the outline planning application that is currently being considered through the planning public inquiry. The applicant has submitted plans and a model with the planning application, requested that the three matters for determination are: siting, mass and scale and means of access. The applicant has reserved the matters of external appearance and materials and landscaping for later determination, to be included in their second *reserved matters* application.

Part of the current planning application related to the 1860s granite building, and for this part of the application Jersey Property Holdings have decided to submit full details.

If the current outline planning application is approved, the applicant will need to submit, prior to any development taking place, a detailed design of external appearance and materials, together with landscaping of the proposed hospital building. This application will be determined through an appropriate route, chosen once the application has been received.

1.9 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING PROJECTIONS FOR INCOME YIELD FROM SOCIAL SECURITY CONTRIBUTIONS: [1(592)]

Question

Further to the answer provided to Written Question 8473 on 9th September 2014, will the Minister provide up-to-date projections for income yield if Social Security contributions were set at 4%, 5% and 6%, respectively, with no Standard Earnings Limit (SEL) or Upper Earnings Limit (UEL) and with employer contributions remaining unchanged?

Will the Minister further provide projections for income yield if the employer contributions rate under Class 2 contributions was set at 0%, 1% and 2% below the SEL?

Answer

The Social Security scheme

The Social Security scheme is a social insurance scheme which covers all adults who have lived in Jersey for at least six months. Insured people are either Class 1 as employed people, or Class 2 which includes everyone else, for example self-employed people and other people who are not employed.

Every adult is expected to pay contributions in to the scheme, although there are exceptions in certain situations, for example having a low income, being unable to work through sickness or disability, being in full-time education or starting a family.

The contributions that people pay are a percentage of their earnings, and the percentage depends on the level of their earnings as follows:

Earnings limits for 2017

	£ per month	£ per year
Standard Earnings Limit (SEL)	4,180	50,160
Upper Earnings Limit (UEL)	13,828	165,936

Contribution rates in 2017

	on earnings up to the SEL	on earnings between SEL and UEL
Class 1: Employee	6%	0%
Class 1: Employers	6.5%	2%

Class 2 between SEL and UEL	1,632	3,264	4,080	4,896
Estimated contributions above UEL		4,622	5,778	6,933
Difference compared to actual		-11,630	8,342	28,314
Total	197,791	186,161	206,133	226,105

These estimates suggest that a flat 4% rate would reduce payments into the Social Security Fund by at least £11.6m million; a flat 6% rate would increase payments into the fund by up to £28.3 million. The estimates of yield above the UEL should be treated with considerable caution as noted above, this yield relies on a small number of individuals and the assumption that their current income structure would be unaffected by this move.

Estimate part 2

This part of the question asks the Minister to “provide projections for income yield if the employer contributions rate under Class 2 contributions was set at 0%, 1% and 2% below the SEL.”

The Class 2 contribution rate is 12.5% for earnings below the SEL. This is set in line with the total Class 1 employee and employer contribution rate which is also 12.5%.

The equivalent change suggested would therefore be to have a Class 2 contribution rate of either 6%, 7% or 8% below the SEL, rather than the current rate of 12.5%. (In this scenario, the Class 2 contribution rate of 2% of earnings between the SEL and UEL remains the same).

At present, the Class 2 contribution rate is the same as the total Class 1 contribution rate so that an individual or a business pays the same contribution percentage whether a worker is employed or self-employed. The benefits available to Class 1 and Class 2 individuals are also identical.

If the Class 2 contribution rate is reduced below the total Class 1 contribution rate, the Social Security scheme would favour self-employment over employment. The Class 2 rates being suggested are significantly lower than the Class 1 rates, and therefore individual and business behaviour is more likely to change. For example:

- Some people may move from employment to self-employment.
- Some businesses may prefer to engage self-employed people rather than employ people.
- There is a risk this could leave some more vulnerable workers less protected if they are self-employed rather than employed.

A reduction in the Class 2 rate would reduce the amount of contributions paid by every Class 2 person, including those with high earnings. There are currently 1,300 Class 2 people who have earnings above the SEL. This includes a wide range of business owners and professions including lawyers, accountants and doctors. In all, one in three Class 2 contributors have earnings above the SEL.

Taking the current distribution of Class 2 individuals, the reduction in income would be as shown below. Figures are given for 2015, to allow comparison with the first half of the question.

Total 2015 Estimated change in Class 2 contributions

	contributions:			
	Employer, Employee and Class 2	Class 2 6% rate	Class 2 7% rate	Class 2 8% rate
	£'000	£'000	£'000	£'000
Class 1 below SEL	175,013	0	0	0
Class 1 between SEL and UEL	5,495	0	0	0
Class 2 below SEL	15,651	-8,139	-6,887	-5,634
Class 2 between SEL and UEL	1,632	0	0	0
Difference compared to 2015		-8,139	-6,887	-5,634
Total	197,791	189,652	190,904	192,157

These estimates suggest that reducing the Class 2 rate would result in less contributions ranging from £8.1 million (Class 2 rate of 6% instead of 12.5%) to £5.6 million (Class 2 rate of 8% instead of 12.5%).

For the reasons noted above, it is likely that reducing the percentage liability for Class 2 contributions relative to Class 1 would lead to changes in employment structures, and the actual reduction in income would be greater than shown as businesses take advantage of the differential rates.

The Social Security scheme review

The UK Government Actuary report on the Social Security Funds published earlier this year suggested that the States should review the options to preserve its future viability.

The Social Security scheme review is looking at this over the next couple of years. We have gradually built up reserves in the Social Security Funds over the last 20 years and so there is time to undertake this work thoroughly.

The review also includes projects to improve and modernise the protection and benefits the scheme provides, bearing in mind how people live and work today and in the future. At the moment the department is consulting on maternity benefits and survivor's benefits.

1.10 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE POTENTIAL COST OF EXTENDING THE MATERNITY ALLOWANCE PERIOD: [1(593)]

Question

Will the Minister provide an estimate of the potential cost of extending the Maternity Allowance period from 18 weeks to 26 weeks?

Answer

Extending Maternity Allowance from 18 weeks to 26 weeks would result in an estimated additional potential cost to the Social Security fund of £1.5 million per year.

1.11 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR EXTERNAL RELATIONS REGARDING THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN: [1(594)]

Question

Has Jersey signed up to the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) and, if not, why not?

Answer

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) has not been extended to Jersey. The Government is considering whether it might be extended.

1.12 DEPUTY M. TADIER OF ST. BRELADE OF THE CHIEF MINISTER REGARDING THE APPOINTMENT OF WOMEN TO JUDICIAL POSITIONS: [1(595)]

Question

Further to the report of the Jersey Community Relations Trust entitled ‘Contribution to the Women’s Resource Centre, CEDAW Shadow Report’, which was submitted in April 2012 and which recommended that “*the Bailiff should explore the barriers to the appointment of women to judicial positions*”, will the Chief Minister request from the Bailiff’s Chambers an update on the steps taken by the Bailiff, if any, in relation to this recommendation?

Answer

I will write to the Bailiff’s Chambers as requested.

1.13 DEPUTY M. TADIER OF ST. BRELADE OF THE CHIEF MINISTER REGARDING HIS POLICY POSITION IN RESPECT OF LEGISLATION ON SMACKING CHILDREN: [1(596)]

Question

Further to the call from all four of the U.K.’s children’s commissioners for a ban on smacking children, will the Chief Minister outline his policy position on the matter?

Answer

Corporal punishment of a child is treated as a criminal assault in Jersey, however under Article 79 of the Children (Jersey) Law 2002 the defence that corporal punishment was reasonable can be raised by a parent or a relative, or someone else with care of the child who has permission of the parent, and where no more than a hand is used.

The United Nations Committee on Rights of the Child have, however, recommended that UK prohibit as a matter of priority all corporal punishment in the family, including through the repeal of all legal defences, such as “reasonable chastisement”. As UK has extended its ratification of the UNCRC to Jersey, this includes Jersey.

The issue of smacking has therefore already been considered by CAVA in June 2017 (Ministers for Health, Education, Housing, Social Security, Home Affairs). The Ministers have instructed officers

to undertake a review of the matter in consultation with the Jersey's Children's Commissioner at the point at which they are appointed.

1.14 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING NURSING VACANCIES: [1(597)]

Question

In light of figures provided to the Health and Social Security Scrutiny Panel in respect of nursing vacancies (presented on page 12 of 'Staff Recruitment and Retention at the Hospital' (S.R.1/2016)) and the figures given in response to Written Question 1(256) on 2nd May 2017, will the Minister –

- (a) account for the discrepancies in these figures, in particular the figure given on 2nd May 2017 of 521.3 in 2017 for budgeted head count for hospital nurses;
- (b) provide a monthly breakdown for the number of shifts which needed bank nurses on overtime (4,731) and those filled by agency nurses (5,011) over the first three quarters of 2017;
- (c) inform members what the cost of bank and agency shifts in 2017 were, how the stated reduction in cost was achieved and advise whether this involved the closure of beds and/or wards, stating whether staffing levels were maintained at recognised safe levels throughout;
- (d) provide further details in respect of his statement that when the 29 new starters, 32 offers and 23 interviewed applicants are in place a full complement of nursing staff will have been achieved?

Answer

[a] Rather than there being any discrepancy between the two figures referred to, the fact is that they are inevitably different because they are describing very different groups or staff at very different periods in time.

In terms of time, the data presented on page 12 of the Scrutiny report was as at 31/12/2015; the data included in the 2017 response was from March of each year, so understandably they are different.

However, the far more important explanation for the difference between the figures is that they are answers to two completely different questions.

The numbers on page 12 of the Scrutiny Report clearly and appropriately relate to all qualified nurses, midwives and Health Care Assistants across the whole of the Health & Social Services Department.

In written question 256, answered on May 2nd 2017, the specific answer is explicitly described as being in relation only to qualified nurses in the hospital. This figure does not therefore include midwives, Health Care Assistants or qualified nurses based outside the hospital.

[b] Bank staff and agency nurses are not employed on overtime

[c] From 1 January 2017 to the end of September 2017, the General Hospital spent £765,790 on hospital bank nurses and £1,272,035 on external agency nurses. There have not been any bed closures due to staffing shortages.

[d] My statement regarding the impressive number of starters, job offers and active candidates was made in order to share and celebrate the achievements by the nurse leadership and recruitment staff in what has almost certainly been the most successful summer and autumn for nurse recruitment at the Hospital in recent times. Regarding the reference to full establishment, the reality is of course that alongside recruitment, turnover is always occurring due to resignations and departures so my

comment should be taken in that context i.e. that I was referring to only half of that equation and full complement is rarely if ever achieved in such a large and complex workforce in any sector due to recruitment cycles being longer than notice periods.

1.15 THE DEPUTY OF ST. OUEN OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE SALE OF APARTMENTS AT COLLEGE GARDENS, ROUGE BOUILLON: [1(598)]

Question

In relation to the 107 Category B apartments at College Gardens, Rouge Bouillon, developed by the States of Jersey Development Company, will the Minister, as shareholder representative, advise –

- (a) whether the apartments have been sold as flying freehold or share transfer units; and
- (b) what factors were taken into account by the Company in reaching a decision on the method of sale of the apartments and whether the Minister was consulted on the matter?

Answer

- a) The apartments have been sold as share transfer units.
- b) There are several reasons why share transfer structures are used on almost all large residential apartment developments in Jersey:-
 - i) Share Transfer enables the developer (in this case SoJDC) to enter into binding / enforceable agreements on share purchases (this is restricted on flying freehold to a damages recourse). This is particularly important for SoJDC as one the main risk mitigation measures set down by the States Assembly was securing a sufficient level of pre-sales prior to commencing construction.
 - ii) Transactional flexibility that share transfer structures provide – not being tied to Friday for completions before the Royal Court is an advantage when dealing with such a large number of units, with staged / phased completion dates; and
 - iii) While the underlying flying freehold structure establishes the division of the properties, the share transfer overlay enables each of the owners within each individual block to add their own occupation regulations (or rules) as well.

The Minister for Treasury and Resources considered such matters to be operational and as such it is up to the management and the Board of the States of Jersey Development Company to determine the appropriate legal structure for its various developments.

1.16 THE DEPUTY OF ST. OUEN OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE SALE OF APARTMENTS AT THE PROPOSED HORIZON DEVELOPMENT IN LA RUE DE L'ETAU: [1(599)]

Question

In relation to the proposed development of 280 apartments at Horizon, La Rue de l'Etai, planned by the States of Jersey Development Company, will the Minister, as shareholder representative, advise –

- (a) whether the apartments will be marketed and sold as flying freehold or share transfer units; and

- (b) what factors have been taken into account by the Company in reaching a decision on the method of sale of the apartments and whether the Minister has been consulted on the matter?

Answer

- a) The apartments will be marketed as share transfer units.
- b) There are several reasons why share transfer structures are used on almost all large residential apartment developments in Jersey:-
- (i) Share Transfer enables the developer (in this case SoJDC) to enter into binding / enforceable agreements on share purchases (this is restricted on flying freehold to a damages recourse). This is particularly important for SoJDC as one the main risk mitigation measures set down by the States Assembly was securing a sufficient level of pre-sales prior to commencing construction.
 - (ii) Transactional flexibility that share transfer structures provide – not being tied to Friday for completions before the Royal Court is an advantage when dealing with such a large number of units, with staged / phased completion dates; and
 - (iii) While the underlying flying freehold structure establishes the division of the properties, the share transfer overlay enables each of the owners within each individual block to add their own occupation regulations (or rules) in perpetuity.

The Minister for Treasury and Resources considered such matters to be operational and as such it is up to the management and the Board of the States of Jersey Development Company to determine the appropriate legal structure for its various developments.

1.17 THE DEPUTY OF ST. OUEN OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING GOVERNANCE WITHIN THE HEALTH AND SOCIAL CARE SYSTEM: [1(600)]

Question

What measures, if any, has the Minister taken to implement the recommendation of the Comptroller and Auditor General in her report, 'Review of Community and Social Services' (R.131/2015) dated 10th December 2015, to "*establish clear milestones for the completion and implementation of the governance framework of the Community and Social Services Directorate (C&SSD), covering all C&SSD services, 'business as usual' and change initiatives, and [to] monitor delivery against those milestones*"?

Has any work carried out as a result of the recommendation influenced the proposed new governance model for the health and social care system described in 'Health and Social Care System: a new governance model' (P.60/2017) and, if so, how?

Answer

An action plan was presented to the Public Accounts Committee in February 2016 following the above review. Since the time of the action plan, there has been significant progress within Community and Social Services. A new governance framework has been implemented with progress on the action plan overseen by the service's senior management team.

The governance framework includes the Senior Management Team, Extended Senior Management, Health and Safety, Finance and Performance and Care Quality Group meetings. The service has a

regular integrated report and enhanced performance information will be available when the Children's Social Work information system is implemented. The new system is due to go live in November 2017.

In addition, Community and Social Services is in the midst of an ambitious redesign and restructure, which has at its core planning principles and target outcomes:

- Co-production with service users and families
- Individuals are supported to live safely in their homes, families and communities
- The response is appropriate, proportionate and timely
- Support is provided to minimise/prevent an escalation of need
- Support and intervention takes place within legislative and policy frameworks, based on an assessment of need
- Support and intervention is outcome-focused.

In developing the new governance model (P.60/2017), the preparatory work was informed by a wide range of sources. This included the CAG's recommendations, learning from best practice in other jurisdictions and extensive consultation with those who provide health and social care in Jersey through a combination of interviews and workshops, attended by Voluntary and Community Sector providers, public representatives, Primary Care (GPs and Pharmacists) and Health and Social Services staff.

1.18 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE REVIEW OF THE SOCIAL SECURITY CONTRIBUTORY SYSTEM: [1(601)]

Question

Further to the Assistant Minister's answer to oral question 10 asked on 31st October 2017 (1(576)), will the Minister provide the following information about the current review of the Social Security contributory system –

- (a) whether it has been created internally or through an external agency and, if the latter, outline the tendering process, detailing the terms of reference employed and the budget for the contract and whether these were drafted internally or externally;
- (b) state what quality assurance measures are in place to assess the full range of options available to the Minister; and
- (c) explain why the second most popular option for paying for benefits in part 1 of the Social Security Review, that of increasing employer contributions, is not referred to in part 2 of the Social Security Review?

Answer

The Social Security scheme review is made up of a number of projects which altogether will:

1. **Rebalance the social security scheme over the next 30 to 40 years** as we tend to live longer and as more people reach pension age
2. **Reshape and modernise the protection and benefits the scheme offers** recognising:
 - a. Our society's values and the changes that have and are taking place in how we live and work

- b. The government's role in supporting people now includes Income Support, which helps households with low incomes according to their situation and subject to eligibility.
- c. Developments in international best practice in supporting people and protecting people during times when they are unable to work.

3. **Review and improve how people save for retirement** so that they can support themselves when they stop working, reducing their reliance on the next generation of taxpayers.

The first consultation last year, which started the review, focused on objectives 1 and 3. The current consultation is focusing on gathering views on the Social Security scheme's maternity and bereavement benefits. This is in line with the second objective above.

(a) My Department has created and developed the overall Social Security review and its underlying projects. Some individual aspects of the Review are being undertaken by external experts. For example, for the current consultation, my department is working with a company to run independently facilitated workshops to gather detailed public views and ideas about maternity and bereavement benefits. This company is also analysing the overall findings of the consultation and writing a report setting out the results. The tendering process for this work was carried out in line with the government's financial rules. Other external organisations and individuals have been used to provide design and print work, video content, content analysis and specialist advice. In all cases financial directions have been followed and budgets identified within overall existing cash limits.

(b) The full range of options are being considered across the Social Security scheme review.

The conversation about some of the main features of the Social Security scheme – such as contributions, the areas of protection the scheme covers, the size of the pension, and the pension age – started last year in the Living Longer, Thinking Ahead consultation in very general terms.

This first part of the review was designed to gauge public interest in these areas, gather views and ideas early on in the review and to raise public awareness of the Social Security scheme and the need to review it. All of the feedback from 2016 has been recorded and will be used to shape the work in the rest of the review.

Other areas of the review, including the current consultation, Living Today Thinking Ahead, are focused on specific aspects of the Social Security scheme. The 2017 consultation looks at two types of benefit associated with significant changes in society and life styles since the 1970s when the scheme was first set up. Next year work will be undertaken looking at incapacity benefits.

The aim is that over the next couple of years all of the projects, all of the views will be used to inform a detailed ending to the public conversation around what our Social Security scheme will look like in the future. This will shape the final proposals which will be taken to the States Assembly once the review is drawn to a close.

The Department is using independent advice from a range of sources to provide quality assurance throughout the review. In particular, the Statistics Unit has been involved in the design of both public questionnaires.

(c) A similar question was asked and answered in Written Question 1240/5(568) on 31 October 2017.

Last year, the consultation focused on broader issues as to how we should adapt the overall social security scheme to longer lives. In particular one of the questions (question 9) asked: Which of these options do you think the government should look at in the next few years to adapt the Social Security scheme to longer lives?

The options chosen by the public were (in order of popularity):

Tighten benefit rules

Businesses pay more

Less benefits

People pay more

Pension goes up less quickly

Higher pension age

The second part of the review – concentrates on the details of maternity and bereavement benefits.

When a person taking part in the consultation questionnaire tells us that they think one of these benefits should be increased, the next question asks them to choose an option as to how this extra cost should be met:

- I would be willing to pay more contributions
- I would be willing to accept reductions in other working age contributory benefits

The other four options mentioned in the 2016 question were not included in this part of the 2017 survey for a number of reasons:

- We have already received clear feedback from the 2016 results that the public support an increase in employer's contributions. As such, the 2017 survey is probing further into some of the other options to understand these in more detail.
- This part of the review is focusing on specific benefits that people receive and how this affects them personally.
- We therefore chose two clear options that required the individual to judge the preferred impact on that person as an individual.

Each survey always includes a comments box to allow the respondent to add their own ideas.

In 2018 and 2019 we will build on the results of these surveys together with other planned work to provide overall options for the future of the Social Security Scheme so that it continues to provide benefits that people value and is sustainable for future generations. This will include options for contributions as well as benefits as the overall scheme is only sustainable if these remain in balance. Contribution options will consider the split between employer and employee and the value of the standard and upper earnings limits.

1.19 THE DEPUTY OF ST. JOHN OF THE CHIEF MINISTER REGARDING THE COST OF USING U.K. COMMISSIONERS IN THE ROYAL COURT: [1(602)]

Question

Could the Chief Minister provide the average cost per case of using a U.K. Commissioner for Royal Court proceedings?

Answer

The provision of UK Commissioners in the Royal Court is managed by the Bailiff's Chambers. The average figure for a UK Commissioner per case varies considerably depending on the length of the proceedings, the nature of the court and other particular constraints of a Jersey based judge sitting.

In total, spend on UK Commissioners for 2016 was £16,691.76 for 5 cases, and for 2017 to date was £42,780.48 for 7 cases.

To provide more context, the cost for a UK Commissioner for the current year is:

- a. Fees - £864.60 per day;
- b. Travel - £400 per visit;
- c. Hotel - approximately £100 - £140 per day;
- d. Transport – up to £100 per day;
- e. Expenses – approximately £30 per day.

It should be noted that UK Commissioners are only appointed in the following circumstances:

1. For his/her specialist skills and extensive experience in a particular field;
2. In order to satisfy an objection to a local Judge sitting;
3. When there has been a perceived need to have an external Judge sit e.g. for the historic child abuse cases between 2008 and 2011.

1.20 DEPUTY G. P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE RECRUITMENT AND RETENTION OF STAFF: [1(603)]

Question

Following the recent departure of senior staff members, including from the Child and Adult Mental Health Service and Orchard House, can the Minister advise whether –

- (a) the department finds it difficult to recruit and retain staff (i) under the constraints of States Employment Board policies relating to terms and conditions and (ii) given the high cost of living and accommodation;
- (b) advise what engagement there has been with the States Employment Board to ensure that Jersey can attract high quality staff for essential services;
- (c) state what gaps have been left in the social service provision and how positions vacated will be replaced.

Answer

- (a) There has been no pattern of departures of senior staff from the Child and Adult Mental Health Service or Orchard House. There are particular challenges for recruitment and retention of some professionally qualified staff. These challenges were also raised in the report of the Independent Jersey Care Inquiry published on 3 July 2017 and attention was drawn to some of Jersey's policies. The cost of living and availability of affordable, appropriate accommodation is often raised as a barrier to recruiting and retaining staff as is the negative impact of housing and employment legislation on spouses, partners and children of candidates. These matters were also extensively covered in the review into Staff

Recruitment and Retention at the Hospital by the Health and Social Services Scrutiny Panel in 2016, and the response by HSSD.

- (b) The States Employment Board is supportive of any P59 applications for appropriately attractive salary packages for such key posts and has approved considerable flexibility in the use and deployment of recruitment agencies and strategies. SEB continues to support the development of key worker strategies.
- (c) There have been no gaps in social services provision as a result of departures in Child and Adult Mental Health Service and Orchard House. There are vacancies in social services' posts (predominately in Children's Social Work, including the senior management post of Head of Children's Services) which are currently back-filled to ensure an appropriate operational service is in place. There has been ongoing recruitment to attract staff to Jersey and a campaign is currently underway. Staff are attending a UK social work recruitment fair in November and work on developing an on-island social work degree continues.

1.21 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR INFRASTRUCTURE REGARDING TRAFFIC SAFETY AROUND THE MILLENNIUM TOWN PARK: [1(604)]

Question

Further to the Minister's response to question 1(533) asked on 10th October 2017 regarding traffic safety around the Millennium Town Park which stated that "all decisions and implementation work on these roads were undertaken by the Parish" (St. Helier), can the Minister clarify –

- (a) whether the Parsons Brinkerhoff safety report was commissioned by the then Transport and Technical Services Department (TTS) and, if so, whether the report recommended the installation of rising bollards to restrict access to Tunnell Street;
- (b) whether TTS agreed to consider the "installation of automatic rising bollards in Gas Place which could be used to restrict traffic for events or to allow through traffic to be further restricted" following representations at a Roads Committee meeting on 9th February 2011.
- (c) the cost of the bollards that the St. Helier Director of Technical Services said had been "removed by TTS due to the cost" at a Roads Committee meeting on 18th December 2013;
- (d) whether £500,000 of additional contingency from the Town Park project was returned by the Minister to the TTS and Housing rolling votes as per Ministerial Decision 0099/2012 as the project was "complete and did not encounter any significant issues"?

Answer

- a) In 2011 TTS commissioned TMS (via Parsons Brinkerhoff) to undertake a Safety Review as part of the Town Park Development, the report considered layout options for rising bollards but did not make any recommendations.

We would add that the TTS design development presented the concept of rising bollards and no access to through traffic.

The Parish as the responsible roads Authority consulted with residents on these options in October 2010, but ultimately did not chose to install any device, such as a rising bollard or introduce any other measures to restrict access to through traffic.

It should be noted that the report is only limited to the layout and design that was current at the time (April 2011) and not the subsequent iterations implemented by the Parish in 2015 following its development of 32 Belmont Road to Create access for bicycles and pedestrians from Belmont Road to Millennium Town Park.

- b) Part of the bullet point extracted from the 9 February 2011 minute is missing from the question. For the sake of completeness the part of the Minutes of the Parish Roads Committee meeting on 9th February 2011 to which the Deputy refers show that “...*Following representations TTS agreed to consider:-*

...

- *installation of automatic rising bollards in Gas Place which could be used to restrict traffic for events or to allow through traffic to be further restricted should the Committee wish to revisit its earlier decision”*

The minutes are those of the Parish Roads Committee, the context of which was the Committee revisiting their own decision. TTS did consider and discuss this request with the Parish, however through traffic was initially maintained along Gas Place and therefore a rising bollard was not required.

Because of this practical constraint, it would appear that the Parish Roads Committee did not consider it necessary revisit their earlier decision.

- c) In the minutes of the Parish Roads Committee meeting 18 December 2013 it states

“[the St. Helier Director of Technical Services] said that it was still the intention to designate the road access only at the start of the Park but plans for the bollards had been removed by TTS due to the cost”.

The minutes are those of the Parish Roads Committee. It is clear from the minutes, that TTS representatives were not present at the meeting and so we cannot clarify as to what the St Helier Director of Technical Services was referring to.

We note from reading the Minute that this meeting was held after the completion of the Tunnell St paving works by the Parish and was in the context of proposed further modification to the footpaths to the eastern end of Tunnell St, outside of Ruellan’s Garage as part of a refurbishment and footpath widening project, two years after the park had opened.

The meeting was also shortly after the acquisition by the Parish of 32 Belmont Road, which is now the site of La Raccourche.

It may also assist the Deputy that planning permission to develop 32 Belmont Road to “Create access for bicycles and pedestrians from Belmont Road to Millennium Town Park” was granted to the Parish on 4 September 2014. The Parish adopted La Raccourche as a by road on 21 September 2015.

We would add with regards to the historic funding of traffic management measures in Tunnell St, TTS had previously informed the Parish that funding traffic management measures in Tunnell Street was a matter for the Parish, as the responsible Authority.

The assistance that TTS were able to provide the Parish for Robin Place and Tunnell Street in the context of the Town Park was the provision of a stock of granite paving.

This was set-out correspondence of 27th September 2011, between the Director - Engineering and Infrastructure, Transport & Technical Services and the Connétable. In response, the St. Helier Assistant Director of Technical Services informed the Director -

Engineering and Infrastructure, Transport & Technical Services that the Connétable and Procureurs would consider taking the matter of rising bollards to an Assembly for funding (See Appendix 1).

Again, it is recorded on Friday 27 January, 2012, in the Parish Roads Committee Minutes:

“TTS presented various facts to the Committee...

the Council of Ministers had agreed funding for the creation of the Park, but the responsibility for the roads rested with the Parish and not TTS”

- d) We refer you to the Ministerial decision of 14 December 2012 which explains the repayment of carry over funding retained as an emergency contingency which was not required to fund exceptional events

<https://www.gov.je/Government/PlanningPerformance/Pages/MinisterialDecisions.aspx?do cid=FBBD917D-75CB-4FB4-A4A1-717E017EB2F9>

APPENDIX 1

-----Original Message-----

From: [REDACTED] [POSH Assistant Director T & E Services]
Sent: 04 October 2011 09:40
To: [REDACTED] [TTS Director of Infrastructure and Engineering]
Cc: [REDACTED] [TTS Principle Engineer]
Subject: RE: Funding of the road improvements surrounding the new Town Park

[REDACTED] [TTS Director of Infrastructure and Engineering]

I have attended the management meeting this morning when the matters in your email of 27 Sept. were discussed and I have been asked to respond.

It was agreed that the parish will take on responsibility for the laying of the new material in Robin place and Tunnel Street. Please advise how you see this working programme wise, I will try to juggle our current work schedule accordingly?

With regard to the street lighting can you please provide me with details including costs following which I will have to see whether our current street lighting budget can carry this. Please advise if there are any other material costs which the parish must allow for.

The board were not supportive of paying for the rising bollard in Robin Place as they saw this as an integral part of the park project and this has not been budgeted for. Is this still around 40k? If you are insistent that the parish should fund this the constable and procureurs advise that they will have to take the matter to Parish Assembly for approval.

Kind Regards

[REDACTED] [POSH Assistant Director T & E Services]
Assistant Director T & E Services

* Direct Tel: (01534) 811 [REDACTED]
* Mobile No: [REDACTED]
6 Fax: (01534) 811804
* [REDACTED]

Website www.sthelier.je

Do it online at: www.sthelier.je

P Think of the environment...do you need to print this e-mail?

-----Original Message-----

From: [REDACTED] [TTS Director of Infrastructure and Engineering]
Sent: Mon 03/10/2011 08:22
To: Simon Crowcroft
Cc: [REDACTED] [TTS Principle Engineer]
Subject: RE: Funding of the road improvements surrounding the new Town Park

Morning Simon,

can we have a response before the close of play on Thursday please as we need to instruct this work by no later than this Friday

: [REDACTED] [TTS Director of Infrastructure and Engineering]

-----Original Message-----

From: Simon Crowcroft [mailto:Simon.Crowcroft@posh.gov.je]
Sent: 28 September 2011 07:29
To: [TTS Director of Infrastructure and Engineering]; Michael Jackson; [TTS Chief Officer]
Cc: [TTS Principle Engineer and POSH Officer]
Subject: RE: Funding of the road improvements surrounding the new Town Park

Thanks [TTS Director of Infrastructure and Engineering]
I will put this to the procureurs and the rest of my team at the earliest opportunity.
rgds
Simon

-----Original Message-----

From: [REDACTED] [TTS Director of Infrastructure and Engineering]
Sent: Tue 27/09/2011 15:32
To: Simon Crowcroft; Michael Jackson; [TTS Chief Officer]
Cc: [REDACTED] [TTS Principle Engineer]
Subject: Funding of the road improvements surrounding the new Town Park

Hi Simon,

Thanks for talking to me from your holiday last Friday regarding the funding of the road improvements around the new Town Park. Further to our discussion, I met with our Minister, Assistant Minister and [REDACTED] [TTS Chief Officer] and all were happy with the solution we discussed.

As requested, I have listed out the details of what we agreed so there is no ambiguity

The TTS capital budget for the Town Park will fund the following elements

- * Full park remediation
- * Full park construction
- * Road improvements to Bath Street including street lighting and a new pedestrian crossing
- * All road improvements including cycle track, street lighting and rising bollard in Gas Place and Oxford Road up to the junction with L'Avenue et Dolmen du Pres du Luminiere
- * Provision of granite materials only for Robin Place and Tunnel Street

The Parish will fund all the remaining works in Robin Place and tunnel Street to include the laying of the granite, the street lighting and the rising bollard. We will arrange the transfer of the granite materials to your Parish yard in due course and provide copies of material suppliers, specifications and detailed drawings in due course

Trust this confirms our discussions and I would appreciate your confirmation of the above

: [REDACTED] [TTS Director of Infrastructure and Engineering]

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Thank You.

ADDED INFORMATION - 2017 Data Protection Note

Names redacted and [titles] added in square brackets for purposes of data protection

2. Oral Questions

2.1 Deputy M. Tadier of St. Brelade of the Chairman of the Privileges and Procedures Committee regarding the results of a C.P.A. benchmarking exercise completed in 2016: [1(612)]

Further to the C.P.A. (Commonwealth Parliamentary Association) benchmarking exercise, which was completed in 2016 by a Privileges and Procedures Sub-Committee, does the chairman accept the findings of that exercise that there are areas for improvement and, if so, what steps are being taken to follow up in these areas?

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

I do accept the findings of the sub-committee that there are areas for improvement. Members will recall that the report of the sub-committee, which was circulated last year, highlighted how the Assembly was compliant or partially compliant against the C.P.A.'s benchmark for democratic legislatures. However, the report contained instances where Jersey did not comply. Some of that non-compliance stems from the context of Jersey's parliamentary democracy. For example, the fact that the majority of Members do not belong to a political party or the Assembly does not elect

its own Speaker. But of particular note was the comparative lack of resources and support available to Members of the Assembly to carry out their parliamentary work. This was something which was emphasised to me recently during the debate we had on States Members' pay. This was something which the P.P.C. (Privileges and Procedures Committee) have taken on board and while of course we need to be mindful of budgetary considerations what we are going to do is to hold a series of workshops with Members in the new year to progress discussions in this particular area.

2.1.1 Deputy M. Tadier:

I thank the chairman for that response. The chairman may be interested to know that the subject of benchmarking did come up at the recent Commonwealth Parliamentary conference at the small workgroups that were held. It was an area of interest. It was felt to be valuable for those who took part in it. Does the chairman agree that for those of us in the Assembly who value the Commonwealth association and the benchmarks and the norms that they said it is important that we try to do everything we can to live up to those commonly applied norms?

[9:45]

The Connétable of St. Clement:

I think it is important we try stringently to maintain the highest democratic standards.

2.1.2 Senator P.F.C. Ozouf:

Does that mean that P.P.C. will therefore adopt the issue of elected Speaker, which seems to be ... and having read also some other benchmarks of other democratic systems, the elected Speaker is fundamental in terms of the importance of that position. Does he agree and will he support therefore the elected Speaker being also part of our democratic system?

The Connétable of St. Clement:

The Privileges and Procedures Committee is a democratic institution and there are no whips and each member of the committee will cast his or her vote depending on the quality of the arguments made during the forthcoming debate.

2.1.3 Senator P.F.C. Ozouf:

The committee system used to be known as "first among equals". Is the "first among equal" chairman of the committee going to be supporting this fundamental issue of democratic democracy?

The Connétable of St. Clement:

The chairman will listen very carefully to the debate. The chairman will possibly make a contribution or 2 or 3 or 4, depending on which amendments we debate during the debate, and will cast his vote on the balance of arguments made. That is what is called democracy.

2.1.4 Deputy M. Tadier:

Will the chairman note the feedback from such conferences, not just from myself and the recent delegates, but from those who have been in the past, that although Jersey in many ways punches above its weight, and the Public Accounts Committee is a great example in the Commonwealth of how Jersey can often demonstrate best practice to other Parliaments and Assemblies from around the Commonwealth. But when it comes to the singular issue of the elected Speaker, or absence thereof in the Jersey context, eyebrows are always raised on the international stage and at the Commonwealth level the fact that we do not have an elected Speaker in the Assembly. Not only that but that the person who automatically is the Speaker is also the Chief Justice of our Island. Could that be put on record and related to the P.P.C. and reflected perhaps in its comments during the debate we are going to have in the next couple of days?

The Connétable of St. Clement:

I will be absolutely honest with you, I do not think I understood the question. I will answer the question inasmuch as do we learn from our experiences when we attend conferences like the C.P.A., and of course we do. That is why we belong. We learn, we improve, we gain. But also of course other jurisdictions learn and gain from the experiences that our delegates are able to pass on to them. That is very important. I am not going to commit myself to my position on the elected Speaker. Members will find out my position when the vote is taken.

2.2. Deputy L.M.C. Doublet of St. Saviour of the Minister for Social Security regarding the latest part of the Social Security Review: [1(615)]

Will the Minister update Members on the scope and progress of the latest part of the Social Security Review and indicate what the timescales are between now and the elections for any resulting changes in policy and legislation that may arise?

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

The latest part of the review of the Social Security Fund focuses on some areas where society has changed since the current scheme was set up. It asks for the public's views on maternity and bereavement benefits and drills down to some of the results from last year's survey. The consultation is open to everyone and we want as many people as possible to take part as we all contribute into the fund. For example, last week we noticed that the response rate from men was on the low side and we used Facebook to encourage more men to respond. That has worked well and we have now had over 1,000 responses to the online survey, which is running until 15th December. 1,200 people also gave their views and ideas through AppTivism's Facebook chatbot in October. Four workshops were held last week for organisations and members of the public with another 4 plans for later in the month. The results will be published early next year and will feed into the remaining stages of the review. This will continue after the election, leading to a co-ordinated set of policy and legislative changes which will be led by the next Minister for Social Security.

2.2.1 Deputy L.M.C. Doublet:

Can the Minister confirm that there will be no actual changes to the maternity or paternity legislation in her term of office?

Deputy S.J. Pinel:

As the Deputy will be aware, we are waiting for the results on family friendly responses and consultation from the Employment Forum, which I am due to receive in December.

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

Can the Minister explain to Members why, in the second part of this survey, they have not transferred a finding from the first part that employers could pay more to the options available for people to tick? The 2 options available are: "I would pay more myself" or: "I would accept a reduction in benefit." Why not the option for employers to pay more?

Deputy S.J. Pinel:

I think the Deputy has asked a similar question before. We have had a U.K. (United Kingdom) consultation agency who have put the consultation together with the help of the Statistics Unit and we also asked the public, based on the previous review, what their options were. In order of popularity it was to tighten benefit rules, businesses pay more, less benefits, people pay more, pension goes up less quickly and higher pension age. So we have tried to incorporate these into the

second review. These 2 reviews so far and the third one will come together in 2020 to give an idea or a comprehensive response to what has been gathered.

2.2.3 Deputy G.P. Southern:

The Minister said she tried to get all these elements together and went through the list of options. The second option, to request employers to pay more, was supported by 71 per cent; it was significant. Yet it does not appear as one of the options on the second consultation; why not?

Deputy S.J. Pinel:

As I said, because it is a different consultation from the first one. There is no point in putting out a second consultation which is identical in questioning to the first. The second one is on maternity benefits and survivors benefits, partners of whom have died, and this is what this second review is all about. All the results will come together at the end of the third review to be put out as a formal recommendation.

2.2.4 Deputy S.Y. Mézec of St. Helier:

Following on from Deputy Doublet's second question about maternity leave and the Minister saying that there are ongoing reviews looking at this; does she anticipate that any of these reviews will conclude anything other than statutory maternity leave in Jersey is wholly inadequate and needs to be increased?

Deputy S.J. Pinel:

Also, as I have said before, in other areas the Employment Forum is an independent body. It is apolitical and they get on with their job. They have had to fit the family friendly consultation in between the minimum wage and it is not for any politician, and certainly not me, as Minister for Social Security, to interrupt their findings until they give me the recommendation. But, as a working mother, I would sincerely hope that there would be an increase in some of the maternity benefits that we have at the moment.

2.2.5 Deputy M. Tadier:

Can the Minister tell us - and if she does not have the information circulate that information - about... because we do of course have a Stats Department ourselves who I think are quite well respected throughout the States, which is the company that she has been using for this survey and how much are they being paid for that?

Deputy S.J. Pinel:

When I said we use the Stats Unit, I did mean the one over here, who are very helpful in putting together our consultation and numerical findings. The company that is used is a U.K. company called CAG and the cost of it, for this one, off the top of my head I think is about £38,000.

2.2.6 Deputy M. Tadier:

Does the Minister accept, as somebody who got this message on my phone, like I am sure many other people did in the Island, that my initial reaction, irrespective of the fact it was from Social Security, was that these are not full and complete questions and that they are very much leading? I, for one, was asking: where is the option here for higher earners, those who earn a lot or whether they are an employer, for them to be able to pay more in contributions at the same rate as everybody else so that we can all have access to the same benefits? That was not one of the questions that was asked and why is that the case?

Deputy S.J. Pinel:

I understand both Deputy Tadier and Deputy Southern's questions on why were the questions not asked but there are only so many questions you can put in order to keep people's interest on an online survey. In this survey, which is almost completely online, we have included 3 different video outlets as well to make the whole survey and answering of it more enticing, which limits the amount of questions that you can put into the consultation. Otherwise it would take 30 minutes to do it and nobody would have the attention span for it. So thank you.

2.2.7 Deputy L.M.C. Doublet:

I thank the Minister for her answers. I wanted just to zero in on one of the areas in the survey. I believe a question has been asked about the maternity payments and whether they should in fact be available to either parent so that the father or mother could receive the maternity grant and the payments. Given that this is an issue under consideration can I ask the Minister for her view on something which is perhaps achievable within this term of office, for the States of Jersey as an employer to offer the maternity pay to their employees where both parents are employed by the States of Jersey could this be available to the mother or the father?

Deputy S.J. Pinel:

As I said in a previous answer, I am waiting for the recommendations of the Employment Forum, at which I would not interrupt under any circumstances until I get them. They will be putting forward their recommendations at the end of December and I would hope to bring forward lodged regulations end of January for debate in March.

Deputy L.M.C. Doublet:

Can I just clarify my question? I was asking about a separate issue on principle really, on the Minister's view on the principle of whether she believes that States of Jersey employees, where the mother and the father are both employed by the States of Jersey should the maternity or parental leave be available to either parent, which would be a separate policy decision rather than legislation change.

Deputy S.J. Pinel:

As I had to instruct as Minister for Social Security the Employment Forum, all that area was included in the instructions so I will await what their recommendations are. But, yes, I would hope that they would do that.

2.3 Connétable A.S. Crowcroft of St. Helier of the Minister for the Environment regarding the use of artificial fertiliser, herbicide and pesticide on Jersey fields: [1(608)]

What steps, if any, is the Minister currently taking to limit the amounts of artificial fertiliser, herbicide and pesticide being applied to fields in Jersey?

Deputy S.G. Luce of St. Martin (The Minister for the Environment):

While there is still very much more to do there are a number of steps I am taking with my department, and indeed all parts of the industry, to minimise the amount of fertiliser and pesticides applied to land. Many of these measures and actions are contained within the agreed Rural Economy Strategy and the Water Management Plan. Some of these include providing best practice advice on the control of pest disease and weeds, promoting non-chemical solutions and recommending an appropriate least harmful approach, encouraging growers to meet Red Tractor and L.E.A.F. (Leading, Environmentally Friendly) best practice standards through the rural support scheme, working with the Action for Cleaner Water group to implement further measures to reduce all inputs on agricultural land, continuing to provide best guidance under the Water Pollution Law,

promoting the uptake of controlled release and precision placement of fertilisers, regulating the use of pesticides and banning the use of some pesticides based on sound scientific evidence. I will continue to work with the industry and farmers and land managers to implement further measures to minimise the use of pesticides, fertilisers and herbicides on our land.

2.3.1 The Connétable of St. Helier:

I do not know whether the Minister saw last week's *Inside Out* documentary about the seaweed problem at St. Aubin's Bay. It went on to look at a successful trial of organic alternatives to artificial fertiliser for Jersey Royals. Is he aware of that work and does he believe that the Island should be moving towards organic farming rather than the farming that is dependent on the application of artificial substances?

The Deputy of St. Martin:

I did not see the programme but I was aware that it was going on. I am aware also of the trial at St. Ouen that the Constable refers to. I would say to the Constable, he has heard one side of the story but there are other sides to hear as well. While some aspects of that trial may have been highly successful there are others that have not been so. But as regards sea lettuce and organic farming in the Island, we do have an organic action plan. It has been my desire for some time to bring organic farmers together. I have encouraged them to do so but they are a different group of people, not always easy to herd. Trying to get them to work together has been difficult. On one end of the scale we have very small organic farmers who have a lifestyle that they wish to enjoy. On the other hand, we have large commercial operators who run organic farms, supplying large multiples in the U.K.

[10:00]

Trying to come up with a plan for one-size-fits-all is a challenge but I will continue to work with them and help to support them where possible. Finally, I have to say to the Constable, while organic farming may be the desire of some, moving forward the industry certainly could not survive as it currently is if we were to move entirely to organic.

2.3.2 Senator S.C. Ferguson:

There are also calls for banning various weed killers for private use. Will the Minister also look into suitable weed killers for our ageing population in their gardens because not all of them are going to be able to crawl round on their hands and knees weeding? We are going to have an awful lot of older people and we do not really want all their gardens getting overgrown with weeds, I think.

The Deputy of St. Martin:

The encouragement of people to use vegetable plots and grow their own fruits and vegetables has to be encouraged. It is a great way to live. It certainly gives people an occupation in retirement and I know a lot of people enjoy it. I can say to the Senator that chemicals these days are very much more strictly controlled than they ever have been before. The amounts we use are reduced on an annual basis and chemicals are much safer than they were, and I can assure the Senator the chemicals we use are safe to do so and, where possible, we will not be banning them.

2.3.3 Senator P.F.C. Ozouf:

The Minister responded with the word "herding". Would he agree that the farming conference that was held on Friday was a particularly good example of constructive herding? Would he further agree that the opportunities for Jersey to use digital, which is a word that he has not used yet in his answers to the Constable's questions, and it is the advance of digital technology and the application of fertilisers, whether they be drones in Senator Ferguson's garden or whether they be driverless

tractors that can apply exactly the right amount of fertiliser and limit it in the right places that is probably going to have the best environmental advantage in the longer term? Would he agree?

The Deputy of St. Martin:

Absolutely. I would like to concur with the Senator on that. We had a very successful farming conference last Friday attended by many more people than we expected. In the morning we concentrated on agriculture, the afternoon more so the dairy farmers, but I can say to the Senator, technology is the way forward and precision application of fertiliser will be a way - along with pesticides - technology will help us to do that. I can further tell the Assembly that our Jersey Royal Potato Company next year, following their very successful trials, will be applying precision fertiliser applications on 90 per cent of their land and looking forward to reducing their fertiliser inputs by something around 25 to 30 per cent next year. Given that they are by far the largest potato company in Jersey that is to be applauded and I encourage all other farmers to take that and move forward on the same vein.

2.3.4 Connétable J.E. Le Maistre of Grouville:

I also attended the conference last Friday and it was excellent and very informative. Most of the commentators within the industry and outside the industry agree that great improvements have been made in reducing agricultural inputs. Would the Minister agree with that assessment?

The Deputy of St. Martin:

I will. Our streams are better than they have been for very many years and we continue to make great strides. I just take the opportunity to reiterate yet again that I take my hat off to the farming industry for coming to the table. We have the Action for Cleaner Water Group, which I mentioned earlier, which comprises myself and members of my department, Jersey Water and representatives from the farming community, Farmers Union and the R.J.A. (Royal Jersey Agricultural [and Horticultural Society]). We have been working really hard on this in the last 2 years. We are seeing some significant improvements and the quality of our water, while still we have improvements to make, is better than it ever has been.

2.3.5 Deputy K.C. Lewis of St. Saviour:

Is the Minister aware of the growing arguments against both domestic and commercial uses of the weed killer glyphosate? I think the arguments are growing all over the world at the moment. Regarding nitrates in the land, which have been used excessively in the past, can the Minister give an indication of how long this would take to flush out of the land?

The Deputy of St. Martin:

As Members may well know, fertilisers, pesticides, chemicals move through soil at different rates, which is why in St. Ouen and the Val de Mare area, in particular, we have the greatest problems because that is predominantly pure sand soil. Those chemicals move through the soil in that part of the Island much quicker and give us more issues. As regards chemicals like glyphosate, for example, yes, there is a lot of discussion around Europe and around the globe about chemicals at the moment, but I can assure the Assembly that the chemicals that we approved in Jersey come directly from the list approved by the U.K., and if the U.K. scientists and authorities decide to ban chemicals we will do so immediately as well. We are a small island, we do not have the capacity scientifically to analyse and do a lot of work but we do follow very carefully the U.K. and E.U. (European Union) guidelines when it comes to using chemicals.

2.3.6 Deputy M. Tadier:

A couple of years ago there was a story that was raised about the amount of potatoes that get dumped every year. Can the Minister give us an update about how many potatoes each year get

wasted or dumped for whatever reason? Can he also say whether we need to be thinking about, as an Island, producing quality rather than quantity and what steps could we take to end this spiral, which ultimately ends in wastage and environmental destruction?

The Deputy of St. Martin:

I cannot give the Deputy precise numbers but I can tell the Assembly that the amount of potatoes that leave the field but do not find themselves exported or on the supermarket shelf is several thousands of tonnes. In particularly bad years this could potentially run to 5 figures. But what I can tell the Deputy is this: that great strides are being made to make sure that every potato that comes out of the ground is sold. There is no benefit to the farmer growing crops which they cannot sell, which is why things like precision fertiliser application and selection of seed goes ahead. The farmers want to grow the crops they can sell. There is no benefit to them for using chemicals and fertiliser and then not selling those products. While there is always some that do not leave the Island that number, I hope, continues to reduce. But it is a subject that I have spoken to the industry about over the years. They are in a difficult situation but certainly I am aware that they do offer some of the potatoes that do not leave the Island to charities for their benefit.

2.3.7 Deputy M. Tadier:

I am glad to hear that there is a policy of no potato being left behind in the Minister's department. But does he accept the point that if we adopted a quality control system ... I am always asked the question and I ask it as well: what is wrong with a good old fashioned bit of vraic, which was used in the fields in the past? If we concentrated on a very high quality premium product to be sold rather than competing desperately with market forces that the industry cannot ever hope to compete with, with the big 4 in the U.K. supermarkets, is that not the direction that Jersey should be going? Whatever happened to getting Jersey towards the aspiration of 100 per cent organic? Is that still on the table?

The Deputy of St. Martin:

I do not know that we have ever had an aspiration to be 100 per cent organic, and it certainly is not on the table to turn the Island into 100 per cent organic. I would further say to the Deputy, the Jersey Royal potato is a premium quality potato. It is a niche product. It is desired all over the world. I know we cannot get it there but certainly in the U.K. it is a quality product and it will continue to be a quality product. The work that we do to improve that quality goes on year by year. It is far better than it ever was before. I finish by saying: yes, I wish more farmers would use vraic but certainly it is not a practice which has been stopped. A number of farmers in the St. Ouen area make use of the free seaweed in that corner of the Island is quite prolific. Also in Grouville Bay. But the problem with vraic, and everybody would want to use it, but it is the cost of applying it to the soil. We are yet to devise a machine which can spread vraic off the beach evenly across our fields. It still is a very manual operation. It is not so expensive to load because it can be there in vast quantities but when it comes to spreading it in the fields it is still quite manual. It is an expensive thing to do and unfortunately that is the case because I could only encourage more and more farmers to use it.

2.3.8 Senator P.F.C. Ozouf:

Senator Ferguson's question was not answered in respect of her old age pensioners and their gardens and their weeds. Would the Minister also suggest perhaps that a conference could be held on a digital solution to that where you can get a robot to go round and deal with your weeds rather than applying fertilisers and herbicides? There is a solution for even O.A.P.s (old age pensioners) to be environmentally friendly rather than lashing out and putting lots of harmful chemicals in gardens.

The Deputy of St. Martin:

When it comes to lashing out, I can assure Members I will not be lashing out on the cost of a conference to encourage old age pensioners to buy robots to weed their gardens. **[Laughter]**

The Connétable of St. Helier:

My supplementary questions have all been very ably answered and I would like to thank the Minister for his comprehensive set of answers this morning.

2.4 Deputy S.Y. Mézec of the Chief Minister regarding the introduction of a ‘substance test’ to assist Jersey in playing its part to prevent the operation of aggressive tax avoidance schemes: [1(613)]

In light of the disclosures in the “Paradise Papers”, what work, if any, does the Chief Minister intend to do to introduce a ‘substance test’ to assist Jersey in playing its part to prevent aggressive tax avoidance schemes from being able to operate?

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

We do not want abusive tax avoidance schemes operating in the Island. We expect companies to pay the tax that is due in the jurisdictions where it is owed and we expect financial services providers to abide by our voluntary code. I believe we should find a way to assess the substance of companies that claim tax residence in Jersey, both locally incorporated companies and those incorporated elsewhere. I will work with the Minister for Treasury and Resources and the Minister for External Relations, together with their officers, to address this issue to ensure Jersey continues to be known as well regulated, responsible and internationally co-operative as a finance centre.

2.4.1 Deputy S.Y. Mézec:

It is possible that I missed it but when this was in the news last week I was listening to the statements that were made by Chief Ministers of other Crown Dependencies and overseas territories and I did not hear what sounded to me like a reference to a substance test from representatives from these other jurisdictions. Could I ask the Chief Minister if this idea is something uniquely Jersey in this sense or is it something he would be working with other jurisdictions to do the same thing across those as well?

Senator I.J. Gorst:

We would be here all day if we did dissect everything that was said during the course of last week with regard to these particular leaks. I have said for a long time, Senator Ozouf when he very ably supported me in this role has said, that Jersey is a jurisdiction of substance. The regulator carries out substance tests before it gives licences to regulated operators. The issue for us today is how we ensure that those who look at our model have confidence that we are a jurisdiction of substance, and I have said for a while that we must continue to ensure that we can give confidence in that regard. That is not an issue which is unique to Jersey. It is an issue and a desire which I believe is certainly shared by my fellow Crown Dependencies.

2.4.2 Deputy M. Tadier:

In the field of politics we are told from a very early stage when you send an email, or anything like that, how would you feel if it ended up on the front page of the *J.E.P. (Jersey Evening Post)* or a national paper. That is ultimately the test of whether or not what you do can be justified. Now increasingly places like Jersey, rightly or wrongly, are being called secrecy jurisdictions and in the leaks recently it was quite clear that Apple, while trying to get assistance from the law firm Appleby, were quite keen to maintain a confidentiality and secrecy. So could it be argued that if

the same tests were applied to people taking business how would you feel if this information were leaked? Could you justify it both legally to yourself but also to government in line with government policy? Would that not be a sufficient test to apply?

Senator I.J. Gorst:

I know you are going to stop me from speaking too long but there, in that long question, were a myriad of questions. The test about how our reputation is perceived, not only by our big brands but by the global community, is really important and I have lots of conversations, particularly with our large banking brands, about reputation and how we and they are aligned in ensuring that we have a positive reputation. But if I might just drill down a little bit about the Apple situation. The Deputy will know that the I.C.I.J. (International Consortium of Investigative Journalists) quite clearly said that there was nothing illegal in what Apple were doing in claiming tax residency here. Importantly, the Deputy has tried to say that they were being secret.

[10:15]

They were not being secret about what they were doing. They informed the Irish authorities, they informed the European authorities, and they informed the U.S. (United States) authorities. I do not see how that can be described as being secret. On the other hand, for us here, we know that client confidentiality is an important part of what we offer. We are absolutely prepared and signed up to all the latest standards to exchange information automatically and on request, if jurisdictions require further information. In the case of Apple, as I have said, nothing illegal. They informed the relevant authorities, which is exactly what we would expect them to do. We will exchange information automatically to those relevant authorities going forward as well and we also have agreements in place where they can ask for further information. But equally, like we expect confidentiality with our own bank accounts, the client confidentiality that we offer is important and must be respected.

2.4.3 Deputy G.P. Southern:

I am glad the Chief Minister suggested that this was not illegal. My question is directly relevant to that. In his understanding of what action Apple and Appleby took in this particular situation, does he consider that those actions were either aggressive or abusive tax abuse?

Senator I.J. Gorst:

I have been quite clear, we have no wish here and it is a criminal offence to endeavour to commit tax evasion, and it is an offence for the individual who even unwittingly might facilitate that. We also have no desire to be used for abusive or aggressive tax avoidance schemes. We have been quite clear about that. I refer the Deputy to the statement that Apple themselves issued a week ago today about the process that they had undertaken, confirming to relevant authorities. I also reiterate that officials have requested any documentation from the I.C.I.J. if they are aware of any wrongdoing. To date they have refused to provide that documentation. Without that documentation I am not prepared and it would not be right for me to prejudge.

2.4.4 Deputy G.P. Southern:

Would the Chief Minister mind answering the question, which was what was his interpretation on his understanding of these actions whether the actions were aggressive or abusive tax avoidance, as he knows full well?

Senator I.J. Gorst:

I believe that I did just answer that question. Let us remind ourselves, as well, that in Apple's own press release they said that they were paying exactly the same amount of tax that they were paying when those companies were tax resident in Ireland. So they are not reducing their tax liability by

moving their tax residency. Without the further information that the I.C.I.J. may or may not hold, which may or may not show any wrongdoing, it would not be right for me in this forum to prejudge.

2.4.5 Senator S.C. Ferguson:

The systems described were perfectly legal. According to Lord Clyde an individual is perfectly entitled to use legal means to avoid tax. Something I believe about H.M.R.C. (Her Majesty's Revenue and Customs) and a shovel. But is it not time the Chief Minister gave firmer, clearer support to our industry, or robust support even, when they are unfairly pilloried rather than merely saying: "We may have to alter our law."?

Senator I.J. Gorst:

I think the quote that the Senator used is perhaps being challenged by international perception and the international community and is a quote that we would have to and we consider carefully. Jersey is a jurisdiction that signs up to all relevant international standards. More than that, we are party to ensuring that they are provided on a global level playing field. We signed up to the Common Reporting Standards to automatically exchange information. We signed up to the O.E.C.D. (Organisation for Economic Co-operation and Development) base erosion and profit shifting. This Assembly is approved country by country reporting legislative changes. We absolutely compete on showing we can meet those relevant international standards, on showing that we are a jurisdiction of quality, on showing that we are a jurisdiction that where evasion is a criminal offence and, on top of that, which is often where I get challenged, that we do not want to be used for abusive and aggressive avoidance. I believe that that is the right position to take. I believe that that is the position that is understood, not only by the Government of the United Kingdom but also by governments around the world, importantly our European friends as well, and I will, and I do, defend what happens here in Jersey. I am proud of the financial services industry that we have in Jersey. I think if we look at reports like *Capital Economics* we provide great benefit to the United Kingdom: 250,000 jobs, £500 billion worth of upstreaming. We are delivering growth and jobs around the globe and we should be proud of it and I am.

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

Can the Chief Minister explain what he thinks a substance test should be? Can he confirm that Apple have got substance in the Island or have they merely just booked the US \$252 billion that they have offshore in the Island or did it not come here at all? Can he please explain?

Senator I.J. Gorst:

As I said, I could comment on every speculative comment that was made either in the reporting on the television or subsequently in various papers. It would not be right for me to do so. The Deputy, I would have expected, has also seen a media release that the Jersey Financial Services Commission issued late last week as well which ties in exactly with what Apple said in their release about having tax residency in Jersey, and therefore I think the assumption can be made, although we have to be careful not to jump to assumptions, that the money in those companies is invested around the globe. The Deputy also knows that the test in the Income Tax Law about mind and management can be met in one way, the tests and base erosion and profit shifting and country by country reporting can be met in another way, and what I am committed to, together with the other departments, is making sure that we can show the test in various pieces of legislation stand up and are understood and accepted, are set to specific because a test cannot be the same right across any type of company. A test for a trading company and a test for an investment company, one would expect to look very different indeed. That is what we are going to work to deliver.

2.4.7 Deputy M.R. Higgins:

In terms of a supplementary, the Chief Minister said Apple are paying the same tax as they did before. My understanding is that the money was transferred from Ireland to Jersey where they pay no tax and then was transferred back to Ireland so it is paying the same tax. Will the Chief Minister confirm if that is the case or not?

Senator I.J. Gorst:

I have no idea where the Deputy has got his understanding from at all. He obviously has not looked at the information released from the Jersey Financial Services Commission. He obviously does not understand what tax residency means. He obviously does not understand that a company which is a non-Jersey company and where it might hold its investments, its assets and its cash and how they operate. I am slightly surprised that he has made the comments he does knowing his experience in financial services.

2.4.8 Senator P.F.C. Ozouf:

Would the Chief Minister agree that the portrayal of Jersey by *Panorama* was unbecoming of the BBC and we frankly would have expected better. Would he further agree that in fact Senator Ferguson might well be reminded of some of the defences of the finance industry that have been made vigorously and to worldwide audiences when such other supposed leaks of information has been done? Would he particularly remind the Assembly of the phrase that is being used that Jersey is not a tax haven? Jersey is not the problem. If other countries would have applied the same exacting standards, like having a beneficial ownership register available to law enforcement agencies, and if they did not have complicated tax rules the world would not have had the problems that effectively the “Paradise Papers”, through leaked information, exposed in other places but not in Jersey.

Senator I.J. Gorst:

I have got to say I was surprised by the way that the media coverage unfolded, particularly in regard to the 2 programmes that the Senator referred to. Particularly when they seem to spend the majority of the programme telling their viewers that there was nothing illegal. The Senator knows, he and I have stood on the steps of Downing Street defending Jersey, what we do, our record to the worldwide community and he and I, even in our respective roles, will continue to do so. The response on every situation will not be identical, nor should it be identical, because what we see happening in the media is not always reflective of what is happening behind the scenes. We will make the decision that we make in Jersey’s best interest. Sometimes that will be difficult. Sometimes we will be criticised for the way that we have responded on the particular issue. That is because we are aware of other things happening and we need to speak to those other things which are happening. We need to align and accord with those voices and show to those important decision makers that we understand what is happening, that we are prepared to make difficult decisions and we will continue to do so. If the rest of the world had followed our model, particularly around beneficial ownership, being an early adopter of the Common Reporting Standard, being part of the B.E.P.S. (Base Erosion and Profit Shifting) Working Group, then I think the global level playing field and the way that we deal with tax transparency would be in a far better place than it is today. But I am hopeful that others will continue to ...

The Deputy Bailiff:

If you could bring your answer to a close, Minister.

Senator I.J. Gorst:

... follow our standards and we will see progress.

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

Would the Chief Minister agree that there is a very big difference between confidentiality and secrecy; and that confidentiality, when providing professional services, is absolutely paramount to maintaining our representation? Therefore, what is the Chief Minister doing to encourage and progressing further the highest possible standards of cyber security in Jersey? What can his Government do to assist with that?

Senator I.J. Gorst:

That is an excellent question because it gets to the nub of the world in which we now live. Some of my interlocutors earlier last week were somewhat resigned that the way we hold information now and the way that we hold it digitally means that we are going to have to expect more and more of this sort of behaviour: criminal hacking, leaking by disgruntled employees. I think that, again, out of a difficult situation positive action can come. We know that the Jersey Financial Services Commission has got the best record, I think, on the Island of managing its information from a technological perspective. We know that we have got a cyber security strategy and that is being acted upon and that we have put resource aside. What I hope that this does is ensure that every single finance and business service on this Island takes a second look at its own cyber security strategy and enhances it because it is going to be absolutely fundamental into the future. The Deputy is right, there is a big difference between client confidentiality and secrecy. If our bank details were put into the public domain, there would be uproar. It would be a breach of data protection. That is client confidentiality. Secrecy is where we do not exchange any information with other relevant authorities.

The Deputy Bailiff:

Chief Minister, if you could bring your answer, please.

Senator I.J. Gorst:

We do, we have been clear, and will continue to.

2.4.10 Deputy S.Y. Mézec:

It may well be early days at this point but in the statement that the Chief Minister put out last week, it made reference to amending our legislation to introduce a substance test which would represent a tangible action towards this aim. Does the Chief Minister have any sort of idea about what the process to getting to that point may look like, when he would envisage anything coming before this Assembly to be considered and how he would seek to consult on any such legislation beforehand?

[10:30]

Senator I.J. Gorst:

It is early days. We need to further and better understand the concerns that the European Union has about substance, but I expect to be in a position to bring forward a number of measures which can be simply thought of as constant improvements to the system that we already have in place. I expect some of those measures we will be talking about and perhaps bringing forward for consultation prior to the election next year. I cannot begin to imagine that if there are in those constant improvements to be statutory changes, that will have to happen after the election, but we are going to work together to understand further where concerns are about substance and then how we can address them.

2.5 Deputy A.D. Lewis of the Minister for Infrastructure regarding commercial recycling facilities: [1(611)]

Given that in the Draft 2018 Budget Statement a capital allocation of £2.5 million is proposed for the building of a new commercial recycling centre, will the Minister advise why this service has not been outsourced and whether his department has undertaken a full assessment of what current facilities already exist in the Island?

Deputy E.J. Noel of St. Lawrence (The Minister for Infrastructure):

We have decided to locate the commercial recycling centre alongside the Energy from Waste Plant as this is the preferred location for our commercial customers. This location offers the facility for disposing of both burnable and recyclable waste onsite, saving both transport and operational costs, therefore being better for the environment and for the pocket. It will also reduce the amount of inappropriate materials such as metals entering the Energy from Waste Plant which causes expensive damage and downtime. Of course, it will also allow us to improve our recycling rates for completeness. Who operates all or part of that facility has yet to be decided.

2.5.1 Deputy A.D. Lewis:

A supplementary? I just wonder if the Minister could clarify the timescales on this, because why would the Minister not wait until a commercial waste charge has come in as surely there would then be more of an incentive for commercial companies to get involved with this?

Deputy E.J. Noel:

This facility has been a desire of my department for a considerable amount of time now and it is only in recent times with the final removal of the asbestos containers that has freed-up the site to provide this much-needed facility.

2.5.2 The Connétable of St. Helier:

The Minister did not answer the last question, so I will rephrase it. Given the ability of the commercial sector to provide recycling facilities of this sort, and indeed the Parish of St. Helier already does provide it certainly for St. Helier, why would the States wish to spend £2.5 million on creating something which the private sector is capable and willing to do?

Deputy E.J. Noel:

I did answer that question in terms of that it needs to be in the right location. This is about diverting the current waste stream that goes into the Energy from Waste Plant, taking out those recyclables and those that can be reused from that stream. We do go out to commercial operators for some of the waste hierarchy in terms of paper, carbon and plastic and that is out for tender. We did invite the Parish to tender for that work, but the Parish did not submit one.

2.5.3 Deputy A.D. Lewis:

Could the Minister state what level of subsidy is currently being paid to the recycling partner that you have had for some time over the past 5 years, either now, if he has the figures, or later on in the sitting? But also, does he believe that there is currently a level playing field, in other words, the Parish currently does not receive any subsidy but the current partner you have does? Does he believe that it is right that there is not a level playing field on that matter?

Deputy E.J. Noel:

Waste recycling and disposal of our waste does cost money. The subsidy or not, as the case may be, depends on the market price of the recyclables that go into the stream, so it depends on the wholesale price of cardboard, *et cetera*, and of the plastics. As I already alluded, we put this out to tender, it goes through the normal States procurement policies, and we invited the Parish to tender for that business and they declined to do so.

2.6 Deputy M.R. Higgins of the Chief Minister regarding correspondence in respect of the prospective blacklisting by the European Union of Jersey as a financial services centre: [1(609)]

Will the Chief Minister advise Members whether Jersey is one of the 53 territories that have reportedly been warned via letter to make changes to their tax code or they may appear on a European Union black list that is expected to be finalised in December; or whether any other similar correspondence has been received in relation to potential blacklisting or suggested non-compliance of Jersey as a financial services centre?

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

We have received a letter from the E.U. code group which welcomes Jersey's co-operation so far and confirms the latest stage of analysis. The letter invites a commitment to discuss the group's concerns that a lack of legal substance requirements could lead to profits being registered here that do not demonstrate appropriate economic activity. The letter says the code group will not recommend Jersey's inclusion on a list of non-co-operative jurisdictions if we commit to addressing their concerns by the end of next year.

2.6.1 Deputy M.R. Higgins:

A supplementary? Does not the Apple example show up exactly that we are not doing what they want us to do? May I ask, has the U.K. Government also withdrawn its support of Jersey falling on the blacklist?

Senator I.J. Gorst:

Maybe I will take the second point first. No, the U.K. Government is working very closely with all 3 Crown Dependencies. I was in London again yesterday discussing this very issue. I will have a telephone conversation later this week with Treasury Ministers. I will be in Brussels again next week discussing with the commissioner and various member states. The United Kingdom is extremely supportive; they understand, as Senator Ozouf said earlier. The previous U.K. Prime Minister said it is no longer fair to call us a tax haven; that is absolutely right because of all the action that we have taken. But we want to continue to work with the European Union, the member states, the Commission, the code group. The Deputy will recall I was in Rome recently meeting the Finance Minister, meeting the chairman of the code group. We want to continue to work with them to ensure that they understand the substance requirements that we currently have that the Commission undertake and where we might continue to refine our processes and, if necessary, legislation to ensure that we can continue to give confidence.

2.6.2 Deputy G.P. Southern:

Just for clarity, can the Chief Minister confirm that that is just over a year in which to come up with the substance test that he was talking about earlier, a rigorous substance test? Can he inform to us at this stage how he expects that to affect the some-30,000 companies that are registered here but do very little business here?

Senator I.J. Gorst:

We get to the heart of the Deputy's view on financial services in Jersey, do we not, in that one single question? A lack of understanding of what is happening in financial services and a suggestion that we have got 30,000 companies that are doing very little. He is not right. He knows that the regulator when it is giving licences to regulated entities carries out substance work. As I have already said this morning, we are a centre of substance, we are not just a brass-plated jurisdiction. The challenge for us now, as I have been talking about for a number of weeks - it is not new - is how we can give confidence to our European neighbours that we are a jurisdiction of

substance and how we can work with them to continually refine our processes, our systems, if necessary legislation, to continue to give that confidence.

2.6.3 Deputy G.P. Southern:

It seems to me that what the E.U. are saying to us is that our substance test currently is not rigorous enough and that we have to come up with a new substance test which is more rigorous within around a year. Is that not the case?

Senator I.J. Gorst:

It is about understanding. It is about the European Union member states largely having a different legal base to us. They are civil law jurisdictions, they like to see something written in legislation in black and white. We do not always take that approach. We have processes, we have policies and procedures where the work is being undertaken, as I have said, by the Commission before it issues licences to regulated entities. Then we need to go on and consider how we can develop these tests so that we can give confidence about a substance that we have here.

2.6.4 Senator P.F.C. Ozouf:

Would the Chief Minister agree that the E.U. is a highly-political body? It is a political process, just as Deputy Southern has every right to ask the questions he does; he comes from a particular political stable. It is in fact the O.E.C.D. that is the real expert body that one must look to for guidance in terms of compliance and not simply some of the statements that I have certainly heard made by some E.U. politicians which seem to be certainly using the opportunity of the Brexit discussions for perhaps making certain observations of Jersey in relation to the British Overseas Territories and Crown Dependencies and the linkage to the U.K. But it is the O.E.C.D that matters, would he agree?

Senator I.J. Gorst:

The Senator is absolutely right. The international standard setter, rightly in this area, is - and should be - the O.E.C.D. and that is why we in Jersey are signed up to the multilateral instrument. It is why we have signed up to the B.E.P.S. inclusive framework. It is why we brought forward legislation about country by country reporting. These are tests which in themselves will give confidence to the E.U. about the substance that we have here, that we have got nothing to hide, that we have got nothing to be afraid of. If we look at capital economics, we can see the value of centres like ours. Sometimes in Europe that value is not well understood. Equally, we have to be alive to the reality that we are geographically in Europe. We have always taken, for the last number of years, a good neighbour relationship policy with the European Union, particularly when it came to changing our corporate tax structure to comply with the Code of Conduct requirements at that point. We continue to take that good neighbourly policy and the Europeans will admit, quite freely, that the international standard is set by the O.E.C.D. but they are looking for something more enhanced, something over and above the international standard. Of course, as we go through this work over the coming weeks, months and years, the right approach should be that if the Europeans want to enhance a standard, they should do that together with the O.E.C.D. so that it becomes a global standard, that there is a global level playing field. Because if there are real issues that they are concerned about they want to address they can only ...

The Deputy Bailiff:

Minister, if you could bring your answer to a conclusion.

Senator I.J. Gorst:

I will stop now ... they can only be addressed on a global basis.

2.6.5 Senator S.C. Ferguson:

For clarity, we hear that we need a substance test, what other concerns is the Chief Minister going to be addressing?

Senator I.J. Gorst:

It is about giving confidence about the substance requirements that we already have and the processes that we already have in place and refining and continually looking to see how we can meet concerns and relevant international standards. That is where I am focusing on at this current moment in time, but officials are, as I have said, actively engaged with the B.E.P.S. inclusive framework and there are various elements of that which we, as progress is made on that global standard, will need to consider as well.

2.6.6 Deputy C.F. Labey of Grouville:

Is one of the reasons we appear on some of the global blacklists because of our Zero/Ten tax regime? Should we be looking at our tax structure as a whole and how it best serves our community?

Senator I.J. Gorst:

Let us be clear, we do not sit on any global blacklists. We do sit on some individual sovereign states' blacklists; they are very different things from a global blacklist. We are absolutely committed to ensuring that we are not listed later this year by the European Union. The issue there is that, of course, there is the gateway test about having a zero rate of corporation tax. If you go through that gateway, then you have a whole load of other tests. We have been in dialogue, answering questions for the Code of Conduct Group in this regard and will continue to engage for a successful outcome for Jersey.

[10:45]

When I was earlier - I lose track of days, as you well know - I think it was at the end of October in Brussels speaking to the tax officials of the permanent representatives' offices, they all said to me that they were not concerned about zero, but they wanted to have more confidence around substance and that is why we are working in those particular areas.

2.6.7 The Deputy of Grouville:

I believe we sit on Brazil's blacklist and Brazil is one of the fastest-growing global economies. It is that that my question was based on and I would like to know if he believes by having a Zero/Ten tax regime, which I believe is why we sit on that blacklist, if we ought to be looking at that. Thank you.

Senator I.J. Gorst:

Forgive me, I thought the Deputy was asking about a global list. She is quite right, as I said, we do sit on some countries' blacklists, and she is also quite right in regard to Brazil, and there are some others, where they simply list jurisdictions with a tax rate that they do not like, so it is not just zero, it is any tax rate. In some cases, there is quite a complex formula which would mean that even if we had a 20 per cent corporate tax rate as a standard rate, we would still be on those lists. So it is not quite as straightforward as the Deputy suggests. The External Relations Department of course have done a lot of good work in getting us off some of the E.U. member states' individual country lists and we got off those lists as we have signed agreements to exchange information with them, even though we might have got on to that list because of our rate of corporate tax.

2.6.8 Deputy M.R. Higgins:

Listening to the Chief Minister where he is flitting from and to, I feel sorry for him. In fact, I wonder what is his Minister for Treasury and Resources and Minister for External Relations doing in this particular field. How often are they out of the Island fighting for Jersey's corner?

Senator I.J. Gorst:

Senator Bailhache is often out of the Island, as the Deputy knows. More recently perhaps not as frequently, but he will be increasing his overseas visits very shortly, certainly at the end of this month. We are a small jurisdiction and important interlocutors and Ministers around the globe unfortunately expect to see the Chief Minister. Therefore, I have little choice, not that there is a choice at all. I am here, I serve at the pleasure of the Assembly to do what I think is best for Jersey and its future. That often means, particularly in times of heightened interest as we are now, I have to get on an aeroplane and get out there and bang the drum for Jersey and explain to Ministers, senior officials around the globe, what we do, why we do it, and why we are part of the solution to delivering jobs and growth around the globe and not part of the problem.

Deputy M.R. Higgins:

Can I ask the Chief Minister, he did not explain what his Minister for Treasury and Resources was doing? I asked specifically.

The Deputy Bailiff:

Well, I am sorry, that was the final supplementary, Deputy. The Chief Minister has answered in the way that he has.

2.7 Deputy J.M. Maçon of St. Saviour of the Chief Minister regarding the making of an official statement on the response of the Council of Ministers to the recommendation of the Independent Jersey Care Inquiry: [1(583)]

Now that States Members have had an opportunity to read the response of the Council of Ministers to the recommendations of the Independent Jersey Care Inquiry, will the Chief Minister make an official statement to the Assembly regarding the Council's response in order to give States Members the opportunity to ask him questions in public and, if not, why not?

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

Debate on this matter is now scheduled for the States sitting on 12th December; however, I am happy to make such a statement if Members feel that that would be valuable in advance of that debate.

2.7.1 Deputy J.M. Maçon:

If the Chief Minister's preferences for the debate, as has been done in previous debates of significance, will the Minister pledge that he will ask his officers to give full support to any States Members that want to bring amendments forward to that proposition? Thank you.

Senator I.J. Gorst:

They, as ever, stand ready to support any Member who wishes to amend what is proposed in the action plan in that particular report. I thank the Deputy for his constructive and important role, together with those on the Care Inquiry Advisory Panel. Of course, that does not preclude them from bringing forward their own amendments; we were quite clear about that from the start, or any other Member. What I would just ask is that Members approach officials in early order so that we can do a proper piece of work for Members, provide evidence where we can around any amendments that they might be wishing to lodge. Thank you.

Deputy J.M. Maçon:

No, because of the importance of this matter, I just wanted to keep raising it in Members' minds. Thank you.

2.8 Deputy G.P. Southern of the Minister for Infrastructure regarding the Tunnell Street access to the Millennium Town Park: [1(606)]

Given the statement of St. Helier's Director of Technical Services in the Parish Roads Committee's minutes of 18th December 2013, that rising bollards around the Tunnell Street access to the Town Park had been "removed by T.T.S. (Transport and Technical Services) due to the cost", how does the Minister justify his response to my written question on 10th October 2017 that "all decisions and implementation work on these roads were undertaken by the Parish"?

Deputy E.J. Noel (The Minister for Infrastructure):

Firstly, I need to point out that it is quite clear from the minutes that T.T.S. representatives were not present at the Roads Committee meeting. Therefore, it is hard for us to explain why this statement in 2013 was made to the Roads Committee by the St. Helier Director of Technical Services. The 18th December 2013 minutes the Deputy quotes are from the 'A' agenda minutes. Those minutes show that the Parish Roads Committee discussion was in the context of a later modification to the footpaths to the far-eastern end of Tunnell Street, being the St. Saviour's Road end, outside Ruellan's Garage, and is part of a refurbishment project. This is after the park had already been opened for some 2 years and the Parish Tunnell Street pavement works were complete. The decisions made by the Parish Roads Committee in restricting traffic to Tunnell Street are not clear or part of public record. In trying to understand, and to answer the Deputy's question, my officers have written to the Parish to seek sight of the Roads Committee's confidential 'B' agenda, but they were denied. For context, the Parish did not impose any restrictions to traffic on Tunnell Street until January 2016, some 3 years later, when a 'no through' regulatory traffic signage scheme was implemented by the Parish in conjunction with - and forgive my pronunciation here - the La Raccourchet. This is some 6 years after the Parish consultation on measures to control access and 5 years after the park had opened. The Parish knew before the park opened in October 2011 that the States would not be paying for any traffic management measures on Parish-owned roads other than that set out by the T.T.S. Director of Infrastructure and Engineering in the discussions with the Parish.

The Deputy Bailiff:

Minister, if you can bring your answer to a close, please.

Deputy E.J. Noel:

I will complete shortly. I have included the correspondence on the funding discussions with the Parish in my written answer. I stand by my answer that my department does not have any jurisdiction over Tunnell Street or Robin Place. The Parish of St. Helier Roads Committee is the responsible authority and is the only body that can direct changes to its roads layout or operation and implementation work on the roads was undertaken by the Parish.

2.8.1 Deputy G.P. Southern:

A supplementary? May I draw attention to the minutes reproduced in his written answer by the Minister? On 27th September 2011 he writes: "I have met with our Minister, Assistant Minister and T.T.S. Chief Officer and we were happy with the solution we discussed in T.T.S. that they would pay full park remediation and full park construction [*et cetera*] but that the Parish will fund all the remaining works in Robin Place, including the laying of the granite cobbles, the street

lighting and the rising bollard. We will arrange the transfer of granite materials to your Parish yard in due course”, *et cetera, et cetera*. “Trust this confirms our discussion and I would appreciate your confirmation of the above.” That was not received. On 4th October ...

The Deputy Bailiff:

Deputy, we do have to come to a question.

Deputy G.P. Southern:

If I may? It is factual.

The Deputy Bailiff:

It still has to come to a question.

Deputy G.P. Southern:

The reply obtained was: “The board were not supportive of paying the rising bollard in Robin Place as they saw this as an integral part of the park project.” So no agreement was reached and yet the department pulled the funding on this particular aspect, is that not the case?

Deputy E.J. Noel:

As my written response clearly shows, that unfortunately in this instance the Deputy has misunderstood or misread the information provided.

The Deputy Bailiff:

Do you have a final supplementary, Deputy Southern?

Deputy M. Tadier:

May I ask ...

The Deputy Bailiff:

Well, yes, if you wish to come in first, you put your light on in time. So, Deputy Tadier, then Deputy Southern, a final supplementary.

2.8.2 Deputy M. Tadier:

Does the Minister deny that his department decided not to proceed with the bollards and that was because of cost reasons?

Deputy E.J. Noel:

I can only repeat, and I know it is against Standing Orders, that my department does not have any jurisdiction over Tunnell Street or Robin Place. The only roads authority that has jurisdiction over that is the Parish Roads Committee. It is very clear from the minutes and from the information that I put out in the public domain in the written answer that the States of Jersey were not going to fund, apart from the supply of some granite, any of the works carried out on the Parish roads of Tunnell Street and Robin Place.

2.8.3 Deputy M. Tadier:

I will ask a supplementary again, but it is the same question. Given the fact that written answer 21 states from the Parish Roads Committee meeting: “It was still the intention to designate road access only at the start of the park but plans for the bollards have been removed by T.T.S. due to the cost.” Now a very simple question, yes or no, does the Minister deny that statement that it was his department that decided not to proceed with the bollards because of cost?

Deputy E.J. Noel:

That statement is incorrect. My department was never going to fund the works on Tunnell Street and Robin Place other than to supply some granite to the Parish. The Parish Roads Committee took the decisions that they made based on whatever discussions they had in their 'B' minutes. We asked them to give us sight of those minutes so we could answer the questions today, and they declined.

2.8.4 Deputy G.P. Southern:

In the light of that statement, could the Minister confirm that in 2012 his department had a contingency of £500,000 from the Town Park project and that was returned to the Minister for T.T.S. and the Housing rolling votes as the project, they say, was complete and did not encounter any significant issues? Does he accept that failure to agree what happened in Tunnell Street was a significant issue?

Deputy E.J. Noel:

No, those funds were transferred as a contingency for the building of the Town Park, not for the roads surrounding the Town Park. That was always clear; the Council of Ministers made it perfectly clear. It is in the written submission that I made public today that it was for the Parish to fund the works on their own roads. They were the masters of their own destiny in this situation.

2.9 Deputy M.R. Higgins of the Minister for Health and Social Services regarding complaints made by children or young people in Residential and Secure Services: [1(610)]

Will the Minister explain how complaints made by children or young people in Residential and Secure Services are dealt with and how children are represented in the complaints and appeals process?

Senator A.K.F. Green (The Minister for Health and Social Services):

A robust complaint and investigation system is an important component in promoting and ensuring the safeguarding of children and young people. Children and young people can make a direct approach to the complaints section within H.S.S.D. (Health and Social Services Department). Complaints can be received on behalf of the children from independent visitors, social workers, a member of residential staff, a youth worker or any other participation worker. We also have the Jersey Your Voice initiative run by Barnardo's which is funded by my department, whose staff regularly visit the residential settings. The young people in residential care also have a forum of peers where they can raise concerns and seek advice from other residents. All complaints are treated seriously, investigated thoroughly with the oversight of the Director of Children's Social Work before a response to the complaint is sent.

[11:00]

2.9.1 Deputy M.R. Higgins:

The question was asking how children are represented in the complaints and appeals process. The Minister mentioned that they can make complaints and gave some details of the procedure, but he missed the key question which was: how are they represented when they bring a complaint to the department and appeal?

Senator A.K.F. Green:

I probably did not make it very clear. They can be represented by any of those people that they want to accompany them or to carry out the complaint and appear before any investigation person on their behalf. Any of those people can do that. It may be interesting for the Deputy and the

Members to know, we have also purchased an app called Momo, which is not up and running yet, but it is an interactive participation app for young people and agencies to provide them an opportunity to provide feedback in a modern way, using Smartphone or other computer tablets.

2.9.2 Deputy M.R. Higgins:

Just following through: are the children entitled to legal representation or representation by people external to your department? I want to know the process and, again, have there been any appeals and who represented them with the appeals?

Senator A.K.F. Green:

It is not a legal process, so if they wish to be legally represented they may do so but it is not something we would pay for. But we certainly encourage young people to be represented or to have advocates on their behalf. It is something we encourage and support and there was a number of organisations, including N.S.P.C.C. (National Society for the Prevention of Cruelty to Children), Barnardo's and the Youth Service that would do that on their behalf.

2.10 Deputy M. Tadier of the Minister for Treasury and Resources regarding the estimated annual gross income from the first completed building of the International Finance Centre: [1(614)]

Based on typical current market rates, will the Minister, as shareholder representative, advise what the estimated annual gross income the States of Jersey Development Company is expected to receive from the first completed building of the International Finance Centre, once fully let?

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

£2.6 million.

The Deputy Bailiff:

Deputy Higgins, if you could stay, because we will be inquorate if you leave.

Deputy M. Tadier:

That is a useful figure. It is interesting that in the past confidentiality has been used to not tell us what kind of rental agreements were done with the current tenants, yet it is good finally to have a figure on the table which we can work to of £2.6 million per annum as the income. I do not have any further supplementary.

2.11 Deputy J.M. Maçon of the Chairman, States Employment Board regarding an independent review of the Serious Concerns Policy: [1(605)]

Has there been an independent review of the Serious Concerns Policy, which has included input from staff representatives, the Comptroller and Auditor General and other interested parties, within the last 3 years; if so, what were the results and, if not, why has there been no such review?

Senator A.K.F. Green (Chairman, States Employment Board):

This is a really interesting question. The Serious Concerns Policy, along with all States Human Resources policies, are under regular review. This policy was last reviewed in September 2015 and amended as needed. The reviews included all appropriate stakeholders, including workforce representatives. The policy though is currently under review and this is currently being overseen by the Non-Executive Director of S.E.B. (States Employment Board) and we have appointed an external specialist consultancy to help us with that review.

2.11.1 Deputy J.M. Maçon:

I understood previously that the Comptroller and Auditor General expressed concerns that they should not be the independent person employees go to, given that we have already had a review, and this appears to be the same situation. Can the representative of the States Employment Board explain how this is going to change and who will be the new independent body?

Senator A.K.F. Green:

When the policy was last amended, it extended the number of designated people that an individual can present concerns to. It was extended to 5. The Deputy is right, historically it was only the C. and A.G. (Comptroller and Auditor General), so the Chief Executive of the States, the Treasurer of the States, the Chief Internal Auditor, Director of Human Resources and the Chairman of the Audit Committee are part of that group that they could contact now. But that is under review because I know how difficult that would be for ordinary working folk to contact any of those. That is one of the things that we have asked our consultants to look at: how it would be easy for people to raise a concern or make a complaint.

2.11.2 Deputy J.M. Maçon:

I appreciate effectively whistle-blowing policies in a small community where there are not necessarily opportunities when one raises a complaint and a black mark is placed against one's name. Can I ask, though, what assessment is done under this review in ascertaining States Employees' current confidence in the Serious Concerns Policy and how that can be addressed?

Senator A.K.F. Green:

Well that is part of the work that the N.E.D. (Non-Executive Director) and the consultants that we have employed to do this work will do. I want it to be easy and I want it to be safe for staff to raise concerns or make complaints. That is why we had already ordered the review and, clearly, I am on the same wavelength as the Deputy in many respects on this one. We have got to make it safe and easy for staff to raise concerns and that is the whole aim of this work.

2.12 Deputy G.P. Southern of the Chief Minister regarding States Workforce Management programme: [1(607)]

Will the Chief Minister advise whether the £47 million of "investment" in the States Workforce Modernisation programme over the next 4 years works out as an average increase in earnings of 5.4 per cent and thereby amounts to a wage cut in real terms against estimated inflation ...

The Deputy Bailiff:

Deputy, if I could ask you to pause. I do not think we are quorate, are we? We are just quorate. I think we are just quorate, so please ask your question again. I am sorry to interrupt you.

Deputy G.P. Southern:

May I start again?

The Deputy Bailiff:

Yes, of course.

Deputy G.P. Southern:

Will the Chief Minister advise whether the £47 million of "investment" in the States Workforce Modernisation programme over the next 4 years works out as an average increase ...

The Deputy Bailiff:

I am sorry. I apologise, Deputy, it is my mathematics; we are not quorate, and I apologise for that. We shall call upon you to ask that question when we have a Member in the Assembly. Now we do, so again, third time lucky, and my apologies.

Deputy G.P. Southern:

Go for it, yes. Will the Chief Minister advise whether the £47 million of “investment” in the States Workforce Modernisation programme over the next 4 years works out as an average increase in earnings of 5.4 per cent and thereby amounts to a wage cut in real terms against estimated inflation of 12.5 per cent over this period; and will he confirm whether this sum covers all annual increments and a contingency for recruitment and retention?

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

The £47 million invested into the States of Jersey’s Workforce Modernisation programme equates to an average increase in pensionable salary of 5.4 per cent over the 3½ years assimilation period. This investment includes provisions for annual increments and contingencies for recruitment and retention. The reward structure has been designed to be affordable and sustainable.

2.12.1 Deputy G.P. Southern:

Yes, a reduction in the States employee remuneration is indeed sustainable. We could keep on reducing it for the next decade; we have already had one decade of reductions in effective pay. Will the Minister accept that there is no other money, there are no negotiations to be had in the next 4 years, this is the cap and includes every bit of expenditure, it seems, on States employee pay? Is that the case?

Senator I.J. Gorst:

That is the case as we stand here today. The States Employment Board, together with the Treasury Department, found extra money for this process to get to this particular amount. Of course, the average, as I have said, is 5.4 per cent; some individuals will see far greater than that. The corollary of course is that some will not do as well.

Deputy G.P. Southern:

A supplementary, if I may, unless somebody else wants to? I can sit down.

The Deputy Bailiff:

No, no one else has indicated.

2.12.2 Deputy G.P. Southern:

Are we racing through things, are we? Yes, right, 5.4 per cent for some on average but 3 per cent for large blocks of workers over the next 4 years. Does the Chief Minister accept that effectively this is yet another wage cut on the back of 10 years of wage restraint and wage freezes and is unacceptable as a civilised jurisdiction to treat its States Employees that way?

Senator I.J. Gorst:

The Deputy knows that some of what is being proposed in this workforce modernisation is the slimming-down of pay groups, creating fewer pay groups, but, just as importantly, is equal pay for work of equal value. That means that some people who have been, when you do that equal pay for equal value, underpaid. They are being corrected and they will see increases above the 5.4 per cent in their pay to put them on a level playing field to create equal value with others undertaking similar work. I would expect the Deputy to be congratulating the States Employment Board for this piece of work dealing with unfairnesses that have been in the system for a long time.

Deputy G.P. Southern:

So that is a levelling-down of standards, is it?

3. Questions to Ministers without notice - The Minister for the Environment

The Deputy Bailiff:

Very well, that ends this period for questions with notice. We come to questions without notice. The first question period is for the Minister for Environment. Deputy Southern.

3.1 Deputy G.P. Southern:

Notwithstanding the arguments we have just recently had over standing charges, will the Minister for the Environment encourage the Minister for Treasury and Resources, as representative of our investment in J.E.C. (Jersey Electricity Company), to encourage through our shareholding the enhancement of rates for renewable generation of electricity in this Island?

The Deputy of St. Martin (The Minister for the Environment):

Before I answer the Deputy's question, I wonder if I could take the opportunity to just clarify something that I said in the Assembly at the last sitting.

The Deputy Bailiff:

Yes, if not too long.

The Deputy of St. Martin:

That is, I answered a question from the Constable of St. Helier about hospital catering, and I answered in this way: "I think we must expect not only with catering but with other aspects of the hospital that some parts of it will have to be relocated temporarily while we set about the construction of any new hospital." I did that under the misapprehension, as it has turned out, that the hospital catering was going to be temporarily sited at St. Peter. I have not had anything to do with the hospital application thus far, but I am informed that that move to St. Peter is a permanent move. Answering the question ...

The Deputy Bailiff:

I am afraid that we are not quorate again; we are down to 24. Could Members return to the Assembly, please?

Deputy G.P. Southern:

The roll call, please, Sir.

The Deputy Bailiff:

Very well, all those who are present, could they return to their seats if they are not in them and indicate their attendance? If Members would now indicate their presence. Very well, I will close the voting; we do have 25 present and accounted for so we may ...

Senator P.F.C. Ozouf:

Could the Greffier read out the names, please?

The Deputy Bailiff:

Yes.

The Deputy Greffier of the States:

Present: Senators Routier, Ozouf, Gorst and Bailhache, the Connétables of St. Lawrence, St. Mary, St. Martin and Grouville, Deputies Martin, Southern, Hilton, Trinity, Kevin Lewis, Maçon, St.

Martin, Bryans, Mézec, Andrew Lewis, St. Ouen, Wickenden, Brée, Norton, McDonald, St. Mary and McLinton.

The Deputy Bailiff:

Well we are in fact quorate, so we shall continue. Minister.

The Deputy of St. Martin:

The question was about the amount of money that the ...

The Deputy Bailiff:

I am sorry, if Senator Ozouf leaves then we are not going to be quorate. Senator Green has come in. Yes, thank you.

The Deputy of St. Martin:

I am grateful that Members feel it important enough to come back and listen. The question of the amount of money that the Jersey Electricity pay for sustainable energy is an interesting one. It is difficult in many veins and I have discussions with the Minister for Treasury and Resources on regular occasions. We are a majority shareholder in a private company which makes it very difficult for us to act in a way which might benefit us as the States, and that is a challenge. I would like people to be paid more for the sustainable energy that they create on their properties, but we have to realise that the electricity company have to pay what they can afford to. I very much hope that in the work that we are going to do as part of the proposition from the Deputy of Grouville, that we will touch on this. But I have to say to the Deputy something which I have said previously, which is we are very fortunate in Jersey, we have a hugely reliable supply of electricity. It comes from France, admittedly; it is low carbon and it is well priced.

[11:15]

That is one of the difficulties when it comes to trying to stimulate new sustainable energy products, that is that when you try to work out how long a product is going to take to pay back over its lifetime, the fact that we do not pay very much for our electricity means that the payback time is increased dramatically. So that is a challenge, but I accept that as an Island we do not do enough, and we need to do more. I would love to do more, and I will encourage people to do more. I will also, in answer to the Deputy, speak to Jersey Electricity and the Minister for Treasury and Resources as shareholder to see what we can do about paying more for our sustainable energy.

3.1.1 Deputy G.P. Southern:

Does the Minister not consider that this is an example again, yet again, of silo mentality? The fact is that while our tourism seniors are promoting the Island as the sunniest, or second sunniest in the western hemisphere, it seems to me that we are not making the best use of the sunshine that we do receive and encouraging - at a cost, yes - but encouraging, as we profess to, the advance of renewable energy through solar panels.

The Deputy of St. Martin:

I am encouraging where I can. I admit, I could do more; I will do more. I have recently changed the general development orders so people can cover 90 per cent of their roofs with solar panels without permission. I have increased the amount of area of solar panels they can put in their gardens without permission and I am encouraging farmers. Nothing would please me more than to have a farmer turn up at the department and say: "Instead of growing cauliflowers or calabrese or courgettes next year, I would like to grow electricity and I would like to see about covering a field with solar panels." I have discussed this with Jersey Electricity recently and I know that there are some schemes coming forward with that regard. I would like to see maybe greenhouse sites could

be turned from greenhouses to solar panels, so I accept we could do more, yes. We all visit other areas of the country and outside into Europe where we see a lot of solar panels but, again, I come back to the cost, the payback time, the amount of money that we currently pay for our electricity in Jersey. They do not work in our favour, but I do accept the Deputy's point. I would very much like to see more use of solar power on our Island.

3.2 Deputy J.M. Maçon:

As we are talking about energy policy, given the adoption by the States Assembly of the energy policy, will the Minister undertake to produce a progress report given within the adoption of that proposition many streams of work were to be undertaken by the department, it might be helpful to know how the department is progressing with each of these work streams?

The Deputy of St. Martin:

I will provide the Deputy with that information, but I have to say to the Assembly it seems to be a bit outdated. When we do come up with new numbers to see how we are getting on with our commitment to the Kyoto agreement, they do seem to be a bit in the past, but we are making progress. We had a really good start and of course because of the electricity coming from France is almost zero carbon - it is either sustainable or nuclear - that really started us well. But our biggest challenges moving forward are in 2 specific areas: one is in housing and one is in transport. I know in housing, for example, all our new bylaw requirements are requiring a lot more insulation. We are trying to make homes much less reliant on energy for heating. We want our homes to be carbon neutral in the future and we are making great strides there. But the place that I look to in the future for saving carbon emissions will of course be transport and we are looking at electricity, hydrogen, all sorts of other means of replacement of fossil fuels in the internal combustion engine.

3.3 Deputy A.D. Lewis:

Does the Minister believe that the current ownership model of the J.E.C. is conducive to encouraging the likes of renewable energy investment when one has to meet the demands of shareholders as the company is currently listed? Surely that is not exactly an incentive to reduce the profits by investing in the likes of renewable energy. Does he generally feel that the current business model is conducive to creating renewable energy opportunities in Jersey?

The Deputy of St. Martin:

As I have said, it is a bit of a challenge. As a majority shareholder, we are neither one nor the other. We do not own the Jersey Electricity 100 per cent like we do some of our other utilities and neither are Jersey Electricity a private company without any state shareholding. So it does put us in a tricky position and certainly the Minister for Treasury and Resources, as shareholder, would be challenged if he tried to impose policy on the company as a majority shareholder for the benefit of the States. So what my view moving forward would be, is that I would have to step away from that and, if necessary, sometime in the future, government will have to come out with a policy which it may need to fund itself if it wants to do something in particular. But I would say to the Deputy that I am very hopeful that the work that I mentioned previously, there is a lot of work being done on the back of the Deputy of Grouville's proposition to do with the pricing and that moving forward. But all these aspects and all these things will be discussed in the round and we will come out with a better policy in the future.

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

I just want to ask the Minister for the Environment what his department is doing currently to encourage the reduction of single-use plastic within the Island?

The Deputy of St. Martin:

I get a number of questions about single-use plastic on a regular basis. Only recently I met with members of the media to discuss our position. Strange as it may be, and as much as I want to encourage the reduction in waste, the waste policy sits with the Minister for Infrastructure and he and I work very, very closely together. Single-use plastic is an interesting thing and I have spoken to my officers about it on a number of occasions. Again, the policy is with the Minister for Infrastructure but what I would say to the Deputy is this: we see the moves on single-use plastic in the U.K. in particular and in other Channel Islands. But the way we address and the importance of single-use plastic in Jersey is very different to these other places because we have an Energy from Waste Plant and single-use plastic ends up going into that plant and being converted into energy. In other parts of the U.K. the single-use plastic, plastic bags in particular, end up going to landfill, and I do not need to lecture Members on the amount of time, the enormous amount of time, it takes for that type of plastic to break down in the environment, so we are in a slightly different situation. In the Environment Department, we are very much more concerned with food waste, and we are doing great work on food waste. But I know the Minister for Infrastructure is also thinking very hard about single-use plastic. Strange as it may seem, we have got more important environmental issues in Jersey but only because we put single-use plastic into an Energy from Waste Plant and turn it into energy, whereas in other parts of the world where it goes into landfill, that is not the case here and it is a very, very different situation.

3.5 Deputy S.Y. Mézec:

In answer to an earlier question, the Minister indicated that he does want to see Jersey do more when it comes to renewable energy. Does he accept that it is a source of frustration that we hear Ministers often talk about how they would like to do more but then we do not see much action towards that aim, especially when solutions are proposed by some which are simply ignored by the Government? Does he accept, if it comes to some sort of cost to get Jersey to have more renewable energy, that in the grand scheme of things it would be worth it, we should be having that debate, and his department could be acting as spokesperson for that point of view instead?

The Deputy of St. Martin:

Yes, it is frustrating as the Minister for the Environment. I sit around the government tables, Council of Ministers and put forward my views, but we only have a limited amount of money, we have challenges that we have to face. We have health, we have education, we have any number of really important issues for the population of this Island, trying to elevate environmental issues further up the line is always going to be difficult. I accept that, which is why I am coming forward with schemes where I hope to try to keep small amounts of money in my own coffers for use on environmental projects. Moving to the future, I think some sort of environmental taxation would be the way forward for that. An environmental tax that is then used for environmental projects would seem to make sense to me. But again I am one voice around the table and as a collective we have some really important work to do on this Island for our population. It is not always the case that environmental issues can come to the top of the list, but I do accept the Deputy's point that on many occasions I get frustrated, but I do what I can.

3.5.1 Deputy S.Y. Mézec:

A supplementary? The Minister says that we have a limited amount of money but of course we also only have a limited amount of planet and this issue to do with renewable energy is going to be one of the defining issues of humanity over the next few decades. Can I ask, is the Minister hopeful that we will see an increase in renewable energy in the Island any time soon, or is he resigned to the fact that: "Oh well, it just seems a bit too difficult; therefore, we will not make any progress at all"? When does he see progress being made on this so Jersey can hopefully one day have all of its energy from renewable sources? When does he see this happening?

The Deputy of St. Martin:

I am not one for shying away from difficulties and I am quite happy to take on challenges. I accept the Deputy's point, and I have already said that we could do better, we must do better, and I will do everything I can to increase the amount of sustainable energy made on the Island. Will we see it in the near future? I very much hope so. We have certainly got lots of plans and ideas of how we might achieve that, but certainly I will continue to work as hard as I can on producing as much renewable energy as possible.

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

I think we can agree on one thing in this Assembly - which is a rarity - and that is that planet Earth is my favourite planet. I owe it everything. Therefore, environmental issues really should be at the top of any agenda. Given the fact that the amount of energy from the sun that hits this planet in one hour is equivalent to what mankind uses in a year, I do not think renewable energy - in this case, solar energy - should be a "nice to have" more an "absolute" that we should head for into the future. It is a direction this planet must go in but certainly this Island, would the Minister not agree?

The Deputy of St. Martin:

From the work done by Dr. Ian Skinner recently in the largest consultation we have done when we asked Islanders their views on many different issues, we know that they value their environment almost at the top of the list, and it would be very nice if we could re-evaluate our own priorities in this Assembly in the same way. Yes, I cannot disagree with the Deputy that the power of the sun, solar power, is phenomenal and we need to do more. As I have said, I have changed the general development in an Order in allowing people to do more without permission. I have said nothing would please me more to see farmers come forward with schemes to put fields or greenhouse sites into solar, and I am talking to the Jersey Electricity Company about that. I can only work as hard as I can to try to encourage those people to come forward and we will move ahead in that way.

The Deputy Bailiff:

That brings the period available for questions to this Minister to a close. The next period is for the Minister for External Relations.

4. Questions to Ministers without notice - The Minister for External Relations

4.1 Deputy M. Tadier:

In the past the Minister for External Relations in relation to the finance industry has talked about employing a sniff test. How does the sniff test materially differ from what is being proposed as a substance test?

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

It was a long time ago I think that I referred to a sniff test and the so-called sniff test has been overtaken by the undertakings given on a number of occasions by the Chief Minister to ensure so far is possible that institutions in the Island do not undertake aggressive or abusive tax avoidance. I think the answer to the question is there is not very much difference.

4.1.1 Deputy M. Tadier:

Would the Minister comment on the subjectivity of any test that applies, and is it not the case - as some might argue - that basically as long as what is being done is legal and complies with regulation, that is the main thing that the industry needs to worry about, not what others elsewhere might subjectively think as being aggressive or abusive?

Senator P.M. Bailhache:

I think the Deputy makes a very fair point. What used to be the position was that there was a very clear distinction between tax evasion and tax avoidance. Tax evasion was illegal, criminal, whereas tax avoidance was legitimate. In recent years there has come to be a global concurrence, I think one can say, that some forms of tax avoidance are not acceptable ethically or morally because every individual has a duty to contribute his or her fair proportion of tax to the community in which he or she lives. I think that the great problem with the substance test that the European Union is trying to develop is that there is no objectivity about it at the moment, and that the member states cannot agree on what the so-called substance test means.

[11:30]

I think that is the difficulty which jurisdictions like Jersey face when the assessment of what is sufficient so far as the European Union Code of Conduct Group's analysis is concerned is indeed slightly subjective.

4.2 Deputy M.R. Higgins:

I appreciate the Senator has been ill and may not have been fully functioning, but has he been at any meetings or received information regarding the effect of the "Paradise Paper" dispute in terms of the E.U.'s reaction to Jersey?

Senator P.M. Bailhache:

I think it must be obvious that the publicity given to the so-called "Paradise Papers" and the alleged connection between some of that information with Jersey is something which no doubt will have been noticed in the capitals of Europe.

4.2.1 Deputy M.R. Higgins:

Have you had any direct feedback yourself from any discussions you have had with European officials?

The Deputy Bailiff:

Through the Chair please.

Senator P.M. Bailhache:

I think it is fair to say that the Government has had very little feedback from the Code of Conduct Group in relation to this entire process. The Code of Conduct Group has issued a series of questions which have been answered very fully by our officials, but the request to have direct face to face contact with the Code of Conduct Group and interaction in that sense has been denied. So it is not possible to say with any certainty whether the reaction of the Code of Conduct Group to the "Paradise Papers" so far as Jersey is concerned is positive or negative.

4.3 Deputy S.Y. Mézec:

A press release from the States went out not too long ago which claims that Jersey has a longstanding relationship with Bahrain. I checked the last census and found that there were no people from Bahrain living in Jersey and I suspect that a significant proportion of the population would probably struggle to point out Bahrain on a map. Jersey has a longstanding relationship with France and Madeira; it does not have one with Bahrain. Is there a way that Jersey can seek to improve relationships with other countries that does not involve making claims which are just a little bit silly, like that?

Senator P.M. Bailhache:

I do not accept that that claim was in any sense silly; was that the Deputy's word? The Island or the Government can have relationships with different countries without nationals of those countries being resident in Jersey. We have relationships with a large number of countries, it is true that we have a large number of foreign nationals resident in Jersey of different nationalities, but the mere fact that there is apparently no resident from Bahrain living in Jersey does not mean that you cannot have a relationship with that country. It can be a commercial relationship, it can be a relationship which involves trade and that does not require residents in the Island.

4.3.1 Deputy S.Y. Mézec:

The reason I raised Bahrain is because Bahrain is a nasty dictatorship which routinely uses torture against its own citizens and kills people who stand up in opposition to the Government there. It is a regime which has values that I think most people in Jersey would find reprehensible. Is it possible - and I accept we live in a global world where we have to deal with people who we may not like very often - but is it possible that the Government could attempt to be a bit more careful with its language on this issue because it sends out an image that representatives are not concerned about human rights issues when many people in the Island would like our Government to be concerned about human rights issues. I am not saying we do not talk to these people, I am just saying we should be more careful with our language when we do so. Does the Minister think that would be a positive thing?

Senator P.M. Bailhache:

I think that all politicians at all times should be careful with their language and so I can certainly accept that proposition from the Deputy. So far as the issue of human rights is concerned, the Government is extremely concerned with human rights and is supportive of every effort to ensure that human rights norms are observed in different countries, and particularly those countries with which we have trading relationships. I am not sure whether the Deputy was asking whether the Chief Minister raised these matters during his recent visit to Bahrain, but I should be very surprised if wide-ranging discussions did not take place. I do not think it is possible to be specific about these things because I certainly go and visit a large number of ambassadors in London and have wide-ranging and frank discussions with them. But if I had to go into an ambassador's office and say: "Please understand that anything that you say to me will be taken down and I may be questioned upon in a public forum in the States of Jersey and it will then be recorded on the internet and available for everyone to see" that would not be a very positive way of entering a private discussion.

4.4 Senator S.C. Ferguson:

What sort of problems does the Minister have regarding External Affairs when discussing external matters? For example in Europe, given that the legal framework of the country with which you may be discussing is so dissimilar to ours... for instance Europe is very much more prescriptive, you have got the Code Napoléon as opposed to English common law. Does this not present problems when people like the O.E.C.D. for instance are discussing external matters?

Senator P.M. Bailhache:

I think it is true to say that different approaches from European countries in a legal sense do sometimes cause difficulties in a whole range of areas. I must say that I have never personally experienced that difficulty, and indeed the position of Jersey as a mixed jurisdiction - that is to say, a jurisdiction which has the civil law and the common law intertwined in its legal D.N.A. (Deoxyribonucleic acid) - makes it possible for us to say that we can be interlocutors between the common law world and the civil law world because we understand both because both are part of our own legal system.

4.5 Deputy M. Tadier:

At the recent Commonwealth Conference last week delegates from all over the Commonwealth took the opportunity to voice their concerns and condemnation for the genocide that has been taking place of the Rohingya people in Myanmar. What power or ability does Jersey and the Minister for External Relations have to speak out on such issues, and would the Minister for External Relations consider adding his voice to the condemnation of the critical crisis that is happening in that part of the world, as well as applauding the efforts that have been taken by Bangladesh in hosting tens of thousands of refugees in their country?

Senator P.M. Bailhache:

As I have said on a number of occasions in answer to questions of this kind, Jersey is a small place and it must or certainly the Ministry of External Relations must, I think, be conscious of the limits of our influence in the world at large. I certainly can join with the Deputy in condemning any genocide wherever it occurs, or any kind of racial or national cleansing which might take place in any country of the world. It is deplorable conduct and I do not think that Members need me to add to the chorus of dismay that has been articulated as a result of the problems of the Rohingya people.

4.6 Senator P.F.C. Ozouf:

Following the 2 last questions, would the Minister confirm that in fact the policy that his department pursues is that of an External Relations Minister or Ministry - I am not sure why he said only Ministry - but that it is in fact the common British policy as adopted by the United Kingdom, which is the Sovereign State that we adhere to; and that while he is rightly suggesting that we are a small jurisdiction, in fact we look to the common British foreign policy to be the guiding principles in deciding on whether or not our business should be acted with or not.

Senator P.M. Bailhache:

The Senator raises a very interesting point because in principle of course he is right, Jersey is not a sovereign state; the Government of Jersey is not responsible for the international relationships of the Island; that is the responsibility of our sovereign state. To a certain extent it is certainly true that in formulating our own foreign policy very close regard is had to the foreign policy of the United Kingdom. That is not to say that from time to time the Government of Jersey cannot formulate its own view as to how it should conduct foreign affairs or - as the Senator would prefer - external relations. I think that is reflective of the agreement that was entered between the Lord Chancellor and the then Chief Minister in 2007 when it was recognised by the United Kingdom that Jersey has a different international identity from that of the United Kingdom, and that the Government of Jersey was perfectly entitled to develop that international identity in the foreign sphere.

PUBLIC BUSINESS

5. Health and Social Care System: a new governance model (P.60/2017)

The Deputy Bailiff:

I am afraid that brings the timing available for questions to the Minister to an end so, sorry, there is no time for any further questions. We then now have nothing under J and K and so we move to Public Business. The first item is the Health and Social Care System: a new governance model, P.60/2017, lodged by the Council of Ministers, and I ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion to approve the establishment, for a 3-year trial period, of a Health and Social Care System Partnership Board, which will inform and influence the decisions taken by the Minister for Health and Social Services in accordance with the governance model for the Health and Social Care system contained within the report accompanying this proposition, to be funded from within the existing Health and Social Services Department budget.

5.1 Senator A.K.F. Green (The Minister for Health and Social Services - rapporteur):

This is an exciting project, it is a modern approach to directing a vibrant and dynamic organisation. It is about working with the community, working with our partners to deliver a modern service, working together, not just imposing services. Five years ago this Assembly, under the leadership of the then Minister, the Deputy of Trinity, showed vision, commitment and trust by approving P.82, the Health and Social Services Care Transformation Programme. I thank Members for continuing to support those reforms which are intended to allow us to continue to provide a high quality health and social care system for Islanders, a system that is safe, sustainable and affordable. The implementation of P.82 has seen a host of new services introduced into the community as we gear up to deal with the pressures on health and social care, posed primarily by an ageing population. Of course we are not alone in facing these challenges, but I think I can safely say that thanks to the changes we have made or are making our community is in a much better place than most. P.82 is all about delivering services in a different way. One of the principles is to have those who are best placed to deliver services in the community delivering them in the community. This has meant more services are being provided by our voluntary sector organisations and more services sometimes being provided by independent sector partners. The way that we are providing services is changing. As we provide more services together, sometimes in partnership and sometimes where my department is, in effect, commissioning and funding the service on behalf of Islanders, the nature of the relationship between these organisations and my department has changed.

[11:45]

This is one of the reasons why we have brought this proposition to the Assembly today. The proposed changes to the governance arrangements, or how we may make strategic decisions, are intended to reflect this new way of working. To me it seems just a natural step. The more engaged and involved our partners have become the more they have sought a greater voice and a desire to feel their influence and their thoughts are reaching the voice of the Minister. This applies across the 5 elements of P.82: the acute services, the out of hospital services, the primary care services, mental health services and of course children's services. All of these services we are talking to and working with a wide range of providers, and of course we have the P.82 transformation steering group that brings partners together now. But the proposed arrangements are far more inclusive and will result in a new voluntary and community sector forum, a clinical professional forum representing frontline staff, feeding into the new board, the Health and Social Care System Partnership Board. This will provide a more obvious and formal way of interacting with the Minister, rather than depending on the informal flow of information coming through directly to the Minister or team of officers. This will enhance the ability of our partners to play their part in creating a health and social service that is adapting to demand and demographic changes. This will result in a new public and patient advisory board, formally involving the users of our services on an ongoing basis. Learning from our very successful Mental Health Strategy Citizens Panel we want to bring a broader influence from Islanders with greater accountability and transparency in how strategic decisions are influenced and reached. After all, it is the people of Jersey who are paying for the health and social care, it is their service, they fund it and they need to have a say in how it should evolve. We know that we can do more in terms of patient and community involvement and we must. The patient voice must be heard. I know that questions are being asked about how we

might obtain that patient voice and we have had a number of workshops involving stakeholders and have gathered information about how other jurisdictions do this to look at what we could learn from them. It is important that neither I nor my officers are seen to be dictating how the public patient element will be put in place; if we do we would be accused of unduly influencing the arrangements. I can see it now that we would be accused of choosing the representatives and controlling what happens, and nothing can be further from the truth. This will not be the case. This leads me to a broad point and I thank the H.S.S.D. Scrutiny Panel for their report on this proposition and confirm now - although I will formally do it later - my acceptance of the Scrutiny Panel's amendment to not see the board commence officially until 1st April next year. This delay will give us time to clarify some of the procedural issues, to undertake training, and to answer some of the questions that have been posed by the panel. By February/March time I would hope that we would have a chair and non-executives in post if we get that approval today. Individual forums will start to think seriously about how they will select their representatives so that by late spring – April - the board can start working together. As we get towards the second half of the year the board can start meeting and doing its work. Returning to the importance of the patient's voice in the new arrangements, and subject to the Assembly agreeing to this model today, public awareness sessions will be held and led by the chief executive of Citizens Advice Jersey, who I am pleased to see is in the public gallery. He has experience in such forums and will explain the proposed new model and the opportunities for public involvement. He will lead on the establishment of a public patient forum, including how its membership will be determined and how 3 of its number will participate in the wider System Partnership Board. The community under the guidance of Citizens Advice Jersey will have ample opportunity to shape and develop how they wish to be involved and engaged. It is not about me or the H.S.S.D. executives telling people what to do and how to do it. We can support, we can guide, we can give examples, we can provide resources to help with administration; but it is up to each of the 3 forums to select their representatives and how they wish to work. I know that there naturally would be concerns about how one can ensure that you end up with a balanced group of people that represent the community and not just keen on one particular issue, for example. Well, to be honest, you cannot absolutely guarantee it, but we can be clear as to what the group is for and what it is not. We do not want people coming forward to air individual patient identifiable operational matters. This is a board that will be strategic, that will be inclusive, that will be looking forward. The System Partnership Board representatives will be selected by, as I have already said, the representative groups based on a nomination and assessment of the individual's capacity, capability and approach; e.g. their ability to be broadly representative and to work positively and professionally in partnership, to have the capacity to consider alternatives and work collaboratively towards shared solutions, and to operate - and I stress this - to operate at a strategic level. What we are suggesting is not novel, it works well elsewhere, and remember that this is a pilot so we will be testing and we will be trying things out, and if things do not work then they will be changed. The Partnership Board itself will work out its *modus operandi*, its rules of engagement, its expectations in relation to behaviours and how members will hold each other to account. The chair and the 2 non-executive directors will have an idea of the sort of representatives that they would like to see being brought forward from these groups. Ultimately it will require strong leadership and a strong chair to ensure that everybody gets a chance to contribute. Key to all of this - and I cannot say it enough - it is not about the department dictating to anybody else. This is about us getting a good supportive partnership; in return we get a powerful voice at the table that allows us - and particularly the Minister - to make better and more informed decisions. It is appropriate at this point to mention that the System Partnership Board's meetings will be held in public. There will of course be an agenda, with some elements to be considered in private, but the intention is that that would be as little as possible. Key discussions will be in public so that people can hear the debate, the different perspectives, the consensus that might ultimately be struck. I would reiterate though that while these meetings with the board would be in public they are not

public meetings. They would be akin to the Scrutiny Panel meetings where public can observe but not participate in. One of the key aspects which I briefly touched on is the role of the independent chair. Their task is to make sure that the board works well together, that all voices can be heard, that all contributions are considered. The chair will be appointed in conjunction with the Appointments Commission and will report directly to the Minister. The memorandum of understanding between the chair and the Minister will set out the mechanisms for reporting and support for the chair. Review and reflection will be part of regular meetings between the chair and the Minister. It will also form part of the meetings between the chair and the chief executive officer of H.S.S.D, plus other individuals that the chair may come into contact with. The chair of the System Partnership Board will agree objectives with the Minister at the beginning of each year, and agree a memorandum of understanding with the Minister on agreed objectives, responsibilities and accountabilities. To be clear, what is it that the board is intending to achieve? Well, the agenda here is very much around the continuing work around P.82 with the board thinking about what are the next stages of service we need to develop, what are the next steps, what does it look like. There will be challenging decisions and hard choices to be made but by the time that information reaches the Minister for decision the Minister can be assured that the voice of the partners has been heard and has their backing. To be clear, the accountabilities of the Minister and the chief executive of Health and Social Services do not change. The States will continue to determine my department's funding, where it is going, how we spend it, and the P.82 monies are very specifically based around our business cases. The Minister will, as now, set the strategic objectives and hold the system to account on how we work together and how we listen to the local voice. There is a global budget of over £200 million and one surmises that if the Partnership Board raised issues that need addressing then we would look at resourcing it within that budget, while acknowledging it has to come from somewhere. Reprioritisation would be examined by those who have real interest and real knowledge into what is happening. To be clear, operational matters will not be within the remit of the board. They will, as now, be handled by the relevant staff, although the Minister will still be ultimately held to account for the services provided. On policy matters the Minister will still be making policy decisions, but with the richer benefit of rounded advice, a new way of hearing conversations, big decisions would have been debated, at which representatives of the sector were present. It is about doing things differently. The funding of the governance model, 3 years is the pilot, it is an estimated cost of £150,000 per annum and it will come from within the existing budget. It will provide project management support and secretarial support for the new 3 advisory groups. Work is also underway, to be clear, because if we want people to participate, particularly people for whom they may have to give up their time from their job to participate, sometimes they should be recompensed, and we are looking at how that could be done fairly, looking at the way other jurisdictions do it and ensuring that we get value for money. I know that in discussions with some Members, and indeed with Scrutiny, 21 members of the board may seem very large. But we are talking about a very big business. Of course we have looked at this and we recognise that the natural inclination is to want a smaller group; I myself prefer, I have to say, boards of around 9. But then when you go to look at who you would not have at the table, if we are going to be inclusive, if we are going to involve all our partners, you have to ask yourself: "Well, who would you not have at the table?" Think about the range of the voluntary sector organisations we work with; some are small, some are big, some are working with children, some are working with adults, some focus on mental health. A desire by stakeholders to secure a broad church of representation led them to consider that in their case 3 was a representative and fair number. Some have suggested the way to reduce the number would be to reduce the number of my officers on the board. But again, which of the 7 directors would you not have there? There is a danger that if there was an item for debate the level of understanding would not be present to understand how something would work. Furthermore, all of those directors have system-wide roles. For example, the chief nurse is not the chief nurse for the hospital but is the chief nurse for Jersey. Another

example might be given in recreating and redesigning new services where we would have to consider the staff requirements for these services. You would need to have the Director of H.R. (Human Resources) there saying whether those posts already exist or whether we can go out to get them, or redesign the posts from scratch. This could mean the difference between us prioritising a business case to the top of the list or realising that we need first to grow our workforce. Given the complexity of such decisions we need an Island-wide knowledge and competence at the table; competence in service redesign, finance, medical services, hospital services, community and social services. I was asked how I could ensure that the board put the interests of children as part of their top priority and how they would be adequately represented. Children are represented through all members of the board. There is a children's workstream in P.82 and there has been quite a substantial investment on the back of that. There are specific political and officer-led panels and groups dedicated to taking forward the recommendations of the Care Inquiry. The System Partnership Board can add to this by making sure that when it is considering bids for P.82 monies Children's Service bids are coming through the root and get properly sponsored.

[12:00]

It will help to bring people to the table to own the children's agenda, but cross-working across States departments is key; breaking down those silos, as we heard about in the report. This board will add to our work to improve services but issue improving matters for children, young people and their families in the Island. This is a multi-departmental, multi-organisational challenge and it will be a requirement that all of the Partnership Board are aware of the report and its recommendations, delivery and plans when they are being trained. In terms of whether the Partnership Board should have formal links to other departments, we must ensure that board members are linking across strategic developments, just as I explained in the context of children. In this regard we will consider how it is best to work with them. Of course this could potentially make the board bigger but that might be for the future. Social Services and children's issues will always be represented within the Clinical and Professional Forum, as well as the Voluntary and Community Sector Forum. Ultimately the board will always be thinking about its effect on the community and on children and on other groups, particularly those at high risk of having a less well heard voice. Questions have been asked about the future activities of the board, such as where next. Well, there must be an evaluation of a pilot to ensure that we can establish what worked well, what did not work well, what would we want to repeat, what could we do better. But what we are suggesting today is a small and safe step in modernising the way that we work together. If this works and things work out the way I hope it will, the board will be valuable then, it will have built up trust and confidence from its members and going forward this Assembly might decide that the board could do more. But that would be for Members to decide in the future. Any future changes could not happen just by the will of the board, it would have to be a political decision. It is important to realise we are not imposing this; we are not making people do something they do not want to do. Our partners want this and we have spent a lot of time working with primary care providers, working with Citizens Advice, working with the consumer department as well, working with pharmacists, working with G.P.s (General Practitioner); I could go on. In summary, the proposed strategic governance model takes a steering group that currently oversees the Health and Social Care reform programme to the next stage, and for the first time it is formally a public and community voice. It does not remove my accountability or the Minister's accountability to Islanders through the Council of Ministers and the States Assembly, nor does it remove the Minister's responsibility for strategic decision making. In fact, it will enable Ministers to make better decisions informed by a range of knowledgeable people so that we can be sure that we are introducing the right services and following the best processes in so doing. The board is likely to work well where there is a strong chairman with nuanced leadership, where there is a real clarity among members as to what their role is and the rules of engagement. Better quality decision

making is the prize. This is exciting; in my view this is as important as a new hospital. It is overdue and it is an opportunity to further strengthen partnership working and to ensure that Islanders and our care partners can legitimately influence strategic direction and investment in Health and Social Care. Our partners who have produced this proposed model - some are with us today - are very enthusiastic as they can see the real benefits that this will bring, and I hope that the Assembly feels the same excitement as our partners and I share and will lend their support to this very important proposition. Thank you. I make the principles.

The Deputy Bailiff:

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

5.2 Health and Social Care System: a new governance model (P.60/2017) – amendment (P.60/2017)

The Deputy Bailiff:

There is an amendment by the Health and Social Services Scrutiny Panel. I ask the Greffier to read the amendment.

The Deputy Greffier of the States:

After the words “for a 3-year trial period” insert the words “commencing no earlier than April 2018”.

5.2.1 Deputy R.J. Renouf of St. Ouen (Chairman, Health and Social Security Scrutiny Panel):

The Health and Social Security Scrutiny Panel conducted a review of this proposition and we noted that there was widespread support in principle for making a change in the governance arrangement. This support came from all those involved in the health sector, it came from G.P.s, it came from the providers in the voluntary sector that are now increasingly providing health care and social services, and we could see - as the Minister has spoken about - enthusiasm within them to be involved. But at the same time there was still some lack of understanding as to exactly how this System Partnership Board would operate and how the forums that sit below the board would themselves be constituted and work. As a panel we could see that there was still much work to be done in setting out terms of reference, memorandum of understanding, in working out how organisations would be drawn into these forums and how they would represent the sectors that they sit within. The proposition when it was lodged on 23rd June suggested that the System Partnership Board would be up and running by the end of this year and we as a panel could not see how that necessary work could be ready by the end of this year. Therefore, we considered and eventually brought forward this amendment that the work of the System Partnership Board should not commence any earlier than April. We hope that in that time the Minister and the department will take an active role in organising this new way of doing things in working with the Citizens Advice, as has been mentioned, working out how people will be brought on to these groups and working out their terms of reference, how they will be represented at board level, and all such things, and also give time for the independent chair and non-executives to be appointed. So we consider that all this work should be done within the next few months and I am pleased to say the Minister has previously indicated that he would accept the panel’s amendment should this Assembly proceed to give approval to the overall proposition. So that is an explanation of why we are bringing this proposition.

The Deputy Bailiff:

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

5.2.2 Senator A.K.F. Green:

Just to confirm, I have not changed my mind so I do accept this very pragmatic amendment from the panel. I thank the panel for their work, and they are right, of course the board we are clear about but the things like the forum for the voluntary sector has got to be set up from scratch and perhaps we were a little ambitious in our timing. It took us longer to get it to the Scrutiny Panel than we would have liked so that explains why the short time would have appeared there. But April is absolutely right, there is our Patient and Voluntary Sector Forum to be set up, there are the chairman and the non-executive directors to be appointed, and there is a lot of training to be done. So April I think is possibly the earliest, but I thank the chairman and the panel for their excellent work in this respect.

5.2.3 Deputy G.P. Southern:

I have to say, from the start I have not been involved with the scrutiny that has taken place over this particular issue, but I am extremely worried about what has happened here. The fact is that we only received the Scrutiny Panel report in the last week and it contains dozens of key findings and dozens of recommendations, and yet here we are within days receiving what is a fairly lengthy and substantial Scrutiny document; we are debating the issues that that Scrutiny document was involved with. There are any number of questions that need to be answered which have not been answered and, in my thinking, putting that off until April but accepting the principle that this is the way we are going is a risky tactic because it may well come back to us in April and we will have accepted the principle that this is the way we are going. Now, they might tweak it one way or another, a little left or right or whatever, up or down, nonetheless, we will have accepted the principle and that may well be a mistake. It may well be a mistake because of a particular failing in what is presented before us. If you read through the document that we are voting on time and again we will see “increased involvement from the voluntary and community sector” voluntary and community sector, voluntary and community sector, all the way through. Indeed that looks on the surface to be an excellent idea, but hang on - and I must mention this despite the Minister for Health and Social Services saying it is neither here nor there - but we have been used to sitting on committees since I do not know when. We are expert committee sitters. If we were to achieve a change - whether revolutionary or evolutionary - in a particular direction, what will we set up? We would set up a board of 21 members, 9 of whom are going to be co-opted from the voluntary and community sector, to tell us what is going on. We would meet in the open - good move - to debate the direction and the policies and the funding probably of particular initiatives once every 2 months. I ask Members just to sit and contemplate that as a way of achieving anything whatsoever - 21 members once every 2 months. I put it to Members that that is a complete waste of time. It is a recipe to go nowhere. Or it is a recipe to be taken over by the officers in the Health and Social Services Department who have their own agendas, to push it through because they know how to handle committees and they know how to get their way. I am not saying that is certain to happen, I am saying that is one option. The other one is that the body effectively just atrophies because it is built on top of a structure that is already there. However, let us leave that for a minute because my worst nightmare is that what we are voting on today is more than what is explained in the text. I will use 3 words, and on page 12 of P.60, the new governance model, we have got an outline of 7 bodies who represent the best practice from international examples. If we look down that list we find that 3 of them are from the U.S.A. (United States of America). Now, if I was recommending to you what model to adopt, the last place I would pick - including several third world countries that have a better chance of producing good, cheap healthcare - U.S.A. would not be on it.

The Deputy Bailiff:

Deputy, can I ask you, is this directed towards the amendment, because we are only debating the amendment.

Deputy G.P. Southern:

It is indeed, because the amendment merely says despite the dozens of recommendations and key findings we are just saying delay until April. I am suggesting that that would be a mistake. On the bottom of this list of 7 we find Montefiore, New York, U.S.A., where a mechanism is described as an A.C.O. (Accountable Care Organisation). What I suggest is that an A.C.O. is what the hidden agenda is in this particular proposal. The Scrutiny Panel spend a side and a quarter on page 78 and 79 of their report dealing with accountable care systems or accountable care organisations.

[12:15]

What we are talking about is there is an American system whereby the insurance company puts in a bid for a collection of services and the funding attached to it in order to deliver service; a vastly inefficient way of doing things and one which contains a serious flaw in that they are described as accountable. As one body describing these A.C.O.s, how they work: "An accountable care organisation is accountable to the health insurance company in the U.S. that holds the budget for treatments available to the population that are covered by the accountable care organisation. This is usually around \$50,000. Compare this to the £2,000 to £6,000 that an average G.P. might take charge of and bid for delivering services." It goes on. Do not be fooled by the word "accountable" in this context. It means counting the money, it does not mean being accountable to the public. The risk is that what we will see is the development in Jersey with its population of 100,000 - nonetheless still a viable market for health and increasingly as we age a good market for health services - where we will see an amalgamation of bodies into an overarching organisation which can underbid almost everybody else, including the voluntary and community sector doing their best, but on a much smaller scale. In doing so it will effectively monopolise a whole tranche of services and its bid will be dominant. Now, what happens with A.C.O.s is they become accountable for the budget. So they put in a bid, say: "We will deliver these services to this number of people in our population at this cost." What happens is that if they overrun their budget because they have produced it artificially to make sure they win the contract, then who picks up the bill? Why, the commissioners, or in this case the Minister. That is what happens. A.C.O. runs out of money, it gets subbed. Imagine though the A.C.O. actually makes more, has some money left over at the end of the financial year. What happens to that? Does it go back to the central pot? No, it does not. It gets distributed among the members of the organisation who have bid for and won this contract. That is what happens. Just think about that for a minute. If you make a loss we will cover you, if you make a profit it is yours. What sort of system is that and what does this say for the efficiency with which things will be run? Yes, it will be efficient on the surface, but at what cost? Will we see what happens in the U.S. whereby medical care costs are ramped up to make profit, or worse still, people are told that they are not eligible for care, they do not qualify, because they are complex cases. We have seen it in the U.K. already happening before the A.C.O.s arrive, and what happens is that the private sector takes the easy jobs; straightforward operation, no problem. The instant it goes wrong you are packed off to the N.H.S. (National Health Service): "Please sort this out, we made a mess of it." That is exactly what happens in the U.K. already and will be exacerbated by the private sector cherry-picking what it can and cannot deliver, what it is prepared to deliver. For those of you who think I am just scaremongering, just have a look at the statement on page 78 of the Scrutiny Panel document which says: "The recommendations from P.82 of 2012 have already triggered in Jersey a significant change in approach to health care." That trajectory will continue. A significant change in the approach to health care. There has been already a significant change. What we did was we invited private sector in to bid for home care services. The end result is that we now have 23 companies competing to provide home care at a price of £23 an hour, either paid by our long term care scheme or paid by individuals. What was it before we adopted this private sector approach? It was around £11, £12, £13 an hour. So it has doubled effectively, cost has doubled. This is the first time ... is it the first time? It probably happens elsewhere, where the introduction of competition and private sector has led to a rise in the cost of

delivery of health care. That is the reality. That is the change, that is the risk that we are going to see from now on in, certainly if we see this arrival of accountable care organisations putting in bids to deliver services on their terms and not on best terms. So I think that I am seriously tempted not to vote for the proposal as amended because I believe without sorting something about affordable care organisations and, by the way, that is the only mention - one place in the entire paper - of affordable care organisations. It is hidden. It is the next stage. Developments towards that, that is what we are talking about here. It is not open. If we proceed with this proposal, even as amended, it feels okay, a little breathing space, April will be okay, April unless we have got some vast more detail answering the key findings, answering the recommendations, and beyond more than a side and a quarter on affordable care organisations and how we are going to mitigate the potential for them coming and taking over our health service lock, stock and barrel and holding us to ransom, then unless that detail is there I will be voting against in April. But I think voting for now is a highly risky and dangerous position. We need an amendment to this proposition which goes much, much further than just delay it until April but we back the principle. The principle is, I think ... it might be right, it might be wrong, but the principle and the hidden agenda underneath this is not there. I am loath to vote for this proposition under those circumstances.

The Deputy Bailiff:

Does anyone else wish to speak on the amendment? I call on the chairman to respond.

5.2.4 The Deputy of St. Owen:

Well, Deputy Southern has given the most interesting speech. I think it is one he might wish to make in 3 years' time if this matter comes back to the Assembly because the accountable care organisation that the Deputy refers to is not what is proposed by the Minister. We have given some limited consideration to it as a Scrutiny Panel, principally because of a written question that was asked by Deputy Southern in this House. It is true that what is proposed now is a model which could evolve, and our report does deal with that. It is clear that in the consultation exercise that took place with G.P.s and with the voluntary sector before this proposition was lodged, the members of that consultation were discussing how this model might evolve. Some would want to go perhaps to the lengths that Deputy Southern speaks about and others would be very happy to do something differently and have a more gradual evolution. But I think we have to ask ourselves the question, can the governance arrangements simply stay as they are now? I do not think they can. The governance arrangements at present are that the Minister has total charge of everything, he sets the strategy for health care and for social care in the Island at the time when we are trying to bring in the voluntary sector and G.P.s to be involved to a much greater extent in our care. These people rightly want a seat at the table, they want to be able to have their say on the strategy that this Island will follow. I believe and our panel believes that is a correct approach, and moreover it is notable that the system we have at the moment does not take account formally of the public's views, and so this model will introduce the public's voice. Some of the respondents to the review that was conducted by our expert adviser pointed out that really sometimes it is the person who shouts the loudest, who gets the ear of the Minister, who has the influence; and that is wrong. Having a more formal setup which is more inclusive could ensure that the wider voice of the whole community is heard. So it is not the view of the panel that we need fear the sort of financial impact that Deputy Southern has spoken about, though that might be a matter for future debate and it would need to come before this Assembly if any changes of that sort were ever proposed. We do make a recommendation that if the System Partnership Board - if it is established - do ever discuss its own future and how the governance arrangements might be conducted in the future we make the recommendation that those discussions should take place in public in a transparent way, be subject to full consultation and adequate scrutiny by this Assembly; so all those safeguards are there. We intend during the next few months before the board is established to question the Minister as a

Scrutiny Panel on the progress he is making. There will be opportunity for my panel and any Members of this Assembly to ask questions of the Minister and we make an overarching recommendation that the Minister should report back to the Assembly on at least 2 occasions before April to tell us the progress he is making if this proposition is approved. Of course that would mean that if we are not satisfied with the progress he reports that a further proposition could be brought by any Member to halt the process or to alter the process in some way. So we are trying to build in some safeguards for the Assembly to be assured that this is going forward in the public interest. For those reasons I would ask the Assembly to support the amendment.

The Deputy Bailiff:

The appel is called for. I invite any Members outside the Assembly to return to their seats. I ask the Greffier to open the voting.

POUR: 34		CONTRE: 4		ABSTAIN: 0
Senator P.F. Routier		Deputy J.A. Martin (H)		
Senator P.F.C. Ozouf		Deputy G.P. Southern (H)		
Senator A.J.H. Maclean		Deputy M. Tadier (B)		
Senator I.J. Gorst		Deputy S.Y. Mézec (H)		
Senator L.J. Farnham				
Senator A.K.F. Green				
Senator S.C. Ferguson				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of St. John				
Connétable of Trinity				
Deputy of Grouville				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy J.M. Maçon (S)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy S.M. Wickenden (H)				
Deputy S.M. Bree (C)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

5.3 Health and Social Care System: a new governance model (P.60/2017) - as amended

The Deputy Bailiff:

We now return to the main proposition as amended. Does any Member wish to speak on the proposition?

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

I just rise to explain just very briefly why I could not support, because it really does go quite a way down the lines of what Deputy Southern was saying. I do not need to repeat this but reading the 17 pages in the report - and I know Scrutiny has done a report on the 17 pages - I do not really know what I am getting. I do know it is going to cost the public nearly £500,000 in the next 3 years, and the last time this popped up as a finance - and I voted against and I think there was only 3 of us - was on the J.I.F. (Jersey Innovation Fund) Board. Not the same thing, you would say, because you have got *x* amount of people on this one and, as Deputy Southern says, a recipe for disaster. Even when I read who is accountable to who, the Minister is going to advise the board and then the board is going to listen and then the Minister is also going to listen to the board and the Minister will hold the board accountable for the delivery of those objectives; in one paragraph. It is a mess. Besides the half a million there is no costing of what KPMG costs us in here to tell us there are other ways to do it, not one of them more than thousands of miles away, and we are Jersey with a population of just over 100,000. I was on Health with the last Minister and I knew that these things were mooted, but where it has gone from there to here, it is ridiculous. It is too big, it is unworkable. Even the Minister said it would not be ideal to put a board together. It is a trial for 3 years, do we have enough information here to even see how this will look properly? But we do now - as I say, I go back to the money - we are committing in 3 years £150,000 a year, £450,000, and we do not know what we are getting for it. We are going to get another 2 civil servants but they will be called board members. I am grateful for the work that Scrutiny have done but to just move this implementation date to 3 years ... and then it was interesting, the chairman of Scrutiny stood up and seemed to think we will have another vote on this in 3 years. I am not so sure. I am very doubtful of that so my opposition to this, like it was on J.I.F. has to be today on the board. I do not want to spend money that I do not know, 17 pages and 11 examples worldwide, does not do it for me, and a board with so many people, you are never going to get them all in the same room in the 3 years. Their diaries are going to be full, it is not going to happen, and what sort of meetings are you going to have? So that is it, basically I voted against the amendment because it does not improve the proposition. I am not up for spending this money on 17 pages. KPMG's input, do not know how much that cost us, but gave us 11 examples worldwide. Nothing new to me, nothing there that ... we are setting up something that cannot really work in Jersey, and why would it. So I am going to vote against this proposition and, like Deputy Southern, have really a serious thought because unless the Minister when he sums up absolutely says that there is something going to come back on how it will work in 3 years, I vote against it now because I cannot see anything coming back. It will be money thrown down the drain and it will not work. I also want to know from the Minister who is really accountable to whom. It is not clear, absolutely not clear, and you all need to think when voting for this, who is.

5.3.2 The Deputy of St. Ouen:

As I mentioned, when I was putting forward the amendment, my panel gives some qualified support to the proposition. We recognise the need for change in the governance arrangements and we acknowledge that there has been broad support for the principle of change among the diverse groups and organisations involved in delivering health and social care. But both they and we as a panel consider that the model needs to be developed further to give some better clarity and understanding before it is launched. So the position is that historically the Health and Social Services Department has directed the strategy and is responsible for the delivery of services. But in recent years we all know those services have been increasingly provided by voluntary sector or third party agencies who have not had a seat at the table when discussing the strategy and delivery.

Additionally, G.P.s have increasingly been asked to take a role in the joined-up care of ourselves as patients, and of course there has been so far no public involvement in that high level setting of strategy for the delivery of health and social services in the Island. So all of these groups and professionals want to move to a new model in which shared decision making is taking place. The department embarked on a consultation with them and our adviser looked at that process and praised it as inclusive and well conducted. So change in principle was welcomed by all those who took part, although a number did raise concerns about the implementation, and it seemed clear to us that much work remained to be done to set up the new system. So our report looked at some specific aspects of concern, one of which was hearing the voice of children, because it seemed to us that it is perhaps easy to look at this and think: "It is just about the governance of our health system." But it is also setting the governance arrangements for community and social services, which includes, importantly, the Children's Services. We note in our report that recommendation 2 of the Independent Jersey Care Inquiry asked the States of Jersey to give children and young people a voice at strategic level, but yet we noted there is not one reference made within the proposition to children and young people. It is fair to say that the proposition was lodged before the release of the Care Inquiry report, but it still remains the case that there is not a specific reference to hearing the voice of children. We did question the Minister about this and the answer given was that the Health and Social Services Chief Executive will be a board member and holds accountability for the entirety of Health and Social Services strategy and delivery, reporting to the Minister. Also the Managing Director of Community and Social Services will also be a board member, and it is worth noting that as an integrated Health and Social Services Department all H.S.S.D. representatives have both the health and the social services responsibilities as part of their role. So departmental representatives will be there, is basically the answer. But we did reach a key finding that there is no certainty that any other representative on the System Partnership Board would directly represent the voice of children and young people. There is no certainty that a social worker or a children's social worker would be a member of the board, there is no certainty that any children's charity would be sitting on the board. They would be represented but perhaps by others. We hope that the Minister will be able in the period before the board commences its work to give some greater thought and perhaps to provide clarity to stakeholders as to exactly how the voice of children will be heard. We hope our recommendations will assist that process because it is important that community and social services are represented and operate on this board on an equal basis with health care. It is not simply about health care. As to the question of public engagement, of course there is no current forum at which members of the public are represented, so we wondered how it would come together, what its terms of reference would be, how it would operate and be accountable to the wider public. The Minister asked Citizens Advice to lead on that work and we gained the impression that there was a reluctance from the Minister to get involved in establishing the group. He has said he did not want to dictate. But the Minister is elected to lead the health service, to lead community and social services, and he now wishes by this model to give greater involvement to the public. We thought - though it is a question of balance I suppose - but we thought he did not need to be quite so timid when it comes to setting the direction he believes to be in the public interest. We thought by now he should have got a little more involved and made resources available from the department to help set up this group to ensure it is truly representative of the public. So we urge the Minister to do just that, and in the next few months to report back to this House as to what steps are being taken, what is being achieved in bringing together members of the public to form a representative group. With the voluntary and community sector we felt it is a similar story because there is no longer a forum which is representative of the entire voluntary and community sector working in Health and Social Services and that is a challenge for the sector to bring themselves together because they are very often, by their nature, voluntary groups. Not everyone has time to work in putting together an overarching organisation. Again, there is much work to be done. In case it is thought that the Association of Jersey Charities is able to do this work, I do not believe

that is the case because that is an association which is limited to charitable purposes by its constitution. So it is for individual charities, such as Jersey Hospice, Family Nursing, the Jersey Recovery College, Mind Jersey and the many other groups that are now providing services for members of the community to try and get together and work out a means by which they can set up their forum and its terms of reference and how they would elect, from among themselves, 3 members to sit on the proposed System Partnership Board. So, again, we hope that the Minister will take this opportunity in the next few months and devote departmental resources to helping those diverse charitable interests to proceed and get themselves ready. Then there is also to be established the Clinical and Professional Forum, which will be a group drawn up from all the hospital consultants and G.P.s, dentists, physiotherapists, occupational therapists, pharmacists, but it will also include the adult social workers and the children social workers and all of them will need to constitute a group and elect 3 representatives on to the System Partnership Board, so again very different disciplines trying to come together. There is currently a clinical forum, we understand, so they are the beginnings of this wider forum, but importantly we understand there is no local organisation which is representative of social workers so they, as a profession, must find a way of being included within that forum. We were concerned and have expressed in our report our concerns about the composition and size of the System Partnership Board, 21 members, and that comprises 3 forums, who would send those 3 representatives, who are representative of their sector, and in addition there would be 9 persons employed by the Health and Social Services Department. The 6 corporate directors, the 2 medical directors and the chief executive officer and the remaining 3 would be made up of the independent chair and the 2 non-executives. The Minister thinks 21 members on a board is workable, we questioned him about this, but he did say it was essential to have a skilled chairman in order to manage that board. We asked the Minister if it was essential to have all 6 of the departmental corporate directors and the Minister, in much the same way as he has told us today, replied: "Well, who would you not have there?"

[12:45]

The Minister told us in evidence: "There is nobody there that you would not have at the table." That is why I think it is important that we have that independent very skilled chairman to ensure that everybody gets a voice. A board of 21 is not the easiest thing to manage and it would be very easy for those with the loudest voice, if I can put it that way, to drown those who are less used to working on boards. However, they may have very important contributions to make. That is why the selection of the chairman, not only in their past experience, but their skill in running a board of that size is going to be crucial. So if a board of 21 is set up it appeared to the panel that we are vulnerable and so much depends on getting the right chairman in. So much depends on one person. We wondered why it was the case that the department felt it could not send representatives. After all, those who are sitting in the public and patient group would be representative of the public. Those who were sitting in the Voluntary and Community Sector Forum would represent the whole of that voluntary sector and those who are sitting in the Clinical and Professional Forum would represent the very different professions that work within the services. Therefore, why is it important to have all of the 6 directors from the department present on the board? Could not any of those represent the views of their fellow directors and so achieve a reduced number of corporate directors on the board? It is also the case that the diagram of the proposed model, which is within the proposition ... I thought it was. I thought I had seen that. Yes, on page 15, the bottom left-hand corner, there is some small type suggesting that representatives from other forums, e.g. Data and Analytics Group and Financial Audit, could be invited on to the System Partnership Board on specific issues and therefore why it would not be possible for a corporate director, in the same way, to be invited on to the board for a specific issue discussion. In addition during our public hearing the chief executive officer of the department referred to the possibility of subgroups of the board undertaking specific works which would report up to the board and that made us think: "Well, why

would it not be possible for corporate directors to work on subgroups and apply their expertise there feeding up to the main board. So we do have this concern that the department is unnecessarily over-represented on the board and therefore you do run the risk of, as the Minister has said, that those who have the loudest voice, those who have the knowledge and the organisational abilities to have their way in the absence of a strong chairman. So we have recommended that the Minister give serious consideration to reducing the number of department representatives and if this Assembly believes that that is also important, that 21 members does run the risk of being unmanageable and unwieldy and not in the interests of governance, then I hope that this Assembly can give that message loud and clear to the Minister so that he will know the feelings of this Assembly, that changes should be made. I think it is important to get the numbers right now. It is no use starting with the 9 department officers and saying: "We will review it at the end of the trial period", because I cannot imagine that any of the directors at that time would agree to step down once they are used to airing their voice at the table. As to the future development of this governance model; it is for a 3-year trial period. Our panel did consider what might happen thereafter because it is clear during the consultation phase that there was discussion about the possible structure in the future. Could there be a much greater involvement in the delivery of services? The proposition does not deal with that and of course it is for a future States Assembly to decide on the future but it is clear the matter is out there and perhaps that is rightly so if the services are to be delivered by community based organisations. Jersey Hospice Care told us that if the power remains with the Minister and the Health and Social Services Department, which also remains the main provider of health and social care services, it may be harder to sustain engagement among the membership of the whole board, in particular representatives from the Patient Forum and the voluntary sector. This may impact the model of partnership working. They are saying that after 3 years, in an advisory capacity, these members would have built up much knowledge and understanding of the way our system works. Would they want to continue *ad infinitum* purely on an advisory basis or would they want a greater involvement? So it has clearly been thought about. The matter is out there.

The Deputy Bailiff:

Deputy, could I just ask, because I am required to, a little while ago in fact, whether you are likely to speak for much longer?

The Deputy of St. Ouen:

I think I will be finished in 5 minutes if that is in order.

The Deputy Bailiff:

Very well, please carry on then.

The Deputy of St. Ouen:

The Minister told us on this that he could not foresee any change. He believed it would be politically unacceptable to move to a model perhaps of the sort that Deputy Southern described earlier but the chief executive officer was a little more reflective. She told us in evidence that if I was to reflect the views of all stakeholders when we did this piece of work there was a whole spectrum. I think that if this board and the way it works together and the things it can do proves itself to be valuable then you will build up trust and confidence. As that builds it may well be that at some point in the future, which could be 5 years, 10 years, it could be never, there could be a decision taken, a political decision by the Assembly, to say it would make sense for them to do more. That could go all the way down the spectrum to saying: "Let us set up the delivery of health and social services as a completely stand-alone organisation." So it is possible that making this change today may, in the long run, lead to calls for fundamental change but it is also clear that will be a matter for future debate because the change cannot just creep upon us. It will have to be a

matter for this Assembly but we recommend that any discussions on that are open and transparent and conducted with full consultation and scrutiny and we look forward to the Minister's response to all our recommendations. So, in summary, the Scrutiny Panel does support the proposal to establish this System Partnership Board but there is still much work to be done in supporting the groups on the forums and it is in the public interest that all this only begins on a sound well-organised footing. So, as I have said earlier, we propose to continue to question the Minister. I hope other Members will do so too and if we develop concerns about a lack of progress; well, here is a panel and Members can take steps which might involve a further debate. So we ask the Minister to report back to the Assembly at the end of this year and in March. We trust the Minister will take on board our findings and recommendations and the views expressed in today's debate and ensure that the necessary work is put into planning the groups and the forums and a, hopefully, slimmed down System Partnership Board would commence work from April next year.

LUNCHEON ADJOURNMENT PROPOSED

Senator P.F. Routier:

May I propose the adjournment and in doing so remind Members if they wish to learn more about the data protection legislation, which is coming forward, there is a briefing downstairs and there are sandwiches there if you like.

The Deputy Bailiff:

Very well, the Assembly stands adjourned until 2.15 p.m.

[12:54]

LUNCHEON ADJOURNMENT

[14:16]

The Deputy Bailiff:

Very well, we continue with the debate on the Health and Social Care System: a new governance model, as amended.

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

The first question I asked when I saw this particular proposition was, why is it coming to the States Assembly? What is the reason for this coming to the States Assembly and why should it be for 49 elected Members to decide on the governance model for Health and Social Services? I have asked the question of the Minister for Health and Social Services. I am not quite sure the answer was as robust as I would expect it to be. I have spoken with the chairman of the Scrutiny Panel and I thank them for doing the work and producing the report. Although I do not agree with them, necessarily, on the view that we should necessarily accept this and just move forward and hope and keep our fingers crossed that all the things, all the problems that could potentially arise, will be resolved and the reason why I say that is because I think we need to learn some lessons historically of what has happened, particularly from the Comptroller and Auditor General, in terms of work that she has done in her work around Community and Social Services Departments, Children's Services and issues around governance in that particular area. One of the conclusions of that particular report that was done 2 years ago, there was a suggestion that the challenge now is to put in place robust and resilient arrangements across the whole of C. and S.S.D. (Community and Social Services Department) so I asked the question: is this robust and resilient for Community and Social Services Department? Is this robust and resilient for patients? Is this robust and resilient for all the community groups and the charities and all those people that were involved in terms of service

delivery; is it robust and resilient? I can only come to the conclusion, from what I have read and what I have heard, is a resounding no. I will expand as to why I believe that. Firstly, I agree with many who have spoken already with regards to the 21 members sitting on a board. It is completely unworkable, in my view. I think if anyone knows how unworkable a large amount of people sitting around a table is, it would be the Council of Ministers, who this proposition comes from. It is unworkable and it has always been suggested that, usually, a maximum around a table in terms of a board structure, especially something like this, is usually around 7, tops, in terms of people. I think we need to get back down into the grass roots and say: "What is Health and Social Services for? Who is it for? Why are we providing it and especially what are the expected outcomes?" What alarms me, when I read the report, is the only reference - even though it talks about working together, more integrated - what worries me is the only reference to any form of key performance indicators, or objective meeting, is the Medium Term Financial Plan. There is no reference to the Strategic Plan. There is no reference to a business plan. There is reference to P.82/2012, which is now 5 years old. There are a lot of good comments that the Comptroller and Auditor General has made in various reports, referring to some of the ways that the governance has been handled around P.82/2012. I think we should be aware of that and congratulate Health in terms of how they have handled that particular area on the back of some very intrinsic auditing of the Comptroller and Auditor General. So, there are a lot of questions that arise out of this more than answers for me. I know, for example, there are various different agencies that sit within service delivery for Health and Social Services and one of them that comes to the top of my mind in particular is M.A.S.H. (Multi-Agency Safeguarding Hub) and the Multi-Agency Service Hub, or something along them lines. **[Interruption]** Safeguarding Hub. So, the question that arises from that, of course, is how that filters in and how that works. I try to look at it as a grassroots point of view, as a patient. So, if I am a patient and I have an issue with the service I am receiving from Health and Social Services, whether that be in the hospital, whether that be Children's Services, whether that be any part of that particular area, how do I raise the issue? Who deals with the issue and how is the outcome of that particular issue then turned up into the management teams and considered in terms of change? In terms of, what can we do better? How can we make things better? How can we improve the service? How can we work together better? I know that there have been issues and I think, looking at the report, there is ... 1.2 on page 5 it talks about the model enabling a test and evaluation against aims. The first one is greater public voice in strategic decisions, or discussions. I am not quite sure what the word "public" means in that particular phrase. So, in terms of, is that all of the public? How does that filter into the bigger picture? Is it just a case that we are talking about the public in the framework of these particular people? Now, I know that there has been a suggestion that the Patient Advisory Group, I think it is, is one of the underlings of the bigger board. My issue, in particular, with that is that what weight does it hold? What weight does it actually hold when they have got to go through yet another hoop in terms of lots of different groups, then going into a board, that then goes to another area and eventually the Minister and ultimately it comes down to the accountability, but even more so it comes down to, are we really listening? Are we really understanding exactly what the issues are for the patients and how that becomes an effective change mechanism? I am concerned that this is an added bureaucracy. This is added management functions. This will allow even more louder voices to be louder and it is not clear at all for me how the patient filters into this directly and what weight that patient has in terms of changing the service delivery ultimately and that, in my view, and I hope in most Members' view, should be our ultimate aim, is ensuring that the service delivery is right for the patient and the appropriate care in the way that we deliver our health and social services. The final thing that I will mention, as well, is how the accountability framework ultimately fits around all of this. How it works in terms of accounting officers being culpable underneath the Public Finances Law, for example. How it works in terms of direction to the responsibility of what will be our new chief executive officer and how that role will play. I mean, we now have a team that we are paying for to

come in to do some extensive work and so I question why we are putting in yet another board and another framework on top of that until we know what the potential solutions may be in order to deliver the correct service and how it all fits right across, strategically. How it looks and how it produces the outcomes that I think we all expect and what the public needs. On that basis I am unable to support this proposition. I do not feel, firstly, that it should have come to the States Assembly. I think there should have been a little bit more prodding and questioning from the Council of Ministers in terms of how this will really work. What it means for the patient, for the people who use the service, and how they ensure that the accountability side of things does not end up in a mix of grey mist, as we can sometimes see, in certain areas in the States.

5.3.4 Connétable C.H. Taylor of St. John:

I am sure the Assembly is very grateful that the Deputy of St. John spoke before me, because she has said almost everything I wanted to say. **[Approbation]** I feel it is important to draw your attention to page 8 of the proposition and the very first sentence, which says ... pardon me, I am advancing in years. “While the public and service users are close to the politicians, which means there is strong democratic accountability.” Well, if that is the case, why are we having this war? We then read the second half of the sentence: “There is no consistent and co-ordinated approach to capturing the public’s input to inform strategic debate.” I think, if I translate that, it says that it has been hijacked by the officers. You then turn to the page further on, page 15, which gives the diagram of how the board is formed, on which there are 9 officers. Now, quite apart from the fact that a board of 21 is not going to work, when you have 9 officers, who are going to be present, it is clear that the views of the users and the public, which are referred to in the sentence earlier I quoted, will have their views watered down prior to getting to the Minister. So, if that is the case, what is the point of this board? I am sorry to say it, but the Minister needs to make it ... claims he is accessible, and openly admits it in that sentence, with the public and with users. In that case he needs to listen to them and enact on what they are saying directly to him and I think that this is just another committee, another layer, that is not going to fulfil its purpose and I shall too be voting against this.

5.3.5 Deputy M. Tadier:

I have found it strange listening to the summing up of the chairman of the Scrutiny Panel, because, clearly, a body of work and a necessary piece of work has been done on that and essentially, when I was listening, I heard lots of reasons about why there are concerns, and there were 6 concerns obviously in their comment, and there were more substantive comments, which have been presented as the report from the Scrutiny Panel. Essentially, those 6 questions, which were presented in that report on 31st October, so less than 2 weeks ago, have not been answered and the Deputy of St. John has asked a very a good question: why has this been brought to the Assembly and on top of that why has it been brought to the Assembly now, given the fact that a piece of scrutiny has been done and we are always saying in this Assembly that not enough legislative scrutiny is done.

[14:30]

In this case, this is really more to do with the policy framework but, nonetheless, a piece of scrutiny has been done and there has not been time for us to look at the response of the Minister, because there has not been time for the Minister to prepare a significant response. The questions that have been raised, and let us look through them: How the voice of children would be heard in the proposed model. How the Public Patient Group and the Clinical Professional Forum are to be established. How the representatives of each of the forums are to be selected on the board. Again, I will add my thoughts to the fact that 21 members on the board does seem, obviously, unwieldy, especially if the argument is being put forward that so often the squeaky wheel is the one that gets

oiled to change the metaphor. How on earth sitting around a table of 21 people do you ensure that the more timid, perhaps less represented, voices get heard? You do not do it in a big group of 21. You do it in smaller groups. That seems to be almost intuitive to most of us. Whether it is necessary for the Health and Social Services Department to have 9 representatives on the board, and the sixth point, how many members of the Voluntary and Community Sector Forum and the Public Patient Group would be trained and resourced to participate effectively at board level in their respective forum, or groups? These 6 points have not been answered and that is why I thought it was strange. I was waiting for the chairman to say: "And this is why our Scrutiny Panel cannot support this proposition at the moment." It is very strange to suggest, okay, do not implement it until April and the reason you do not implement it until April is because we do not have the relevant information. We are not satisfied, as a Scrutiny Panel, and therefore, by extension, as a States Assembly that this is the right model. We might be convinced, or we might not be, that it is even necessary but certainly in its current format we are not convinced. So, if you are going to bring it to the Assembly, Minister, bring it in April when the full work has been done, when the answers have been prepared to the Scrutiny Panel and where we have got something meaningful that we can vote on. That is why I think, on this occasion, the workings of the Scrutiny Panel were absolutely correct. Their conclusion, it did not follow on from it and I think that is where Deputy Southern is correct in this one. By all means I fully agree with the work and the spirit of what Scrutiny has done. For some reason they have not gone that last step, the consequential step, which is to say: "And this is why we cannot support it in its current form." So, I am afraid I cannot support this proposal. I would be looking for the Minister to come back with a full response to Scrutiny, for that to be shared with the Assembly and for this to be presented back in the Assembly in time, either for this last sitting, or for the new Assembly.

5.3.6 Senator P.F. Routier:

I would like us to really think about where we are today with our current health service and whether we are serving our community to the best we possibly can. I do not know if we are able to be in a position where we can say we have got it right now, because we have heard about the issues regarding the improvements that need to be made with regard to mental health services and to social services. We know we need to make those services more modern and more up to date and more responsive to what our community needs. I think that what is being suggested by those, who do not think that this proposition is the right thing to be doing, is they are not recognising that we do need to improve our service and I worry that there is not that recognition. Listening to the chairman of the Scrutiny Panel, he was very clear that he recognised that the amount of work that had taken place with regard to discussing things with the G.P.s, the medical profession, pharmacists, the service users, the voluntary organisations and Citizens Advice and all the various organisations whereby they had shown that they were supportive of what is being proposed. I find it quite difficult to accept that we cannot recognise and accept the views of those people. We should be listening to them. They are saying to us that we could have a far better health service. We could have a service which is responsive to their needs. The document is very clear about listening to the views of patients. We need to listen to the views of patients. We need to listen to the views of service users. I chair a service users' forum for people with disabilities and we meet on a regular basis. We are going through a process, currently, of looking to see if that is the right approach, because we meet on a regular basis, we hear the views of service users and then we do struggle to implement some of the things that they are suggesting to us. We need to do that far better. We need to have a good structure in place, to ensure that we are able to meet the needs of our community. To my mind the Deputy of St. John was describing the faults that currently exist. Just looking at sort of what the faults are, it might be under the new structure. She was describing what it is like now. We have got to be looking forward, to ensure that we have a system, which is responsive to our community. I am, I have to say, a little bit disappointed in some of the speeches

that I have heard, because they are not looking forward; they are looking backwards all the time. I think that we need to accept that we need to be more accepting of the views of those people, who have contributed to bringing this paper together. This has not been just a whim that has come forward from the Minister, or the Council of Ministers. This is something which has come from the grassroots. It has come from the organisations, the voluntary organisations. It has come with the support of those organisations and the G.P.s. We need to have a better relationship with the G.P.s and the pharmacists. This is a good step forward. The Scrutiny Panel - we always get criticised for not accepting what Scrutiny Panels say to us - the Scrutiny Panel have looked at this and they think there is value in what is being produced here and they are asking for more time, to ensure that the structures are all in place and fair enough. That is acceptable. That is a very good outcome. I would urge Members to take note of what the Scrutiny Panel have said in their report; that the Minister for Health and Social Services has accepted the amendments to make sure that the structures are in place, but the theme of what is being proposed is right and it has the support of so many people. I urge Members to progress with this proposition.

5.3.7 Deputy A.E. Pryke of Trinity:

I know Senator Routier mentioned about going forward and I am always going forward, I have never liked looking back, but I think we need to just take a couple of minutes at looking at how we got to this point in time. It goes back in 2012, when I brought to this Assembly P.82/2012 and for those who were there at that time it was a new way forward for Health and Social Services. If I remember rightly, the Council of Ministers, at that time, really began to address the issues facing our health and social care for all Islanders: the ageing population, new techniques, recruitment, new advances in medical techniques, *et cetera*. But at the time, after a lot of consultation, this Assembly understood the issues and voted wholeheartedly for P.82/2012 to begin the journey. I remember saying at that time that it was a journey. It was a brave step. The whole of Health and Social Services had to change and the journey was beginning, a different change of approach. I also said that it would take over 10 years to achieve, but that journey continues. We have seen money from M.T.F.P. (Medium Term Financial Plan) 1 and M.T.F.P. put into services, not to just improve all management and doctors and nurses within Health and Social Services, but to improve Islanders' health, both in the hospital, but, importantly, where it was lacking, in the community. One of our plus points is that we have a joined-up Health and Social Services, which I understand is the envy of many jurisdictions. It comes under one umbrella, to provide the joined-up care that Islanders need and demand. But, during that time Health and Social Services has changed, as we would expect. That is why we voted the money. That is why we approved P.82/2012 and we have become now many different roles, such as community, commissioning, working with community providers, such as family nursing services, Les Amis and a whole range of different community providers, including the community bank, Citizens Advice. They are all, quite rightly, on a journey to deliver best quality care, but everybody needs a stake in that care. Everyone needs to be part of a new system of delivering it. It was realised that governance had not kept up and importantly we need to hear the voice of the patient, the relative and other organisations in the community, who provide that care. This is a pilot, this governance system, and it is going to be chaired by an independent expert and with delegates from all areas that provide and receive care. Health and Social Services is diverse. You have got mental health. You have got children's mental health. You have got acute mental health. You have got all the care homes. You have got family nursing services. You have got care providers in the community providing that really important care, so people can remain in their homes, plus you have got the hospital, all the diversity within the hospital. As the Minister said this morning, you have got a chief nurse. She is not responsible for just the nurses in the hospital. She is responsible for all nurses. Whatever area they work in Jersey she has that responsibility, whether it is practice nurses, nurses in care homes, whatever. That is the same with medical directors. It is the same with G.P.s. Practice nurses and G.P.s, the pharmacist,

the pharmacist's assistants. It is so diverse. I think people forget how diverse it is, but everybody needs to have their voices heard, because, at the end of the day, all we want is the best possible care for Islanders, but how do we know that? We need to hear their voice. When I first started on the journey of P.82/2012 there was not even a list of voluntary organisations that I could pick up and say who provided care. We knew there were different organisations, but there was not one list. I had to go through that telephone book. But we have come a long way from that and congratulations to Health and Social Services for continuing on that journey and not taking their eye off the ball, to provide a care that voices need, that patients need, which would be so easy, because it is diverse. Not only working in Jersey, but also commissioning services in the U.K., whether that is mental health in secure units, whether that is receiving tertiary care in a hospital like Oxford, Southampton ... in whatever. Because, at the end of the day, people matter and their voices matter and this is a way, with this board, a way of hearing what it is like at grassroots levels, be it from patients in their own homes, or be that through charitable organisations. This is the way forward and I would urge Members not to get too distracted. This is the focus on hearing that voice and, as we know, that voice is important.

5.3.8 Deputy S.M. Brée of St. Clement:

As a principle, government consulting with forum groups is a good and wise idea, something that, perhaps, other Ministers may take note of.

[14:45]

But this is not about consulting with forum groups. This is about governance and I would remind Members of exactly what is said in the proposition that we are about to vote on and I will read: "In accordance with the governance model for the health and social care system, contained within the report accompanying this proposition." So, what does that mean? Well, as now amended, it means that, in April 2018, if we approve this proposition, this governance model will be established. It will not come back to the States for further consideration, or discussion. That is what we are being asked to vote on. What we have heard today, from the previous speakers in this debate, is a lot of concern over the direction, the lack of detail and I would just like to pick up on a couple of areas, if I may, on what I consider to be fundamental lack of detail. If we look at page 15 of the report and again, if you will indulge me, I will read this: "The Minister will agree a memorandum of understanding, with the chair of the Health and Social Care System Partnership Board, setting out clear roles and responsibilities including, but not limited to, development of strategic options and recommendations for change, outcomes, value for money and accountability." Where is that memorandum of understanding, so we can see how it is going to work? Other than mentioning that a memorandum of understanding will exist, we are shown nothing. There is no detail. The memorandum of understanding is the most fundamental document that will exist between the Minister and this new board and yet there is no detail on it. I would then turn Members' attention to page 13, at the bottom there, you will see: "Holding one another to account for delivery, which will reduce delays and duplication and improve the return on investment into service development." Well, what does that mean? Well, does it mean that the new governance board will be making decisions on the spend of funding? Does it mean that the new board will be given an annual budget, agreed against certain targets, to spend during that year, as they see fit? The report does state that there will be quarterly meetings between the Minister and the chief executive of the board, but there is no real explanation of key performance indicators. How will we judge the performance of this new board? There is nothing, really, in this report that gives me any comfort that we will be. Now, to my untrained eye, this looks like an N.H.S. (National Health Service) trust structure. So, it does raise the question, where next? Where is this going? Now, I would just like to remind Members that, shortly, we will be asked to approve funding of £466 million into a new hospital. I feel it a great shame that I have to ask the Minister the question: is this the first step

towards incorporation? Because I really do seek his assurance and undertaking that this is not the case, but it does, at first glance, appear to me to look very much like it. I would stress that there are also some very excellent people working in the delivery of health services in this Island **[Approbation]**. So, it does beg the question: why do we need an additional budget to set this board up? What is the need for an additional £150,000 *per annum*? Is it because we are going to get somebody new in? Is that the intention? Again, there is nothing clear. Are we going to be faced with the prospect that the Minister will suddenly be appointing a chief executive of an N.H. (National Health) trust from the U.K. into this role? We do not know. There is no detail here about how we will go about things if we do agree to this proposition. I think to suggest as well ... Senator Routier suggested, in his speech, that we do not understand the problems with the health service, I think is being unfair. I think we all appreciate and understand that the health service in this Island needs improving and that everyone's voice needs to be heard and listened to, but there are still too many areas in this proposition that I feel require further clarification, further detail and, as such, I find it impossible to vote for this proposition, because it lacks the detail to fully understand how this will work.

5.3.9 Deputy G.P. Southern:

I, too, wish to argue with Senator Routier. This is nothing to do with ignoring the public wishes. The public, I am sure, will want a forum, somehow, which will satisfy their demands for all sorts of things from the health service. What it is, instead, is a critique of the way in which this proposition has been brought to this House. Normally, when a proposition is brought to the House, especially by the Council of Ministers, it has most of its I's dotted and its T's crossed. This one does not. **[Interruption]** It has got its I's crossed, yes.

Senator I.J. Gorst:

I wonder, could he just say that again. **[Laughter]**

Deputy G.P. Southern:

I must avoid my colleague's jokes. Its I's dotted and its T's crossed. That is the right way round. However, this proposition does not have the I's dotted and the T's crossed. It has a number of occasions to say ... it just says: "We will work this out, after it has been through the States and been accepted." Well, I am sorry, if anybody else on these back benches here, excusing Assistant Ministers, or those back benches there, excusing Assistant Ministers, brought a *projet* that said: "And we will decide this as we go along, after you have accepted it" they would get ... well, they would get a short shrift, I would argue. Although the Scrutiny Panel has examined this and examined it in some depth, what I think has happened is that they have drawn back from the logical extension of some of the criticisms that are made, which should say and end up saying: "And we, therefore, oppose this proposition at this stage"; not just: "And we would ask for a delay in its implementation." As I said earlier, that might ... well, we accept in principle that this is the way forward, then we do not know what we will have in 6 months' time or in 3 years' time. It could be anything. Should not have come. So, their concerns are really quite strong and if I just take us through some of the 24 key findings and the 13 recommendations, I just said dozens before, but 2-dozen key findings and I think it is worthwhile looking at, because some of us have only had this document for something like 3 days, one day. Yes, it arrived in the post sometime last week, or yesterday. So, let us have a look; key finding 4: "Concerns have been raised that further preliminary work needs to be undertaken before the System Partnership Board is established, to give assurance to stakeholders that the proposed governance model is workable and appropriate for Jersey." That is a really strong criticism. Evidence - we have received evidence - that preliminary work needs to be done to make sure the model is workable and appropriate for Jersey. That is a significant criticism. Key findings 5 and 6: "Evidence given at the public hearing suggests the

Minister for Health and Social Services considered children will be given a voice by the presence on the board of the Chief Executive Officer and corporate directors of Health and Social Services.” Wow. If I was looking for someone to give a voice to young people, I would pick some 40 year-old people, who are running a big department in the civil service. There is no certainty that any other representative of the System Partnership Board would directly represent the voice of children and young people. No evidence. We have just gone through a major review and critique of what we have been doing with young people for the last 50 years and here we are: great big hole in what is being proposed. No voice. No obvious voice. No representative voice. No accounting for children and young people. That cannot be allowed to happen. Wake up and smell the coffee. We have to change our ways. Why is that not included? Why is that not dealt with? It needs to be answered. It must be answered. Key finding 8: “The Health and Social Services Department has asked Citizens Advice Jersey to lead in establishing a public and patient advisory group, although it is not yet clear what processes will be used.” Somehow we are going to get it, but we have not given you how we are going to do until you have passed this through the States. Again, pre-empting what should be there, which are some hard facts. This is how we propose to do it, so we have got an idea that it is doable. Key finding 10: “There is uncertainty over the composition of the Public Patient Advisory Group, its terms of reference, how it would represent the wider sector from which it is drawn and how it would operate and be accountable to that sector.” Again, there is nothing in this document that says how that will be worked. This is absence of content. The content is missing from where it should be. It is all just: “pass it and then we will work on it”. That cannot be allowed, surely. There is uncertainty, also, over how the Patient and Public Advisory Group would elect its members onto the System Partnership Board. The Minister for Health and Social Services has suggested: “That selection on to the System Partnership Board should be based both on nomination and an assessment of an individual’s capacity, capability and approach.” “It is not clear to the panel how a nomination process would also ensure representation is based on merit.” So, we are going to devise some sort of test to ensure that the people who are put forward, by the representative body, are capable and have the right spirit and the right abilities to represent properly. Now, all of a sudden I am thinking we are going to Alice in Wonderland here. Yes, nominate your representatives and we will give them a test to see if they are fit. Really? Again, this is not content. It is content that is missing. Let us move on to some of the attempts to address some of these questions and I refer here to responses 19 to 21 in the responses to the key findings and recommendations: “The accountability of the board is referenced throughout P.60/2017 report. Can clarity be provided on the System Partnership Board chair and Ministers’ accountability for board strategic decisions and operational delivery?”

[15:00]

The answer is: “The System Partnership Board would be responsible for considering strategic investments, designed to deliver the vision set out in P.82/2012 and overseeing their implementation and outcomes. It is not responsible for operational delivery.” Well, I should hope so too. Of course, it is not responsible for operational delivery. That is something to do with the medical professionals, delivering the goods. But listen to that: “The Partnership Board, including these 9 representatives taken at random from the public, will make recommendations, will be responsible for considering strategic investments designed to deliver the vision set out in P.82/2012.” People in this body, in this Assembly: If you were asked about responsibility for delivering P.82, how many of you, how many of us, myself included, would be able to make a decent fist of what it is we want to do on P.82/2012? Remember P.82/2012? It was quite substantial, a big body of work. How will you get your head around that given that you are attending, once every 2 months, a meeting of 21 people around a table? I return to this 21 people again; 21 people around a table, who only meet once every 2 months. Every time they meet they are going to want to put their tuppence in. Yes? They are going to want to make a contribution.

Quite rightly. But 21 people making a contribution on an agenda, even if it is 3 items long, by the time you have done the rounds, you are looking at 4 hours, 6 hours, and what demand is being made, because you have to have a ... when you receive the agenda you have a meeting of your 3 representatives, you get together and say: "What are we going to do about this?" There is another meeting that has taken place. Are we contributing to expenses for these people, these volunteers, or not? The question has not been decided. At the bottom of comment 12: "H.S.S.D. will fund the new governance model for the 3 years of its pilot. This includes the project management and secretarial support for 3 advisory groups." Three advisory groups meeting together, once every 2 months, that is £150,000, is it? I do not think so. It is already looking like more than that. "Work is also underway to consider issues in relation to the potential funding of participants' time, looking at how this is approached in other jurisdictions and how such funded participation can evidence value for money." Yet again, on a simple essential factor, how much is it going to cost us? We are not given the information. We are still considering and we are looking at other groups around the country, or elsewhere, about how they do it. How vague does this Assembly want propositions that come before them to be? Because, that is a small, but essential element, have you sorted out the funding? The answer is: no, we have not, but vote for this anyway and we will sort it out as we go along. It is happening time and time again throughout the body of this material. "How will training and board development opportunities be integrated into the implementation phase of the proposed governance system? Please provide details on training, duration of training, financial support, outputs expected." "The detail of training and development activities for representatives will be developed once the States debate has been concluded." Time and time again, once the debate has been concluded we will tell you what it is and how we are going to deliver it. I believe I cannot possibly vote for this mishmash, this badly prepared document that has come before us today from the Council of Ministers. I believe that, to save face, it might be useful for this body to refer this back. There is so much missing and there is so much not dealt with, that this deserves a reference back. Come to us with a properly worked-through scheme, with some more details covered and perhaps we might accept it. In particular, I refer back, specifically, to the issue I was talking about before, which was the accountable care organisation. A reference back, at the very least, to examine what the potential issues involved, should we go down in the next 3 years and accountable care organisation approach to the future governance. That, I think, is vital, but there are dozens of questions here, for example, and perhaps we ought to raise the 6, highlighted in the Scrutiny report: How the voice of children would be heard in the proposed model. How the Public Patient Group, the Voluntary and Community Sector Forum and the Clinical and Professional Forum are to be established. How representatives from each of the forums and the group are to be selected to sit on the proposed board. Whether 21 members would make a proposed board unwieldy and less effective. Whether it is necessary for the Health and Social Services Department to have 9 representatives on the proposed board. How members of the Voluntary and Community Sector Forum and the Public Patient Group would be trained and resourced to participate effectively at board level and in their respective forum or group. So, there are 6 issues raised by the Scrutiny Panel saying: "These need addressing." I think those 6 issues, combined with the A.C.O. issue - the accountable care organisation issue - on those 7 points we need some clarity to be brought before this House before we vote for this proposition, or its replacement. So I propose a reference back.

The Deputy Bailiff:

So, you are making a proposition for a reference back. As I understood it, the questions that you are seeking more information on are those numbered 1 to 6 in the report of the Scrutiny Panel, together with ... and could you repeat again, the accountable ...

Deputy G.P. Southern:

The potential issues involved in development of an affordable care organisation in future approach.

5.4 Health and Social Care System: a new governance model (P.60/2017) - reference back

The Deputy Bailiff:

Well, Standing Order 83 says: “Any Member of the Assembly may propose, without notice, during a debate, that a proposition be referred back, in order that further information relating to the proposition can be provided, or any ambiguity, or inconsistency, in information that has already been provided can be clarified.” It seems to me that this proposition, therefore, for a reference back is in order. Is it seconded? **[Seconded]** Very well, does any Member wish to speak on the proposition for a reference back?

5.4.1 Senator P.F.C. Ozouf:

I have listened to this debate with great interest. I am not sure why Deputy Southern has got his light on. I do not want an echo and it is an echo that I am wanting to speak about. We have a Scrutiny Panel, which has reviewed this proposition. They apparently agree it, subject to the helpful amendment that has been made and yet Deputy Southern wants to, effectively, do a double scrutiny review and effectively ask again for matters, that have already been on a panel, which I think he was on, but now he is no longer on, wants to be looked again at. I look to the chair of the Scrutiny Panel to advise the Assembly, again, whether, or not, he is content with what is put forward in this proposition and whether, or not, he will be voting for a reference back on something that he has already considered with his panel and given recommendations and made amendments in the normal way. I do not see any case for a reference back, unless I hear of some compelling reason.

5.4.2 Senator A.K.F. Green:

On a lighter note, before I give my reasons why we should not have a reference back, it is the first time I have ever been called “timid” in this Assembly; however, I am sure that was meant in a positive way. This is very difficult for Members. I have listened to the speeches that we have had so far and I will not cover those, because if we do not do a reference back I can cover that when I sum up. But, this is a little bit chicken and egg. We have got a very clear proposal here to increase the involvement of the community, to increase the involvement of the medical profession. G.P.s out there now very often feel done to, not worked with, and I think the community is sick of consultation and want a meaningful place at the board. It would have been quite presumptuous, I think, to go out there and form a board of charities and to then choose their representatives, no vetting by the Minister as to who those representatives would be. It would be very presumptuous to form these associations, these different organisations - and that would cost quite a bit to do - with an expectation that we would then bring this proposition to the States. The Scrutiny Panel saw this. They are holding my feet to the fire, saying: “We want to see how that will work” but they understand that you have got to have an agreement to have a board, before you can go out and do that work with Citizens Advice, with the primary care providers and with charities. You have to do that. You cannot have a board, without doing this, but you cannot do this until you have got your board, agreed in principle, by the Assembly. The same, as Deputy Southern mentioned, the memorandum of understanding. I do have to pull this one out. We do not have a chairman of the board to agree that memorandum with. All these things need to be worked out. What the Scrutiny Panel adviser said was: “This is the right way to go. This is the right thing to do” but they are holding my feet to the fire, to make sure I continue with the right way, that I continue to involve people and not to do things to people. I urge Members to go with the Scrutiny Panel’s report. It is a good report. It says this is the right direction to go in. It says we need to do more work and that is accepted, but you would not have done that work in advance. You would not build up an

expectation, with the charitable organisations, that they can have a presence on the board if there is no board; you would not do that with the clinical primary care providers if there is no board; you would not do that with the citizens of this Island if there is no board for them to be represented on. We have got to agree the principles of the board. It is not an operational matter. This is about helping with the strategic direction of P.82/2012, nothing more, nothing less, but doing it with the community, not to the community. I urge Members to reject the reference back.

5.4.3 Deputy P.D. McLinton:

One of my daughters is due to give birth today. **[Approbation]** I know, it is great, is it not? One of my daughters, Deputy Norton's goddaughter, as it goes, and my other daughter is due to give birth on Thursday. It is like some sort of arrangement they came to, which is rather unnerving. They are both being induced, I should point out. Were this Assembly debating the birth of my grandchild today, it might be saying: "What gender is it going to be?" "Do not know." "Can you give us a date when it is first going to walk?" "It is going to walk. We are going to give it every best chance to walk." "What is its first words going to be and can you give us a date when it is first going to speak?" "No, we are going to have to start this journey and learn on the journey how this develops." "Oh, I am not entirely sure I agree with the birth of this child, then. Let us take this back and let us defer the birth of the child until we are absolutely sure of everything that is going to happen into the future." The future, dear Members, is an unknown equation, but you have to start the journey in order to develop it. What this Assembly seems to be incredibly good at doing, is walking down the street backwards looking at the potholes it once fell into. This is an invitation to turn in the right direction and start taking care of the future. This is what this is about and Health and Social Services have been extraordinary in delivering P.82/2012 so far.

[15:15]

They have taken great care to deliver this amazing piece of work and we are up to speed on it. This is a part of this. You cannot have a fully-formed plan yet, but the thing that is amazing and astounding to me is that the stakeholders ... I will quote Deputy Brée: "The very capable people delivering health care to the people of this Island are all engaged and enthusiastic about this." They want to be a part of this. Do they know the size and shape it is going to be down the line? No. Yes, taking on board some of the Scrutiny Panel's observations, there are some areas which do need attention, but to say: "Let us not do this at all, because we do not have all the answers now" is like strangling it at birth. This thing needs to happen, you need to listen to the people out there. We need the voices of the patients, heard through the very capable people delivering health care to the people of this Island, sitting together in a room. We need that. Right now I am hearing people arguing for nothing happening, again. What this Assembly does, it is a bit like driving with the brakes on everywhere. You will get there eventually, but there is going to be a horrible smell on the way. Please take the brakes off. This is a good thing. It is a good thing. Do not stop it, as we try to start it. I implore you. Reject the call-back and support this all the way through, I beg of you.

5.4.4 The Deputy of St. John:

After that speech, I love sarcasm as much as the next person, but demeaning the role of this Assembly is not really as far as I would go. This Assembly is here to make an informed decision, on behalf of the public. We are all elected independently. When he refers to the Scrutiny Panel and refers to key findings, you will see at key finding 4, if he reads the report: "Concerns have been raised that further preliminary work needs to be undertaken before the System Partnership Board is established and to give assurance to stakeholders that the proposed governance model is workable and appropriate for Jersey." If further work needs to be done and we are still not sure whether it is workable and appropriate for Jersey, should we just flick the switch and say: "Yes, that is fine.

That is okay. We will go ahead and do that”? I am sorry, but I am not going to be told ... in actual fact, what worries me more is that this did not even need to come to the States Assembly. That is my point. Why has it come to the States Assembly? In terms of the reference back, it is absolutely unbelievable. We can throw bits of paper around and say that we have read things and assume that everything is okay, but I am not going to make a decision in this States Assembly based on assumptions. I want the information. I am an elected representative. I expect that information and I will support Deputy Southern in the reference back, so that the Minister can give it to us. If he does not like that, withdraw the proposition and do the trial period, because the budget is already within his funding.

5.4.5 Deputy M. Tadier:

This is not an either/or proposition. It is not on the one hand that we either approve this today, despite the fact that we have got significant reservations and that there are lots of significant questions that still need to be answered, or we do not have a care plan going forward, if we do not have this. The Minister can have a win-win here. It has already been agreed that the implementation of this programme will be delayed until April. If it was such an urgent programme anyway - and I am not saying it is not important - then the Council of Ministers, presumably, would not have even agreed to that delay. They can come back to this Assembly well in time for something with all the I's dotted and the T's crossed - as Deputy Southern has put it previously - so that we are all happy with it. We have all agreed to the basic principle that this is the right way forward, a group; probably not a group of 21 - with 9 departmental plants, for want of a better word, and I am sure they are all very professional, and that is clearly not what they would be doing, but that is how they might be perceived and that is how it might work out. That is what we need to look at. We are not here, as an Assembly, to rubberstamp sloppy propositions, just because they are brought by a Minister. If we do approve this today, I think that is what we are doing. There is a concern, and Deputy Brée raised it, that we are voting on what the proposition says and the proposition says we are voting on the content of that report. Now, if after a period of time the piece of work is done, the referral back happens and it says: “You need to change the government structures which are detailed in the report” the Minister will have his hands tied, because this is already what we voted on today. It is giving the Assembly and the Minister the flexibility to come back and answer those vital questions. Do we not learn anything? It was only a few months ago we were standing in this Assembly debating at length the Care Inquiry findings. The very first proposal that they have come up with from the Scrutiny Panel is: “We do not know how the voice of children would be heard in the proposed model” yet we are seriously saying today that we will pass it, despite the fact that the Scrutiny Panel has come out with this one. I think that, in itself, is enough material for us today to say: “Reference back, please. Tell us first, how are you going to represent the voice of children, because the Scrutiny Panel have told us: ‘You do not have an effective way of doing that’?” It is certainly not going to be represented by the chief executive, not effectively. That is not besmirching him, at all, whoever he will be in the future; it is saying that we cannot expect him to do that. How are you going to represent the voice of children at the table: “Come back in January, come back in February. Tell us how you are going to do that and tell us the other 5, or 6, points.” This idea that we play Scrutiny as a football, so when Scrutiny agrees with us and criticises the Minister and says: “You have got to listen to Scrutiny. They said that” and then, of course, on this occasion where Scrutiny do stand up and say: “We have got loads of reservations” but on this occasion, they say: “but we will allow it to go through, but we are watching you, Minister.” The difference is people like Deputy Vallois - the Deputy of St. John, as she is called in this Assembly - and myself and others of us is we have seen how ministerial government works. We have been stung too many times in the past. The public certainly know that, with all the best will in the world, you do not work on a model of trust. That is not because we are all suspicious, it is because we know how the system works, we know that things fall so often

between 2 stalls. When you are voting in this Assembly, you vote on what is before you. If you do not have the information to vote on, look your constituents in the eye and say: "I could not support this, even though the principle might have been right, because the work had not been done." It is the double standards. Does anyone remember P.62/2017, which was referred back? "Oh, Deputy Tadier, I am afraid we cannot support P.62/2017 on the separation of powers, because there is not enough detail in there." I knew that is, of course, a lot of nonsense for some of the people who were saying that, because they could not agree with the principle, but, of course, now the Chief Minister comes back and says: "I will do that and we have got loads of detail, we have probably got even more detail than you really need in that." I think that is exactly the kind of thing that the chairman of the Scrutiny Panel would have told me: "We could not possibly support yours, Deputy Tadier. We do not know how this is going to work." What is sauce for the goose, I would say, is also sauce for the gander. We do need the information, let us all get behind this, but when it comes back to the Assembly ... if the Minister is going to bring things to this Assembly which he does not need to bring, at least do it properly so we can have the information, we can support the Minister universally on this, hopefully, but we will do it when we have the information and not before. That is not what we are here for.

5.4.6 Senator S.C. Ferguson:

Yes, I did sit on the panel and we had a lot of fairly active arguments about this, because, as the panel have said in their report, although not in so many words, the elephant in the room has always been that no one, and particularly the G.P.s, can see how this proposition will work. We were quite clear that the Minister must show how it will work. The second elephant in the room: the departmental representatives. According to the diagram, they will be corporate directors and not necessarily medical professionals, so they are possibly civil servants. Yes, I would like to see how it would work and I will support a reference back.

5.4.7 The Connétable of St. John:

Looking at the Health and Social Security Scrutiny Panel, they have a number of recommendations and at the end there is the overarching recommendation, one that trumps or applies to all the other recommendations: "The Minister for Health and Social Services should report back to the Assembly at the last sitting in 2017 and again the first sitting in March." This is just a recommendation. Let us put it formally: that the Minister report back to us, then we can agree it. A reference back is the only way of doing that and I would urge Members to support that.

5.4.8 Deputy L.M.C. Doublet:

I was minded to support the proposition, before I came to the Assembly this morning, but I have been listening to the debate and some of my concerns, which I had hoped would be answered during the course of the debate, have not been answered yet. I am now minded, following particularly the Deputy of St. John's speech, which was a very strong speech, to support a reference back. Others have said it and I will say it again, it is the first concern of the Scrutiny Panel that worries me the most, that the voice of children is just nowhere in this report. Now, I do understand it was lodged before some of the other things happened in the Assembly, but Ministers can make amendments to their reports and propositions at any time. When are we going to start this work? We have had this huge report, we have had discussions about how we are putting children first. I brought a proposition to this Assembly, I think a month ago, about the United Nations Convention on the Rights of the Child and that was unanimous, I think. We all agreed, yes, once again we are going to be putting children first. I cannot believe children are still not here. This is huge - what we could be passing today - it is absolutely huge and it could have a really positive impact on the lives of lots of children. I do not think it is good enough that, however capable the officers are from the department that will be speaking to children - I know, as somebody who has worked on

the frontline with children and has now come to a place where we are talking about policy and legislation, it is not easy to keep in touch with what is happening with children. We need those frontline workers and the organisations that support them, we need those people around the table. Really, what I would like to know, I want this reference back and I would like the Minister to address the question of how will the Children's Commissioner be involved in this? Will the Children's Commissioner have a seat around the table? I believe that that person is going to be appointed soon. Will they have staff? Will there be staff around the table? I want to know a bit more about how that will work and how it is going to feed into this proposition. I am going to support the reference back, because, quite frankly, there are lots of things that confuse me and there are a couple of things that make me a bit cross and I would like to see some answers about how children's voices will be heard. Lots of us are saying it over and over again, it needs to be in there.

5.4.9 Deputy R. Labey:

We are absolutely indebted to Scrutiny for their work on this. While the Minister might be correct in saying that Scrutiny and Scrutiny's adviser is broadly in agreement with the proposition, it does say in Scrutiny's report in key finding 3: "The consultation exercise undertaken to establish a new governance model generated widespread in principle agreement that the system partnership board should be established" but we are not being asked to agree this in principle, we are being asked to agree everything that is in the proposition and the report. I think it is a shame that we have to create such a structure to listen to people and we are not even sure that that is what it will do. How are the patients going to be listened to? How are the nurses, who feel bullied and harassed, going to be listened to? This is not the Minister's fault, but there is something weird about the timing here. I know this is a piece of work that will have stretched back 18 months, or 2 years, or more, but we have just hired a new chief executive officer of the States and the Chief Minister - and I applaud him for this - has said to our new chief officer: "If you want to bring your team of 4 in to rip through everything, have a look at everything before May, okay, it is going to be expensive, but it is money well spent." I absolutely agree with the Chief Minister's stance on this. I think it is a great thing. We have got - I think they are colloquially known now in the civil service - the 4 Horsemen of the Apocalypse, taking a look at all our governance structures, yet here we are bringing in, while they are doing that, a new governance model in health. It seems weird to me. We have got to use these people and exploit them.

[15:30]

I think it a good thing that we have got them here and I want to know what they think about the whole of the problems with the management of the health service as well as this. I think we are indebted to Deputy Southern for his research on this and his contributions to the last 2 debates and I am going to support him.

5.4.10 Senator A.J.H. Maclean:

I understand why Members are struggling a little bit with this, but I have to say that having listened to the Scrutiny chair's speech earlier and the comments of the Scrutiny Panel, what they are not doing is saying: "Do not do this." What they are saying is: "Let us delay. We recognise there are a few more things that need to be ironed out with it. Do not start before April, but the principle is absolutely right." What we have to remember is that in an ideal world, I think the Minister for Health and Social Services would have put in place a shadow board, but, of course, he cannot do that. One of the reasons he cannot do that is because of a decision supported by this Assembly a few years ago, I think brought by the former Deputy Le Claire, which said that all new boards need to come before this Assembly. In effect, the Minister finds himself in a chicken and egg situation, because you cannot establish a board, without approval of the Assembly; yet, to enable this project to start, you need a board in place to be able to develop the ideas that are being suggested. It is

about improving governance within Health. It is about improving decision making within Health. It is about, importantly - although I accept the point about 21 people largely are unwieldy in terms of numbers - advice to the Minister. Principally, nothing is changing, other than the Minister, whether this one, or some future Minister, will be in a position where he, or she, gets better advice in the future as a result of this structure being put in place. The important point, and it is in the proposition, is that what we are being asked to do today, is to establish, for a 3-year trial period, this particular board. It is about the only way that the Minister could have gone about doing this, because he cannot establish a board, as I have already said, due to a previous proposition by the former Deputy Le Claire, and this is the way that he can do it. I think, not wishing to put words in the mouth of the Scrutiny Panel, they recognise that. The adviser recognises that this is the right direction of travel. All the details are not here. Of course they are not; it is impossible to do that. That is why what Members are being asked to do today is to approve the establishment of a 3-year trial, so that those details can be worked up. As a result of the amendment, approved earlier on today, the very wise amendment by the Scrutiny Panel to delay until April, that allows breathing space, to get some of the concerns that they have rightly raised in place, as well, for the establishment of this board. I would urge Members to not support this reference back. Where is it going to go? After all, the Scrutiny Panel have already looked, the Scrutiny Panel have already raised their concerns, and very valid concerns. What we need to do is reject the reference back, get back to the substantive proposition and make a positive decision, because, otherwise, referencing back is going to lead to delay. With an election in May, I suspect the time will not be available in order to get this put into place before the election, so it will be pushed back further down the track. The new Minister, whoever that is, will not have the advantage of this board being established and improving the way in which we deliver our vitally important health and social services to the Island. I would urge Members to reject this reference back and get back to the substantive proposition.

Deputy J.A. Martin:

Can I ask for a point ... it might be legal information, or clarification of what the last Member said. He said that this Minister did not have an option to bring something, because of something Deputy Le Claire brought. Deputy Le Claire has been gone since 2011 and I thought anything that happened in his time is not carried forward. It has happened to me before, so I would just like a point of clarification: is what the Minister for Treasury and Resources just told us correct?

The Deputy Bailiff:

That is a proper point of clarification. Can you explain what you meant by the remarks in relation to the former Deputy Le Claire?

Senator A.J.H. Maclean:

It was a decision of this Assembly that the establishment of any board would have to come before this Assembly for approval. We have had a situation, recently, with another board that was in a similar position. This is exactly the same example. It is a chicken and egg situation, I am afraid, and I suspect the reason and the wording, which is very clear in this proposition, is about establishing a trial. The other important point, just in terms of that clarification, is around the funding. The funding is from the existing budget of Health and Social Services for the trial period. If that trial is not a success, there is going to be no funding for it to continue into the future.

5.4.11 The Deputy of St. Ouen:

It seems to me that were this the reorganisation of a government department, then, yes, we would require to see and we would expect to see the very specific organisational set-up that Members are asking for, but the difficulty here is that government is not the only player. It involves the voluntary sector, it involves professionals in private practice, it involves members of the public,

who have yet to be identified. It is chicken and egg, is it not? How far can we expect people, working in the voluntary sector, members of the public, to come on board, to be recruited, to understand their roles, to receive training and the like with the risk that it might all come back to this House and this House will say: "No, I do not think we wish to do it that way." There is that restriction on how far the Minister can, perhaps, go at this stage. Perhaps it is true, the Minister need not have come to the Assembly with these proposals, but he does wish to appoint an independent chair and 2 non-executives to this board. Can that appointment take place, if the States have not given an authority to even set up the board? They are critical people, because they will provide the independent voice, they will provide the independent support to the 3 sectors that are not the departmental officers. If the House were to approve the setting up of the board, they would be appointed and start inputting into the sort of issues that we want to see resolved, how these boards would work, their terms of reference. They would work on a memorandum of understanding and the like. Rightly so, because we want the chairman of that board to be a strong person, independent of the Minister. The Minister is saying he does not want to be in a position that he dictates, he lands everything on a plate for that chair and those non-execs, simply to say: "This is it. This is the fixed job description and there is nothing I can contribute to bring my own thoughts as to how this board may innovate and work." There is that tension and we, as a Scrutiny Panel, did see that and we have highlighted the issues that still need to be resolved, but we had tried to build in a mechanism of the delay until April and ensuring that the Minister would still account, in some way, for what he is doing and to allow time for further debate if any of us saw that, in the coming months, this was not proceeding as we would have hoped. It may be that Members feel that our suggestions were not an adequate safeguard and that is for the decision being taken now, but we have tried to build in that mechanism, because we heard from the voluntary sector representatives, we heard from G.P.s that they are keen to move forward in this. They want to contribute and it is vital they start contributing, otherwise there is going to be dejection among them and a difficulty, I suppose, in taking up the cudgels, once again, to try to achieve the change that is so very necessary. This proposition is really seeking a direction for something, for what is, after all, a trial period. It does not remove the powers and the responsibilities of the Minister and he still has accountability to this Assembly, but it is seeking a direction to establish a new advisory board, with work still to be done. I cannot support a reference back. I would prefer, for the sake of the work that needs to be done in governance, that we move ahead now. I hope the Minister will be in a position to respond to our recommendations. The difficulty is, I suppose, we have issued a report. There has not been time for him to formally respond, but I hope he might be able to indicate that he could respond favourably to the issues of reporting back to the Assembly. I cannot give support at this stage to a reference back.

The Deputy of St. John:

Sorry, can I seek a point of order about the proposition, which was referred to by Senator Maclean, with regards to the proposition by Deputy Le Claire and whether it would be worth having a ruling from the Chair in terms of how that was applied in terms of the decision that was made?

The Deputy Bailiff:

My understanding is that there was a decision from a previous Assembly that matters of this nature must be referred to the Assembly, before any decision is to be taken and that this has been applied, universally, since that time, because there has been no resolution of the Assembly in any opposite sense. It would, obviously, be open to the Assembly to depart from that at any point, by making a decision to do so, but until it does the previous decision of the Assembly stands, it seems to me.

The Deputy of St. John:

Would it be possible to get clarification of the actual proposition that Senator Maclean referred to because, if I remember, if it is the shadow boards that was with regards to advisory boards before putting them into incorporation?

The Deputy Bailiff:

I am advised that it is P.170/2010, but the extent that it has been taken into account is not something that has been taken into account, centrally, by the States Greffe in connection with this. It is clearly something that has been taken into account by those who have brought the proposition in this way.

Deputy S.M. Wickenden:

Sir, can I just ask a point of clarification from the previous speaker? He said that, as amended, that this will go to April 2018, so that all the detail could be sorted out that the Scrutiny Panel is concerned about. Could he just confirm that, if all that detail does not come back, this would stop it from going forward?

The Deputy Bailiff:

I think that is a construction of the proposition itself and the proposition is that this comes into existence. It is deferred until April 2018, but it still comes into existence, unless a different mechanism is put in place. If you wanted to add more to that, Deputy of St. Ouen, then you are more than entitled to do so. In which case, moving on, Deputy Andrew Lewis.

5.4.12 Deputy A.D. Lewis:

I am very pleased to go after the chairman of the Scrutiny Panel, because if it is good enough for the Scrutiny Panel not to refer it back, it is good enough for me, because that is, perhaps, where it would go. In this Assembly we are rather good at delaying things and this seems like another one of those occasions. I went, yesterday, to the presentation at the hospital from the team that has put this together. It was a very good, informative presentation; the only disappointing thing was there were not very many Members there. One could argue that, perhaps, it could have been done a little sooner, so that if people wanted to make amendments then they could have done so; that has not been offered to them. But, on the other hand, the proposition has been lodged for some time, so there has been opportunity. But, these presentations are very good. The officers concerned are sitting outside at the moment. If anybody has got questions for them they are there, that is why they are here. They have put an awful lot of work into this; many, many months of work. They have anticipated some of these issues and they do see this as an evolving situation. As the Member said, unless we get on and do things like this, there are a lot of things that do not happen. There is not an opportunity, on this occasion, to have a shadow board, as has happened on other occasions. This, effectively, will be operating for 3 years, probably, a little bit like a shadow board. They are not making it up as they go along; there is clearly a blueprint to follow, but it might not be perfect, in fact I am sure it is not. I am comfortable with the idea of having such a big board and that is, maybe, one of the recommendations of the chairman, if it is appointed, but it cannot be appointed unless we do this today. It is chicken and egg and I think it is very important that we go ahead and do this today. In fact, one of the key findings in the Scrutiny report says: "Clearly, there is widespread support among stakeholders for a change to the current governance of health and social care." That means: get on with it. The health professionals, those other interested parties, the third sector organisations, they all want to get on with this and they know it is not perfect.

[15:45]

It is new and it will evolve and change. To delay it, I think, would be a really sad day, a very difficult day for those officers that worked so hard on this and all those health professionals that are broadly engaged with this process. They will probably think, what are the States Assembly doing?

Yet again delaying something when we are all kind of ready and up for this and we want to develop it ourselves, independent of the States, with their support? I think we should be supporting that today and not delaying it. It is about giving advice to the Minister and one of those pieces of advices may well be to have a smaller board. But, again, we cannot do that, unless we form the board post-haste. Delaying it, I do not believe, is an option. We really should get on with it and I would urge Members to vote against the reference back.

5.4.13 Deputy J.A. Martin:

It is good to follow on from the last speaker because, again, he has just made up a completely different proposition. It might not be 21, if we get this person and that is because there is nothing in here. To the Deputy of St. Ouen: absolutely, Scrutiny has had a very valuable input in this, except the Scrutiny report is much, much more informative and bigger than this here and this has been lodged since June. They did not take it back themselves and put some of the problems in here and then where are the amendments? What do you amend in that paragraph? We are now being told we are holding it up. Is it true what Senator Maclean says: you cannot have a board now, because something happened in 2010? I think that is very doubtful, but this is, apparently, why we are where we are. This comes back to - when Scrutiny has done such a good job and they have brought up some very, very fundamental issues - why did not the Minister take this away for a few weeks? He has got plenty of time to bring this back. He has accepted the delayed date and incorporated some of the great works and findings that Scrutiny has done. No, this is about respect for the rest of us, who do read the reports, who do sit by Scrutiny and who say: "You are doing a good job." No, you come here and you have asked for a reference back and how dare you delay? No. Still, is Senator Maclean's idea that this could have been a shadow? If you had come to us and said we have been trying this for a couple of years and we might need to do different things, you have all the people in play, but there are so many things that are not in here. Again, the other alarm bell that rung out with me today was after I spoke about the money, the Deputy of St. Ouen spoke about they need to pay the money, or they need to have a very strong chairman, who will be able to herd 21 members. I use that word wrong, but it is to me like herding sheep when you have 21 people. Think of a 21-husting senatorial, or just do not think of it. **[Laughter]** People are talking and what the problem is, 2011 it was mooted, there was a Green Paper in 2012, was P.82/2012, no wonder the public, the G.P.s and, as I say, I was there with the Deputy of Trinity when she was Minister, they are desperate for anything. Is that good enough for us today to say, yes, well, is that the chicken, or is that the egg? This is the chicken and I think what this is is what the Minister for Health and Social Services laid the egg. I am sorry, it is really, really not for us to be passing legislation that the next person is going to stand up and say: "Well, it might not be 21, let us pick ... what is a good figure? Well 6, someone with 7, the Minister himself likes 9." Yes, let us keep on going. I say this again, I absolutely think the report from Scrutiny, it has got so much more information, it has got probing questions, it seemed to have given the Minister answers and even their adviser; that is not what we are passing. We have not even had the decency for the 6-week responses. This is not a dig at Scrutiny. It is not even really a dig at the Minister, but it is to say ... I am still confused why we are doing this today, because I am sure they could have carried on and done a board. But if they say they cannot, I wanted some of the work that has been carried out by the Scrutiny Panel, since June - many, many months - incorporated and we do not have that. I am left with no other choice but to reference it back, at least it can come back, other than that I am going to vote against it, sorry.

5.4.14 The Connétable of St. Peter:

I am going to go back to, I think, P.82/2012 when the previous Minister, the Deputy of Trinity, was involved. P.82/2012 was defining a new way of delivering health care and avoiding extensive costs in developing a new hospital project. At that time even the Minister then had a small group of

people, who advised her on the strategies to go forward. What we are doing here today, we are asking Members to consider to having a trial; this is all that it is. It is a trial, that has already got funding in place, to see if we can enhance the work that delivers better products for the people of Jersey by having a board of experts, a board made up of clinical experts from all the different health streams out there in Jersey today; from primary care and in secondary care, nursing homes, all the other groups, Family Nursing and Home Care, all of those groups coming together to ensure that we deliver the best and most economic services for the benefit of the people of Jersey. This is not about putting a board in place for evermore and this is not about Deputy Le Claire's proposition in 2010 saying you cannot have a board; that is a decision of this House. If we want to change that, we have to bring another proposition to change that back to say: "Yes, you can have a board, without having to come back to this House." If we want to do that, it is a separate proposition altogether; that is not in our brief for today. What our brief is today, is to say to all the people who have contributed to the strategy going forward, they have put a significant amount of time in and have put their trust in the Members of this Chamber to make the right decisions. These are decisions not for Health, these are decisions for the ultimate benefit of the people of Jersey; that is what we are being asked to do. Are we prepared, with the support of Scrutiny and their advisers and we will undertake to come back to them before April next year, to answer their questions, to satisfy the Members of this House that we have a system here that has a capability of delivering what we need going forward based on P.82/2012 and the possibility of a new hospital, when we get past our debate and deliver what the public requires of us, properly informed, by all the necessary people in all their necessary disciplines? I cannot in any way support a reference back. This is just a way of putting it off. This is not a long-term decision, it is a short-term trial and a trial where we will change as we go through it. We will learn from our mistakes as we go through it and we will deliver the outcome of those trials back to this Chamber pre-April, the implementation of the full strategy.

Deputy J.A.N. Le Fondré of St. Lawrence:

Sir, can I ask a point of clarification?

The Deputy Bailiff:

From you first, Deputy Le Fondré, is this a point of clarification from the previous speaker, yes?

Deputy J.A.N. Le Fondré:

I think so, Sir. I think it is probably 3 points. Number one is, could the last speaker just clarify what happens at the end of the 3-year trial period? Does it have to come back to this Assembly for ... in other words, if the then Minister for Health and Social Services decides to roll this forward, does it have to come back to the Assembly at the end of the 3 years? The second point is, has there been any consultation of either Public Accounts Committee or P.P.C.? There is a reason for that, because that is the second part of either Deputy, or Senator, Le Claire's proposition. The third clarification is, in the event, between now and April 2018, in working with the Scrutiny Health Panel, I will do the short type, I am afraid, if that panel identifies issues, in other words, how they are being resolved, if the panel still has serious concerns, will the Assistant Minister and will the department be open to those concerns being brought back, in some form of debate, to this Assembly?

The Deputy Bailiff:

I think there is all of just one point of clarification there, Connétable.

The Connétable of St. Peter:

I think the answer for the Deputy, it all comes down to one answer and it is core funding. At the end of 3 years there will be no funding ascribed to this trial model. Therefore, if this model wants

to be put into place long-term, it is going to have to come back through a request from Health to the Minister for Treasury and Resources to provide the funding for going forward. It is in the proposition for £150,000 *per annum* for a 3-year period and there is no funding identified to go forward from that. At the moment, with regard to P.A.C. (Public Accounts Committee), it is at the trial point. It has not gone for P.A.C. for approval at all so far; that will be a matter, if and when, post-3 years if it becomes a formalised board, then is the time for it to come back for that scrutiny.

Deputy J.A.N. Le Fondré:

There was a final point, which was if the present Health Scrutiny Panel raises issues during this kind of intervening period to April 2018, how can they be addressed?

The Connétable of St. Peter:

I have just had a quick nod from the Minister for Health and Social Services concurring with my thoughts that it would come back to this Assembly, to be debated with the Scrutiny Panel's approval.

The Deputy Bailiff:

Were you seeking a point of clarification, Connétable?

The Connétable of St. John:

Yes, Sir. The Assistant Minister said that when the Minister was formulating P.82/2012 that she had a small board advising her, could he confirm it was a small board?

The Connétable of St. Peter:

I can confirm there was a group of people, who had advised her. It was called the, I think, Ministerial Advisory Panel. It was not a board and so apologies for misleading the Assembly. It was not a board, it was the Ministerial Advisory Panel.

The Deputy Bailiff:

Very well, does anyone else want to speak on the matter of a reference back? Deputy Brée.

5.4.15 Deputy S.M. Brée:

It is interesting listening to the arguments as to why we should not reference back. Both the Minister for Health and Social Services and the Minister for Treasury and Resources have used the chicken and egg argument. I think what we are asking you is to put some meat on the bones. It is entirely possible to give more detail in the construction of the board, how things work, without forming it. What we are looking for is a more detailed framework; you do not have to form the board in order to do that. The Minister for Health and Social Services also raised the point to do with a memorandum of understanding. I feel it very important that Members understand: the memorandum of understanding is the single most important document that exists between the department and the board as to how things will operate. The Minister for Health and Social Services, to paraphrase, said that we could not even start working on one before the chief executive to the board was appointed. That raises the question in my mind: is this a case of the tail wagging the dog, i.e. is the Minister waiting for the chief executive to tell him what the chief executive wants in the memorandum of understanding? If that is the case, then that is seriously concerning. We should be able to draw up a draft memorandum of understanding which is the States, the department, laying out how this relationship will work; that is not difficult. Yet, we are told we cannot have one, because the chief executive has not yet been appointed. I also wish that I had at least some of the childlike optimism of Deputy McLinton, but I do not. While his sentiments and the way he expresses his optimism is extremely laudable, it is also extremely naïve. The point of the reference back is not saying, and nobody is arguing, do not do this. Nobody is saying this is not

a good concept. We are all aware of the failings in our health service and what needs to be done to correct it, but we will only support this when we are given more information. We are, I would suggest, as an Assembly, looking for proper responses to the very, very good Scrutiny report. We have seen none. None of the areas have been addressed. Why not? This is what I think the whole argument is about, because if we approve this proposition today, based on the information that we have today, this is what we will be getting. This is the governance model that will be put in place. All this Assembly is asking, quite rightly so, is to give us more information, answer our questions, respond to the concerns in the Scrutiny report and if you do so to our satisfaction, as an Assembly, we will support you in this, but without that we cannot.

[16:00]

Therefore, I would urge Members to support the reference back on the basis that we all know that we need this. We all need to know how it is going to work.

5.4.16 Deputy S.M. Wickenden:

Throughout this debate and the reference back I have been wondering: why would you bring a proposition to this Assembly, if it did not need to? We have heard about P.170/2010, but if you read through the proposition it does not really fit. That proposition was to request the Minister for Economic Development to bring to the States, for approval, the proposal announced by the Minister on 3rd November 2010 for the information of a shadow board to oversee all aspects of harbours and airport. We can say that is fine, but let us take that in the broader sense, because there is a remunerated body and a board, which is part (b), that is: “To agree that no such similar body shall be established by Ministers to the proposal, to establish the body has been agreed by the States in all cases where payment of remuneration is to be made to members of the body concerned and where members are to be permitted access to information of financially sensitive data, held by this department where the body is to be established, with a view to shaping government policy, or informing the delivery of change.” Fine, so agreed. Then there is another bit that says: “Ministers should, before finalising any proposals to establish bodies of this nature, consult the Public Accounts Committee and Privileges and Procedures Committee and the relevant Scrutiny Panel.” Which it has on the last part: “To ensure appropriate oversight of the proposal.” Which I think where Deputy Le Fondré’s question was: has P.A.C. and P.P.C. been made aware of this as well? In the same light, that if you are going to follow one part of the proposition, you should follow all parts of the proposition, surely. But, again, why do you bring a proposition to the Assembly that you did not need to? The funding is within current funding levels, you can set up the board. Is it because you want the wide and varied views from the elected Members of this Assembly on the proposal? Because, surely, that is the only reason you would bring it to this Assembly, if you did not need to. This is where I come to the reference back, this is where we are getting a very strong sense in this Assembly that people are worried that the concerns of the Scrutiny Panel, they want to hear the outcomes, or the answers to. I would probably accept the reference back, rather than fell the proposition, though it does look like even if the proposition was felled it does not stop it from being able to happen. I would say the reference back is for the Minister to come back on that basis. What I have heard from the Assembly is that everyone is concerned about what the Scrutiny Panel’s concerns are and they want to know a little bit more as well, which is clearly why you have brought this proposition to the Assembly - the Minister has - because he wants to hear the views of the Assembly. I think it has been quite clear, I think the reference back should be accepted on this basis, because to not accept the reference back feels like the Minister will lose his proposition.

5.4.17 Senator I.J. Gorst:

I was particularly pleased to follow, once again, Deputy Brée. He said we are all aware of the failings in the health service and we are all aware of why a new governance model is required. I

may not have phrased it entirely like that myself, but I think it bears focusing on for a moment, or 2, because from the tenor and tone and direction of this debate, I think we could be forgiven for having forgotten those facts. I know that other Ministers for Health and Social Services have stood in this place and been challenged about the operation of their department - I hope that officials in Health are not listening, but I know it is being referred to, about the black hole that the Health Department is - how do we know where they are spending their money? We give them millions and millions of pounds more every year, but what are they doing with it? Interpreted is we do not trust the governance model that they have over the work that they are doing on behalf of Islanders. As I said, I may not use quite that vocabulary, but the reality is that there is a need to rebuild, to a large extent, the trust between this Assembly, between the community and between the department that is Health and Social Services. There is a disconnect between the healthcare provision, that the vast majority of Islanders experience when they go through that hospital door and they come out and say: "Chief Minister, I was in hospital recently" - and I know they say this to other Members as well - "the care I received was second to none." **[Approbation]** Particularly those who might be recent arrivals and they compare the experience that they have had elsewhere with the experience that they have here. They say: "We know lots of people complain to you, Chief Minister, but let me just tell you this, what happens in that hospital is good." Of course, that sometimes then leads on to a conversation about why we need a new hospital, but that is a whole other debate that we shall be having later this year. But, the increasing cost of healthcare, the way that we allocate those funds, where we provide the service, in the best interests of Islanders, is changing and it needs to change. On a number of occasions I have had what can only be described as quite difficult meetings with healthcare providers and community groups, who are not in the hospital, feeling that they are not being listened to, they do not have enough resource applied to them and they are not involved in the decision making around health for our community and in its best interest into the future. The previous Minister for Health and Social Services set on a road to improve that and it was difficult. Doctors, pharmacists, dentists, other community groups, who are involved in providing health care in our community, need to be involved more. Their voices need to be heard. They need to be more directly involved in resource allocation and how the service is provided. We can no longer have a hospital-focused, hospital-directed, hospital-decided health service in our community. We do need a new hospital, because the other one, if we are honest, is falling around our ears but, as I say, we will come to that. Some Members in that debate I know will say: "You have to sort out the provision of health care before you have a new hospital." This is what the Minister is trying to start to deliver. We have the hospital strategy, we have the hospital building, we have the governance model, we have the primary care strategy, all working together to transform the way that health care is delivered in our community. Deputy Brée was right: there is a need to change. There is a need to reconnect and to rebuild that trust. I think Scrutiny accepted that and broadly welcomed the work that the Minister and his department and those third parties have undertaken in bringing forward this particular governance model. But are there questions unanswered? Yes, there are. As the chairman of the Scrutiny Panel so eloquently said: those questions cannot, at this point, be answered, because those conversations with the individuals, the community groups, who need to sit in this governance structure, who need to be involved in decision making, have not been formally asked and we do not yet benefit, fully, from their experience about how it should work in practice. I think that the Scrutiny Panel have raised some very good questions, areas that they wish to seek further information on, that is right. This is a model of the Minister and Scrutiny working well together. I think that some Members have asked for a reference back, because they would like those questions to be answered now, before the governance model is put in place. I understand that, of course I do. We are in this Assembly to hold Ministers to account, to make the very best possible decisions that we can with the information in front of us. Sometimes, we would always like a little bit more, sometimes we think we have sufficient. But, I go back to the point that the chairman made: he will hold the Minister to account.

The Minister is committed to working with Scrutiny and answering those questions in real time. It has to be in real time. We cannot just give theoretical answers to some of those questions at this point in time, because practice might mean conversations, advice from these people, who need to now be at the heart of future decision making, might change the answers to those questions. It very much has to be, I think, in real time. Is the size of the board too big, as it is currently proposed? I think we could easily reach that conclusion, 21 individuals, not always easy to manage 11, so I am not sure what it will be like for 21. But to simply say it will not work, because there are 21 people there, again, is not right. To simply say it is going to have to meet for 4 hours at a sitting and then only be able to discuss 3 points in those 4 hours is not correct either; that is not how boards operate and I think the person who made that point knows that is not how boards operate. One contribution, that I thought was helpful, was a contribution that suggested they were not quite sure why the Minister brought the proposal in the first place and why was he not just getting on with it and doing his work and then bringing it back after a number of months, or years? Why bother, let us just get on with it? I understand entirely, I understand entirely that point of view and that thought pattern, because it has been so many years that we have been trying to resolve some of these governance issues, so I understand entirely why that point was made. I think, had the Minister been able to speak again, his defence would have been simply, as the Minister for Treasury and Resources suggested, he endeavoured, rightly, or wrongly, to follow the spirit of the proposal about bringing boards to this Assembly for an in-principle decision. We might now think that he was a bit premature and did not need to do that. But I am looking across to another Minister where he fell foul of exactly this provision and was making really good progress on transforming a particular section of his department and then, suddenly, at the last minute found that he had to come to the States and get approval in the States and that delayed things even further. Members need to decide whether he should just have got on with it, or not, or whether, in mitigation, he was endeavouring to meet the spirit of bringing this new governance model to the Assembly; that is for Members to decide. It is appealing to reference it back, to try and have all the answers to all of the questions, I understand that. But, for my part I would ask that Members do not today reference it back, but approve the model.

[16:15]

I know that the Minister gives a commitment that he will work with Scrutiny and answer their questions to their satisfaction in advance of commencing the model, which has now, helpfully, because of the Scrutiny's amendment, set a date into the future, so a date that we can all work towards. Perhaps, if there are any more similar proposals like this, between now and May, hopefully we will learn our lesson, speak to Members slightly more informally, like this has had a proper Scrutiny review, so that we can, perhaps, just get on with things a little quicker than we sometimes do. Let us not lose sight of the fact that a new government arrangement is absolutely necessary. It may not be perfect. It seems reasonable. It gets all of the parties around the table involved in decision making, to improve health outcomes for all Islanders and, therefore, I ask that Members do not support the reference back this afternoon.

Deputy R. Labey:

Could I ask for a point of clarification from the last speaker? Would he appreciate and understand that Members are not trying to be difficult, or a nuisance here. Members, in many cases, are ...

The Deputy Bailiff:

What is the point of clarification? That is a point in response to something that the Chief Minister has said. You can ask, what did he mean when he said this? That would be a point of clarification.

[Laughter]

Deputy R. Labey:

What does the Chief Minister mean when he talks of robust government, when Members are trying to respond to the Care Inquiry he fought so hard for to put children at the centre of this legislation?

Senator I.J. Gorst:

I hope Members do not feel that I have been critical of them. I have said I have understood why they have been making the points that they have been making. I have simply made the counter points and I have no doubt whatsoever. I felt that Deputy Doublet, her intervention, was extremely pertinent. Here is a piece of work, that has been ongoing before the inquiry was published and post-inquiry there appears to be a glaring omission about how we are going to involve the voice of the child. I have no doubt, whatsoever, that the Minister has taken that on board, as has the Scrutiny Panel, and will involve the voice of the child much more at the heart of some of these decisions; she is absolutely right. But, for my part, it does not mean to say we need to reference it back, it just means that when they come to implement it and answer Scrutiny's questions, the voice of the child needs to be right there front and centre.

The Deputy Bailiff:

Does any other Member wish to speak on the question to reference back? I call on Deputy Southern to respond.

5.4.18 Deputy G.P. Southern:

I would like to get down to the basics of this particular reference back. I appreciate what the Chief Minister had to say and he said that it is in the hands ... the Minister has promised that he will co-operate with Scrutiny and it is in the power of the Scrutiny board to hold them to account. I have been 10 years-plus in Scrutiny and I know where the balance of power lies between Scrutiny and Ministers. I know that, try as we may in Scrutiny to hold the Minister to account, that the Minister will give the answer the Minister gives, as we so often hear from the Chair. While in Scrutiny we have the opportunity to immediately follow up and press, we have no control and no power over what the Minister does; that is entirely appropriate. The power and the control lies with this Assembly. In this particular case, a reference back, because this Assembly is not satisfied with the answers that you have given so far and the lack of detail in the proposition and that is a perfectly justifiable position to hold. The Chief Minister also said and this is a wonderful stretching, I think, of the truth - I think I am allowed to say that - that the Scrutiny Panel broadly accepted what was presented to it. Broad acceptance does not include 25 critical key statements and 6 issues that it says have not been resolved and it wants answers on. The Chief Minister also introduced and took the opportunity to praise the service in our hospitals and our staff going the extra mile, to make sure that even in today's conditions and with the hospital that we have that we are producing excellent service for people who fall ill. Nobody is denying that. But, the issue today is: if Members feel confident that they can get this 6, 7 points answered by just letting this through, with an April date on it, come back with it, in general terms, by April, with something more concrete there, fine, then vote against the reference back and vote for the proposition. If you put your hand on your heart and say: "I am confident that I will know how the voice of children will be heard in the proposed model" then vote for it. If you cannot, then vote for the reference back, because the reference back says: "This is one of the issues. You must come back to us on ..." whether that is April, whether that is January, whether that is July, it does not matter, but: "Come back to us with the detail." So, if you want to hear the voice of children and make sure you know it is how to be included, then vote for the reference back. If you want to know how the public patient group are to be established, so that patients get an input, then vote for the reference back. If you want to know how representatives from the fora will be selected and how they will be vetted, because that is not clear, then vote for the reference back. If you want to see further discussion and justification for 21 board members, 9 of whom are representatives of the Health and Social Services

Department, then vote for the reference back. If you want to guarantee that you will have more information on how the voluntary and community sector forum and public patient group are to be trained and resourced and whether they are to be paid, or not, for example, then vote for the reference back. That is the way of guaranteeing some answers. On my seventh point, which again has not been discussed today in any great detail, but I just point out these last 3 issues that if you want answers on that then please vote for the reference back. It concerns the accountable care organisation and its likelihood. So, question 22: “What independent quality assurance processes have been considered for the proposed governance model?” The answer comes back: “The board will be informed by good practice from other jurisdictions that utilise similar approaches.” Now, the 8 boards that have been set up around the U.K., since June, are all using an A.C.O. model. If best practice there says “go for an A.C.O.” then that is what we will get. Question 23: “What performance measures and evaluation will be used to help determine the effectiveness and outputs of the System Partnership Board? Has an early warning toolkit been considered?” The answer comes: “Detail will be developed after the States debate [I made that point before] with under-guidance from relevant States officers” and, again, drawing on good practice from other jurisdictions. Again, if that is what is going on in the U.K. then that is what we are going to borrow. We are authorising that now. Finally, we mentioned in the debate - and I thank everybody for their part in this; it has been a serious debate and a heavyweight debate - the proposed strategic governance model pertains to strategic matters only. The Minister for Health and Social Services was complaining, earlier today, that he did not have an independent body for complaints, whether internally, in the service, or externally. Any concerns regarding operational matters, including patient comments and complaints, will remain unchanged and will be directed through the relevant organisation’s complaints processes, which the Minister says are not satisfactory. So, that input from people who work in health, or who receive health services, this does not open that door at all; will not be dealing with operational matters. That is still to be solved. I do not think this can solve it, because we have members of the public and patients on board, it will not. I urge Members, if they have doubts about what they might get back, vote for the reference back, because we will answer at least those 7 points.

The Deputy Bailiff:

Do you have a question, or a point of clarification?

Senator A.K.F. Green:

Yes, Sir, I have a question, or point of clarification for the Member: when he says that I said the complaints system of the Health Department was not satisfactory, what I said was “it is under review”.

The Deputy Bailiff:

It is a point of clarification of your own earlier speech. Very well. The vote is on the question of the reference back. The *appel* is called for. The reference back is to seek the information set out in paragraphs 1 to 6 of the report of the Scrutiny Panel, together with the further matter relating to the accountable care organisation. I ask the Greffier to open the voting.

POUR: 24		CONTRE: 24		ABSTAIN: 0
Senator S.C. Ferguson		Senator P.F. Routier		
Connétable of St. Helier		Senator P.F.C. Ozouf		
Connétable of St. Lawrence		Senator A.J.H. Maclean		
Connétable of St. Mary		Senator I.J. Gorst		
Connétable of St. Saviour		Senator L.J. Farnham		
Connétable of Grouville		Senator P.M. Bailhache		
Connétable of St. John		Senator A.K.F. Green		

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

5.5 Health and Social Care System: a new governance model (P.60/2017) - as amended - resumed

The Deputy Bailiff:

Very well. Then we resume the debate. Deputy Southern, you presumably finished your speech when you moved the reference back on the main debate. **[Laughter]** This is not an invitation to continue, you understand. It is just clarifying your position.

5.5.1 Deputy G.P. Southern:

Okay. I would like to thank Members, at this stage, for not giving a resounding endorsement of the Minister's proposals on the grounds that exactly half of us, 50 per cent of us, consider that there is not sufficient detail in here and that whole series of questions, not just the 1 to 7 we posed specifically on reference back, but there are a number of questions, which are also critical, about issues coming forward that must, must, be in anything that is brought back in April. Otherwise, we will have a serious debate and we will be looking possibly for amendments and/or 51 per cent of the Chamber voting against.

[16:30]

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

I was not going to speak in the debate, but as the debate progressed this morning and this afternoon I started making some notes. A lot has been said since I pushed the button to speak and we have had the reference back from Deputy Southern. I think it has been an unexpected debate so far. I did not expect this today. I thought this was going to go through quite easily, when I read the papers. I think it has been a very important debate. I think everyone who has spoken today, either for, or against, has spoken really well. I hope the public listening have realised how important and how well researched this debate has gone through. I hope I do not lower it for the few moments I am going to speak. I will not speak for very long. I am one who hates to have committees, or panels, or forums for the sake of it. I am not sure if the Constable of St. Peter and Senator Maclean were looking over my shoulder, but the point I made on my earlier notes is: it is a trial period, it is a 3-year trial, it is a pilot. The proposition quite clearly states a 3-year trial period, no more than that. I am a little bit concerned at the £450,000. It will not be wasted. It is not wasted money, it is over the 3 years and it comes out of the Health and Social Services budget. I am concerned about that,

but I think it will be worth every penny. The comfort I get from a trial period is that after the 3 years, they can come back to the Minister and come back to this Assembly and say: "There are too many members, it is too large, it does not work, we could have had representation from different people on the board." Or "It works in the format that we have and we would like to include something else." Or "It is top-heavy." What I find very difficult, and I say it will be a very short speech, is imposing the conditions, or having more information as to how the board would operate and for us to do it. I would really like to ask that Members now, having listened to the debate throughout, support the Minister on this one. As a Constable, I listen to the parishioners and we bring things to Parish Assemblies. A couple of things I was thinking during the day. We did it for the Village Planning Committee. The Deputy of St. Martin was well involved with that at the time. We formed a committee and we had 28 members. It was far too many and we could not make it work, as hard as we tried. Then I looked at another example we had in the Parish. I went to the parishioners, when the former St. Martin's School was returned to us, and we formed an oversight committee of independent members to advise me, to tell me where I might be going wrong, to give advice. We let them get on with it. We did not ask the parishioners to set all the rules for them, before they stated working on this oversight group and say: "This is what you have to do and how you are going to come back and tell us everything." I know this is a far greater thing that we are talking about today, a much wider scope, but I would just say: those are 2 examples. This is not permanent. This is a 3-year trial and I will just say to Members, please support the Minister on this one. Thank you.

The Deputy Bailiff:

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

5.5.3 Senator A.K.F. Green:

I am really pleased to follow the Constable of St. Martin because I agree with him. It has been a fascinating debate and a good debate. I was not sure, when I came today, whether this would go through easily, or whether there would be some appropriate challenge. The debate we have had has been absolutely appropriate. The difficulty I had and I have heard Members say that I did not need to bring this to the States. The difficulty I had and the advice that I had was if I wanted to set up this trial board I had to bring it to the States. One of the challenges around that, I think the Scrutiny Panel picked that up very carefully and appropriately, is that I could not set up the patient forum and the other groups, until I had the green light from this Assembly to have that board. I do take on board one message, very clearly. I take all the messages on board and I will work with Scrutiny to ensure that we have a governance board that works and that Scrutiny is happy with. I hope that the Members will forgive me for this, but I lodged this in July. It has been a very busy period. Maybe I should have amended it, but I absolutely have to ensure that there is good representation for children. I accept that. I take that on board and I will work with the Scrutiny Panel, to ensure that we have that in place. I also take on board the recommendation ... I cannot go through every single one, but broadly speaking, I accept the recommendations of the panel, the one around the size of the board is something that needs to be looked at. It is something that I would want to discuss with the new chairman, once they are appointed. Now, if you give me the green light, I can go ahead and get that person in place and start that work. I also give an absolute commitment to accept the recommendation of not only working with the Scrutiny Panel, but reporting back twice with the Assembly, to give a progress report. Dr. Hughes, the panel's adviser, understood what we were trying to achieve, understood that the governance within Health needed to change, and understood that we were working with our partners. He understood that we want to move from doing things to the community, doing things to the primary care providers, which has a whole host of private businesses: G.P.s, dentists, pharmacists, doing things with them for the benefit of the community; moving away from doing things to them to doing things with them. I give an absolutely

commitment to report back, as I have said, the recommendation from the Scrutiny Panel, and an absolutely commitment to work on the detail and reporting to the Scrutiny Panel in between those reporting dates. I do apologise, but clearly get the message that the voice of the child has to have a greater place here. That does not mean, necessarily, increasing the size of the board, but it might be, for example, making sure that N.S.P.C.C. is one of those representatives from the voluntary organisations. Please do not hold me to that one, but that is the sort of thing that we may be able to do. I make the proposition and I ask Members to support it and allow us to go ahead and support our community with a new governance to provide a modern health service going forward.

The Connétable of St. John:

Sir, on a point of order, could I have clarification on P.170/2010? As I understand it, setting up of a board requires consultation with P.A.C. first and P.P.C. and there has not been ...

The Deputy Bailiff:

I am afraid I do not have that in front of me precisely what the States resolved and I cannot provide that point of clarification. My understanding is that any setting up of a shadow-type board must come to the Assembly and there must be prior consultation with P.A.C.

The Connétable of St. John:

Because there has been no consultation with P.A.C.

The Deputy Bailiff:

Very well. I think the position is that the States resolved that formation of shadow boards, or anything of the like, should return to this Assembly first and that for the establishment of such bodies there should be prior consultation with P.A.C., particularly where those bodies ... I am paraphrasing, but most of you will understand, is established with a view to shaping government policy and reforming the delivery of change. That appears to be what the States, on a previous occasion, resolved. That clearly has informed, in general, the way such propositions have been brought after that time.

The Connétable of St. John:

Sir, how do we stand on this today, because P.A.C. has not been consulted?

Connétable J. Gallichan of St. Mary:

Sir, does it not apply to remunerated boards specifically?

The Deputy Bailiff:

It does specifically mention remunerated boards. In my view, it is open to the Assembly to vote on this proposition.

Deputy M. Tadier:

Sir, is it too late to ask the Attorney General for the interpretation of the proposition and whether it binds the Assembly?

The Deputy Bailiff:

No, I think the position is that it is not too late to ask the Attorney General; as at any time the Attorney General may be asked a question.

Senator P.F.C. Ozouf:

While the Attorney General is considering advice, may I just make the observation that consultation with P.A.C., this matter has been laid before the Assembly for some weeks. If P.A.C. wanted to

have a view then, surely, they could have made it. They obviously know the rules, because they are the ones that have made them.

The Deputy Bailiff:

Senator, the debate has closed, the *appel* has been called for; at the last moment a point of order has been raised, which has called for a view from the Attorney General, I think we should hear that view and then we should deal with the vote. Attorney, are you able to assist the Assembly?

Mr. R.J. MacRae, H.M. Attorney General:

I do not feel I have a full copy of P.170/2010. I have something from the States website, but it is not a full copy. I do not think I can give advice without the full text in front of me.

Deputy M. Tadier:

Sir, would it be wise to adjourn for 10 minutes, to give the Attorney General time to look that up?
[Approbation]

The Deputy Bailiff:

I think, as this has become a matter of importance to the Assembly, I am prepared to adjourn, if the Assembly wishes, for 10 minutes, particularly to ensure that the documentation I have been reading from is the accurate, up-to-date, version of the document and that it has not been amended. It seems to me it would be appropriate and that would afford the Attorney General the opportunity to read the appropriate documentation. We will come back at 4.55 p.m.

[16:43]

ADJOURNMENT

[16:54]

The Deputy Bailiff:

Yes, Mr. Attorney, we adjourned for the purposes of you considering the legal position and giving the Assembly your advice, if you are in a position to do so.

The Attorney General:

Thank you for giving us the time. I have in front of me the wording of the relevant section of P.170/2010, which related to the formation of a shadow board to oversee all aspects of the harbours and airport. At that time, the States resolved to agree, firstly, that no such similar bodies shall be established by Ministers, until the proposal to establish the body has been agreed by the States in all cases where payment of remuneration is to be made to members of the body concerned and where members are to be permitted access to information and financially sensitive data, held by that department and where the body is to be established with a view to shaping government policy, or informing delivery of change. Pausing there, there has been some discussion in the past as to whether or not “and” should be read as “or” in those 3 contexts. But, that does not matter for these purposes, as this body satisfies all 3 of those tests, because certain persons are to be paid, there is access to sensitive data and the body is established with a view to shaping government policy, or informing delivery of change. The States went on to resolve that Ministers should, before finalising any proposals to establish bodies of this nature, consult the Public Accounts Committee, the Privileges and Procedures Committee and the relevant Scrutiny Panel, to ensure appropriate oversight of the proposals. I understand that only one of those 3 committees may have been consulted before this proposition was brought.

Deputy G.P. Southern:

I just want to ask the A.G. (Attorney General) whether the statement that this should be sought, prior to the formation of the body, has relevance to this particular issue.

The Deputy Bailiff:

Do I understand your advice to be that those consultations must take place prior to a proposal being brought?

The Attorney General:

Yes, Sir. The Ministers “should” before finalising any proposals to establish bodies of this nature. Bodies of this nature include shadow boards.

Deputy G.P. Southern:

If I may, I have been around for too long, can I seek the difference between “should” and “must”, is there one?

Senator A.K.F. Green:

Sir, I might be able to assist the Assembly, because it seems, on the basis of that information, that this cannot proceed. I would like to seek the agreement of the Assembly to withdraw it at this stage and bring it back when those consultations and other work have taken place. **[Approbation]**

The Deputy Bailiff:

Very well. Does the Assembly agree that the Minister may withdraw the proposition at this stage?
Very well. Deputy?

Deputy G.P. Southern:

Withdraw the current proposal. Is the Minister prepared to consider amending that, to deal with some of the issues raised by the Scrutiny Panel?

Senator A.K.F. Green:

Of course, I will take that opportunity, Sir.

Deputy M. Tadier:

So, just for clarity, presumably there will be a relodging, will there?

The Deputy Bailiff:

Yes, if it is withdrawn, it then has to be relodged and the debate will take place all over again, although, hopefully, in rather different terms.

6. Draft Asian Infrastructure Investment Bank (Immunities and Privileges) (Jersey) Regulations 201- (P.68/2017)

The Deputy Bailiff:

The next item of Public Business is the Draft Asian Infrastructure Investment Bank (Immunities and Privileges) (Jersey) Regulations 201-, lodged by the Minister for External Relations. I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Asian Infrastructure Investment Bank (Immunities and Privileges) (Jersey) Regulations 201-. The States in pursuance of Article 12 of the Privileges and Immunities (Diplomatic, Consular, etc.) (Jersey) Law 1998 have made the following Regulations.

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

These Regulations enable the extension of the United Kingdom's ratification of the Asian Infrastructure Investment Bank's articles of agreement to Jersey. The A.I.I.B. (Asian Infrastructure Investment Bank) is a multilateral institution, established to support access to infrastructure projects across Asia, using a variety of means, loans, equity, investments and so on. The A.I.I.B. complements and co-operates with the existing multinational development banks, to address the many infrastructure projects and their needs in Asia.

[17:00]

The U.K. Government was a founding member of the A.I.I.B., in March 2015, and was the first major western economy and first member of the G7 to apply to join. It signed the articles of agreement in Beijing at the end of June 2015 and completed its ratification process at the end of the year. China, France, India, U.A.E. (United Arab Emirates) are also founding members. The 57 founder member nations contribute 100 billion dollars in capital to the bank, 30 per cent of which is provided by China. The bank commenced operations in January 2016. It is only possible for sovereign states to join the A.I.I.B., but Jersey can be included in the U.K.'s membership by having the United Kingdom's ratification extended to us. By way of precedent, Members will recall that Jersey is currently included in the U.K.'s membership of the E.B.R.D. (European Bank for Reconstruction and Development), which performs a similar function in relation to Eastern Europe. The benefits of membership are seen as these: the Asia region has considerable business potential for the Island and within the region particular opportunities are presented by the People's Republic of China, as one of the world's major economies. Becoming a member of the A.I.I.B. is a natural extension of the Government's activities in the Far East and lends support to the considerable number of business activities already being engaged with in China. A significant number of Chinese companies already use Jersey in support of their other investments in Europe. The benefits of membership should be seen in the wider context of our desire to develop broad-based commercial, political and cultural links with priority global markets, including Asia and the People's Republic of China. Jersey has developed a political relationship with China over recent years. Being in partnership, through the A.I.I.B., will have the benefit of broadening our business relations with China, to enhance existing cultural, economic and educational links. The finance industry would, I think, be concerned if, as a result of not being party to the A.I.I.B., they might experience barriers in developing their business interests. The taxable profits of financial services and the employment of Island residents might be less if we were not to become a member of this bank and it provides further evidence of our engagement with the international committee. The articles of agreement include the following requirements: firstly, subscription of shares and, secondly, the affording of status, immunities, privileges and exceptions. So far as the subscription is concerned, the Government would be contributing nothing, because our subscription would be subsumed in the U.K.'s capital subscription and Her Majesty's Treasury has confirmed that no financial contribution would be required. It follows that we would have no voting rights in the conduct of the bank's affairs. So far as immunities and privileges are concerned, we do need to provide diplomatic privileges to the bank, in accordance with the articles of agreement. That is the essential purpose of these Regulations. I move the principles of the Regulations and would be happy to answer any questions.

The Deputy Bailiff:

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

6.1.1 Deputy S.M. Brée:

I feel it incumbent to mention to Members, if they have not had the opportunity yet, to read the Corporate Services Scrutiny Panel's comments with regard to the proposition being put forward by the Minister for External Relations. I have to say, I feel I was slightly a lone voice on the panel when raising concerns about this. But, nevertheless, the panel have held a public hearing with the Minister and looked into various areas. I think it is important just to cover one area. Our concern surrounded what would happen if the bank decided to establish a presence in the Island, because, effectively, in the proposition in front of Members today, at the back, are the immunities and privileges. Which, effectively, is giving the equivalency of diplomatic immunity to the bank, its members of staff and its premises, should they ever set up an operation in Jersey. This was the main area of my particular concern. One of the things that we did receive in an undertaking to the Minister in this regard was that irrespective of how unlikely it was for the bank to wish to set up operations, there would be some form of regulatory oversight by the Financial Services Commission on the activities of the bank, should it set up operations here. If you read, carefully, the actual proposition, you will see that the bank, effectively, is covered by the Vienna Convention on diplomatic relations. On the back of our comments paper you will find a brief description of those. Essentially, this is about the requirements for membership includes these: we are required to offer up to the bank these immunities and privileges. Now, while the Minister has given his undertaking in this respect, that there would be regulatory oversight, and there is no evidence for Scrutiny to contradict what he has said, personally and this is not my role as vice-chairman of the Corporate Services Scrutiny Panel, personally I still have concerns in this particular area. I would request the Minister, if he can, in his response to expand a little further on what he considers to be the safeguards that Jersey would have, should we become members and the Asian Infrastructure Investment Bank decides to set up, for example, a large European regional centre on the Finance Centre on the Esplanade. I am merely here seeking reassurance from the Minister as to how Jersey would ensure that the activities of the bank, particularly if it were staffed solely by Chinese nationals, who would avoid all tax - just to confirm the bank would not pay rates, no employee would pay taxes, the bank would not pay taxes - its premises are - I believe the word to be - inviolate, meaning that nobody can go on to their premises, as far as I can see. I am merely seeking reassurance from the Minister as to how would Jersey deal with such a situation should it arise. I stress that is myself speaking, as an individual, not as a member of the Corporate Services Scrutiny Panel. Thank you.

6.1.2 Deputy G.P. Southern:

Just briefly. I am concerned by the statement of the previous speaker that the bank would not pay taxes. I thought we charged 10 per cent on banks and the finance sector. I seek clarification from the Minister.

6.1.3 The Deputy of St. Ouen:

I wonder if the Minister could advise that in the event that the bank failed and was ever found to be insolvent, would Jersey incur any liabilities, either directly, because of the proposition we are adopting today, or in the event that the United Kingdom Government might put pressure on the Island by reason of the fact that it is the U.K. that is ratifying and extending the articles of agreement to Jersey and therefore would feel that Jersey should contribute to a U.K. liability. That is my question.

6.1.4 Senator P.F.C. Ozouf:

There is, perhaps, a misnomer among Members, probably quite understandably, about the word "bank". A bank, in this regard, is, effectively, a group of nations coming together that effectively pool resources for the development of economies that are in need of infrastructure and other investments. Therefore, that is the reason why they are accorded a special status: a zero tax status

in whatever jurisdiction they operate and, indeed, as much as there is much criticism of the work of the European Union in recent years, in fact, as the Minister correctly relates, the immediate comparison of this bank in Asia, the European Bank of Reconstruction and Development has, indeed, been probably one of the areas where there is universal acceptance that it has bolstered jobs and growth and literally lifted millions of people out of poverty and in fact delivered social mobility for the work that they have undertaken. This Assembly has had its own difficulties with things like innovation funds. There are certain projects, certain infrastructures, which are of such high risk, or of such magnitude, and are such necessary parts of the economic development of countries that they are simply not investments which are facilitated by normal commercial practices. They are simply not in that category. They are a different category of funding. Indeed, the European Bank of Reconstruction and Development, much to the *chagrin* of some of our critics, may well be interested to know of the role that Jersey does play in the European Bank of Reconstruction and Development, by providing that tax neutral quality jurisdiction of choice for funds which are pooled together and then targeted in countries. Deputy Labey may laugh. I hope he is enjoying what I am saying. I take pride in the fact that the European Bank of Reconstruction and Development, despite all of the European comments about Jersey, uses Jersey. Indeed, in bringing this proposition to this Assembly, so will we be according the same status, as we have previously done, rightfully, to this important institution, to lift millions of people into a better existence, to promote social mobility, for infrastructure developments, investments in new technology, in new businesses that otherwise would not happen. There is much poverty in Asia and this is a main driver for it. That is the reason why tax is not applied, because, effectively, you could say that it is a not-for-profit function. It is a group of countries coming together and pooling their resources, using taxpayers' money from other countries for the investment into neighbouring countries within the region. Why? Because it boosts productivity and it raises economic growth. To not afford this bank, the Asian Infrastructure Investment Bank, of which, by the way, the vice-president is the former Liberal Democrat, Sir Danny Alexander, who will be known well to many Members as a well-known individual, who served under the coalition government in the Treasury and who was also, as I understand it, involved in a number of matters concerning our affairs.

[17:15]

I know, because I spoke to him in Washington last year about his new role in this important bank. He explained to me why he had taken up that role after he had lost his seat in Parliament. There must be no doubt in any Member's mind of the high quality of this organisation, the standards of governance that it will be adopting and we should welcome ... while I do not imagine for a second, frankly, unfortunately, that the bank will set up as a bank in the Finance Centre on our splendid new Waterfront, I have no doubt that if we continue to play our part as a fund manager of choice of high quality, that we will be afforded the opportunity of using our financial services, or our financial services providers will be able to provide services and play their role in this important international world of international development, which is what this is really about. That is why, if there is one single reason why this Assembly should approve this proposal, while having misgivings about some of the countries concerned - one understands that - but it is through economic growth and through social mobility and raising the standard of living of people that you improve democracy and you do away with some of the problems that many members rightly have in certain countries that are dealt with. If I may, I ask Members to think about the way that Eastern Europe has evolved in the last 30 years, since Glasnost. Countries such as Estonia, Lithuania, all who have benefited from projects by the European Bank of Reconstruction and Development and think of Asian countries, that are of a similar standing at the moment and see how they can evolve and take their rightful place on the global stage and be contributing economically and raising the standard of living in their people. That is why we should support this proposition and I hope Members will enthusiastically support the Minister's proposition for those reasons.

6.1.5 Deputy M. Tadier:

We know that the complexity of any given piece of legislation, or proposition, is inversely proportionate to the amount of scrutiny that gets performed on that piece of legislation, or proposition. I think this afternoon is probably a good example of it. If we were setting up a village council, we could be here debating it for 5 weeks, but when we have a very complex legislation ... I am not suggesting that this is the most complex that has ever come to the Assembly, it usually goes through on the nod. I have a question for the Attorney General first of all, because he will have much more knowledge than I do of these affairs. If necessary after that I can put a question to the Minister. The question relates to Article 3, which was an issue raised by one member of the Scrutiny Panel in front of me, which says in 3(1): "That subject to paragraph 2, the bank shall have immunity from suits and legal process, except to the extent that it expressly waives such immunity." Could the Attorney General explain why 3(1) is in there? Why does the bank need to have immunity from suits and legal process?

The Attorney General:

This is a standard provision in relation to international organisations. It arises first from the Vienna Convention of 1961, which relates to treaties generally. We see it echoed in our 1998 Privileges and Immunities (Diplomatic, Consular, etc.) (Jersey) Law 1998, which has parts specifically dealing with firstly diplomats at part (ii), consular privilege at part (iii) and for these purposes part (v) privilege and immunities of certain international organisation, which would apply to this bank. To move on from that, if I can, in relation to a question which I think is touched on in part by the question from the Deputy, but also a question that Deputy Brée asked, in relation to what would happen if the bank opened up here. Maybe an answer will come from the Minister, in due course. If that were to happen, there would be a specific agreement between the Jersey Government and the bank, which would tie the bank down in relation to its staffing. There would be a list of persons who would be security cleared with the U.K. Government, there would be a specific provision preventing the premises being used as a refuge from justice, obligations to co-operate with the Jersey authorities over any abuse of immunities, and a Jersey Government right to take precautions necessary for the security of the Island. So, there would be a lot more in place if the bank were ever to open up a branch in Jersey, which may assist in relation to the last question and also the previous question.

Deputy M. Tadier:

I thank the Attorney General for his clarification. When I read the comments that are being put forward by the Scrutiny Panel and indeed they do raise the issue of immunity. In point 16 they say the proposition outlines limited privilege and immunities attributable to the bank in the event that it is ever to operate in Jersey, or carry out activities in Jersey. It goes on to say that it is not anticipated the bank would do that. But, nonetheless, we are making provisions, today, for the eventuality that they could do that. Then, indeed, in part 18 they do quote from the Vienna Commission ... well, first of all they quote from the Draft Regulations, saying that: "The official archives and premises of the bank should have the inviolability, as in accordance with Articles 22 and 24 of the 1961 Convention." It says that: "The premises of the mission shall be inviolable, the agents of the receiving state may not enter them, except with the consent of the head of the mission." Very strange; we are talking about a bank here. We are not talking about setting up an embassy, or a consul, in Jersey, yet we are putting these provisions in about immunity, which I am told are standard. It reminds me of an interesting book that I read called *Life Inc*, which I would recommend to Members. It was published in 2009 by Douglas Rushkoff and it was subtitled *How Corporatism Conquered the World and How We Can Take it Back*. It details the rise of the corporation and the fact that corporations in America developed as personalities, in their own right, and gained more rights than natural people, under the law. So, you get companies operating, which

have more rights than real people under the law. It seems that we are making laws here today for a company which is not going to have a physical presence, but it could do, in Jersey and we are saying that one would not be able to search the premises, *et cetera*, without receiving ... well, let us read it: "The premises of the mission shall be inviolable. The agents of the receiving state may not enter them without the consent of the head of mission." It is a very strange set up and strange wording, considering that we are talking about an investment bank. I wanted to just put those comments on record. I am sure the Minister in question will be able to respond to those points.

Deputy M.R. Higgins:

The questions I was going to ask were answered by the Attorney General. Thank you.

6.1.6 Deputy D. Johnson of St. Mary:

It might seem quite a flippant point, but I see that paragraph 6.1 provides immunity from suit and legal process for persons connected with the bank. However, under subsection 2 of that section, that immunity does not extend to British subjects. Perhaps the Minister could explain how that fits in with our laws of discrimination.

The Greffier of the States (in the Chair):

Does any other Member wish to speak on the principles? If not, I call on the Minister to respond.

6.1.7 Senator P.M. Bailhache:

I am grateful for all Members who have contributed to the debate. In particular, to Senator Ozouf, who explained very eloquently what the advantages to the Island would be if these Regulations were adopted. Perhaps I may also express my thanks to Deputy Brée; he might have been a lone voice on the Scrutiny Panel, but he was a very powerful lone voice. He put the Minister through his paces at a public hearing, which was entirely proper and a very appropriate exercise of the Scrutiny function, if I may say so. It was very helpful, because it required my ministry to answer a whole lot of questions which, I must say, I had not thought to pose. He expressed concern about the establishment of an office by the bank in the Island. I think that the Attorney General has probably answered that question, because, just as the United Kingdom, when the European Bank for Reconstruction and Development established its European office in London and there was a requirement for the E.B.R.D. to enter an agreement with the United Kingdom Government, so there would be a requirement for the Asian Infrastructure Bank to establish an agreement with the Government of Jersey, which would deal in much more detail with a number of issues than are covered by these Regulations. I would like to think that the bank might establish itself in Jersey, but I must tell Members that I think that is a very improbable hypothesis. If, on the other hand, that improbable hypothesis were to come to pass, then it could only set up in Jersey in accordance with a licence granted by the J.F.S.C. (Jersey Financial Services Commission). The J.F.S.C. would apply exactly the same principle to this bank as it does to any other bank which seeks to establish itself in Jersey. Deputy Southern asked whether the bank would be immune from tax and said that he thought that it would be liable to 10 per cent tax. The answer to that is that it would be immune from tax and that is expressly set out in Article 5 of the Regulations, which provides that: "Within the scope of its official activities, the bank shall be exempt from tax." This bank is not a trading entity, in the sense that a merchant bank, coming to establish itself in the Island, would be. This is an international organisation, using funds provided by its sovereign state members and one would not expect such an entity to be liable to tax. The Deputy of St. Ouen asked a question about the failure of the bank and all I can say in response to that is that we have received an undertaking from Her Majesty's Treasury, that no recourse would be had to Island funds by the United Kingdom government. I think that that is an undertaking upon which we can properly rely. Deputy Tadier asked about the inviolability of the premises. Again, this is a standard provision, which is applicable to international organisations of this kind. The inviolability of bank premises was also

contained in the European Bank for Reconstruction and Development Immunities and Privileges Regulations of 1999 and, although, of course, that bank has not established itself in Jersey, no issue has arisen during the last 20 years in that respect. The Deputy of St. Mary finally asked a question about the immunity from tax of bank officials and pointed out in Article 6.3 that that immunity does not apply to British citizens. I think the reason for that is that if the bank were to employ a local person to do some task in relation to the bank's activities, if it were to establish itself in the Island, then that person should be liable to tax, because he, or she, would be a local person, working in the Island. I hope those have answered all the questions put by Members and I maintain the principles of the Regulations.

The Greffier of the States (in the Chair):

Those Members who are in favour of the principles, kindly show? The *appel* has been called for. Members are invited to return to their seats. I ask the Greffier to open the voting.

POUR: 41		CONTRE: 6		ABSTAIN: 0
Senator P.F. Routier		Connétable of St. Saviour		
Senator P.F.C. Ozouf		Deputy G.P. Southern (H)		
Senator A.J.H. Maclean		Deputy M. Tadier (B)		
Senator I.J. Gorst		Deputy of St. John		
Senator L.J. Farnham		Deputy R. Labey (H)		
Senator P.M. Bailhache		Deputy T.A. McDonald (S)		
Senator A.K.F. Green				
Senator S.C. Ferguson				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of Grouville				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy S.Y. Mézec (H)				
Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy S.M. Wickenden (H)				
Deputy S.M. Bree (C)				
Deputy M.J. Norton (B)				

Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

The Greffier of the States (in the Chair):

Given that it is 5.30 p.m. does the Assembly wish to press on to finish this particular projet, or to adjourn? I think the mood is to probably carry on.

[17:30]

Senator P.M. Bailhache:

It should carry on.

The Greffier of the States (in the Chair):

Yes, I agree with you, Senator. I think the mood is to carry on. In which case, Minister, how do you wish to propose the Regulations? Oh, Scrutiny, that is a very good point. Deputy Le Fondré?

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

No, thank you, Sir.

6.2 Senator P.M. Bailhache:

I do not think it is necessary for me to say anything more than has already been said in relation to the debate on the principles. I move the Regulations *en bloc*, if I may, and would be happy to answer any questions that Members may have on the individual Regulations.

The Greffier of the States (in the Chair):

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

Deputy M. Tadier:

Can I just ask for Article 3 to be take separately?

The Greffier of the States (in the Chair):

Okay, Deputy. Can we just see if anybody wishes to speak on the Regulations first? If not, I think the proposal then is to do Regulations 1 and 2 together, then 3, then the remainder. So, if we start with Regulations 1 and 2. Those Members who are in favour of adopting those Regulations please show. Those against? Those Regulations are adopted. We move on to Regulation 3. The *appel* is called for on Regulation 3. I will ask the Greffier to open the voting.

POUR: 40		CONTRE: 7		ABSTAIN: 0
Senator P.F. Routier		Connétable of St. Saviour		
Senator P.F.C. Ozouf		Deputy G.P. Southern (H)		
Senator A.J.H. Maclean		Deputy M. Tadier (B)		
Senator I.J. Gorst		Deputy of St. John		
Senator L.J. Farnham		Deputy J.M. Maçon (S)		
Senator P.M. Bailhache		Deputy R. Labey (H)		
Senator A.K.F. Green		Deputy T.A. McDonald (S)		
Senator S.C. Ferguson				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				

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

The Greffier of the States (in the Chair):

Finally, Regulations 4 to 7, those Members who are in favour of adopting those Regulations kindly show? Those against? The Regulations are adopted. Minister, do you wish to propose the matter in Third Reading?

6.3 Senator P.M. Bailhache:

I propose the Regulations in Third Reading.

The Greffier of the States (in the Chair):

Seconded? [**Seconded**] Does any Member wish to speak on Third Reading? Deputy Le Fondré?

6.3.1 Deputy J.A.N. Le Fondré:

Very briefly, just to pick up on a couple of comments made earlier. Deputy Brée was a key voice in the review that we performed, but he did make the case as to why we should look at it. We do try and operate as a democracy on each panel and it warranted a briefing and a public hearing. That did assist the panel in arriving at its deliberations and its conclusions. Those are obviously in the comments paper that has been released. Also, I just want to place on record, I would like to thank the Minister and his officers for their time on the matter and I also welcome his comments, particular about constructive scrutiny. Thank you.

The Greffier of the States (in the Chair):

If no other Members wishes to speak, Minister, do you wish to say anything?

6.3.2 Senator P.M. Bailhache:

I am grateful for the Scrutiny Panel chairman's remarks and I move the Regulations in Third Reading.

The Greffier of the States (in the Chair):

Those Members who are in favour of adopting the Regulations in Third Reading kindly show? The *appel* has been called for. On the Third Reading of the Regulations, I ask the Greffier to open the voting.

POUR: 41		CONTRE: 6		ABSTAIN: 0
Senator P.F. Routier		Connétable of St. Saviour		
Senator P.F.C. Ozouf		Deputy G.P. Southern (H)		
Senator A.J.H. Maclean		Deputy M. Tadier (B)		
Senator I.J. Gorst		Deputy of St. John		
Senator L.J. Farnham		Deputy R. Labey (H)		
Senator P.M. Bailhache		Deputy T.A. McDonald (S)		
Senator A.K.F. Green				
Senator S.C. Ferguson				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of Grouville				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy S.Y. Mézec (H)				
Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy S.M. Wickenden (H)				
Deputy S.M. Bree (C)				
Deputy M.J. Norton (B)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

Senator P.F. Routier:

I propose the adjournment, Sir?

The Greffier of the States (in the Chair):

The adjournment has been proposed. Senator Ozouf?

Senator P.F.C. Ozouf:

Sir, you have kindly been of assistance to me in relation to a Budget amendment, which is approved, but the report has been submitted, but is not yet printed, so I am assuming that that is not going to be possible to lodge today, even though it is probably in the process of being processed. Is that correct?

The Greffier of the States (in the Chair):

I do not think this is a matter for the whole Assembly, Senator.

Senator P.F.C. Ozouf:

No. But, can I just, while we are sitting ... if it is not lodged today it misses the deadline.

The Greffier of the States (in the Chair):

This is a conversation for outside the Assembly, I think. We are just about to adjourn. So, the Assembly will adjourn and meet tomorrow at 9.30 a.m.

ADJOURNMENT

[17:35]