



# Environment, Housing and Infrastructure Scrutiny Panel

Quarterly Public Hearing

**Witness: The Minister for the Environment**

Wednesday, 11th October 2023

**Panel:**

Deputy S.G. Luce of Grouville and St. Martin (Chair)

Connétable M.K. Jackson of St. Brelade (Vice-Chair)

Connétable D. Johnson of St. Mary

Deputy M.R. Le Hegarat of St. Helier North

**Witnesses:**

Deputy J. Renouf of St. Brelade, The Minister for the Environment

Deputy H. Jeune of St. John, St. Lawrence and Trinity, Assistant Minister for the Environment

Ms. K. Whitehead, Group Director, Regulation

Mr. P. Chambers, Head of Marine Resources

[15:00]

**Deputy S.G. Luce of Grouville and St. Martin (Chair):**

Good afternoon, Minister. Welcome to our quarterly hearing with you. We, being the Environment, Housing, Infrastructure Scrutiny Panel. Before we start off, we will just go around the table, as usual, and introduce ourselves. I am Deputy Steve Luce, chairman of the panel. And with me, I have ...

**Deputy M.R. Le Hegarat of St. Helier North:**

Deputy Mary Le Hegarat, a member of the panel, District St. Helier North.

**Connétable M.K. Jackson of St. Brelade:**

Constable Mike Jackson, panel member.

**Connétable D. Johnson of St. Mary:**

David Johnson, Constable of St. Mary, member.

**Deputy S.G. Luce:**

And on your side of the table, Minister.

**Assistant Minister for the Environment:**

Deputy Hilary Jeune, Assistant Minister for the Environment.

**The Minister for the Environment:**

Deputy Jonathan Renouf, Minister for the Environment.

**Group Director, Regulation:**

Kelly Whitehead, group director for Regulation.

**Head of Marine Resources:**

Paul Chambers, head of Marine Resources.

**Deputy S.G. Luce:**

Thank you very much, Minister. We are going to kick off straightaway with Public Health and Safety (Rented Dwellings), which, as you well know, is something that we pulled and are looking at to come back to the States Assembly on 7th November. We are making good progress but we have a number of questions for you under this heading that will help inform us, as we move towards making amendments or otherwise. We are still to make decisions on that. If I might start straight off, Minister, we understand it is your intention to publish a code of practice to accompany the regs and that that would come into force. At the moment, that would be 1st May. But can I ask what the reason is for not sharing guidelines sooner than that date?

**The Minister for the Environment:**

It is being worked on. I think I will ask Kelly to give me the latest update on that. But so far as the workstream, I asked for it to come in time for when the legislation was originally going to be coming in, which would have been in the new year, so it would have been ready in November ... I think we had scheduled it for the end of November. Clearly, we now have a bit more time, so it will take ... we will use that time but it will be in good time. We will not be waiting right until the last moment.

**Deputy S.G. Luce:**

The fact that you should or might well have been ready, if the debate had not been pulled in the Second Reading, we could be moving towards 1st January, one would have expected you at that point to be ready to go. Can we expect those guidelines to be ready for 1st January?

**The Minister for the Environment:**

I am not going to guarantee 1st January but Kelly can fill you in.

**Group Director, Regulation:**

No, so we have not published the guidelines because we are still in draft. We are still preparing them. We are working with an external consultant to prepare those guidelines. We have provided the policy principles around them. But the actual guidelines, in order to be able to be published, are not ready. We have other priorities, so we have shifted workloads to accommodate that. Essentially, as we have been given more time for this we have prioritised other pieces of legislation and guidelines. In the sense that it would not be ready for 1st January, but it would be ready before it was to be enacted.

**Deputy S.G. Luce:**

So we are fairly clear that we will have these guidelines before the States debate?

**The Minister for the Environment:**

Yes.

**Deputy S.G. Luce:**

And in time for States Members to have looked at them fairly closely?

**The Minister for the Environment:**

Yes, and landlords and tenants.

**Deputy S.G. Luce:**

Will those guidelines include those proforma templates, the toolkit for landlords that we have been speaking about?

**The Minister for the Environment:**

I am not sure. The guidelines address ... very specifically flesh out what we mean when we set standards around damp or all the other various categories. I think the question of how the mechanics of the application process is a separate issue. But yes, that will be a proforma that is available beforehand.

**Group Director, Regulation:**

They will follow the guidelines, but our priority is to ensure that the guidelines are published so people are able to read those before the debate, and then we will do the process after that.

**Deputy S.G. Luce:**

So the toolkit comes after the guidelines but still before the debate?

**Group Director, Regulation:**

Yes.

**Deputy S.G. Luce:**

Okay. Before we move to appeals, can I ask what work you have prioritised over this then, when you knew you had more time?

**The Minister for the Environment:**

Kelly, can run through a long list but, off the top of my head, we have the trees, the food law. Do you want to go through a long list?

**Group Director, Regulation:**

So for us, essentially, the planning service implementation plan.

**The Minister for the Environment:**

That is the Mackinnon review.

**Group Director, Regulation:**

The short-term holiday lets, now the ban on vapes, the waste law, trees, food law, energy performance assessments, potentially moving into building bylaws, review and amendments to the primary legislation. We have also got our capital programme reader, which is the change to the technology, and our own strategic objectives. So there has been ...

**Deputy S.G. Luce:**

So all that has been put ahead of this?

**Group Director, Regulation:**

Not ahead. It is just the balance of workload and resources. So where we have time then we will use that time.

**Deputy S.G. Luce:**

Given that this debate is coming, whether we like it or not, on 7th November and a decision is going to be made, is there any reason why you would not do that work?

**The Minister for the Environment:**

Because it is not going to be enacted until 1st May.

**Deputy S.G. Luce:**

But the work has to be done, Minister, surely whether ... it has to be done at some time. Why can we not do it while it is fresh in everybody's mind?

**The Minister for the Environment:**

Because we have got a whole list of things which we are trying to balance, and the priority goes to things that are absolutely required by a certain date. The guidelines for the licensing are going to be there in plenty of time for people to react to them. But the law, which requires people to meet these standards, has been in place for 4 years and people have been required to meet those standards without that guidance for 4 years. It is not like people are operating completely in the dark. They can talk to people, talk to officers if they have concerns. We have always said that the U.K. (United Kingdom) guidelines are forming the basis of our guidelines. So if there is uncertainty in somebody's mind, that is a good place to start. It is not that there is a total vacuum here that people do not have a clue what is going to be required. The law has been in place for a while.

**Deputy S.G. Luce:**

Okay, we will leave it there. So the guidelines will come before the date and we will also see the toolkit at a further date after that but, again, before the enactment. Okay. We will move on to appeals.

**The Deputy of St. Mary:**

As currently proposed in the draft regulations, any appeals will go to yourself as Minister. How do you intend to operate a fair and independent appeals process when you would be seeking advice from members of your own department?

**The Minister for the Environment:**

This does slightly amuse me, I guess, because this change was put in at the request of the J.L.A. (Jersey Landlords Association) who were unhappy with the previous versions of these proposals, which the only means of appeal was to the Royal Court, and the Royal Court is an expensive and time-demanding process. So they requested us to look for a simpler process. The Royal Court still remains as a backstop. If the decision that is made by the Minister is not considered to be fair or

appropriate, or whatever, then the Royal Court is still there. But this is not too dissimilar from what operates in Planning where I sit as the ...

**The Deputy of St. Mary:**

I am not sure that is a good precedent, but there we are.

**The Minister for the Environment:**

Well, the situation in law is that I determine planning applications that go to appeal. This is not too dissimilar from that. If there is a disagreement, the first port of call would be to me. The intention in the medium term, I think, is to see how the Minister for Housing and Communities' reforms go. It could be that if a tribunal is created there that, depending on the functions it takes on and so on, we have always said that it is entirely conceivable that that appeal function would go to a tribunal. But there is no other body in existence for which an appeal would be appropriate.

**The Deputy of St. Mary:**

Okay. These regulations are obviously associated with the 2018 Public Health and Safety (Rented Dwellings) (Jersey) Law, and there, there is a specific right of appeal to the Royal Court. Would it not have been consistent to have some provisions in this law?

**The Minister for the Environment:**

It still does exist. It is still possible.

**The Deputy of St. Mary:**

But there is a right of appeal in the 2018 law, not for judicial review. What I am asking is: if an appeal process could have been put in in the 2018 law, would it not have been consistent to put something similar in these regulations?

**The Minister for the Environment:**

As far as I understand it, it does still sit there because this is regulations relating to the 2018 law. That appeal to the Royal Court against the decision still sits there. I guess if they want to bypass the bit of going to the Minister, they can. But the Minister is there as a first port of call ... and this happens all the time, in planning terms, the Minister determines appeals. I am required to be impartial.

**The Deputy of St. Mary:**

I think to be fair, Minister, in planning terms, the Minister determines appeals, usually after an appeal has been heard by an independent planning inspector for the U.K.

**The Minister for the Environment:**

Fair enough. But the principle of a Minister sitting in determination of an appeal is accepted in law in terms of the planning system.

**The Deputy of St. Mary:**

Yes, but not accepted in other terms. But we must move on to that. I hear what you say about the judicial review and what you said in the 2018 Act. I still go back to my basic point as to appeal being set out in the regulations. I think you are aware, and I referred to it in a States debate recently, the report by the Law Commission, access to redress condemns the practice of conferring right of appeal to the Minister of their own department whose decision is being appealed against. From what you have just said now, do you accept what the Law Commission says?

**The Minister for the Environment:**

I am not so massively hung up on this. It was not my idea to put this in.

**The Deputy of St. Mary:**

No, I am talking about the general principle.

**The Minister for the Environment:**

The general principle, I think, is that a Minister is perfectly capable of sitting outside the immediate argument about something and saying: "Where does fairness lie in this case?" There is law advice in terms of the planning system, which says that it is very important to maintain political control over the decision-making process and the final decision-making process. In fact, that is a fundamental principle of law in terms of planning. This is not a strictly Planning function, but I think we are in an area where it is arguable either way, and I offer it as an opportunity for people, but it does not preclude the other option. If we take it out, fine. You have got the appeal to the Royal Court, just as you always had. If we leave it in, it is a first port of call, it is not going to cost you the money that it would do to go to the Royal Court. It is an option.

**The Deputy of St. Mary:**

I take your point. Just going on to the final point, which is a more general one, which we referred to already, that the same Law Commission report sought to reduce the number of individual tribunals by setting up a Jersey Administrative Appeals Tribunal, which would cover things like this. That is not being proceeded with. Do you have any views on that?

**The Minister for the Environment:**

I can see the argument for that, that there would be some kind of overarching appeals process. There is the States Complaints Board, is there not?

**The Deputy of St. Mary:**

At the moment but it is going to be replaced by a public service ombudsman.

**The Minister for the Environment:**

Okay. It seems to me like a rationalisation there would not necessarily be a bad thing. But, as I say, I have already indicated that in terms of this appeal power, it is not something I am grabbing. If there is a rent tribunal set up or a housing services tribunal set up as a result of the Minister for Housing and Communities' reforms, then that might well also be a potential logical place to situate an appeal.

**The Deputy of St. Mary:**

I hear you but, again, one of the reasons for the Law Commission suggesting a general appeals tribunal was to reduce the number of these individual tribunals. But let us not go there for a moment.

**The Minister for the Environment:**

Well, as I say, it is an argument in the abstract, is it not, because we do not know exactly what the Minister for Housing and Communities may create. It may not be a tribunal. It may be something else.

**The Deputy of St. Mary:**

Thank you.

**Deputy S.G. Luce:**

Okay. Deputy Le Hegarat has got some questions about social housing providers.

**Deputy M.R. Le Hegarat:**

Minister, we have heard from social housing providers who have made their case for why they should be considered exempt from the licensing regulations. We note that housing associations and registered social landlords in the U.K. are exempt from the U.K.'s selective licensing scheme. As social landlords would be obliged under law to meet the minimum standards and would be subject to an inspection if a complaint was made about substandard conditions, can you explain your rationale for including social housing providers in the proposed licensing regulations when government is already aware where these rented properties are?

**The Minister for the Environment:**



It is not to do with, in the case of social housing, of where they are. It is a question of standards, and the 2018 law is about rented dwellings. It does not exempt social housing from that. The underlying law is very clear.

[15:15]

It is also the case that, I am afraid, although social housing providers are generally good and have a very good record, it is not the case that we believe that they are absolutely perfect, and that there does need to be a level of inspection possible that can tackle problem properties. Again, it is quite ironic, because this was something the J.L.A. made as a point to us very early on in the process, that it would be unfair to exempt the social housing because they have problems as well, and why should they get away without having to be examined? I think that is quite a compelling argument. We have different sectors of the market. They should all be held to the same standard, in my view.

**Deputy M.R. Le Hegarat:**

Okay. To what extent do you consider that the level playing field will always not exist for social housing providers by the nature of how they operate, and therefore trying to ensure a level playing field with these licensing regulations is perhaps a moot point?

**The Minister for the Environment:**

I think this is, again, a misunderstanding. The point about the standards that are established in the law is that they are basic fundamental standards about safety. It is not like we are trying to say, well, everybody should have a certain size of television or bathrooms of this size or whatever. This is about basic levels of safety, and these are fundamental. These sit before anything else in terms of the provision of housing. It is the safety of rented dwellings that we are talking about. Therefore, I think it is appropriate that every housing provider should meet that standard because it is so basic.

**Deputy M.R. Le Hegarat:**

I do not think there is any sort of idea that they would not be meeting those basic standards. I think the point might be is that the social housing landlords, their rentals and everything else, are capped and they all come through Gateway. It is really about that sort of idea that there will obviously be an increase in costs to those particular providers, and some of them may or may not be able to increase their rentals in relation to those costs. It was just really to sort of get ... and obviously the U.K. does something different.

**The Minister for the Environment:**

No, fair enough.

**Deputy M.R. Le Hegarat:**

I am sure their standards will be the same for both sectors as well.

**The Minister for the Environment:**

Yes, we always like to do things differently in Jersey, do we not?

**Deputy M.R. Le Hegarat:**

Well, why not?

**The Minister for the Environment:**

So the point being then that they, unlike private rental, cannot raise their prices and they are on fixed income models and so on. I come back to the fact that it is £60 every 2 years, £30. Yes, for a company like Andium it is a large amount of money, but their income is very large. I think from the point of view of Andium, the sympathy I have, if you like, is that I am aware that their business model keeps getting squeezed from different angles. We put the rents down to 80 per cent. There are always extra things we are asking from Andium, and they do not increase their income. They make it harder for them. So I do have sympathy with that. But I would see that in the context of an argument about let us rethink what our requirement is from Andium in the round, rather than, say, trying to carve out an exemption of a particular law, which is about fundamental basic standards for tenants.

**Deputy M.R. Le Hegarat:**

I suppose maybe the better question might be to ask is: should they pay ... they are registered anyway to a degree. Most of them belong to Rent Safe. But what about the exemption of a fee, then? If you were having the same information and you were exempting fees. Because the question is: at what point will this legislation then impact on their ability to deliver what we want them to deliver?

**The Minister for the Environment:**

If the fee was a significant amount of money, I would have a lot of sympathy with that. But it is not. It is a relatively small ... in fact, a very small amount of money. If you think of £30 a year in terms of the rent per unit, it is tiny. It is a fraction of 1 per cent. So it is not a threat on its own to the business model, which is why I put it in the context of the bigger picture. The things that are more threatening to them are the pressure to reduce their rents in relation to the market and so on, or the cap on the rent increases. Those things significantly affect social housing renting models. I do not believe that £30 a year per unit does. I tell you, if we were to do that, the J.L.A. would have a reasonable case and private landlords would have a reasonable case to say: "Why are they exempt? I mean, we

have to pay. Why are we picking up the bill to pay for inspections of somebody and maintaining standards in another sector of the economy?" That, I would undoubtedly hear.

**Deputy S.G. Luce:**

But is there not a different responsibility, Minister, under a definition of social rented landlord?

**The Minister for the Environment:**

I keep coming back to this point about it being basic universal standard in terms of the safety. It is the threshold which everybody should have to cross.

**Deputy S.G. Luce:**

I am not disagreeing with that at all. I am just asking: are social landlords asked to do things which mean that money is tighter, their income is reduced and therefore any additional overheads that they have to bear impact on their ability to deliver social housing?

**The Minister for the Environment:**

As I say, I have that limited sympathy but I have that sympathy, but I do think I would rather ... I would see it in that wider context. I cannot really say much more than that.

**Deputy S.G. Luce:**

That is fine. You made your pitch for treating everybody the same and that is, in certain circumstances, difficult to disagree with.

**The Connétable of St. Brelade:**

Just to finish off on that, do you not see this as rather a circumlocutory argument in that we charge the social landlords £60, whatever it is, it just goes straight back to the tenant for very little benefit in that they already have their inspection regimes? They have to comply with minimum standards. What is the net gain for the tenant?

**The Minister for the Environment:**

The gain is ... the law is in existence now, yes, but we are bringing in the regulations because we do not believe that we are maintaining those standards that the law requires. I am afraid that that is true also in some social rented accommodation. I have seen pictures and I have had letters from tenants, and these are not always the social housing tenants. These are often complex problems. I get that. These are often to do with tenants in challenging circumstances who may be unable to maintain properties and so on. These are challenging situations and so they are investigated in that way. They are not investigated in a kind of: "You have done something terrible here", but they have to be investigated. Standards are there for a reason and we have to understand why those

standards are not being met and do something about them. The point being that we do need to include them because there is a potential issue in that sector, possibly not as big as in the private rented sector, but I am not really going to speculate too much on that. The question of the circular money is true of almost any regulatory activity, you could argue that. The principle being that we do charge for regulation. We charge for regulation because we believe that there is ultimately a benefit to the sector from better regulation, and therefore it is appropriate that people should pay. I know that not everybody who is being regulated will necessarily agree with that, but that is a rationale.

**The Connétable of St. Brelade:**

Just one last one on that. Do you consider it is proportionate to bringing this legislation in terms of particularly Andium, given that they have the vires to deal with any issues? I do not believe there are many ... I think you have suggested there are very, very few incidences. Is it not a sledgehammer to crack a nut?

**The Minister for the Environment:**

I have said everything I can say on that. I do not know, Kelly, if you want to add anything.

**Group Director, Regulation:**

Currently, just in terms of some statistics. Out of the Andium asset list of 4,895 properties, we have 1,219 on the Rent Safe register<sup>1</sup>. That is because we have an arrangement with Andium only to inspect properties when they change over tenancies. We have an arrangement with them not to inspect properties that are currently tenanted. We do find issues. It is not the case necessarily that every property from that provider meets the minimum standards.

**The Connétable of St. Brelade:**

This is a lifestyle issue from the tenant for which the other - I do not know what the percentage is - 95 per cent of people are having to pay for.

**The Minister for the Environment:**

It might be a lifestyle issue. It might not.

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<sup>1</sup> Point of Clarification  
Rent Safe ratings explained ([see gov.je](http://see.gov.je)):

Number of stars	Standards
5	The property exceeds the minimum Rent Safe standard and has achieved accreditation through compliance.
4	The property exceeds the minimum Rent Safe standard and has achieved accreditation through compliance.
3	The property meets the minimum Rent Safe standard and has achieved accreditation through compliance.

**The Connétable of St. Brelade:**

Moving on to lodging houses, we are aware that the proposed law provides scope for the inclusion of lodging houses, but Regulation 2(4) of the proposed licensing regulations excludes them. Could you explain the rationale for their exclusion from the licensing regime?

**The Minister for the Environment:**

My recollection on this is because they are already covered by another ... it is actually called a registration scheme, I think, but it is, in the way it functions to all intents and purposes, a licensing scheme. So they already are covered.

**The Connétable of St. Brelade:**

Would there not be a case for bringing all these schemes together under one law?

**The Minister for the Environment:**

We have a law that set up this potential for regulations to help enforce the minimum standards, and that is what we have done. It does not seem to make sense to duplicate what is already in place and working.

**The Connétable of St. Brelade:**

If Regulation 4(2)(a) were to be deleted, they would automatically come under the scope of the proposed regulations.

**The Minister for the Environment:**

I do not have it in front of me.

**The Connétable of St. Brelade:**

Just aligned with that, can you clarify for us that, under the proposed draft regulations, all types of staff accommodation, such as that for agricultural workers, hotel workers and so on, will be required to obtain a licence?

**The Minister for the Environment:**

All rented dwellings other than lodging houses, hospitals, care homes and so on, will require a licence.

**The Connétable of St. Brelade:**

Thank you.

**Deputy S.G. Luce:**

That is very clear. Okay, thank you, Minister.

**Deputy M.R. Le Hegarat:**

Can I just double check something in relation to lodging houses? How often are they checked and how much do they pay to be registered?

**The Minister for the Environment:**

Off the top of my head, I cannot remember.

**Group Director, Regulation:**

The lodging houses are regulated under the Lodging Houses (Registration) (Jersey) Law 1962, and I will just check the fee.

**Deputy M.R. Le Hegarat:**

How often are they checked?

**Group Director, Regulation:**

It is an annual registration, they are checked on an annual basis.

**Deputy M.R. Le Hegarat:**

So the actual facilities are checked on an annual basis?

**The Minister for the Environment:**

There are fewer of them so it is possible for that to be a more ... what we have always said with rented dwellings is that we will take a very risk-based approach to inspection. We will target inspections where we suspect there are problems. The lodging house system works because there are fewer of them and I think it works on a different basis, does it not?

**Group Director, Regulation:**

I will just confirm.

**The Minister for the Environment:**

We are just looking. We can come back to that when Kelly is ...

**Deputy S.G. Luce:**

While Kelly is having a look at that. Minister, we have had a bit of concern raised under proposed Regulation 3(5), which states: "A licence is subject to the standard licensing conditions set out in the

schedule and may contain additional requirements that the Minister thinks fit.” Could you just explain the rationale for including such a wide discretion?

**The Minister for the Environment:**

Yes, it is a slight misunderstanding that, I think, because that is designed to enable ... in a situation where an inspection has happened and, let us say, a series of problems have been identified or a problem has been identified, it allows a condition to be placed on the licence, to allow the licence holder to continue operating. So they have still got a licence but there is a condition on it which may say something like: “The broken banister needs to be fixed within 6 months” or: “This room needs to be closed off until it has been made habitable.” It is not a blanket provision for all licences. It is designed to vary that particular licence in certain circumstances.

**Deputy S.G. Luce:**

Do you think we need to change the wording then to accommodate what you have just described?

**The Minister for the Environment:**

I would be happy to look again at the legal reasons why it was worded like that, but I suspect it was worded like that precisely to achieve the objective I have just explained, and it is a problem of interpretation. It might need the notes to explain that.

**Deputy S.G. Luce:**

Okay, I think the Constable is just about to ask you a couple of questions in that.

**The Deputy of St. Mary:**

It would be helpful on this point. I was wondering if that 3(5) might be linked in with 3(4)(c) to show that is what it really means, but we will perhaps come on to that in another question.

**Deputy S.G. Luce:**

From the other side of the fence, Minister, a regulation which states that anything may contain additional requirements that the Minister thinks fit is also extremely vague and would allow you to go just about anywhere.

**The Minister for the Environment:**

Yes, it is the Minister understood here in terms of the chief officer or rather whoever is delegated by me. I am very rarely going to be involved in this, I would have thought.

[15:30]

**Group Director, Regulation:**

The interest is in the public interest. Again, there is that right of appeal and judicial review if there was considered that such a condition was unreasonable or unfair. It will always be in the public's interest.

**The Minister for the Environment:**

That is the legal test. I cannot just do what I want.

**Deputy M.R. Le Hegarat:**

Somewhere it needs to say that, probably.

**The Minister for the Environment:**

It does, I think.

**Deputy S.G. Luce:**

I mean, Ministers change and different Ministers have different attitudes toward different subjects.

**Deputy M.R. Le Hegarat:**

Or senior officers, or whatever.

**Group Director, Regulation:**

The route to judicial review is still there, if it was unreasonable.

**Deputy S.G. Luce:**

I think Constable Jackson is just going to carry on in the same vein, to be honest.

**The Connétable of St. Brelade:**

I suppose, really just taking it to the next stage, and you have answered part of it saying that the licence will be there until such time as works may be completed and that would be a condition on the licence. But considering it is an offence to operate without a licence ... so it is presumed that it may be best for the licence to be considered to be granted with the added conditions, that is clear, is it? Because that will worry landlords if they have not got a licence. So they will be guaranteed up to a certain level to have a conditioned licence without breaching the conditions, is my understanding correct?

**The Minister for the Environment:**

The aim is when we start the scheme everybody gets a licence. Licences will only come under threat, if you like, if a problem is identified. The aim of the scheme as written, and those clauses



you are pointing out, is to try and enable the functioning of the market to continue as much as possible while remedy is being sought. That is what that is seeking to achieve. The whole intent of the legislation is that licence withdrawal would be a last resort because we are trying to put in very explicitly these conditional clauses, which mean that things can be done, short of withdrawing a licence, in order to allow time for remedy.

**The Connétable of St. Brelade:**

How would you anticipate dealing with those who did not comply? So you have issued a licence subject to conditions, would you internally have a follow-up procedure to deal with those and would it involve further inspection or would you expect the landlord to self-regulate?

**The Minister for the Environment:**

Let me take it first, if I may, from my point of view and then possibly the more formal thing. The intent with this, as I say, is that we want this to be a functioning ... we want co-operation. By far the best method of compliance is if we can persuade people to take the necessary action. That is simpler for everyone. If we have to go down a legal route, that is exceptionally time-consuming, resource heavy, and may not work because the law officers put a high bar on prosecution. That is the ultimate stop. The licence withdrawal is the last step on a process of compliance. The aim is persuasion. Persuasive compliance is the mantra that Kelly uses in terms of compliance, not just in this area but planning and so on, and I get stick for it because people say: "Nothing is happening. This is taking too long. Why is something not happening?" It is because the first step is to give people the benefit of the doubt, to assume that there has been a mistake, a misunderstanding, people have not quite got there, they need a bit of help, a bit of encouragement, and that is what we do. That means that quite often for several months we are engaging ... or not me, officers are engaging with people and trying to get them to do what is required. That is a process that can be frustrating for people. But it is, I think, the only way on a small island with a community of many competing interests that we can make this work, and that is the approach we are adopting. Kelly, I do not know if I have gone down a wrong avenue there.

**Group Director, Regulation:**

No, sounds perfect.

**The Connétable of St. Brelade:**

We are sort of looking and identifying areas of potential ambiguity and one is that someone, a landlord, could make an application, so in theory be compliant because they have applied. So they could argue in court that they have done the right process but they may not have completed the application process properly. They may not have paid the fee. How would that be dealt with? Would

you do a polite follow-up? At a certain stage, I would presume that you would have to get a bit heavier and they would be threatened with not having a licence, I take it?

**The Minister for the Environment:**

The sanction here, the extra sanction that we have compared to the current situation, is the threat of licence withdrawal. That is what sits behind this and gives added bite to the regulations. It is an important power to have because it means that ultimately a landlord knows that if they do not comply, after going through this stage process, then they could lose their ability to rent the property. But the first stage is not: "You are going to lose your licence." The first stage is: "Do you realise you have not paid yet? Did you realise you did not fill in that field in the form? Did you realise that you actually have to have this certificate to", you know, and so on? Of course, that is going to be the way. And it is, to be fair, the way that Kelly is running regulation now.

**The Connétable of St. Brelade:**

We wonder whether some sort of clarification within the draft regulations to make it clear that an application means an application for a licence made in the manner and form specified by the scheme, with the appropriate fee having been paid. Having that in black and white.

**The Minister for the Environment:**

What I might suggest here is, because it could be that there are some good useful clarifications coming out of this, it is entirely up to you how you approach this process of amendment but if you are minded to submit amendments, then a meeting with officers, maybe with me, maybe not. But almost a technical meeting. If there are things where you feel that the issue is clarity as opposed to intent or purpose or whatever, may be the best way ... because we might be able to get some agreed amendments, and maybe that would be a good thing. I offer it as a possibility, anyway.

**The Connétable of St. Brelade:**

No, I agree. I am sure the chairman will do the ... the other thing which raises a question mark is that: "Where a person who is both the owner and occupier of a dwelling permits that dwelling to be occupied, for reward, by up to 2 other persons, then that dwelling is not a rented dwelling for the purposes of this law." So should the occupancy be clarified within the draft regulations to specify a minimum number of overnight stays in the property? It is these sort of grey areas we are trying to understand.

**The Minister for the Environment:**

I think that is designed to align, if memory serves me right, with the tax and other laws around rent-a-room. I think that is to do with the rent-a-room alignment.

**The Connétable of St. Brelade:**

You get split domestic arrangements, people moving in sofa-surfing these days, so we were just trying to bottom that out. The draft regulation makes reference to a licence holder. To what extent do you consider issues could arise between who can apply for a licence? For example, the property owner nominates a managing agent as the licence holder, but that agency is substandard. Would it be available for the licence holder to be required to be the landlord of the property and for a managing agent to be able to fill out the form on behalf of their client or the landlord to be required to sign the documents and be the licence holder? A bit like you might make a planning application where the land owner has to sign it off. Who would be the person? Because that person in turn would be the one who might be culpable in law.

**The Minister for the Environment:**

I do not remember the detail on that. I do not know if you do, Kelly. But there were some specifications about who could and who could not sign, as I recall.

**Group Director, Regulation:**

Yes, I think this would come forward in the guidelines and then the procedure notes essentially.

**The Minister for the Environment:**

Okay, so we can clarify that.

**Group Director, Regulation:**

This is the principle of the powers, and then we are coming forward with the guidance and how that would be essentially undertaken.

**The Minister for the Environment:**

Interpreted.

**Group Director, Regulation:**

Then we would have the procedure, which is: how do you submit a form? How do you pay? Who can, who signs? Things like that in terms of the procedure. It is intended essentially that an agent can apply on behalf of the landlord.

**Deputy S.G. Luce:**

Okay, but do you not think this is an important enough issue that it needs to be clarified in the law rather than in the guidelines? Because who the licence holder is, who the person with the responsibility is, who is going to court to face the sanction, that is a really important part of the legislation.

**Group Director, Regulation:**

In other pieces of legislation it is not necessarily specified to that degree. So it might say that it is an applicant with an owner consent, or something similar to that vein.

**Deputy S.G. Luce:**

You are aware that land agents will use the excuse that the landlord was responsible and the landlord will say: "I placed this with the responsibilities of the agent, he is responsible" and we will go backwards and forwards and we will not be able to decide who is the person that goes to court.

**The Minister for the Environment:**

It is not the landlord or the agent who is being licensed, it is the property.

**Deputy S.G. Luce:**

But the property does not go to the Royal Court and face a fine, Minister. Somebody has to go to court and face a fine. So who is the person who goes to court to face the fine for the infraction?

**The Minister for the Environment:**

Ultimately I would have said the owner, but they can nominate ... in terms of filling in the form they can nominate an agent.

**Deputy S.G. Luce:**

Do you think that needs to be made clear in the regulations, who the owner or who the registered holder is of the licence?

**The Minister for the Environment:**

I would take law officer advice on that. There may be reasons why it is kept deliberately vague in regulations. That seems to me to be a technical issue that we could discuss. If it is a useful improvement then we would be happy to do it. But I would want to take law officer advice.

**Deputy S.G. Luce:**

It is something which is used, as far as we are concerned, quite regularly. The excuse of the agent saying: "Well, sorry, it is the owner's property" and the owner is saying: "I am sorry, I put it in the responsibility of the agent" and nobody ultimately comes up as being responsible for the infraction.

**Group Director, Regulation:**

Can I say, so when we look at any investigation, if we are talking about going ultimately to court over that, because we would look at who is the responsible person and the responsibility for whatever

action we are looking at, it completely depends on the circumstances? We would interview all the persons involved and we would obtain evidence or otherwise to then enable the law officer or the Attorney General to make a decision whether it is in the public interest to pursue enforcement for one or the other. What I understand generally, in terms of law drafting, is not to over-specify procedure within law. So on general terms, when we are looking at all legislative amendments, is to try to ensure the law is enabling powers and that the procedure is then held in terms of additional guidelines. So that clarity will come from the guidelines that we provide it. But ultimately, the law should only be that enabling power.

**Deputy S.G. Luce:**

That is very interesting.

**The Connétable of St. Brelade:**

It is actually. An enabling law that has to be fortified by guidelines rather than further legal provisions does not sit easily with me.

**Group Director, Regulation:**

It depends whether it is a legal provision or not.

**The Minister for the Environment:**

I would say it is very similar to how we treated, for example, the replacement vessel policy. Made the order that was very general in terms of the powers it gave but the policy sitting behind it was detailed, and I produced both at the debate. That is the division. The legal instrument confers powers and the policy paper provides the detail on how they will be implemented. I can see you are disagreeing and that is fine, but there is a logic to it. It is not a totally unusual situation.

**Deputy S.G. Luce:**

Do you think the application for a licence should be signed by the owner of the property or the managing agent?

**Group Director, Regulation:**

There is not an application of signature.

**Deputy S.G. Luce:**

There is not?

**Group Director, Regulation:**

No, as the same as for planning applications. There is not a requirement ...

**Deputy S.G. Luce:**

The owner of the property has to sign a planning application.

**Group Director, Regulation:**

No, it is consent. It is not necessarily conferred as a signature.

**Deputy S.G. Luce:**

Signature of the owner of the property has to go on the planning application.

**Group Director, Regulation:**

Except if you submit online, and the application is just essentially a 2-factor authentication. So consent is required.

**Deputy S.G. Luce:**

Somebody can submit a planning application online without the permission of the owner of the property?

**Group Director, Regulation:**

So we take it on face value because we have a name that this person has consented. If it is found at a later date that the person did not consent, then potentially it is false and misleading information to forward and there are provisions under the law for that.

**Deputy S.G. Luce:**

Okay, so it comes to the same thing?

**Group Director, Regulation:**

Exactly.

**Deputy S.G. Luce:**

A planning application requires the consent or the signature of the owner. Should that not be the case in here?

**Group Director, Regulation:**

It is not even a signature, like I said. At this point it would just be who is that responsible person, and we would look at that if there was to be infractions at a later date. We would take it on face value.

**The Minister for the Environment:**

What Kelly is saying is that the law leaves it like this because it is not ... you cannot say in advance, in all cases, who the appropriate person would be to have their name on it and to be pursued. If an agent is the person managing the property, then the law may say, well, that is the person who should be prosecuted. If the owner is managing the property and the agent is just collecting the rent, then it might be the other way around. So specifying it, which it has to be in advance, does not reflect the sort of different variations of how the market is operating.

**The Deputy of St. Mary:**

Would one way around it be to make the owner be responsible and him to cover that in his own contract with the managing agent?

**The Minister for the Environment:**

But then you are asking to interfere in that contractual relationship.

**The Deputy of St. Mary:**

The form application could simply state that where the ... "If the person submitting this application is not the owner, the submitter confirms that the appropriate consent has been obtained" or something. So he has actually made a statement.

[15:45]

**Group Director, Regulation:**

You do need to be mindful of primary legislation as well, because the regulations can only go so far as the primary legislation goes so far. The primary legislation defines a person having control, so that is part of responsibility. The regulations have to reflect that. Again, it is not so much who submits a licence but what is the improvement notice and the conditions on the licence, and ultimately who has responsibility for the conditions of the licence.

**The Deputy of St. Mary:**

So we consider this, the person having control is defined in the 2018 law and that ...

**Group Director, Regulation:**

That is the ...

**The Deputy of St. Mary:**

And the owner is one of them.

**Group Director, Regulation:**

The primary legislation has to sit as primary and so the regulations would only then sit within that framework. So you would not be able to do anything within the regulations that the actual primary law does not already control, in that sense. You could not go outside that.

**The Deputy of St. Mary:**

I am not sure that the primary law there imposes the obligations which are covered by these regulations.

**The Minister for the Environment:**

If I may, I think what we ... I think we all want to achieve the same thing here, unless I am misunderstanding it completely, which is we want to make sure that when this thing comes into place that everybody is clear about where responsibilities lie and who has them and the timeliness of when you have to do things and all those other points of detail. I think what the disagreement is about is where does that specificity need to come. Where is the most appropriate place for it? Our general assumption has been that it will come in the form of the guidance and the process updates that will come. Your view is that it should be baked into the regulations. I suggest that, given that the intent is the same, a technical meeting where these things are discussed would be a good way of ironing it out because otherwise we may end up having the debate on the floor of the Assembly when there is no need, when we could clarify some of these issues beforehand.

**The Deputy of St. Mary:**

I am not sure if it clouds or clarifies the issue. In the new regulations it says: "Licence' means a licence in respect of a rented dwelling" et cetera, "and 'licence holder' is construed accordingly." Whereas there is no reference to a person having control there or owner. Maybe the definition of licence holder might revert back to the primary law then to clarify.

**The Minister for the Environment:**

Without the thing sitting in front of me and following the chain through back to the primary law, I cannot .. and forwards, I cannot really ... I see what you are pointing ... you have absolutely made the point. I get where you are driving.

**The Connétable of St. Brelade:**

I am just going to pick up on one last technical point before we drift off into a different direction. Concerns have been raised with regard to the wording of condition 2(e) of the schedule, which states: "The licence holder must ensure the Minister is notified of the following changes within 28 days of their occurring. Any other changes in circumstances that could lead the Minister withdrawing



the licence.” Now it is concerning that this is considered a little bit too ambiguous and gives too much power to the Minister.

**The Minister for the Environment:**

Again, that is going to come in the guidance. But I mean it is essentially there to make sure that we get change of addresses from the relevant authority so that we know who is in charge of the property, and any other information like that, that means that we can administer the law.

**The Connétable of St. Brelade:**

So it goes back to the owner or the agent once again possibly?

**The Minister for the Environment:**

Yes.

**Deputy S.G. Luce:**

Again, we have that issue about who is the one who will pay the fine. Before we move on to landlords and tenants, Minister, I just want to ask you a question around the big area between the informal resolution. If there is an infraction in the property, officers go in and they try to get it sorted out. The decision is taken to enforce and the Royal Court is over here somewhere, I would suggest very many months away and potentially hundreds of thousands of pounds, certainly tens of thousands of pounds. Is there a halfway house here with something like a fixed penalty notice that is imposed by an officer who says: “This is a grade 3 infraction? It is £1,000 and you have got 28 days to pay”?

**The Minister for the Environment:**

Then I am looking at what the intent of the law is, and the intent of the law is to bring the property up to standard. The remedy, that is not served with a fine. A fine is a punishment. What we want is that landlord to comply. What we do not want them to do is say: “I will take the fine” and carry on with a substandard property.

**Deputy S.G. Luce:**

Which is the reason for the question because if they know by taking the fine and carrying on with a substandard property, they are looking at 18 months before they have to do anything.

**The Minister for the Environment:**

But the licence withdrawal sits between ...

**Deputy S.G. Luce:**

The licence would be withdrawn?

**The Minister for the Environment:**

If you have got persistent, deliberate, non-compliance over a long period of time, that is what the law is ultimately designed to capture.

**Deputy S.G. Luce:**

Okay, so you withdraw the licence, they then go to the appeal process.

**The Minister for the Environment:**

They then appeal it.

**Deputy S.G. Luce:**

Do they get their licence back after they have appealed?

**The Minister for the Environment:**

If the appeal is successful.

**Deputy S.G. Luce:**

No, sorry. In between you taking the licence away and the appeal decision coming out, do they get their licence back? Because normal circumstances, I might be wrong, but you would revert to the status quo and wait for the outcome of the appeal.

**Deputy M.R. Le Hegarat:**

Because otherwise what happens to the tenant in the interim time?

**The Minister for the Environment:**

That is a separate thing because we have that situation at any point in the process; what happens to the tenant? I am trying to think of the equivalent situation in Planning and I cannot remember it. If there is an appeal against planning permission I think it is frozen, is it not? So that they do have planning permission.

**Group Director, Regulation:**

It depends on, in terms of the planning aspects, whether it is lawful or whether it is expedient to enforce. So there is a period of stay, if you will, where something might not have the permissions required, but it might not be expedient at that point to enforce because it is going through a particular route. In terms of the rented dwelling licensing, the point of having the licence, the imposition of conditions on the licence means that we are able to ensure compliance with those conditions while the tenant is still there. Currently, if we serve an improvement notice, that would be non-compliance,

which would mean that the tenant would not be available to stay. It improves the situation to allow the property to continue to be rented while our officers continue to persuade and actively encourage the compliance and the improvement of the property. As the Minister said, our full intention is to work with people to ensure that things are brought up to standards and not to automatically go to a sanction or a penalty or a prosecution or things like that. The very last 5 per cent is when we consider enforcement. But we do spend 95 per cent of our time explaining, encouraging, negotiating and looking for alternatives in the way to bring properties up to standard.

**Deputy S.G. Luce:**

I am just thinking about those 5 per cent where people will not bring the property up to standard and we have a tenant allowed to stay in a property which we know is dangerous, which could burn down overnight.

**Group Director, Regulation:**

If we think there is any ...

**The Minister for the Environment:**

It is a degree, is it not?

**Group Director, Regulation:**

If we think there is any risk to life, then we would help that person move. We work very closely with Housing and Population officers in C.L.S. (Customer and Local Services) in trying to find people suitable accommodation if we feel that there is a risk. We have had a situation in the past month where that has been the case and our officers moved incredibly swiftly and worked overnight to remove somebody from a property to a safe property.

**Deputy S.G. Luce:**

Do you have any idea how many of those types of relocations you are going to need to do when this law comes in?

**The Minister for the Environment:**

It is really difficult to say because we do not know. We know that there are properties ... numbers of properties out there, but it depends on how quickly we are able to identify them. It depends whether there is actually a bigger slug, if you like, above the base level we know exists. It depends on how quickly those people comply. It depends whether some people may withdraw from the market rather than decide to try and meet the standards. It is pretty difficult, with all those variables, to know.

**Group Director, Regulation:**

It certainly depends on the condition itself and what it is.

**Deputy S.G. Luce:**

So there is going to be a degree of subjectivity on this depending on what the officer thinks.

**Group Director, Regulation:**

I would say judgment not subjectivity. But judgment from a professional basis.

**Deputy S.G. Luce:**

Same thing, is it not?

**The Minister for the Environment:**

The higher up you go, escalating through the process, the more eyes are going to be brought to bear on this. So one officer just saying all the way through, it is going to be a significant issue going through, right to the point of licence withdrawal. I think what you seem to be hinting at is arbitrariness. I question whether that is very likely, given the processes that are going to be in place.

**Deputy S.G. Luce:**

I mean, I only asked the question because I like to be consistent with everybody and I can see a degree of difficulty where we get from a minor infraction, where a smoke detector needs a battery or a window needs a new catch so it can be opened, and something where somebody has not had any electrical checks for 40 years and they are boiling ... the electrics are about to catch fire. But somewhere between those 2 is a grey area where you have to try to decide whether it is serious enough that it needs to be escalated, and that is always difficult.

**The Connétable of St. Brelade:**

Can I just come on quickly? We talk about the landlord being the rogue and the property being in poor condition. Of course, that might be stimulated by the lifestyle of the tenant, and we do see that quite a lot. I am just rather feeling for the alternative provider who might be lumbered with a tenant who is the nightmare tenant. I think that needs to be taken into consideration.

**The Minister for the Environment:**

Well, it would be.

**Group Director, Regulation:**

We also work with Social Security for cases of adult mental health, cases of neglect and things like hoarding and areas like that. We do work with all of government to support every individual in any

property. I do have the answers relating to lodging houses from the Deputy's questions, if you wanted to.

**Deputy S.G. Luce:**

Yes, let us have the lodging house situation clarified. We will then move on to landlords and tenants.

**The Deputy of St. Mary:**

Before that, can I just ...

**Deputy S.G. Luce:**

No, let us finish this particular item.

**The Deputy of St. Mary:**

I am trying to help. If the property was defective, would your aim not to be to just serve a notice under the 2018 law? It is therefore under that law you would be looking at remedies, et cetera, and stay of execution rather than this one?

**The Minister for the Environment:**

The regulations are the mechanism by which we deliver to that 2018 law. We would not necessarily have found the property without the regulations because the regulations are the thing that would, for example, allow a tenant to have the comfort of coming forward and lodging a complaint, whereas they would not in the past because they would have known that the only way we could have found out was through that complaint. Under this system, it could have just been a random inspection that we did.

**The Deputy of St. Mary:**

Okay, but I am saying that if an inspection is made in accordance with the new regulations, then you have identified the property, you have identified the problem. Could you not revert to the 2018 law to give notice?

**Group Director, Regulation:**

It is possible with both in place; the regulations and the law. So it is possible under regulations to issue a licence with conditions and the remedy under the conditions of the licence. But it is also still possible to issue an improvement notice under the law. They will be worked together.

**The Deputy of St. Mary:**

Yes, there is an argument saying you do not need a conditional notice at all because you just ... if a property is defective, you just simply issue a licence and issue a notice simultaneously, and you achieve the same aim.

**Group Director, Regulation:**

Except we are not able to do that now because we do not have ... where a registration or, sorry, the licence ...

**The Deputy of St. Mary:**

No, once the regulation was in force.

**Group Director, Regulation:**

Yes.

**The Deputy of St. Mary:**

Sorry. Going back to your earlier point.

**Deputy S.G. Luce:**

We are going to have the answer to the cost of the lodging house licence.

**Group Director, Regulation:**

So the lodging house licence is on a per person basis. It is £15.08 per person over the age of 5, which is the lodging house's fee itself. We do risk-based inspections on a 12-monthly annual licence fee.

**The Minister for the Environment:**

So not everything gets insight every year.

**Group Director, Regulation:**

So it is risk-based, yes.

**Deputy S.G. Luce:**

Sorry, so just to clarify because I am not quite bright enough to get that. Does the risk-based mean that it does not get done every 12 months unless there is a risk? Or does it get done every 12 months regardless?

**Group Director, Regulation:**

No, as a risk-based? So it is not everyone regardless.

**Deputy S.G. Luce:**

Right. So when we say we inspect lodging houses every 12 months, that is not strictly accurate.

**Group Director, Regulation:**

Sorry, I am coming back with the clarification on that.

**Deputy S.G. Luce:**

It is where you think there is a risk that they may ...

**Group Director, Regulation:**

Yes, correct.

**The Minister for the Environment:**

That was a clarification.

**Group Director, Regulation:**

That was a clarification that it is risk-based.

**Deputy M.R. Le Hegarat:**

Risk-based on what?

**Group Director, Regulation:**

So if we have had complaints or if we think that it is necessary to regulate those lodging houses.

**The Minister for the Environment:**

It could be that visits in the neighbourhood have shown that it does not look in good condition.

**Deputy M.R. Le Hegarat:**

But they are all registered?

**Group Director, Regulation:**

They are all registered on a 12-monthly basis at £15 per person on an annual basis. And the inspections are risk-based.

**Deputy S.G. Luce:**

Okay, so £15 pounds per person. So the number of people is based on what; can I ask that? The number of beds?

**Group Director, Regulation:**

The occupancy.

**Deputy S.G. Luce:**

The number of beds.

**Group Director, Regulation:**

Depending on the size of the room. So whether it is a 2-person bed or one or single.

**The Connétable of St. Brelade:**

Is the occupancy dictated by the fire service?

**Group Director, Regulation:**

I am not sure about the connection to the fire service but I can ask.

**The Connétable of St. Brelade:**

The reason I say that is because they tend to dictate occupancy in licensed premises. I am not saying it is the same. I just wonder who is dictating the occupancy.

**Group Director, Regulation:**

I think the occupancy would be just the measurements of the room sizes under the lodging houses. The fire certificates are a different legislation.

[16:00]

**Deputy S.G. Luce:**

I know we are almost going way off track here, but can I just ask a question about registration for a licence for a lodging house? How is that done? If I want to change my hotel into a lodging house, how do I go about that?

**Group Director, Regulation:**

Firstly, there is an application for planning permission.

**Deputy S.G. Luce:**

So it is a change of use?

**Group Director, Regulation:**



So if it does have a consent there is a change of use, and if it does have consents then you would register under the law, which is run between the regulation directorate and the Population Office.

**The Deputy of St. Mary:**

We are getting away from drafting technicalities, you will be pleased to know. Support for landlords and tenants, Citizens Advice Jersey have expressed concern. They were seen as the first point of contact for tenants and landlords as to concerns, mentioned the licence scheme and suggested extra funding be provided to them from government, acknowledging the impact this is likely to have on their own case load. A similar set of rules is in place for our Citizens Advice as the first point of contact for the mydeposit scheme. Do you have any views on this, Minister?

**The Minister for the Environment:**

I spoke to Citizens Advice in the lead up to this. It is interesting, the question I guess is to what extent there is an increase here. They were very clear that they already deal, presumably under whatever funding they currently have, with considerable numbers of queries under the 2018 law, exclusively I think from the conversations I had with them from tenants, not from landlords. So tenants essentially complaining or saying: "I have a problem." They already do that, so I would have to have a conversation with them about the extent to which they have logged that activity. It is definitely logged because they provided me with a summary of the log. You could argue that some of that will disappear now because there is now a better mechanism for this to be dealt with through regulations. Their simple answer will be go to regulation. There may be a reduction in some places and an increase somewhere else. That is one to monitor. It feels premature to say we will have to fund ...

**The Deputy of St. Mary:**

We sought their views and they gave us ...

**The Minister for the Environment:**

Yes, I understand that.

**Deputy M.R. Le Hegarat:**

Impact assessment, why was it not deemed prudent to carry out an impact assessment on the potential impact the introduction of a licensing scheme could have on the private rental market in Jersey?

**The Minister for the Environment:**

For 2 reasons. The first reason, as I said before, these are fundamental standards. If you are measuring the impact of making sure that rental properties are safe, that is not negotiable. Properties have to be safe. These are not things that are fripperies. This is about the basics. You do not have an impact assessment on making sure that somewhere is fire safe; it has to be. That is the first reason. The second reason is that I do not accept that the implications of this are significant. If the sum total of the disruption or the burden, or whatever we want to call it, is to fill in a form every 2 years and pay £60, an impact assessment implies that we have significant potential impacts that could potentially be mitigated in some way. It is a basic standard and it is not a huge imposition.

**Deputy S.G. Luce:**

On that basis, Minister, you do not think there are enough infractions out there to cause anything to change in the marketplace when the law comes in?

**The Minister for the Environment:**

The thing that I hope will change is that standards will rise in the places where they do not. That is the intent.

**Deputy S.G. Luce:**

Absolutely, I cannot disagree. What Deputy Le Hegarat is maybe hinting at is was there any investigatory ... I suppose it is impossible to answer the question really. How many landlords will leave the market and leave increased pressure on the rental sector to accommodate people? Then we factor in interest rates, price of property, people's inability to purchase. Again, more pressure on the rental market. At the same time as maybe bringing in some regulations, which might end up with landlords selling rather than continuing to rent.

**The Minister for the Environment:**

Okay. There may be a separate issue to do with the housing regulations that may or may not be coming forward. In terms of how it might affect the rental market, houses do not get demolished because rental standards are coming in. They get sold. We know from cases, particularly relating to the lodging house sector, that lodging houses which are found to be substandard or a landlord may feel that they do not want to bring up standards, sell them.

Sometimes these are taken on by bigger landlords or a reputable player in the market who sees the opportunity to renovate a property and make money on it. It is, therefore, not lost to the rental sector, it is an improved property into the rental sector. That is what we would want to achieve. That is a beneficial outcome. Yes, if what we are saying is that we think there are so many substandard properties in the Island with landlords who do not wish to raise them to the right standard that the imposition of these regulations will lead to all of those things being withdrawn from the market, that is saying something pretty serious about the state of our housing market and the standards within our housing market.

**Deputy S.G. Luce:**

We are not saying anything at all. We just wondered if you have done any sort of impact assessment to come on to the question you have just asked.

**The Minister for the Environment:**

As I say, my conclusion is that these standards have been in place for 4 years. They have been legally mandatory for 4 years. An impact assessment to ask people to do what they have been required to do for 4 years does not feel to me to be appropriate.

**The Connétable of St. Brelade:**

I will chip one in there. Several landlords have been to us, who have perhaps inherited an older property in which it may be difficult to ensure compliance. Do you think that the minimum standards in the 2018 law are going to push any of those owners away from the market? What might they do with those properties, which they may not wish to sell because they are family heirlooms, if you like?

**The Minister for the Environment:**

In a way it is hard for me to say. There are plenty of options available to people. They might sublet them to somebody on a long lease, for example a 20-year lease, with somebody who does have the money and then they can take a lease income from that. They might sell. They might choose to borrow to invest. They might use other family members to help them renovate the property. What I am not prepared to accept is that that becomes a reason for not insisting on these standards.

**Deputy S.G. Luce:**

Okay. We are going to move on. We have a little less than an hour left and we still have various subjects to get through. The next subject I would like to talk about, Minister, is the Planning and Building (Amendment No. 8), specifically the trees, which we know has been of interest to many members of the public and States Members recently. All States Members yesterday had an email from yourself alerting us to a deferment of P.71. You said that it is clear from talking to Members that proposals have flown below the radar. I wondered what you meant by “below the radar”.

**The Minister for the Environment:**

When I brought forward the proposals initially, 6 months ago, they certainly did not fly below the radar, in that my inbox filled up. Lots of people’s inboxes filled up. I was contacted by people. There were articles written in the paper. There were letters in the paper. There was a lot of conversation around it. That prompted me to accept that those proposals had been pitched wrongly. That was a mistake. This time, I published the proposals 3 weeks ago and did not hear a thing until about 3 or 4 days ago. That is the sense in which they were received differently. I, no doubt very naïvely, interpreted the silence as being that people could see that I had made a significant change to the proposals and basically they were happy with them but clearly there is still a lot of uncertainty around them, dissatisfaction in some quarters, so it feels entirely appropriate to say: “Whoa, let us have a proper look at this again.” They may have flown under the radar more because people were paying attention to other things.

**Deputy S.G. Luce:**

Okay. I will say for myself, personally I did not note the changes because I was so opposed to it in the first place my view was not going to change. Can I ask what changes you made between the original proposition and what you have lodged recently?

**The Minister for the Environment:**

Absolutely. I am sorry to hear you are opposed. The original proposals were quite detailed and, if I may say, in retrospect pernicky, in that they set standards around exemptions that were very detailed. For example, the original proposal said that work on any tree under 8-centimetre diameter at 1.5 metres height would potentially need to be at least notified to the department, as would any work on a branch over 5 centimetres. You would have had a situation where people would have been out with a tape measure measuring branches and trunks and those trees at 8 centimetres would have potentially be quite small trees, garden

trees or trees in a domestic setting. The conversations that I have been having with officers was to very clearly say to them that I did not want to capture routine work on trees, minor works that anyone would just want to get up to in their own gardens or in their own properties. These rules should be about protecting mature trees. In practical terms, we have abandoned the rule around branches entirely. We have increased the diameter of tree that you can work on without needing any engagement with the Planning Department from 8 centimetres to 25 centimetres. To put that into some kind of context, that is typically a tree of 30 to 60 years, depending on the species of tree; 30 years for a fast-growing tree and 60 years for an oak or beech. Mature trees, basically trees that would be substantial, but any tree under that: "Get on with it. Do it, do what you want." The only other restriction that we are looking at is around how much you can reduce the tree. Obviously you could lop a tree off at 2 metres and say: "No, I have not cut that down, I have just reduced it", so the rule we are looking at there is a 30 per cent reduction. Anything up to 30 per cent reducing the height of the crown or the bulk of the tree, go ahead. If you are planning to reduce the tree by over 30 per cent or if you are planning to fell a tree over 25 centimetres diameter then you will need to notify the department. With one other exception, which is a significant exception, if you have a large area of trees, woodland, a farmer with verges or whatever covered in trees, then you can apply for a Woodland Management Plan. A Woodland Management Plan would be an agreement between you and the department to agree to a series of things, which might be things you want to achieve, the Environment Department might want to achieve. It might be about replanting traditional species. It might be about managing a habitat corridor or whatever. Once that is agreed, say 10 years, you manage to that plan and off you go.

**Deputy S.G. Luce:**

Why would landowners with woods like you have just described need permission from the department, given they own woodland, which they are obviously looking after, because it is woodland?

**The Minister for the Environment:**

There are 2 elements to that. The philosophical point is it is their woodland; they should be able to do what they want with it. I would say, no, not in all circumstances. The point is that although most landowner and farmers will manage land responsibly in a way the community will be entirely happy with. They will not all and there will be decisions taken potentially by private landowners, say clear an area of woodland in front of a house to improve a view,

clear a wooded valley, as happened in St. Brelade a few years ago. There was a valley taken out because they preferred to have a garden there. That may be appropriate. However, what we are saying is that that should at least be looked at. That should be the subject of a discussion, of a judgment about whether that is appropriate or not.

**Deputy S.G. Luce:**

Is that particular case in St. Brelade the reason why you brought this proposition?

**The Minister for the Environment:**

No.

**Deputy S.G. Luce:**

What is the reason, Minister?

**The Minister for the Environment:**

I get letters. There are multiple situations where we have trees lost that people feel should not have been lost. I can run through some of the categories. There are certainly ones where developers clear land before putting in planning applications. The example I just cited was not that. It was an example where somebody decided they preferred a valley side without trees.

[16:15]

We have trees in field boundaries where you had tree-lined roads; there is one in St. John, that you were mentioning, where the trees just disappear. People say: "How on earth did that happen? That is a shocking loss." It is a loss of habitat. It is potentially a loss of a corridor for species. These are significant issues, where we have international commitments in terms of wildlife that we should be taking into account.

**Deputy S.G. Luce:**

Is this a wildlife issue, is it biodiversity issue, a view issue ...

**The Minister for the Environment:**

It is multiple. If you read the tree strategy, which was done in 2022 and came out of work that was initiated and funded out of a proposition from Constable Jackson in 2021, a whole

body of work was triggered by that proposition. Part of it was the tree strategy and part of it was Amendment No. 8 on the Trees Law. The tree strategy sets out really clearly all the different ways in which trees are valuable in the landscape: landscape services; maintaining soil structure; holding water in the soil when there are floods, so it does not tear down the valley; windbreaks; sound barriers; and, of course, the amenity value, the visual landscape value.

**The Connétable of St. Brelade:**

I do not think any of us would argue with that. Looking at the desired end result, it is to protect the better specimen trees. That is the truth of it. Can we not do that in a better way, using the existing planning structure where there is a regime for putting protection orders on trees? It is very difficult to put in place but can we not make that work better? So that you could pick up these specimen trees and put the orders on them and then that is done, without interfering with people's day-to-day lives, which seems to be the objection from the tree maintenance industry and landowners generally.

**The Minister for the Environment:**

Unfortunately, I do not accept that the problem is only over a few specimen trees. We have no lever at the moment for vast ... when you look at any views, look toward St. Ouen or whatever, you see a wooded landscape. It is all in private ownership and we have no ability to have any influence over whether those trees stay or go.

**The Connétable of St. Brelade:**

If we were to enhance the tree protection regime, if I can call it that, could we not do that far more easily?

**The Minister for the Environment:**

There are 780,000 in the Island, how do we decide which ones are important and under threat? It is much more proportionate to just say when somebody is thinking of work, notify the department and a decision can be made. Otherwise, we are going to have to take a highly precautionary approach and say: "Oh my word, all of these trees, were somebody to cut them down we would have a problem."

**Deputy S.G. Luce:**

If we could go back 6 months, Minister, we have more trees on the Island than we have ever had. We have lost a lot of trees in the last few months, since this proposed legislation came in, because people are going out and having them felled. You are asking for protection for trees when we are in a situation where we have got more than we have ever had. There are people like myself and others planting trees all the time. We are planting a lot more than we are cutting down. Why do we need to assume that we are going to lose all our trees?

**The Minister for the Environment:**

You have explained one of the reasons. We have people who love trees so much that they would rather cut them down than fill in a form before cutting them down.

**Deputy S.G. Luce:**

No, what you are saying is that they would rather not have to apply to government to do what they regard as routine maintenance.

**The Minister for the Environment:**

Cutting down a tree is not routine maintenance.

**Deputy S.G. Luce:**

No, but it will be, according to the definition of depending what size of branch you take of the side of your tree.

**The Minister for the Environment:**

No, I have said that is gone. That is gone.

**Deputy S.G. Luce:**

So routine maintenance has come out of the proposal?

**The Minister for the Environment:**

Routine maintenance is in the proposals, but it is not on a branch diameter, it is on how much you are reducing the total size of the tree. It is basically there to make sure that you do not, as an alternative to cutting down a tree, lop it off in such a way as it might as well have been cut down.



**Deputy S.G. Luce:**

What about diseased and unsafe trees?

**The Minister for the Environment:**

Completely exempt, you can do whatever you want with those.

**Deputy S.G. Luce:**

So I chop down 5 trees from my hedge and burn them and somebody turns up and says: "You were not allowed to do that." I say: "They were diseased and unsafe." The law is impotent, surely.

**The Minister for the Environment:**

Yes. No law can capture every circumstance. However, if I was a landowner doing that with diseased trees, I would at least take a few photographs so I could show somebody that they have been ...

**Deputy S.G. Luce:**

Well, you might, Minister, but surely if what you are trying to do is to protect the trees that you have described in certain people's gardens or certain people's views, they will use the law that you are about to impose and they will say: "We knocked it down because it was diseased."

**The Minister for the Environment:**

That would be subject to investigation.

**Deputy S.G. Luce:**

Not if the tree has been burnt and dug out.

**The Minister for the Environment:**

There is still a stump.

**The Connétable of St. Brelade:**

Could I inquire a little bit on the process? The suggestion is an application gets made to your department and is considered by a competent person. My understanding is there are

only 2 qualified tree surgeons in the Island. Are you ever going to be able to cope? These are people in private industry.

**The Minister for the Environment:**

You are talking about 2 different things. The route in our department is not from qualified tree surgeons, it is through people we employ in Regulation.

**The Connétable of St. Brelade:**

Are they qualified?

**The Minister for the Environment:**

The key question here is the policies. The question of whether you are qualified or not to climb up a tree is not the relevant qualification.

**The Connétable of St. Brelade:**

Surely a person has to be qualified in arboriculture?

**Group Director, Regulation:**

We have qualifications held across multiple officers: arboriculturalists, ecologists, and landscape architects.

**The Connétable of St. Brelade:**

Right, so I have been misinformed. That is interesting.

**The Minister for the Environment:**

That is what we have.

**Group Director, Regulation:**

We have those skills. We also have town planners who have worked in the U.K. with tree protection regimes. We have that skillset as well.

**The Connétable of St. Brelade:**

Okay, good.

**The Minister for the Environment:**

The other thing I can say is we have set up a separate channel, if you like, for assessing these.

**Group Director, Regulation:**

We have created the ability of resources to enable us to be able to cope with the workload.

**The Deputy of St. Mary:**

Yes, I can come on to that. We were surprised, the committee, to welcome that many people and did not realise they were coming, and that does indicate the level of opposition and from comments ...

**The Minister for the Environment:**

It indicates that Deputy Binet is very good at organising opposition.

**The Deputy of St. Mary:**

I make no comment on that. I know some of those who did attend. Clearly there is a concern among the industry. However, one of the comments I heard subsequently was that, I do not wish to be rude, they do not accept that the department has the capability of receiving all these notifications and processing them, given what has happened with planning applications.

**The Minister for the Environment:**

We have a failsafe in there. It is a 3-stage process. First of all, are you covered by an exemption? If you are, go ahead, fine. If you are not covered by an exemption then you have to notify the department. There is a series of drop-down menus: where is the tree? What tree? All the rest of it. You notify the department, say what you want to do, the department has to make a decision within 28 days. If the department does not make a decision within 28 days, you have deemed consent. That is our problem, not your problem. That means the system either got snarled up or whatever.

**Deputy S.G. Luce:**

You say it is your problem not my problem. I am an ex-farmer who has planted thousands of trees, maintained trees, cut down trees, done whatever you like to the trees. I am in the middle of winter, middle of January, and I have got some trees that need to come down, for whatever reason. I cannot wait 28 days. In 28 days I am planting potatoes. I do not know

quite how a 28-day gap is seen as such an insignificant thing. It is not. I employ a tree surgeon to come on my land to do some work. He turns up and says: "It is a lot bigger than I thought. I need to make an application. I cannot come back for 28 days."

**The Minister for the Environment:**

The 28 days is the limit, obviously. The aim will be to do them within that time. I was responding to a question about the system being gummed up, not saying we will take 28 days over every application. The system will not gum up. Furthermore, were it to become clear that these regulations were leading to that, we would either address that through a resource implication or I would look at changing the exemptions to make more work exempt. We will respond to situations, obviously.

**Deputy S.G. Luce:**

Do you envisage making some more amendments between now and the new date?

**The Minister for the Environment:**

I anticipate publishing a lot more information about what the detail of the guidelines will be and having a State Members briefing and engaging in that consultation. I do fear, Deputy, that no matter what I do I will not persuade you.

**Deputy S.G. Luce:**

If you do not come out with enough detail you will be lambasted because people will not know what they are dealing with.

**The Minister for the Environment:**

So we will.

**Deputy S.G. Luce:**

If you come out with specific detail they will say: "How are we supposed to work within that?" I put it to you, would you not withdraw this whole application?

**The Minister for the Environment:**

Absolutely not, I am very committed to it.

**Deputy S.G. Luce:**

It is going to be a very interesting debate. We will see how we go.

**The Minister for the Environment:**

We will. The voice of the people who care about trees has not yet been heard. We have heard a lot of the people who are worried about it from the point of view of landowners.

**Deputy S.G. Luce:**

I am not going to try to get emotional, but there are thousands of people in Jersey who care very much about trees, who are fundamentally objecting to what you are trying to do, which is to stop their ability to look after their own crops, their own trees.

**The Minister for the Environment:**

Not crops.

**The Connétable of St. Brelade:**

Moving on to maritime matters.

**The Minister for the Environment:**

What a shame, I was just getting warmed up.

**The Connétable of St. Brelade:**

Minister, you will be aware that we were due to receive a briefing on the Maritime Spatial Plan on 6th September, but this was cancelled as the consultation draft was still being finalised. Can you provide an update on this and when the consultation draft will be shared.

**The Minister for the Environment:**

Paul, you may as well take that, since you are the holder of the information.

**Head of Marine Resources:**

Yes, very happy to do that. Sorry about the delays and things. As you are probably aware, this has a fairly short deadline on it. In terms of getting the documents and things signed off internally there was a delay and then other ones followed. At present, it is in the process of being desktop published, so a draft is there and it is getting ready for publication. We are expecting the publication date to be 24th October. There will then be a period of several weeks' consultation after that.

**The Connétable of St. Brelade:**

We understand that significant concerns have been raised by the fishing industry. How are you engaging with them and other stakeholders to listen to and address their concerns?

**The Minister for the Environment:**

I can take that from one level and Paul can take it from an officer level. At officer level a lot goes on. We have a regular quarterly meeting with the representatives of different sectors of the fishing industry. This has been a standing item on the agenda this year. Issues that have arisen are dealt with. The specific concern is around the announcement that I made for a marine park and the expansion of the M.P.A.s (marine protected area), which would form the foundation of a marine park. We are at an early stage with that. Once the plan is published, people will be able to see where those suggested marine protected areas are and the evidence-base for them, why they have been designated, which is critical. We cannot designate M.P.A.s just because we fancy it. They have to be discussed with our European neighbours in order to obtain agreement. Part of the T.C.A. (Trade and Co-operation Agreement) is that you are encouraged to do designations, but they have to be done on an evidence-base. Otherwise, they can be challenged through the T.C.A. The evidence-base is critical. I would say, once the proposals are published then we will engage again, because then there will be something more detailed to talk about.

**Deputy S.G. Luce:**

Under the terms of the T.C.A. we do not need to do that inside our 3-mile limit though, Minister.

**The Minister for the Environment:**

No, the stuff outside that we do.

**The Connétable of St. Brelade:**

Fishermen feel that they are being squeezed or pushed out at the 3-mile limit and they are being pushed at the 6-mile-plus limit by the French. Is this fair and reasonable for them, do you think, or is it going to decimate the fishing industry, which is what some have suggested?

**The Minister for the Environment:**

No, it is not going to decimate the fishing industry. This is about securing a long-term, vibrant future for the industry, in particular doing so on the basis of it being sustainable and being known to be sustainable. There is a quality element to the product. That has lots of elements to it, not just the regulatory element; there is also an economic development side to it, which Deputy Morel has been working on. Paul, do you want to talk a little bit more about how this does not conflict with the viability of the industry?

[16:30]

**Head of Marine Resources:**

Yes, I am very happy to. Bear in mind, the evidence-base will contain what you might loosely call an impact assessment that looks at the effects of the areas that are proposed. The first point to make is that, obviously, in terms of the management of these areas. There will be some vessels affected by French and Jersey. Those vessels are most likely to be mobile gear ones, of which, to my knowledge, we have 8 at the moment with Jersey fleets. Certainly in terms of the main métiers and things, there are about 40-plus in the French one. It is difficult to be more precise than that, because it works on permits at the moment and depends on who has which permits on the French side. Yes, there may be some impact, but that will be captured in the impact assessments, both in terms of fishing effort, in terms of approximate economic impact, and then the potential for any displacement and things that may occur.

**The Connétable of St. Brelade:**

Given the fishermen will move their fishing grounds, depending on weather, the seas and the market, is it something that is reasonable to over-regulate and will it constrain their traditional habits, if you like?

**The Minister for the Environment:**

I would certainly challenge “over-regulate”. There is another way of looking at this, which is that we are trying to build a sustainable fishery. We are also very mindful of our commitments to marine conservation. I do not see the conflict. I can see the conflict in the short term. There are issues of management and we can address those. There are various ways we can address those. Ultimately, this is going to produce a more productive fishery. That is the whole point. That is what the evidence-base is driving towards. It will displace from some areas because the damage to those areas outweighs the potential benefit of the

fishing. We will get more benefit from protecting those areas than we will from continuing to fish them. That is the basic principle.

**The Connétable of St. Brelade:**

We tried having initial discussions with France about protecting certain areas for certain species, exempting certain areas at certain times. Have we been successful in that or are we proposing to regulate more areas where it is found to be necessary as a result of over-fishing?

**Head of Marine Resources:**

Are you referring to the bream nesting areas and things?

**The Connétable of St. Brelade:**

Indeed.

**Head of Marine Resources:**

The legislation for that is in preparation at the moment. Notification will be forthcoming. The E.U. (European Union) has had a head's up that it is on the way.

**The Connétable of St. Brelade:**

What is the timeline on that?

**Head of Marine Resources:**

That is a good question. The legislation is due at the end of this year, beginning of next year. I have to admit, I am not up to speed on that. I do not deal directly with our legislation planning. I can get you the response. For the notification period there has to be at least a 45-day notification period for the E.U. That would need to be done as well. I would expect next year realistically.

**Deputy S.G. Luce:**

We get, Minister, that at some point in the future protected areas produce more product, more product is easier to catch, and fishermen use less gear in order to catch the same. At some point in the future fishermen may only go out with half the number of pots for half the amount of time, catch twice the amount of product, everybody is doing quite well and the sea is full of product. That is fine. However, getting there is tricky. The only way to make



sure you have a fishing fleet when you get there is to make sure they stay through the difficult times where they have to stop doing things, reduce the number of points, and reduce the effort. The only real way to help them through that is money. Are you going to be able to find enough money? The answer is we need more money to do that. Are you confident you are going to be able to find enough money to compensate the fleet to reduce their effort in order to achieve what you hope to do with protected areas?

**The Minister for the Environment:**

That is a question for ongoing discussion, particularly with my colleagues in Economic Development. There already is a support network in place. What is clever about that support network is that it is targeted to achieve environmental objectives or public good objectives, if you like, already. It is not a big tweak to that scheme to be able to use those kinds of mechanisms to compensate. The sorts of things you might be looking at is extra travel time to get to fishing grounds that you maybe were not accessing before, which might mean extra fuel, it might mean extra labour costs and so on. That is the sort of thing you would potentially be looking at compensating.

**Deputy S.G. Luce:**

Forgive me, but I associate moving further to other fishing grounds that you have not targeted before as a larger vessel, which is going to be pretty difficult, given what we have just been through with the licensing review.

**The Minister for the Environment:**

You have not seen the M.P.A.s yet. However, if you are talking about going from 3 miles to 4 miles, I am not sure that that is a larger vessel.

**Deputy S.G. Luce:**

No, certainly not. However, you are assuming that at 4 miles there will be the same product for them to catch as there is at 3 miles.

**The Minister for the Environment:**

Yes.

**Deputy S.G. Luce:**

If there is, why are they not there now?

**The Minister for the Environment:**

Well, because it is slightly easier to fish closer to shore and not spend the fuel and time travelling.

**Deputy S.G. Luce:**

Okay, we better move on because we still have a few subjects we need to cover. Talking about money, this is the only one we really have to do, but I certainly want to mention the proposed Government Plan. There is not anything hugely significant in it for you, Minister, but are you confident that the resources and budget allocated is going to be sufficient, given the responsibilities you have?

**The Minister for the Environment:**

Obviously, we did not get every bid we put in. There was a capital bid for signage, which is a longstanding project, where the preparatory work was all done a year or 2 ago to have unified country signage for the National Trust and Jersey Heritage and all of that stuff. A lot of work has been done on the design and co-ordinating all of that. It is good for the tourism sector. That is not funded at the moment. That is a loss. We have to balance it against schools, hospitals, vulnerable homes and vulnerable people. You cannot get everything, and I accept that. In terms of the other stuff we did not get, this is revenue stuff. This is to do with funding particular projects. We got almost everything. The things we did not get, I am reasonably confident that we will be able to progress, if not quite at the speed and intensity that we might like, from reallocating resources, working within what we already have.

**Deputy S.G. Luce:**

Funding pressure for what you are going to try to do in the next 12 months is fairly okay?

**The Minister for the Environment:**

Yes. The water strategy needs a longer-term funding solution. We are funding it from within budgets at the moment, so there are potential pressures there. However, these are not colossal sums of money. When you look at the government spending in the round, we have not done too badly. Some of the loss is technical things. We transferred driver licensing from our department to Infrastructure. It goes from one head of an expenditure to another, so our budget goes down a bit. It is not a loss in functionality.

**Deputy S.G. Luce:**

Okay. Staffing levels, Minister, have obviously been an issue for some time. How are we doing with recruiting new staff and is there any impact on the delivery of various programmes inside the Government Plan?

**The Minister for the Environment:**

Broadly speaking, you can say there are 3 different areas that are funded through me, if you like. There is a section of the Cabinet Office<sup>2</sup>, which does the climate change stuff and those sorts of things. There is the regulatory section and there is an environment section. Regulation is still understaffed in key areas, I would say. Was it 20 per cent we were talking about this morning?

**Group Director, Regulation:**

Yes.

**The Minister for the Environment:**

That is an impact in terms of delivering the Mackinnon report and that poses challenges.

**The Connétable of St. Brelade:**

Under that heading, do you include enforcement?

**Group Director, Regulation:**

We have had a successful year of recruitment following a careers evening. We were able to recruit at least 8 new members of staff, who have started recently. They are working through a training programme because they come to us not necessarily with the qualifications, so we take them through training. We have a period of growth from the staff that we have so that they fulfil the roles. There is a period of training for them to come up to speed. We have had turnover. While we have had a successful year of recruitment, we have also had successes in the fact that some of our team members have gone on to have apprenticeships in engineering and for other compliance roles and things like that. That is quite positive, but it does mean we then have a vacancy. Although we have moved in terms of recruitment and turnover we are still just below that 20 per cent vacancy, essentially. In

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<sup>2</sup> Point of Clarification – Infrastructure and Environment Department Head Office

terms of compliance for our environment and consumer protection team, all the officers do elements of compliance within their roles. For example, the housing team do inspections as well as compliance, so there is not a distinctive compliance team. It is all part of their roles. In terms of the environment and consumer protection team, they have quite a high number of roles filled. In the development and land team, that is the planning and buildings standards teams, Planning at the moment has a trainee planner vacancy and Building Standards has 3 officer vacancies. There is a compliance team. That compliance team is fully staffed. We have used some consultants over this year in order to bring the caseloads down and we are now at normal levels.

**Deputy M.R. Le Hegarat:**

What about in relation to planning and using people from the U.K., is that still going on?

**Group Director, Regulation:**

No. We have one U.K. consultant that is backfilling the current vacancy, essentially. In terms of the situation that occurred last year, which was when we had those queries around U.K. consultants, that was very much because last year we were very much in a backlog and we were using additional resources. This year, in 2023, we have only had that one consultant, which we have maintained for the vacancy. We are also determining applications; 78 per cent of applications have been determined within 8 and 13-week target timeframes. We are currently not carrying a backlog, so we are in a good position in Planning at this point in time.

**Deputy S.G. Luce:**

Can I ask what you mean by normal levels, when you talk about planning and building compliance?

**Group Director, Regulation:**

Yes, in terms of the number of cases for the number of officers that we currently have would be the normal levels that we would expect. We would always carry a caseload of some description, about 30 per officer, which would be a normal caseload.

**Deputy S.G. Luce:**

Is that 30 live cases per officer?

**Group Director, Regulation:**

Yes.

**Deputy S.G. Luce:**

When would you expect people who complain about infractions which need to be referred to Compliance, how long before action is taken?

**Group Director, Regulation:**

There is a process for Compliance. Initially, the first contact we would say is a query. The first contact would be: "I want to report something. I have seen something. I have something. There is a concern." There would be a triage on that theory, where we would look into whether it already has planning permission and give the reference number from the website, so on and so forth. Or it might be advice that that type of work could be done without planning permission or we do not have any control over that at this point or something like that. Then, if we felt that it was something that needed to be investigated, we would register it as a compliance case. The person would then receive an acknowledgement. We would then look at investigating on that site. Depending on the priority, so depending on the risk assessment, we would give it a priority 1 to 4, which would then give a time period in which we would investigate. A priority 1 where there is significant harm, we would site visit within 24 hours. Priority 4 is a period of days before we would investigate.

**Deputy S.G. Luce:**

How many days? So a priority would be how many days?

**Group Director, Regulation?**

Let me double check.

**The Minister for the Environment:**

I think it is a bit longer because I know somebody who got a priority 4 and I think it was over a week.

**Deputy S.G. Luce:**

I ask the question, Minister, because I personally have sent a number of emails to Compliance over the last 18 months and I have seen no action at all, physically out in the

countryside, when I am driving past infractions of the Planning Law. I wonder where we were with staffing and that sort of thing.

**Group Director, Regulation:**

We have been responding to those emails and providing case updates.

[16:45]

**Deputy S.G. Luce:**

Just to say, I get a response, which tells me I have a case number and that contact has been made with the owner and a meeting is going to be arranged and then nothing.

**Group Director, Regulation:**

That is because potentially that meeting has been arranged and we might be in negotiations with the owner. I do not know the case you are talking about, but generally speaking, we might be in negotiations with that owner. The point at which we begin the compliance process, where we are negotiating remedy options, it is a confidential process between us and the person that we are looking at trying to encourage compliance. If the person who has come forward with the original query, we would only update them at decision-making points. There could be a long period of time in which you would not necessarily have contact because the person who is the main actor in that relationship is the person who we are looking at the compliance.

**Deputy S.G. Luce:**

Okay. It is frustrating when you know there is an infraction of the law and you know you have reported it and the infraction not only continues but gets worse, because further development is taking place without permission.

**Group Director, Regulation:**

It is part of that compliance where we are looking at that persuasive compliance, encouraging compliance and alternative dispute resolution, which may take longer, essentially. We are looking at, as part of the Jim Mackinnon Improvement Plan, a compliance strategy that would be clearer to people who have raised concerns at what point in the process we will come back to them with updates. There is that expectation that ...

**Deputy S.G. Luce:**

I find it frustrating that my parishioners do not believe I am trying to do something, because all they see is the situation getting worse. They come to me and say: "I told you about this months ago. You have done nothing." I said: "I have." They said: "Well, we do not believe you."

**The Minister for the Environment:**

If it is getting worse and there is compounding action then that is probably worth re-alerting to, because officers are not able to monitor a live case every day of the week. It is frustrating. I find it frustrating. I get lots of complaints directed to me and all I can say in many case is: "Compliance work is underway." It is confidential what is happening. Even when we might be building up to a criminal prosecution we just cannot let people know that, unfortunately. It is part of the system that that confidentiality is preserved. They may comply.

**Deputy S.G. Luce:**

Okay. I am going to move on. The last one I wanted to talk about under the Government Plan is climate emergency. Deputy Jeune will be pleased that she came now. Minister, your plan outlines a very high-level set of principles that are going to undertake the financing strategy for the Climate Emergency Fund. This time last year we were told that you were carrying work out at pace to develop the financing strategy. We wondered where it was and what pace you were working at.

**Assistant Minister for the Environment:**

The most important thing is that we wanted to get these principles back to the States Assembly to be able to agree on them to then go forward in creating the strategy. That was difficult from the Government Plan 2023. It was too early to be able to produce these principles. We thought that that was important that we, as a States Assembly, agree on those principles before we develop this long-term financing strategy plan. That is why we are taking those the steps. Of course, at the same time as these principles are developing, we are also looking at what that looks like and what the strategies are. It is not that the work has stopped because of these principles. We wanted to get the principles and be aligned with that first.

**Deputy S.G. Luce:**

Given that we are in the middle of a climate emergency, the statistics coming out of global scientific research shows some absolutely dramatic changes in average temperatures, et cetera. Should we not be going a little bit faster so that we can get on and make some use of this ...?

**The Minister for the Environment:**

We are spending the money we have.

**Deputy S.G. Luce:**

To be fair, Minister, the money you have is a drop in the ocean compared to what you need.

**The Minister for the Environment:**

It is what we can spend at the moment. You can talk about training and all the rest of it, but we need to get build up.

**Assistant Minister for the Environment:**

We have launched a number of incentive schemes that we have talked to you about in different Scrutiny Panels over the last year. It shows that we are trying to spend the money, but there are systems to be put in place to make sure that that money is being spent in the right way to ensure it is delivering the objectives that we want. Part of that has been making sure that we have contractors that are upskilled in the way that they can deliver and put in the technologies that we have access to, for example the vehicles or to the e-bikes that are being purchased.

**Deputy S.G. Luce:**

I will go back to my original question: are you happy that you are moving fast enough? I only say that, because governments, and I include myself, over the last decade have been criticised. They approve plans, fund it and then they do not seem to be able to spend the money. We have been criticised by the F.P.P. (Fiscal Policy Panel) year on year on year and here is potentially another case in point.

**Assistant Minister for the Environment:**

Absolutely and I would like to come to you next year, in 2024, and say: "Yes, these are the plans that we are building up to, to then be able to be more solid in the Government Plan 2025." As the Minister said, we have money at the moment that we need to be spending



as well. We have to balance that long-term view of what that looks like, at the same time as spending the money we have now under the Climate Emergency Fund. Of course, we have put in a number of elements of increases. For example, the Vehicles Emissions Duty has been significantly increased as well. We are starting to put in those polluter-pay principles being more strong on those elements as well.

**Deputy S.G. Luce:**

I think we have time for a question on e-bikes, given that we have just had it mentioned.

**Deputy M.R. Le Hegarat:**

Regarding the recent press release regarding the doubling of e-bike vouchers, we understand that £32,000 worth of vouchers have been redeemed, but this is lower than expected. What was the target figure that was hoped for in terms of the number of redeemed vouchers by this point in 2023?

**Assistant Minister for the Environment:**

We have launched 3 lottery schemes so far over the last year. The overall number of bikes that have been purchased using the vouchers is 233 bikes. This amounts to about £81,000 of the £300,000 that we are hoping to push out the door in supporting citizens with buying e-bikes and adapted bikes and e-cargo bikes. What we are doing now is that we have seen that where the potential barrier is, is this lottery scheme. It means there are those who are potentially ready to buy these different kinds of bikes but were unable to because they did not win the voucher. We did a survey back to those who did the lottery in the January and April schemes and we found that a lot of the time there was a number, 55 per cent, who did not redeem the vouchers was because they had not done the research behind how much an e-bike was. They thought they would apply for this lottery voucher and they found that when they got the voucher they went out to go and buy an e-bike, and actually: "This is really difficult because we do not have ... we found that this is too expensive." There is not necessarily, for example, a way to pay in instalments, et cetera. What we are now doing is that we are saying, okay, and so from the next scheme onwards we are not doing the lottery scheme, we are going to do a first-come first-served basis to try to capture those that were not able to win a voucher in the past, who were ready to buy an e-bike or an adapted bike or a cargo-bike.

**Deputy S.G. Luce:**

Do you think the voucher should only be valid for a certain amount of time to stop people applying for the voucher first, doing the research second and then finding they cannot afford it?

**The Minister for the Environment:**

It is only available for a short period of time.

**Assistant Minister for the Environment:**

Yes, it is for 3 months. They have 3 months or that money then goes back into the system to then be launched again.

**Deputy S.G. Luce:**

Which is how you fund the second and third tranches?

**Assistant Minister for the Environment:**

Yes, and we will continue to do that until the £300,000 has been spent on that. We will now see with this first-come first-serve basis of still a limit, there is still going to be a limit of 260 grants, potentially, to be awarded in this next scheme, to be launched at the end of this month. We will see then what the results are from that going forward for the next schemes. Where we had put in a lottery scheme it was because of the past scheme before, a couple of years ago, was that it went very, very fast and it meant that a number of people said that they had to be quick on the keyboard or had to have access to the internet. The feedback from that time was it was difficult to put a first-come first-serve for a number of reasons. Therefore, we are going to ramp up communication ahead of the launch at the end of the month, to be able to tell people: "This is coming. Please get ready."

**Deputy S.G. Luce:**

That was going to be the next question. Do you gather any data on demographics when people apply for vouchers of age, where they live in the Island and that type of thing?

**Assistant Minister for the Environment:**

I believe so. I am not sure about where they live on the Island. I believe on the age front they do, especially because the e-bike limit is 14 years, but the limit to apply is 18. I believe that you can get somebody to apply on your behalf in the household. There is information about that.

**Deputy S.G. Luce:**

I was wondering whether we were managing to gather any data on the person who is riding the bike, whether they are in their 20s, 30s, 50s, 80s and whether that was changing as more people buy bikes and whether the low-hanging fruit of the keen 35 year-old or something are now gone, and we were seeing a growth from the shoulder years or a tailing off of purchasing e-bikes after the last few years of great enthusiasm for it.

**Assistant Minister for the Environment:**

We are not there yet with the tailing off. I have not seen data for that detail or statistics on that. It would be interesting to see that from the age perspective.

**Deputy M.R. Le Hegarat:**

Do we do anything that indicates whether: "I am cyclist anyway and then I am going to move to an e-bike" or we are getting people out of a car for an e-bike? That is fundamentally the difference.

**Assistant Minister for the Environment:**

There is information, going back to the survey, marked on a tick box asking why they were doing this and 88 per cent said it was for commuting. The habit of the commute was then going to the bike. In the box people can say why they are doing the change. It is very subjective.

**Deputy M.R. Le Hegarat:**

You want the cars off the road, rather than someone using a manual bike, if that makes sense.

**Assistant Minister for the Environment:**

Absolutely, but I hope people can see that we are seeing an increase in bikes in general being used in the Island. I, as a biker, am certainly seeing that there are a lot more bikes on the road, so visually we are seeing an increase. Hopefully for the reasons of this, but we also of course slip this e-bike grant into a number of other elements. We have had the Love to Ride campaigns as well, where you register the amount of rides that you do and you could potentially win a bike or you could win different prizes, depending on the size of the company you are working for. We are doing a lot of other campaigns through the eco

active business network to encourage bike riding uptake in general, whether it is e-bikes or whether it is normal push bikes.

**Deputy S.G. Luce:**

Minister, I am aware that we have pushed for an extra half an hour, which we have already had. I am going to call it quits there. We have some questions on E.V. (electric vehicle) cars and cannabis and other things.

**The Minister for the Environment:**

I am sure you are going to submit them in writing.

**Deputy S.G. Luce:**

We may do or we may just hold them off for the enjoyment of the next quarterly hearing. I am going to thank you for coming this afternoon and answering our questions.

**The Minister for the Environment:**

Thank you. I appreciate it very much. Thank you.

**Deputy S.G. Luce:**

I close the meeting. Thank you.

[17:00]