

PM/SC/017

COUNCIL OF MINISTERS

(96th Meeting)

10th January 2018**PART A (Non-exempt)**

All members were present, with the exception of Deputy K.L. Moore of St. Peter, Minister for Home Affairs; and Deputy E.J. Noel of St. Lawrence, Minister for Infrastructure, from whom apologies for absence were received.

Senator I.J. Gorst, Chief Minister (not present for items A3 and A4)  
 Senator L.J. Farnham, Minister for Economic Development, Tourism, Sport and Culture  
 Deputy R.G. Bryans of St. Helier, Minister for Education  
 Deputy S.G. Luce of St. Martin, Minister for the Environment (not present for items A3 and A4)  
 Senator Sir P.M. Bailhache, Minister for External Relations (not present for items A3 and A4)  
 Senator A.K.F. Green, M.B.E, Minister for Health and Social Services (not present for items A3 and A4)  
 Deputy A.E. Pryke of Trinity, Minister for Housing  
 Deputy S.J. Pinel of St. Clement, Minister for Social Security  
 Senator A.J.H. Maclean, Minister for Treasury and Resources  
 Connétable D.K. Mezbourian of St. Lawrence, Assistant Minister for Home Affairs

In attendance -

Senator P.F. Routier, M.B.E., Assistant to the Chief Minister  
 C. Parker, Chief Executive, States of Jersey and Head of the Public Service  
 R. Bell, Treasurer of the States  
 L-M. Hart, Deputy Greffier of the States  
 R.J. MacRae, Q.C., H.M. Attorney General  
 R. Stevens, Human Resources Director, States of Jersey, Chief Minister's Department (for item B1)  
 D. Drieu, Senior Manager Organisational Development, Chief Minister's Department (for item B1)  
 Dr. H. Miles, Director – Criminal Justice, Community and Constitutional Affairs Department (for item B2)  
 M. Berry, Legal Adviser, Law Officers' Department (for item B2)  
 I. Burns, Chief Officer, Social Security Department (for item B3)  
 S. Duhamel, Policy and Strategy Director, Social Security Department (for item B3)  
 P. Bradbury, Director - Corporate Policy, Chief Minister's Department  
 P. Monamy, Clerk to the Council of Ministers

Note: The Minutes of this meeting comprise Part A and Part B.

Welcome to new Chief Executive and Head of the Public Service.

A1. The Chief Minister, on behalf of the Council, welcomed Mr. Charlie Parker to his first formal meeting of the Council of Ministers in his capacity as the recently appointed Chief Executive, States of Jersey and Head of the Public Service. The Council indicated that it looked forward to working with Mr. Parker on the ongoing and further transformation of the Island's public service.

The Council also expressed its appreciation to Mr. Richard Bell, Treasurer of the States, for fulfilling the role of Interim Chief Executive and Head of the Public Service prior to Mr. Parker taking up his appointment.

Minutes.

A2. The Minutes of the meetings held on 22nd and 28th November (Part A and Part B) and 6th December 2017 (Part A), having been previously circulated, were taken as read and were confirmed.

States business  
16.01.2018.  
1240/7/1(1)

A3. The Council, with reference to its Minute No. A2 of 6th December 2017, discussed with the Director – Corporate Policy, Chief Minister's Department the list of public business scheduled for consideration by the States Assembly on 16th January 2018 and commented specifically on the undermentioned items as indicated:

**Draft Road Traffic (No. 63) (Jersey) Regulations 201-** (P.67/2017)

The Council noted that the draft Regulations sought to amend and rectify a number of inconsistencies in the Road Traffic (Jersey) Law 1956, which had come to light since the enactment of the Road Traffic (No. 62) (Jersey) Regulations 2015, which Regulations had introduced a number of new serious road traffic offences. Having noted that H.M. Attorney General had advised upon and approved the proposed changes to the penalties which would be made by the draft Regulations, the Council accordingly agreed that it supported the draft Regulations.

**JT Group Limited: restructuring of enterprise** (P.96/2017) and Amendment

The Council noted that the proposition and amendment, lodged 'au Greffe' by Senator S.C. Ferguson on 12th October 2017, purported to seek to separate the wholesale and retail sales of Jersey Telecom (JT), although in fact the strategy proposed did not make this clear and appeared to be just a very prescriptive list of activities and suppliers/equipment to be used, without any justification or evidence to support why it was appropriate or the supposed benefits. It was further noted that the costs cited in the proposition had been significantly understated and no Cost Benefit Analysis had been provided to support what would be significant and wide-ranging changes. The Council considered that the proposition was not comparable to the approach taken by Ofcom to British Telecom which was the legal separation of a subsidiary from its parent. The proposal in respect of JT was a structural separation which would involve significant technical integration challenges related to collapsing multiple distinct networks into one. Having recalled that the States, through the Telecoms Strategy Steering Group, had developed a Telecoms Strategy following recommendations of the Review of Competition Regulatory Framework, which had had representations from the Economics Unit, States Treasury, Chief Minister's Department and Digital Jersey, the Council considered that the timing of the present proposition was premature. The Council accordingly concluded that it would reject the proposition and associated amendment. The Council asked that a comment be prepared for presentation to the States which reflected the fact that the Telecoms Strategy had recently been published.

**Short-Term Incapacity Allowance: lower threshold** (P.102/2017)

The Council noted that the proposition, lodged 'au Greffe' by Deputy G.P. Southern of St. Helier on 23rd October 2017, sought to request the Minister for Social Security to bring forward an amendment to the Social Security (Jersey) Law 1974 so as to provide that, where the annual and quarterly contribution factors for a claimant were lower than the figures contained in Schedule 2 of the Law, then the sum payable

should be proportionate to the contributions which had been made, notwithstanding the lower earnings limit. It was recognised that the wording of the proposition was significantly different to the description of the proposal set out in the accompanying report. The Council noted that a low income worker living in an Income Support household would not benefit from the proposal, with the main beneficiaries being adults in middle to high income households who chose to work part-time or intermittently. Consequently, it was considered that the proposal would not support the aims of promoting financial independence or providing well-targeted benefits. The Council further noted that the ongoing Social Security Review was about to commence work on incapacity benefits and that it would therefore be premature to make uncoordinated changes in advance of the detailed review planned for 2018.

**Draft Connétables (Amendment No. 2) (Jersey) Law 201-** (P.112/2017) and Amendment

The Council noted that the draft Law, which had been lodged 'au Greffe' on 14th November 2017 by the Privileges and Procedures Committee, sought to insert into the Connétables (Jersey) Law 2008, provisions as to qualification for election and holding office as a Connétable which were identical to the qualifications required in relation to Senators and Deputies under the States of Jersey Law 2005. It was recognised that Deputy M. Tadier of St. Brelade had proposed an amendment which sought the removal of the proposed statutory requirement that a person needed to be a British citizen to be eligible for election, or holding office, as a Connétable, and which also sought the removal of the requirement that, for a person to be elected or hold office as a Connétable, they should be resident in the Parish they represented or sought to represent. The Council recalled that, as an agreed position within the Council was not required, Ministers would have a free vote on the draft Law.

**Income Support: reinstatement of single parent component** (P.113/2017)

*[See Minute No. B3 of this meeting]*

**Jersey Gas Works site: development by Andium Homes Limited** (P.114/2017)

The Council noted that its proposition sought the agreement of the States to request Andium Homes, as part of the development of the Jersey Gas Works site for housing, to deliver – subject to the award of planning permission – a significant extension to the Millennium Town Park, thereby providing greater amenity benefits for all Islanders, the purchase and creation of which would be without additional contribution from the taxpayer; and to develop a below-surface car park for approximately 150-200 vehicles. The Council accordingly confirmed its support of the proposition.

**Bellozanne Sewage Treatment Works: odour emissions** (P.115/2017)

The Council noted that the proposition, lodged 'au Greffe' on 30th November 2017 by Deputy A.D. Lewis of St. Helier, sought to request the Minister for Treasury and Resources to allocate funds of up to £4.5 million from contingency to the Department for Infrastructure (DfI) to ensure that full attention was given within the proposed new Sewage Treatment Works project to odour mitigation, to include the covering of the primary settlement tanks. The Council noted that the Minister for Infrastructure had proposed an amendment to the Deputy's proposition such as to better define the work that was potentially required at Bellozanne, including expanding its effect to cover the First Tower pumping station. Further, it was noted that the amendments would ensure the protection of existing DfI capital budgets in the event that the proposition were to be adopted, and would request the allocation of funding to undertake the requisite studies for which no funding was presently available. The Council accordingly agreed that it supported the proposition as to be amended.

**Draft Data Protection (Jersey) Law 201-** (P.116/2017)

The Council, with reference to its Minute No. B1 of 28th November 2017, recalled that the Chief Minister had lodged 'au Greffe' the draft Law on 5th December 2017. It was recognised that the Law would replace the Data Protection (Jersey) Law 2005 and would give effect to the European Union's General Data Protection Regulation (GDPR) and Law Enforcement Directive which would come into effect on 25th May 2018. The Council accordingly reaffirmed its support for the draft Law.

**Draft Data Protection Authority (Jersey) Law 201-** (P.117/2017)

The Council, with reference to its Minute No. B1 of 28th November 2017, recalled that the Chief Minister had lodged 'au Greffe' the draft Law on 5th December 2017. It was recognised that the Law would constitute a new Authority with an expanded role to properly regulate the new Data Protection (Jersey) Law. The Council accordingly reaffirmed its support for the draft Law.

**Draft Criminal Procedure (Jersey) Law 201-** (P.118/2017)

The Council, with reference to its Minute No. A4 of 22nd November 2017, recalled that the draft Law prescribed the procedures to be followed in, or in connection with criminal proceedings against a person charged with, or convicted of an offence. It was noted that the draft Law would repeal and re-enact a number of enactments, and that it would also introduce new measures to provide for the quashing of acquittals by the Court of Appeal, as well as amending the Police Procedures and Criminal Evidence (Jersey) Law 2003, in relation to hearsay and bad character evidence in criminal proceedings. The Council reaffirmed its support of the draft Law.

**Draft Amendment (No. 34) of the Standing Orders of the States of Jersey** (P.119/2017)

The Council noted that the draft Amendment, lodged 'au Greffe' by the Privileges and Procedures Committee on 6th December 2017, made provision for the nomination of Chairmen to Scrutiny Panels and amended the descriptions of the topics assigned to the Panels. The Council recalled that, as an agreed position within the Council was not required, Ministers would have a free vote on the draft Law.

**Independent Jersey Care Inquiry Report: implementation of recommendations.** (P.108/2017)

The Council, with reference to its Minute No. B1 of 18th October 2017, recalled that the Chief Minister had previously indicated his intention to propose that the Council's response to the Final Report of the Independent Jersey Care Inquiry (P.108/2017 - lodged 'au Greffe' on 31st October 2017) should be considered by the States Assembly in Committee on 16th January 2018. It was noted that the formal request for an in Committee debate would be made to the States at the commencement of the meeting scheduled for 16th January 2018. The Council reiterated its support of the response and requested the Chief Minister to ensure that the actions in relation to each of the 8 main recommendations were implemented as proposed.

**Draft Employment of States of Jersey Employees (Amendment No. 9) (Jersey) Regulations 201-** (P.126/2017)

It was noted that Senator A.K.F. Green, in his capacity as Chairman of the States Employment Board, had indicated his intention to request the States Assembly to take P.126/2017, presently scheduled for 20th February 2018, into consideration on 16th January 2018 in view of the desirability of increasing without delay the number of Jersey Appointments Commissioners in addition to the Chairman from 4 to 5. It was noted that this change was to support a balanced workload across all Commissioners, given the increase in workload following the extension by the Commission of its range of States and Arm's Length body appointments in order to support good governance of the recruitment process in public funded

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bodies/organisations.

**Jersey Appointments Commission: appointment of Commissioners (P.127/2017)**

It was further noted that Senator Green, in his capacity as Chairman of the States Employment Board, had also indicated his intention to request the States Assembly to take P.127/2017, presently scheduled for 20th February 2018, into consideration on 16th January 2018 in view of the desirability of appointing without delay 2 Commissioners, in the event that the draft Amendment to the Employment of States of Jersey Employees (Jersey) Law 2005 (P.126/2017), increasing the number of Commissioners in addition to the Chairman to 5, were to be adopted.

Forthcoming  
announcements.

A4. The Council, with reference to its Minute No. A3 of 6th December 2017, discussed with the Director – Corporate Policy, Chief Minister’s Department forthcoming announcements.

The Council noted that -

- (a) as a consequence of the decision of the Minister for the Environment on 8th January 2018, not to approve the Planning Application relating to the proposed Future Hospital development, the Minister for Health and Social Services would in due course consider the way forward in conjunction with the Future Hospital Project Team; and
- (b) following the decision of the Royal Court to quash a ruling by the Jersey Competition and Regulatory Authorities (JCRA) that ATF Fuels had abused a dominant market position in relation to the Airport fuel farm, the Minister for Economic Development, Tourism, Sport and Culture confirmed that further consideration would now be given to the potentially important implications for the way in which the JCRA operated.