

MC/SC/060

COUNCIL OF MINISTERS

(99th Meeting)

7th February 2018**PART A (Non-exempt)**

All members were present, with the exception of Senator L.J. Farnham and Deputy S.G. Luce of St. Martin, from whom apologies had been received.

Senator I.J. Gorst, Chief Minister  
 Senator A.K.F. Green, M.B.E., Minister for Health and Social Services  
 Deputy R.G. Bryans of St. Helier, Minister for Education  
 Senator Sir P.M. Bailhache, Minister for External Relations (for items A1-A2 and B4(1) only)  
 Deputy K.L. Moore of St. Peter, Minister for Home Affairs  
 Deputy A.E. Pryke of Trinity, Minister for Housing  
 Deputy E.J. Noel of St. Lawrence, Minister for Infrastructure  
 Deputy S.J. Pinel of St. Clement, Minister for Social Security  
 Senator A.J.H. Maclean, Minister for Treasury and Resources

In attendance -

Senator P.F. Routier, M.B.E., Assistant to the Chief Minister  
 Connétable S. Pallett of St. Brelade, Assistant Minister for Economic Development, Tourism, Sport and Culture  
 R. Bell, Treasurer of the States  
 Dr. M. Egan, Greffier of the States  
 R.J. MacRae, Q.C., H.M. Attorney General  
 P. Bradbury, Director, Corporate Policy, Chief Minister's Department  
 C. Walwyn, Chief Operating Officer, Education Department (for item B1 only)  
 J. Garbutt, Chief Executive, Health and Social Services Department (for items B2 and B3 only)  
 I. Dyer, Senior Project Manager, Community and Social Services, Health and Social Services Department (for items B2 and B3 only)  
 F. Le Gros, Assistant Legal Advisor, Law Officers' Department (for items B2 and B3 only)  
 M. Richardson, Assistant Director, Policy, Communications and Ministerial Support, Health and Social Services Department (for item B3 only)  
 S. North, Acting Clinical Manager, Intensive Care Unit, Health and Social Services Department (for item B3 only)  
 H. O'Shea, Managing Director, Jersey General Hospital (for item B3 only)  
 R. Jouault, Assistant Director, Social Policy, Community and Constitutional Affairs Department (for item A2 only)  
 J. Norris, Policy Principal, Community and Constitutional Affairs Department (for item A2 only)  
 G. Carter, work shadowing the Greffier of the States  
 M. Clark, Clerk to the Council of Ministers

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

Minutes. A1. The Minutes of the meeting of 6th December 2017 (Part B) and 10th January 2018 (Parts A and B), having previously been circulated, were taken as read and were confirmed.

States Business  
20.02.18  
1240/7/1(1) A2. The Council, with reference to its Minute No. A1 of 24th January 2018, discussed with the Director - Corporate Policy, Chief Minister's Department, the list of public business scheduled for consideration by the States Assembly on 20th February 2018 and commented specifically on the following items:

**Social Housing in Jersey: introduction of a regulatory framework (P.120/2017) and Amendments.**

The Council welcomed the Assistant Director, Social Policy, and the Policy Principal, Community and Constitutional Affairs Department, to the meeting.

The Council noted the Minister for Housing sought the agreement of the States to:

- (a) the introduction of regulation in relation to social housing;
- (b) the proposed components of a proposed regulatory framework; and
- (c) charge the Minister to develop and bring forward the necessary legislation to implement the proposals within 2 years.

It was noted that Senator P.F.C. Ozouf had lodged 'au Greffe' an amendment which sought (i) to include an appropriate power of direction to the regulator by the Minister; and (ii) to insert 'oversight of housing supply' as an additional function of a regulator (or a potential 'housing commissioner') and that Deputy M. Tadier of St. Brelade had lodged a further amendment which sought to extend the proposition to all rental housing.

The Council noted that, in order to inform the legislative process, the Minister for Housing had commissioned an independent review of access to social housing in Jersey, which would consider the application, assessment and allocation processes for social housing and make recommendations for improvements. The review would also focus on access to social housing for clients with particular needs, such as the elderly, disabled people and ex-offenders, and how their needs could be better met by the system.

The Council recognised the need for regulation of the social housing sector and acknowledged that this had been a longer-term goal since the inception of Andium Homes Limited as an arms-length body. The Council, however, did not consider that it was the role of the States of Jersey to regulate the provision of private sector rental accommodation and accordingly, decided that it would reject the amendment of Deputy Tadier.

The Council was content to approve the main proposition and the amendment of Senator Ozouf and the Minister for Housing was delegated to comment on the proposition ahead of its debate on 20th February 2018.

The Assistant Director, Social Policy, and the Policy Principal, Community and Constitutional Affairs Department, having been thanked for their participation, then withdrew from the meeting.

**States Employment Board Living Wage 2017 (P.122/2017)**

The Council noted that Deputy G.P. Southern of St. Helier sought the agreement of the States to:

- (a) request the Chairman of the States Employment Board (SEB) to:
  - (i) seek accreditation for the States of Jersey as a Living Wage Employer;
  - (ii) ensure that all States of Jersey Employees were paid at least the Living Wage by 1st June 2018; and
  - (iii) ensure that all sub-contracted and agency workers engaged to work for the States of Jersey or on States-owned premises were paid at least the Living Wage.
- (b) request the Minister for Treasury and Resources, as Shareholder Representative, to urge those incorporated bodies of which the States was sole shareholder, to seek accreditation as Living Wage Employers; and
- (c) request the Minister for Treasury and Resources to take steps to ensure that the wage rates offered by contractors to the States of Jersey were considered in the evaluation of tenders for goods and services to States of Jersey Departments and other bodies for which procurement activity was overseen by his department.

The Council noted that, excluding the lowest pay scale, on which there were currently no employees, the States of Jersey already paid at least the Living Wage. It was estimated that the cost of immediate adoption in relation to contractors whose staff worked on States premises would be in the region of £750,000 to £1 million, although these costs would arise gradually. The Council foresaw practical challenges for contractors who could be paying staff at different rates for undertaking the same work, depending on whether this was carried out on States-owned premises or not, and further acknowledged that enforcement issues could arise. The Council however agreed with SEB's position that the States of Jersey should seek accreditation as a Living Wage Employer and concluded that the proposition should be supported.

**Hospital Catering Department: cancel relocation to an offsite location – petition (P.124/2017)**

The Council noted that Senator S.C. Ferguson sought the agreement of the States to cancel the relocation of the Hospital catering department to an offsite location.

The Council recalled that, as an operational decision, it was planned to relocate the Hospital catering department to St. Peter's Technical Park, where it would continue to operate the current 'cook-chill' process for preparing food for patients in the Island's hospitals (including the General Hospital) and care homes. The Council considered that the text of the petition contained 2 misunderstandings: firstly that food prepared in St. Peter could not be served promptly to patients and secondly that food prepared in this way was nutritionally insufficient and would hinder patient recovery. The Council recognised that 'cook-chill' had been used successfully since 1987 and food was reheated on the ward or in the home where the patient was located with no loss of nutritional value. Furthermore the Council considered that the Health and Social Services Department had made every effort to consult and work with local residents of St. Peter ahead of the planned move and therefore did not accept the suggestion that the Hospital catering department would cause significant disruption in the local community. The Council therefore decided that it would reject the proposition.

**Jersey Financial Service Commission: re-appointment of Commissioner (P.125/2017)**

The Council noted that the Chief Minister sought the approval of the States to re-appoint Mr. John Harris as a Commissioner of the Jersey Financial Services Commission (JFSC) for a period of 5 years from 1st March 2018.

The Council recalled that Mr. Harris was currently employed as Director General of the JFSC and had been a Commissioner since 28th February 2007, and recognised that it was an advantage for the Board of Commissioners of the JFSC for the Director General to also fulfil the role of Commissioner. The Council understood that the Jersey Appointments Commission had confirmed that it would be appropriate for the Director General to remain a Commissioner for as long as he held that post. The Council accordingly supported the proposition.

**Family Friendly Policy: implementation (P.129/2017)**

The Council noted that Deputy G.P. Southern of St. Helier sought the approval of the States to request the Minister for Social Security to:

- (a) bring forward proposals to the States to implement the recommendations made by the Employment Forum report entitled 'Review of Family Friendly Employment rights;'
- (b) bring forward proposals to the States to extend the period covered by Maternity Allowance under the Social Security (Jersey) Law 1974 from 18 to 26 weeks; and
- (c) amend the Income Support (General Provisions) (Jersey) Order 2008 in order to introduce a 100 per cent disregard for income from Maternity Allowance for mothers in receipt of income support.

The Council acknowledged that the Minister for Social Security had accepted all of the Employment Forum's recommendations for changes to the Employment (Jersey) Law 2003 (Employment Law), and had lodged the Draft 'Employment (Amendment of Law) (No. 2) (Jersey) Regulations 201-' (P.27/2018) on 6th February 2018, in order to amend the Employment Law to extend family-friendly employment rights accordingly. Part (a) of the proposition would therefore fall away.

The Council recalled that the Social Security Department had undertaken a major consultation on parental benefits as part of the 'Living today: Thinking ahead' review in 2017, and that an independent report on the results of the consultation was due to be published in March 2018. The Council therefore considered that it would be premature for the States Assembly to make any decision on possible changes to the Maternity Allowance before the views of the public on this subject had been published and discussed, and was it therefore minded to reject parts (b) and (c) of the proposition. The Minister for Social Security was requested to lodge an amendment to the proposition accordingly.

**Draft Consumer Protection (Unfair Practices) (Jersey) Law 201- (P.130/2017)**

The Council noted that the draft Law sought to protect Jersey consumers against unfair, aggressive or misleading commercial practices, as defined therein. The draft Law had first been considered in July 2017, when the Council had supported the principles, subject to receiving confirmation from H.M. Solicitor General, who had been asked to liaise with the Law Officers' Department and the Law Draftsman, in

order to ensure that any possible conflicts with common law had been identified and subsequent drafting changes made. The appropriate confirmation had been received on 29th November 2017 and the draft Law was lodged 'au Greffe' on 29th December 2017. The Council noted that positive interest had been generated in the local media and that the draft had been endorsed by the Jersey Consumer Council, Citizen's Advice Bureau and the Jersey Chamber of Commerce. The Council was content to note that enforcement of the Law, once enacted, would be undertaken within the resources currently allocated to the Department for Economic Development, Tourism, Sport and Culture in the current Medium Term Financial Plan (MTFP), although it was recognised that implementation would be a formative process and additional contingency funding would be sought if required. The Council decide to support the proposition.

**Draft Machinery of Government (Miscellaneous Amendments) (Jersey) Law 201- (P.1/201-)**

The Council noted that this draft Law sought to amend the Public Finances (Jersey) Law 2005, the States of Jersey Law 2005 and related legislation, in order to make significant improvement to the governance of public administration in Jersey. The Council further noted that these changes had been agreed at its meeting of 20th November 2017 and accordingly represented Government policy. The draft Law set out 3 main changes which would take place immediately:

- (a) the establishment of the Chief Executive Officer as the Principal Accountable Officer for the public administration;
- (b) the making of changes to Ministerial offices by Orders made by the Chief Minister and transfers of budget by a single decision of the Minister for Treasury and Resources; and
- (c) the establishment of a single legal entity for Government.

The draft Law also included the removal of the legal requirement for Ministers and Assistant Ministers to be bound by the principle of collective responsibility, changes to the way in which Ministers were able to move from one Ministerial office to another, and adjustments to the timings of the election of a new Council of Ministers following a general election.

The Council agreed that these changes formed an essential foundation for a modern and efficient public sector which should deliver quality public services, offering value for money to the Islanders, both now and in the future. The changes proposed would also ensure clear governance, transparent decision-making and stronger accountability at the top of the public service. The Council approved the draft Law.

**Draft Public Elections (Amendment of Law) (No. 2) (Jersey) Regulations 201-(P.2/2018)**

The Council noted that the Public Elections (Jersey) Law 2002 (the Law) conferred an enabling power (under which these draft Regulations, lodged by the Privileges and Procedures Committee, would be made) to amend the Law to enable a person to apply electronically to have his or her name included on an electoral register. Regulation 1 would amend Article 7 of the Law for that purpose, by adding the option of electronic application, and providing for circumstances in which an electoral administrator might refuse to register a person making such an application. Regulation 2 would provide the title by which the Regulations could be cited and provided for them to come into force 7 days after being made. The Council recalled

that, as an agreed position within the Council was not required, Ministers would have a free vote on the draft Law.

**Senators and Deputies: removal of citizenship requirement (P.3/2018)**

The Council noted that Deputy M. Tadier of St. Brelade had sought the approval of the States to remove the requirement that Senators and Deputies must be British citizens, and, should the States so decide, to request the Privileges and Procedures Committee to bring forward the necessary legislative changes to the States of Jersey Law 2005. The Council recalled that, as an agreed position within the Council was not required, Ministers would have a free vote on the proposition.

**Jersey Police Complaints Authority: re-appointment of members (P.9/2018)**

The Council noted that the Minister for Home Affairs sought the approval of the States to re-appoint Mrs. G. McCourt and Mr. D. Baxter as members of the Jersey Police Complaints Authority for a period of 3 years, commencing on 10th March 2018. The Council decided to support the proposition.

**Jersey Law Revision Board: appointment of member (P.15/2018)**

The Council noted that the Chief Minister sought the approval of the States to appoint Senator P.F.C. Ozouf as a member of the Jersey Law Revision Board (JLRB). The Council recalled that Deputy M. Tadier of St. Brelade had recently resigned as one of the 2 appointed States Members serving on the JLRB, and Senator Ozouf had put his name forward as a replacement. The Council agreed that Senator Ozouf was well qualified to assume this role and accordingly decided to support the proposition.

Forthcoming  
Announce-  
ments.

A3. The Council, with reference to its Minute No. A3 of 24th January 2018, discussed with the Director, Corporate Policy, Chief Minister's Department, forthcoming announcements.

The Council noted that:

- (a) the Chief Minister would be amongst the speakers at the Brighter Futures 10th anniversary conference, entitled 'Just about managing,' which would explore the effects of poverty and disadvantage on families;
- (b) a public consultation would begin on 8th February 2018, inviting members of the public to share their views regarding what should be included in the proposed Jersey Ethical Care Charter covering care provided in people's homes;
- (c) a public consultation would commence on 8th February 2018, following the Independent Jersey Care Inquiry's recommendation to demolish the former Haut de la Garenne children's home. The public would be invited to share their views on the future use of the site; and
- (d) the Jersey Business Tendency Survey results for the last quarter of 2017 would be published on 9th February 2018, providing qualitative indicators of current business performance relative to the previous quarter.