



PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

MORNING SESSION: 10.08 a.m. – 12.53 p.m.

Gibraltar, Wednesday, 15th February 2017

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The Gibraltar Parliament

The Parliament met at 10.08 a.m.

[MR SPEAKER: Hon. A J Canepa GMH, OBE, *in the Chair*]

[CLERK TO THE PARLIAMENT: P E Martinez Esq *in attendance*]

Questions for Oral Answer

ECONOMIC DEVELOPMENT, TELECOMMUNICATIONS AND THE GSB

Q189-199/2017

Public finances –

Clerk: Wednesday, 15th February, Meeting of Parliament.

We continue with answers to Oral Questions. We commence with Question 189. The
5 Hon. R M Clinton.

Hon. R M Clinton: Mr Speaker, can the Government please provide the total gross debt, aggregate debt after application of the Sinking Fund to gross debt, cash reserves and net debt figures for public debt for the following date, being 1st January 2017?
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Clerk: Answer, the Hon. the Minister for Economic Development, Telecommunications and the GSB.

Minister for Economic Development, Telecommunications and the GSB (Hon. J J Bossano):
15 Mr Speaker, I will answer this question together with Questions 190 to 199.

Clerk: Question 190, the Hon. R M Clinton.

Hon. R M Clinton: Mr Speaker, can the Government please advise the total liquid reserves figure and its constituents, namely Consolidated Fund, Improvement and Development Fund, Government-owned companies, deposits, contingencies and other funds for the following date, being 1st January 2017?
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Clerk: Question 191, the Hon. R M Clinton.
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Hon. R M Clinton: Mr Speaker, can the Government please advise how total liquid reserves are invested/held given details of all bank/savings bank accounts and cash held for the following date, being 1st January 2017?
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Clerk: Question 192, the Hon. R M Clinton.

Hon. R M Clinton: Mr Speaker, can the Government advise if it has sold its holding of 7,500 class A ordinary Shares of Gibtelecom Ltd; and if so, to whom, on what date and for what reason?

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Clerk: Question 193, the Hon. R M Clinton.

Hon. R M Clinton: Mr Speaker, can the Government advise, if sold, what was the total consideration received by the Government for the 7,500 Gibtelecom Ltd class A ordinary shares and how was this valuation arrived at?

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Clerk: Question 194, the Hon. R M Clinton.

Hon. R M Clinton: Mr Speaker, can the Government advise under what head of revenue were any Gibtelecom Ltd share sale proceeds recorded and in which financial year?

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Clerk: Question 195, the Hon. R M Clinton.

Hon. R M Clinton: Mr Speaker, can the Government advise the cost of printing and distributing the 2014-15 booklet entitled Report and Annual Accounts of the Gibraltar Savings Bank?

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Clerk: Question 196, the Hon. R M Clinton.

Hon. R M Clinton: Mr Speaker, can the Government advise if the Principal Auditor reviewed and approved the final printer's proof of the 2014-15 booklet entitled Report and Annual Accounts of the Gibraltar Savings Bank?

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Clerk: Question 197, the Hon. R M Clinton.

Hon. R M Clinton: Mr Speaker, why has the Government omitted the Statement of Investments included in the Principal Auditor's certificate from the published booklet 2014-15 entitled Report and Annual Accounts of the Gibraltar Savings Bank?

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Clerk: Question 198, the Hon. R M Clinton.

Hon. R M Clinton: Mr Speaker, can the Government advise how much interest has been paid by Gibraltar Investment (Holdings) Ltd to Credit Finance Company Ltd in respect of the deposit placed with it from date of inception to 31st March 2016?

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Clerk: Question 199, the Hon. R M Clinton.

Hon. R M Clinton: Mr Speaker, further to Question 698/2016, can the Government please advise why holding property in GAR Ltd is an advantage for the Government as opposed to GCP Investments Ltd in respect of the deed of sale dated 1st July 2014 for 14 properties?

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Clerk: Answer, the Hon. the Minister for Economic Development, Telecommunications and the GSB.

Hon. J J Bossano: Mr Speaker, the position as regards total liquid reserves composition, when, where and how these are invested on a particular date chosen by the Member opposite, continues to be as previously stated.

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85 The position of the public debt on 1st January 2017 is as it was estimated on 1st December 2016 except that the cash reserves are now estimated at £94 million and the net debt at £352 million.

The hon. questioner already has the information on the sale of Gibtelecom Ltd that he is requesting.

The proceeds of the sales were credited to the Improvement and Development Fund in the financial year that it took place.

90 The Principal Auditor does not proofread the Savings Bank Booklet, the cost of distribution of which will be known when the distribution is completed.

The interest paid to Credit Finance on FRNs has been £65,530,744 up to March 2016.

The answer as to why we have adopted a given policy which the hon. Member asks in four of his questions is the answer I gave him in supplementaries when previously asked why.

95 **Hon. R M Clinton:** Mr Speaker, I am grateful to the Hon. Minister for his answer.

He says I already have the information in respect of the sale of the 7,500 Gibtelecom shares. I am afraid I do not actually have anything official. Could he tell me what date they were sold and to what entity?

100 **Hon. J J Bossano:** Mr Speaker, he asks in every meeting of the House for a list of the investments of the Gibraltar Savings Bank, and in the list that he gets it shows when the Savings Bank ownership of shares went up from £37 million to £75 million. In fact, he phoned me up when he noticed it recently to ask me if this was a typo error or a reflection that all the shares were now owned by the Savings Bank.

105 If he wants to know who did we sell it to, he knows who we sold it to because I have told him on the phone and I have given him a piece of paper in answer to a question which shows the value of the shares held by the Savings Bank. And he knows what that value is because it is 100% of the shares at double the price of what 50% of the shares were.

110 So all the questions that he has asked me are already contained in the information I have already given him and I confirmed this to him on the telephone.

115 **Hon. R M Clinton:** Mr Speaker, yes, I can confirm I had a telephone call with the Hon. Minister; it was mainly just to ascertain whether there was, as he said, a typographical error or not. But what I have not been able to see from the schedules that he has provided me with since I have been in this House – and in fact the first schedule I had was in respect of November 2015 ... and at some point between March 2015 and November 2015 these shares were bought by the Savings Bank. I would just like to know on what date.

120 **Hon. J J Bossano:** I believe it happened in two tranches in August and October, it was not done in one go.

125 **Hon. R M Clinton:** Mr Speaker, again I am grateful to the Minister. Would he be able to confirm that to me in due course, and in fact the amounts involved and which dates?

Hon. J J Bossano: He knows for certain that it is in the period that he has mentioned where he has not got the information. I believe the second tranche was in October and the first one might have been in July or August, but I will get the exact month if he wants to know that.

130 **Hon. R M Clinton:** Mr Speaker, I am grateful to the Hon. Minister for confirming that and providing me with the information in due course.

If I may, coming to the actual head of revenue, he says the Improvement and Development Fund – would he be able to identify for me which head of revenue it was recorded under?

135 **Hon. J J Bossano:** It was the head of revenue that says 'Sales of property'.

Hon. R M Clinton: Mr Speaker, looking at the estimates for 2016 and looking at the results for 2015-16, head 102 says 'Sale of Government properties and other premier' subdivided between '(1) Land and building sales and leases' and '(2) Ex-MoD sales'. Would he be able to tell me whether it was (1) or (2)?

Hon. J J Bossano: If he wants to know exactly where it is, I will find out and tell him. The answer is the money went into the I&D Fund to finance I&D projects, but if he wants to know exactly on what page or on what part of the page, I will find out.

Hon. R M Clinton: Mr Speaker, I would be grateful if he would because £37 million would be a significant revenue item in that particular head of revenue. All I can see is one that says 'Land and building sales and leases'. I am sure the Hon. Minister would agree with me that the sale of shares is not really land, buildings or leases, and perhaps a new head of revenue should have been opened for the sake of clarity.

I would be grateful if he would confirm, either today or later in due course, whether that £37 million forms part of the forecast outturn for 2015-16, presumably in that financial year, which shows a number of £92,450,000.

Hon. J J Bossano: I do not need to confirm that by going back, because it is inevitable that it should. If the money was transferred in October, then it would be in the forecast outturn in the following March.

Hon. R M Clinton: Again, finally, just to be absolutely clear on this point, I would be grateful if the Minister would confirm if it is in fact part of that £92.4 million showing in the Estimate Book for this year in respect of the outturn for 2015-16. If he would be able to confirm that he would be willing to do that, I would be most grateful.

Hon. J J Bossano: Mr Speaker, I am telling him it is impossible it should not be, but if he wants me to ask I will ask.

Hon. R M Clinton: Mr Speaker, now coming to the rationale for this sale, I would be grateful if the Minister could advise why did the Government feel it was necessary to sell the Gibtelecom shares to the Savings Bank

Hon. J J Bossano: Mr Speaker, I have already answered that in my original answer. I have told him the answer as to why we have adopted a given policy, which the hon. Member asked in four of his questions, is the answer I gave him in the supplementaries when previously asked why.

Hon. R M Clinton: Can I then ask the Minister if it was always the intention of the Government to sell the Gibtelecom shares to the Savings Bank when the original estimates for 2015-16 were produced?

Hon. J J Bossano: Mr Speaker, he can ask me whatever he wants but that does not mean that he is going to get an answer. I do not see why I should tell him what my intentions were at any given point in time. I am here to provide facts, not thoughts.

Hon. R M Clinton: Mr Speaker, I thought I was asking a factual question, because in the estimates for 2015-16 there is the number £79.5 million. I am merely asking if it was envisaged in that £79.5 million that the sale of Gibtelecom shares was included as a number of £37 million.

Hon. J J Bossano: Mr Speaker, the estimates that are provided to the Parliament are the estimates carried out by the Finance Department on the basis of what is known at the time that the estimates are done. A day later, a decision may be taken to do something different and we do not come back and change the estimates.

I have told him before that he should go back and look at the wise words of the greatest Gibraltarian, who was supposed to say to Parliament 'estimates are just estimates'.

Hon. R M Clinton: Mr Speaker, would the hon. Member agree with me that it is somewhat unusual – and obviously the Government has not seen the need to do this in the last five years – that it should cause the sale of the shares of Gibtelecom to the Savings Bank? That is not a normal item that would appear in the Improvement Development Fund.

Hon. J J Bossano: No, Mr Speaker, I do not agree with him.

Hon. R M Clinton: Mr Speaker, if I may just ask the Minister one last question on this point: if he can confirm to me that these shares were sold directly to the Savings Bank and there was no intermediary entity involved.

Hon. J J Bossano: That is correct.

Hon. R M Clinton: Mr Speaker, has the Minister – I have noticed in the Principal Auditor's Report for this year that he has added a clarification note in terms of legal ownership and beneficial ownership – now wearing his hat as the Minister for the Savings Bank, has he got any kind of letter or Statement of Trust that the Government are holding these shares for the beneficial ownership of the Savings Bank?

Hon. J J Bossano: Mr Speaker, the only letter that can exist is the letter that the officials involved in conducting the transaction consider necessary. Therefore, if it is not there it is because it is not considered necessary, and if it was considered necessary it would be there.

Hon. R M Clinton: Mr Speaker, can I then ask the Minister: is there any form of documentation at all surrounding this share sale?

Hon. J J Bossano: I would not know, Mr Speaker, because I do not ask people. As a policymaker I take responsibility for the policy but I do not then go back and say now show me all the paperwork of how you have done it. That is not the way the Government performs its duty; otherwise, we would all be running all the Departments and we could dispense with 5,000 civil servants.

Hon. R M Clinton: Mr Speaker, in terms of the consideration for the Savings Bank shares that were sold, would the Minister confirm that the valuation was that which was given for the B shares purchased by the Savings Bank previously, and would he be able to tell me on what basis that valuation was originally carried out?

Hon. J J Bossano: Mr Speaker, I have already answered that question because I have told him that the valuation is for 100%, double what it was for 50%, so it must follow axiomatically that it is in fact the same valuation for the second 50% as was done for the first. And the first was a valuation done on the basis of the negotiation with Slovenia Telecom at the price at which they were prepared to sell it and we were prepared to buy it.

Hon. R M Clinton: Mr Speaker, I am grateful to the Minister. Can he advise, in terms of that valuation, whether he is aware or not as to how they arrived at the valuation? Was it some sort of multiple of earnings of Gibtelecom?

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Hon. J J Bossano: No, it was based on what we negotiated with them, given that there were other buyers interested in buying that share and we were interested in keeping it under our control because we did not know whether they were going to finish up if they were bought by the same people who were negotiating to buy the whole of Slovenia Telecom.

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Hon. R M Clinton: So the Minister is saying that he is not aware whether any multiple of earnings were used in that calculation?

Hon. J J Bossano: Mr Speaker, I do not know if the hon. Member is hard of hearing but he keeps on asking me if what I have said means what I have said – and the answer is yes, what I say means what I say. Yes.

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Hon. R M Clinton: Mr Speaker, one final question in respect of the sale of Gibtelecom shares: would the Minister agree with me that if this sale of shares had not occurred the surplus reported by the Government for that financial year would necessarily have been lower by £37 million?

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Hon. J J Bossano: No, Mr Speaker, I do not agree.

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Hon. R M Clinton: Mr Speaker, I would be grateful if the Minister could explain to me why he would not agree that if he took £37 million out of the Improvement and Development Fund revenue it would impact on the overall result for the Government for the year.

Hon. J J Bossano: Mr Speaker, I do not answer ‘why’ questions from the hon. Member, and I have not said that if the money had not been obtained by selling it would have been taken from the Consolidated Fund.

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Hon. R M Clinton: Surely, Mr Speaker, the Minister must agree with me that if this £37 million was not obtained by the Improvement and Development Fund, then certainly the Improvement and Development Fund in itself would be short of £37 million. Would he not agree with that statement?

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Hon. J J Bossano: Actually, Mr Speaker, I do not have to agree with anything that he says, but in fact he was asking in his previous supplementary whether I would have accepted the surplus, and there is no surplus in terms of capital, the surplus is surplus of recurrent revenue over recurrent expenditure, and if the Government had not sold the asset that it did to the Savings Bank in order to raise capital for capital investment, it could have sold another asset to raise that money. Therefore it does not follow inevitably that the conclusion he is trying to draw is accurate.

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Hon. R M Clinton: But, Mr Speaker, nevertheless the Minister will have to agree that if he had not sold that asset he would have had to sell another asset to make up the difference.

Hon. J J Bossano: Mr Speaker, if we had decided to continue the spending at the level that it was in the book and we had not sold this asset, another asset could have been sold.

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Hon. R M Clinton: Mr Speaker, coming to the Savings Bank itself, the Minister said that he will not know how much the Report and Annual Accounts – which I referred to commonly as a

290 'glossy' for 2014-15 – how much did that cost, but he must obviously be aware that it is already being distributed. Perhaps if he could just give me the cost of the printing.

Hon. J J Bossano: There is no cost for printing.

295 **Hon. R M Clinton:** I am sorry, Mr Speaker, but the actual booklet for that particular year is shown as being printed by the Gibraltar Chronicle Printing Works Ltd. Is the Minister suggesting that they did it for free?

300 **Hon. J J Bossano:** No, Mr Speaker, what I am suggesting is that his party in government gave a grant to the Chronicle Printing Works of a global sum of money which they get whether the Government does printing or does not do printing. Therefore, the cost of printing this is zero because we would have paid the same money to the Chronicle if this had not been printed as we have paid when this was printed.

305 **Hon. R M Clinton:** So, if I understand the Minister correctly, what he is telling me is the Chronicle are beholden to the Government for a fixed amount and therefore there was no incremental cost to the Government in producing these booklets.

310 **Hon. J J Bossano:** It is correct that he has repeated what I have said using different words, Mr Speaker. *(Laughter)*

315 **Hon. R M Clinton:** Mr Speaker, the Minister, if I heard him correctly – and obviously I must be hard of hearing these days and I apologise for that in advance, my advancing years – I believe mentioned that the Principal Auditor had not reviewed the booklet, the final printer's proof, before it went out. May I ask why not?

320 **Hon. J J Bossano:** Mr Speaker, he may ask why not on innumerable occasions and I will give him the same answer on every occasion that he asks it, but in fact I have not said that he had not; I said that he does not. That is to say that he is not required to do it. So it is not that he is required and did not do it; it is that ... my wording is that the Principal Auditor does not proof read the Savings Bank Booklet.

325 **Hon. R M Clinton:** Mr Speaker, I am grateful to the Minister. If I may ask, is he aware that on the page heading up 'Incoming and Expenditure Account' in the booklet it starts off 'Contribution from the Consolidated Fund', which does not actually appear in the Income and Expenditure account in the *Gazette*, nor in fact in the Principal Auditor's Report itself. So, somewhere along the line somebody has not read this through properly and I would be grateful for the Minister's thoughts on where the words 'Contribution from the Consolidated Fund' came into the report, because I will have him know that I already have had a member of the public speaking to me and saying, 'Well, what does this mean? It's confusing.'

330 **Hon. J J Bossano:** Mr Speaker, I accept it is confusing and it will not appear in future, but I have to tell him that of course it says 'Consolidated Fund Contribution – zero.' So it does not say there is a contribution. And I can tell him where it comes from. Something in the printing works went wrong, because it used to be there when the GSD was in office, because they used to make a contribution to the Savings Bank and there was that line there. They must have looked at a previous copy of the accounts and got it wrong, because it is no longer there because there is no longer a contribution made.

340 **Hon. R M Clinton:** Mr Speaker, as the hon. Member will know, the GSD never produced these types of booklets in the past, so the blame can hardly be put at our door.

I would ask him if in future he would ask the Principal Auditor to check them, because it is distressing to people on the street when they receive something through the post and the heading may be somewhat misleading or may cause people to get the wrong impression. And of course normally, as you say, there is nothing in here to indicate that it should be zero. It is just a space, so it could be a subheading; there are many ways you could interpret this.

I would be grateful if the Minister would consider making somebody responsible for the actual content of the report before it goes out to deposit holders.

Hon. J J Bossano: Mr Speaker, the official audited accounts are included in the accounts of the Government and therefore that is the information. This is a leaflet that we produced, which produces a figure that shows the amount of money that is being deposited in the bank and the amount of reserves that the bank has, which are the two important factors to reassure people of the solidity of the bank. I do not think anybody ... We are still getting £100 million increase in deposits every year, notwithstanding the concern about the blank element in the Consolidated Fund contribution, which does not exist. So I do not think it has put anybody off putting fresh money in the bank, and it is certainly not a level of concern that is reflected in people reinvesting what matures, because we are in the process now of servicing maturities in excess of £20 million and the bulk of it is being reinvested.

So I am grateful for his concern for the Savings Bank but I do not think the Savings Bank is at risk of losing customers because of that line.

Hon. R M Clinton: Mr Speaker, my concern was not about losing deposits, merely that depositors are given accurate reports and that somebody checks them. I would be happy if the Minister gives an undertaking that in future somebody will check these before they go out.

Hon. J J Bossano: Mr Speaker, I have already told him that that line will not be there in the future.

Hon. R M Clinton: Mr Speaker, again I beg your indulgence because when I am going through so many questions I may not have heard the right response to the right question, but in terms of the Statement of Investments, did the Minister give a reason as to why the Statement of Investments is not included in the booklet?

Hon. J J Bossano: Mr Speaker, the hon. Member seems to forget that the GSD policy is not to develop the Savings Bank. The GSD was 15 years in Government and never felt it necessary to provide depositors with any information at all in any form of booklet. So the fact that the booklet that I produce does not contain what he wants it to produce is neither here nor there, because if his party had been in Government the booklet would not exist and the bank would have £70 million from the public – or less, because it was declining – instead of having, at the latest count, £1 billion from the public.

So you know, you judge the performance of banks ... I would have thought ... I think he had a position in a bank. Presumably when he was in the bank the shareholders did not hold him to account because their investments were not included in a booklet that was sent to every customer. What is sent to every customer is what customers normally get – the profit and loss and the balance sheet. In addition to that, every citizen of Gibraltar has access to a public document, which is the audited accounts of the Government, where there is more information, and of course every month, like this month, the list of investments is made available to the hon. Member and therefore is made available to everybody in Gibraltar – not once a year but every single month of the year.

So, given that as far as their policy in Government – which I did not agree with but I respected – the Savings Bank was virtually being used simply to deposit the Government's money, because it had £70 million of private investors and £200 million of Government money,

395 frankly I do not think he is in any position to question whether I am doing enough when they were doing less. And in any event, he has asked why again and the answer is the same to the why.

Hon. R M Clinton: Mr Speaker, I am grateful to the Hon. Minister, as ever.

In terms of these accounts, he attaches the certificate of the Principal Auditor to them in full, with his signature at the bottom. And at the top he says:

I have certified the Financial Statements of the Gibraltar Savings Bank for the financial year 31st March 2015 in accordance with the provision of section 12 of the Savings Bank Act. These statements comprise the Income and Expenditure, the Depositors' Withdrawals Accounts, the Investment Adjustment Account, the Reserve Account Balance Sheet and a Statement of Investments and related notes.

400 I ask him again: why is it that he feels that he can attach the full statement from the Principal Auditor but not that one statement which is covered by the Principal Auditor's Report, is included in what is gazetted and is included in the Government's own accounts – but somehow he feels it is not of public interest to include here. I just want to know why. If he does not want to give me an answer, I will accept that as well.

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Hon. J J Bossano: I know he wants to know why I do everything that I do, Mr Speaker, but this is not the way the system works. I do not have to explain to him *why* I do things. I do things because that is the policy that I have decided in my responsibility – and he is entitled to disagree with my policy.

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I do not know why he asks why so many times, knowing that the answer is always going to be the same. Presumably he likes asking why. Maybe he goes round asking everybody why they do everything they do. Maybe it is not just me, maybe he does it to everyone, but from me he is always going to get the same answer.

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Hon. R M Clinton: Mr Speaker, I thought I was here precisely to ask why, but perhaps I should turn the question the other way round: would he perhaps agree that including the statement would be of value to depositors, given that the Principal Auditor considers it worthy of audit and that it is included in the gazetted accounts and the Government's own accounts? Would he not agree that it would be of value to depositors to see how their money is invested, which is, as he will of course recognise, already a public document, and that it would be easier for the public to see it through this glossy booklet, which he produces for their benefit, to include that statement without them having to go and purchase a Principal Auditor's Report or look up the *Gazette*?

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Hon. J J Bossano: Mr Speaker, he has already asked me that question in a previous House and I said I did not agree with him. He must be able to work it out for himself that if I thought it was something that I should be doing, I would be doing it.

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Hon. R M Clinton: Mr Speaker, just for the record, he mentioned previously about deposits being over £1 billion. Would he tell the House, out of that £1 billion how much is actually related to Government entities?

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Hon. J J Bossano: Mr Speaker, I am telling him that the latest figure that I have seen on investments from the public – because we are now repaying some money – is that notwithstanding the fact that we are repaying something like £20 million which is maturing, it is nearly all being reinvested and the figure now is about £1 billion from the public.

Hon. R M Clinton: Mr Speaker, he mentioned £20 million – perhaps he could clarify. The number I have seen in previous answers to questions, is it £200 million maturing this year?

440 **Hon. J J Bossano:** Mr Speaker, I have not given him the figure for the year; I am giving him the figure for this month.

Hon. R M Clinton: But would he be able to confirm that the figure for the year is in the order of £200 million?

445 **Hon. J J Bossano:** Mr Speaker, the hon. Member asks every month for a list of investments and deposits with maturity dates, which I give him. He is able ... He has got a lot of time. He spends a lot of time rabbiting about in corners and trying to find out things and he should use the information I give him to answer his own questions.

450 **Hon. R M Clinton:** Mr Speaker, moving on to Credit Finance, another great bone of contention, £65 million paid to it by Gibraltar Investment Holdings Ltd. May I ask the Minister how Gibraltar Investment Holdings obtained £65 million to pay this interest.

455 **Hon. J J Bossano:** Mr Speaker, the money that was advanced to Gibraltar Investment Holdings is the money that was used by Investments Holdings and the Investment Holdings paid interest on that money. It obtained it from the resources available to it.

460 **Hon. R M Clinton:** Mr Speaker, I am grateful to the Minister. Would it be the case that Gibraltar Investment Holdings has on-lent that money to other Government entities that have in turn paid it interest? I would be grateful if the Minister would be willing to consider answering that question.

465 **Hon. J J Bossano:** The company in question functions, as it did before 2011, as a holding company which holds all the shares of all the subsidiaries, and therefore the cash is managed collectively. Then it is allocated in terms of who actually finishes up using it and therefore the interest is charged to whoever actually finishes up using it. The revenue of that particular company then goes all the way up. So, although it is done simply, I suppose, because it is more efficient to do it that way, collectively, when the accounts of each individual company are done 470 the things are apportioned accurately where they should go.

Hon. R M Clinton: Mr Speaker, if I understand the Hon. Minister correctly, Gibraltar Investment Holdings is a holding company; it is not a trading entity in its own right. All it has is shares in underlying Government companies, if I am correct – and I think you will probably point 475 me to the chart in the official Annual Estimates of Revenue and Expenditure, which will be that one.

And looking at Gibraltar Investment Holdings, which is at the top of the chain, that holds all these other entities – Europe Incinerator Company Ltd, which I think is probably defunct by now; Gibraltar Bus Company, which I believe needs to get Government money every year; various 480 other entities; Gibraltar Home Loans Ltd; JBS, maybe it is JBS that has got the money – how is the money trickling up to this entity in order to pay interest? Is it by way of dividend or some other method, because I really cannot see how Gibraltar Investment Holdings generates cash.

485 **Hon. J J Bossano:** Mr Speaker, I do not ask that level of detail. I know that the money is available in the company to pay the interest to the Credit Finance subsidiary of the Savings Bank, and I have given him the answer of the amount that is paid, which is the original answer to the original question that he wanted answered. That is the amount that has been paid. It has been paid by the recipient company and the recipient company paid it from resources available to it. Those resources include the fact that we actually provide, from the same booklet he is looking 490 at, £25 million a year. Or didn't he notice that in the book?

Hon. R M Clinton: Mr Speaker, I am grateful to the Minister for his answer.

Yes, I did notice that in the book and, if you remember, I tried to veto that payment during the Budget session. I did ask what the £25 million was for and I did not get an answer.

495 So, Mr Speaker, I guess I will get no clarity on this question. If I may ask one final question – and he may, of course, choose not to answer this because it is not – (*Interjection by Hon. J J Bossano*) Perhaps he may deem it not to be a valid supplementary, but he would probably put me out of my misery if he could tell me when the audited accounts of Gibraltar Investment Holdings will be available to the public?

500

Hon. J J Bossano: I am sorry that it takes so little to make him miserable, I am really sorry to hear that and I would not wish to contribute to his misery, but they will be available when they are. I have not got a date.

505 **Hon. R M Clinton:** Mr Speaker, if I move on to Question 199, and I believe the answer the Hon. Minister gave me was ... I asked why and he will give me the same answer as before, which is that he does not have to tell me why. However, if the Hon. Minister will look at the *Hansard* for Question 698/2016, in fact it was the Hon. Chief Minister who responded to my question, and he did in fact say if I put a direct question maybe or maybe not I would get an answer. So I will perhaps ask whether there is anything further that can be said to the Chief Minister's contribution.

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Hon. J J Bossano: Mr Speaker, the answer that I have given him is the answer he is going to get, there is nothing further to add.

Q200/2017

Multiple Sclerosis Therapy Centre – Future Job Strategy trainees

515 **Clerk:** Question 200, the Hon. D A Feetham.

Hon. D A Feetham: Mr Speaker, how many Future Job Strategy trainees placed for training with the Multiple Sclerosis Therapy Centre since 2012 are permanent employees of the centre today?

520

Clerk: Answer, the Hon. the Minister for Economic Development, Telecommunications and the GSB.

525 **Minister for Economic Development, Telecommunications and the GSB (Hon. J J Bossano):** Two, Mr Speaker.

Hon. D A Feetham: Does the Minister know whether those are two recent employees that have finished their training recently, or are they longstanding employees?

530 **Hon. J J Bossano:** Mr Speaker, I believe they are from 2015.

Hon. D A Feetham: Does he also have any figures for the number of trainees that have been sent to this particular organisation since 2012?

535 **Hon. J J Bossano:** Yes, Mr Speaker, 14 in total.

Hon. D A Feetham: And, Mr Speaker, how many of those 14 were then permanently employed by the centre? Does he have that figure?

540 **Hon. J J Bossano:** Ten of the 14 were employed and of the other four three were terminated by the employer and one was terminated by the employee during the training period before completion.

Mr Speaker: Next question.

Q201/2017
Gibraltar Joinery and Building Services Ltd –
Percentage owned by Government

545 **Clerk:** Question 201, the Hon. Ms M D Hassan Nahon.

Hon. Ms M D Hassan Nahon: Is GJBS 100% owned by Government?

550 **Clerk:** Answer, the Hon. the Minister for Economic Development, Telecommunications and the GSB.

Minister for Economic Development, Telecommunications and the GSB (Hon. J J Bossano): Yes, Mr Speaker.

555 **Hon. Ms M D Hassan Nahon:** Mr Speaker, in light of this answer, are GJBS then allowed to carry out private work and compete with the private sector?

Hon. J J Bossano: Yes, Mr Speaker.

560 **Hon. Ms M D Hassan Nahon:** So would it be possible to have a percentage amount that goes back to the Treasury?

565 **Hon. J J Bossano:** I am afraid I do not understand the question: a percentage amount that goes back to the Treasury of what – a percentage of what?

Hon. Ms M D Hassan Nahon: Well, if GJBS is allowed to carry out private work, considering that it is a Government entity what percentage of the private work that it does goes back to the Government coffers? If it is a public company, shouldn't something be coming back?

570 **Hon. J J Bossano:** Mr Speaker, perhaps the hon. Lady is not aware that GJBS took over a lot of contracts initially from a lot of Spanish contractors that pulled out and some Gibraltar companies that pulled out during the GSD administration, and they had to come in and rescue all the projects.

575 And therefore it was only really since then, since that period, that they have been allocated work by the Government, but they have also been allowed to bid for work in the private sector. If the hon. Member thinks that the private sector is at a disadvantage from competition by GJBS, let me reassure her that that cannot possibly be justified, given that GJBS pays considerably higher wages than the rest of the construction industry.

580 Sometimes when they have got not a great deal of Government work, they tend to bid to get private sector work rather than find themselves having to lay off people, which we would not want them to do as a publicly owned company. So the bulk of the work is Government work, but

sometimes when they are low on Government work they put in tenders for private sector work in order to ensure that they do not have people on idle time. It is not predominantly in order to make big profits, and of course the profits are still owned by the Government or by the taxpayer, even if they are retained in the company and not distributed. Money tends to be reinvested because they have got a much better stock of equipment and facilities than any other construction company in Gibraltar.

Hon. Ms M D Hassan Nahon: So, if I understand correctly, a Government-owned company is allowed to (a) fairly bid in the private sector for work, and (b) is allowed to keep the profits and not return them back to Treasury, even taking into account that it is a public company.

Hon. J J Bossano: Mr Speaker, I do not know how much she knows about how companies function, but of course the fact that the Government is a shareholder of a company does not mean that the company is inhibited from doing anything that a company that is owned by a private shareholder would do. That is to say the company functions commercially. It is not a Government Department and it functions commercially but it does predominantly Government work – which frankly would not have been done if that company was not there, given the experience that we have had from the construction industry over the 44 years that I have been here. It is the most reliable construction company in Gibraltar with the highest reputation in Gibraltar and with the greatest number of Gibraltarians. So when it makes a profit, if the Government wanted it to pay dividends it would pay dividends, because it is 100% Government owned. If the Government has allowed it, throughout the 15 years under the GSD and the four years under the GSLP and the last four years, to reinvest the profits that it makes into the infrastructure that it has available to do construction work, and therefore it has better workshops and more equipment than anybody else, that is a choice that the Government, on behalf of the people of Gibraltar, exercises judgement on, as previous Governments have done. But of course if, for example, GJBS buys lorries, then instead of having cash it has lorries. If it did not buy the lorries it might have to hire them. These are commercial decisions that are taken and it has always been like that; there is no change in policy.

HEALTH, CARE AND JUSTICE

Q135/2017

Old Hebrew Home – Government's plans

Clerk: We now move to Question 135. The questioner is the Hon L F Llamas.

Hon. L F Llamas: Mr Speaker, can the Government explain what its plans are with the old Hebrew Home in Line Wall Road?

Clerk: Answer, the Hon. the Minister for Health, Care and Justice.

Minister for Health, Care and Justice (Hon. N F Costa): Mr Speaker, the Government plans to refurbish this facility and reopen it in order to continue to provide further elderly care beds with a principal accent on elderly members of the Jewish community.

Hon. L F Llamas: Mr Speaker, in light of that, what would be Government's position, then, or plans with regard to the John Mackintosh Wing up at the old St Bernard's? Would that be then

distributed as an extension to Mount Alvernia, as it is now but for all the community? I believe that is at the moment accommodating the Jewish community from the old Hebrew ...

630 **Hon. N F Costa:** Mr Speaker, the hon. Gentleman is correct to say that the majority in the Jewish Home of course would be elderly Jewish, but in the John Mackintosh the – (*Interjection*) Yes, the third floor does contain some elderly Jewish persons but the John Mackintosh is predominantly, of course, for elder members of our entire community.

Q136/2017
Domiciliary care –
Number of recipients; waiting list; allocation policy

Clerk: Question 136, the Hon. L F Llamas.

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Hon. L F Llamas: Mr Speaker, can the Government disclose how many members of our community are receiving domiciliary care as at the end of each financial year since March 2012 to date?

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Clerk: Answer, the Hon. the Minister for Health, Care and Justice.

Minister for Health, Care and Justice (Hon. N F Costa): Mr Speaker, the number of domiciliary care recipients as at the end of each financial year ... That is the question I have been asked, although I thought that we had a previous question.

645

Mr Speaker: Is he answering this question only or is he answering it together with Question 137?

Hon. N F Costa: Mr Speaker, yes, I will answer this question together with Question 137.

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Clerk: Question, 137, the Hon. L F Llamas.

Hon. Mr L F Llamas: Mr Speaker, can the Government disclose how many members of our community are on the waiting list for domiciliary care and what is the Government's policy in allocating domiciliary care?

655

Clerk: Answer, the Hon. the Minister for Health, Care and Justice.

Hon. N F Costa: Mr Speaker, the number of domiciliary care recipients as at the end of each financial year, going back to 2009 is as follows: April 2009 to March 2010, 28; April 2010 to March 2011, 40; April 2011 to March 2012, 35; April 2012 to March 2013, 98; April 2013 to March 2014, 231; April 2014 to March 2015, 260; April 2015 to March 2016, 304.

660

Mr Speaker, there are currently 12 people on the waiting list for domiciliary care since 16th January of this year.

665

The Government policy on domiciliary care is to provide care to meet personal hygiene needs of persons over the age of 60 who, due to frailty or age-related conditions, require support to remain safe at home.

In order to receive a service, they must be eligible for social care and be assessed as having critical or substantial care needs. In non-exceptional cases, a maximum of two hours' support daily can be granted.

670

This has been a very important part of our policy of ensuring that elderly people can continue to live independently for longer. The policy also helps to keep people out of hospital. We have, as hon. Members can see from the answers provided, put a huge amount of resources into this area of policy, given that we consider this is a priority for so many families in our community.

675 We are now offering the service to more than tenfold the numbers that were being provided a service in 2010, an increase of hundreds of people having the benefit of this service and delivering benefits to the wider public interest and, of course, the community.

680 But this does cost money, and although the Members opposite do criticise us for spending money we are clear that, as in all areas, this is money well spent for our community's wider benefits.

Q138/2017
Elderly care residences –
Panic buttons

Clerk: Question 138, the Hon. L F Llamas.

Hon. L F Llamas: Mr Speaker, can the Government state on which occasions have resident call buttons, commonly known as panic buttons, at Mount Alvernia and all other elderly care 685 residencies been out of operation and how for how long on each occasion?

Clerk: Answer, the Hon. the Minister for Health, Care and Justice.

Minister for Health, Care and Justice (Hon. N F Costa): Mr Speaker, the nurse call bell system 690 is in working order in all areas of the service except for the third floor of Mount Alvernia. Management has put short-term measures in place whilst the replacement of the entire system is installed.

Hon. L F Llamas: Mr Speaker, can I ask the Hon. Minister for how long the third floor has 695 been out of operation and the reason why – is it a technical issue, or is it something more complex that will require professional help?

Hon. N F Costa: Mr Speaker, I do not have the date from which the third-floor bell system has 700 not been in operation but it is, as he rightly assumes, a technical electrical issue, which is why we have sought a replacement for the entirety of Mount Alvernia, and we expect that the work will commence on 6th March to replace the entirety of the system.

705 The hon. Gentleman – which I am sure is why he is asking the questions – should be assured that, as a result of that, the measures include ensuring that there is always a nurse on that floor during the course of the day. I am reliably informed that there are always two registered general nurses on duty and eight nursing assistants, so there is no concern about the persons' safety and welfare.

Q139/2017
Care Agency employees –
Breakdown re acting positions

Clerk: Question 139, the Hon. L F Llamas.

710 **Hon L F Llamas:** Mr Speaker, can the Government provide a schedule with the breakdown of Care Agency employees (a) currently in acting positions, (b) since when has each employee been acting, (c) what is the original post or grade and department of the employee, and (d) what post or grade and department is the employee acting in?

715 **Clerk:** Answer, the Hon. the Minister for Health, Care and Justice.

Minister for Health, Care and Justice (Hon. N F Costa): Mr Speaker, I now hand over to the hon. Gentleman a schedule with a breakdown of the information he requests.

Answer to Question 139 of 2017

DOC	Original Post of Person Acting/Department	Acting Post	Department of Acting Post
Oct-11	Care Worker/Children's Residential	Unit Manager	Children's Residential
Oct-12	Care Worker/Children's Residential	Unit Manager	Children's Residential
Oct-12	Care Worker/Children's Residential	Unit Manager	Children's Residential
Aug-14	Social Worker/Children's & Families	Senior Social Worker	Children's & Families
Jul-15	Social Worker/Adult Team	Senior Social Worker	Adult Team
Jun-16	Senior Social Worker/Adult Team	Head of Service	Children's Residential
Jun-16	Care Worker/Children's Residential	Unit Manager	Children's Residential
Sep-16	Care Worker/St. Bernadette's	Deputy Manager	St. Bernadette's
Sep-16	Care Worker/St. Bernadette's	Home Manager	St. Bernadette's
Dec-16	Care Worker/Children's Residential	Unit Manager	Children's Residential
Jan-17	Care Worker/Children's Residential	Residential Manager	Children's Residential

**Q140/2017
MedDoc Ltd –
Beneficial owners**

Clerk: Question 140, the Hon. R M Clinton.

720 **Hon. R M Clinton:** My apologies, Mr Speaker, it was not on my list.

Mr Speaker, can the Government advise who are the beneficial owners of MedDoc Ltd, being Gibraltar Company No. 113133 given the award of the Dementia Day Care facility contract?

725 **Clerk:** Answer, the Hon. the Minister for Health, Care and Justice.

Minister for Health, Care and Justice (Hon. N F Costa): Mr Speaker, I am surprised that Members opposite should single out one care provider in a sector that involves a number of companies. One might be left to wonder why they have not asked who the beneficial owners of

730 the other companies in the sector providing services to Government – namely ADA, Rainbow and Grand Home Care – are.

In order to assist the House, however, I am going to provide it with details of the beneficial owners of all of the companies in the sector with which the Government contracts. They are as follows: ADA – Juana De Los Angeles Dominguez 50%, Carmen Perez 25% ; Micaela Guererro 25%; Rainbow – Emilio Rodriguez 50%; Juana De Los Angeles Dominguez 50%; Grand Home Care – Artur Wasowicz 100%; MedDoc – Dr Josep Ricard Gandia and Josephine Peralta, a retired GHA nurse.

Hon. R M Clinton: Mr Speaker, I am grateful for the Minister’s comprehensive response. In respect to Medoc, he mentions Josephine Peralta; would he confirm that Josephine Peralta holds 50% of Medoc?

Hon. N F Costa: Mr Speaker, on the basis that the answer has been drafted for me on the basis that the shareholders have been attributed with a percentage, and there are two shareholders in respect of Medoc, I can assume that they are 50% and 50% but I will have to confirm that information for him.

Hon. R M Clinton: I would be grateful to the Minister if he would. The public record at Companies House shows 50% by Dr Gandia and 50% for a nominee company which I presume is acting for Josephine Peralta, but if he could confirm that I would be grateful.

Hon. N F Costa: Mr Speaker, the hon. Gentleman will recall that in the last session of the House he asked me about the beneficial ownership of a nominee company, and that is why he has asked me the question again, and therefore, whilst again I am assuming, it does follow, given that it is 50% ownership in the Companies House, we can assume it is 50%, but I will confirm that to him.

Q141/2017
Sexual offences –
Steps to curb rise in offending

Clerk: Question 141, the Hon. E J Phillips.

Hon. E J Phillips: Can the Government state what steps the Government and law enforcement agencies are taking to curb the sharp rise in sexual offences?

Clerk: Answer, the Hon. the Minister for Health, Care and Justice.

Minister for Health, Care and Justice (Hon. N F Costa): Mr Speaker, given their serious nature, the RGP has specific resources dedicated to dealing with these type of offences staffed by specialist officers. As part of its continuing monitoring processes on crime pattern analysis, the Royal Gibraltar Police has naturally noted the increase in reports of sexual offences. Given the limited data available, however, it is unclear at this stage whether this represents a shift or whether we will see a return to the levels reported in previous years, which were relatively consistent.

It is important to note, Mr Speaker, that the analysis has revealed that of the 65 offences of a serious sexual nature reported to police, 26 were identified as part of one particular investigation and cannot therefore be considered to be part of a ‘sharp rise’ in such offending.

775 It is also assessed that, given the greater awareness, the public are increasingly confident in reporting these matters even where they are of a historical nature, demonstrating, I think, their faith in the criminal justice system and judicial process.

In this respect I really do want to highlight the excellent work done in this field by the RGP under the leadership of Commissioner Eddie Yome.

780 **Hon. Miss S J Sacramento:** Hear, hear.

Hon. D A Feetham: And will the Hon. Minister also acknowledge the role played by new legislation in that – in people actually reporting and coming forward with historical, for example, sexual offences, in that of course the Crimes Act and the Criminal Procedure and Evidence Act did introduce very modern provisions relating to anonymity, for example, in relation to victims of such crime and the protection of those victims when they come forward and they give evidence? Certainly that has, in the United Kingdom, seen an increase in victims of sexual offences coming forward so that these can be prosecuted and I would have expected that to be the case here in Gibraltar too.

790 And, of course, following on from that, would he want to congratulate the GSD for introducing those two pieces of legislation?

Hon. Miss S J Sacramento: Mr Speaker, I would like to contribute to this as Chairman of MAPA, which is a Multi-Agency Public Protection Forum, which deals specifically with sex offenders. While it may be that new legislation provides a different regime and a different framework, I do not necessarily think – and I do not say this as a criticism ... I think that the reason why people are coming forward is because of the successful prosecutions in this particular field that we have had of late. I do not think when people come forward to report these matters they are actually aware of the legislative framework that exists, so that is not necessarily a contributing factor to people coming forward. It does possibly assist in the success of the prosecution but cannot be the only measure for it.

800 I think that congratulations have to go to the multi-agency working together that makes these prosecutions successful, because a prosecution is not only successful because a perpetrator is convicted – we also have to look at the support that is given to the victims and their families, and that is a structure that has been developed outside of the legislation in practices and policies that have been established over the last three years by people who are operational in these matters.

Q142/2017
Legal Aid reform –
Delay in laying of Bill

Clerk: Question 142, the Hon. E J Phillips.

810 **Hon. E J Phillips:** Can the Government explain the delay in laying before the House a Bill to reform the Legal Aid system?

Clerk: Answer, the Hon. the Minister for Health, Care and Justice.

815 **Minister for Health, Care and Justice (Hon. N F Costa):** Mr Speaker, I am glad to tell the hon. Gentleman that there has been no such delay.

As the House knows, following a process of consultation with the Bar Council, the Legal Aid system was reformed with the new rates published.

Mr Speaker: Next question.

820 **Clerk:** Question 143, the Hon. E J Phillips.

Hon. D A Feetham: May I, Mr Speaker?

825 **Mr Speaker:** On the previous question?

Hon. D A Feetham: On the Legal Aid, yes.

Mr Speaker, yes, new rates were published in relation to Legal Aid. There were also other reforms introduced in relation to serious fraud; rates were increased there. Then the legislation was changed again after the prosecution of the Marrache brothers. But what about the legal assistance? In relation to legal assistance we have a situation where the threshold for qualification for legal assistance is extremely low and it prevents people from accessing justice. Is that something that the Government is now going to be in a position, in short measure and in short time, to introduce to this House in order to deal with what is a very significant injustice to a lot of people?

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Hon. N F Costa: Mr Speaker, only in this House would you have the Hon. the Leader of the Opposition rise to ask a supplementary on an entirely new matter. The Hon. Mr Phillips asked a question on Legal Aid. Of course he meant to ask about legal assistance, but he got it wrong.

840 Legal Aid rates, new rates, were negotiated by the Bar Counsel, by my hon. and learned Friend, Gilbert Licudi. They have been published and have been in the statute book since 2004. Mr Figueras made exactly the same mistake.

Chief Minister (Hon. F R Picardo): And got it in the neck.

845 **Hon. N F Costa:** Yes. And therefore, Mr Speaker, if he wants to know what steps I have taken in respect of legal assistance, then he can ask the question at the next session of Parliament and I will give it to him.

850 **Hon. D A Feetham:** Mr Speaker, if I may say so, it is a particularly ungenerous answer. *(Laughter and interjections)*

What he is really saying is 'I knew that the hon. Gentleman wanted to ask about legal assistance as well as Legal Aid', *(Interjection)* 'or at the very least wanted to ask' – that is what he said – 'wanted to ask about legal assistance, but I have just given him the answer in relation to Legal Aid because he has made a mistake.' It is actually a mistake that a lot of people make, and indeed when I am drafting sometimes – *(Interjections)* Mr Speaker –

855

Mr Speaker: Order! Order!

860 **Hon. D A Feetham:** Mr Speaker, when I sometimes draft communiques I have now resorted to talking about 'public funding'. It is a common mistake that people make. Why? Because in the United Kingdom, for example, there is no legal assistance; it is all Legal Aid.

But the hon. Gentleman is here. He must know what the Government's plans are in relation to legal assistance. *(Interjection)* Of course. Well, therefore I have asked a supplementary and he should be in a position to answer that supplementary, which is: how quickly can we expect to have legislation in relation to legal assistance, which unfortunately is a significant injustice to an awful lot of people? And I think that he would agree with that.

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Hon. Chief Minister: Well, Mr Speaker –

Hon. D A Feetham: Cavalry to the rescue!

870

Hon. Chief Minister: It is surprising that the hon. Gentleman gets up and he thinks ...
[Inaudible]

Mr Speaker: And the Hon. Speaker will intervene when necessary so that the cavalry that comes to the rescue keeps the situation under reasonable control, because I can see that the fires are now being lit. *(Laughter)*

Hon. Chief Minister: Mr Speaker, it is really quite incredible (**Hon. N F Costa:** It is.) that when what is not best described as the cavalry opposite – because it oft fails to rescue and actually digs a deeper hole – gets up to dig, that is okay, but when the cavalry which does not need to rescue but represents this side gets up, it is something to be remarked upon.

Well, I assure the hon. Gentleman, Mr Speaker, that I do not regard myself as cavalry; I regard myself as being principally concerned about how this Government ensures that people who are in need are dealt with and we understand those issues, and this is an important issue that both the former Minister for Justice, Mr Licudi, and the current Minister for Justice, Mr Costa, have done a lot of work on.

But there are serious issues of parliamentary procedure that the hon. Gentleman has raised and therefore, as the Leader of the House, I am going to deal with those issues in respect of how supplementaries arise and give you the Government's view in that respect, Mr Speaker, and to deal with the substance of what the hon. Gentleman has said.

The hon. Gentleman started by saying that the Hon. Minister's answer was ungenerous. Mr Speaker, I have to commend the Minister for an extraordinarily generous answer, because the hon. Members opposite will not know, except for Mr Reyes and the Hon. the Leader of the Opposition, that when Mr Figueras made exactly the same mistake I rightly and properly pointed out that not even a first-year pupil in my Chambers when I was in practice would have made the mistake of confusing Legal Aid and legal assistance and not had it immediately pointed out to him, because it is like in the law mistaking apples and pears.

Those who are listening will not be lawyers but they need to understand, Mr Speaker, that the concept of Legal Aid is only one that is relevant in criminal law. In other words, when somebody is charged with an offence and is unable to pay for their defence, they get what is known as Legal Aid. The concept of legal assistance engages in civil proceedings. It is an extraordinarily simple thing to understand and it is Law 101 for anybody practising in Gibraltar.

And so, Mr Speaker, for the Hon. the Minister not to have simply referred the Leader of the Opposition to my excoriating comments to Mr Figueras, who was then sitting next to him and suffered the Government pointing out that they did not know the first thing about the law in Gibraltar if they did not know that difference, is really not to remember history and to demonstrate once again how he fails those around him. He failed to point out to Mr Figueras when he saw his speech before he delivered it that he was getting it wrong on Legal Aid and legal assistance and he has obviously failed to point out to Mr Phillips that what he was asking about was done a long time ago and that what he needed to talk about was legal assistance.

But, Mr Speaker, we have today had an admission from the Leader of the Opposition that he does not know his one Legal Aid from his elbow. He has admitted here today that he is so careless as to detail that he does not sometimes realise when he is writing public communiques ... That is what he said. In other words, in the discharge of his office as the Leader of the Opposition he does not sometimes realise that he is saying one thing when he means another. And when he is going from black to white, not in an area that is grey, I will print out and frame the *Hansard* of what the hon. Gentleman has said and I will ensure that the public in Gibraltar, when he asks them to trust him and his party with more serious affairs even than this, are reminded that he does not know A from B.

920 But, Mr Speaker, therefore, given that we are dealing with one thing which is black and
another one which is white, a supplementary does not arise from that question, and the fact
that the Government may know what it is doing in respect of black does not mean that it can be
required to answer in a supplementary to a question about white. Otherwise, Mr Speaker, we
would completely lose control of the agenda of questions and we could be asked about tigers
925 and in supplementaries to please provide what we know about tuna. The only person who
would be able to do that would be the hon. Member for the Environment, who knows his tigers
and his tuna perfectly well, and he is not somebody who confuses his aid with his elbow.

And so, Mr Speaker, the Government does not feel it must therefore answer a
supplementary on something that does not at all arise from this question, but if a proper
930 question is put and care is taken, and carelessness does not incur on the preparation of a proper
question next time round, then we will happily share the work that we are doing to protect
people who do need legal assistance. Legal assistance – I remind them, in case they have
forgotten again, that that engages in civil proceedings and not Legal Aid, something which we
have already dealt with.

935 But Mr Speaker, I assume everyone in the community who pays them legal fees is looking to
ensure that their carelessness has not crept into other areas of their work.

Hon. D A Feetham: Mr Speaker, that was –

940 **Mr Speaker:** I am allowing one further intervention from the Leader of the Opposition and
then we are moving on to the next question.

Hon. D A Feetham: Thank you very much, Mr Speaker; Mr Speaker is very generous.

Bearing in mind that the answer the Hon. Minister has given is in relation to Legal Aid and he
945 has said that the Government has done x, y and z in relation to Legal Aid – including, it has to be
said, changing the law, because that is what they did in relation to Legal Aid to allow the
Marrache brothers to have gold-plated representation at their trial – how can the Government
justify reforming the law in relation to that and not having reformed the law in relation to legal
assistance?

950 **Hon. Chief Minister:** Mr Speaker, the hon. Gentleman seems to think that continually
mentioning one particular case garners him some support, and he wants to do it in a way that is
most prejudicial to the Government as possible without an eye to the way that we should all be
behaving in respect of matters that engage the courts.

955 The Government, as he knows and as we have said a number of times in this House
repeatedly – and indeed, Mr Speaker, the hon. Gentleman knows because he was the one asking
the questions of the then Minister for Justice, who gave him a lesson on human rights law – that
the law had to change because the Government was advised that if it did not the prosecutions
would collapse.

960 In those circumstances there was a change of the law ahead of a wholesale change of the law
on the area to deal with the issue that had been raised in the context of that prosecution, and
then there was a wholesale change of the law that dealt with all areas. That is the position the
hon. Gentleman knows about.

965 What he wants to do is to get up and say ‘Why you do this in the Marrache case?’ and use it
as a whip against the Government constantly to try and prejudice people against the
Government. People will know, because they are too astute in Gibraltar to have the wool pulled
over their eyes, that if the Government has already explained that we had to do it in that
particular case because otherwise prosecutions would have collapsed, it was the right thing to
do because there had not been a wholesale change. There has now been a wholesale change in
970 the law and there will be a wholesale change in the law in respect of other matters involving
legal assistance – the other area, I remind him, given that he has told us how careless he is when

it comes to this in respect of civil matters, where many more people are affected, which concerns the Government greatly.

975 Or is it that he can for one moment genuinely believe that the Government wanted to change the law to spend more money in respect of a particular case just willy-nilly? Nothing could be further from the truth and nobody gets gold-plated defences; they get the defences that the Government is advised they must have in order for prosecutions not to collapse. If the prosecution had collapsed, Mr Speaker, it would have been very bad indeed for Gibraltar as a jurisdiction in which to do financial services, in which to set up companies, and that would have
980 been a very bad thing indeed.

This Government will have the vision to ensure that we do the right thing for all of the people of Gibraltar and we did the right thing in that case – and he should know that. In fact, Mr Speaker, I dare say that he does, but his attempt to use this matter simply politically really is now so transparent that everybody sees thought it. (*Banging on desks*)

Q143/2017

**Isaac Marrache case –
Intention to appeal decision of Mr Justice Jack**

985

Mr Speaker: Question 143, the Hon. E J Phillips.

Hon. E J Phillips: Does the Minister for Justice intend to appeal the decision of Mr Justice Jack in relation to his attempt to withdraw his appeal to the Supreme Court of the decision of the
990 Parole Board in the Isaac Marrache case?

Clerk: Answer, the Hon. the Minister for Health, Care and Justice.

Minister for Health, Care and Justice (Hon. N F Costa): Mr Speaker, it is already a matter of
995 public record that I have caused a Notice of Appeal to be filed. I also confirmed as much in Government Press Release 43 of this year.

Given that the matter is subject to legal proceedings before the Court of Appeal, I do not propose to say any more on the appeal or provide any further comment.

1000 **Hon. E J Phillips:** Mr Speaker, in relation to that matter it is correct, isn't it, that it is a matter of public record? I have read in the *Chronicle* this morning that the Minister intends to instruct Lord Pannick to conduct the appeal on his behalf.

1005 **Mr Speaker:** I did not hear that ... Lord Pannick?

Hon. E J Phillips: Lord Pannick QC.

1010 **Chief Minister (Hon. F R Picardo):** Mr Speaker, as the hon. Member is the appellant, the Government does not consider that it is appropriate for him to be engaged in answering any further questions.

The hon. Member is saying that he read something in the newspaper this morning. He can make up his own mind what he believes from what newspapers, but who acts for the Minister will be obvious in court.

1015 **Hon. E J Phillips:** Is the Government instructing Lord Pannick in this matter?

1020 **Hon. Chief Minister:** Mr Speaker, the Government has already indicated to the hon. Gentleman what our answer is. This is a matter which is *sub judice*, it is before the court, and the hon. Gentleman will see whom we instruct in the context of the proceedings and will read in the newspaper what was said in court yesterday. This is not a matter for further parliamentary engagement.

I do not know what it is – if he just wants to meet Lord Pannick and have a selfie with him. *(Laughter)* I do not know why he is so obsessed with him!

1025 **Hon. E J Phillips:** I am not concerned with Lord Pannick or anyone else, frankly, but what I am concerned about is the public purse and how much money the Government intends to spend in relation to this matter.

1030 **Several Members:** Hear, hear. *(Banging on desks)*

1035 **Hon. Chief Minister:** Well, Mr Speaker, if he is concerned about the public purse, then he might want to follow these proceedings very carefully to see who it is that is putting the Government to expense, but perhaps that would require him to understand the jurisprudence of the decisions that are being delivered in this case and it might be beyond his ability to comprehend.

Hon. D A Feetham: It is terrible, actually, him criticising a judge like that.

1040 **Hon. Chief Minister:** Have I?

Hon. D A Feetham: Yes, of course you have.

Hon. Chief Minister: Read what was said and see ... *[Inaudible]*

1045 **Hon. E J Phillips:** Mr Speaker, is it in the –

Hon. D A Feetham: That's what you have done. *(Interjection by Hon. Chief Minister)*

1050 **Hon. E J Phillips:** Sir, I have the floor, don't I? Mr Speaker, the question I am trying to put to the Government relates to the instruction of an eminent leading QC in the field of public law and human rights. There are over 20 or 30 that I have found this morning on Legal 500 that the Government could instruct, but they are instructing the number-one eminent lawyer in respect of this area –

1055 **Hon. D A Feetham:** And the most expensive.

1060 **Hon. E J Phillips:** – and the most expensive lawyer, in fact. Doesn't the Government consider that they should be considering a range of lawyers, and in fact local barristers who could quite properly do this – the likes of Sir Peter Caruana or Keith Azopardi QC?

Hon. Chief Minister: Mr Speaker, this is really quite bizarre. I have never seen an Opposition that is setting out its stall to seek to sell us the services of some barristers. I am grateful that at least he has stopped short of asking that we should instruct him!

1065 Mr Speaker, this is not a bazaar. Lord Pannick is a recognised leader in his field. If we instruct him is a matter that I am not going to debate in this House in respect of this matter, but he should know, because it should be glaringly obvious, that Lord Pannick is retained by the Government of Gibraltar in a number of different areas, and if he thinks – he has said that he is the leading brain – if he thinks that Gibraltar should engage anybody other than the leading

1070 brain in some respects, well then he has a different attitude to running the affairs of Gibraltar than I do, because I believe we should have the leading brains engaged in defending the interests of Gibraltar internationally and indeed in our courts where necessary. Whether we use him in this case or not will be a matter of public record. If he had had the time yesterday he might have been able to be in court and hear what was said in court. But those matters in that case are for the courts.

1075 For him to stand up here and to set up a barristerial 'Soko Chico' where he is saying 'Very good, very good, and cheaper for you!' is really quite ridiculous, Mr Speaker. This is not the way that one would expect a serious Opposition to be conducting themselves. This is a very serious matter, not relating just to the incidents that we are dealing with – it relates generally to the law of Gibraltar and the Government will instruct who it considers is appropriate and will not be
1080 considering in this House who we should or should not instruct nor who we have instructed.

He has read a report in a newspaper. I am surprised that he thinks he cannot rely on what he has read in that newspaper as a court report and that he wants to ask the Government about it.

Hon. D A Feetham: But, Mr Speaker, does the Hon. the Chief Minister – and I will ask the
1085 question of the Chief Minister because this morning he is answering virtually every single question that comes close to potentially embarrassing the Government. (*Interjection by Hon. Chief Minister*) Doesn't he recognise that this is not a matter of national importance for Gibraltar and that there is a difference between instructing somebody like Lord Pannick, who is probably the most expensive barrister, senior counsel, in England, and instructing somebody else who will
1090 do just as good a job but will not cost the taxpayer of Gibraltar the hundreds of thousands pounds that Lord Pannick will cost? That is the simple point.

Hon. Chief Minister: Mr Speaker, the reason I have got up, other than to answer questions that he has got up to make when he has got up to raise questions ... so I do not see why the
1095 leader of that side can get up and ask questions but the leader of this side cannot get up to answer them. The only reason I have got up to answer these questions is because the person being asked is the appellant himself. They are asking the appellant questions about his case in court –

1100 **Hon. D A Feetham:** No, of course not!

Hon. Chief Minister: – and I have got up to answer because I do not think it is appropriate for the appellant to be answering. That is why I have got up. I am not answering that aspect of the question; I am dealing with why I have got up.

1105 Mr Speaker, a number of lawyers names have been mentioned, for whom I have the highest regard – and they are from Gibraltar – in the exercise of their professional duties, though of course I have had many political differences with them in the past, and there are many others who have not been mentioned for whom I also have the highest regard. There may be reasons why we are not able to use them in this case or why we do not wish to use them in this case, but
1110 we do not have to consider with hon. Members opposite who we instruct and who we do not instruct in this case, something which often happens on the instance of our own legal advisers, not on the basis of the Government deciding who we want to use.

For sure, Lord Pannick would not be confusing himself on what is Legal Aid and legal assistance – so already streets ahead of some there, Mr Speaker – and the cost involved is
1115 something that the Government will of course be taking into consideration, as we do always, because we do not spend a penny that we do not have to spend. We protect the public purse, we ensure that moneys are used for exactly the right purposes and the public know that.

What is abundantly clear is that hon. Members opposite see the word 'Marrache' and they think that they are hitting the bingo in respect of trying to attack the Government, and they are

1120 going to do it in respect of every aspect of the case. It is really quite disgraceful, Mr Speaker, that they are doing that from Opposition.

1125 Lord Pannick is a recognised leader in his field. He represented Gina Miller in the recent Brexit proceedings in the United Kingdom, he has advised the Government of Gibraltar for at least five years since I have been Chief Minister of Gibraltar, and if the Government considers he is the right person to do this case he will do it. If we do not, somebody else will do it, but it is not a matter for this Parliament. What we certainly will not be doing is instructing people who do not know their Legal Aid from their legal assistance elbow.

Mr Speaker: Next question.

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Hon. E J Phillips: Mr Speaker, just one final question. The Chief Minister will know that this community has shelled out about £10 million in relation to the Marrache affair. It is simply not right – and I would ask the Chief Minister to agree – that we spend another couple of hundred thousand pounds on determining a question of parole. It is simply wrong in my view.

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Hon. Chief Minister: Mr Speaker, determining the question of parole is interpreting the law that the GSD brought to this House about when people are able to have parole. So, in other words, all of the game that they are trying to play with this case stems around the law that they brought to this House about when people are able to have parole or not.

1140

I refresh my memory on the *Hansard* of the pride the Hon. the Leader of the Opposition said he was expressing when he brought the law that allowed people to be paroled after one third of the time. The first controversial instance when somebody is paroled after a third of the time, the same-self Leader of the Opposition and his party say that this is quite disgraceful. Mr Speaker, the level of political hypocrisy could not be made up!

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Legal cases cost money. Lawyers are the principal parties that take the advantage of that. The two people asking me questions about this are lawyers who take advantage of legal fees being paid in cases where people argue esoteric points of law or pertinent points of law.

1150

The state of the law in Gibraltar in respect of parole is not just relevant in the case of Isaac Marrache; it is pertinent to every single future case of parole that may involve any person, whether they are of a name so recognised that hon. Members like to try and make hay politically by referring to it, or not – in other words, an anonymous person who may come before the system and needs clarity in respect of that system. Whether it costs money to deal with those issues or not ... Look, it always costs money to go to court – or is it that hon. Members, *lawyers*, do not know that, and one of the Members opposite, who has just been made a silk, is not charging more after he has been made a silk than he was charging before?

1155

We could have an argument about whether lawyers charge too much. (**A Member:** Hear, hear.) I am a lawyer: in my view, some lawyers charge too much; some other lawyers are cheap at the price. In this case that is not the issue. The issue is the principle of defending an Act of this Parliament and its interpretation – an Act which ironically they brought to this Parliament, the effect of which, because of the law that they presented, is that Mr Marrache was able to have parole after a third of the time served. In other words, we were left to give effect to their law, the law which they said they presented with pride. If defending that costs money, what can we do? But if he knows of lawyers in a co-operative he might like to tell us who they are. The last time I checked, he used to send bills every time that he finished a case.

1165

Hon. D A Feetham: Mr Speaker, the issue –

Mr Speaker: I will allow one other intervention from the Hon. the Leader of the Opposition –

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Hon. D A Feetham: Thank you very much, Mr Speaker.

Mr Speaker: And then we are really moving on.

Hon. D A Feetham: Mr Speaker, thank you very much.

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Mr Speaker: It was anticipated, when we came to Question 143, that a short answer was not going to be the answer.

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Hon. D A Feetham: Mr Speaker, the issue in this appeal is not whether there can be an increase on the tariff for parole – in other words, you qualify after a third; that is not in issue. That is something, in actual fact, that has been on the statute books for decades; it is a historical tariff to do with the fact that prisoners were imprisoned in very difficult circumstances in Moorish Castle. At the time that we introduced the Prison Act there was a transition from the old prison to the new prison. At the time, without consultation, we decided ‘We are going to leave that as it is, we will review it after the General Election’, but what we reformed was the actual mechanism in which somebody qualifies for parole. The tariff had nothing to do with the GSD; it had been there for a very long time indeed.

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But my question is this. The information that has come certainly to my attention is that Lord Pannick charged £70,000 for the advice that he provided the Government of Gibraltar and for the document that was then used in the Isacc Marrache parole case before the court. Can he confirm or can he deny that?

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Hon. Chief Minister: Mr Speaker, the issue of the tariff and whether it was one that they brought or not is one that I have revisited, and in *Hansard* he said he was sticking with the tariff when he brought it. In other words, he considered it and he stuck with the one-third tariff. It is not that he just willy-nilly continued with the position as it had been to date.

1195

Mr Speaker, the fact is that communities have to make decisions, (**Hon. N F Costa:** Yes.) and if you decide that people have to serve two-thirds of their sentence, then what we are going to have to do is spend another ... I do not know how many millions. He said it was going to cost £5 million, I think, but it ended up, under his watch, costing more than double what he estimated it was going to cost, like most things with the GSD, £24 million for the Airport ended up being £84 million for the Airport; I think £5 million for the prison ended up being £10 million. Well Mr Speaker, -

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Mr Speaker: That is not relevant.

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Hon. Chief Minister: Well, Mr Speaker, yes, it is relevant in this way: because people have to make a decision whether, if we review the tariff and people serve two-thirds of their sentence, we have to spend another £10 million building an additional prison or throwing an additional floor on top of the prison and feeding people for longer. (*Interjection*)

1210

Mr Speaker, as to Lord Pannick’s fees, it is absolutely and completely fiction that his fees for an advice have been £70,000. It is utter tripe, Mr Speaker – to refer to one of my favourite dishes when not made with tripe but with meat – utter tripe. The hon. Member is being played for a fool by whoever is giving him that information.

1215

Mr Speaker: Next question.

Q144/2017
Director of Public Prosecutions –
Delay in appointment

Clerk: Question 144, the Hon. E J Phillips.

1220 **Hon. E J Phillips:** Can the Government explain the reasons for the lengthy delay in the appointment of a Director of Public Prosecutions?

Clerk: Answer, the Hon. the Minister for Health, Care and Justice.

1225 **Minister for Health, Care and Justice (Hon. N F Costa):** Mr Speaker, there is no such post. Government has said that we will consider, and we consider that it should exist and we are in the process of assessing how best to advance this. Given the discussion we have just had about fees – and it is a perfectly pertinent question to have asked at this point – that does, however, mean an increase in public sector employment, so I am surprised to see Members opposite seemingly encouraging us to pursue this policy of ours, given their repeated attacks, just seen, on us in respect of numbers employed in the public service. This approach might best be described as politically hypocritical.

A Member: Hear, hear.

1235 **Hon. E J Phillips:** Mr Speaker, I would just refer the hon. Member to his own manifesto, in which he states:

We will seek to appoint a specific office holder to carry out responsibility for public prosecutions.

Is the Government intending or not intending to appoint a DPP to carry out that important function for our community?

1240 **Hon. N F Costa:** Mr Speaker, I will read the answer again.

There is no such post. Government has said we consider it should exist and we are in the process of assessing how best to advance this. That does, however, mean –

Mr Speaker: That is enough. That is answered in the question. The rest is – (*Interjection*)

1245 **Hon. D A Feetham:** Mr Speaker, is it the Government's view that to appoint a Director of Public Prosecutions, which is at the end of the day is their manifesto commitment – it is not our policy, it is their policy – requires a change in the Constitution? Certainly one interpretation of the Constitution is that Her Majesty's Attorney General is responsible for prosecutions and the creation of this particular post might require an amendment to the Constitution itself. Is that the Government's view?

1255 **Hon. N F Costa:** Mr Speaker, I remember as a younger man being told by Sir Peter Caruana every time I asked them about their manifesto commitments that he would make an announcement on their own manifesto commitments as and when their policies were decided. I, however, even though I have been accused of being ungenerous this morning, will not be quite as ungenerous as Sir Peter was with me when I was a young Member of the Opposition. The answer is that we are in discussions with the Attorney General to see how best we achieve this.

1260 **Hon. D A Feetham:** Yes, and I understand that, but at pains of having Sir Lancelot on his white
charger standing up and also intervening in this, I just wonder whether the hon. Gentleman can
indicate whether there is a preliminary view at least whether this requires an amendment to the
Constitution, because if it does it obviously cannot be done by way of primary legislation. I
1265 understand there may be internal discussions, but is that something at the very least that the
Government is considering or whether the Government has formulated a view?

Chief Minister (Hon. F R Picardo): Well, Mr Speaker, to be demoted from King Arthur of the
Round Table (*Laughter*) to just mere Sir Lancelot is really quite something! (*Interjection*) At the
1270 moment I do sit atop the round table, even though he is so far down the other side of it and is
unlikely to be able to find his way here on a black steed, as I would describe him, or on a white
charger.

Mr Speaker, the position is very simple: there is a very clear view now that there is not a
requirement to amend the Constitution for this purpose.

Q207 and 208/2017
Payments for legal services –
Breakdown by firm

1275 **Clerk:** We now move to Question 207, the Hon. E J Phillips.

Hon. E J Phillips: Can the Government explain what the payment of £130,000 in legal fees to
Cleary Gottlieb Steen and Hamilton LLP for the period of February to May 2016 relates to?

1280 **Clerk:** Answer, the Hon. the Minister for Health, Care and Justice.

Minister for Health, Care and Justice (Hon. N F Costa): Mr Speaker, I will answer this
question together with Question 208.

1285 **Clerk:** Question 208, the Hon. E J Phillips.

Hon. E J Phillips: Can the Government state the total amounts paid to all Gibraltar-based law
firms in respect of both legal services and legal drafting services as from December 2011 broken
down by each law firm by year?

1290 **Clerk:** Answer, the Hon. the Minister for Health, Care and Justice.

Minister for Health, Care and Justice (Hon. N F Costa): Mr Speaker, Gottlieb Steen and
Hamilton LLP have provided legal advice to Her Majesty's Government of Gibraltar during the
1295 period of February to May of last year principally in relation to the following matters: Income
Tax and state aid.

The information requested by the hon. Member in respect of legal drafting cost is available
on the Government website dating back to 2008. The data for legal services is available dating
back to 2012. No payments have been made in respect of legal services during December 2011.

1300 **Mr Speaker:** Call the next question.

Clerk: Question – (*Interjection*)

Mr Speaker: Get on with it, please.

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Hon. R M Clinton: Thank you, Mr Speaker.

Mr Speaker: If you are going to ask a supplementary, decide who is going to ask it and let's get on with the business.

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Hon. R M Clinton: Thank you, Mr Speaker.

I would be grateful if the Hon. Minister ... if I understood him correctly that the law firm, Gottlieb Steen and Hamilton LLP, is a US-based law firm, and was the advice given from their US office or from their European office, because I do not understand why they were giving advice – I presume in respect of State Aid, this would be in respect of the European State Aid.

1315

Chief Minister (Hon. F R Picardo) : Mr Speaker, clearly Gottlieb have been instructed by the Government of Gibraltar I think since the time that Joe Bossano was Chief Minister for the 16 years that they were in Government and whilst we have continued to be there. They have an office in Brussels, which has been the one that has been providing advice to the Government of Gibraltar for well-nigh 25 years.

1320

Mr Speaker: Any other supplementary on this subject? Next question.

Q145-148/2017

St Bernard's Hospital –

Mental health patient admissions; Accident and Emergency waiting times

Clerk: Question 145, the Hon. D A Feetham.

1325

Hon. D A Feetham: Mr Speaker, can the Government please provide details of both the numerical and percentage bed occupancy rates at St Bernard's Hospital by sufferers of dementia and elderly long-stay patients from January to June 2016?

I apologise, Mr Speaker, at this stage, that I misled the House on the last occasion. When in supplementaries to the hon. Gentleman I said that I had the figures for January to June 2016 contained in a report to the GHA board, in fact the figures were from the previous six months to the ones I have asked today.

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Clerk: Answer, the Hon. the Minister for Health, Care and Justice.

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Minister for Health, Care and Justice (Hon. N F Costa): Mr Speaker, I will answer this question together with Questions 146 to 148.

Clerk: Question 146, the Hon. D A Feetham.

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Hon. D A Feetham: Is the Minister certain that no non mental illness related patients have been admitted to Ocean Views either because of bed shortages at St Bernard's Hospital or at all?

Clerk: Question 147, the Hon. D A Feetham.

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Hon. D A Feetham: Can the Minister for Health now provide details of the monthly average waiting times for people waiting to be treated at the Accident and Emergency from January to June 2016?

1350 **Clerk:** Question 148, the Hon. D A Feetham.

Hon. D A Feetham: Can the Minister for Health now provide an answer to Question 57/2017 as to the monthly average waiting times for people waiting to be treated at Accident and Emergency from July to December 2016?

1355

Clerk: Answer, the Hon. the Minister for Health, Care and Justice.

1360 **Hon. N F Costa:** Mr Speaker, in the past two months the headlines in the United Kingdom have been about an NHS in crisis. Just in the past seven days, the headlines and news reports on the NHS could not have been worse. One report refers to NHS Surgeons kicking their heels as bed shortages delay operations, with senior health officials warning of shocking waste because beds are being taken up by patients waiting for community social care. As Hon. Members know, that is not the case in Gibraltar's GHA. Other news reports refer to babies waiting on the floor at A&E and pensioners on trolleys for 14 hours, or horrific reports of a bleeding pensioner with dementia treated by nurses in a store room at a busy NHS hospital because no cubicles were free. Twenty NHS hospitals in the United Kingdom have declared black alerts because patient safety could no longer be assured.

1370 Mr Speaker, the excellent professionals of the GHA are doing, if I may say, a sterling job for our community. There are errors in treatment which come with the fact that medicine is not an exact science, but it would be churlish in the extreme for us not to recognise the excellent work and the important investment we have made in the health services of our nation; an investment under my friend and predecessor Dr John Cortes, and the professionalism of our staff produce a GHA today that is not – not by a country mile, Mr Speaker – suffering a crisis like the NHS.

1375 It is in that context that I now hand over to the Hon Gentleman a schedule of the information requested in respect of Question 145, showing the figures oscillate around 23%.

Answer to question 145

MONTH	PATIENT COHORT	NUMBER	PERCENTAGE
Jan-16	Dementia Long Stay	29	22%
Jan-16	Elderly Long Stay	29	22%
Feb-16	Dementia Long Stay	29	22%
Feb-16	Elderly Long Stay	29	22%
Mar-16	Dementia Long Stay	29	22%
Mar-16	Elderly Long Stay	29	22%
Apr-16	Dementia Long Stay	33	25%
Apr-16	Elderly Long Stay	32	24%
May-16	Dementia Long Stay	29	22%
May-16	Elderly Long Stay	27	21%
Jun-16	Dementia Long Stay	29	22%
Jun-16	Elderly Long Stay	31	24%

In addition to the information provided in the schedule, let me remind the House of the contingency measures we have introduced.

1380 We have added four additional beds to two wards and have temporarily refurbished the cardio rehabilitation gym into a seven-bed ward. A more active and effective bed management system, together with the introduction of a full-time social worker at St Bernard's Hospital and the possibility of approved packages of care has seen an increase in the discharge process.

1385 This has provided the GHA with a daily average – Mr Speaker, perhaps the Leader of the Opposition will want to hear this bit. This has provided the GHA with a daily average of between 11 and 15 beds available. (*Banging on desks*) Just last week, during what is still considered the height of the flu season, there were 18 beds available. Whilst NHS hospitals were turning people away for lack of beds, we were able to continue operations even at this very difficult time of year. The net result of what I have mentioned is that the GHA is able to deal with acute admissions into A&E in an even more timely manner and further expedite transfer of patients to
1390 the wards.

Mr Speaker, save for three elective surgery cancellations – three, contrasted to the 15% to 20% that they ensured under their time in Government, when there were a panoply of operations cancelled as a result of lack of bed shortages – as a result of bed unavailability, all scheduled elective surgery is being undertaken and there have been no cancellations due to
1395 non-availability of beds in January and February.

All surgical emergencies have also been expedited and undertaken well within the NICE guidelines for referrals. Also, elective specialist surgeries have been carried out by visiting specialist consultants from the UK.

1400 Elderly patients are being discharged in a timely manner. This prevents elderly patients from becoming institutionalised and at risk of hospital-acquired infections due to prolonged stay. Our investment in the community delivers this result.

I can also confirm that only patients with mental health related illnesses have been admitted to Ocean Views Mental Health Facility. There has been no need to shoehorn patients into this facility who are suffering from illnesses unrelated to mental health.

1405 Mr Speaker, the average waiting time for people waiting to be treated at the Accident and Emergency from January to June of last year is as follows. January, one hour and 31 minutes; February, one hour and 20 minutes; March, one hour and 28 minutes; April, one hour and 19 minutes; May, one hour and 12 minutes; and June, one hour and 21 minutes.

1410 Mr Speaker, I am not sure why the hon. Gentleman asks me whether I am now in a position to answer Question 57 of this year, given that I answered that question. I am, however, delighted that the hon. Gentleman should have asked again the same question, as I was wrong and it allows me the opportunity to correct the record.

1415 Mr Speaker, the House will recall that I replied that the average waiting time for a patient to be treated at A&E ranged from two hours and four minutes to two hours and 28 minutes. In fact, average waiting times were significantly lower, reinforcing even further the absolutely outstanding work carried out by our professionals at A&E.

1420 It therefore gives me great pleasure, Mr Speaker, to announce that the average waiting times for people waiting to be treated at the A&E from July to December 2016 of last year were: July, one hour and 14 minutes; August, one hour and 16 minutes; September, one hour and 31 minutes; October, one hour and 35 minutes; November, one hour and 19 minutes; December, one hour and 18 minutes.

1425 Mr Speaker, given the really quite dreadful statistics for average waiting times at A&E in the United Kingdom NHS, I sincerely do believe that we must congratulate the GHA for these average waiting times. (*Banging on desks*)

Hon Chief Minister: Hear, hear.

1430 **Hon. D A Feetham:** Mr Speaker, indeed I add my voice of congratulation to the staff at the GHA and may I also congratulate the Hon. Minister on an excellent speech. It was very well practised indeed.

Can I start off in supplementary with the answer that he has provided to Question 145/2017. He said 23%, I think, in relation to the bed occupancy rates for dementia patients, which was the average, I think, that he was given.

1435 But, Mr Speaker, am I right in saying that actually when you take dementia long-stay patients and elderly long-stay patients, you then have an average of over 44% of bed occupancy by those two categories?

1440 **Hon. N F Costa:** Mr Speaker, in the first place I really have to start with the preface that the hon. Gentleman made by saying that he associates my remarks as to the excellent work done by A&E and GHA because, Mr Speaker, if that were true, if he really genuinely felt the words that he said in this House, he would not have – when I saw the post this morning – posted on Facebook a post that indicates that he is not at all pleased with the work that is being done at the GHA. And he knows full well, Mr Speaker, because I explained in this House that when I noted the longest a patient had to wait to be treated at A&E I meant the longest a patient had to be treated at A&E by being admitted into a ward. In other words – (*Interjection*) Yes, indeed I did. (*Interjection*) Yes, indeed I did and I have got the *Hansard* here and I can read it back to him if he wants. I made the point last time in this House that the average waiting time for a person to come to A&E and actually be treated by the consultant as two hours. I was wrong. When a patient attends A&E he is treated by a consultant within one hour 12 minutes, which is a staggeringly magnificent time. (*Banging on desks*) (**A Member:** Hear, hear.) And of course, Mr Speaker, there will be occasions where a person waits for more than an hour, because if a patient comes at the same time as more than three or four patients present with heart problems or chest pains, triage demands that the person that presents with what could be a heart attack is seen immediately. So, whereas the average time is this magical number of one hour and 12 minutes to be seen from walking in to A&E to being treated by a consultant, there will be cases where it exceeds that hour. And in those cases, instead of posting on Facebook, the hon. Gentleman can call me, can text me, and he knows that when he does – and he cannot say in this House that it is not true – there has not been one occasion, not one, that he has texted me or written to me that I have not sought by all means possible to address and resolve every complaint and every grievance that is brought to me. So if he genuinely felt the words that A&E were doing a great job, he would not put misleading posts on Facebook, (**Hon. Chief Minister:** Hear, hear.) because he knows full well that the persons who had to wait for longer to be admitted from A&E to a ward were in beds, being properly taken care of, seen by doctors, given nutrition and being reviewed. So his post, Mr Speaker, belies and gives the lie to the words that he now seeks to associate in public, trying to be everything to all men. It is just not credible. (**A Hon. Chief Minister:** Hear, hear.) (*Banging on desk*) Mr Speaker, I will not allow and we cannot allow it to pass un-replied to.

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1470 Mr Speaker, yes, if he does the maths it is 44%, but I have to tell him that is incredibly better than it was under the GSD.

Hon. D A Feetham: Mr Speaker, I am very surprised, I have to say, by the song and dance that the hon. Gentleman has actually made in relation to my post on Facebook (*Interjection*) and my preface to the question about ... yes, of course agreeing that staff work under very difficult circumstances, and yes, congratulating the staff for the very hard work that they put into not only Accident and Emergency but elsewhere. But, Mr Speaker, doesn't the hon. Gentleman realise ... and we will come back to my question, the question that I asked the last time round and my post on Facebook, given that he has raised it, but doesn't he realise that actually the problems faced at Accident and Emergency are not staff created, they are systemic? That is the reason why people are waiting so long (*Interjections*) at Accident and Emergency, Mr Speaker.

1480 They are waiting so long because of lack of resources, Mr Speaker. They are waiting so long because of bed occupancy rates amongst dementia sufferers and long-stay patients, because if there are no beds available in wards then people are going to have to wait in a bed inside Accident and Emergency, which then has a knock-on effect on people outside Accident and Emergency waiting to see a doctor.

1485 Does he not agree with me, Mr Speaker, that the problems faced at Accident and Emergency are systemic?

Hon. N F Costa: Mr Speaker, it is clear beyond doubt that the Hon. the Leader of the Opposition has come today to play politics and to do so with the consummate style of not Laurence Olivier but a comic.

Mr Speaker: May I intervene at this stage! Will the hon. Member ... [*Inaudible*]

We are not going to have a repetition today of what we had at the last meeting. I want Members to ask questions and for those questions to be answered by the Government if the Government can answer them, is in a position to answer them. I do not want references to Facebook, because is not ... That can be debated in Parliament when there is a debate, but not arising from questions, and I want hon. Members not to debate the situation of the Gibraltar Health Authority.

1495 So the hon. Member of the Opposition can ask questions, the Minister or the Chief Minister or whoever can reply, but do not debate, because otherwise I will call the question to a halt and move on to the other one.

Hon. N F Costa: Mr Speaker, in respect of systemic, the system that he criticises is the system first of all that they put in place. Let me also tell him this: if he is criticising a system where people who attend A&E have on average to wait for one hour and 18 minutes, then I think everyone on this side of the House will say it is a good system, it is a great system. (*Banging on desks*)

1500 Mr Speaker, it is clearly the case that the Hon. the Leader of the Opposition is not listening to my answers. I have told him that as a result of measures I have introduced, by increasing temporarily the number of beds there has been, since December, during January and February, an average of 15 beds available. Every day there are around 15 beds available. I have told him that during January and February there have only been three elective cancellations.

1510 Does he remember what the hon. opposite number when I was in Opposition used to tell me when I used to tell her that operations were being cancelled because there were no beds, and the reply came back always, shoulders shrugged, saying it was the flu season. Well, during the flu season there are 18 beds available and there are no operations being cancelled by simple measures being introduced.

1515 So, no, Mr Speaker, the system works extremely well, the average waiting time is an hour and 18 minutes, there are 18 hospital beds available, elective operations are not being cancelled, cancer operations are being expedited, all referrals are being expedited and the system that we have now, due to the measures that we have taken, will mean that there has been, for the first time, no elective operations cancelled due to lack of beds. (*Banging on desks*)

Hon. D A Feetham: Mr Speaker, the hon. Gentleman seems to forget that when he was on this side of the House he used to constantly say that the cancellation of one operation was the cancellation of one operation too many. (*Interjection*) That is the point he always used to make. He always used to make that point and he always used to lambast the then Minister for Health in relation to waiting times for Accident and Emergency.

1520 What the Hon. the Minister cannot get away from – and I realise that he has been very short in the post because he has only been in the post for a couple of months, but what he cannot get away from is the fact that they have been in Government for five years. Therefore, in five years I

1535 would have expected a better system with fewer complaints, given that he was constantly complaining from this side of the House as to the operation of the system when we were in Government. But the position, Mr Speaker, is that that has not happened. Does he not agree with me? (*Interjections*)

Hon. N F Costa: No, Mr Speaker, I cannot agree, for various reasons. The number of operations has shot up under this Government. (*Interjection*) My formidable predecessor, Dr John Cortes (**A Member:** Hear, hear.) (*Banging on desks*) introduced the day surgery. I told him in another session of the House that the number of operations – and I am quoting from memory – were around 4,000. That is an incredible number of operations being carried out, and there were many less operations being carried out when the GSD were in Government, (**A Member:** Six hundred.) around 600. And I have just told him, Mr Speaker, that during the height of the flu season, when I used to be told that operations had to be cancelled because there were no beds available and that is the way it was, I have just told him that we have gone from a position of 15% rate of cancellations, 15% under their time, to three cancellations. (*Interjection*) And he is right – (**Hon. Chief Minister:** Wow!) He is right, (**Hon. Chief Minister:** Wow!) three cancelled elective operations are three too many.

1550 And he knows me well, Mr Speaker. He cannot go to a chat show on *GBC* and call me his friend and then stand up and act as if he does not know me. (**Hon. Chief Minister:** Hear, hear.) (*Banging on desks*) He will have known that internally those three cancelled operations would have caused a stir coming from the Minister's office down and I would have wanted to have known why on earth it was that, given that we have 18 beds available for the first time ever during the flu season, any elective operation was cancelled. Those numbers were not good enough for me, even if we have gone from hundreds of cancelled operations to three.

Hon. Chief Minister: Hear, hear. (*Banging on desks*)

A Member: Hear, hear.

1560 **Hon. D A Feetham:** Mr Speaker, he knows that I count him as one of my closest friends. He knows that (*Interjection*) he knows that, and he also knows that I have to do my job as Leader of the Opposition. And he knows in addition to that (*Interjection*) that in fact on more than one occasion he has told me that he is glad that I ask these questions because it helps him do his job better. He cannot deny that, Mr Speaker.

1565 Now, Mr Speaker, can I return to the questions in relation to the monthly average waiting times for people waiting to be treated at Accident and Emergency. On the last occasion I asked this particular question and I also asked for the maximum that somebody has had to wait before being treated. What he said to me on the last occasion, despite the fact that the question was what is the maximum that somebody has had to wait to be treated in Accident –

Mr Speaker: You cannot be referring at a meeting here to a specific question that was asked at the last meeting. The rules do not –

1575 **Hon. D A Feetham:** Mr Speaker, it is about –

Mr Speaker: You are asking today about average waiting times. You are being given information about average waiting times. You cannot ask questions about maximum waiting times. If you asked it at the last meeting then the rules do not allow you to ask it again, so deal with average waiting times and not maximum waiting times.

Hon. D A Feetham: Mr Speaker, I do wish that sometimes Mr Speaker were to have faith in the fact that I have been in this House for some time and I know what the rules of the House are. I am not going to ask about the maximum – (*Interjection*) May I –?

1585

Mr Speaker: I hope that you would also have faith in the fact that I have been here much longer than you, (*Laughter*) (**Hon. Chief Minister:** Hear, hear.) that I think that I read and keep up with the rules as often as possible because I have to implement them, and that I am totally impartial as to how I apply the rules.

1590

Hon. D A Feetham: Yes, but Mr Speaker has got the wrong end of the stick. (**A Member:** Ooooh!) May I –?

Mr Speaker: No. I have told hon. Members beforehand that, by nature of the rules of the House, whereby the majority of the rules ... in detail, Rule 17, governing the right to ask questions, has got 15 sub-paragraphs. By the nature of events the other day and today, we are dealing with questions. They are asking the questions. It is them whom I have to control. The questions should not be of excessive length, they should keep to the point, they should not ask a question that has been ... I wish I could control also ... I wish the rules, and that is up to Members ... I wish I could control the length of answers as well, because then we would get on more expeditiously.

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1600

Hon. D A Feetham: Mr Speaker, if I may explain, (**Mr Speaker:** Yes.) – I am very grateful to Mr Speaker – the reason why I was referring to the maximum somebody has had to wait was because the question that I asked on the last occasion and on this occasion in relation to average waiting times was drafted in exactly the same terms as my question on the maximum a person has had to wait. It was in exactly the same terms; it was just that the difference was average waiting times and the other was the maximum somebody has had to wait. And on the last occasion, in relation to the maximum waiting time, the Hon. the Minister said it is waiting times but it is not waiting times outside, it is waiting times on a bed inside but waiting to be treated.

1605

1610

Hon. N F Costa: They were waiting to be admitted to a ward.

Hon. D A Feetham: But the question was ‘waiting to be treated’, that was the question. (*Interjection*) Yes, but the question now is in the same way – and the Hon. Minister has raised it – as obviously he misunderstood the question, are we talking about ... When one takes average waiting times, is it average waiting times inside occupying a bed – because of course the questions are drafted in exactly the same way – or are we talking about average waiting times *outside* Accident and Emergency.

1615

The hon. Minister must see why I am asking the question, because they were drafted in exactly the same way, and in relation to a maximum he said they were on a bed inside – 28 hours, but they are in a bed inside. Okay? The question on average was exactly the same; it just said average. Is that inside or is it outside? That is the question.

1620

That was the reason, Mr Speaker, I referred to the last time round.

1625

Hon. N F Costa: Mr Speaker, the average waiting time, to be clear, refers from the average waiting time from arrival to be seen by a clinician. Right? So a person comes to A&E and the average waiting time for him to be admitted into A&E and be seen by a clinician hovers around an hour. Of course, with individual cases that may take longer because of circumstances surrounding that particular time in which the person arrives.

1630

If, once at A&E, there is a determination by the consultant within that hour and 13 minutes that the patient should be admitted into a ward, that happens immediately. So a person arrives at A&E, he waits between an hour and 13 minutes to be walked into A&E and actually be seen

1635 by a clinician. That is the maximum he will have to wait, an hour and 13 minutes. At that point the person will either be admitted into a ward, (*Interjection*) or he or she will be asked to go home.

The point that we made last time as to the longest a patient has had to wait –

1640 **Hon. D A Feetham:** That is the question.

Hon. N F Costa: Yes, but the answer is different. In December, as a result of all the reasons that I gave – the fact that we had the highest number of over-75s presenting with major illnesses at A&E etc. – there was a case where a person, having been seen at A&E within the average time of one hour and 13 minutes ... at that point a consultant makes a determination that the person has to be admitted to a ward. Today that would be immediately, because there are around 15 beds available. At the time when we had that huge surge in December, there would have been that wait, but as the hon. Gentleman says, it would have been in a bed with continuous medical monitoring, food and proper care.

Q149 and 150/2017
GHA and Care Agency vacancies –
Breakdown by department

1650 **Clerk:** Question 149, the Hon. D A Feetham.

Hon. D A Feetham: Mr Speaker, how many vacancies are there within the GHA, broken down by departments?

1655 **Clerk:** Answer, the Hon. the Minister for Health, Care and Justice.

Minister for Health, Care and Justice (Hon. N F Costa): Mr Speaker, I will answer this question together with Question 150.

1660 **Clerk:** Question 150, the Hon. D A Feetham.

Hon. D A Feetham: Mr Speaker, how many vacancies are there within the Care Agency, broken down by departments?

1665 **Clerk:** Answer, the Hon. the Minister for Health Care and Justice.

Hon. N F Costa: Mr Speaker, all posts within the Gibraltar Health Authority and the Care Agency are covered, and as such there are no vacancies.

1670 **Hon. D A Feetham:** Mr Speaker, I have seen a circular that Unite the Union has sent round to its Members in relation to the question of vacancies at the GHA – not in relation to the Care Agency but in relation to the GHA. It basically says that Unite the Union are dealing with the issue of vacancies within the GHA with the Government and that those are going to be dealt with very shortly by the Government.

1675 Is he suggesting, therefore, that the information that Unite the Union has in relation to vacancies within the GHA is not accurate information?

Hon. N F Costa: Mr Speaker, surely he does not expect me to answer for Unite the Union.

1680 **Hon. D A Feetham:** No, Mr Speaker, I expect him to be politically answerable to this side of the House, because if the Government is providing information to Unite the Union and is in discussions with Unite the Union or any other union about vacancies within the public service and they are in discussions about filling those vacancies when clearly vacancies exist and those are the discussions taken with an industrial relations perspective, how can he come to this House and say there are no vacancies within the GHA or indeed within the Care Agency?

1685 **Hon. N F Costa:** Mr Speaker, as I have said, surely he does not expect me to comment on a circular by a third party in this House.

1690 **Mr Speaker:** Well, there is a rule here which says that a question shall not be asked as to whether statements in the press or of private individuals or official bodies are accurate. The hon. Members here who are lawyers can tell me: what interpretation am I supposed to make of that?

A Member: Hear, hear.

1695 **Hon. D A Feetham:** Mr Speaker, I am very grateful.
I will be posting on Facebook tonight the hon. Gentleman's answer that there are no vacancies within the GHA and the Care Agency.

1700 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I note that the hon. Gentleman has indicated what his social media chronology will be like this evening. He can rest assured that however much he sponsors his posts and his attempts to get them up that will not affect the industrial relations agenda of the Government or indeed the excellent work that we do with Unite and with the GGCA on all aspects where we engage with them and the excellent work that is being done by the hon. Member at the GHA, and people will see through whatever he decides to post this evening.

1710 **Hon. D A Feetham:** Mr Speaker, is there a reason why the hon. Gentleman has been able to answer the question in the terms that he has, no vacancies within the GHA – because the Government is covering vacancies within the GHA, as indeed within the Care Agency, with cover from recruitment consultants and recruitment agencies such as S&K and also MedDoc?

Hon. N F Costa: No.

**Q151/2017
GHA nurses –
Numbers employed directly**

Clerk: Question 151, the Hon. D A Feetham.

1715 **Hon. D A Feetham:** Mr Speaker, can the Government say how many nurses were employed by the GHA directly as at 31st December 2012, 2013, 2014 and 2015.

Clerk: Answer, the Hon. the Minister for Health, Care and Justice.

1720 **Minister for Health, Care and Justice (Hon. N F Costa):** Mr Speaker, the information is as follows: 2010, 387; 2011, 404; 2012, 429; 2013, 451; 2014, 457; 2015, 480; 2016, 473.

Mr Speaker, I would also like to correct the record. In the previous House I said there were 524 nurses employed directly by the GHA when in fact there are 473 nurses employed.

Q152-155/2017

**GHA, Care Agency and Mount Alvernia –
Numbers of nurses and workers through recruitment agency**

Clerk: Question 152, the Hon. D A Feetham.

1725

Hon. D A Feetham: Mr Speaker, can the Government please state how many nurses were placed/working within the GHA through the services of a recruitment agency as at 31st December 2012, 2013, 2014 and 2015?

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Clerk: Answer, the Hon. the Minister for Health, Care and Justice.

Minister for Health, Care and Justice (Hon. N F Costa): Mr Speaker, this question will be answered together with Questions 153, 154 and 155.

1735

Clerk: Question 153, the Hon. D A Feetham.

Hon. D A Feetham: Mr Speaker, can the Government state how many workers are currently placed working within the GHA through the services of a recruitment agency?

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Clerk: Question 154, the Hon. D A Feetham.

Hon. D A Feetham: Can the Government state how many workers are currently placed working within the Care Agency through the services of a recruitment agency?

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Clerk: Question 155, the Hon. D A Feetham.

Hon. D A Feetham: Can the Government state how many workers are currently placed working within Mount Alvernia through the services of a recruitment agency?

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Clerk: Answer, the Hon. the Minister for Health, Care and Justice.

Minister for Health, Care and Justice (Hon. N F Costa): Mr Speaker, as at the date of writing this answer, there are 10 nurses placed through the GHA through the services of a recruitment agency.

1755

As at 31st December 2012, 2013, 2014 and 2015, the information is as follows: 2012, six; 2013, two; 2014, five; 2015, 11.

The number of workers that are currently placed/working within the GHA through the services of a recruitment agency is 26.

1760

There are 147 workers placed within the Care Agency through the services of a recruitment agency.

There are 16 workers currently placed within Mount Alvernia through the services of a recruitment agency.

Q156-159/2017

**GHA, Care Agency and Mount Alvernia workers –
Number directly employed on short-term contracts**

Clerk: Question 156, the Hon. D A Feetham.

1765 **Hon. D A Feetham:** Can the Government state how many workers employed directly by the GHA are on short-term contracts.

Clerk: Answer, the Hon. the Minister for Health, Care and Justice.

1770 **Minister for Health, Care and Justice (Hon. N F Costa):** Mr Speaker, I will answer this question together with Questions 157 to 159.

Clerk: Question 157, the Hon. D A Feetham.

1775 **Hon. D A Feetham:** Can the Government state how many workers employed directly by the Care Agency are on short-term contracts?

Clerk: Question 158, the Hon. D A Feetham.

1780 **Hon. D A Feetham:** Can the Government state how many workers currently working within Mount Alvernia are on short-term contracts?

Clerk: Question 159, the Hon. D A Feetham.

1785 **Hon. D A Feetham:** Can the Government state how many workers working within the Care Agency and the GHA are on short-term contracts with a Government-owned company?

Clerk: Answer, the Hon. the Minister for Health, Care and Justice.

1790 **Hon. N F Costa:** Mr Speaker, there are no workers currently on short-term contracts within the Gibraltar Health Authority, the Care Agency or Mount Alvernia, whether via any Government-owned company or otherwise.

1795 **Hon. D A Feetham:** Mr Speaker, perhaps his definition of a short-term contract is different to mine. I can tell the Hon. the Minister that I have seen in my office a number of people only last week. I am not going to say which sector, because they did not want me to reveal their identity, whether directly or indirectly, but certainly there are workers that are on 11-month contracts ... for example, that contract has not been renewed and they are on some kind of monthly contract or revolving contract. That is what I mean by short-term contract. If somebody is on an 11-
1800 month contract, it must be on a short-term contract. (*Interjection*) In fact, there were not only, for example, charge nurses in the time that we were in Government that were on short-term contracts, usually about 11-month contracts and those contracts were then renewed and they were then on further 11-month contracts, but there are such workers now within the GHA.

1805 That is what I mean by short-term contracts, and therefore I ask: what does the hon. Gentleman think that I mean by short terms contracts?

Hon. N F Costa: Mr Speaker, there is no such thing, as I understand it in law, as a short-term contract. There are either indefinite contracts or fixed-term contracts.

1810 **Hon. D A Feetham:** All right, well, that is a partially helpful answer.

In relation to the questions that I have asked, Questions 156 to 159, can I therefore substitute for 'short-term contract' a 'fixed-term contract' – and can I have the answer, please?

1815 **Hon. N F Costa:** Mr Speaker, he can certainly rephrase the question, but I would not have the answer here.

1820 **Mr Speaker:** I can help the Leader of the Opposition by suggesting that he asks the same questions, substituting the words 'short-term contracts' for 'fixed-term contracts' at the next meeting of the House and I will take the questions as being different questions and not the same. I will allow them, in other words.

Q160/2017
GHA and Care Agency –
Subcontracted workers on zero hours contracts

Clerk: Question 160, the Hon. D A Feetham.

1825 **Hon. D A Feetham:** Mr Speaker, how many employees subcontracted into the GHA and the Care Agency are on a zero hour contract? On this occasion I have put a note, just for the Hon. the Minister's benefit, so that he does provide me with the right answer, and the note is: a zero hour contract is a type of contract between an employer and a worker, where the employer is not obliged to provide any minimum working hours.

1830 **Clerk:** Answer, the Hon. the Minister for Health, Care and Justice.

Minister for Health, Care and Justice (Hon. N F Costa): Mr Speaker, I love it how the Hon. the Leader of the Opposition turns it around when he has made a mistake and makes it seem like I am being somehow ungenerous.

1835 The hon. Gentleman asked me about short-term contracts. I even went and sought legal advice, and indeed it was confirmed that short-term contracts do not exist. There are either indefinite contracts or fixed-term contracts. So it is not that I need an explanatory note; it is just that he needs to ask the question properly.

1840 To answer the question, Mr Speaker, we do not have any information on the contracts between employers and employees who are subcontracted into the GHA and the Care Agency.

1845 **Hon. D A Feetham:** I find the answer puzzling, I have to say. The question – how many employees subcontracted into the GHA and the Care Agency are on zero hour contracts – is surely something that the Government would be interested in. And I ask that question in this context: that the Government, and the Hon. the Minister in particular when he was Minister for Employment, used to boast about the fact that unemployment levels are very low here in Gibraltar. But of course, if you have a situation where people are being placed within the GHA through recruitment agencies on zero hour contracts, that person is then taken off the unemployment list, but of course they may not be working at all or they may be working for two or three hours a week, and that is something that should be a matter of concern for the Minister, as indeed it is for me.

1850 Therefore, I ask the Minister again: has he not taken an interest in relation to something that is, of course, of a concern not only politically to both of us but of course more importantly to the people that are affected.

1855 **Hon. N F Costa:** Mr Speaker, the Hon. the Leader of the Opposition has an art of converting hypothetical situations into the worst kind of hypothetical situation. He is asking a hypothetical which, as the Hon. Speaker will remind us, is not permissible under the rules of the House – hypotheticals cannot be asked. And for him to suggest that I have no interest in the welfare of our employees is really quite incredible.

1860 The hon. Gentleman has asked whether there are subcontracted workers on zero hour contracts. It is not for me to explain the rudimentary basics of employment law to a Queen's

1865 Counsel, but if there is any subcontracted work between an agency and a Government Department, then of course the contract is between the company that is the agency and the worker. In other words, Mr Speaker, the labour is provided by that agency to the Government Department and the legal relationship is between the worker and the agency, not with us. Therefore, I cannot answer the question, because I am not the agency and I do not know whether the contract is zero hours, short term – which does not exist, indefinite, or otherwise.

1870 But let me tell him this: there is no one, no one – and obviously I have asked the question – there is no one that we know that is on this hypothetical scenario where they have a contract with an agency that is supplying labour to us but is not doing any work for the GHA.

In other words, Mr Speaker, if it is that an agency is providing the GHA labour – (**Hon. D A Feetham:** No obligation.) I can assure him that the GHA, if it requires work on a supply basis, then of course the GHA will call that person as a supply worker as and when required. But, as happens to be the case, every time that a worker is in fact contracted to offer supply labour to the Government, the reality is that when the Government entity asks somebody to come in as supply, they are doing the work of a regular worker all of the time.

1880 I remember when I was the Minister for Transport and the Minister for the Bus Company we had people on supply who were doing more hours than the actual drivers. And of course I know who the people are who are on supply and I can assure him, Mr Speaker, that those persons who are meant to be on supply to us and are only called as and when they are needed are actually working every day all of the time as if they had a regular contract.

1885 **Hon. D A Feetham:** But, Mr Speaker, hasn't the Hon. Minister done an analysis, as I would have expected him particularly to come prepared to this House to answer supplementaries from me in relation to this, but certainly also in his previous incarnation as the Minister for Employment to have done an analysis of the people that are off the unemployment list that are being placed within the public sector through recruitment agencies but on zero hour contracts? Is he saying that does not exist, that it is a figment of my imagination, that there are no people within the Care Agency or the GHA, which are now his responsibility, through recruitment consultants or agencies who are on zero hour contracts? *Y si me entero (Interjections)*

Hon. N F Costa: No, Mr Speaker, I am afraid to say that his third supplementary does evidence *de que no se entera*.

1895 Mr Speaker, as I have said, if there is a need for workers to be supplied by an agency the legal and contractual relationship necessarily has to be between the agency that provides the supply and the worker, because in law that supply worker is not an employee of the Government entity. He or she is an employee of the agency. What I am telling him is that I cannot tell him what the contract between a supply worker to the GHA and the agency is because the contractual and legal relationship is between that person and the agency.

1900 What I can tell him – because his concern is that there are people who are off the unemployment list but they are on zero hour contracts, which actually means they are off the unemployment list but doing no work ... What I am telling him is that whereas I cannot tell him what the contractual relationship says between that agency worker and the agency – I cannot because I am not privy to those contracts, because he or she is not my employee – what I am telling him is that when the GHA requires labour, that person will be required as and when required, in other words supply, but what I am telling him is that the zero hours is a fiction of their imagination because it is just not the case. When the GHA says, 'Right, we need certain people to do this job and we will call them as and when required,' the reality is that the Government entity in fact ends up using that person *all* of the time.

1910 So it is not the case that people are being stricken off the unemployment list on zero hour contracts and not doing work. That is what I am telling him for the responsibilities for which I am responsible, but reminding myself that when I was Minister for Transport those persons who were on a supply list, that were meant to be drivers as and when required, ended up actually

1915 doing more hours of work than the actual drivers. So he should not be concerned that people
are off the unemployment list but doing no work. If they are not on the unemployment list, it is
because they are actually... Sorry, if they are off the unemployment list it is because they are
doing work.

1920 **Hon. D A Feetham:** Mr Speaker, one final question in relation to this. He does not
understand, really, the concern to the people that are affected. He may say there is nobody
within the GHA and the Care Agency that is currently not working any hours, alright, but does he
not accept that for the actual worker themselves – and hence I was trying to get to how many of
1925 these people there are – for the worker themselves, it is a huge uncertainty to have a situation
where they are not on the unemployment list, so therefore they do not get called for jobs that
may come out from the ETB, and yet they are placed within the GHA and the Care Agency
through recruitment consultants on zero hour contracts. Those are the people who are coming
to me and obviously are saying to me, ‘Look, this is just not fair, because I cannot even go to the
ETB and basically ask for vacancies, because I am considered to be employed.’ I just wonder
whether the hon. Gentleman can offer those people a measure of comfort.

1930 **Hon. N F Costa:** Mr Speaker, it has just dawned on me exactly what the hon. Gentleman is
asking me, and maybe had he phrased the question differently I would have been able to have
given him the answer straight off the bat.

1935 I think that the hon. Gentleman is referring to one particular company. I think he is referring
to one particular company. Although I am not privy, because I have not seen any contracts of
any of the recruitment agencies, I know from what I am told that there is only one company that
is actually using what are termed zero hour contracts – one company – of which I have just been
reminded right now.

1940 Mr Speaker, I have not been sighted of that documentation and of course it would be, as far
as we are concerned, incredibly unfair for that to be the case. But he has to know that the usual
recruitment agency that supplies labour to the Government, the usual one, has contracts for
between 37 to 39 hours, because those are the ones that we work with in Government and we
know because of the relations that we have. But there is certainly one company, which I now
know he is talking about. I have not been sighted of those contracts, but certainly it would be for
1945 us on this side of the House quite outrageous if that were to be the case.

Hon. D A Feetham: I am very grateful to the Hon. Minister for the answer.

**Q161 and 162/2017
GHA and Care Agency –
Bank nurses**

Clerk: Question 161, the Hon. D A Feetham.

1950 **Hon. D A Feetham:** Mr Speaker, how many bank nurses were employed directly by the GHA
and separately the Care Agency as at 31st December 2012, 2013, 2014, 2015 and 2016?

Clerk: Answer, the Hon. the Minister for Health, Care and Justice.

1955 **Minister for Health, Care and Justice (Hon. N F Costa):** Mr Speaker, I will answer this
question together with Question 162.

Clerk: Question 162, the Hon. D A Feetham.

1960 **Mr Speaker:** I am very ignorant: what is a bank nurse? Will the Minister explain when he answers his question? What are bank nurses? When you answer the next one, okay? Please. Thank you.

1965 **Hon. D A Feetham:** How many bank nurses were subcontracted into the GHA and separately the Care Agency through the services of recruitment agencies as at 31st December 2012, 2013, 2014, 2015 and 2016?

Clerk: Answer, the Hon. the Minister for Health, Care and Justice.

1970 **Minister for Health, Care and Justice (Hon. N F Costa):** Mr Speaker, I now hand over to the hon. Gentleman a schedule with a breakdown of the information he requests.

Answer to Question 161 of 2017

The total number of bank nurses employed directly through the GHA is as follows:

31 December 2012	79
31 December 2013	83
31 December 2014	91
31 December 2015	126
31 December 2016	126

The total number of bank nurses employed directly through the Care Agency is as follows:

31 December 2012	2
31 December 2013	2
31 December 2014	1
31 December 2015	1
31 December 2016	2

1975 **Mr Speaker,** in relation to Question 162, none.

Mr Speaker: And the bank nurse is someone who uses their time between the hospital and a bank?

1980 **Hon. N F Costa:** Mr Speaker, bank nurses tend to be populated by nurses who have retired.

Mr Speaker: They tend to be?

1985 **Hon. N F Costa:** Nurses who are retired and who are added to a bank list and are called in to cover maternities, sickness and other absences.

Hon. Miss S J Sacramento: A supply role.

1990 **Mr Speaker:** I am very grateful.

Hon. Miss S J Sacramento: The supply list is through the bank.

1995 **Hon. D A Feetham:** Mr Speaker, are there any plans on the Government's side – in this case, obviously the GHA, the Authority – are there any plans for nurses on fixed-term contracts not to have those contracts renewed and for them to be placed on the bank list? Is there a policy in that regard?

2000 **Hon. N F Costa:** No, Mr Speaker, that is not correct.

Mr Speaker: Any other supplementaries? Next question.

Q163/2017
Acting Director of Nursing –
Suspension

Clerk: Question 163, the Hon. D A Feetham.

2005 **Hon. D A Feetham:** Is it true that the Acting Director of Nursing with 30 years' experience was suspended; and why?

Clerk: Answer, the Hon. the Minister for Health, Care and Justice.

2010 **Minister for Health, Care and Justice (Hon. N F Costa):** Mr Speaker, no sir; no one has been suspended.

Mr Speaker: Next question.

Q164/2017
St Bernard's Hospital –
Reason and cost of alterations to seventh floor

Clerk: Question 164, the Hon. D A Feetham.

2015 **Hon. D A Feetham:** Mr Speaker, I may come back to this Question 163 in the future, if I may. (*Interjections*) I mean during the session of this House, obviously.

2020 **Minister for Health, Care and Justice (Hon. N F Costa):** He does not have to come back, he can ask me now.

Chief Minister (Hon. F R Picardo): He is waiting for a Facebook friend to send a message.

Mr Speaker: [*Inaudible*]

2025 **Hon. D A Feetham:** No, Mr Speaker, I am not waiting for anybody from Facebook to message me! No! No!

I do have people that obviously provide me with information. After five years of the Government being in government, Mr Speaker, I now have a larger cadre of informers than I did three years ago. (*Interjections*)

2030 **Mr Speaker:** Question 164.

Clerk: Question 164, the Hon. D A Feetham.

2035 **Hon. D A Feetham:** Mr Speaker, what works have been undertaken to the seventh floor of the hospital, where the Minister and associated staff are located, their reason and their cost?

Clerk: Answer, the Hon. the Minister for Health, Care and Justice.

2040 **Minister for Health, Care and Justice (Hon. N F Costa):** Mr Speaker, the seventh floor boardroom has been partitioned and converted into an open plan office to house extra administration staff resulting from the creation of the new Ministry for Health, Care & Justice. The office used by the Director of Public Health has been converted into the GHA's main boardroom. The Director of Public Health is now housed on the sixth floor.

2045 Additionally, all administration offices forming part of the Ministry on the seventh floor have been repainted.

The works were awarded to GJBS for a total of £6,277.30.

2050 **Hon. D A Feetham:** Mr Speaker, £6,200: is that the total sum of the contract, or is that the amount of money that the Government has paid so far? I have to say that it does appear, for the work that the Government is actually undertaking on the seventh floor, that £6,200 appears on the low side – and I do not criticise the Government for that, obviously, but ...

2055 **Hon. N F Costa:** No, Mr Speaker. Yes, the £6,277 relates to all of the work that has been conducted by GJBS to partition what used to be a huge space into two and to paint the entirety of the offices. I thank the hon. Gentleman for pointing out that we do achieve value for money.

Mr Speaker: Next question ... *[Inaudible]*

2060 **A Member:** *[Inaudible]* ... £6,000 too much.

A Member: Too much, yes.

Q165/2017
GHA procurement process –
Explanation

Clerk: Question 165, the Hon. D A Feetham.

2065 **Hon. D A Feetham:** Mr Speaker, can the Minister explain the procurement process at the GHA?

Clerk: Answer, the Hon. the Minister for Health, Care and Justice.

2070 **Minister for Health, Care and Justice (Hon. N F Costa):** Mr Speaker, the GHA procurement process is regulated by the Procurement (Public Contracts) Regulations 2012 and the GHA Financial Instructions.

The GHA procures items which are captured under Gibraltar Government tender awards from the corresponding suppliers. It also purchases items which are more specialised, such as theatre goods, drugs, pharmaceuticals and medical equipment.

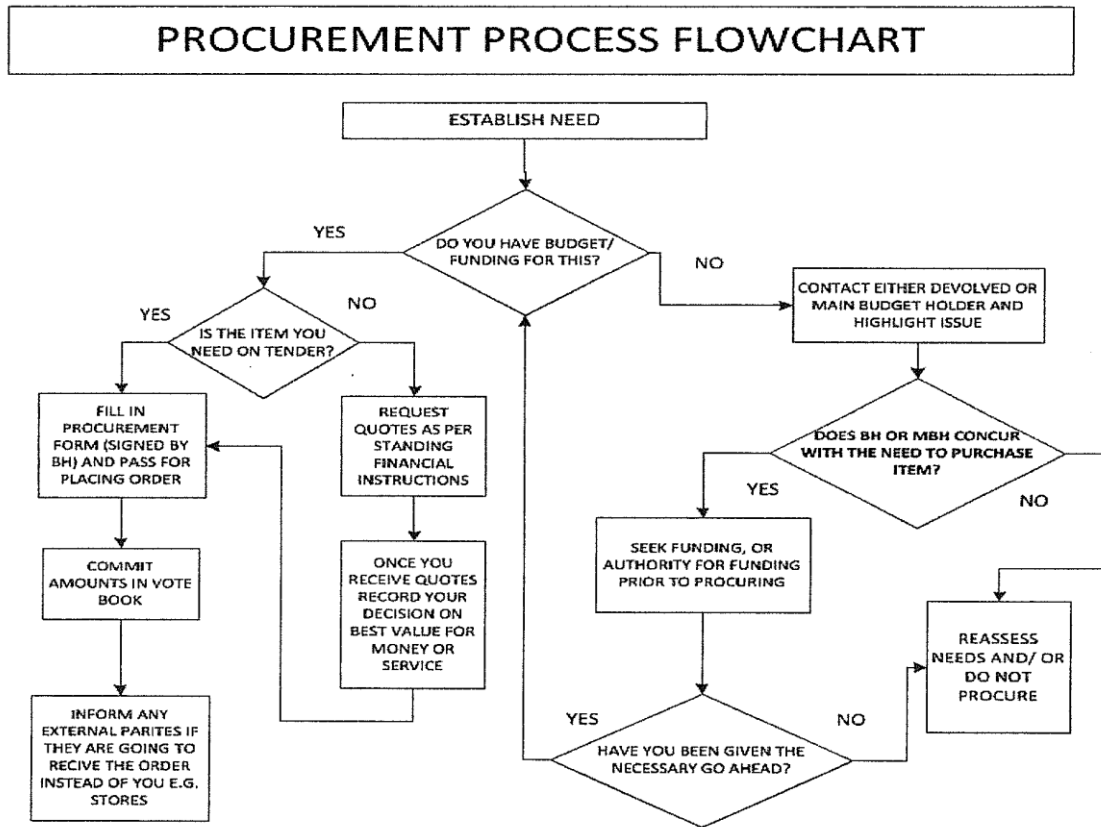
2075 Prior to placing any order, due diligence is carried out by the specific Department submitting the request and subsequently countersigned by the respective budget holder.

The Procurement Department verifies the request by checking for availability of funds and obtaining the necessary approvals when these are required.

2080 Approved orders are placed via the GHA purchasing systems and successively received at our General Stores Department, from which they are forwarded to the relevant section.

I now hand over to the Hon Gentleman a flow chart which explains the full procurement process.

Answer to Question 165/2017



2085

Mr Speaker: I do not think the flow chart is going to allow the Leader of the Opposition to ask supplementaries at this stage. Does he have any supplementary? *(Interjection by Hon. D A Feetham)* Yes.

Next question.

**Q166/2017
GHA suppliers –
Top three entities by value**

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Clerk: Question 166, the Hon. D A Feetham.

Hon. D A Feetham: Can the Minister state which are the top three entities by value providing provisions/supplies to the GHA in each of the last five years?

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Clerk: Answer, the Hon. the Minister for Health, Care and Justice.

Minister for Health, Care and Justice (Hon. N F Costa): Mr Speaker, the information is in the schedule I now hand over to the hon. Gentleman.

2100

Answer to Question 166/2017

The top three entities by value providing provisions/supplies to the GHA in each of the last five years is as follows:

Financial Year			
2012/2013	Audibert	Gibraltar	£ 3,083,834.07
	Aifrend Swantex	Gibraltar	£ 1,488,408.17
	Valmar Pharmacy Ltd	Gibraltar	£ 1,225,002.52
2013/2014	Audibert	Gibraltar	£ 2,662,603.02
	Alfrend Swantex	Gibraltar	£ 1,767,592.38
	Calpe Centre Pharmacy (ICC)	Gibraltar	£ 1,425,536.24
2014/2015	Audibert	Gibraltar	£ 3,706,741.35
	Aifrend Swantex	Gibraltar	£ 2,646,571.78
	Louis pharmacy	Gibraltar	£ 1,491,385.32
2015/2016	Audibert	Gibraltar	£ 3,475,044.06
	Alfrend Swantex	Gibraltar	£ 2,290,000.33
	Kings Pharmacy	Gibraltar	£ 1,366,247.64
2016 - Feb 2017	Audibert	Gibraltar	£ 3,341,338.54
	Alfrend Swantex	Gibraltar	£ 1,898,185.36
	Miller and Miller	UK	£ 1,310,838.79

2105

Hon. D A Feetham: Mr Speaker, in relation to the schedule that the hon. Gentleman has provided, Audibert Gibraltar – can he explain who they are and what they do? Alfrend Swantex, Gibraltar, I do not know them, and of course Valmar Pharmacy I do. All the others are pharmacies except for Miller and Miller, who from February 2016 to February 2017 have supplied £1.3 million of supplies to the GHA.

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Hon. N F Costa: Mr Speaker, Audibert provides drugs and pharmaceuticals, vaccines, general surgical appliances and bandages. Did he want to know as well about Swantex?

Hon. D A Feetham: Yes, Swantex – and Miller.

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Hon. N F Costa: Swantex: drugs, pharmaceuticals, surgical supplies, implants, prosthesis, anaesthesia, bandages, needles, sutures and general medical devices.

Miller is drugs and pharmaceuticals, and surgical supplies.

Hon. R M Clinton: Mr Speaker, I am grateful to the Minister for his answer and the schedule. May I ask the Minister: has there been a change in procurement policy, in that there seems to be a pattern in that there were procurements from pharmacies locally and now we are now

2120 procuring from Miller and Miller in the UK? I presume Miller and Miller are doing the same sort of supplies as the local pharmacies were doing in the past. Is there a change in Government policy on this?

Hon. N F Costa: No, Mr Speaker, there is no change in Government policy.

Q167/2017
GHA cafeteria –
Cost to taxpayer

2125 **Clerk:** Question 167, the Hon. D A Feetham.

Hon. D A Feetham: Mr Speaker, what is the annual cost to the taxpayer in 2016 of the GHA cafeteria?

2130 **Clerk:** Answer, the Hon. the Minister for Health, Care and Justice.

Minister for Health, Care and Justice (Hon. N F Costa): Mr Speaker, the annual cost for the calendar year January to December 2016 is £143,307.

Q168/2017
Oncology Unit –
Purchase of chairs

Clerk: Question 168, the Hon. D A Feetham.

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Hon. D A Feetham: Mr Speaker, why were the chairs for the new Oncology Unit purchased from El Corte Inglés – although I understand that is not the case.

Clerk: Answer, the Hon. the Minister for Health, Care and Justice.

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Minister for Health, Care and Justice (Hon. N F Costa): Mr Speaker, I have to inform the hon. Gentleman that the chairs for the new Oncology Unit were not purchased from El Corte Inglés – although I do accept that it is a vitally important affair of state. But the public will no doubt realise that there cannot be many serious issues facing healthcare in Gibraltar under this administration if the Leader of the Opposition is reduced to asking us questions about where we do our furniture shopping! *(Banging on desks, laughter and interjections)*

2145

Hon. Chief Minister: *El último corte le ha dado!*

2150 **Hon. D A Feetham:** Well, Mr Speaker, I have to say I do not think that it would be surprising for the Leader of the Opposition, or anybody else who has care for the public finances of this community and how money is spent and whether it is well spent ... that the information I had certainly was that these chairs had been purchased from across the border in Spain at El Corte Inglés, so I decided to ask the question.

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But where were the chairs purchased? He has not provided me with that answer.

2160 **Hon. N F Costa:** Mr Speaker, in the first place, this is the second time that the Hon. the Leader of the Opposition mentions that he asks questions based on the information received, and I have told him that every time he asks me a question on that information he is *wide, wide* off the mark. The information he is receiving is not at all accurate, and the question that he asked me was specifically in relation to whether they were purchased from El Corte Inglés – he did not ask me from where they were purchased. But they were purchased... five transfusion chairs were purchased directly from the French specialist supplier, BNB Medical.

2165 **Hon. Miss S J Sacramento:** If I can add to that, Mr Speaker, sometimes when one is purchasing specialist equipment in the medical or in the care field, we are restricted and these things cannot always be purchased locally. But it is a shame that the Leader of the Opposition did not take it as seriously or was not at all scandalised when he was in Government and Social Services purchased a kitchen for the building in Governor's Parade from Pepe Cote (*Laughter and banging on desks*) (**A Member:** Withering!) because that, Mr Speaker, could have been purchased locally, I am sure. It is not a specialist kitchen.

Several Members: Hear, hear. (*Banging on desks, interjection and laughter*)

2175 **Mr Speaker:** The hon. Lady is not answering a supplementary that has been put to her, and may I say that she is out of order – and don't do it again!

A Member: Hear, hear.

2180 **Hon. Miss S J Sacramento:** Mr Speaker, I apologise.

Hon. D A Feetham: Mr Speaker, I have to say that was one of the most enjoyable interventions that I have heard this morning! (*Laughter and banging on desks*) (**Several Members:** Hear, hear.)

2185 **Hon. D A Feetham:** Mr Speaker, one has to give credit where credit is due to the hon. Lady, I have to say. (*Interjection by Hon. Miss S J Sacramento*) Absolutely. My kitchen is also from pepe Cote, I have to say to the hon. Lady, yes.

2190 Mr Speaker, in relation to these particular chairs, were they actually purchased directly from these particular suppliers? Also, were they also subject to the same procurement system that the hon. Gentleman has explained?

2195 **Hon. N F Costa:** Mr Speaker, the chairs were actually directly purchased from the French specialist supplier and the cost of these specialist chairs and all the related chemotherapy equipment was in fact part of a very generous donation by Mrs Margaret Ayling, so it was at no cost to the Government. (*Banging on desks*)

Mr Speaker: On that basis, we can move on to the next question.

ADJOURNMENT

2200 **Chief Minister (Hon. F R Picardo):** Mr Speaker, in order to stop the process of Members advertising the wares of companies from the across the border across the House and to stop the hon. Gentleman embarrassing himself with rumours that are brought to his attention which are wrong, and given that we can only hold the attention of half of the elected Opposition, can I now move that the House do now adjourn until Monday, 20th February at 10 a.m.

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Mr Speaker: The House will now adjourn until next Monday, 20th February at 10 a.m.

The House adjourned at 12.53 p.m.