



# PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

**AFTERNOON SESSION: 3.03 p.m. – 6.41 p.m.**

**Gibraltar, Friday, 16th February 2018**

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# The Gibraltar Parliament

*The Parliament met at 3.03 p.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

### ENVIRONMENT, ENERGY, CLIMATE CHANGE AND EDUCATION

**Q123/2018**

**Vacant teaching posts –  
Details**

**Clerk:** Meeting of Parliament, Friday, 16th February, 2018.

We continue with answers to Oral Questions and we commence with Question 123, the  
5 Hon. E J Reyes.

**Hon. E J Reyes:** Mr Speaker, can the Minister for Education provide details in respect of  
vacant teaching posts, indicating the school or establishment where these vacancies exist; as  
well as showing how many posts are currently being covered in an acting capacity and from  
10 which dates?

**Clerk:** Answer, the Hon. the Minister for the Environment, Energy, Climate Change and  
Education.

15 **Minister for the Environment, Energy, Climate Change and Education (Hon. Dr J E Cortes):**  
Mr Speaker, my prepared answer which I will read, I need to qualify after a discussion I have just  
had with the hon. Member opposite.

The answer is there is currently one vacant post for teacher, which has been vacant at  
St Paul's First School since last December – December 2017.

20 In looking at the prepared answer, it occurred to me that the hon. Member opposite might  
have been referring not just to posts of teacher, but also to teaching responsibility posts. I have  
clarified that and we have agreed that I will give him the information that I have here, but I will  
have to send him more concrete details which have not been prepared, later and the hon.  
Member has agreed.

25 So in that respect, there are 15 teaching responsibility posts which are vacant other than  
maternity leave. There are other posts which are maternity leave cover but they are not vacant,  
so these 15 do not include maternity leave.

30 Of those, nine have been vacant for less than six months, six for over six months and of  
those, one was because of a very long-term sickness, another one is a post that is being revised,  
a third one there have been no applicants and the others are in the process of being advertised.

But as I say, Mr Speaker, and the hon. Member has graciously agreed, that I will send the detailed information very, very shortly in order to give him all the information that he requires.

35 **Hon. E J Reyes:** I can confirm that, Mr Speaker, we have come to an agreement. Just to clarify so that I do not pester him later, when the Minister provides for us the information of the posts being covered and so on, the final words in my question were 'how many are being covered in an acting capacity?' because hypothetically there could be TLR posts that are vacant and may not necessarily be covered. So when he compiles the information if I just give him a pre-warning that would be useful. I suspect that they will all coincide but it could be a case.

40

**Hon. Dr J E Cortes:** Yes, Mr Speaker, the one of teacher-specific has been covered but obviously the others, that is the information that I will include in my reply.

**Q124-125/2018**  
**School buildings –**  
**Restrictions on use**

45 **Clerk:** Question 124, the Hon. E J Reyes.

**Hon. E J Reyes:** Has the Minister or Director of Education spoken to Head Teachers about the restrictions on the use of school buildings recently imposed by some schools upon GTA/NASUWT?

50 **Clerk:** Answer, the Hon. the Minister for the Environment, Energy, Climate Change and Education.

**Minister for the Environment, Energy, Climate Change and Education (Hon. Dr J E Cortes):** Mr Speaker, I will answer this question together with Question 125.

55

**Clerk:** Question 125, the Hon. E J Reyes.

**Hon. E J Reyes:** Does the Government continue to support the restrictions on the use of school buildings imposed by some schools on GTA/NASUWT?

60

**Clerk:** Answer, the Hon. the Minister for the Environment, Energy, Climate Change and Education.

65 **Minister for the Environment, Energy, Climate Change and Education (Hon. Dr J E Cortes):** Mr Speaker, the Government respected the decision of the Head Teachers taken at the time, and in the circumstances reigning in the schools at that time, not to hold the meetings in question in the schools, but there is no ban nor has there ever been one.

If necessary, the Government would make alternative arrangements for meetings to go ahead on other Government premises.

70

**Hon. E J Reyes:** Yes, I am grateful, Mr Speaker, I do not know if the Minister has the information at hand, I seem to recall that there was something called a facilities agreement in place which was binding for both sides and it was my recollection that provisions were made in there for the GTA precisely to be able to use school premises for their meeting.

75

Were the Head Teachers aware of that or was there another factor that made that facilities agreement have to be bypassed or whatever?

**Hon. Dr J E Cortes:** Mr Speaker, there is in fact a facilities agreement and it is the subject of ongoing discussions between the GTA and the Government within the Social Partnership. We are reviewing that facilities agreement and a number of drafts are circulating and are being considered.

80

Despite that, Mr Speaker, a Head Teacher has to take responsibility for what happens in the school and therefore they took a decision on that particular day they felt it would not have been appropriate or useful to have held those particular meetings on those days. But, as I said, there is no overall ban, and if in the unlikely event that were to happen again, certainly the Government would provide either another school or other premises so that the meeting could go ahead.

85

**Q126-128, 130, 132, 134-135, 137/2018**  
**Plans for new schools and changes in Education –**  
**Details and consultation with unions**

**Clerk:** Question 126, the Hon. E J Reyes.

90

**Hon. E J Reyes:** How many times did the Minister or the Director of Education meet GTA/NASUWT before 26th October 2017 to discuss the plans that Government subsequently announced on that date?

95

**Clerk:** Answer, the Hon. the Minister for the Environment, Energy, Climate Change and Education.

**Minister for the Environment, Energy, Climate Change and Education (Hon. Dr J E Cortes):** Mr Speaker, I will answer this question together with Questions 127, 128, 130, 132, 134, 135 and 137.

100

**Clerk:** Question 127, the Hon. E J Reyes.

**Hon. E J Reyes:** How many times have Government met GTA/NASUWT to discuss the plans they announced on 26th October 2017 since that date?

105

**Clerk:** Question 128, the Hon. E J Reyes.

**Hon. E J Reyes:** How many times did the Minister or Director of Education meet Head Teachers of the various schools to discuss the plans that they subsequently announced on 26th October 2017, giving a breakdown of which Head Teachers were met and when?

110

**Clerk:** Question 130, the Hon. Ms M D Hassan Nahon.

**Hon. Ms M D Hassan Nahon:** How is the Department of Education managing the key stage realignment transition in the run up to the new secondary schools?

115

**Clerk:** Question 132, the Hon. Ms M D Hassan Nahon.

**Hon. Ms M D Hassan Nahon:** Is the Department of Education looking at implementing pay reviews in the run up to the new school structure?

120

**Clerk:** Question 134, the Hon. Ms M D Hassan Nahon.

**Hon. Ms M D Hassan Nahon:** How will the vocational courses be managed in the site with the two schools, shared facility or will each school operate independently?

125

**Clerk:** Question 135, the Hon. Ms M D Hassan Nahon.

**Hon. Ms M D Hassan Nahon:** Does the Department of Education have the staffing levels available to cope with the new schools?

130

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

**Hon. L F Llamas:** Mr Speaker, what plans does the Government have for the building currently being used by the College of Further Education?

135

**Clerk:** Answer, the Hon. the Minister for the Environment, Energy, Climate Change and Education.

**Minister for the Environment, Energy, Climate Change and Education (Hon. Dr J E Cortes):**

140

Mr Speaker, the location of the new schools was discussed with the GTA/NASUWT on 17th October 2017 at a meeting of the Social Partnership.

However, the GTA/NASUWT President was also a member of the working party that made the recommendations for the plans in relation to most of the changes, including co-education, key stage realignment, expansion of vocational courses and increased nursery provision.

145

The discussions therefore included the GTA since much earlier. The Director of Education was a member also of that working group and so he met on all the occasions that the working group met.

Since 26th October 2017, I have met the GTA on at least four occasions and have additionally been in touch either informally at events or by electronic means on at least five other occasions.

150

In answer to Question 128, we met on 4th July 2017 with Head Teachers of all schools, that was the Director and myself; on 5th September 2017 with Head Teacher of St Martin's School and myself; on 17th October 2017 with Head Teachers, from Bayside Comprehensive, Westside Comprehensive, St Anne's Middle School, Notre Dame First School, Bishop Fitzgerald Middle School, Governor's Meadow First School, St Martin's School, Gibraltar College, that was the Director and myself; on 24th October 2017 with the Head Teacher of Westside Comprehensive School, and that was the Director and myself.

155

Since April 2017, the Gibraltar Government Department of Education's current project management team has met Head Teachers from all schools involved with the planned moves regularly. This has happened both at the schools and at the Department of Education.

160

In answer to Question 130, a consultation process was set up in October last year and comprised of two different working parties looking at different aspects of the key stage realignment transition

TLR and pay reviews are not directly related to the new schools. There will of course be consideration of operational changes and this is a normal step in any major transition and will be carried out in consultation with all affected unions.

165

Each school will offer the same vocational courses independently in each of the schools. The specialist vocational areas within the campus will be used by both schools to run their own courses.

There will be a need to review teacher numbers – this in in connection with Question 135 – there will be a need to review teacher numbers in connection with some of the changes, such as the key stage re-alignment and increased nursery intake.

170

And in relation to the final question in this group of questions, various options are being considered.

175 **Hon. E J Reyes:** Mr Speaker, in the breakdown of meeting dates and parties concerned and so on, I have not heard and perhaps the Minister can correct me, it is my understanding that the Chief Minister and the Minister of Education both personally attended a meeting with Members of GTA/NASUWT within Bayside School. That has not come across in any of his answers. Is it my error in noting it or perhaps he has not had ... ?

180 **Mr Speaker:** It is because that is the general body of teachers and your question does not deal with the general body of teachers.

**Hon. E J Reyes:** It deals with GTA/NASUWT. (*Interjection*)  
185 Mr Speaker it deals with, Question 127, how many times the Government met GTA/NASUWT – that is representatives of the general body –

**Mr Speaker:** No, no, that was the staff. The meeting was with the staff of one of the schools.

190 **Hon. E J Reyes:** No, it was not staff. It was not just those schools. Mr Speaker, I understand that it was a general meeting of GTA/NASUWT, and perhaps the Minister can ...

**Hon. Dr J E Cortes:** Mr Speaker, if I may assist. The hon. Member is referring to Question 127 as opposed to 128. Because we have 127 –

195 **Mr Speaker:** But in the supplementary he is referring to the meeting that you and the Chief Minister held with the teachers. That was the subject of the supplementary.

**Hon. Dr J E Cortes:** Yes, Mr Speaker, that particular meeting is not included in the total, because it specifically mentioned the Director and myself, although yes, the Director was present, so then I would have to add one to the total number of meetings. Thank you.

So I am grateful to the hon. Member to have established that I have consulted even more than I thought I had.

205 **Hon. E J Reyes:** Yes, thank you, Mr Speaker, so implied in that answer, the confirmation is that I am correct that it was the Chief Minister and the Minister for Education. Would he happen to have a note of the actual date when that happened?

**Hon. Dr J E Cortes:** Mr Speaker, I would have to look in my diary. It was certainly after  
210 26th October.

**Mr Speaker:** Any other supplementaries? The Hon. Marlene Hassan Nahon.

**Hon. Ms M D Hassan Nahon:** Mr Speaker, in relation to Question 135 about staffing levels, has the Department of Education decided whether it is the Year 7 teachers that will be moved up to the secondary schools or moved down to the pre-school and a new cohort in Year 7?

**Hon. Dr J E Cortes:** Mr Speaker, this is an ongoing process. There will be discussion with the teachers concerned. There was a questionnaire sent out I believe some time ago, in which  
220 teachers were asked what their preference would be.

There are some who would wish to remain and perhaps, change the year that they are teaching and some who may wish to move. But this is something that is being considered and obviously we have time to be able to establish that, so there has been no definite decision but it will be done, obviously in consultation with the teachers concerned.

225



**Hon. Ms M D Hassan Nahon:** Just one more supplementary, if I may, on that Question 135. Does the hon. Minister know whether there are enough teachers available to form the new cohort needed?

230 **Hon. Dr J E Cortes:** Mr Speaker, I would say there are. There are over 100 qualified teachers currently who do not have full-time employment. Whether their specific skills correspond to the emerging needs or whatever, there might need to be some induction or further training, is something that we will be establishing. But I believe there will be enough teachers in Gibraltar to be able to cover that, yes.

235

**Mr Speaker:** The Hon. Lawrence Llamas.

**Hon. L F Llamas:** Mr Speaker, in the original answer given by the hon. Member, I latched on to the fact that he said that the locations had been discussed by the working party. I am surprised, because obviously when you read the report – *(Interjection by Hon. Dr J E Cortes)* That is what I understood. I will give way –

240

**Hon. Dr J E Cortes:** Mr Speaker, I did not say the locations had been discussed. I said most of the changes and I listed which they were. I did not say the locations had been discussed by the working party, because they have not.

245

**Mr Speaker:** The Hon. Roy Clinton.

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

250

In relation to Question 137, asked by my hon. colleague, Mr Llamas, did I hear the Minister correctly saying he is considering various options and could he expand upon that? I do not believe I have seen the site as being put out for tenders or expressions of interest. Is it the intention to retain it within Government use?

255

**Hon. Dr J E Cortes:** Mr Speaker, it is not me personally who is considering the options. This is a Government decision. The question of land use is not my personal responsibility. I contribute to the discussions.

The options are being considered and one of the options could be retained for use; another option could be expressions of interest. The options are being considered. I have nothing further to add.

260

**Hon. R M Clinton:** I thank the Minister for his answer, but how would he distinguish between this particular site, the College site and Bayside, St Anne's which have gone out to tender for expressions of interest? What is it that makes these sites so different?

265

**Hon. Dr J E Cortes:** What makes the sites so different is that it is a different site. A different site and there will be different considerations appertaining to each site. So whereas the decisions clearly have been made in the other sites to go out for expressions of interest, this is still being considered and so we are not in a position to say any further on this one.

270

**Hon. R M Clinton:** Again, I thank the Minister for his answer. Would it be correct for me, possibly not correct for me to say, but would the Minister say or can he say, whether the Government have actually received expressions of interest before they officially asked the public for expressions of interest for those particular sites, seeing as the College site strangely was not in that original schedule of properties that went out for tender? Is it that the Government already had expressions of interest?

275

**Mr Speaker:** I am giving the hon. questioner the benefit of the doubt regarding relevance. In the answer the Minister makes, I do not want him to widen the scope of the answer beyond the subject matter that we are dealing with.

**Hon. Dr J E Cortes:** Mr Speaker, my answer is simple. I am not aware of any expressions from any parties but I may not necessarily be aware because it is not in my direct area of responsibility.

**Mr Speaker:** The Hon. Elliott Phillips.

**Hon. E J Phillips:** Mr Speaker, just one question in relation to the Minister's answer to Question 134.

As far as I understood the answer to that question, there would be a number of vocational programmes running through both schools as it were, with the possibility of shared resources for both schools in relation to vocational training. That is how I understood the answer and if that is the case, has the Government at this stage, identified which vocational programmes will be in each other school and what type of shared facilities there would be?

Obviously our thinking is that the College of Further Education retains a level of vocational training. How would that merge with the intended plans for vocational training in both new schools?

**Hon. Dr J E Cortes:** The difference here is that in the comprehensive schools the vocational training is at an earlier stage. We are looking at GCSE stage and the facilities will be mirrored in both schools, except as the plans are now – and remember we are in stage three consultations so there is still some tweaking – as the plans are now, there will be a mechanical workshop in one of them and a hairdressing suite in another.

In order to do away with gender bias, it is likely that the hairdressing one will be in Bayside which will be mixed and the mechanical in Westside so people do not follow on the tradition of boys versus girls, but they will be running their own programmes.

Of course, there is a possibility that if there are very few students in any of these, we may have to consider the consortium arrangement that exists now for A-level and in exceptional cases, we may have to have pupils from both schools doing one or the other. It is not likely that that will happen because the plan is now that they will run independently but they may have to go across from one side to the other for particular specialist subjects only.

**Hon. Ms M D Hassan Nahon:** Can I just ask, when the Minister says that the vocational courses are hairdressing and mechanics, are these the only two that are going to be ... ?

**Hon. Dr J E Cortes:** Those are the only two where there is going to be only one of each. But for other vocational courses, and I do not have the list with me, each school will be independently provided.

**Mr Speaker:** We will go on to Question 129.

**Q129/2018**

**Children with hearing impediments –  
Number in schools**

**Clerk:** Question 129, the Hon. E J Phillips.

325 **Hon. E J Phillips:** Can the Government state the number of children with hearing impediments at our schools?

**Clerk:** Answer, the Hon. the Minister for the Environment, Energy, Climate Change and Education.

330 **Minister for the Environment, Energy, Climate Change and Education (Hon. Dr J E Cortes):** Mr Speaker, there are 24 children with hearing impediments at our schools – I should add, with identified hearing impediments, of course.

**Q131/2018**

**Department of Education–  
Teaching and Learning Responsibility (TLR) review**

**Clerk:** Question 131, the Hon. Ms M D Hassan Nahon.

335

**Hon. Ms M D Hassan Nahon:** Is the Department of Education currently undergoing a TLR review?

340 **Clerk:** Answer, the Hon. the Minister for the Environment, Energy, Climate Change and Education.

**Minister for the Environment, Energy, Climate Change and Education (Hon. Dr J E Cortes):** Mr Speaker, no sir.

345 **Hon. Ms M D Hassan Nahon:** Mr Speaker, does the Department of Education intend to in the run up to the new secondary schools?

350 **Hon. Dr J E Cortes:** Mr Speaker, this would be a total independent exercise from the new secondary schools. I believe that there has been some discussion within the Teacher's Association proposing something like this and if these proposals come forward, obviously we will consider the need but it would be a separate exercise.

355 We are not combining the two. One is the schools' transition into a new site, as I said in one of my answers, with looking at the specific operational needs of that school, but a much wider review obviously would have other considerations and cannot be part of the same exercise.

360 **Hon. Ms M D Hassan Nahon:** Mr Speaker, I understand where the Minister is coming from but considering that the key realignment stage comes into it with the new schools, doesn't Government agree that there is a value or a need in undergoing this review, given the extra workload that teachers will have as a result of this new year coming in?

**Hon. Dr J E Cortes:** This is a sort of operational part of any transition that would need to be looked at. But if the hon. Lady is referring to a wider cross-school TLR that would be a separate exercise. But clearly, we will have to see how we adjust operationally for the changes.

**Q133/2018**  
**Department of Education –**  
**Heating levels in classrooms**

365 **Clerk:** Question 133, the Hon. Ms M D Hassan Nahon.

**Hon. Ms M D Hassan Nahon.** Is the Department of Education satisfied with heating levels in classrooms following last month's calls for heating to be at an appropriate temperature?

370 **Clerk:** Answer, the Hon. the Minister for the Environment, Energy, Climate Change and Education.

**Minister for the Environment, Energy, Climate Change and Education (Hon. Dr J E Cortes):**  
Mr Speaker, not entirely, sir.

375 However, despite the fact that school maintenance records did not corroborate nor indicate a concern regarding levels of heating, the concerns were followed up at the time with each individual school and detailed feedback was requested.

Six schools reverted, highlighting particular appliances or specific classrooms and a report was immediately issued to the Gibraltar Electricity Authority which has already completed any repairs.

380 The GEA has recommended a number of replacements or increases in provision which are being addressed. In some schools there is a difficulty with the electrical installations which will be reinforced.

385 **Hon. Ms M D Hassan Nahon:** Mr Speaker, can the Minister tell me if St Joseph's Middle School is one of the schools having the problems with the installations? Because ten days ago a little girl – and not my own because I do have a child there but it was not mine, I am happy to confirm who it was outside – came up to me and told me if there was anything that the Government can do because all the little kids, their mouths and teeth were chattering in the classroom because they were so cold. *(Interjection)* No, I am sorry, it is true! *(Interjection)* No, no 'rumourology', I am happy to provide you with the name. *(Interjections)* No, a child in a school comes up to me and tells me that they are freezing – I think that it is relevant and if the Government does not consider it relevant, it is very sad, I am sorry. *(Interjections)*

395 **Mr Speaker:** Order, please! Order! Let's not get carried away.  
Now, the Hon. the Minister for Education.

**Hon Dr J E Cortes:** Mr Speaker, I have received no such reports. I cannot confirm whether or not St Joseph's Middle School is one of the ones. I do not believe it is, it is not one of those of which I am aware had installation issues. I have received no such reports but clearly, I will look into them immediately.

**Mr Speaker:** Any other supplementaries?

405 **Hon. E J Reyes:** Mr Speaker –

**Mr Speaker:** The Hon. Edwin Reyes.

410 **Hon. E J Reyes:** It seems that the Minister is aware of at least some schools. Would he be able to provide us with the information of which particular schools are the ones that he is aware of that he asked the Electricity Authority to look into the matter?

**Hon. Dr J E Cortes:** Mr Speaker, I would need notice. I know of some, but I do not wish to give an incomplete list because it may then be misinterpreted.

415

**Mr Speaker:** Next question.

**Q136/2018**

**Postgraduate Certificates of Education (PGCEs)–  
Provision in Gibraltar**

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

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**Hon. L F Llamas:** Mr Speaker, when does the Government expect to provide PGCEs in Gibraltar and what will be the policy for students wishing to undertake this qualification in the UK?

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**Clerk:** Answer, the Hon. the Minister for the Environment, Energy, Climate Change and Education.

**Minister for the Environment, Energy, Climate Change and Education (Hon. Dr J E Cortes):** Mr Speaker, the target date for PGCEs in Gibraltar has been set for September 2019. There is regular collaboration between the University of Gibraltar and the Department of Education to meet this initial target date.

430

With respect to students wishing to undertake this qualification in the UK there has been no change of policy. We will continue to fund students wishing to undertake a PGCE in the UK once our own PGCE has launched.

435

However, we will reserve the right to ask these students to ‘top up’ their UK PGCE with a Gibraltar specific course prior to being employed in our schools once our PGCE is in operation. This will ensure that all teachers who enter our educational system are equipped with the strategies and skill set which allow them to deliver high quality teaching and learning experiences.

440

**Hon. L F Llamas:** Mr Speaker – perhaps it is a bit premature to ask this question – would the ‘top up’ course be a part-time course where students could come back, work and do their part time course or is it something they would have to do full time before commencing any employment?

445

And perhaps would the Minister know if it would be something that they could do over the summer after they had qualified, so that they could start work, straight in, in September?

**Hon. Dr J E Cortes:** Mr Speaker, it is premature. It will be done in such a way that it will have the least possible impact on the career of the returning teacher. But it is premature, we have not yet established what that would be.

**Q138/2018**

**Department of Education –  
Recent trip to Finland**

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

455 **Hon. L F Llamas:** Mr Speaker, can the Government provide details of the recent trip by the Department of Education to Finland, including preparatory work undertaken by the team and the Finnish officials met?

**Clerk:** Answer, the Hon. the Minister for the Environment, Energy, Climate Change and Education.

460 **Minister for the Environment, Energy, Climate Change and Education (Hon. Dr J E Cortes):** Mr Speaker, the team that went to Finland had extensive knowledge on the successes of the Finnish system following research, prior to their departure to Finland.

The trip was centred on understanding how those lessons could be applied to our own educational system to continue enhancing the standard of teaching and learning in our schools.

465 During this trip they visited a Finnish language school, a comprehensive school and one of the leading vocational schools in Finland.

In addition, they had professional meetings and lectures on assessment, anti-bullying and vocational education.

470 **Hon. E J Phillips:** Mr Speaker, I take it that the fact that the Government has sent a delegation over to Finland is because it is genuinely concerned and I appreciate that. It is something I support and I mentioned in my contribution at the co-education debate.

475 However, is there any difference between the physical building of schools in the national curriculum in the UK versus the Finnish schooling system which would require perhaps, modifications of our schools being built? Perhaps that is something that the Government has considered.

**Hon. Dr J E Cortes:** Mr Speaker, it is probably colder in Finland even than in St Joseph's Middle School.

480 Mr Speaker, I am not aware, I believe that our schools, certainly those that are planned, could be adapted but I do not have that information so that I would need to research.

**Mr Speaker:** We now move to Question 162.

## HOUSING AND EQUALITY

Q162/2018

### Controlling and coercive behaviour – Intention to criminalise

485 **Clerk:** Question 162, the Hon. E J Phillips.

**Hon. E J Phillips:** Mr Speaker, can the Government state when it intends to bring a Bill before the House in relation to criminalising controlling and coercive behaviour?

490 **Clerk:** Answer, the Hon. the Minister for Housing and Equality.

**Minister for Housing and Equality (Hon. Miss S J Sacramento):** Mr Speaker, the Government is considering criminalising controlling and coercive behaviour as part of its national strategy on domestic abuse.

495

**Hon. E J Phillips:** My understanding is of course that the RGP have promoted this issue in the press and the Minister will agree of course that this is a lesser known form of domestic abuse that should be legislated for.

500 I appreciate the answer to the question, but does the Government have a timeline in respect of the introduction of legislation concerning that?

**Hon. Miss S J Sacramento:** Mr Speaker, the hon. Member is right in that the RGP is promoting this and that is as a result of them forming part in our national strategy working group, they form part of the committee and this is part of the plan.

505 Because we do not have a formal written strategy available for publication yet does not mean that we do not give effect to the strategy. The strategy that we are preparing and is in draft format is a five-year plan for Gibraltar.

510 This is something that is being considered as part of the strategy. It is something that we need to take a decision on. Obviously it is something that we are actively looking at and once we have published the strategy, then the timelines for this and for various other initiatives will be clear.

**Q163/2018**

**Laguna Estate –**

**Number of lifts not yet functional**

**Clerk:** Question 163, the Hon. E J Phillips.

515 **Hon. E J Phillips:** Can the Government state the number of lifts which are not yet functional at Laguna Estate?

**Clerk:** Answer, the Hon. the Minister for Housing and Equality.

520 **Minister for Housing and Equality (Hon. Miss S J Sacramento):** Mr Speaker, there are currently 37 lifts that remain to be commissioned at Laguna Estate.

525 **Hon. E J Phillips:** Can the Minister confirm why it has taken so long for those lifts to be commissioned?

**Hon. Miss S J Sacramento:** Mr Speaker, it has not taken so long for these lifts to be commissioned. This is part of major refurbishment works on an estate which had fallen into disrepair, particularly during the 16 years that the party opposite were in Government.

530 When you undertake such a massive refurbishment work in Gibraltar's largest estates, in the context of it not being the only major refurbishment work, there were three big estates undergoing major refurbishment at the same time, Mr Speaker, things need to be phased in and the external refurbishment needed to come before.

535 When the professionals are staging these refurbishments, the lifts fall in a particular part of the refurbishment schedule and they have been started at a time that is appropriate. We have undertaken over 50% ... Over 50% of the lifts in this estate have been commissioned, 31 remain but this needs to be read in the context of all the other lifts that have been commissioned in the other estates and, Mr Speaker, we have to be mindful of the fact that we have installed lifts in buildings that did not have lifts before. So this is a brand new structure, it means that there have to be brand new installations of everything and they can only start at the appropriate time.

540

**Hon. E J Phillips:** Mr Speaker, just in relation to that, as the hon. Lady will know of course, we are conducting outreach programmes to our estates to visit a number of the residents in relation to one of the biggest complaints, which is the question of maintenance and lifts.

545 I am not going to go into the maintenance but in relation to the lifts concerned, I visited many of them, many of which are boarded up with fences that would appear to have been there quite some time and in fact, it looks like the area is corroding quite excessively, so I am not too sure what reassurance we can give people listening in, or watching indeed, as to when this is going to get done finally.

550 **Hon. Miss S J Sacramento:** Mr Speaker, unfortunately, the hon. Member does not seem to have properly heard what I said. Mr Speaker, it is a question of commissioning these lifts. Before lifts are commissioned, obviously they need to be installed.

555 There are different ... In Laguna Estate for example there are three phases to the works, so in the first phase, most of the lifts will have been installed and have been commissioned. In the second stage they have been installed and are in the process of being commissioned and in the third stage, the majority of them will by now have been installed and they will be the last phase to be commissioned.

It is a phased refurbishment plan and it is a logical way to do these things, Mr Speaker.

560 **Hon. E J Phillips:** One further question, would the Minister be willing to attend Laguna Estate with me so that we can speak to the residents themselves?

565 **Chief Minister (Hon. F R Picardo):** Mr Speaker, the hon. Lady has attended Laguna Estate with me on a number of occasions. We shall be attending Laguna Estate on many occasions in the future, and if the hon. Gentleman needs us to get people to come down and see him – because I saw the woeful photographs of him and the new Leader of the GSD standing around on their own at Laguna Estate – perhaps he wants to propose a fee for us to get people to come down and actually see him.

570 But no, we are not going to go with them, Mr Speaker; we are going to go when the tenants wish us to be there and we will continue to go as we have gone, not just at election time, but throughout the life of a Parliament – during the life of the last Parliament and the life of this Parliament – to enjoy the excellent refurbishment work that has been done by successive Ministers for Housing under the GSLP Liberal Alliance at Laguna Estate, at Moorish Castle Estate, at Glacis Estate, at the other blocks refurbished by this Government and the other blocks that we will refurbish too.

575 And there, Mr Speaker, we will enjoy speaking to those residents of the estate who wish us to do more and who wish to congratulate us for what we have done. And I will just remind the hon. Gentleman that they used to say that we were wrong to do this refurbishment that we were doing too much and we were spending too much. And now, Mr Speaker, they appear to be taking a different line.

580 But I suppose I had forgotten, Mr Speaker, that I was now dealing with the PDP, not the GSD.

**Mr Speaker:** Next question.

585 **Hon. D A Feetham:** Mr Speaker, may I?

**Mr Speaker:** Not on the subject of attendance by hon. Members of Parliament at Laguna. I will allow you a supplementary on something else.

590 **Hon. D A Feetham:** Mr Speaker, I did not attend Laguna.



**Mr Speaker:** I do not want any more exchanges on the subject of who attends where. I am making that proviso before you ask the question.

595 **Hon. D A Feetham:** Thank you very much, Mr Speaker, that is very helpful.

Can I ask the hon. Lady two supplementaries. One, she said that there were 37 that needed to be commissioned – she said 37 first in her answer and then in a supplementary answer she said 31. (**Hon. Miss S J Sacramento:** Thirty-seven.) Thirty-seven. How many have actually been commissioned in terms of numbers? She used percentages, but how many have been

600 commissioned in terms of numbers?

And also, can she confirm that all the services have been laid in respect of all the lifts that need to be commissioned? And by services of course, I mean the cables, etc. which was one of the issues that, as I understand it, has actually delayed the installation of lifts.

605 **Hon. Miss S J Sacramento:** Mr Speaker, I was correct on the first occasion when I said 37. I am sorry, when I said 31 I got confused, so 37 have been commissioned and there are 71 in total so we are pretty much halfway there, because 34 have already been commissioned.

In terms of the services, Mr Speaker, again because this issue is sequential in the schedule, the services are essentially the foundations that need to be laid in order for the lifts to be

610 commissioned so as a precursor, we have phased in the services that need to be installed, aligned with the phases of the actual estate.

So I think – I am pretty sure, though not absolutely sure – that all the services have now been installed. But if they have not been installed, it is because we are obviously organised in a way where the services need to be installed in order to meet the deadlines for the phases.

615 I am looking at a schedule now: not all the services in the final phase have been installed yet but there is a sequence to it so I am satisfied with the sequence, Mr Speaker.

**Mr Speaker:** The Hon. Edwin Reyes.

620 **Hon. E J Reyes:** Thank you, Mr Speaker.

My parliamentary colleague has actually asked my doubt on the actual number of lifts and the Minister has now clarified the overall number of 71 so there is no longer a need for my supplementary.

625 **Mr Speaker:** Next question.

**Q164/2018**  
**Housing estates –**  
**Completion of works**

**Clerk:** Question 164, the Hon. E J Phillips.

630 **Hon. E J Phillips:** Can the Government state, when works are expected to be completed at all our housing estates?

**Clerk:** Answer, the Hon. the Minister for Housing and Equality.

635 **Minister for Housing and Equality (Hon. Miss S J Sacramento):** Mr Speaker, the latest projected completion dates of the major refurbishment work at our housing estates are as follows: Moorish Castle Estate – April 2018; Glacis Estate – June 2018; Laguna Estate – June 2019.

640 This will include the installation of lifts, the external refurbishment of all blocks, the refurbishment of communal areas both internal and external; together with the infrastructure and road resurfacing.

**Q165/2018**  
**Housing estates –**  
**Improving general maintenance**

**Clerk:** Question 165, the Hon. E J Phillips.

645 **Hon. E J Phillips:** Can the Government state what steps it will take to improve general maintenance at our housing estates?

**Clerk:** Answer, the Hon. the Minister for Housing and Equality.

650 **Minister for Housing and Equality (Hon. Miss S J Sacramento):** Mr Speaker, there is now a clear plan for refurbishment and maintenance of all Government housing estates so as to ensure that they do not fall into disrepair again as they did during the 16 years that the GSD were in administration.

655 **Hon. E J Phillips:** Mr Speaker, I am not going to deal with the political bait that has been put in front of us; I am going to deal with the issues that are before this House, Mr Speaker, and that is in relation to general maintenance of our housing estates.

Has the Government considered whether we should deal with an introduction of a warden scheme to deal with general maintenance queries by residents in housing estates?

660 **Hon. Miss S J Sacramento:** Mr Speaker, now that the substantial work on the major refurbishment works of our largest estates have been undertaken, I have been working very closely with the Heads of the Housing Department and the Housing Works Agency on a strategy and a plan going forward, to ensure as I said in my original question, Mr Speaker, that there is a plan of maintenance for all our estates so that they do not fall into disrepair going forward. We  
665 are looking to see the most efficient and cost-effective way to give effect to that objective.

**Mr Speaker:** Next question.

**Q166/2018**  
**Housing waiting list –**  
**Number of applicants**

670 **Clerk:** Question 166, the Hon. E J Phillips.

**Hon. E J Phillips:** Can the Government state the number of people currently on the housing waiting list?

675 **Clerk:** Answer, the Hon. the Minister for Housing and Equality.

**Minister for Housing and Equality (Hon. Miss S J Sacramento):** Mr Speaker, there are currently 913 applicants on the housing waiting list.

**Hon. E J Reyes:** Sorry, Mr Speaker, can the Minister confirm that figure of 913 is on the main housing waiting list and does not include the pre-list?

680

**Hon. Miss S J Sacramento:** Yes, Mr Speaker, this does not include the pre-list. The question was in relation to the housing waiting list and this is the number of applicants on the housing waiting list.

685

**Hon. D A Feetham:** May I also, Mr Speaker, ask the Minister whether she has the statistics for how many people that were on the housing waiting list in December 2011 are actually in those 913 or form part of those 913?

690

**Hon. Miss S J Sacramento:** Yes, Mr Speaker, they remain on the waiting list and they will appear in this figure.

695

**Hon. D A Feetham:** I understand that, I am asking whether she has the figure for the number that were on the housing waiting list in December 2011 that remain on the housing waiting list as part of those 913?

**Hon. Miss S J Sacramento:** No, Mr Speaker, that is a detailed statistical question and I do not have that information before me, sorry.

**Q167/2018**  
**Government flats –**  
**Current vacancies**

**Clerk:** Question 167, the Hon. E J Phillips.

700

**Hon. E J Phillips:** Mr Speaker, can the Government state how many Government flats are currently vacant?

**Clerk:** Answer, the Hon. the Minister for Housing and Equality.

705

**Minister for Housing and Equality (Hon. Miss S J Sacramento):** Mr Speaker, there are 58 vacant flats, 30 of which are under offer and the remainder are being refurbished.

710

**Hon. E J Phillips:** I am grateful for the answer to that question. Insofar as 'under offer', how long are they under offer for, generally speaking, on an average – would the Minister know?

**Hon. Miss S J Sacramento:** The offer process usually takes between a week or two weeks. There is a process where the person is contacted and then arrangements are made for the person to view the flat and then if the flat is accepted, it is then sent for it to be refurbished.

715

So I am unsure as to when these offers were made, but it is a very, very tight timeline that I keep to, to ensure that we have the fastest possible mechanism for turnover of these flats as possible.

720

**Hon. E J Phillips:** In relation to the other 28 homes, what is the Government's intention for those at this stage? To refurbish I assume.

**Hon. Miss S J Sacramento:** Yes, Mr Speaker, those have already been allocated. In those 28, people who have already been to view them, have accepted them, they have been allocated and

725 they are in the process for refurbishment. So they will come to us ready for the completion stage  
for people to move in, depending on the timeframe for each flat because some flats are in better  
condition than others and the timeframes for refurbishment differ.

**Hon. D A Feetham:** Mr Speaker, may I ask the hon. Lady, out of the 58 flats that are vacant,  
730 does she know how many of those are in Government housing estates and how many of those  
are outside Government housing estates?

The reason why I ask this question is because Government housing estates are usually more  
attractive in terms of prospective tenants than, for example, a flat may be in the old town area. I  
just wanted to get an idea of the proportions between the two.

735 **Hon. S J Sacramento:** Mr Speaker, I do not agree with that analysis at all. We find that  
because of the manner and the standard to which we refurbish flats, people will accept the flats  
regardless of where they are located and there are some people who prefer them being in the  
estates and some who prefer them in the upper town or other places.

740 But by general logic, proportionately because of the volume, the majority of them will  
probably be in the estates. It is not a figure that I have to hand, it is not a statistic that would  
logically have been provided for me as an expected supplementary.

**Q168/2018**  
**Government rental homes –**  
**Intention to build**

**Clerk:** Question 168, the Hon. E J Phillips.

745 **Hon. E J Phillips:** Can the Government state whether it intends to build homes for  
Government rental?

**Clerk:** Answer, the Hon. the Minister for Housing and Equality.

750 **Minister for Housing and Equality (Hon. Miss S J Sacramento):** Yes, sir.

**Hon. E J Phillips:** Mr Speaker, may I ask the Government whether they know what type of  
homes would be built for Government rental?

755 **Hon. Miss S J Sacramento:** Mr Speaker, announcements will be made in due course.

**Hon. E J Phillips:** Mr Speaker, the reason why I ask this question of course is that as a  
community we should try to encourage co-ownership in relation to homes generally and when  
we need to, build homes for rental.

760 Our view, which we have expressed quite publicly is that they should be low rise and small  
distributions and that is why I asked that question. The Minister helpfully said that an  
announcement would be made shortly and I would ask the obvious question, as to when that  
will happen but I am sure there will be a chuckle from the other side.

765 **Hon. Miss S J Sacramento:** Mr Speaker, the hon. Gentleman can rest assured that everything  
is in hand and Government is very carefully looking at what is required. I can further reassure  
him that in doing so, we will make optimum use of taxpayers' funds.

770 **Hon. D A Feetham:** May I also ask the hon. Lady in terms of the type of rentals that the Government is considering building. Does it extend to, for example, the building of Government rental apartments for young couples that may not have the financial resources in order to be able to buy in the schemes that the Government has already built or intends to build?

775 **Hon. Miss S J Sacramento:** Mr Speaker, we do not discriminate either in favour or against people on the basis of whether they are young or not, or couples or not, and as I have said in the previous two supplementaries, we will look to see what is required and announcements will be made in due course.

780 **Hon. E J Phillips:** Just one further question. Yes of course the Government must be alive to the concerns of Action for Housing, who have quite clearly pressed the Government in relation to its commitment for further building of rental housing. Clearly, they will have to take seriously the views of Action for Housing because they are on the front line when it comes to this matter.

I know it is difficult but if the Government is intending on doing that, has the Government considered locations in respect of rental housing?

785

**Hon. Miss S J Sacramento:** Mr Speaker, I can once again reassure the hon. Gentleman that the Government looks at the demand of our society very closely and we are very clear on what is needed. Once again, Mr Speaker, in relation to the finer detail, announcements will be made in due course.

790

**Hon. D A Feetham:** Mr Speaker, just one more final question. I am slightly confused here by the answers the hon. Lady has provided, because on the one hand she said to me that everything is in the melting pot, so to speak, and was being considered and on the other, she just answered that the Government is very clear as to what is required.

795

So can I ask the hon. Lady to clarify, has the Government already made a decision as to the type of demand that the Government will be catering for, in terms of the rental apartments that it intends to build, or is this still in the melting pot and the decision has still got to be made?

800 **Hon. Miss S J Sacramento:** Mr Speaker, the Government is very clear in what it considers needs to be considered. Mr Speaker, we know on the basis not only of representations made by third parties, but on the basis of the information that we have on our waiting lists and looking at Gibraltar's community and our demographic, what is necessary, Mr Speaker. When we are planning these things – and these things of course we need to look at the short-term planning, the medium-term planning and the long-term planning – all considerations are taken into  
805 account, Mr Speaker, to (a) ensure that we meet the needs of our community and (b) that we do so in a most cost-effective way. And once again, Mr Speaker, when we are ready to make an announcement on this basis, we will.

**Mr Speaker:** Next question.

#### Q169/2018

#### Previous Government rental accommodation – Number of properties purchased

810

**Clerk:** Question 169, the Hon. E J Phillips.

**Hon. E J Phillips:** Can the Government state how many people have been able to buy homes which were previously Government rental accommodation, since December 2011?

815 **Clerk:** Answer, the Hon. the Minister for Housing and Equality.

**Minister for Housing and Equality (Hon. Miss S J Sacramento):** Mr Speaker, since 2011, 209 properties have been purchased.

820 **Hon. E J Phillips:** Does the Minister have an idea of the distribution of where these homes have been purchased, these 209 properties? And also, the other question would be the right to buy, as it has been referred to on many occasions – does that still exist, so people are still able to buy those homes that are in Government ownership?

825 **Hon. Miss S J Sacramento:** Mr Speaker, the flats that have been purchased are spread throughout all estates in Gibraltar in a very low number.

In relation to the second part of the supplementary, Mr Speaker, that question is already a separate question on the Order Paper.

830 **Mr Speaker:** Next question.

#### Q170/2018

#### Government rental accommodation – Criteria for joint tenancy

**Clerk:** Question 170, the Hon. E J Phillips.

835 **Hon. E J Phillips:** Can the Minister for Housing state the criteria for joint tenancy in respect of Government rental accommodation?

**Clerk:** Answer, the Hon. the Minister for Housing and Equality.

840 **Minister for Housing and Equality (Hon. Miss S J Sacramento):** Mr Speaker, joint tenancies are granted to married couples, civil partners or those with children in common. In certain circumstances, siblings are also allowed to be joint tenants.

845 **Hon. E J Phillips:** Are there any extenuating or exceptional circumstances in which other relationships are also recognised?

**Hon. Miss S J Sacramento:** Mr Speaker, I cannot think of any other kind of relationship beyond that, but extenuating and exceptional circumstances are always considered.

850 **Hon. E J Phillips:** Can for instance a friend who may happen to be living in a property, or a carer indeed?

855 **Hon. Miss S J Sacramento:** Mr Speaker, in the general course of things then the answer is no because it is not recognised as a relationship, nor do I recall having it brought to my attention that any friend or any carer has asked for this in any event.

860 **Hon. D A Feetham:** Yes but, Mr Speaker, can the Minister confirm that there is a distinction but nonetheless an important protection for members of the family of the main tenant who are authorised to reside in the property and therefore they may not be tenants, but are also in the tenancy as an occupier, which then as a matter of policy gives those occupiers the right to, for example, inherit the tenancy should their parents die? (*Interjections*)

**Hon. Miss S J Sacramento:** Yes, Mr Speaker, and they are in the majority of those cases, protected in law in any event.

**Q171/2018**  
**Government housing –**  
**Rent arrears**

**Clerk:** Question 171, the Hon. E J Phillips.

865

**Hon. E J Phillips:** Can the Government state the amount owing in rent arrears for all Government housing?

**Clerk:** Answer, the Hon. the Minister for Housing and Equality.

870

**Minister for Housing and Equality (Hon. Miss S J Sacramento):** Mr Speaker, the amount of arrears of rent owed continues to reduce and as at the end of January the amount owing in rent arrears for all Government Housing is £4,879,901.75.

875

**Mr Speaker:** Next question.

**Q172/2018**  
**Government-owned high rise buildings –**  
**Fire safety review**

**Clerk:** Question 172, the Hon. E J Phillips.

880

**Hon. E J Phillips:** Can the Government state that it will publish the complete fire safety review of all Government-owned high-rise buildings?

**Clerk:** Answer, the Hon. the Minister for Housing and Equality.

885

**Minister for Housing and Equality (Hon. Miss S J Sacramento):** Mr Speaker, the Housing Fire Safety Review Committee is finalising its report.

**Hon. E J Phillips:** Mr Speaker, does the Minister know when that report will be ready for publication?

890

**Hon. Miss S J Sacramento:** Mr Speaker, I had a meeting in relation to this two weeks ago. I think, I am advised that the report is almost ready. There were a number of procedural things as a result of the report that the committee were considering, so I expect for the committee to finalise the draft of the report. I do not expect it to be much longer, Mr Speaker.

895

**Hon. T N Hammond:** Mr Speaker, the only thing that was not clear from the Minister's answer was whether the report would then be published. *(Interjections)* I think that was the main emphasis of the original question, that it will publish the complete fire safety report, but the Minister was not crystal clear in her response.

900 **Hon. Miss S J Sacramento:** Mr Speaker, for the moment this is an internal document so it is something that needs to be considered.

**Hon. T N Hammond:** Mr Speaker, is there any reason why the Minister thinks it would not be a valuable exercise to make such a report public?

905

**Hon. Miss S J Sacramento:** Mr Speaker, it is something that at this stage I have not considered.

**Mr Speaker:** Next question.

## TOURISM, EMPLOYMENT, COMMERCIAL AVIATION AND THE PORT

### Q173/2018

#### Collision of two merchant vessels, 24th January – Investigation and recommendations

910

**Clerk:** Question 173, the Hon. T N Hammond.

**Hon. T N Hammond:** Mr Speaker, has an investigation been conducted into the collision between two merchant vessels in the Bay on 24th January and, if so, have the causes been established and have any recommendations been made to reduce the likelihood of similar incidents in the future?

915

**Clerk:** Answer, the Hon. the Minister for Tourism, Employment, Commercial Aviation and the Port.

920

**Minister for Tourism, Employment, Commercial Aviation and the Port (Hon. G H Licudi):** Mr Speaker, the Gibraltar Port Authority advised the Gibraltar Maritime Administration of the incident on 24th January. The Gibraltar Maritime Administration immediately informed the Marine Accident Investigation Coordinating Officer (MAICO), who was engaged to undertake an investigation. The Gibraltar Port Authority is currently awaiting his report on the outcome of this investigation.

925

MAICO has collected all the relevant information in respect of this collision and has contacted the two flag states: Panama in respect of the *Meridian Express* and Norway in respect of *Southern Light*. The flag states have the obligation under the IMO Code to carry out an investigation into any incident involving vessels registered under their flag.

930

Panama is conducting an investigation into the collision and has appointed investigators who have received all the relevant information.

Gibraltar is a 'substantially interested party', both under the IMO Code and the EU Directive, therefore these flag states have an obligation to keep MAICO informed and MAICO can make comment on any report or recommendation that they may produce.

935

If the report makes any recommendations to operation of vessels in the Bay, these will be considered by the MAICO with the Gibraltar Maritime Administration (GMA) and all other stakeholders who may be affected.

940

**Hon. T N Hammond:** I thank the Minister for that comprehensive answer. Is the Minister aware whether by their nature, these reports are made available to the public, whether in a de-personalised way or in some way that at least the public can gain assurance that recommendations may have been acted upon?



**Hon. G H Licudi:** Mr Speaker, I am not aware of that but I will find out.

945

**Mr Speaker:** Next question.

**Q174/2018**

**Bathing in waters at Ocean Village Marina entrance –  
Measures to prevent**

**Clerk:** Question 174, the Hon. T N Hammond.

950 **Hon. T N Hammond:** Will Government consider implementing measures to prevent bathing in the area to the north of Waterport Terraces, the entrance to the Ocean Village Marina?

**Clerk:** Answer, the Hon. the Minister for Tourism, Employment, Commercial Aviation and the Port.

955

**Minister for Tourism, Employment, Commercial Aviation and the Port (Hon. G H Licudi):** Mr Speaker, Rule 165 of the Port Rules states that:

No person may bathe within the port except at such places as are authorised by the Captain of the Port.

960 The Captain of the Port has not provided any authorisation for bathing in the area to the north of Waterport Terraces, at the entrance to the Ocean Village Marina and as such bathing is therefore not permitted.

There are currently no additional plans to implement any further measures to prevent bathing in this area. It is already covered by the present legislation.

965 **Hon. T N Hammond:** Could I ask the Minister perhaps to encourage the relevant authorities to enforce that particular part of the legislation, because it does appear that bathing ... particularly children do bathe frequently in that area in the summer.

I understand children will behave in this way but it is clearly a dangerous waterway for children to be swimming in and perhaps some oversight, or greater oversight, would be advantageous and hopefully contribute towards preventing a potential incident in that area.

970

**Hon. G H Licudi:** Mr Speaker, as the hon. Member well knows, the enforcement of legislation such as this is not for the Government, but I take note of what the hon. Member says and I will transmit that particular message.

975

**Mr Speaker:** Next question.

**Q175/2018**

**Employment Service –  
Notices of vacancies, engagement and terminations**

**Clerk:** Question 175, the Hon. E J Reyes.

980 **Hon. E J Reyes:** Can the Government state the total number of (a) notice of vacancies; (b) notice of terms of engagement, excluding variations and (c) notice of terminations filed at the Employment Services since September 2017 to date?

985 **Clerk:** Answer, the Hon. the Minister for Tourism, Employment, Commercial Aviation and the Port.

**Minister for Tourism, Employment, Commercial Aviation and the Port (Hon. G H Licudi):** Mr Speaker, the total number of vacancies, terms of engagement and terminations filed at the Employment Service from September 2017 to the end of January 2018 is as follows: vacancies, 3,793; terms of engagement, 4,647; and terminations, 5,088.

**Q176/2018**  
**Gibraltar, a Year of Culture –**  
**Investments made in campaign**

990 **Clerk:** Question 176, the Hon. L F Llamas.

995 **Hon. L F Llamas:** Mr Speaker, since the Government has launched its campaign on ‘Gibraltar, a Year of Culture’, can it provide details of the investments made in this campaign?

**Clerk:** Answer, the Hon. the Minister for Tourism, Employment, Commercial Aviation and the Port.

1000 **Minister for Tourism, Employment, Commercial Aviation and the Port (Hon. G H Licudi):** Mr Speaker, the information requested by the hon. Gentleman is detailed in the schedule now being handed to him.

Schedule to Question 176/2018

Publication	Circulation/ Est. Impact Level	Size	No	January – June 2018					
				3	F	M	A	M	3
<b>National Press</b>									
Sunday Telegraph	689,516	20x3 Colour	2	14	18				
Daily Telegraph (Saturday)	931,604	20x3 Colour	2	6	24				
The Times (Saturday)	444,493	20x3 Colour	1	27					
Sunday Times	750,770	20x3 Colour	1		11				
<b>National Magazines</b>									
Saga Magazine	488,074	Page Colour	1		1				
Reader Digest	104,000	Page Colour	1	1					
<b>Advertorials</b>									
Daily Telegraph Magazine	562,000	Page Advertorial	1	20					
Radio Times	622,773	Page Advertorial	1	9					
Sunday Telegraph – Stella Magazine	364,000	Page Advertorial	1	28					
RSPB Nature’s Home	612,461	Page Advertorial	1				10		

**GIBRALTAR PARLIAMENT, FRIDAY, 16th FEBRUARY 2018**

Woman & Home	300,025	Page Advertorial	1			1			
Britain At War	9,596	Page Advertorial	1		1				
BBC History	81,081	Page Advertorial	1	20					
Family Traveller	20,819	Page Advertorial	1	1					
<b>Display Online</b>									
Specific Network - 8 weeks	6,187,500	Banner & MPU, Vid 30"	1	2		30			
Times Online - Travel Take over	200,000	MPU&Leader/ Vid 30"	1	2		30			
Mail Online - Travel	1,333,333	MPU/Sky/Leader/ Vid <sub>1</sub> 30"		2		30			
<a href="http://Telegraph.co.uk">Telegraph.co.uk</a>	1,666,666	MPU/Sky/Leader/ Vid <sub>1</sub> 30"		2		30			

National Geographic Traveller	166,666	MPU/Sky/Leader	1	2		30			
<b>Mobile</b>									
London - Heathrow - Gatwick	1,260,000	Mobile Flash	1		1--28				
Manchester - Bristol	700,000	Mobile Flash	1		1--28				
<b>Radio</b>									
Gold Manchester	254,000	30" - 1 week	1		5				
Key 2	127,000	30" - 1 week	1		5				
XS Manchester	159,000	30" - 1 week	1		5				
The Breeze South West	219,000	30" - 1 week	1		5				
Heart West Country - Bristol/Weston & Bath	606,000	30" - 1 week	1		5				
Heart Four Counties - Beds/Bucks/Herts	1,315,000	30" - 1 week	1		5				
Smooth Radio Four Counties	150,000	30" - 1 week	1		5				
LBC 97.3 (Digital)	2,125,000	30" - 1 week	1		5				
Jazz FM (National)	576,000	30" - 1 week	1		5				
talkRADIO	455,000	30" - 1 week	1		5				
<b>TV</b>									
Channel 4	3,333,333	30" - 1 Week	1	25 - 31 Dec					
Sky/Channel 4/ Europort/ Travel Channel/ London Live	9,126,132	30" - 1 Month	1	1--31					

Extra to this campaign:

State Magazine, Nov, Dec And Jan edition
Production and editing of video for Year of Culture Wrighttech Ltd.
Pen drives to promote Year Of Culture video at Island Games in Gotland Wrighttech Ltd.

**Mr Speaker:** Next question.

**Q177/2018**

**Visit Gibraltar website re-launch–  
Replacement details and expected cost**

1005

**Clerk:** Question 177, the Hon. L F Llamas.

1010

**Hon. L F Llamas:** Mr Speaker, can the Government explain why the Visit Gibraltar website meant to be launched last September has not yet launched, including (a) when they expect the website to be replaced; (b) the entity contracted to perform the change and (c) the expected cost?

1015

**Clerk:** Answer, the Hon. the Minister for Tourism, Employment, Commercial Aviation and the Port.

**Minister for Tourism, Employment, Commercial Aviation and the Port (Hon. G H Licudi):** Mr Speaker, the re-launching of the website has taken a little bit longer than was anticipated. We have in fact added a Spanish version and other languages will follow.

1020

We were also conscious, Mr Speaker, of the fact that we were launching the 'Gibraltar Year of Culture' campaign or the branding at the World Travel Market in London in November and we felt it was important that this should also be part of the website.

This week, I have held a meeting in my office to review the final version of the website and we are almost ready to bring this on line shortly.

1025

Mr Speaker, it is, however, important to note that what we are doing is improving our website. That is not to say that the current website is either obsolete or is not fulfilling its purpose. Quite the contrary is the case. All the information one would expect in a tourism website, including what to see and do, where to stay or shop, where to eat, what events are taking place as well as information on Gibraltar's history or heritage are already there.

1030

The current service provider for the website, Piranha Designs, was contracted to carry out the changes. The expected cost of the changes will amount to circa £24,000.

**Q176/2018**

**Gibraltar, a Year of Culture –  
Supplementary question**

**Mr Speaker:** Do you wish to come back to the previous question, matters arising from the schedule?

1035

**Hon. L F Llamas:** Yes please. Yes, I would like to come back to Question 176 if that is okay. In the question I am asking about the details of the investments. I appreciate the Hon. Minister providing this schedule which is very detailed.

Is the Minister able to break this down in terms of monies actually spent on each investment made throughout this campaign so far?

1040

**Hon. G H Licudi:** Mr Speaker, the hon. Member asked about investments and I was not sure whether that meant what we were actually doing in what periodicals or newspapers or radio stations we were carrying out this campaign, or whether he wanted an itemised cost.

1045

What I can tell the hon. Member is that the overall cost of all the items set out in that schedule is in the order of £220,000. It is important to note that the main emphasis of the Gibraltar Tourist Board now is the carrying out of marketing or campaigns generally for Gibraltar.

1050 That was one of the reasons why the Ministry of the Environment took over management of the sites and beaches so that the Tourist Board could concentrate primarily on marketing.

1055 The Gibraltar Year of Culture is, certainly from the feedback we are getting so far, being a very successful branding and it is essentially a branding, rather than a campaign. We would have carried on with marketing campaigns in any event, so the hon. Member should not think when he looks at that list, that it is exclusively dedicated to the Year of Culture campaign.

1060 There would have been campaigns, there would have been advertisements, there would have been marketing in the normal way, except that the branding that is now being used is what we launched in the World Travel Market in November and subsequently in FITUR in January. But the overall cost of those items is in the order of £220,000.

**Mr Speaker:** Next question.

**Q178/2018**  
**Pensionable age –**  
**Equalisation between men and women**

**Clerk:** Question 178, the Hon. L F Llamas.

1065 **Hon. L F Llamas:** Mr Speaker, when does the Government expect to equalise pensionable age between men and women?

1070 **Clerk:** Answer, the Hon. the Minister for Tourism, Employment, Commercial Aviation and the Port.

**Minister for Tourism, Employment, Commercial Aviation and the Port (Hon. G H Licudi):** Sorry, Mr Speaker, are we on 179?

1075 **Mr Speaker:** Question 178.

**Hon. G H Licudi:** Mr Speaker, the Government is committed to equalising pensionable age between men and women. This will happen when the new scheme for old age pensions is introduced. It is, however, necessary to know what the position will be post-Brexit before the new scheme is introduced.

1080 **Mr Speaker:** Next Question 179.

**Hon. D A Feetham:** Mr Speaker, may I ask a question? (**Mr Speaker:** Yes.)

1085 Mr Speaker, as a matter of interest, has the Government costed the additional cost which equalisation of the pension age would bring on a year-by-year basis? Has that kind of costing and that kind of analysis been done?

1090 **Hon. G H Licudi:** Mr Speaker, the scheme is not complete yet. It is impossible to carry out a costing exercise without knowing who the beneficiaries of that scheme will be and that is why I mentioned that we cannot do this until we know what the position will be post Brexit. Now the position may be one thing and post Brexit the position will be very different. Who will be the beneficiaries of old age pension schemes in Gibraltar remains to be seen and therefore, that exercise simply cannot happen at this stage.

1095 **Hon. D A Feetham:** I do not understand the answer. Without disrespecting the hon. Gentleman, perhaps the Minister for Economic Development can explain the position as to why Brexit should actually affect ... I can understand that Brexit may affect our economic ability to pay for any increase pensions liability, but what I do not understand is why would Brexit actually affect the class of persons entitled.

1100 It may affect the private sector perhaps, but in terms of the cost to the Government, that should be capable of being ascertained in the ballpark figures and I would just ask the Government to explain that.

1105 **Minister for Economic Development, Telecommunications and the GSB (Hon. Sir J J Bossano):** Mr Speaker, I do not know whether the hon. Member is aware or not, but under Community law anybody that has in a lifetime accumulated 52 weeks of social insurance contribution here, can aggregate it with contributions in any of the other 27 Member States. That creates a potential pool of probably several hundred thousand beneficiaries.

1110 **Hon. D A Feetham:** Ah, right I see.

**Hon. Sir J J Bossano:** We do not know whether that will continue to be the position after 2020. *(Interjection)*

1115 **Mr Speaker:** Yes, the Hon. Roy Clinton.

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

I just have one question for the Minister, when he talks about equalisation, does he have an idea as to what he means in terms of what the equalisation age would be or has he not reached a determination on that yet?

1120 **Hon. Sir J J Bossano:** Mr Speaker, the requirement under EU law is that the discrimination between men and women ... that is to say this law discriminating in favour of women because they require less contributions and they get paid five years earlier and we did what everybody else was doing, but there is a deadline for the existing scheme of 2020, which means the deadline will not apply to us because we will be out by 2020.

1125 So in effect, we are no longer obliged by Community law to equalise. We took a policy decision, when the equalisation was there, to equalise at 60. The United Kingdom is currently equalised at 67. The new scheme, which we will call the Fully Funded Scheme, will be fully funded depending on how many people are paying in and how many people are receiving benefits and that is an impossible equation.

1130 But the policy continues to be to equalise from 60 upwards – that is to say, the policies that people should be able to take at 60 as the earliest date that they could take the pension. But what we have planned and prepared has now been put on hold until we know what is the nature of the post-Brexit relationship between contributions from EU nationals.

1135 For example, the rules on aggregation and apportionment do not apply to non-EU workers in Gibraltar, so if we had a lot of non-EU workers and very few EU workers in the economy, the numbers would be different, but we do not know whether in 2021 for example, EU nationals will be treated as non-EU nationals and therefore the aggregation rule would not apply to them so it is an impossible exercise to do because the variables are not yet determined.

1140 **Mr Speaker:** Next question.

**Q179/2018**  
**Unemployment benefits –**  
**Retired public servants claiming**

**Clerk:** Question 179, the Hon. L F Llamas.

1145 **Hon. L F Llamas:** Mr Speaker, can the Government state since December 2011, how many retired public servants have successfully claimed unemployment benefits post retirement?

**Clerk:** Answer, the Hon. the Minister for Tourism, Employment, Commercial Aviation and the Port.

1150

**Minister for Tourism, Employment, Commercial Aviation and the Port (Hon. G H Licudi):** Mr Speaker, since December 2011 and up to January 2018, 49 public servants have successfully claimed unemployment benefit.

Mr Speaker, it is 49 – I am not sure whether I said 49. (*Interjection*) Forty-nine, yes.

1155

**Hon. L F Llamas:** Mr Speaker, is that in relation to post retirement? That was not clear in the answer.

1160 **Hon. G H Licudi:** Yes, Mr Speaker, that is certainly my understanding. The answer was prepared specifically in relation to the question. The question says post-retirement and therefore although I do not have that information, I am assuming – unless it is wrong and in which case I will correct it – for present purposes that this answers directly the question that was posed by the hon. Member.

1165 **Hon L F Llamas:** Mr Speaker, in light of the 49 public servants who have retired and then gone on to claim unemployment benefits, is this something that the Government is looking into in a way that they curtail this, given that obviously these people have received a pension and a gratuity in relation to this?

1170 **Minister for Economic Development, Telecommunications and the GSB (Hon. Sir J J Bossano):** Mr Speaker, I think it has to be understood on the basis that it can equally be argued that the people in the public service who served a long time are in effect paying insurance to protect themselves against unemployment which they never have had the benefit of. There is an element of insurance contribution which in effect pays the unemployment benefit. People in the private sector who can sort of be unemployed every 13 weeks and go back and collect benefit access it more often than those in the public service.

1175

I think in terms of the philosophy of their entitlement, whether they need it is another thing, but it is not something that the state is giving somebody as a gift.

1180 The law is that even if you retired from the public or the private sector, if you are available for work you have to register and be available for work, and therefore you are available for work and you have paid your contributions for 30 or 40 years and you are entitled to the 13 weeks and you choose to take it up I think it would be difficult to say I am going to curtail it, because as I see it anyway, the benefit is a benefit of insurance.

1185 If you were to take a policy with an insurance company that pays you if you become unemployed and you pay all your life and then you are unemployed because you have retired, on what moral grounds could I say to you well, because you have now got a pension, you cannot register as unemployed and you cannot seek another job.

1190 So frankly, my own view is that we should not seek to curtail it because I think it is something for which the worker has paid through his insurance contribution all his life. It is not as if it was a payment by the state which is non-contributory. The entitlement to unemployment benefit is

1195 the result of a contribution record which is laid down in the law and that law does not say that you are not entitled to do it. In fact, it does not even say that you cannot do it after a given age. You do not get it after you are pensionable because you get a social security pension and you cannot draw more than one benefit from the social security, but if you were, for example, not receiving a social security pension, it is now contrary to the law on discrimination to try and stop fairly young people like me at 79 from working.

So you know, the answer is that the Government certainly has not got a policy to curb it, but I personally believe that people are entitled to a benefit if they have paid for it all their lives.

1200 **Hon. L F Llamas:** Mr Speaker, I think that is in my view, a very dangerous path to encourage citizens to claim things that they may be entitled to but they may not need. Will the Government look into perhaps means testing those who claim such benefits?

1205 **Hon. Sir J J Bossano:** No, Mr Speaker, I do not believe they should be means tested in respect of things which are the result of contributions. In fact I think the previous administration did that in respect of Family Allowances that were means tested and I objected from that side of the House because of the principle of the thing.

You means test if you have got a state benefit like social assistance for which you have made no payment. Therefore, the state says that there is a poverty line and we help the people below that poverty line, for example the minimum income guarantee.

1210 But if I can draw a parallel, it is one thing to means test a minimum income guarantee which gives a person an income which we, for example, with the latest thing that we introduced now link it to the minimum wage so that people who are above retirement age, if they have a low pension, it can be topped up so that a married couple would have no less than 90% of the national minimum wage. That is means tested because the higher the pension you get, the less the gap will be and the people on the full pension would not get it.

1215 But I think if you were to say I am going to means test the old age pension because you have got a pension from the Civil Service, then I do not think that would be right because the contributions that you have made are the same as the contributions other people have made.

1220 I think we need to think of this as a social insurance benefit, not social assistance. It is standard procedure in all the European schemes that I am aware of that what gets means tested is social assistance which is not funded by the recipient. But social security benefits which have contribution records are dependent on how much you pay in. So how can you say two people will pay the same amount in, but one will get more benefit than another because of other income from another source? I mean, suppose somebody is more frugal with his income and saves money, does that mean that he gets penalised compared to the person who spends all his wages and has no savings?

1225 I know of no social security contributory scheme that is means tested. All the schemes that I know of in this field that are means tested are the ones where the payment is based on the income of the recipient, irrespective of whether he has made any contributions or not and therefore, it is by way of a transfer of income from people who are better off as taxpayers to people who are less well off as people with low or zero incomes.

1235 **Hon. L F Llamas:** Could I ask as a further supplementary, from the 49 public servants who have retired and then successfully claimed the unemployment benefit, does the Government have details of if they did a full service within the public sector or perhaps it was not a full service, or details relating to that, please?

1240 **Hon. G H Licudi:** Mr Speaker, I have a breakdown of the Department Agency Authority from which they came but not the amount of years of service in each particular area.



It is important to point out that the question relates to a period from December 2011 to January 2018, a six-year period. Clearly many more public servants than 49 have retired during that six-year period than the ones that have claimed this.

1245 So it is not the norm that public servants register as unemployed, register as seeking employment because as my hon. Colleague has mentioned, you have to be actively seeking work in order to be able to receive unemployment benefit. So it is certainly not the norm.

We also have a situation where the person reaches pensionable age in respect of the old age pension, that is a social security benefit that the person is receiving and they cannot receive another benefit and therefore they cannot receive unemployment benefit.

1250 In addition to that, there are those that at 60 are eligible to apply for community care. If you are receiving unemployment benefit, my understanding is that you would not get community care, so most people would opt to get community care and not register as unemployed. Therefore, although they have to do a couple of hours a week or whatever it is that they do in respect of the community care under the trust that regulates community care, people generally  
1255 opt for doing that rather than unemployment benefit.

Therefore, the window within which this possible benefit can be applied for is very narrow. Essentially, you have to have reached compulsory retirement age, because if you do not reach compulsory retirement age under the Act you are not eligible for this. If you reach compulsory retirement age but you have not reached 60, generally the people within that category are those  
1260 in the essential services – customs, fire service, prison. Those who retire from those essential services have reached compulsory retirement age at 55, not reached 60, are generally within the bracket that would fall to be entitled to register for unemployment benefit, provided that they register the employment service, they are actively seeking work, they attend the regular meetings in order to be able to say that they are actively seeking work, and provided that all the  
1265 conditions are satisfied.

So there is this very narrow window that applies and clearly it is not something that everybody will take advantage of.

**Hon. L F Llamas:** Could I ask, I will come back next month, if that is okay, and ask for details relating to the years of service and the gratuity and pension taken by these civil servants. But in  
1270 the meantime, could the Hon. Minister provide the Departments from which these civil servants have retired?

**Hon. G H Licudi:** Mr Speaker, in respect of the 49: Customs – 6; Fire and Rescue Service – 13; GDC Housing – 1; GDC Tourist Board – 1; Gibraltar Health Authority – 3; Gibraltar Mechanical and Electrical Services – 1; Gibraltar Port Authority – 2; Economic Development – 2; Prison – 3; and Royal Gibraltar Police – 17.  
1275

**Hon. D A Feetham:** Yes, Mr Speaker, my attention was piqued by the analogy that the Hon. the Father of the House raised with insurance policies, but it is an inapposite analogy in my view, does he agree with me? It is like saying that I have health insurance and because my health has been perfect throughout my life and I have never claimed, somehow at the end I should have the right to make some kind of a claim because I have never really made a claim during the time of my life, because I have always been perfectly healthy.  
1280

1285 The reality is that what we have here are individuals who of course have paid their contributions, but they are individuals who have retired. They have reached the end of their working life, they are retired, they have obtained a gratuity, they are obtaining a pension and there is a distinction.

I can understand that somebody at the age of 55 may say, 'Well look, I am young and I want to continue to work', and I think most people would say, 'Well fine – if you can obtain work that is fine.' But what we are talking about here is the state actually paying a benefit on top of ...  
1290 *(Interjection)* unemployment.

**Hon. Sir J J Bossano:** It is a fund.

1295 **Hon. D A Feetham:** Well okay, it is the fund. I understand it is the fund but it is the payment of that benefit on top of a person being retired.

Have I misunderstood it? If I have misunderstood it I apologise! But to me, it just seems counterintuitive that in a situation where, whether it comes from the fund or does not come from the fund, the reality of the situation is that resources are finite and if somebody has obtained a gratuity, if somebody is obtaining a pension, it does not seem to be right that the community, albeit through the fund, is paying as well for unemployment benefit.

1300 And in fact, just one final supplementary as well, the hon. Member may wish to deal with: does this actually happen in other jurisdictions?

1305 **Hon. Sir J J Bossano:** Mr Speaker, I think the analogy is wrong. It is as if, as the hon. Member said, you have paid insurance for medical treatment all your life, you have never been sick and now because you become sick at 50 you have to pay for private medicine.

That is the analogy because the person is unemployed at the age of 50, if he looks at the number it is no coincidence that the bulk of the grades in the 49 are the people who go at 50.

1310

Mr Speaker: Police, fire service...

1315 **Hon. Sir J J Bossano:** Police, fires service – it is perfectly reasonable that somebody at 50 should want to look for another job and it is perfectly reasonable that they should register as unemployed to look for work.

But what the hon. Member is saying, is that they should be told when they register, because you have been given a pension as a civil servant – or is it because you have been given a pension from anybody? – you are no longer entitled.

1320 That would mean that you would have to change the 1954 Social Insurance Act and he was in Government and had the opportunity to do it, the GSD had 15 years in which to do it. They thought there was no need to do it then and I do not know what it is that has happened since, that he finds it an anomaly only now and not when he was in Government, and he would have done it! I can tell him that if he had attempted to do it, he would have found me opposing him from that side.

1325

**Hon. G H Licudi:** Mr Speaker, can I just add for completeness that the benefit is actually payable for 13 weeks so it is not an unlimited benefit. It is very restricted. *(Interjection)* A maximum of 13 weeks. *(Interjection)* Well, since 1954 as the hon. Member has indicated.

1330 **Mr Speaker:** To be helpful, there is another category: persons who retire on medical grounds and who may wish to seek work because their pension is not adequate for them to live on.

## ECONOMIC DEVELOPMENT, TELECOMMUNICATIONS AND THE GSB

Q180-185/2018

Government finances –

Developments with China; Debts and Funds; GSB staff

**Clerk:** Question 180, the Hon. R M Clinton.

1335 **Hon. R M Clinton:** Mr Speaker, further to Question 1/2018, can the Government advise whether the meetings with the China Development Bank and the Bank of China in January 2018 have borne any fruit.

1340 In addition, can the Government indicate what China's interest might be in respect of Gibraltar, as regards its 'One Belt One Road' development strategy, given Sir Joe Bossano's recent trip or rather recent visits to Beijing?

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

1345 **Minister for Economic Development, Telecommunications and the GSB (Hon. J J Bossano):** Mr Speaker, I will answer this question together with Questions 181 to 185.

**Clerk:** Question 181, the Hon. R M Clinton.

1350 **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 November 2017?

**Clerk:** Question 182, the Hon. R M Clinton.

1355

**Hon. R M Clinton:** Mr Speaker, can the Government please provide 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 November 2017?

1360

**Clerk:** Question 183, the Hon. R M Clinton.

1365 **Hon. R M Clinton:** Mr Speaker, can the Government please advise how total liquid reserves are invested/held, giving details of all bank/savings bank accounts and cash held for the following date, being 1st November 2017?

**Clerk:** Question 184, the Hon. R M Clinton.

1370 **Hon. R M Clinton:** Mr Speaker, can the Government advise the balance on the General Sinking Fund as at 1st November 2017?

**Clerk:** Question 185, the Hon. R M Clinton.

1375 **Hon. R M Clinton:** Mr Speaker, can the Government advise how many staff are directly engaged in the operation of the Gibraltar Savings Bank as at 31st December 2017, split between permanent and contract staff?

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

1380

1385 **Minister for Economic Development, Telecommunications and the GSB (Hon. Sir J J Bossano):** Mr Speaker, it is not the case that China is interested in Gibraltar as regards the 'One Belt One Road' strategy, but rather that Gibraltar is interested in China's 'One Belt One Road' strategy, given that historically Gibraltar has always been considered to be geographically well-placed as a trading territory in international trade routes.

Gibraltar's interest in participating, which is welcomed by China, is no different from the interest shown by many other countries who see this as a transformational change in trading patterns which will be developed from its implementation.

1390 As regards my meeting with senior officials of the two London-based Chinese banks, the position as regards the Bank of China is that presently in the UK they are not expanding their retail operations but concentrating on wholesale commercial banking and therefore would not be interested at the moment in providing retail services in Gibraltar. However, they have agreed to assist if they can my Department by putting me in contact with other potential Chinese parties that might be so interested.

1395 As regards the China Development Bank they are prepared to provide facilities for financing infrastructure projects which involve Chinese enterprises and entail capital requirements of £30 million or more. These are the lending criteria they currently use in the UK. Several possible projects are under consideration.

1400 The position as regards the total liquid assets composition, when, where and how these are invested on a particular date chosen by the hon. Member opposite, continues to be as previously stated.

The figures requested for 1st November 2017 are: Gross Debt – £447.7 million; Sinking Fund – £5.2 million; Aggregate Debt – £442.5 million; Cash £139.4 million; Net Debt – £303.1 million.

1405 As at 31st December there were 15 full-time and one part-time civil servants at the Savings Bank, assisted by 13 contract staff.

**Hon. R M Clinton:** Mr Speaker, I welcome the Minister's feedback in terms of his meetings with the Bank of China and obviously would welcome any form of inwards investment that he could attract for Gibraltar at this time. I obviously wish him success in his endeavours.

1410 In terms of the Gibraltar Savings Bank, if I heard the Minister correctly there are 15 full-time staff, one part-time and 13 contract workers. Am I correct in assuming that the 13 contract workers are on 11-month contracts and if so, does the Minister consider it appropriate, given the Savings Bank and the nature of the work that it does, that it has almost 50% contract staff?

1415 **Hon. Sir J J Bossano:** Well, Mr Speaker, if I did not think it was appropriate, it would not be happening.

**Hon. R M Clinton:** Mr Speaker, again when we talk about contract staff, these are individuals on 11 month contracts. Would that be right?

**Hon. Sir J J Bossano:** They are, Mr Speaker, supply workers the same as exist in other places in the Government, yes.

1425 **Hon. R M Clinton:** Would the Minister be able to advise the House whether the supply workers are with any particular recruitment agency, one in particular, or are they split across several?

1430 **Hon. Sir J J Bossano:** I cannot say which. I think they are probably one of the two that we are using – there are two agencies, S&K and Beta Service which account for most of the workers. I do not think we have got anybody else supplying. Not just here, I mean this is no different from what exists in other Government Departments. We do not use any special agency for the Savings Bank.

1435 **Mr Speaker:** Any other supplementaries?

**Q186-188/2018**  
**Government workers –**  
**Agency staff; maternity and sickness cover;**

**Clerk:** Question 186, the Hon. D A Feetham.

1440 **Hon. D A Feetham:** Perhaps the answer is in the answer to this question.

As at the end of December 2017, how many individuals were working within Government Departments, companies, agencies or authorities through services provided by recruitment consultants and agencies, broken down by department, company, agency and authority together with the recruitment consultant or agency concerned?

1445

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

1450 **Minister for Economic Development, Telecommunications and the GSB (Hon. Sir J J Bossano):** Mr Speaker, I will answer this question together with Questions 187 and 188.

**Clerk:** Question 187, the Hon. L F Llamas.

1455 **Hon. L F Llamas:** Mr Speaker, can the Government provide details since January 2016, which Civil Service posts have not been covered during maternity or long-term sickness, including: (a) the grade; (b) the department and (c) the period of absence not covered?

**Clerk:** Question 188, the Hon. L F Llamas.

1460 **Hon. L F Llamas:** Mr Speaker, further to the answer to Question 7/2018, can the Government now provide this House with an update?

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

1465

**Minister for Economic Development, Telecommunications and the GSB (Hon. Sir J J Bossano):** Mr Speaker, the information requested for December 2017 and from January 2016 cannot be provided within the timescale of the question but will be provided in the next meeting.

1470 On 8th January 2018, supply workers were placed as follows: (a) Care Agency; Department of Education; Gibraltar Bus Company; Gibraltar Electricity Authority; Gibraltar Health Authority; Gibraltar SLA; Ministry of Youth and Postal Services, Gibraltar Joinery and Building Services; EDEC; and GCP.

1475 (b) Nature of the work was: Care Worker; Qualified Teachers; SNLSA; Music Instructor; Technicians; Cleaners; Drivers; Administrative Work; Nursing Assistant; RGN; Enrolled Nurse, Midwife; Domestic; Lifeguard; Youth and Community Support Worker' Postal Work; supply labour; and Messenger.

1480 (c) The main reason for providing cover either is to meet an increased workload or to provide cover for reduced numbers at work due to absenteeism, or posts temporarily unfilled due to temporary promotion or pending a decision on the required activity.

(d) The first date of relief cover that was provided by any given worker was as follows:

QUESTION No: 188/2018 (Contd.)

Date	Number
29/12/2003	1
02/09/2006	1
17/09/2007	1
23/02/2009	1
19/07/2012	1
03/09/2012	2
07/11/2012	1
09/12/2012	1
29/04/2013	1
01/06/2013	1
10/06/2013	1
02/07/2013	2
15/07/2013	1
02/09/2013	2
23/09/2013	1
15/10/2013	1
16/12/2013	1
20/12/2013	1
13/01/2014	1
29/01/2014	1
02/03/2014	1
21/07/2014	1
06/08/2014	2
26/08/2014	1
01/09/2014	13
18/09/2014	1
08/10/2014	1
17/11/2014	2
08/01/2015	1
03/02/2015	1
05/02/2015	1
27/02/2015	1
02/03/2015	1
03/03/2015	1
16/03/2015	1
17/03/2015	1
18/03/2015	3
23/03/2015	1
30/03/2015	1
08/04/2015	1
18/05/2015	1
05/06/2015	1
25/06/2015	5
28/06/2015	1
01/07/2015	1
07/07/2015	1

01/08/2015	1
27/08/2015	6
01/09/2015	16
02/09/2015	6
03/09/2015	18
01/10/2015	6
06/10/2015	7
22/10/2015	33
11/11/2015	1
14/11/2015	1
22/11/2015	1
13/12/2015	1
07/01/2016	1
11/01/2016	1
22/01/2016	1
03/02/2016	1
10/02/2016	1
15/02/2016	2
22/02/2016	1
03/03/2016	1
18/04/2016	1
24/05/2016	1
21/07/2016	1
17/08/2016	1
26/08/2016	1
31/08/2016	29
02/09/2016	2
06/09/2016	1
26/09/2016	3
06/10/2016	2
12/10/2016	1
17/10/2016	1
07/11/2016	1
14/11/2016	2
24/11/2016	1
24/01/2017	2
02/03/2017	1
20/03/2017	1
29/03/2017	1
30/05/2017	3
25/06/2017	1
29/06/2017	1
03/07/2017	2
12/07/2017	2
27/07/2017	1
31/08/2017	44
26/09/2017	1

16/10/2017	1
30/10/2017	9
31/10/2017	18
06/11/2017	6
13/11/2017	1
14/11/2017	4
16/11/2017	1
27/11/2017	3
01/12/2017	2
08/01/2018	261

1485 Mr Speaker, in the case of the figure for 8th January, which is the last figure I have given, that is the number that was employed at that date but this is a group of workers of which we have no information as to whether they had, previously to that date, done supply work.

1490 **Hon. L F Llamas:** Mr Speaker, I am sure you will agree with me that this is a waste of parliamentary time (*Interjection and laughter*) in the sense that when one comes to Parliament and asks for a schedule, a schedule which you can link the company, the department the work is in, the grade that position is doing, the reasons why the cover is required and since when the worker commenced and the answers provided in an oral fashion in a way which you cannot even link the worker to which department that person is providing services to and why the services are required, I think does not answer the question, let alone waste this parliamentary session. (*Interjection*) Is the Government able to provide the information requested in a more civilised manner?

1495

**Chief Minister (Hon. F R Picardo):** Yes, in *Hansard*.

1500 **Hon. Sir J J Bossano:** Mr Speaker, the Member opposite is entitled to ask for information and I am providing the information following logically and precisely the sequence of his question.

If he does not want the question answered orally, then he should put it for written answer. (**Hon. Chief Minister:** Hear, hear. ) If he puts a question for an oral answer, then however long it will take me to read it, and however difficult it may be for him to understand it, I am doing what he is asking for. He is asking for an oral answer to an oral question and I have covered every single item in the question and given an answer on every single item.

1505

He is entitled to ask a question and to get information, but he is not entitled to tell me in the Government how I should draft the answers, just like I am not entitled to tell him how he should draft the questions.

1510 **Mr Speaker:** I was not going to make any comment at this stage, but I will read from *Erskine May*, page 366, Oral Answers and Supplementary Questions:

The Speaker has stressed that the length of both ministerial replies and of supplementary questions should be curbed.

I do not know what Speaker they are referring to, obviously the Speaker in the House of Commons, but I am sure that Speakers throughout the parliamentary Westminster-style world, have been complaining over the years about precisely that.

1515 But I think that the Hon. Minister has a valid point. I think that whoever asks the questions should, in an instance such as this one, where all that you require are statistics ... that the alternative is to ask for a written answer, which you can then pursue at the next meeting. But that would avoid a repetition of this situation.



1520 Of course, the other way to do so, and we have had today very lengthy schedules, but the Hon. Sir Joe Bossano who has been here for 45 years is entitled – I cannot stop him; I can urge him to curb the length of his answer. Unfortunately the rules do not allow me to stop him. And having been here 45 years, who is going to attempt to do that? *(Laughter)*

So let us move on.

1525 **Hon. D A Feetham:** Mr Speaker, may I make a civilised request myself? *(Laughter)*

**Mr Speaker:** Provided it does not add any wood to the fire, yes.

1530 **Hon. D A Feetham:** Mr Speaker reserves the right as to whether it is civilised or not, I understand that.

My question 186, has not been answered because the Hon. Minister has said that in the time available the information could not be compiled.

1535 Could I ask the Hon. Speaker, could I rely on Standing Order 16, which is the Standing Order that basically says that where a question remains unanswered at the end of the session, that the answer be provided in writing. Therefore, that would satisfy me so from now until the next session, if that question can be answered in writing, then I can lodge any supplementaries so to speak, orally or in writing for the next session.

But I do not want to repeat the question next time round.

1540 **Mr Speaker:** Does the hon. Member agree that it has been an oversight that it has not been answered?

1545 **Hon. D A Feetham:** Mr Speaker, no. **(Mr Speaker: No?)** No, he has said that in the time available he could not answer it, so therefore I am saying it is remaining unanswered, can it be answered in writing? That is what I am saying, under Standing Order 16.

**Mr Speaker:** Yes, very well. *(Interjections)*

1550 **Hon. D A Feetham:** Yes, before next month so that I can then ask further questions next time round.

**Mr Speaker:** Yes, very well.

#### DEPUTY CHIEF MINISTER

Q189/2018

Parliament building –  
Installation of lift

1555 **Clerk:** Question 189, the Hon. T N Hammond.

**Hon. T N Hammond:** Mr Speaker, is Government still intending to install a lift at the Parliament building and if so, when?

1560 **Clerk:** Answer, the Hon. the Deputy Chief Minister.

**Deputy Chief Minister (Hon. Dr J J Garcia):** Mr Speaker, yes. After reviewing all possible alternatives and having extensively consulted interested parties and specialists on access, the Government intends to install a lift during the course of the new financial year.

1565 **Mr Speaker:** Next question.

**Q190/2018**  
**Brussels office –**  
**Continuation post-Brexit**

**Clerk:** Question 190, the Hon. T N Hammond.

1570 **Hon. T N Hammond:** Mr Speaker, does Government intend to continue to operate its Brussels office once we leave the EU?

**Clerk:** Answer, the Hon. the Deputy Chief Minister.

1575 **Deputy Chief Minister (Hon. Dr J J Garcia):** Mr Speaker, yes, sir.

**Mr Speaker:** Question 191.

**Q191/2018**  
**Bayside, St Anne's and St Martin's Schools –**  
**Developer bid for all three sites**

1580 **Clerk:** Question 191, the Hon. R M Clinton.

**Hon. R M Clinton:** Mr Speaker, further to Question 85/2018, can the Government advise as regards the tenders received for the sites of Bayside, St Anne's and St Martin's Schools, has any developer bid for all three sites?

1585 **Clerk:** Answer, the Hon. the Deputy Chief Minister.

**Deputy Chief Minister (Hon. Dr J J Garcia):** Mr Speaker, the Government can confirm that an Expression of Interest for all three sites has been received from one group of developers. The different submissions from all entities are still under consideration.

**Q192/2018**  
**UK non-EU trade agreements –**  
**Inclusion of Gibraltar**

1590 **Clerk:** Question 192, the Hon. L F Llamas.

1595 **Hon. L F Llamas:** Mr Speaker, can the Government explain how Gibraltar features in the trade agreements being negotiated by the United Kingdom and non-EU countries such as the US, China, New Zealand, Australia, etc?

**Clerk:** Answer, the Hon. the Deputy Chief Minister.

1600 **Deputy Chief Minister (Hon. Dr J J Garcia):** Mr Speaker, the United Kingdom is unable to negotiate and conclude trade agreements while still a member of the European Union, but is free to have discussions on future trading relationships.

The priorities of Gibraltar will be fully taken into account by the UK with regard to any trade and investment relationships as those discussions progress.

1605 **Hon. D A Feetham:** May I ask a related question in relation to this, but from the Gibraltar perspective.

The Hon. Minister is obviously right that whilst the United Kingdom remains a Member State, it is not free to negotiate any deals with third parties.

1610 Now, is the Government confident that during the transitional provisions, Gibraltar will not be considered by the EU a third party in terms of its own agreements that it may wish to negotiate with the United Kingdom, bearing in mind that Gibraltar and the United Kingdom are not separate Member States; and if the Government is confident that that is not a trap that either our neighbours to the north or their friends in Europe are laying for us?

1615 **Hon. Dr J J Garcia:** Mr Speaker, the basis of the implementation period or the transition phase, is a continuation of the existing *acquis*, except that there will be no representation for the UK in the Commission, in the Council, in the Court or in the Parliament. But it is on the basis of the existing *acquis* continuing for the period of two years.

1620 **Hon. D A Feetham:** And Gibraltar would remain as we are at the moment, but obviously during that transitional provision within, as ... At the moment Gibraltar is part of the EU by virtue of UK membership. The Government is confident that that is going to continue throughout the transitional provisions?

1625 **Hon. Dr J J Garcia:** Yes, Mr Speaker, absolutely. A continuation of the existing *acquis* includes the terms of membership which refer to Gibraltar.

**CHIEF MINISTER**

**Q193/2018**

**Sunborn Hotel –**

**Building certificate of fitness**

**Clerk:** Question 193, the Hon. T N Hammond.

1630 **Hon. T N Hammond:** Mr Speaker, does the Sunborn Hotel hold a building certificate of fitness?

**Clerk:** Answer, the Hon. the Chief Minister.

1635 **Chief Minister (Hon. F R Picardo):** Mr Speaker, my reply remains the same as that in Question 268/2015.

**Mr Speaker:** Question 194.

**Q194-196/2018**  
**Housing Works Agency–**  
**Early exit packages for employees; remaining staff; transfer of operations**

**Clerk:** Question 194, the Hon. E J Reyes.

1640

**Hon. E J Reyes:** Can Government provide details of how many employees at the Housing Works Agency have accepted early exit packages, indicating the grades of those concerned?

**Clerk:** Answer, the Hon. the Chief Minister.

1645

**Chief Minister (Hon. F R Picardo):** Mr Speaker, I will answer this question together with Question 195 and 196.

**Clerk:** Question 195, the Hon. E J Reyes.

1650

**Hon. E J Reyes:** Can Government provide details of how many employees will remain employed by the Housing Works Agency, after the termination of those who have accepted early exit packages, indicating the grades of those concerned?

1655

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

**Hon. R M Clinton:** Mr Speaker, can the Government confirm that it is to transfer the operations of the Housing Works Agency into two Government-owned companies, and if so, can the Government please identify those companies and the intended date to transfer the employees?

1660

**Clerk:** Answer, the Hon. the Chief Minister.

**Chief Minister (Hon. F R Picardo):** Mr Speaker, 13 employees have already accepted and many more have indicated that they will be accepting in coming months.

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The following are those that have accepted: in Administration, 1 HEO, 1 EO and 1 AO; in Technical, 2 SPTOs and 1 TG1; in Industrial, 5 Craftsmen, 1 ZSO, which is a Zone Support Officer and 1 Labourer.

117 will remain – that is 1 Head of Agency, 1 EO, 5AOs, 8 HPTOs, 11 PTOs; 1 Environmental Monitor; 16 TG1s; 48 Craftsmen; 3 ZOs, 8 Drivers; 2 Drains men; 2 Storekeepers; and 11 Labourers.

1670

I can confirm that we are currently undertaking a holistic review of the outputs required to service and maintain the Government housing stock. An announcement will be issued in due course providing the detail of this review. The re-introduction of the early exit package at the request of the union was based on the move of those remaining into two Government-owned companies.

1675

The GSD had agreed a reduction to zero of the complement of the Housing Works Agency as a condition of the early exit scheme.

**Hon. R M Clinton:** Mr Speaker, I am grateful for the Chief Minister's answer, but I do not seem to have caught the name of the two Government-owned companies and/or the intended date of transfer.

1680

**Hon. Chief Minister:** That is because I have not given them, Mr Speaker.

1685 **Hon. R M Clinton:** Mr Speaker, would the Chief Minister be kind enough to provide this House with the information requested?

**Hon. Chief Minister:** It does not exist, Mr Speaker.

1690 **Hon. R M Clinton:** Mr Speaker, I presume from the Chief Minister's answers that these companies do not exist.

**Hon. Chief Minister:** That is right, Mr Speaker. As far as I understand it, these companies have not yet been incorporated and data has not yet been identified.

**Q197/2018**

**Hotel development, former coach park site –  
Modular/prefab buildings purchased**

1695

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

1700 **Hon. R M Clinton:** Mr Speaker, further to Question 92/2018, can the Government advise how many modular/prefab buildings have been purchased for £3.3 million, what is their expected useful life, who were they purchased from and which Government company is paying for them?

**Clerk:** Answer, the Hon. the Chief Minister.

1705 **Chief Minister (Hon. F R Picardo):** Mr Speaker, a total of two buildings have been purchased for installation at the former coach park site. These buildings have a 50-year design life and have been purchased from RÖDER HTS GmbH as part of GJBS Ltd's contract for the works.

1710 Only the cost of the supply of the buildings in the sum of £949,699 is being paid for by GAR Ltd, a Government-owned company. The balance of £2,313,398 is being met from the Improvement & Development Fund as this relates to the costs of the enabling works, construction of foundations, internal fitting out and the provision of infrastructure and utilities.

**Mr Speaker:** Any supplementaries?

1715 **Hon. R M Clinton:** Mr Speaker, I may not have heard the Chief Minister correctly. The amount that GAR paid was for the two buildings themselves, the actual fabric of those buildings, in the sum of £949,000 and the £2 million balance, or the balance making up £3.3 million, is being paid through the Improvement and Development Fund.

1720 Can the Chief Minister just confirm that is my understanding and why GAR in particular is paying for these prefab buildings?

**Hon. Chief Minister:** Because that is how we chose to structure it because GAR will then own the buildings. I told the hon. Gentleman last time that the buildings are moveable and will have a life beyond their installation on that site.

**Q198/2018**

**Government rental property tenants –  
'Right to buy' policy; exclusions**

1725

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

**Hon. R M Clinton:** Mr Speaker, can the Government advise what is its policy in respect of the 'right to buy' in respect of Government rental property tenants and are the housing estates subject to the £300 million mortgage namely, Moorish Castle Estate, Glacis Estate, Laguna Estate, Alameda Estate, Mid Harbour and Varyl Begg now excluded?

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**Clerk:** Answer, the Hon. the Chief Minister.

**Chief Minister (Hon. F R Picardo):** Mr Speaker, the take-up on the 'right to buy' in respect of Government rental property tenants has been quite low.

The Government is accordingly reviewing this policy as such a low take-up creates its own issues with the future management and maintenance of the respective estates.

1740

**Hon. R M Clinton:** Mr Speaker, I have not actually heard the Chief Minister say, in respect of the housing estates I referred to, whether the Government has taken a policy decision that they will not allow any further purchases of flats in those particular estates.

1745

And for the Chief Minister's information, I am aware of at least one individual who did try to buy, certainly in the last period one of those flats on one of those estates and, after going through a lengthy legal process, has only just been turned down.

Can the Government advise whether there has now been a hardening or an agreed position as to what the policy is in respect to the 'right to buy' for those particular estates?

1750

**Hon. Chief Minister:** He did not hear me say that, because that was not what I said. I said specifically what I said in my first answer, which covers the eventualities the hon. Gentleman may be referring to, but does not deal with it in the way that he is suggesting he thinks it has been dealt with, because it has not been dealt with that way.

1755

**Hon. R M Clinton:** Well, Mr Speaker, perhaps I can just put it simply. Can the Chief Minister confirm or perhaps correct me that there is still the possibility for tenants on those housing estates which are listed, to buy their properties if they so wish? Is it yes or no?

1760

**Hon. Chief Minister:** Well, Mr Speaker, the take-up on the 'right to buy' in respect of Government rental property tenants has been quite low. The Government is accordingly reviewing this policy as such and low take-up creates its own issues with the future management and maintenance of the respective estates.

1765

**Hon. E J Phillips:** Mr Speaker, when does the Government intend completing that review, particularly given the answer to Question 169 in which it was stated that the Government sold 209 properties from December 2011. How does the Chief Minister rationalise that with his suggestion that it is a low take-up?

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**Hon. Chief Minister:** Because, Mr Speaker, those do not just include this sort of properties; they also include pre-war properties.

**Mr Speaker:** Any other supplementaries?  
Next question.

**Q199/2018**

**People recovering from drug addiction –  
After care available**

**Clerk:** Question 199, the Hon. E J Phillips.

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**Hon. E J Phillips:** Can the Government state what after care is available for those recovering from drug addiction?

**Clerk:** Answer, the Hon. the Hon. the Chief Minister.

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**Chief Minister (Hon. F R Picardo):** Mr Speaker, there are a range of options available to those recovering from drug addiction which are tailored to meet the needs of the individual undertaking treatment.

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It is important to contextualise that treatment for many persons may not necessarily take place within a residential rehabilitation setting and that even for those who may undertake a residential programme, the support they will continue to need can extend into months and even years for a minority.

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For those who successfully complete a residential treatment programme at Bruce's Farm, these will continue to attend weekly after care group sessions for as long as they feel they need it. Some choose not to attend, whilst others assiduously attend for years after treatment completion.

1795

All patients completing treatment are also offered weekly one to one sessions with counsellors which take place in our outreach facility located at present, at the Mid Harbour Community Centre. This service is also extended to family members, to help them understand how best to support and cope with the dynamics of a loved one trying to lead a drug-free life.

Whilst in treatment, Bruce's Farm will also liaise with other relevant bodies as part of the patient's treatment plan, to help with the transition back to living within the community. These issues include housing, employment, mental health and criminal justice, amongst others.

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For those who are experiencing housing difficulties, upon completion, there is a two-bedroom flat within the community where patients can benefit from living in a supported environment whilst their housing needs are addressed.

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There are a number of persons who, for a variety of reasons, cannot commit to a residential treatment programme. For these the support takes place within the community. They are seen by a counsellor at least once a week and the programme they follow mirrors the residential programme in most ways, but for obvious reasons may take longer. The sessions they attend are dictated by their individual needs and will often extend beyond the 12-week residential programme delivered at Bruce's Farm.

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Counsellors also work closely with HM Prison Windmill Hill where they hold weekly clinics. Inmates may choose to undertake a rehabilitation programme whilst in custody. Upon completion of their sentence, or if granted a Parole Licence, counsellors will continue to work with released offenders. This period is dictated by either their individual needs or the exigencies of a Parole Licence.

1815

It is important to note that, as part of any aftercare programme the voluntary sector plays an important role. Drug and Alcohol Services can proudly boast of a very close synergy with these groups and will often refer patients requiring treatment to them.

1820

It is a fact that the majority of the members of these groups comprise individuals who have successfully completed treatment under our care or of their family members. For all patients completing treatment either within a residential setting or in the community, a member of one of these groups is identified to act as a peer mentor to complement the after-care work of the Drug and Alcohol Rehabilitation Services.

**Mr Speaker:** Next question.

**Q200/2018**  
**Public Finance (Control and Audit) Act 1977 –**  
**Delay in reform**

**Clerk:** Question 200, the Hon. L F Llamas.

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**Hon. L F Llamas:** Mr Speaker, can the Government explain the delay in reforming the Public Finance (Control and Audit) Act 1977 in line with the recommendations from the Principal Auditor, pledged to have been debated in this House before the 2016 Budget debate?

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**Clerk:** Answer, the Hon. the Chief Minister.

**Hon. Chief Minister (Hon. F R Picardo):** Mr Speaker, as the hon. Member well knows, the points he refers to date back to the Audit Report 2008-09 and indeed earlier, as far back as 17th March 1998.

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I will not rehearse the points relating to the Public Accounts Committee part of those comments as we have debated these in this Parliament by way of a Private Member's motion as recently as 7th October 2016, a debate at which he was present.

As regards to other points, it is the Government's intention to have considered these but it has been one of those matters which has regrettably been put to one side, given the pressures of Brexit.

1840

An exercise is being undertaken to better understand those recommendations and once we are clear we can then proceed to consider those amendments that may be necessary.

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**Hon. L F Llamas:** Will the Chief Minister confirm whether that will happen during the lifetime of this Parliament or perhaps not?

**Hon. Chief Minister:** Mr Speaker, everything I say is about the lifetime of this Parliament.

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**Hon. R M Clinton:** Mr Speaker, I am sure the Chief Minister is aware of the General Audit Matters, section 6.1.1 of the Principal Auditor's Report dated 26th September 2016, but he refers to, in his last two years' reports: 'I am hopeful the draft audit legislation which provides an improved legal basis to secure a more modern and efficient public audit service and adequately addresses key issues of audit independence will be taken to the Parliament during the financial year 2016-17', as my hon. Colleague has referred to.

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But I note that he refers to draft audit legislation which obviously must exist. Does the Government have any intention of perhaps issuing a command paper or consultation on that so that we can all at least see what work has been done to date, or is there going to be a further review of that draft which was ready at that point in time?

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**Hon. Chief Minister:** Mr Speaker, I think the hon. Gentleman is right to quote from the report and I shall do likewise. Section 6.1.1 of the same General Audit Matters, a section in Part 6 2008/2009, the Principal Auditor then said this: 'I previously mentioned that my predecessor submitted proposals to the Government on 17th March 1998 to revise the audit legislation containing parts 8 and 9 of the Public Finance Control and Audit Act as no significant modifications had been made since its enactment in 1977. The primary aim of these proposals is to provide and improve a legal basis and secure more modern and efficient public audit services, fully independent of the Government of Gibraltar. I am hopeful that the

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draft legislation which adequately addresses key issues of audit independence will be taken to the Gibraltar Parliament during the coming year.'

1870 So, Mr Speaker, that has been said in every report since 1998. We picked that up ourselves and referred to it in our manifesto. And as I said in my first answer, we have been unable to progress matters because of the decision of the United Kingdom to leave the European Union. But as I have said in the context of my first supplementary, that is something that I hope we will be dealing with during the lifetime of this Parliament.

**Q201/2018**

**International television channels –  
Details of payments made**

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**Clerk:** Question 201, the Hon. L F Llamas.

**Hon. L F Llamas:** Mr Speaker, since December 2011, can the Government provide a schedule of monies paid to international television channels including (a) the date the payment was affected and (b) a description of the payment?

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**Clerk:** Answer, the Hon. the Chief Minister.

**Chief Minister (Hon. F R Picardo):** Mr Speaker, as part of its marketing campaign in the UK this winter, the Gibraltar Tourist Board, through its media buying agents in the UK have paid for 30-second adverts to be placed on Sky TV, Channel Four, Eurosport, Travel Channel and London Live from 21st December to 31st January 2018.

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The total cost for this was £50,000 paid by bank transfer to the media buyers on 13th November 2017 as part of an invoice to cover all the GTB's adverts for the winter campaign both on TV, online, radio, mobile and national print press in the UK.

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That is all we have got.

## Questions for Written Answer

**Clerk:** Answer to Written Questions, the Hon. the Chief Minister.

**Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to table the answers to Written Questions numbers W5 to W11/2018.

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With your leave, Mr Speaker, that might be a convenient moment for the House to recess for 20 minutes.

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**Mr Speaker:** The House will now recess for 20 minutes.

*The House recessed for 20 minutes.*

## Order of the Day

### SUSPENSION OF STANDING ORDERS

#### Standing Order 7(1) suspended to proceed with Government Bills

**Clerk:** Suspension of Standing Orders, the Hon. the Chief Minister.

**Chief Minister (Hon. F R Picardo):** Mr Speaker, I beg to move under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with Government Bills.

**Mr Speaker:** Those in favour? (**Members:** Aye.) Those against? Carried.

### BILLS

#### FIRST AND SECOND READING

#### Lasting Powers of Attorney and Capacity Act 2017 – First Reading approved

**Clerk:** Bills – First and Second Reading.

1910 A Bill for an Act to establish and make provisions relating to persons who anticipate they may lack capacity in future to manage their health, welfare, property and financial affairs; to allow such persons to confer authority on individuals to make certain decisions on their behalf, to allow for the creation and registration of lasting powers of attorney; to make provision for a person to be able to decide about specific treatment they may not want to receive in future; to introduce a regime and safeguards for the assessment and authorisation of significant restrictions on liberty for persons who lack capacity and for decisions to be taken in relation to or on behalf of those persons; to amend the Mental Health Act 2016; to amend the Medical (Gibraltar Health Authority) Act, 1987 and the Care Agency Act 2009; and for purposes connected therewith.

1920 The Hon. the Minister for Health, Care and Justice.

**Minister for Health, Care and Justice (Hon. N F Costa):** Mr Speaker, I have the honour to move that a Bill for an Act to establish and make provisions relating to persons who anticipate they may lack capacity in future to manage their health, welfare, property and financial affairs; to allow such persons to confer authority on individuals to make certain decisions on their behalf, to allow for the creation and registration of lasting powers of attorney; to make provision for a person to be able to decide about specific treatment they may not want to receive in future; to introduce a regime and safeguards for the assessment and authorisation of significant restrictions on liberty for persons who lack capacity and for decisions to be taken in relation to or on behalf of those persons; to amend the Mental Health Act 2016; to amend the Medical (Gibraltar Health Authority) Act, 1987 and the Care Agency Act 2009; and for purposes connected therewith, be read a first time.

**Mr Speaker:** I now put the question, which is that a Bill for an Act to establish and make provisions relating to persons who anticipate they may lack capacity in future to manage their health, welfare, property and financial affairs; to allow such persons to confer authority on

1940 individuals to make certain decisions on their behalf, to allow for the creation and registration of lasting powers of attorney; to make provision for a person to be able to decide about specific treatment they may not want to receive in future; to introduce a regime and safeguards for the assessment and authorisation of significant restrictions on liberty for persons who lack capacity and for decisions to be taken in relation to or on behalf of those persons; to amend the Mental Health Act 2016; to amend the Medical (Gibraltar Health Authority) Act, 1987 and the Care Agency Act 2009; and for purposes connected therewith, be read a first time.

Those in favour? (**Members:** Aye.) Those against? Carried.

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**Clerk:** The Lasting Powers of Attorney and Capacity Act 2018.

### **Lasting Powers of Attorney and Capacity Act 2017 – Second Reading approved**

**Minister for Health, Care and Justice (Hon. N F Costa):** Mr Speaker, I have the honour to move that the Bill be now read a second time.

1950 Mr Speaker, it is a pleasure to have the opportunity to present to Parliament what I am sure the House will agree is an important piece of legislation which we hope will be used widely.

The legislation complements the Government's recent extensive work in improving the awareness, early diagnosis and care for dementia patients. It will also allow individuals to plan ahead in the early stages of a debilitating illness for a future in which they may suffer from dementia, mental health problems or brain injury. Time, research and resources have been directed into making the Lasting Powers of Attorney and Capacity Bill a reality.

1955 Mr Speaker, with your indulgence I will abbreviate the term 'Lasting Powers of Attorney' to 'LPA' during the course of my speech. The Lasting Powers of Attorney and Capacity Bill has been produced with the following aims in mind, namely: to establish and make provision relating to persons who anticipate they may lack capacity in future to manage their health, welfare, property and financial affairs; to allow such persons to confer authority on individuals to make certain decisions on their behalf and to allow for the creation and safeguards and registrations of LPAs; to make provision for a person to be able to decide about specific treatment they may not want to receive in future, known as 'Advanced Decisions'; to introduce a regime and safeguards for the assessment and authorisations of significant restrictions and liberty for persons who lack capacity, and for decisions to be taken in relation to, or on behalf of, those persons; and to amend the Mental Health Act 2016 in areas to ensure compatibility with this Bill.

1960 Mr Speaker, as you are aware, 'capacity' in this context means the mental ability to make decisions about a particular matter at a particular time. People may lack capacity to make a decision for many reasons. It may be because of, for example, a stroke, an acquired brain injury, a learning disability or temporary impairment and so the Bill has the potential to impact and transform the lives of many of our citizens.

1965 Examples of what might constitute an impairment or disturbance in the functioning of the mind or brain can also include conditions associated with some forms of mental illness, dementia, significant learning disabilities, long-term effects of brain damage, physical or medical conditions that cause confusion, drowsiness or loss of consciousness, delirium, concussion following a head injury or the symptoms of alcohol or drug abuse.

1970 As Members of the House may already be aware, the powers granted by this Bill have been available in the UK since the Mental Capacity Act 2005 received Royal Assent on 7th April 2005. Gibraltar is now in a position to offer similar rights and freedoms to her people.

1980 The United Kingdom's Mental Capacity Act was described at the time as a visionary piece of legislation and a significant landmark on the legal landscape. It represented a triumph of autonomy by recognising that insofar as possible, people should play an active role in decisions

1985 about their own welfare. We are in a fortunate position to be able to learn from the framework and experiences of the UK model, which has now been in place for a decade.

1990 As a result of the seminal case, *HL v United Kingdom*, also known as the Bournemouth case, the European Court of Human Rights held that the liberty of those lacking the requisite mental capacity who were admitted into hospital under the common law doctrine of necessity was not protected as required by Article 5 of the European Convention on Human Rights. As a consequence, in November 2006, the Government amended the Mental Capacity Act 2005 in order to provide protection for those persons caught in the Bournemouth situation.

1995 The outcome of extensive consultation in the UK suggested that minimum requirements in any legislation relating to the protective custody of the mentally incapacitated person was identified as: a clear and unambiguous definition of deprivation of liberty, introduced in our Bill's Part 5, Significant Restriction of Liberty Provisions; a clear definition of those liable to be made subject to these powers; processes and timescales for tests of capacity; admission procedures; assessment, care planning and reviews; the respective responsibilities of the various agencies involved; the role of advocacy; the rights of carers, relatives and friends, including a statutory requirement for appropriate persons to be consulted; and the appeals process.

2000 The Government studied both the United Kingdom legislation, as well as Jersey's Capacity and Self Determination Law 2016. At every stage of the drafting of the Bill, psychologist Dr Alan Lillywhite and our excellent mental health care professionals, the Care Agency and the Office of Parliamentary Counsel have been consulted, reviewed drafts of the Bill and have met throughout the year to discuss ideas, safeguards and practicalities in relation to the provisions of the Bill. This has ensured that all relevant parties have been actively involved in the process and contributed with recommendations and suggestions.

2005 At the core of the Bill, Mr Speaker, is the fundamental idea that a person must be assumed to have decision-making capacity unless it is established that he lacks it. The Bill places emphasis of the need to support people to exercise their capacity to make decisions where they can. If, on the other hand, it is established that a person lacks capacity to make a specific decision at a particular time, alternative decision-making mechanisms are provided for. The Bill will allow individuals a greater level of decision-making power so that they can plan ahead to a time when they may no longer have capacity. This will be introduced through the implementation of Lasting Powers of Attorney and Advanced Decisions.

2015 The Bill consists of seven parts with 59 clauses and three schedules.

2020 Mr Speaker, at this point I would have entered into a discussion of all the parts of the Bill but I met with the Hon. the Leader of the Opposition and the Hon. Mr Clinton only yesterday, to discuss the different parts of the Bill and I will, therefore, leave that part of my debate in this House and if there are any questions on the Bill, then I can be asked at the Committee Stage and I have parliamentary counsel and legal counsel here to answer any questions that hon. Members may have.

2025 Mr Speaker, mental health is a delicate area and can affect each one of us at some stage in our lives, which makes positive and proactive care in this sphere so critical. The Bill has implications for Gibraltar's health and social care system. It is founded on the principle of respect for personal autonomy and the determination of what is in a person's best interests when they lack capacity.

2030 The Government has worked hard and spent considerable time to modernise the law in the mental health sphere. There is a real need to engage and protect vulnerable adults to make sure their needs are listened to. A wide range of audiences require information on the Bill, ranging from medical practitioners to legal professionals, families, carers and individuals, on behalf of those who may lack capacity.

2035 The Government has prepared an easy-to-read guide and code of practice in relation to LPAs and further guidance will follow. I am confident that the Act will be a widely used tool. In the same way that individuals can currently plan ahead with a will and specify how their assets are to be administered an LPA allows a person to plan ahead for the time when they are still alive

but may not have the capacity to make decisions for themselves. This is increasingly important and relevant as our life expectancy increases.

2040 Importantly, the donor does not have to have a lot of assets to make an LPA; it is a tool designed to help the vulnerable manage their affairs. For example, something as simple as paying ordinary bills can become stressful for the elderly. This would enable them to give authority to another family member or friend to pay bills on their behalf, should they not be able to do so themselves.

2045 From this legislation, there are many potential avenues for planning. In the UK, for example, business LPAs are growing in popularity, whereby a business can manage circumstances where a partner or co-director may lose their mental capacity. The Bill also provides empowerment for those who may lack capacity, a structure for decision making for those who do lack capacity and protection for carers, families and professionals in the area, by setting out clearly what can and cannot be done and what procedures need to be followed at all times, putting at its centre the safeguarding of individuals and their rights.

2050 It is a significant and in our view, progressive Bill, which will require awareness and understanding of its content from the general public to ensure its successful implementation. I firmly believe the Bill has the potential to make a real difference in the lives of our community, particularly to the lives of vulnerable adults.

2055 Mr Speaker, I commend the Bill to the House. (*Banging on desks*)

**Mr Speaker:** Before I put the question, does any hon. Member wish to speak on the general principles of this Bill?

The Hon. the Leader of the Opposition, Mr Elliott Phillips.

2060 **Hon. E J Phillips:** Mr Speaker, the Bill will receive the support of Her Majesty's Opposition. I am grateful to the Minister for Justice for extending his invitation for us to put forward our comments and providing us access to his legal team, to whom I offer our thanks as well for explaining certain parts of the Bill that were confusing for us in the first instance. Obviously, we thank the Government for offering the opportunity for us to ventilate those issues before coming to this House.

2065 Mr Speaker, the purposes of this Bill of course are to provide a clear legal framework for people that are affected by lack of capacity. The law as it stands does not serve those people well and has evolved in a piecemeal way through various statutory provisions and the development of the common law. The Bill across refers to clearly defined principles which have been articulated in the Mental Health Act previously, which is understood will come into force in parallel with this legislation.

2070 The comment was made during our discussion that perhaps the principles set out in section 86 to 89 of the Mental Health Act should, for good order, be repeated in this Bill. However, after further discussions, we are persuaded that sufficient reference is made to allow for both pieces of legislation to run in parallel when considering the questions that underpin the principles.

2075 Mr Speaker, the Bill is likely to improve the lives of many people. At some point, Mr Speaker, people are either likely to lose mental capacity or have to deal with the care of someone close to them who has lost capacity. The Bill is well overdue but it is intended, as we read it, to improve the lives of vulnerable people, those who are charged with their care, the families of vulnerable people and professionals.

2080 The Opposition welcomes the important introduction of Lasting Powers of Attorney which provides a statutory mechanism to allow people to appoint an attorney to act on their behalf if they lose capacity in the future.

2085 One note of caution which was aired during a discussion that Mr Clinton and I had with the Minister was that LPAs should be accessible to all and although I am sure that people will want to seek legal advice to establish an LPA and set one up, we need to ensure that the ordinary person can do so without too much of a cumbersome process and be guided appropriately

without significant financial burden. I am grateful to the Minister for explaining that an easy-to-read guide will be provided and I suspect it will be provided at the point at which the Registrar of the Supreme Court will be able to provide people with that easy-to-read guide. It is obviously a careful balancing act but hopefully one that should be made easier through the issuing of guidance notes to our community on the impact of the legislation and the process as envisaged.

We have raised these matters with the Minister in our discussions and the Bill importantly provides a mechanism for people to make advanced decisions about their treatment in the event that those persons lack the capacity some time in the future.

My hon. Friend, Mr Clinton will address some of the other issues that we discussed at length concerning the public guardian and I will not trouble the Minister with that now, save to say that Her Majesty's Opposition will welcome the introduction of this legislation.

**Mr Speaker:** Does any other hon. Member wish to contribute to this Bill?

The Hon. Roy Clinton.

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

As my hon. Friend, Mr Phillips, Leader of the Opposition has said, this is a Bill which certainly from this side of the House we will be supporting.

It is important obviously to understand that this Bill has to go hand in hand with the Mental Health Act and that there are times when the Capacity Act as presented to us today will run entirely in parallel to the Mental Health Act, but there will be times in which there will be overlaps. This is why I again echo the thanks that we were able to have the meeting yesterday to explain the interaction between what will be two distinct pieces of legislation that have to be seen together to be able to see the full operation and the mechanism by which the LPAs will work, and work in terms of any concerns in respect of mental health.

From my point of view, and I am sure from a legal and technical point of view, everything it does is as it says. I am just emphasising the point that my colleague, the Hon. Mr Phillips said, that it should be accessible to the public. In the UK these are downloadable forms which you can get from the internet and from the Office of the Public Guardian.

It has been explained to me that we are not going to have an Office of the Public Guardian in Gibraltar, but rather an LPA register. I can understand the rationale for that. My only word of caution would be that of course the policing of the LPAs has to be undertaken by somebody and there has to be a process that is well understood and easily accessible to all.

I have two observations, one specifically on the Bill and one in general. The general one perhaps is one in respect of complex legislation like this. It runs to 262 pages and perhaps in future and certainly from the recommendations of the Commission on Parliamentary Reform, there was a comment made on Recommendation 10 that we recommend that the more complex or lengthy Bills, or those which are likely to substantially impact on citizens, should undergo in-depth legislative scrutiny by referring them to a select committee appointed for the purpose, i.e. a Public Bills Committee. I would urge the House to think whether this sort of legislation in future should go to such a committee chaired by the Minister presenting the legislation and we would effectively have a similar sort of meeting as we had yesterday, where we can thrash out some of the ideas and thoughts before debating it at Committee Stage in the House. Again, I just leave that out there for everybody in the House to consider.

My only other observation on the Bill is that there is a schedule 3 at the end, which I am sure the Minister will be able to explain to the House what its relevance is to the Lasting Power of Attorney and Capacity Bill, and that is in relation to the amendment to the Medical (Gibraltar Health Authority) Act, 1987 and the Care Agency Act, 2009, which sets out two clauses 7A in one and 7A in the other, in relation to the power to charge for residential services for the elderly. I welcome the Minister's explanation for why this particular schedule is necessary in this Act, and that we are not suddenly developing an American taste for tacking on other pieces of legislation

2140 to other Bills, God forbid! I am sure there is a very good reason for that, which I am sure the Minister will explain to us in due course.

2145 But other than those observations and again, as has already been said, the importance of this legislation for all of us to effectively take ownership and control for our own welfare is significant. It is significant also in that the general public will become involved if they get asked to become donees of these powers and they have to be extremely well informed as to what it is that they can, should or should not do. Again, I welcome the creation of the guidance notes which will be critical so that members of the public, who are not necessarily legally trained, will be able to understand quite clearly what it is that is involved.

2150 So, Mr Speaker, I again welcome the legislation and I look forward to its implementation in due course.

Thank you.

**Mr Speaker:** Is there any other contribution to this debate?

I will therefore call on the Minister to reply.

2155 **Hon. N F Costa:** Yes, Mr Speaker, taking first the point of commencement, the Hon. the Leader of the Opposition is correct to say that the Bill currently before the House will be commenced at the same time as we commence the Mental Health Act, because for the same reasons as the hon. Members have mentioned, they need to work in parallel. So this Bill and the Mental Health Act will commence at the same time on 5th March.

2160 We think that we took care to draft the Bill in plain English. I think that although it is 62 pages, not 262 pages as the hon. Gentleman said, although it is a substantive and substantial piece of legislation –

**A Member:** He always gets his numbers wrong! *(Laughter)*

2165

**Hon. N F Costa:** – it is drafted in plain English.

2170 Both hon. Gentlemen have raised the issue of guidance. We agree with the need to issue public guidance that is also written in plain English and to that effect, we already have a draft guide book ready, which should be approved by me, really, at any moment now, and we take great care again to be able to explain these concepts carefully in plain English.

2175 We do not consider that there will be any difficulty in getting to grips with the Act once it is enacted because of the guidance notes. We will also place online the forms that can be downloaded, the application form, and we will also introduce templates that people can use, because of course, this is not like other forms – like the Employment Tribunal forms, which the Hon. the Leader of the Opposition referred to me earlier, those require certain information to be introduced. There is a greater and wider latitude of what information can be introduced in an LPA. It could be simply a financial LPA or it could be a financial and also a health and welfare LPA, but we will introduce forms that represent templates that will provide guidance to members of the public who do not want to engage solicitors, to be able to do so on their own.

2180 It should also give them comfort to remember that those forms will then be placed before the Supreme Court Registrar and of course as they know, the Supreme Court Registry staff are extremely helpful so they will also have that line of officials who will be able to guide them in the event that for whatever reason, there is any question of the member of the public as to what they should fill in on the form.

2185 So, we are not concerned as to the ease with which persons will be able to fill in the Powers of Attorney. I do detect from the Hon. Mr Clinton a reluctance that anyone should pay legal fees to have to enter into Powers of Attorney. We certainly hope that we have drafted the legislation and the guidance in such a way that people will be able to do so very much on their own.

2190 In respect of charging, which is the question that the Hon. Mr Clinton asks, we have noticed that there is a certain discrepancy between civil servants who, when they are admitted into any

of the elderly residential facilities, give up their pension. Their pensions are no longer paid to them, they are paid ... well, it is no longer paid to the person; it is kept by the Government as part of their admission.

2195 We have, however, received representations that we may have two persons side by side, one who has given up their occupational pension who was a former civil servant, but a person who has a private occupational pension who is not providing the same amount of pay to the elderly residential services, and we are allowing ourselves the ability to introduce regulations to see how we can remedy that unfairness; but that will be introduced by way of regulation in due course.

2200

**Mr Speaker:** I will now put the question which is that the Lasting Powers of Attorney and Capacity Bill 2017 be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

2205

**Clerk:** The Lasting Powers of Attorney and Capacity Act 2018.

### COMMITTEE STAGE AND THIRD READING

**Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move that the House should resolve itself into Committee to consider the following Bill clause by clause, namely the Lasting Powers of Attorney and Capacity Bill 2018.

2210

*In Committee of the whole Parliament*

### Lasting Powers of Attorney and Capacity Act 2017 – Clauses considered and approved

**Mr Speaker:** Now, hon. Members received notice yesterday of some amendments, or today maybe, of some amendments to the Bill. When we arrive at Amendment F, I will make a short explanation that will clarify what happens with all the succeeding clauses.

2215

**Clerk:** A Bill for an Act to establish and make provisions relating to persons who anticipate they may lack capacity in future to manage their health, welfare, property and financial affairs; to allow such persons to confer authority on individuals to make certain decisions on their behalf, to allow for the creation and registration of lasting powers of attorney; to make provision for a person to be able to decide about specific treatment they may not want to receive in future; to introduce a regime and safeguards for the assessment and authorisation of significant restrictions on liberty for persons who lack capacity and for decisions to be taken in relation to or on behalf of those persons; to amend the Mental Health Act 2016; to amend the Medical (Gibraltar Health Authority) Act, 1987 and the Care Agency Act 2009; and for purposes connected therewith.

2225

Clauses 1 and 2.

**Mr Chairman:** Stand part of the Bill.

2230

**Clerk:** Clause 3 as amended.

**Mr Chairman:** As amended, stands part of the Bill.



**Clerk:** Clauses 4 to 8.

2235 **Mr Chairman:** Stands part of the Bill.

**Clerk:** Clause 9 as amended.

2240 **Mr Chairman:** Stands part of the Bill.

**Clerk:** Clause 10.

**Mr Chairman:** Stands part of the Bill.

2245 **Clerk:** Clause 11 as amended.

**Mr Chairman:** Stands part of the Bill.

**Clerk:** Clause 12.

2250 **Mr Chairman:** Stands part of the Bill.

**Clerk:** Clause 13 as amended.

2255 **Mr Chairman:** Stands part of the Bill.

**Clerk:** Clauses 14 to 19.

2260 **Mr Chairman:** Stands part of the Bill.

**Clerk:** Clauses 20 to 26.

2265 **Mr Chairman:** Stand part of the Bill. We now have a situation in which F applies, which is the substitution for 'Medical Director' of the words 'Chief Medical Officer', and in fact it occurs in every single clause from clause 27 to clause 45 and then clauses 51 and 52.

So, for all these clauses, when the Clerk – (*Interjection*) For all these clauses, the amendment is substituting 'Chief Medical Officer' for 'Medical Director'.

Yes, the Hon. Edwin Reyes.

2270 **Hon. E J Reyes:** Yes, Mr Chairman, just one query. I noticed before when we deleted the definition for Medical Director, like you I looked at how it affected it. By reading in place of Medical Director, 'Chief Medical Officer', there is no definition given in clause 3 for Chief Medical Officer; therefore, that could become a potential loophole. Especially, we have not got to it yet, but if one looks at it a bit later on in one of the sections, it does give very strong powers to the Chief Medical Director. Appeals can be made to him and so on.

2275 So, I think we need to be a bit watertight and have a definition of what is effectively meant by Chief Medical Officer, but I take your guidance Mr Chairman, and the Minister's guidance as well in this respect.

2280 **Minister for Health, Care and Justice (Hon. N F Costa):** No, Mr Speaker, we are not substituting the definition of Medical Director with a definition for Chief Medical Officer. We are not.

2285 **Hon. E J Reyes:** But my question is, I think there is a need to have a definition for Chief Medical Officer because otherwise, if we look at clause 27(2) that the Chairman has just referred to: 'an urgent authorisation has been granted by', following the amendment should be now 'has been granted by the Chief Medical Officer'.

2290 There is no definition, who is that Chief Medical Officer, from what entity and so on? It is not as watertight. I mean, even for the word 'Minister' there is a definition that quantifies it as the Minister with responsibility for health.

Here, 'Chief Medical Officer', it does not say whether it is one employed by the Health Authority, it just – I think it is a bit too vague. (*Interjection*) Or unless it is defined in some other Act and then we make a reference.

2295 **Mr Chairman:** If in the definitions, 'Medical Director', for that you substitute 'Chief Medical Officer' –

**Hon. D A Feetham:** Yes, but he said no.

2300 **Mr Chairman:** Sorry?

**Hon. D A Feetham:** He just said no.

2305 **Mr Chairman:** No?

**Hon. D A Feetham:** He just said no. (*Interjections*) So that means there is no definition, that is what he said.

2310 **Hon. E J Reyes:** Yes, what I was proposing, Mr Chairman, is just delete the word 'Medical Director', substitute that for 'Chief Medical Officer' and it:

means the person appointed as such under section 10A of the Medical (Gibraltar Health Authority) Act, 1987

But if they say no, then how on earth do we know who the Chief Medical Officer is who is being referred to?

2315 **Hon. N F Costa:** Mr Speaker, the absence of a definition in the Bill does not mean that we will not be able to identify who the Chief Medical Officer is. Not everything that appears in a Bill is defined in the section on interpretations.

2320 **Hon. D A Feetham:** Who appoints the Chief Medical Officer? Is the Chief Medical Officer something that is referable to some other statute? Is it a Civil Service post? Is it a GHA post? Because otherwise Mr Reyes' point is well made that you have got a reference to Chief Medical Officer but no definition, nobody knows who that Chief Medical Officer is.

2325 I mean he is not here to throw a spanner in the works; he consulted me first and I thought that it was a point that was well made. I am looking at this and I am thinking, 'Well, who is the Chief Medical Officer?'

2330 **Hon. N F Costa:** Mr Speaker, the Medical Director carries out different functions, so the Medical Director does not just provide functions under the GHA as Medical Director, but also provides advice to the Government as Chief Medical Officer. So the functions under this Bill will be carried out by the same person who is the Medical Officer, but not as Medical Director, but as Chief Medical Officer.

**Hon. D A Feetham:** Then all you need to do is basically say that the Chief Medical Officer in the definition shall be anybody who holds the post of Medical Director from time to time. That is all you need to say.

2335

**Chief Minister (Hon. F R Picardo):** Well, Mr Speaker, to an extent, this is like the issue of Leader of the Opposition. There is a reference to 'Leader of the Opposition' in the Constitution but that, as we know, is not a defined term. There is a very good reason that the Hon. Minister has set out, which I think is a fair one, not to have a specific definition, but there are other ways that we can ensure that there will be no way of confusing who will be the relevant post holder.

2340

So I think we are persuaded that this is not a necessary definition. If we were to do the exercise that hon. Members are suggesting that we do, we would have 262 pages of definitions in most Bills, even the simplest because we would be defining and cross-defining every term. And so, Mr Speaker, I think it is fair to continue as we are, in respect of the absence of a definition.

2345

**Mr Speaker:** Just for clarification, when this Bill now becomes law, on page 201, the middle of the page, will that say Medical Director or Chief Medical Officer? Because the amendment moved by F (*Interjections*) says 'for Medical Director', substitute 'Chief Medical Officer', wherever it occurs. It occurs there, so do you substitute it or don't you? (*Interjections*)

2350

'In clause 3(1) delete ...' Ah sorry, yes, we have already deleted the definition of Medical Director, of course, yes.

**Hon. E J Phillips:** Mr Chairman –

2355

**Mr Chairman:** Yes.

**Hon. E J Phillips:** Just to pick up on the point that the Chief Minister makes, this is by no means an innocuous and minor suggestion that we include within the definition the Chief Medical Officer, given the significant powers that are attributed to the Chief Medical Officer within the Act. Therefore, our suggestion and recommendation would be that it is added as a defined term within the meaning of the Act. Unless the Government can satisfy us, the reason for not including it within the definition.

2360

**Hon. Chief Minister:** Mr Speaker, the Chief Medical Officer will have no more powers than the Commissioner of Police, and the Commissioner of Police is not defined in our law. There is a Commissioner of Police and he has certain powers but you do not define every term because you would then be incurring a circular process of defining everybody as the person who is appointed under the Act to hold the post of Commissioner of Police, which is all you would be doing here.

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2370

So, the issue is, will this person be identifiable in the context of the powers which will be exercised? The person will be identifiable. The hon. Member I think is persuasive in making clear that there will not be more than one person who will be able to exercise these powers, or there will not be a nuance as to who is the person who will be able to exercise these powers. The Commissioner of Police is the Commissioner of Police, but there is no definition of who he is. We all know who he is and he has those powers.

2375

So, for example, taking a less controversial post, the Chief Minister is not defined in the Constitution, but there is a Chief Minister and he exercises those powers. And so the question is, will there be a designation of a person to that post? There will be a designation of a person to that post and as a result you do not need to incur in a circular definition, which will be 'the Chief Medical Officer shall be the person designated as the Chief Medical Officer by the Minister', which is all we are talking about adding in effect, and it is entirely circular and unnecessary.

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2385 **Hon. D A Feetham:** Mr Speaker, can I just pick up on the point that the Hon. the Chief Minister has made. Perhaps I am wrong and if I am wrong I will be corrected.

As I understood the Minister, he did not say that there would be a designation of somebody as the Chief Medical Officer. What he said was that it is the Medical Director that will be performing the functions as Chief Medical Officer, so there is no designation; it is the Medical Director.

2390 What we have suggested from this side of the House is just simply to make that clear in the legislation, to say the Medical Director shall exercise the functions of Chief Medical Officer – ‘The Medical Director from time to time shall exercise the functions of Chief’ – (*Interjection*) That is the point, because if there had been provision in this Act for designation, ‘the Minister shall designate whoever it is as Chief Medical Officer’, I would have understood the point, but there is  
2395 no such provision.

We are being told across the floor of the House that the Chief Medical Officer will be the Director exercising functions of the Chief Medical Officer. What we are saying is, that legislation should be clear and you should make that clear. This is not like the Chief Minister or the Commissioner of Police, where everybody knows who it is and, in any event, I have not looked at  
2400 the question of the Commissioner of Police so I am not going to accept the point.

But, if this is as the Minister says, then it is capable of very easy remedy by just simply saying that.

2405 **Hon. Chief Minister:** Mr Speaker, I accept that would be a remedy but a remedy for a wrong; we do not think there is a wrong. We think that the Bill works and that there will be no opportunities to misinterpret what the Bill says in the absence of a specific definition.

If we were to do the exercise of a specific definition in this Bill, then why not do it in every single Bill in respect of any individual that is referred to? There are some instances where we do and some instances where we do not. We happen to agree with the draftsman that it is not  
2410 necessary and so we think it is not necessary to continue to make the argument.

2415 **Hon. T N Hammond:** Mr Chairman, if I may, if therefore I were as a layman reading the legislation and I read ‘Chief Medical Officer’, where would I then go to find out who the Chief Medical Officer is? Is that something I could read on the GHA website? Where would I be pointed or directed to understand who is the Chief Medical Officer?

2420 **Hon. Chief Minister:** Mr Speaker, an explanation has been given already as to who will be discharging the functions of the Chief Medical Officer. You would go to the same place as you would be going if you were trying to work out who anybody else is in a piece of legislation. This is the point.

If we now go down the route of doing an exhaustive definition of who is who in every piece of legislation, and where you need to go to find out the identity of the person who is exercising a particular power, we would be doing a complete review of the whole *Corpus Juris* of Gibraltar, which we are not going to do.  
2425

2430 **Hon. T N Hammond:** Mr Chairman, I think the fact that it was deemed appropriate to define Medical Director in the first instance suggests that perhaps a definition of Chief Medical Officer would be valuable; but also, the fact that the legislation has, as the Minister described it, been written as far as possible in plain language so that a layman can understand it. It would just strike me as sensible to have that packaged within the legislation, so that a lay person can read it and then understand and know precisely what is defined by Chief Medical Officer, because it is a role that plays quite a critical function within the legislation.

2435 **Hon. D A Feetham:** May I just add, and this is the final point that I will make, that without the actual definition and without a provision for the Minister to designate who the Chief Medical

Officer is, although the Minister across the floor of the House is saying it is going to be the Medical Director exercising functions of the Chief Medical Officer, if tomorrow the Government on an administrative basis decided that it is going to be somebody somewhere else within Government, well presumably it could do so. But it just appears, it just strikes me as not a  
2440 proper way to proceed that you leave the identity of that individual in such a nebulous state.

It must follow that if there is no provision defining the Chief Medical Officer, the hon. Gentleman says it is the Medical Director, that is who it is, but if there is no definition and there are no separate provisions designating somebody as the Chief Medical Officer, presumably you could get anybody from within Government to do it. It is just counterintuitive as to whether that  
2445 is right.

**Hon. Chief Minister:** Mr Speaker, the whole point is premised on the definition being nebulous, which we do not agree it is.

**Hon. R M Clinton:** Mr Chairman, may I make, I have just one question for the Minister and that is, is he satisfied that with these amendments in respect of Medical Director and Chief Medical Officer, nothing has to change in the Mental Health Act that we debated last year, to make sure that the two pieces of legislation are in sync?  
2450

**Hon. N F Costa:** To answer his question, Mr Chairman, yes.  
2455

**Mr Chairman** Any other questions? Let's move on.

**Clerk:** Clauses 27 and 28 as amended.  
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**Mr Chairman:** Stand part of the Bill.

**Clerk:** Clause 29.

**Mr Chairman:** Stands part of the Bill.  
2465

**Clerk:** Clauses 30 to 45 as amended.

**Mr Chairman:** Stand part of the Bill.  
2470

**Clerk:** Clauses 46 to 50.

**Mr Chairman:** Stand part of the Bill.

**Clerk:** Clauses 51 and 52 as amended.  
2475

**Mr Chairman:** Stand part of the Bill.

**Clerk:** Clauses 53 to 59.

**Mr Chairman:** Stand part of the Bill.  
2480 Yes?

**Hon. R M Clinton:** Sorry, Mr Chairman, on clause 59, when I asked the Minister for an explanation for the charges, he explained the charges and the rationale for the charges, but he did not quite, and maybe I did not hear it ... I did not quite understand the rationale for why they  
2485

had been tacked on to this particular Bill. Why is schedule 3 within the Lasting Powers of Attorney Capacity Bill 2017? Should this not be a separate Bill in its own right?

2490 **Hon. N F Costa:** Yes, Mr Chairman, as the hon. Gentleman knows, we are also amending the Mental Health Act through this Bill, so that when we commence this Bill and the Mental Health Act, they can work in sync and this was an opportune moment to be able to make the amendment here.

2495 **Hon. R M Clinton:** Mr Chairman, yes, I appreciate that the Mental Health Act still has to come in but I do note the other schedules, in terms of schedule 1 and schedule 2, probably are directly related to LPAs and the Capacity Bill and mental health and needing particular amendments in order to make sure the two marry up. But frankly, if you were to delete schedule 3 entirely, I do not see how it would have any effect whatsoever on either the Mental Health Act or this particular Bill as presented to the House.

2500 I also fail to understand what this is doing here because otherwise we run the risk of doing what the Americans do and we get other bits of legislation tacked on to something else, which I do not think is the route we want to go down in the future.

Again, I would appreciate the Minister's thinking on this.

2505 **Hon. N F Costa:** Mr Speaker, I refer the hon. Gentleman to the definition of 'Care Home' which is :

means an establishment that provides accommodation, together with nursing or personal care, for persons who are or have been ill, persons who have or have had a mental disorder, persons who are incapacitated, disabled or infirm which is not a Hospital, independent clinic or a children's home;

2510 So we are dealing with persons in these contexts and the power to charge therefore is relevant within the context of the Bill and as the hon. Gentleman will recall, when I did make changes to the Gibraltar Health Act on the last occasion, we did not just make changes to the Gibraltar Health Act; we also made changes to the Care Agency, because there were synergies between the changes that were being made to the Gibraltar Health Authority that impacted on the Care Agency which, you will recall, was that we were changing and transferring the elderly residential services from the auspices of the Care Agency to the Gibraltar Healthy Authority. So we took the opportunity, when changing the Gibraltar Health Act, to do that as well.

2515 But of course there is a relevance to having introduced the charging power within the schedule of the Bill, because of the fact that we are talking about persons within the care home who are going to be deprived of their liberty and then the question arises.

2520 **Hon. R M Clinton:** Mr Chairman, in terms of the previous amendments to the Gibraltar Health Authority Act and the Care Agency Act, I can see the logic in that. But in this particular instance, would the Minister agree that frankly this need not be here; this could be an entirely separate Bill in its own right? Whether we have a Lasting Powers of Attorney Capacity Bill before us today or not, this particular schedule can stand by itself, it need not be here.

2525 My only concern is that we do not go down a slippery slope of tacking on other bits of legislation to important pieces of legislation and not fully, as it were, being cognisant of what it is that is being added on as a schedule to a fairly important piece of legislation in its own right.

I understand what the Minister is saying but I am not convinced, or I have not been convinced, that this needs to be here and again, I would really like to be convinced.

2530 **Hon. N F Costa:** Mr Chairman, the hon. Gentleman will have had since the date of the publication of the Bill to raise that issue with me. He came to my offices yesterday – this was not a matter that he raised.

2535 We had the opportunity to do this Bill on the last meeting of Parliament and I agreed not to take it then, because we had agreed that we would meet to discuss the Bill, but the arguments that he makes as to the fact that schedule 3 in his opinion could be a stand-alone piece of legislation could very well also be said about the Lasting Powers of Attorney. You can extricate the Lasting Powers of Attorney parts from the mental capacity parts.

2540 We are dealing in effect with a Lasting Powers of Attorney Act and a Mental Capacity Act. We have brought them together and everything that he has said to me now about the fact that schedule 3 could be separate could also be said about the Lasting Powers of Attorney Act part or the Mental Capacity Act part. So the arguments that he makes are also viable for separating Lasting Powers of Attorney from the Mental Capacity Act. We have decided to bring it together, because of the synergies that were discussed during the course of the meeting yesterday: the ability to be able to make advanced decisions for persons who may be suffering from a debilitating disease and they can foresee that they will lose their ability to make advanced decisions and they want to be able to make those advanced decisions to refuse treatment for instance, by way of a Lasting Power of Attorney, but that part of this Bill can stand separately from the Mental Capacity Bill, and we could have had two Bills instead of one.

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**Hon. R M Clinton:** Mr Chairman, without wanting to labour the point too much, and I fully understand what he is saying, but obviously mental capacity and LPAs obviously go together. This does not necessarily go with it.

2555 Now, as regards the amount of time that I have had to consider this, as I said in my contribution on the debate on the Bill, this is a complex piece of legislation and again, in future I would welcome that the House consider having Public Bill Committees to go through this line by line, clause by clause and give it due process and due thought.

2560 But it just occurred to me that this particular schedule just does not fit here and it could be somewhere else. But if the Minister is absolutely convinced that it is necessary for the passing of this Bill that schedule 3 be there, well so be it. As I said, we welcome the legislation. If he is telling us that this has to be here, I will take him for his word but I am just concerned that we do not go down the American route of tacking on things that do not have to be there.

2565 **Hon. N F Costa:** Mr Chairman, the hon. Gentleman should be fair with me on the basis that we did publish the Bill a while back, he had the opportunity to raise those issues with me before. I agreed in the spirit of collaborative working not to take this Bill last time. We met in order to have the discussions yesterday as to their concerns. This was not a matter that was raised yesterday which you could have easily raised with me and we could have had a discussion.

2570 I am not, of course, abrogating his perfect right to be able to raise it now at Committee Stage, but he will recall that when we met yesterday, he also had concerns about having the Lasting Powers of Attorney in the same Bill as the Mental Capacity Bill. He will recall that he was concerned about that as he was also concerned about the fact that the principles in the Mental Health Act were not being repeated in this Bill.

2575 We simply took the view in drafting that it did not, in fact that the Lasting Powers of Attorney parts and the Mental Capacity part did go well together.

2580 **Hon. R M Clinton:** I will accept the Minister's recollection, but that is not my recollection in terms of that I wanted a separation between Lasting Powers and Mental Capacity. But look, I think I will leave it there, Mr Chairman. I think I have made my point and understand what he is saying and we are obviously going to have to agree to disagree.

**Clerk:** Clauses 53 to 59.

2585 **Mr Chairman:** Stand part of the Bill.

**Clerk:** Schedules 1 to 3.

**Mr Chairman:** Stand part of the Bill.

2590 **Clerk:** The long title.

**Mr Chairman:** I think this is the longest title I have seen in the last five years, *(Laughter)* but we will let it stand part of the Bill.

**Lasting Powers of Attorney and Capacity Act 2017 –  
Third Reading approved: Bill passed**

2595 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to report that the Lasting Powers of Attorney and Capacity Bill 2018 has been considered in Committee and agreed to, with amendments, and I now move that it be read a third time and passed.

2600 **Mr Chairman:** I now put the question, which is that the Lasting Powers of Attorney and Capacity Bill 2017 – I am just wondering, should that become 2018 since we are in 2018? *(Interjection)* It is going to be the Lasting Powers of Attorney and Capacity Act 2018 – *(Interjections)* Okay. I now put the question that the Lasting Powers of Attorney and Capacity Bill 2017 be read a third time and carried. All in favour? **(Members: Aye.)** All against? Carried.

**ADJOURNMENT**

2605 **Chief Minister (Hon. F R Picardo):** So, Mr Speaker, just in time for the Sabbath, I am reminded that 60 years ago today, the words ‘This is Gibraltar’ were first uttered on the radio and we have been encumbering the airwaves too much in my view this afternoon and we should all wish Radio Gibraltar a very happy birthday indeed. At 60 she can now take her Community Care and her State Pension but she is very much alive and a part of this community and this is  
2610 one place where video did not kill the radio star, Mr Speaker – in particular in the listening to of Parliament that many people still do on the radio.

Mr Speaker, with that, I move that the House should now adjourn until next Friday at 2.30 p.m.

2615 **Mr Speaker:** The House will now adjourn until next Friday, 23rd February at 2.30 in the afternoon.

*The House adjourned at 6.41 p.m.*