



PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

MORNING SESSION: 10.00 a.m. – 12.34 p.m.

Gibraltar, Thursday, 25th September 2025

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The Gibraltar Parliament

The Parliament met at 10.00 a.m.

[MADAM SPEAKER: Hon. Judge K Ramagge GMH *in the Chair*]

[CLERK TO THE PARLIAMENT: P A Borge McCarthy Esq *in attendance*]

Order of the Day

GOVERNMENT MOTIONS

5

Clerk: Meeting of Parliament, Thursday 25th of September 2025.

Madam Speaker: Before we begin, we are desperately trying to get the temperature in Parliament at a level where everybody is more or less happy, I keep getting complaints it is hot or cold, so if anybody is particularly uncomfortable, get a message to me with the temperature, the ambient temperature of the air conditioning, I am going to have to define every word, then get a message to us and we will see what we can do on that.

Yes, the Hon. Chief Minister.

15 **Hon. Chief Minister (F R Picardo):** Thank you very much Madam Speaker, and I do realise that a lot of what I am saying is making a lot of people uncomfortable, but that is what Parliament is all about, ventilating all of the issues that need to be ventilated in the appropriate place, where none of us need to get too hot under the collar, although all of us might be given what the temperature has been in the past couple of days. Madam Speaker, on Tuesday, when I started my address to the House on the Motion standing in my name, I set out the constitutional provisions that apply to the appointment, remuneration and functions of the Principal Auditor. I then went through relevant statutory powers, obligations of that holder of that post, and additionally I analysed the case law applicable to the relevant constitutional and statutory provisions.

20 I then ended with a review of the relevant rules of professional standards applicable to auditors generally, and to public auditors in particular. Yesterday, Madam Speaker, on the second day on which I addressed the House on this motion, I dealt with two areas which arose directly from the 2018/2019 report that is before the House today. Both of those areas related to the Gibraltar Savings Bank.

25 One was about the tabling of the accounts of it, as provided for by section 12 of the Savings Bank Act, and the other, Madam Speaker, with the very baseless allegation that I had somehow acted unconstitutionally in not allowing the Gibraltar Audit Office to carry out a POCA or compliance audit of the Gibraltar Savings Bank. Today, Madam Speaker, I am going to address three more areas of the report with which the Government takes serious issue.

30 I will deal first with the sections that deal with Wildlife Gibraltar Limited, second with the parts that deal with housing allocations, and finally the criticisms in the report arising in respect of Gibraltar Industrial Cleaners.

It is my intention to take those in turn and in that order, and I would propose, Madam Speaker, if the clock moves as I expect it will, that I will invite the House to recess after my contributions in respect of Wildlife Gibraltar Limited, Madam Speaker. Let me first then, Madam Speaker, deal with the references to Wildlife Gibraltar Limited.

The report refers to a memorandum that the former Principal Auditor issued on 30 May 2025. He is very busy, busy, Madam Speaker, final day, working day in office regarding contracted services within the Environmental Department. Based on that memorandum, Madam Speaker, the report raises concerns about contract management, potential conflicts of interest, and procurement practises, particularly in relation to Wildlife Gibraltar Limited, but not just in relation to Wildlife Gibraltar Limited. The report, Madam Speaker, as we read it and as it is obvious others have read it, given public comment in respect of it, suggests or implies somehow an element of impropriety.

It did so, Madam Speaker, relying principally, almost exclusively, in relation to Wildlife Gibraltar Limited, on the familial connection between the company's director and the Hon. Minister for the Environment, Professor Dr John Cortes. Madam Speaker, the memorandum had been issued, or the letter had been issued, the one that I am referring to, on 30 May, as I said earlier, at 16:25 hours. That is to say, 25 minutes past four in the afternoon on Friday 30 May.

That is an hour, Madam Speaker, after the close of business for Government offices. So, the memorandum is issued by the former Principal Auditor after the end of the close of business on his last working day in office. So, Madam Speaker, although there might be nothing remarkable about that on 30 May, when what is contained in the memorandum of 30 May makes its way into the report on 31 May, one might be surprised to read the first sentence of the letter.

Dear Stephen,

it says,

I shall be glad of your comments on the following points noted from a review of the contracted services of the Department of the Environment.

When are the comments invited for? Friday 30 May, 4.25 in the afternoon. The report on the public accounts of Gibraltar for 2018/2019. 31 May 2025. Saturday 31 May 2025.

Now, of course, Madam Speaker, there is no *ipso facto* connection between those two, because the former Principal Auditor can write this in on 30 May, the Friday after the close of business. The response can come to the next Principal Auditor and the reasoned or the properly reasoned explanation be contained in the next Principal Auditor's report. Because in any event, this is asking about things that happened in 2025, not in 2018/2019.

But no. "*I shall be glad of your comments on the following points noted from a review of contracted services for the Department of the Environment.*" Without the opportunity to read any of those comments, in here is everything that was in that letter.

I could sit down now, Madam Speaker, and that would be enough to entirely discredit everything that is in that report in relation to Wildlife Ltd. But actually, there is much, much more to discredit everything that is in that report in relation to Wildlife Ltd. And to bring it, in the Government's considered view, into utter disrepute, as I will demonstrate - Utter disrepute.

The report, Madam Speaker, references expired contracts, insurance gaps and additional services provided outside formal agreements. That is what it invites the comment on. That is what the former Principal Auditor, before he becomes formally the author of the report, asks the Department to comment on. On Friday at 4.25p.m., before at least on midnight on the 31st of March, the following day, issuing the report. And formally, therefore adopting as author of the report, the things he has raised and asked comment on, but not received comment on.

Madam Speaker, a lot, if not most, if not all, of everything that is raised in the letter is wrong. In fact, dates are wrong, suggestions are wrong, etc. They were so wrong, Madam Speaker, that it is fair to describe that failure to comply with factual accuracy as egregious, Madam Speaker.

90 And egregiously unfair, therefore, to the Minister, to all the members of his Department, but in particular, to third parties to the Department, referred to by name in the report. And if things are right, Madam Speaker, and there are references which are uncomfortable for a Minister to read, for his Department to read, for members of his family to read, for the Government to read, well look, they are right, and they are uncomfortable, and you get up and you defend them, and
95 you say, look, it is uncomfortable that we did it for this reason. Because sometimes, Madam Speaker, being in Government is about doing the right thing, however uncomfortable.

Being in Government is not about going to the fair, eating candy floss, and enjoying the odd waffle, or a baked potato, as people seem to enjoy at the Gibraltar Fair more than any of those. Being in Government is about doing the thing you have to do. The right thing, in the right way,
100 however uncomfortable.

And the way in which you do it, Madam Speaker, has to be right for the circumstances. And when you look at it through that filter, if there were anything in the report that was accurate, and that was uncomfortable, well look, you fess up to it, you say, I am sorry, it is uncomfortable, we had to do it, we had to do it for these reasons, and people will judge whether that was the right
105 judgement or not, because being in Government is about making those judgements. But when what is in the report is not accurate, but purports to lead to conclusions, then those conclusions are perforce unfair.

And the Government is right to make uncomfortable those who have acted in that way. And if this makes anyone, which I am about to say, uncomfortable, Madam Speaker, well so be it. Because there is a duty in particular on individuals who are given the protection of the Gibraltar
110 Constitution to always act fairly and properly, myself included.

If the allegations in the report were true, Madam Speaker, then they would not be unfair. But they are not true, and therefore they are unfair.

The contracted services the report referred to are the services provided by Wildlife Gibraltar
115 Limited and those services are for the management and maintenance of Alameda Gardens, Commonwealth Park, Campion Park, the Upper Rock areas, as well as for the control of the gull population. Madam Speaker, if I can just, as an aside, remind the corporate memory of the House, that the control of the gull population is something that when we were in Opposition, we used to be on top of all of the time. There was not one budget session where we would not go to the line
120 of the control of the gull population and analyse how every penny was being spent in that respect.

These are important things. Nobody's suggesting that they are not. We were in Opposition, by the way, when Wildlife Gibraltar Limited had responsibility for the management and maintenance of Alameda Gardens and the Upper Rock areas.

They were not responsible for Commonwealth Park or Campion Park because they did not
125 exist. Madam Speaker, all of the relevant services under the contract, except those that relate to areas that did not exist, had been performed by Wildlife, pursuant to the original contract with Wildlife, which was put out to tender in 1990 to 1991.

For the purposes of ensuring the record is clear, at that time, the GSLP were in Government. I think that the GSD had only one Member of the House at that time. The Liberal Party were not
130 represented in Government or in Opposition at all. In fact, we were at that stage about to be formed, with all of us in it together.

But, Madam Speaker, it is important to remember that the contract was awarded in 1990 to 1991 because what is important about that in particular is that now, thank God and by the grace of the Gibraltarians who put us here, the GSLP is back in Government with the Liberal Party. The
135 GSD is in Opposition. But through that period, the Wildlife contract has been renewed - not just by the GSLP.

That is to say, all of the things that are being said are problematic, in this report about the Wildlife contract not having been re-tendered, if they were fair, would be a fair criticism, not of

the first GSLP administration, yes of the second GSLP Liberal administration, but also, perforce, of the GSD administrations. Because the contract fell through renewal in their time too. And they renewed it without tender. So, if it is now terrible that it has been renewed without tender, it must be as terrible that they renewed it without tender.

And all of the effusiveness that has accompanied the report, insofar as it deals with Wildlife Ltd having had its contract renewed without tender, as being an absolutely unacceptable thing, must be effusively unacceptable, as much about the GSLP Liberal Government as it was about the GSD Government. Although remarkably, much of the effusiveness has been led by people in the GSD, and indeed, people who were Members of the GSD Government, which I will come to, Madam Speaker. Anyway, due to the company's very satisfactory work, their specialist skillsets, and for the purposes of continuity, Madam Speaker, the Department of the Environment no longer considered it necessary to retender these services.

And the report sets out a disagreement with the Department as to how the Principal Auditor takes the view, the author of the report takes the view, that the matter should have been dealt with. The position in the report, Madam Speaker, at 3.7.15, is that by not going through the tendering process, although it does not say, through successive Governments, not going through the tendering process, no aspersions are cast on those who did not go through the tendering process before, or not re-tendering for a terminated contract, in order to ensure continuity of the existing service provider, the author of the report concludes that this omission carried legal, financial, reputational, operational, and strategic risks. The Government strongly disagrees, Madam Speaker. And I assume, Madam Speaker, that when I say, the Government there, I must be speaking, perhaps for the first time on a national issue rather than an international issue, I must be speaking for the GSD Government of 1996 to 2011, as much as I am speaking for the GSLP Liberal Government of 2011 to 2025 to date.

I must, Madam Speaker, unless the damascene conversion backwards, that hon. Members appear to have had in some of their public statements, is going to be brought into this house for analysis as well. So, on behalf, Madam Speaker, of the GSLP Liberal and the GSD administrations, of 1996 to 2025, the Government strongly disagrees. Because I am going to give the benefit to hon. Members of tarnishing them with the same brush that they have purported to tarnish us.

But it is a tarnish, Madam Speaker, that I would say is akin to varnish. Because we think it is the right thing to do, and they thought it is the right thing to do. It is only the report, Madam Speaker, that fails to identify that this failing is cross-administration and cross-party. And I will not speculate about why the report does that, Madam Speaker, because I do not think I have to. I think everybody can take their own view in that respect.

Madam Speaker, I am going to set out other areas of the report in respect to Wildlife Ltd, which the Government also strongly disagrees with, and then I am going to deal with the whole of the reasoning why.

You see, Madam Speaker, the report even referenced something it referred to as the perception of corruption. Not corruption. And I have seen that game played on many occasions, Madam Speaker.

Because there are Members of this house who have in the past referred not to corruption, and when They have been challenged on this, I am not talking about corruption. I am talking about the perception of corruption. That is to say, when somebody talks about corruption, they have to prove that they are saying there is a corrupt practise.

When somebody talks about the perception of corruption, what they are saying is there is no corruption. But it could look like there might be, even though there is not. Because if there is corruption, the route to deal with it is corruption.

Complaint, police, investigation, prosecution, or at least enquiry, debate in this House, reference. Of course, absolutely, That is what you should do if there is corruption. But what are you doing if you are saying perception of corruption?

What you are saying in a veiled way, and it is important for me to pull away the veil, and there may be up to seven of them that I have to pull away during the course of just this morning, there

is no corruption. So, what the author of the report tells us, if we are clear in our understanding of it, is there is no corruption. But there could be the perception of corruption.

In other words, you have not followed the right procedure. The procedure that we have not followed is the same one that they did not follow. The failure to retender.

195 So I will say, on behalf of successive administrations of Gibraltar since 1996 to 2025, that there is no corruption in the Wildlife LTD contract, and that is the position of successive Governments. But let us look at what the report says. 3.7.12. Perception of favouritism or corruption. Other suppliers or stakeholders, that is to say, not the author of the report. The author of the report is not saying that he perceives favouritism or corruption. The author of the report is putting himself
200 in the presumptive mind of third parties.

And he has not exhibited in the report any letter of anyone else who has said that they have written in to him to complain. Or that somebody has written in to the Department of the Environment to complain.

205 Other suppliers or stakeholders...

Says the report at 3.7.12,

...may...

210

It is not that they will, it is that they could,

...view the decision not to retender as biased, particularly in the case of the management and maintenance of the Alameda Gardens, Commonwealth Park, Campion Park, and Alameda Rock areas, where the family connection between
215 the director of Wildlife Gibraltar Ltd. and the Minister of the Environment can lead to loss of trust in the procurement process.

Madam Speaker, that is so caveated that one wonders why the headline is so eye-catching. Perception of favouritism or corruption.

220 Others, suppliers or stakeholders. I wonder what that is, Madam Speaker, a stakeholder. Because a stakeholder is not a word that references anything or anybody in particular.

It is an open word. Supplier is easy. Supplier is somebody who supplies.

Stakeholder is wide. Is it the people of Gibraltar? Are stakeholders in Gibraltar PLC?

Is it somebody who is also in the business? Is it other Civil Servants? Who is it, Madam Speaker?

225 Who are suppliers or stakeholders? This is a report of a Principal Auditor. One expects absolute clarity and accuracy. No backdating of letters or anything like that, Madam Speaker. And certainly, clear language. *Suppliers or stakeholders may*, it does not say will obviously take the view.

It does not say that. It says *may view the decision not to retender as biased*. So, it is not even the decision to do a direct grant.

230 Because the process has gone through tender just some time ago. The decision not to retender as biased in those areas. *Where the family connection between the Director of Wildlife and the Minister for the Environment can lead to loss of trust in the procurement process*.

Madam Speaker, with the very greatest respect to the author of the text. There was no procurement process. So, the two sentences are contradictory.

235 Because the second sentence, or the second part of the sentence, is saying if there is a procurement process, the fact that one of the applicants is related to the Minister could lead to a loss of trust in the procurement process if they get it. But there was no procurement process. I mean the sentence does not bear analysis, Madam Speaker.

240 When the headline is imperative. The headline says, the title says, imperatively, perception of favouritism and corruption. It is clear.

It does not say, Madam Speaker, which would be a correct title for that paragraph, potential perception of favouritism or corruption. It says in the imperative, perception of favouritism or corruption. Madam Speaker, I am not going to do the analysis again, but I think it is clear that

sentence, which can have such a pernicious effect on trust in the procurement process, does not bear scrutiny.

In addition, Madam Speaker, the report states that the Barbary Partridge allowance being paid to Wildlife Ltd had not been formally incorporated into their agreement with the Department. Madam Speaker, the Barbary Partridge is an elusive species, as we have been told repeatedly in this House. The fact that the allowance has not been formally incorporated may be a fair thing to look at in terms of allowances, etc.

But the structure of the thing actually is designed, in the Government's view, to do that which it says on the face of it to guard against. That is to say, the sum total of this part of the report, read in its ordinary and plain meaning in the English language, in our view, if not designed, has the effect of creating a perception of favouritism or corruption. Not attacking it, not seeking to prevent it, not seeking to address it, but actually creating it.

Which, of course, Madam Speaker, is exactly what has happened. Not least, Madam Speaker, because of the public comments that we have seen, which demonstrates that whether or not it was the design that it should have that effect, that is the effect that it has had. I remind the House, Madam Speaker, of the references I made, which I will of course deal with again in my summing up, to bias being understood, not despite the protestations of an author that he is not biased, but on the basis of the actual output and what it speaks to.

At 3.17, the report also attacks the provision of other services that were being paid on the basis of the draft expenditure budget presented by the company, yet these services had also not been incorporated into the main agreement that the department has with Wildlife Ltd, such as for the maintenance of Campion Park. Again, Madam Speaker, the report contains no suggestion that any of that is wrong, just that it is in the wrong place. For an auditor to say that a payment is in the wrong place or needs to be put in a different place is perfectly proper.

It is the sort of thing that you would expect in a constructive set of points made on feedback, which you can deal with in the course of the preparation of accounts. But when you put all these things together under the heading of perception of favouritism or corruption, then everything takes a different shape. The department, Madam Speaker, not just the Minister, not just the Government, and when I say the Government, I must mean, of course, the GSD Government as much as the GSLP liberal Government.

The Department and the officers in the Department strongly contest both the manner and the substance of the report. The Government, of course, the GSD and the GSLP liberal Government strongly contest the manner and style of the references to the contract. And the timing of the memorandum, Madam Speaker, when you put all those things together, if you are going to say these things, Madam Speaker, and you send the memorandum and ask for comments, after the close of business on your last day in office and the following day, 24 hours later, you are going to issue the report without receiving the comments and including all of the comments.

Madam Speaker, this does not just violate principles of procedural fairness, which I will come to, and which it, of course, violates violently. It is nothing short of ludicrous, Madam Speaker, ludicrous. Rendering this part of the report, for all of the reasons I have indicated already, and will continue to indicate, utterly disreputable, Madam Speaker.

So, the memorandum was received, as I have indicated, at 4.25 on 30 May by the head of the Department, Mr. Warr, from the former Principal Auditor. All Government offices were closed that day at 3.30. Madam Speaker, it was the last working day in office, as I have said, of the author of the report. But That is a bit of a trick, because the following day is the Saturday, and the report, Madam Speaker, is issued on the Saturday.

It cannot be issued. The report cannot be finalised. If it is to have the capacity to be admitted in this House as a constitutionally correct report, in keeping with the criteria established by the constitution, it cannot have been finalised one second after midnight on the 31st of May.

It can be fared after that. Of course, if there are printer's errors, if there are mistakes, of course one would say they can be dealt with. But one word written in that report, after the 31st of May, 2025, by the purported author of it, which was not what we might call in another place, something

that you could change under the slip rule, Madam Speaker, that would vitiate the report entirely, and it would then have to be out of this House.

300 A new report would have to be filed. And it would have to be filed here, under the name of the current Principal Auditor, Mr. Phil Sharman. It could not stand in the name of its current purported author, Mr. Sacramento. Because There is no constitutional capacity for the author to sign off on the report, if he has signed off on it after the 31st of May. There is no constitutional capacity. There is no ability to be extended, as a judge might, to finish off a judgement because they have heard a case.

305 That does not exist. That concept does not exist, in respect of constitutional office holders like the Principal Auditor or the Chief Minister. To put it in terms that people might find easier to understand.

310 I took my oath on the 9th of December. I think, it is all a bit blurry but too much champagne had been consumed but sometime after 11.30 on the morning of the 9th of December. Constitutionally, if there had been a crisis in Gibraltar, Sir Peter Caruana, Peter Caruana as he then was, was Chief Minister after the declaration in the John McIntosh Hall, before I took my oath from Sir Adrian Johns as Governor, as Chief Minister. He might, if there had been a crisis in that time, have wanted to consult me.

315 But if a Chief Minister was required to sign something in Gibraltar before I took my oath at circa 11.30 on the 9th of December, that signature would have to be Peter Caruana. After I have taken my oath, if there is no time to appoint any other Ministers, all of the portfolios are in me and I have to sign whatever I have to sign in respect of any matter. And that can be long.

320 In fact, we did not have Ministers until the Monday, because we all took our oath as Ministers, but nobody had portfolios except me until the Monday. This is just constitutional theory. In the same way, after midnight on the 31st of May 2025, the Principal Auditor of Gibraltar has a different name to the one on this letter.

325 And this report cannot stand if this letter had been backdated, like we saw the letter to you was backdated, or anything in here of substance has been added after the 31st of May. It requires a different letter with a different constitutional postholder. So, Madam Speaker, when the letter is sent to the department after the close of business on Friday, having, if it is going to be referred in this report to extract comments as is requested in the first sentence, then at the very least, that could be said, is, I know it is a long letter, I know I am making many points, four distinct points with many sub-points in it, about tenders, expired contracts, insurance cover, and provisions of additional services, but I need your comments before midday tomorrow, because I need to incorporate them in my report, and I have to finish my report by midnight tomorrow. There is not even that, Madam Speaker.

330 There is not even a reference to the fact that the comments are needed in the next 24 hours. Because, of course, they were not needed in the next 24 hours. They could be sent at any time, and the next Principal Auditor could incorporate the remarks, and could, with this feedback, also know what the Government was going to do to amend the things which might be raised which might be proper.

335 Not a bit of it, Madam Speaker. It is all in here, in the report. So, that is a highly irregular procedure to have followed, Madam Speaker.

340 Highly irregular. And you got the letter at 8.15 in the evening, 8.14 in the evening on the Saturday night, Madam Speaker, with hours to go for the report to be completed. The Department of the Environment got the letter the day before.

345 Madam Speaker, having alerted the House to that highly irregular procedure, I think the question that all hon. Members need to ask themselves, indeed, the question that everybody needs to ask themselves, in particular, given the candescent effect of this report, in some respects, in relation to this area, and others that I have dealt with and will deal with, everyone should ask themselves this in relation to this particular part of the report. Does it seem fair to anyone to send something making very, very serious allegations, send a letter making very, very serious

allegations, after the close of business on a Friday, and not tell the person that you are seeking the comments from that you need his comments by the next day? Does that seem fair?

Because the allegations are very, very serious, Madam Speaker. And if they do not look serious here, then, Madam Speaker, they look even more serious when they are put into the report under a heading of, not even potential, but perception of favouritism or corruption. Words, by the way, which are not referred to in the letter.

So the letter does not even alert the recipient that there is going to be a section headed, perception of favouritism or corruption, and that they need to give the feedback on that. Does that seem fair to anyone? Because, Madam Speaker, talking in the first person, it certainly does not seem fair to me.

But we all have different barometers of fairness. Maybe when things affect others, we care less. So we do not care about whether things are fair or not.

But when things affect us, we would expect to be given time to reply to an allegation as serious as that. We would expect at least to be told that we are expected to reply within 24 hours. We might not sleep in preparing the response in that period.

So, Madam Speaker, I mean, assuming, as we must, at least for now, but let us assume, let us give the benefit of the doubt that this report was finalised by midnight on 31 May 2025, and the author of it intended to finish it by 31 May 2025, as the Constitution required, perish the thought that anybody was expecting to act unconstitutionally in finalising the report, something I did not for one moment suggest, Madam Speaker, then the very least he could have done was say, Stephen, at least in the covering email, I have got to do this by tomorrow. Let me have the responses by tomorrow. I am sorry it caught up with me and I am sending it late, but I need something from you by tomorrow because I am intending to put this in my report.

I am not leaving it for the next incumbent to deal with. There was none of that. Anyone, in my mind, applying a fair mind to this, would think that that is not fair.

So, Madam Speaker, let us set that time period in context. The two time periods. The letter to you at 8.15, 8.14, on Saturday night, three hours before the report had to be finalised, and the letter to the department after the close of business on the last working day. let us set that in context. let us set those 24 hours and those 3 hours that you were given in context. What is the context, Madam Speaker?

The context is that the time for the preparation of this report started on 1 April 2018. Six years before. Six years and two months before.

So, the time available for the preparation of this report is six years and two months. And everything has to be dealt with in the last 24 hours, in respect of probably the most serious part of this report, bar the nonsensical, unsubstantiated allegation that the Government or the Chief Minister acted unconstitutionally, which I demolished yesterday. Six years.

Or it could have been dealt with in the next report, because another thing that I will refer the House to is that this relates to matters in 2025. It does not have to be dealt with in the report for 2018/2019. Whether it can, we will look at. Whether it should, clearly not. Especially if you are running against the clock on the last day.

So, Madam Speaker, it is my view, and as a constitutional officer of Gibraltar, I am entirely independent, and I am entitled to take independent views, just like others. It is my view that what is very, very clear, Madam Speaker, is that the author of the letter never intended to receive any comments in time to become the author of the report that contained all the allegations and none of the explanations. If I wanted to include something serious and serious explanations in my report, I would not send it on the last day before I have to finish my report. If I wanted, despite all that, because time had caught up with me, to have those comments and explanations, I would call or email saying, I am so sorry, I need the explanations, I am putting it in tomorrow.

It is, in my view, clear that the author of the letter of the 30th of May had no intention of reflecting comments in respect of the areas that he was inviting comment on in his report of the 31st of May, which, in my view, had to have been written already. So, Madam Speaker, that is not, that is not, Madam Speaker, good audit practise. It is clear to me, Madam Speaker, that the report

was designed to contain the allegations but not the explanations, because it could not be otherwise.

Otherwise, there would have been an attempt to seek the explanations in longer time or even in the short time by alerting to the short time. Because once you receive the explanations, Madam Speaker, it is very difficult to include the allegations, at least not without providing the explanations. Indeed, that would be abysmal audit practise.

Not that there are not examples of abysmal audit practise in this report, Madam Speaker, which I will come to today and in other days. That is why, Madam Speaker, the Government considers that there was no proper time given for comment on these unsustainable allegations. Allegations, Madam Speaker, as eye-catching as the one that we dealt with yesterday on alleged unconstitutionality, and as unsustainable, Madam Speaker, as many others that, in our view, have been shoehorned into the report.

And when we look under the bonnet of the report, we see all of this evidence. The advice that we have taken, Madam Speaker, and the legal opinion that we have in respect of the late delivery of this memorandum to the Department of the Environment and the lack of adequate time given to the Department to respond, we are advised breaches the right to be heard and the principles of natural justice, Madam Speaker. Madam Speaker, this is, as I told the House on my first day, one of those instances where the unfairness is so clear and so manifest that the fruit of the unfairness, which is the report that is before the House, cannot be deemed to be reliable in any way.

That is to say, Madam Speaker, the manner in which the relevant parts of the report dealing with Wildlife have been put together render all references to Wildlife in the report unreliable and unsustainable. And not least, Madam Speaker, because the relevant explanations actually vitiate, vitiate entirely the high-profile allegations made against the Department. But, Madam Speaker, just on the flawed procedure followed on the last working day in office of the author, that is enough for any assessment of this part of the report to be considered something that should be totally disregarded - That is enough.

But because it is such an eye-catching allegation, indeed, because it is such a scurrilous allegation that has been made, it must be dealt with not just procedurally but also substantively. Moreover, Madam Speaker, Mr. Fisher, KC, highlights to the Government that the Department had previously, in fact, addressed many of the issues in the report that are contained in it, providing factual qualifications and supporting documentation, making, Madam Speaker, the tenor of the references in the report really quite also unsustainable. And the fact that there was no desire, obviously, to receive the comments in respect of these issues raised in the memorandum further indicates that there was no desire to reflect in the report what those were. Because there is a course of dealings here between the Gibraltar Audit Office and the Department where officers of the Audit Office ask for information and they are provided with it. Sometimes it takes longer, sometimes it takes shorter.

I mean, sometimes you cannot have responses in ten minutes, but they are provided. So, Madam Speaker, the Government therefore finds it shocking, and I use that description advisedly, shocking that these explanations were not reflected in the published findings, because explanations have been given. And even the explanations that have been given months before are in some instances not reflected in the published findings.

So, why seek comments if you are not going to give time and if you are not going to reflect comments? So, why seek comments, get comments, and not reflect them in your findings? Start to see there, Madam Speaker, a behaviour building up that when you are looking at the report, which is the fruit of that behaviour, one cannot fairly say, I am going to rely on the report.

Of course, Madam Speaker, as I started saying, the report contains what, in our view, are improper insinuations against the Department and its officers, against the Hon. Minister and his wife. Mrs Cortes, Madam Speaker, holds no public role, and she should not have been subject to these highly unfair, highly inappropriate public allegations. And not because comment on such matters is not allowed.

Far from it, Madam Speaker. Perish the thought that we were ever to live in a community where it is not possible to say, hang on, it is the Minister's wife who is the director of the company. That is not the place in which we live.

Of course you can say that. Of course, those things can be addressed. But they can be
455 addressed in different ways which are appropriate and ways which are not appropriate.

And the report of a Constitutional Officer in our community has to be a serious piece of work, properly compiled, that deals with things in the proper way. The report of a Principal Auditor is not a transcript of a chat in the Piazza, Madam Speaker. It is not a transcript of what a couple of people who do not like a Minister might say when They are having a chat.

Far from it. It is a serious, or should be, a serious piece of work. Madam Speaker, at page 36 of
460 the Hansard, for Monday 17 May 2021, in answer to Question 20 of 2021, the Hon. Minister for the Environment, Sustainability, Climate Change and Education, as he then was, in the GSLP Liberal Administration of 2019-2023, answered a question from the Hon. D J Bossino, who was still then in Opposition, and it dealt with Commonwealth Park and the maintenance contract and the total
465 amount, Madam Speaker, and a discussion about who were the directors led to a couple of points of order being made, etc., the usual cut and thrust of politics, Madam Speaker. On page 21 of the Hansard, for Friday 26 May 2023, in answer to Question 390 of 2023, the Hon. Minister for the Environment, Sustainability, Climate Change and Education, this is still under the 2019-2023 administration, answers a question from the Hon. Mr Bossino, also in relation to that subject, on
470 Campion Park, the contract details and the running expenses, Madam Speaker. So, there is extensive discussion on that.

And then, Madam Speaker, further discussion in supplementaries in relation to Question 517 on 20 June 2023, at page 47 to 48. Further discussion also, Madam Speaker, on page 24 of the Hansard for 22 May 2024, in respect of Question 446 of 2024. And I think I can see, I am just trying
475 to get the references right so that all hon. Members can then check this if they wish.

References, I think in budget speeches here, at pages 43 and 44 of the Hansard for 4 July 2024, and at page 20 of the Hansard of 2024, I think in answers to questions, Madam Speaker. So the matter is ventilated, Madam Speaker. Well before 31 May 2025, there was a lot of discussion in the Hansard about the issues.

Indeed, Madam Speaker, I will come to further explanations provided. But what you cannot
480 do, Madam Speaker, if you are going to produce a fair piece of work, is ignore all of those explanations and just put all of the allegations. Because the work that you produce, the fruit of that, is then not a fair piece of work.

Especially if those things are in the public domain. And you might say, Madam Speaker, well,
485 you know, what happens in Parliament is hardly the public domain, people are not watching, people are not listening. But I have been reminded repeatedly, Madam Speaker, by commentators outside this House, who did not need to remind me because I am fully aware of it, that the Principal Auditor is in this House.

And the Principal Auditor could be sitting here. He is a Member of this House. So is the
490 Ombudsman.

So, things said in this House, although somebody sitting on Eastern Beach who has no interest in politics might say, *no me enterado*, I have not heard, I am not aware. A Member of this House who is not here because he is away doing something else might say, well, I was not there, but I recognise I am fixed with knowledge of it and if it is pointed out to me, it is in the Handsard, there
495 it is. The Principal Auditor, who is a member of this House, when he puts his pen to authorship of a report, must be fixed with knowledge of all of the things said in this House.

Namely, the explanations for some of the things that he is raising specifically. And so, Madam Speaker, how can the report not demonstrate knowledge of explanations given in respect of those self-same issues set out in the report? How can it be written in apparent ignorance of those
500 things?

Even if the explanations are not accepted, a fair audit report would reflect those explanations. Indeed, from recollection, although I have not had time to find them, Madam Speaker, I believe

that many of those exchanges were widely reported by the media, which might have been the reason why the questions were asked, Madam Speaker, by those who might want to be widely reported in the media. That is a matter for them.

But they were widely reported in the media. So, even the person at Eastern Beach that I referred to earlier, the person I hope to be very soon, Madam Speaker, sitting on Eastern Beach, not following the proceedings of this House, Madam Speaker, even they would have to have eschewed reading any local newspaper, watching any local television station, or glancing at social media and seeing the references by those media organisations in social media to say, well, I was not aware that this had been explained or dealt with in the House. It would be very unusual, Madam Speaker, if a Member of this House who is a Constitutionally Independent Officer of the Parliament is not aware of the fact that the things that he is going to put his pen to authorship of in the report has been debated in the House and at least reflect those explanations if he has not had time to wait for the explanations from the Department, unless he did not want to, Madam Speaker, wait for those responses or reflect the responses already given. Because the allegation, Madam Speaker, I mean, I seem to recall the allegation, and the title of the paragraph is not a million miles away from what has been suggested in this House. I mean, there is a remarkable synergy, Madam Speaker, between what the author of the report says here and what has been said in this House to us by hon. Members opposite - Remarkable synergy.

But look, Madam Speaker, oppositions do not always have to be wrong. Oppositions can be right. And if an Opposition is right and another Constitutional Officer of the Parliament says the Opposition is right for a reason, not a policy issue, because it cannot be on a policy issue that an auditor makes a comment. But if the Opposition is right that the treatment of something in the accounts is incorrect, then the Principal Auditor might say, without saying the Opposition is right, he might say, the treatment of this part of the account is incorrect and it should be treated in this way. The Opposition will then say, look, we said this in the House and the Principal Auditor said this.

This, which is in the Principal Auditor's remit to say accords to what we said. If the Principal Auditor goes off-piste and talks about things he should not be talking about, we will be dealing with a lot of those, Madam Speaker, in the next few days, well then the Opposition should be cautious in relying on his comments there. But here, Madam Speaker, what you have got is a comment in an auditor's report with a title not dissimilar to the things that Members of the Opposition are saying, ignoring, not saying, I prefer this argument or the other, which would be bad enough, actually ignoring everything that the other side have said happens to be the Government and happens to be the department feeding responses to the Gibraltar Audit Office in respect of some of these areas. Madam Speaker, following some of the exchanges that I have referred the House to here in Hansard, my hon. Friend wrote to the then Speaker of the House, I think your predecessor from the date, 4th of July, 2023, where he set out as follows:

Wildlife Gibraltar Limited was created by me in 1991 with my holding 60% shares and my wife, Valerie, holding 40% shares. I was at the time managing director with a salary coming from my contract with Government at a level set by Government. Neither my wife nor I, either then or since 1991, have received any fees as directors. I run the company totally on a not-for-profit basis with any surplus of income over expenditure being redirected into further improvements in the Alameda Gardens.

This is on record and was well known by all previous Governments, including the GSD administration, when the hon. Leader of the Opposition was Minister for the Environment. On being Elected to the House, I immediately passed my 60% to Dr Keith Bensusan, then my Deputy Director. My wife retained the 40% as a nostalgic link to the company and Botanic Gardens that I had created, but still, and I repeat to this day, does not receive any benefit of any kind whatsoever, directly or indirectly, from any of the company activities.

That was also said by the Minister into Hansard and the Speaker. That is in Hansard. So, if somebody is going to say that the familial relationship between the Director and the Minister creates the perception of, or may create, does not even create, may create the perception of corruption in stakeholders and suppliers, they should say, in our view, to balance it, although the

shareholding does not produce any profit and the companies run on a not-for-profit basis reinvested into the Alameda Gardens.

Because that kills the suggestion that There is any potential, even perception of corruption. Madam Speaker, this is Gibraltar. When that is understood, when that is put into the melting pot, 560 what there is a perception that Dr Cortes and his wife are foolish and they should be pocketing some of the money.

Because they must be one of the few people who do not take any Director's fees and who are putting everything back into the Gardens and putting nothing into their pocket. Nothing into their pocket. And you retender a contract and you put out that contract and you say, the contract is to 565 do this and that and, by the way, that any profit should be reinvested into the Alameda Gardens.

The same people who are foolish enough in the perception of most Gibraltarians who quite like money in their pocket to put the money back into the Alameda Gardens now are likely to be the only person who would tender what you put it that way. Perception of corruption, perception of altruism, perception of acting properly, perception of being committed to the thing that has 570 been the life's work of John Cortes, the Alameda Gardens. Find me more Gibraltarians who would be prepared to do a job not for profit.

None of the ones who come to my office to look for contracts or employment, Madam Speaker. And if there is criticism of this with the eye-catching headline perception of corruption, it is because people are saying, oh, what's that? It is very unfair because I should have had that 575 contract.

That is Gibraltar, Madam Speaker. let us put it in its proper context. And when you put it in its proper context, it is unsustainable to put such an eye-catching, scurrilous, disreputable allegation against reputable people who are giving everything that they make back into the Alameda 580 Gardens.

Not to even reflect that, not to even reflect that and say, but I still disagree because I am a stickler for procedure and I think you should put it out for tender again, even if you are the ones to get it. It is a position. But not to reflect that, which is in the public record, of the Parliament of which the author is a Member must set hares running.

My wife retained the 40% as a nostalgic link to the company and Botanic Gardens that I had created, but still, and I repeat to this day, does not receive any benefit of any kind whatsoever, 585 directly or indirectly, from any of the company's activities. And all of the profit reinvested into the Alameda Gardens. I want to say, Madam Speaker, thank you to John Cortes and to Valerie Cortes for that.

That is what I want to say. I want to say it as a Gibraltarian who takes his children to the Alameda Gardens. Who wants his children to take their children to the Alameda Gardens. 590

And who sees how magnificent the Alameda Gardens are today. Now, Madam Speaker, moving on. Public procurement rules require open competition.

Of course they do. Absent narrow exceptions. But the narrow exceptions exist for a reason.

And indeed, those narrow exceptions in many instances are not our exceptions. We have not created them. Neither did hon. Members, although there was one particular contract which has 595 never been mentioned in an auditor's report, which failed to comply even with those exceptions.

We can talk about that if hon. Members like, Madam Speaker, later on during the course of this debate. But the Gibraltar Procurement Public Sector Contracts Regulations 2016 implement EU rules. The regulations change as EU rules change whilst we were members of the European 600 Union.

And those permit direct awards only in specific specified cases. For example, the regulations explicitly allow using the negotiated procedure without publication for additional deliveries by the original supplier of goods or services where changing the supplier would cause technical incompatibility or disproportionate difficulty. And Wildlife Gibraltar, Madam Speaker, has since 605 1990-91 provided highly specialised services in relation to Heritage Gardens and gull control.

On these facts, Madam Speaker, the department is entitled to rely on Regulation 32 to preserve continuity and avoid disproportionate disruption. We have another, Madam Speaker, similar contract. Another similar contract with Land Property Services.

610 It is been ongoing, Madam Speaker, for the same period. It is been extended by successive administrations. It was created by the first GSLP administration.

It was extended by the GSD administration. It is been extended by the GSLP Liberal administration. Exactly like the Wildlife contract, Madam Speaker.

615 Rightly, Madam Speaker, rightly, and I make absolutely zero criticism of this in respect of the good men and women of LPS who deliver an excellent, magnificent, ever-improving service to the people of Gibraltar. That is a for-profit contract. In other words, if there is any profit at the end of it, they do not plough it into the Land Registry.

They are not required to do so. The Government funds the Land Registry through the contract, just like it funds the gardens through the contracts. The Cortes family plough all their profits into the gardens.

620 I do not want to take my children for a walk around the land registry, Madam Speaker. It is a different beast, but it is a contract for profit, and it has been extended in the same way and not retendered in the same way as the Wildlife contract. And again, I make absolutely no criticism because Land Property Services is a success story of the first GSLP Liberal, the first GSLP administration with its contract extended by the GSD and by the GSLP Liberals in exactly the same way as the Wildlife contract with nobody saying that there is a problem in that respect.

625 Regulations 25(1) and (2) of the regulations I was referring to earlier, Madam Speaker, requires contracting authorities to prevent situations where officials' personal or family interests might be perceived to compromise impartiality and independence in the context of procurement procedure. That is very specific. But that does not mean, Madam Speaker, that any family connection automatically vitiates a contract.

630 It does not vitiate a contract. Why, Madam Speaker? Well, because there have to be exceptions even to that rule.

635 Not exceptions that we have set out in the GSLP Liberals to help Valerie and John. Exceptions that are set out by the EU and by the case law of the UK and the EU. In the Good Law Project v the Cabinet Office in 2022, the Court of Appeal rejected the argument that personal links alone establish illegality, holding that perception of bias must be assessed in context.

Critically, Madam Speaker, the Court confirmed that a mere personal link between decision-makers and the supplier does not itself prove bias or invalidate an award. Now, let us just pause for a second there, Madam Speaker. I have told the House.

640 This case was not Ignacio v Clinton in the Gibraltar Supreme Court. This case was not Picardo v Azopardi in the Supreme Court. Madam Speaker, this case was the Good Law Project v the Cabinet Office.

645 In the United Kingdom, a nation of 60 million people, in a nation of 60 million people, you might say, for goodness sake, could not you find someone who did not have a personal link to the person that is going to supply the contract? The claimant is the Good Law Project. The defendant is the Cabinet Office.

It is the United Kingdom Government That is the defendant to this. The United Kingdom Government has many people it can put on a board to determine whether a contract should be provided or not. And there are 60 million people to give the contract to.

650 In that context, Madam Speaker, 480 million people because the whole of the EU at that time would have been able to tender for the service. And yet, there was a familiar link between the person assessing the tender and the person who got the tender. You would have thought that people would understand that in a nation of 32, maybe 38 when the census finally reports, thousand people, sometimes it is harder to have people who are not linked to each other.

655 But even then, even then, That is not enough to, on its own, prove bias or invalidate an award. Not enough to make a perception of bias, which is what the suggestion of perception of favouritism, of corruption, set out in the report suggests. Not enough on its own.

It has to be put in context. And of course, the context is everything that I have told the House, everything that the Minister had told the House, everything that had been said in exchanges, everything that had been said in earlier correspondence with the author of the report, none of which is put into the context of the report. None of which.

So, Madam Speaker, for all of those reasons, the finding of the report is wrong when it is borne in mind that the Minister's wife held 40% of Wildlife Gibraltar Limited but derived no financial benefit and had no involvement in the award process. And that the Minister had no involvement in the award process at all, Madam Speaker. So, Madam Speaker, that makes entirely unsubstantiated the accusation of favouritism because a familial connection does not *ipso facto* equate to corruption.

The mere possibility of perceived conflict cannot displace a statutory procurement exception properly engaged. And the substance of the allegations, Madam Speaker, must be carefully considered further because as we have said, Mrs. Cortes, although she is related to the Minister, has no public office and is a private individual. And merely to suggest that she is improperly benefited when there is evidence already in the public domain that she is deriving no benefit from a Government contract without evidence is inappropriate and, in our view, potentially, if not actually, defamatory. The Defamation Act and the common law, Madam Speaker, protect private individuals from false statements that damage reputations. And that unsubstantiated insinuation of potential does not even say potential, but perception of corrupt practises is potentially defamatory, especially now as it lies on the public record because she received no financial benefit from the company and that was known and that was also on the public record.

It is as if, Madam Speaker, the report, instead of cataloguing and determining facts after serious investigation, is just a collection of enquiries sharing idle and unsubstantiated gossip. And, therefore, the report does not rise to meet the seriousness and standard which a report of this nature must necessarily actually be prepared to stand up to and set out only clear and objective facts, in particular in respect of Wildlife Ltd. And in this respect, Madam Speaker, the report does not just fall into massive error.

The report unfairly and improperly tarnishes the good reputation of a private citizen. That, Madam Speaker, must mean if we give the benefit of the doubt to the author, that there is a complete and total failure of diligence on his part, Madam Speaker. And that is giving the benefit of the doubt.

Because it becomes an unpardonable failure that entirely vitiates, in our view, Madam Speaker, the reliability that can be placed by any neutral, non-partisan observer on this part of the report. Just as any neutral, non-partisan observer will have determined that the parts I dealt with yesterday in relation to the Savings Bank also are not reliable.

Madam Speaker, in view of the fact that the advice we have is that retendering could disrupt service continuity and diminish quality, I am very clear, Madam Speaker, that improper application of Regulation 32 of the Procurement Regulation, which explicitly allows direct negotiation in such cases, and by the report's omission to consider that provision as relevant, it is right that the legal opinion that we have should tell us, as it does, that the criticism contained in that part of the report is fundamentally flawed in law also.

Our opinion states that the report in reaching this conclusion failed to consider relevant factors and fell into error as to the applicable legal principles. Additionally, Madam Speaker, we are advised that the omission of key factual contexts in the report that makes it strongly arguable that the former Principal Auditor's criticisms were misleading and unbalanced, Madam Speaker. Finally, Madam Speaker, we are advised and note that where contracts had technically expired and services continued under existing terms to prevent disruption, that is understood to be common and accepted practise.

Insurance coverage was in place for all but one provider, with compliance actively pursued. And again, these facts were omitted, resulting in a misleading portrayal of other aspects of the operation of the department. Therefore, Madam Speaker, what we have is a misleading portrayal, which leads only into one consequence, Madam Speaker, a misleading report in this respect.

710 That is what we are dealing with here, therefore, Madam Speaker, a misleading report. Madam Speaker, I just want to make sure that I have had an opportunity to refer the House to all of the pertinent documentation. I think there is one further thing I want to draw the attention of the House to.

715 Yes, Madam Speaker, and that is the detail that was provided by the Department of the Environment in a request to comment in October 2024, which dealt with many of the same issues and was extensively provided for. Then also requests for information in respect of procurement procedures generally, which also dealt with this department. I think that is better dealt with when I deal with the procurement aspect of the report because it then crosses into Northern Defences, etc, which I will deal with separately.

720 And perhaps most importantly, Madam Speaker, which I think it would be useful for the House to be aware of, the fact that I have it here somewhere. In July, let me just give the exact date so that the House has it for the purposes of the Hansard. On the 9th of July, 2025, the department, through its senior officer, the chief executive, rather, Stephen Warr, replied in detail to some of the issues referred to in the former Principal Auditor's letter to the current Principal Auditor, Mr. Phil Sharman. So, reports and replies were coming, Madam Speaker. They just had to be expected. But of course, they could not be expected in 24 hours, and one is led to wonder whether they were indeed explanations which were wanted by the author of the report, or whether he simply wanted to put out the allegations.

730 Madam Speaker, in these circumstances, it is also the view of leading counsel in London advising the Government that this section of the former Principal Auditor's report, the 2018/2019 report which we are considering, should be withdrawn. And for that reason, Madam Speaker, the amendment that I will propose to make of the motion as drafted will include a reference to this part of the report therefore being rejected by the House. Madam Speaker, before I move on to dealing with housing allocations and matters relating to GIC, Gibraltar Industrial Cleaners, I propose that the House should now recess for 15 minutes until 11.30 a.m.

Madam Speaker: We will recess until 11.30 a.m.

The House recessed at 11.18 a.m. and resumed at 11.32 a.m.

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Madam Speaker: Yes, the Hon. Chief Minister.

Chief Minister (Hon. F R Picardo): Madam Speaker, thank you. I am now going to turn to the issue of housing allocations which has also been an area that has been referred to in the report by the former Principal Auditor and noting that the report for the first time in history has reviewed 25 Government housing allocations and reported several alleged irregularities.

750 Never before has any Principal Auditor reviewed housing allocations. Madam Speaker, we are going to go through what it is that is said about those. These include, Madam Speaker, allegations that there were no documented policies governing allocations concerns about aiding allocations made to applicants who were not first on the waiting list noting direct interventions by me in seven cases alleged discrepancies between Housing Allocation Committee minutes and outcome letters and a specific case involving a previous homeowner receiving an allocation.

755 So, I am going to go through all of those, Madam Speaker. The report, Madam Speaker, concludes that my involvement, the Office of the Chief Minister, in housing allocations may have been wrong and contrary to law citing the absence of formal gazette designation and suggesting a lack of procedural transparency. It also recommended, Madam Speaker, the creation of a formal documented policy to govern discretionary allocations of housing.

760 Madam Speaker, the House will also be aware, of course, that the Government has strongly refuted the report's conclusions outside of this place in exchanges with different organisations

and Members opposite. We have asserted and we continue to assert that the report has misinterpreted both the legal framework and long-standing ministerial practise. The Housing Allocation Scheme, Madam Speaker, and internal procedures do exist.

765 Indeed, they are about to be redone, and the Minister and I have had extensive discussions about policy matters. The Cabinet is to discuss the final outcome of those policy decisions and, indeed, there are serious international legal issues that arise. We have had to discuss matters with the Attorney General on a number of occasions.

770 It is included reference to the independent monetary authority set up under the withdrawal agreement which was providing for a protection mechanism in the United Kingdom and Gibraltar for those who had rights under the withdrawal agreement. So, there is a lot at play in respect of housing allocations and the Housing Allocation Scheme and the recasting of it, Madam Speaker. Moreover, it is absolutely true that ministerial discretion has been exercised in exceptional cases in relation to housing matters since 1969.

775 That is to say, since the House of Assembly was created and since we have Ministers. And that is legally supported, Madam Speaker, by section 2 of the Housing Act of 2007 made by hon. Members party when they were in Government which defines the Housing Authority and gives it a specific designation. So, everything that happens in respect of housing is done by the Housing Authority.

780 Now, the Housing Authority, Madam Speaker, might bring in mind an agency or a group of people acting together as the Housing Authority, the designated Housing Authority. It sounds like an organisation. It sounds like a group.

785 But what hon. Members opposite did when they passed the Housing Act in 2007 was that they designated as the Housing Authority the Minister with the responsibility for Housing or any person designated by Government. So, although in high highfalutin terms when you look at the act you see all these things and allocations being made by the Housing Authority and it brings in mind a group of people bringing their determination to the allocation, behind that by the artifice that hon. Members party brought into play in 2007 is just one person, the Minister for Housing. The act could just as easily have said the Minister for Housing shall do all the things that the Housing Authority shall do.

790 But of course, perception Madam Speaker, that word again, perception mattered to hon. Members opposite when they were in Government and they wanted to create the perception that this was not a GSD Minister doing these things, this was a Housing Authority doing these things. So, Madam Speaker, let us just cut to the chase here. The first thing to note Madam Speaker is that the Housing Act which I am referring to vests the general control of public housing in
795 Gibraltar, general control of public housing in Gibraltar in the Housing Authority and it empowers the Housing Authority to publish the scheme in the Gazette.

800 So, all of that is power given to the Minister. So, what we have emphasised before Madam Speaker, outside of this place and I will confirm in this place, is that of course in the past Ministers have had to make direct allocations in appropriate cases. That is not just legally right because the Housing Authority is the Minister, and the Minister has general control of public housing.

805 It is also socially right, and it is also expected. That is to say this community believes that it is appropriate, it is proper, and it is acceptable that a Minister should make a housing allocation in the right circumstances. That is why Madam Speaker, in their time in Government and in our time in Government, most of the people that Chief Ministers, Ministers for Housing, will see are people coming to say I have got a huge housing problem, and the list just does not recognise how difficult my situation is.

810 The list fails to identify this issue as an issue that is immediate. Of course, to a very great extent Madam Speaker, apart from the international issue, Spain, self-determination, the United Nations, our relationship with the United Kingdom, now our relationship with the EU, the key thing in Gibraltar politics is housing. Probably just edging out, just edging out issues relating to health, probably just edging out issues relating to health because health is good and you are dealing with the problems, not with the thousand cases, but housing because of the size is always a challenge,

and definitely edging out, at least in our time, employment, because we have got four or five people unemployed, and therefore people do not come to ask to see us on employment issues so much, of course they do, on health issues so much, of course they do, they come to see us on housing issues.

And during elections it is our promises on housing that are as important as our promises on international issues and our commitment on international issues. The public expect that we are going to be engaged with them on housing issues. That it is the list, of course that matters, and where they are on the list, but sometimes things happen and the list fails to be the right mechanism for an allocation.

And people expect to be able to see someone to deal with it. Let me give you an example, Madam Speaker, of what I am talking about. People do not expect housing in Gibraltar to be dealt with by an algorithm.

And that is what the list is. The list is an algorithm. You get points based on certain factual things, and those points put you in different places on the list.

There are things that continue to happen, like you are on the list for a particular period, once you are on the list for another year, you get points. If you have another child, you get more points. If that child is a different sex to the other children, you get more points. If you get married, you get more points. If you are overcrowding, you get more points. All of these things give you points.

That is, in Gibraltar housing terms, not so much automated, but the algorithm that puts you in different places on the list and once you are in the top five, then you are getting allocations and offers based on each of the lists. There is not one list.

There are many lists. There is the 1RKB list, the 2RKB list, the 3RKB list, the 5RKB list, the 5RKB list, the 6RKB list, the "we do not even fit in the 6RKB list". There is the medical housing list, There is the social housing list, There is the medical A, B, C.

There is all of those lists, Madam Speaker. All of them have their particular algorithm that goes with them. The doctor has said this, the doctor has said that.

These are the issues, mobility issues, not mobility issues. You are on the medical list; you are on the social list. All of those things.

The court has ordered a social services report; there are issues with the children. You go further up the list but that gives you points.

It is the algorithm. Now, what nobody in Gibraltar expects is that we sit back, we let the algorithm do its job, and when you get to the top of what the algorithm says is your moment, a robot comes along, hands you keys, and that is your hope. That is not how housing works in Gibraltar.

Perish the thought that it ever should but it appears to be what the principle orders are suggesting should happen. I do not believe that would be a good system for Gibraltar.

I believe we have a good system, we are going to recast the allocation scheme to make it better. I hope that we will be able to brief hon. Members before we do it. I hope that we will be able to have unanimity on it.

But what we are recasting there is the algorithm. I would advise, Madam Speaker, that no-one on that side of the House or on this side of the House or anyone listening should ever think that it would be appropriate for the circumstances of Gibraltar, or indeed anywhere else, that there should not be a human being able to intervene in the right circumstances. Perhaps that is not even what the report suggests, because the report suggests, well, look, there were five instances where this was properly supported by documentation.

So, the report seems to say it is OK, because there was proper documentation that in these five instances the allocation was made because I understood how people had been taken, plucked out of the algorithm and immediately allocated a home. It is not something that is done easily, Madam Speaker. One of the things that we have to be most discerning about in politics in Gibraltar, and believe me, you learn by a fraction of time, is that people can try to pretend to have immediate circumstances requiring allocation and it is soul destroying when you find that that is not true.

865 It has happened to me on more occasions than I would care to remember. It has never happened to me, thanks to the diligence of the officers who work with me in my community unit, Denise, Louise-Anne, and Amy, because I usually tend to find out that I am being sold a pup before the pup has been given a kennel. But there are many, many, many instances where Ministers for Housing and Chief Ministers are the subject of attempted pup sales.

870 And you get taken in, Madam Speaker, because you are in politics because you have empathy for people, otherwise do not bother being in politics. And if you have that empathy and you want to help in the right circumstances, it is soul destroying when you find that you have been lied to. But, apart from dealing with the international issue, Madam Speaker, one of the reasons that I am in politics is to find those nuggets of gold, whether it is people who do fantastic work in our
875 community that we can propose for recognition in state honours, those nuggets of gold are people who are nowhere to be seen, and yet they are doing the magnificent work that makes us the community that we are, or to find those people who really, really, really, really need help.

The ones to whom computer should not say no and even if computer is saying just not today, it is going to take another three months. In some instances, three months can mean the difference
880 between life and death.

It can mean the difference between being battered again by a partner that is beating you every night, and the children watching or plucking you out and putting you in the right place immediately. That is what we are dealing with here and if in two cases, out of the many that I have dealt with, because the inspection dealt with 18, identified that five were properly dealt with
885 when I intervened, and two were not.

If in two cases of all of that, the paperwork has not been put in order, well, Madam Speaker, fair enough, That is a recommendation that has to be followed to make sure that in those instances where the paperwork was not put in order, we go and put it in order now, and we ensure that in future we always put it in order. Sometimes you are running, Madam Speaker, especially
890 when you are trying to save someone from a very difficult situation. And if sometimes we have run and have not put in place the paperwork, it does not vitiate the value of what we have done, it just vitiates the record, and the record must be corrected, and I have absolutely no complaint in that respect.

I have absolutely no complaint with the suggestion that the Principal Auditor makes in the report that we might want to put in place something that covers this in some way, so that people are objectively aware of it. It is not a bad idea, Madam Speaker but something already exists in that respect, which the author of the report appears to ignore.
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Madam Speaker, I want to explain to the House how the allocation of ministerial portfolios works, before I get into the detail of what it is that I want to say in other respects, because it would make it easier to show how these things have been done entirely, legally, properly. And I want to go back, Madam Speaker, again, to the happy day I was referring the House to before, which is the 9th of December 2011. On the 9th of December 2011, when I took my oath as Chief Minister, I was the only person in the House who was holding portfolios.

All others were waiting to hear what those portfolios would provide for. The Deputy Chief Minister and I were working on that over the weekend, but indeed, even the post of Deputy Chief Minister is not a ministerial designation when you take the oath. You take the oath as Ministers.
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Everyone takes the oath as Ministers. I take the oath as Chief Minister, something which will now only live in my memory, because it is never going to happen again. In that moment, the person who takes the oath as Chief Minister holds all of the portfolios.

910 So let me just give this example. On the 9th of December, when I was sworn in as Chief Minister, before I gave advice to His Excellency the Governor for particular directions under the Constitution, under Section 46(1), I was as much the Minister for Housing as I was the Minister for Health. I mean, everybody knew what they were going to get at that time, and just as Joseph and I worked on the less high-profile issues... the Deputy Chief Minister and I worked on the less high-profile issues, ministries that we wanted to distribute, but everybody knew what they were going to get.
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But they could not go off to the hospital and be Minister for Health because there were no particular directions under the Constitution. So, if a document needed to be signed as an emergency by the Minister for Health, for example, between Friday the 9th of December and Monday the 12th of December, it would have had to be signed by me. Thereafter, Madam Speaker, particular directions are issued under the Constitution, it is issued in the Gazette, and then you know which Minister is responsible for what.

So, when you go to a law and it says, and the Minister for Finance shall do this, you know who the Minister for Finance is because you go back to the legal notice that sets out the particular directions under the Constitution and that tells you who is the Minister to sign. Let us look at the Minister for Financial Services, for example. The Minister for Financial Services has responsibility under the Constitution for financial services, gaming, taxation, all of the many other things that the Hon. Mr. Feetham does so ably, and at the bottom of his designation, the following words: *The administration of Government Departments charged with the aforesaid*. So, what is constitutionally the obligation of a Minister are the portfolios he has been given under the particular directions and the administration of Government Departments charged with the aforesaid. In the example I have given you.... Financial Services, Gaming, Taxation, Postal Services, Data Protection, the Chair of Giblecom and Justice and all the things that Justice provides for.

The administration of Government Departments charged with the aforesaid. That is repeated across all of the Ministries, including my own. So my responsibilities are the economy and financial stability, all of the other things that I do, and the Administration of Government Departments charged with the aforesaid.

The responsibility of Pat Orfila, the Hon. Pat Orfila, is Housing, the Housing Works Agency, the development of affordable co-ownership estates, the development of rental housing, the University of Gibraltar, and the Administration of Government Departments charged with the aforesaid. So, when the Housing Act says the Housing Authority shall be the Minister for Housing, the Minister for Housing when you go to the particular directions is Pat Orfila, the Hon. Pat Orfila, who has Housing. Housing Works Agency is designated by name to be Minister for Housing and has the administration of Government Departments charged with the aforesaid.

So, the Principal Auditor's report says, what was the Chief Minister doing making these allegations? Because he is not the Housing Authority. You need to put in place some legal power to do that.

Ah, but. Is it that this Member of this Parliament is not aware of what the Gazette says? Because what the Gazette says in the responsibilities, I have given myself in consultation with my Ministerial colleagues at the time of designation of portfolios says this at the end: *The administration of Government Departments charged with the aforesaid* but instead of a full stop, there is a comma, *Overall responsibility and supervision of Government Departments and Public Administration*. What does that mean?

Well, I have to tell you, Madam Speaker, I know unfortunately too well what that means. Because, as all hon. Members will know, we have the very sad situation where a Minister in one of our Governments passed away whilst in Government. The Hon. Charles Bruzon, who we always remember fondly.

So, we lived through having to understand what happens when a Minister dies and before you designate another Minister. What happens is that the Chief Minister signs any document that any Minister is not able to sign and I learnt it very quickly. I learnt it in the first two years. And then, actually, Madam Speaker, I realised that this was something that was going to keep coming back. Thank God, not because anybody would pass away, but because when Ministers are away, and documentation has to be signed, and a specific Minister's signature is required, the document is brought to me, and I sign it.

So, if a licencing of a bank became an issue, and the Hon. Mr Feetham were away from Gibraltar, and it had to happen and there was no way to do it, these days you have electronic signatures and all the rest of it, very simple you take it to the Chief Minister and the Chief Minister

signs in his name. I do not sign *for Minister for Financial Services*, I sign *Fabian Picardo, Chief Minister*.

970 And that is properly signed, and in keeping with the designation under the Constitution. Because the Chief Minister holds from the moment that he takes office, responsibility for all Government departments also. He has superintendence over all the departments.

On the day that he is sworn in as Chief Minister, before others get their portfolios, and thereafter also. That continues to be the case. It is politically, logically so.

975 Because imagine a different situation, which I cannot imagine in a cabinet of colleagues like we are but if there was a falling out and the Minister were to say, I am not prepared to sign that. Well, it is very simple, is not it?

Well, if you are not prepared to sign it as Minister for Timbuktu, tomorrow I will advise the Governor that I will be the Minister for Timbuktu and that is no longer in your portfolio, and I will
980 sign it. You do not even need to do that. You can say give it to me; I will sign it.

You can carry on being Minister for Timbuktu. You are an excellent Minister for Timbuktu. You can continue to do the excellent job that you are doing. I am very sorry that we have had this disagreement. It is politically, logically so. It is legally, logically so.

And therefore, the suggestion that it is necessary to put in place a new law to give the Chief
985 Minister a power that he already has is legally unnecessary. Surprisingly, that suggestion is made by an officer of this Parliament, who you would have thought was aware of that nuance in the way that the particular directions are issued under the Constitution and the consequence of it. But having said that, Madam Speaker, I do not think it is a bad idea.

I think it is a helpful suggestion that this should be recorded somewhere so that people
990 understand it. I mean, obviously, if I have had to explain it here today, it is because people do not seem to understand it. Even other members of this Parliament, like the author of the report, who seems to be saying that you need legal cover for something which is already legally covered.

And which has led, Madam Speaker, to a suggestion by pressure groups that this is somehow legally unacceptable. So, Madam Speaker, it makes very little sense to me that we should have to
995 be dealing with these things in the context of replying to the report. But it is obvious, I think, to anyone that successive Chief Ministers have exercised this discretion for decades and should continue to do so, alongside Ministers for Housing, who should continue to do so.

Even when there is no housing issue in Gibraltar, there will be people who need immediate help and there have to be responsible, duly elected representatives of the people with the power
1000 to act, Madam Speaker. And Gibraltar law already supports that housing allocations should be exercised flexibly and rationally in the public interest.

And to an extent, that was confirmed, Madam Speaker, in the Privy Council in the decision in *Rodriguez v the Minister of Housing* in 2009, which dealt with the Gibraltar case on housing, where same-sex partners' request for a joint tenancy was refused by the Housing Allocation Committee
1005 under what was then a very, very rigid policy, Madam Speaker, a very unprogressively rigid policy, Madam Speaker.

The Supreme Court of Gibraltar quashed that decision on the ground that the committee had unlawfully fettered its discretion by refusing to depart from blanket rules, even when circumstances might warrant it. That is just the algorithm, Madam Speaker, working and although
1010 *Rodriguez* focused on discrimination, Madam Speaker, it reaffirmed the fundamental principle that housing authorities must exercise discretion on a case-by-case basis and cannot apply rules inflexibly.

Critically, *Rodriguez* is a case where the Privy Council endorses the idea that rigidly sticking to procedural niceties is not required in every instance, a much better and more eloquent way of
1015 putting what I have tried to explain by reference to the algorithm, Madam Speaker and I say that without knowing whether you are the person who decided *Rodriguez* had first instance or not. I have not checked that.

Madam Speaker, of course the Court of Appeal insisted that the committee must abide by departmental policies, but the Privy Council remitted the decision for an exercise of true discretion

1020 in the right circumstances, which underscores that personal circumstances can justify departure from waiting list order. But the policy is given to the Housing Allocation Committee. We are the policy makers, Madam Speaker.

The policy that the Principal Auditor, a Principal Auditor, an auditor, a public auditor cannot interfere with for all of the reasons I have already set out in reference to the case law and the NAO directions and the NAO law in the UK, which should be read as applicable in Gibraltar given that it is the reflection of the common law applicable already in Gibraltar. So, Madam Speaker, it is the Government's considered view on the basis of legal advice that we were right that allocations driven by documented urgent need would be upheld as lawful and rational, and that that aligns perfectly with settled administrative legal principles across the administrations from 1030 1969. Madam Speaker, it is well established in administrative law that broad statutory discretion may only be overturned if it has been exercised unreasonably or for an improper purpose.

There is no suggestion of that, Madam Speaker, in the report, but comment on the report has tended to suggest that there might be some improper purpose anywhere. There is not. What there is an attempt to do exactly what I have told the House, that is to say, to act in the right 1035 circumstances, in the right way, to protect life in most instances or to protect children or the vulnerable from being subject to attack.

In a way, Madam Speaker, that does not always bear setting out in writing in the way that people would expect to third parties. So, that is to say, it is one thing for the Chief Minister's Office or the Minister's Office or the Housing Allocation Committee, wherever it is in the system, to record why something is being done, perhaps in broad terms, but it is not possible necessarily to record in a way that is going to be seen by third parties, not just because of data protection issues, but also because of safety and security issues, why something is being done. Now, the example I sometimes give to people, not a Principal Auditor, but sometimes I give an example to people on the street, because what is being said in the report is no different to the tittle-tattle one may hear 1045 when you are in the street and somebody will say, it is terrible, what little shame, said in Spanish, means something we all more easily understand, that Miss X has been given a three-bedroom in Laguna and my daughter has been waiting for four years.

What you cannot say, even in defending yourself, is, well, how do you know that? Well, because I saw Miss X at British Home Stores measuring for the curtains, very happy that she'd got the house. Well, what you cannot say when defending yourself against the allegation, what Miss X does not have to say when she is happily picking out the curtains or at least putting on a brave face, is Miss X was brutally anally raped by her partner four weeks ago. It was the third time that had happened in the past six months. The children were in the house. The partner then beat one of the older children, who tried to intervene to stop the attack.

Is that the sort of thing Miss X has to say to anybody at British Home Stores, because they might wonder that their daughter has waited for longer? Is it something that we have to put down in writing? Because people know the address.

So, Miss X is not Miss X. Miss X has a name and a surname and so does her oldest child. Now, I have dealt with cases, Madam Speaker, as harrowing and more harrowing than that.

1060 So has, unfortunately, every Minister for Housing that I have dealt with, no doubt, Ministers for Housing opposite. So, when I am told, Madam Speaker, in the street that this is an issue, I can give that explanation. When I am told by a pressure group that the Government must publicly defend those things, I say look, the Government is elected and trusted by its people, entrusted by its people, to make those decisions.

1065 Whether it is the GSD Government or the GSLP Liberal Government. That is what we are there for, Madam Speaker, in those cases, not in others. But look, if somebody is going to assume that there is abuse, then they would be wrong to do so.

And in fact, Madam Speaker, going to a case that is seminal and all of us who have been legally trained will know, Associated Provincial Picture Houses v Wednesbury Corporation, the concept 1070 of Wednesbury unreasonableness comes in, where Lord Green says that the courts will not substitute their judgement for that of the decision maker. Intervention is warranted only where

discretion is exercised unreasonably or ignoring relevant factors or considering irrelevant ones. Nobody would consider that those cases that I am referring to, and all of the cases that are referred to in the report are in that tenor, would be interfered with because it was not reasonable to exercise discretion in those circumstances.

So Madam Speaker, whether it is an auditor looking at these things saying, look, in two cases I do not have the information, I would like to think that the record can be corrected, the information can be provided and it should be provided, perhaps with not the level of detail that I have given to the House a Minister might have, but provided in some way, for good urgent reason, the details of which are contained in notes that will remain sealed for 20 years or whatever. But nobody would think that the allocations in scope would be lacking in little shame. They would be allocations that even the mother of the girl who had been waiting four years for a three-bedroom would say, no, no, no, you are absolutely right, give it to her, she needs it more.

That is what we are dealing with. Or is it that people believe that the Chief Minister, the people in the Chief Minister's office, the people in the Housing Department, the people in the Housing Works Agency and all of the people in the chain would not in such circumstances conspire together to do something with little shame, said in Spanish, to give to a friend or a relative in circumstances which are plain vanilla but just does not want to hang around, a home, instead of to the person who's number one on the housing waiting list.

I hear those allegations, Madam Speaker. They roll off the tongue, it is Gibraltar, it is very easy, Madam Speaker. We spend our lives here saying, *es una poca vergüenza se lo han dao a este en vez de a este; es una poca vergüenza este esta [inaudible] lo otro*. That is Gibraltar, Madam Speaker. That is Gibraltar.

If you are charged with nothing more serious than having a coffee at the piazza, you can say all that every day. You can say it of every politician, you can say it of everybody that you care to say it about.

When you are charged with the administration of all Government departments, entrusted to do so by the people, on four separate occasions, you would never countenance doing that. You would never countenance doing that and people can have that security, that every one of those cases would, when applied to Wednesbury principles, not be changed, either by a court or by an auditor or anyone else.

Madam Speaker, but the report simply says that it is critical of the absence of written justification and non-compliance with the waiting list order. The first, Madam Speaker, can be fixed and should be fixed, and if There have been some instances where sufficient information has not been provided, it needs to be.

The second is entirely wrong, because we must not stick to waiting list order in the right circumstances. We must be able to leapfrog, and we have always got to have that ability and therefore, the underlying allocations which are being referred to are not in any way somehow suspect.

Excuse me, Madam Speaker. The 18 allocations which were made outside of list order were proper, and they were even if not supported by appropriate documentation, Madam Speaker, that was in our view not something that would vitiate their allocation. In five out of seven cases which were private, the documentation was present and justified.

In two, they had bare referrals, and Madam Speaker, the facts were known to senior housing officials, and there were referrals, listen to this, from the Care Agency and the Royal Gibraltar Police. So again, not you know, whim referrals, not you know, *me da la gana*, I just wish to give. These were referrals involving the Care Agency and the Royal Gibraltar Police.

You know, serious cases requiring action, lawful humanitarian interventions, not political favours, which is what it appears has been suggested, at least if not in the report, Madam Speaker, in the comment on the report outside of this place, in particular by some pressure groups, Madam Speaker, who seem to think that they know better. Thank you, Madam Speaker. It is important that people realise that sometimes, because they are not privy to the data, they know nothing about the cases that they are talking about.

And when they insist on being told more, they do not realise that they are third parties to the information, and they cannot be provided with that information. It is just not possible, even privately, to give the information without breaching rules about data protection, which do become engaged, because Miss X is entitled not to have even the highly respected chair of any pressure group see her information. It is that simple.

You challenge the cases, and you are told there is information, which is sensitive, you cannot be given it, you cannot, as some pressure groups say, oh well if you do not give the information, we will assume that there is something inappropriate about it. And it would ill behove any politician who hopes to hold office to suggest that he would side with that pressure group, because he'll soon find, if he ever holds office, that he will be having to say to the pressure group, I cannot tell you why I have given Miss X a home. Or breach every rule in the book, if he tells them and breach his oath of office as a Minister, by the way.

So, Madam Speaker, to have put so much emphasis on the lack of more information on two out of five interventions makes the report misleading and unbalanced, and we are advised that that is the case. And therefore, in the opinion of those advising us, the report's portrayal of missing documentation, without acknowledging privacy obligations, risks defaming public officials by implying impropriety, where confidentiality was lawfully maintained.

Insofar, Madam Speaker, as there were administrative errors, these minor discrepancies in committee meetings and outcome letters were clerical in nature and have since been corrected through staff training. So, a good recommendation to deal with, Madam Speaker. In addition, Madam Speaker, it does not escape leading council's attention that the report fails to account for confidentiality obligations in cases involving domestic abuse and child protection cases, leading to misleading conclusions about missing documents.

They are not missing, Madam Speaker, they just cannot be made available. The report also omits reference to similar discretionary practises under previous administrations, resulting in skewed narratives, suggesting that these are things that just happen under us, when in fact they have always rightly happened. Here am I, Madam Speaker, defending them when they might have done it. When they are attacking us for things that they used to do but never mind.

Madam Speaker, the opinion that we have on how auditors should behave tells us that overall engagement at the senior level by the Gibraltar Audit Office, with senior managers at the Housing Department, would have addressed misconceptions and avoided a report that heavily implied political bias and favouritism in allocations, something which has not happened. And last but not certainly, Madam Speaker, leading council opines that the interpretation of section 2 of the Housing Act, as set out in the report, appears to be legally flawed and ignores established constitutional practise, and indeed it ignores the constitutional reality of the particular directions under section 46 of the Constitution.

Madam Speaker, it is the Government's considered view, therefore, that the omission in the report of any reference to historical precedent and similar practises under previous governments creates a politically prejudicial and selective presentation of facts, where the recommendation to change the historical precedent could still have been made without implying impropriety, as the report does. In the circumstances, Madam Speaker, it is again the view of leading council that this section of the report should also be withdrawn. For those reasons, Madam Speaker, the amendment that I will propose to make of the motion as drafted will include a reference to this part of the report, therefore being rejected by the House.

Madam Speaker, I now turn, noting that I do need to rise before one o'clock, I do now turn to another main area of concern for the Government in the report, which is the reference to Gibraltar Industrial Cleaners (GICC). Madam Speaker, on May the 22nd 2025, the former Principal Auditor issued a 10-page letter to the CEO of the Department of the Environment, raising concerns about pay and overtime arrangements within GICC, particularly in the refuse collection service. Madam Speaker, in the context of everything we have been seeing, who can complain about that?

A whole eight days before the report was to be settled, the CEO of the Department of the Ministry of the Environment received a letter from the author of the report, which set out the

concerns of the author of the report in respect of Gibraltar Industrial Cleaners. Here it is, it is a 10-page memorandum. Here, Madam Speaker, the date to keep in mind is the 22nd of May 2025, and the reply of the 9th of July from the Department, because of course what I am going to be showing the House, Madam Speaker, is that this was not a letter issued just with eight days to go before the report, and much of what I have been saying about letters from the author of the report sent out has been that they were issued on the 30th or the 31st of May, and there was very little time left for the report to be compiled by midnight on the on the 31st of May.

This is slightly different, because you see this letter is not eight days before the report. This letter is a month and a half after the Government has issued a press release saying all of this is history, and in a final paragraph there is a recognition that the Government has done something about it, and saying I cannot believe that you are going to save this money. Well, Madam Speaker, the Government was going to make the case in the budget in July about how we were going to save that money, and we did.

In May we are being told by the Principal Auditor that I cannot believe you are going to save that money. I look forward to your views and explanations. Well, the view and explanation of every part of this letter except the bit that says I cannot believe you are going to save the money.

You say you are going to save after you have said that you have done a deal. The reply to all of the letter before that paragraph is it is the past. We have issued a press release.

We have told you all of that we agree is a problem. That is why we identified it as a problem, and we have done a deal, because That is exactly what we are dealing with. All of the information set out in the letter from the Principal Auditor, the former Principal Auditor, to the Head of the Ministry of the Environment is all of the information that the Chief Secretary, the Minister for the Environment, I and the Cabinet sought long before this in January, had available and used, in fact in November, December, because we started then, to negotiate the new deal.

So, if the things that the former Principal Auditor was saying were a little shame, said in Spanish, they were as much a little shame, said in Spanish, to our view as they were to him. Except that we had dealt with that a little shame in April, but we are still being asked questions about it on the 22nd of May and being told that our proposal to reform that was not going to work and to please explain it. Look, that question is perfectly fair and in order.

But we are saying, okay, this is how we are going to do it. Eight days before the report was to be prepared. In fact, the answer, Madam Speaker, was sent to the Principal Auditor, the current Principal Auditor, on the 9th of July by Mr Warr of the Ministry of the Environment, the Department of the Environment, setting out our answer, which was the same answer that we were providing in Parliament in the course of the budget debate. So, Madam Speaker, the report findings in this respect focus on allegations of excessive overtime, especially for the manager of the legacy working practises, such as the 74-hour week, the finish and go culture, inefficiencies and the cost implications in staffing and scheduling and lack of reform in operational practises, Madam Speaker. So those were our concerns too. It does not appear that it had been the concerns of hon. Members when they were in Government, because whilst in Government, they perpetuated these practises.

Those were our concerns too. Concerns tempered, Madam Speaker, and I will always say this, as I have always said it, concerns tempered by the fact that the people in scope in respect of this criticism do a brilliant job in keeping Gibraltar clean. They do a magnificent job in the height of summer, when there might be roaches and rodents around the refuse, and they go and get it.

And in the height of winter, where there might be things might be almost flooded, and they have to wade into the places where we deposit our refuse to take it out. Also in Spanish, it is not paid, one might say, Madam Speaker, right but they do it, and they do it unfailingly, Madam Speaker.

And so, although we were concerned that there was not the right value for money there, and we had to address it in particular, in light of our potential hard Brexit, and indeed in light of potential new rules in the European Union as to recycling, etc. It had to be done. That is not to denigrate the excellent work that the men of Gibraltar Industrial Cleaners do.

But Madam Speaker, it is vital for us to highlight that other than two passing references at paragraph 5.3.48 and 5.4.29 of the report, to the collective agreement that we have now reached, the report does not study the collective agreements or any other recent changes or corrective actions, instead presenting the issues as ongoing and systematic. Well, as ongoing and systematic as they were when hon. Members opposite were in Government, right, because this is a successive administration thing. So, there is a reference, a passing reference, to these issues, but not in a way, Madam Speaker, that we believe demonstrates that this issue had been properly dealt with.

Madam Speaker, without rhyme or reason, additionally, the report referenced events and costs as recent as 2025, despite the audit scope being limited to the 2018/2019 period. This is something we have seen throughout the report. Again, Madam Speaker, we have not challenged that, because there are circumstances where you might say, well, this was happening in 2018/2019 as much as it was happening in 2025.

But the key point here is in 2025 it was fixed. In 2018/2019 it was a problem, and the issue in the report is the 2025 issue. So, we contest the portrayal in the report, Madam Speaker, asserting and underlining today again that the findings are outdated, incomplete.

The letter from the Principal Auditor to the CEO of the Department of the Environment was received, again, within sufficient time to respond before the report's calculation. Here there were eight days, but the former Principal Auditor was asking for detailed calculations of matters, and that was not possible to be provided in that time and procedural fairness required that the individual should have sufficient time, not 24 hours, not eight days, to provide that information.

And that the pay and overtime structures criticised were inherited from the previous administrations and embedded in contracts dating back over 20 years. Embedded in contracts. The Government cannot break contracts.

If the Government fails to pay under a contract, the first thing an auditor will say is the Government has failed to pay under the contract, and therefore the Government's liability is increasing because it will have to pay under the contract, because governments cannot fail to pay under contracts. So, the new collective agreement, Madam Speaker, was made on the 25th of April 2025, and it came into effect on the 1st of June 2025. The Government, Madam Speaker, agrees with the former Principal Auditor that these practises had to be dealt with.

But they were dealt with even before the former Principal Auditor started to ask about them, let alone recommend that they should be dealt with. This, Madam Speaker, is the Government that took the bull by the horns, only to find that it was about to be mauled by one of the other matadors, not the bull itself. I mean, it is really quite remarkable.

There has been no reference to this in any other Principal Auditor's report. Look, it might have been, I suppose, acceptable, and in keeping with audit practise, to highlight these things and say these practises have been ongoing, and to say there is now a new arrangement, and we should monitor how the arrangement works. That is how we are taking it.

We are going to monitor how the new arrangement works to ensure that the little shames do not happen again, Madam Speaker. But there is absolutely no analysis of that. Just a condemnation of the thing that is the wrong that we have had the gumption to undo, and that hon. Members presided over.

Departmental projections from March 2025 resolve most concerns and predict an annual saving of almost £700,000, £685,000, due to the elimination of the extra collection runs, the reduction of routes from five to four, the introduction of evening collections, the removal of five working public holidays, and the streamlining of vacant posts and adoption of a non-pensionable allowance model. None of that is cited in the report, Madam Speaker. So let us assess the findings.

The Principal Auditor, a Principal Auditor, a public auditor, is bound by the Public Finance Control and Audit Act and by internationally recognised accounting standards, including the ISA and the Code of Practise of the NAO. As I have explained, Madam Speaker, these frameworks require audit reports to be fair, balanced and evidence-based, reflecting both deficiencies and corrective actions. As a result, by presenting outdated contractual arrangements as if they remained current, and by failing to study and discuss in the report the March 2025 collective

1280 agreement that abolished the criticised overtime practises and projected savings, the report must perforce, Madam Speaker, be seen to be incomplete and misleading.

As the House will also have heard me say, it is fundamental to public law that the principle of fairness should be read into everything that is done. In the Secretary of State for the Home Department, ex-party Woody, in 1994, the House of Lords held that persons subject to decisions with significant adverse impact are entitled to know the case against them and have a fair opportunity to respond. This is all part, Madam Speaker, of the principle of fairness requiring affected parties to be heard at a formative stage, not merely after the fact.

And that is the Crown v SSHD 2019 on the reference of *Balajigari*. Here, Madam Speaker, Gibraltar Industrial Cleaners Management and the Department of the Environment received only a few days' notice of the intended criticisms, hardly enough time for meaningful input. Although, of course, Madam Speaker, more time than they were given in respect of wildlife, which was 24 hours, and more time than you were given, which was three hours, in respect of their letter sent to you. Much more time, but still nowhere near a reasonable time.

In the Secretary of State for Education v. Tameside MBC, the House of Lords in 1977 made clear that a failure to properly inform oneself of relevant circumstances renders a decision unlawful.

The law requires that decision makers take account of material and relevant facts, Madam Speaker. Here, the relevant fact that needs to be considered and fully considered, not just mentioned, is the new arrangement and it is the new arrangement that requires analysis.

The Tameside duty is rooted in the broader public law principle that decision makers must consider all relevant facts and disregard irrelevant ones. Lord Diplock, in his judgement, articulated this principle, stating that the question for the Court is whether the decision maker asked himself the right question and took reasonable steps to acquaint himself with the relevant information to enable him to answer the question correctly. And in *Wednesbury*, Madam Speaker, which we talked about earlier, it was established that decisions are irrational if they disregard relevant considerations or take into account irrelevant ones.

The omission, therefore, of any study and discussion of the new arrangements in the report for the deal announced in April 2025, the new collective agreement, which is central to the reform of the criticised practises, is therefore a clear breach of these principles also, Madam Speaker. Further, Madam Speaker, as all hon. Members will note, the report selectively draws on events and costs from 2025 in a report formally scoped to the 2018/2019 period. Such reliance on post-scope data, without studying any and discussing intervening reforms, straight well beyond the former Principal Auditor's statutory remit, and in the considered view of the Government, is ultra-virus, as illustrated in *Agee versus Fulham*, which I referred to on the first day, where a public authority was held to act unlawfully by going outside its statutory functions.

Moreover, Madam Speaker, by conflating historic issues with current practises, it is the Government's considered view that the report mischaracterised the true state of affairs. Accordingly, it is the Government's view, in light of the legal principles I have already developed and explained to the House, that this section of the report is also unsustainable. It breaches principles of procedural fairness, fails to consider relevant facts, exceeds statutory remit, and mischaracterises lawful reforms.

Once again, Madam Speaker, I am not asking the people of Gibraltar to take me just at my word or my interpretation. It is the considered view of leading council advising the Government that the former Principal Auditor has failed to reflect the material reforms the Government has introduced, and in doing so, it is strongly arguable that he violated, once again, the international standards and the UK NAO standards, which require balanced, evidence-based reporting. The leading council is further of the view that the omission of the study and discussion of corrective actions distorts the public record and undermines Parliament's ability to assess the situation fairly when considering the report.

He also notes that reforming entrenched practises in a live public service context requires careful negotiation. Accordingly, we are advised that the Department acted lawfully and responsibly by balancing fiscal discipline with the need to maintain an essential service. Moreover,

Madam Speaker, the inclusion of recent data and events from 2025 in a report scoped to 2018/2019 would seem to have exceeded the former Principal Auditor's statutory remit under the Public Finance (Control and Audit) Act 1977. And we should note, importantly, that the author of the report saw fit to refer to certain items that occurred as recently as 2025, despite his report being for the period ending March 2019. And that is true not just of this aspect, Madam Speaker, but of others.

Selective reporting of such items, which ignores a study and discussion of the collective agreement, also impact adversely on the overall validity of the report and therefore, one should caution that the publication of outdated or incomplete information can damage reputations, especially if done without due care and exposes any auditor to claims, despite statutory protections. And there, Madam Speaker, any claims might not be from us. We are the ones who have dealt with this, but the people criticised in the report who might be identifiable and who are third parties to the Government.

And so, the failure to present a balanced account in breach of international auditing principles of completeness and relevance provides ground to challenge the report's findings as professionally deficient. Accordingly, Madam Speaker, and taking all of these matters into account, it is again the view of leading counsel that this section of the report should be withdrawn. Madam Speaker, I am not going to take the House through the exchange of correspondence of 22 May and 9 July between the former Principal Auditor and the Chief Executive of the Department of the Environment and the Department of the Environment and the current Principal Auditor, because we will consider that, despite the matter having already been referred to in this report, a matter which is a work in progress with the Office of the Principal Auditor, and he may wish to refer to in future reports. But I want the House to know that the Chief Executive of the Department of the Environment has, as ever, in his usual diligent, careful style, ensured that he has replied entirely to everything asked of him in the letter of 22 May.

Madam Speaker, for all of those reasons, the amendment that I will propose to make of the Motion will include a reference to this part of the report, therefore also being rejected by the House.

Adjournment

Chief Minister (Hon. F R Picardo): Finally, Madam Speaker, I think it is necessary for me to end my contribution for today on this matter, and I need to spend some time now with the Deputy Chief Minister on the burning matter of the issue of the treaty text. I am therefore happy to inform the House that, as I said on Tuesday when I commenced my address, and I tried to give a tentative timetable for people to be aware of, and in respectful recognition of the opening of the legal year tomorrow, we will not sit tomorrow in Parliament. I travel to the United Kingdom on Monday to host the Gibraltar reception at the Labour Party conference in Liverpool, and I return on Tuesday, so therefore we will have to renew the debate sometime in the middle of next week, and I now move, Madam Speaker, therefore, that the House should adjourn until next Wednesday, the 1st of October at 10.30 in the morning.

Madam Speaker: I now propose the question which is that this House do now adjourn to Wednesday the 1st of October at 10.30 a.m. I now put the question which is that this House do now adjourn to Wednesday the 1st of October at 10.30 a.m. Those in favour? **(Members: Aye.)** Those against?

This House will now adjourn to Wednesday the 1st of October at 10.30 a.m.

The House adjourned at 12.34 p.m.