



Economic and International Affairs Scrutiny Panel

Alcohol Licensing Review

Witness: The Minister for Sustainable Economic Development and Regulation Directorate

Monday, 23rd February 2026

Panel:

Deputy M. Tadier of St. Brelade (Chair)

Deputy K.M. Wilson of St. Clement

Deputy B.B. de S.V.M. Porée of St. Helier

Deputy M.B. Andrews of St. Helier North

Connétable D. Johnson of St. Mary

Witnesses:

Deputy K.F. Morel of St. John, St. Lawrence and Trinity - The Minister for Sustainable Economic Development

Ms. K. Whitehead - Group Director - Regulation, Infrastructure and Environment Department

Ms. M. Humphreys-Foott - Head of Environmental and Consumer Protection

Mr. B. Jehan - Private Secretary for Minister for Sustainable Economic Development

[16:03]

Deputy M. Tadier of St. Brelade (Chair):

Minister, thank you for attending this afternoon. So I am just going to introduce our panel for the purposes of the record. I am Deputy Montfort Tadier. I chair the Economic and International Affairs Scrutiny Panel.

Deputy K.M. Wilson of St. Clement:

Deputy Karen Wilson, Vice Chair.

Deputy M.B. Andrews of St. Helier North:

Deputy Max Andrews.

Deputy B.B. de S.V.M. Porée of St. Helier:

Deputy Beatriz Porée.

Connétable D. Johnson of St. Mary:

Constable David Johnson.

Deputy M. Tadier:

Thank you. Could you introduce your side, please?

The Minister for Sustainable Economic Development:

Of course. Deputy Kirsten Morel, Minister for Sustainable Economic Development.

Group Director - Regulation, Infrastructure and Environment Department:

Kelly Whitehead, Group Director for Regulation.

Head of Environmental and Consumer Protection:

Michelle Humphreys-Foott, Head of Environmental and Consumer Protection.

Deputy M. Tadier:

Thank you. You are all very welcome here and we are grateful for you coming in to speak to us. Minister, a lot has happened, I think, since this was moved, this proposition was moved in the First Reading, so we are here to talk about alcohol licensing, of course. Could you talk to us first of all about why you made the decision to put your own amendment in? So your amendment, just explain to us what the amendment did and what the consequence of that will be.

The Minister for Sustainable Economic Development:

The main thrust of the amendment I put in is to remove the creation of a new body, the Alcohol and Gambling Commission, and replace that with using the Regulatory Directorate, which is an existing department within government and undertakes regulatory work, as the name suggests, and use that directorate as the administrative body for the law. So everything about the Alcohol and Gambling Commission is effectively replaced by the Regulatory Directorate in my amendment. I think it was the short way of doing it, without going into the ... I can go into the benefits of doing that if you wish, but I was just sticking to your question, which was ...

Deputy M. Tadier:

Yes, thank you. We will probably get on to that shortly, probably. Can I just ask, though, I suppose from ... and this was not your first choice of the way of doing things. Could you just explain why that shifted and why you think that you have come to this position?

The Minister for Sustainable Economic Development:

So that is correct, Chair. It was not the first choice because obviously the first choice was the Alcohol and Gambling Commission. That concept had come through obviously contemplation with industry as well as others about the idea of having it outside of government and having a body which was not part of government. I know industry felt very comfortable with that, that that was a good way of thinking. But then the parliamentary process is different and obviously the parliamentary process is where you move into the States Assembly and you get feedback from there. So feedback from the States Assembly, both in the debate and then speaking to people outside the debate, showed - and I think it was recorded in the debate as well - that there is a level of discomfort with creating a new body, even though it was an existing body with kind of beefed up powers, for want of a better word. It became clear to me that this issue of the Alcohol and Gambling Commission was a real stumbling block to taking the law forward and so it did feel, speaking to my colleagues both within government and also in the Regulatory Directorate, that actually maintaining the Regulatory Directorate as the administrative body would be a better way forward. One of the benefits there is that the Regulatory Directorate already does a large amount of the administration of the current and existing law.

Deputy M. Tadier:

Okay. So I think in a moment we will get into the workings and we will be very grateful to speak to the Regulatory Directorate yourselves as well and how that is going to work. I suppose the question here is to try and examine the politics of it. So has the amendment been lodged with a view to try and build greater consensus in the Assembly? Because there seems to be a risk from our point of view that for one this was not the first methodology that the industry would like to see and, secondly, we are not sure, in fact it seems to us from the earlier hearing which we had with the Comité, which was in public, that they are minded to support, at least partially if not officially as a body, Deputy Bailhache's position where it remains effectively where it is at the moment but except for the fact that there is a need for a reduction in categories of licensing. Have you been made aware of any of that and has that fed into the viability of your amendment politically?

The Minister for Sustainable Economic Development:

So there is a lot in those questions. So I think, before we get into Deputy Bailhache's proposed amendment, the parliamentary process is exactly that, you are there to listen and to take the feedback. That was one of the benefits of having a break between the First Reading and what hopefully will be the Second Reading, et cetera, is that it is my job to listen to the Parliament and to

listen to the States Assembly and what they are saying. One of the clear messages was the discomfort around the Alcohol and Gambling Commission. So in one sense, yes, a change is being made in order to ensure that the States Assembly is comfortable with what they are voting on, but that is absolutely what the States Assembly is there to do. It is there to change laws and amend laws according to the States Assembly's own views and wishes. It was always in my mind a close run thing between using the Regulatory Directorate or the Alcohol and Gambling Commission. I have spoken to industry as well and they are comfortable with the Regulatory Directorate doing this work. I think that is the best way of saying it. They are comfortable with that.

Deputy M. Tadier:

Okay. Minister, do you know if the Licensing Assembly has had any commentary or any reservations about their responsibility being transferred?

The Minister for Sustainable Economic Development:

I do not know from an official perspective. When I met myself with the Bailiff - the former Bailiff, not the current Bailiff - and members of the Licensing Assembly, at the time we explained to them - and obviously in that situation it was the Alcohol and Gambling Commission - and they raised no big objections to the way that we were going and that would have been an appropriate time to raise them. The main objection I have seen or heard is through Deputy Bailhache's own amendment. I think there were some significant problems with that amendment when it comes to democratic process and democratic accountability. I will certainly in the debate on Deputy Bailhache's amendment be making it very clear to the States Assembly as to why I do not think that amendment holds water in terms of making it a more accountable and democratically sourced alcohol policy into the future.

Deputy M. Tadier:

What do you think are the current problems as you see it in the democratic process where the licensing currently sits?

The Minister for Sustainable Economic Development:

So the judiciary and the legislature and the executive are separate, the 3 arms of Government, and it is quite right in my view ... and the States Assembly agreed with this when Deputy Ash's proposition from 2020 or 2021 sought and was supported by the Assembly to bring alcohol policy into the democratic process, so to be set by the States Assembly. But because of the separation of powers between the judiciary it is not possible for the Government to tell the judiciary what to do. If the Licensing Assembly stays as it is, it will not be possible for the Government in theory to have policy on one side that is then taken by the Licensing Assembly as its instructions as to how to implement that. There are workarounds, I understand. When I spoke to Deputy Bailhache he said that it was

possible to work around that, but I think when you dig a bit deeper into the history of the Licensing Assembly you will find things like back in 2013, I think it was, the Licensing Assembly decided to levy fines, set fines, for people who are operating outside of their licences. That is not in the law. There is nothing in the law about fining people. So what the Licensing Assembly did back then was basically give itself the powers and it said at the time it had an inherent jurisdiction to do so, to give itself powers to fine. There is no democratic process about that. In my view, there should be a debate in the States Assembly about whether ... or on any subject whether you want to levy a penalty or a fine for something. But in this case that clearly happened outside of any democratic process. In fact, just 3 or 4 weeks ago, retailers were sent a letter I believe from the Attorney General - correct me if I am wrong; yes, the Attorney General - on behalf of the Licensing Assembly increasing the minimum unit price of alcohol.

Deputy M. Tadier:

Do we know by how much?

The Minister for Sustainable Economic Development:

I believe it was about 30 per cent roughly, off the top of my head. I have to be corrected ...

Deputy M. Tadier:

We have seen some comments on that in social media, have we not?

The Minister for Sustainable Economic Development:

I have seen social media comments.

Deputy M. Tadier:

Who do they blame for that?

The Minister for Sustainable Economic Development:

They blame Ministers and I had to write back saying: "This was not Ministers, this was the Attorney General or the Licensing Assembly acting unilaterally." Again, no consultation. Retailers did not know it was going to happen.

Deputy M. Tadier:

Do you think it will affect the Attorney General's chances of re-election? **[Laughter]**

The Minister for Sustainable Economic Development:

I doubt it but ...

Deputy M. Tadier:

I will leave that ... sometimes I say things out loud.

The Minister for Sustainable Economic Development:

Yes. **[Laughter]** So my problem with the Licensing Assembly maintaining its role as today is there is a significant lack of democracy around the Licensing Assembly and that will be the main thrust of my reasons as to why the Licensing Assembly should not be adopted as the administrative body.

Deputy M. Tadier:

Is it also a good use of the licensing bench's time to be doing that?

The Minister for Sustainable Economic Development:

I do not think it is. I have enormous respect for jurats who are one of the main people on the licensing bench. I do believe they are better used elsewhere. We know that in the court system there is huge demand for the role of the courts and I do believe that them focusing on that would probably be better. However, the proposed law, the proposed draft law, does keep the Licensing Assembly as a licensing appeals body and so actually gives it ... it becomes a very nice process where you would have the Regulatory Directorate deciding a licence application. If somebody disagrees with that decision, they then have a clear body - and it is a learned body, the Licensing Assembly - to appeal to. That would be appropriate use. I think there is one other reason why you should not, in my view, maintain the Licensing Assembly as the administrative body is because at the moment you cannot really appeal anywhere except to the Royal Court. Of course, the Licensing Assembly is the Royal Court and so you are appealing to the same body, effectively, that decided your application.

Deputy M. Tadier:

Thank you, Minister. We put that point to the Comité and asked whether or not the lack of appeals ... so we were told that there is a lack of appeals that take place. The Comité told us that they see that as evidence that the system is working well. Would you agree with that?

The Minister for Sustainable Economic Development:

I do not think I am in a position to comment. Yes, I do not think I am in a position to comment. At the moment, though, if you wanted to appeal against the Licensing Assembly's decision, you would have to go to the Royal Court. I believe that would probably incur significant cost and so straight away there is a barrier to appealing.

[16:15]

Deputy M. Tadier:

Again, probably not necessarily a good use of the highest court's time, you might say.

The Minister for Sustainable Economic Development:

That is correct, and I do believe probably they should be ... correct me if I have anything wrong in that process. Obviously, beyond that, you then go to judicial review and judicial review is again decided by the Royal Court. So it does strike me that if anyone wants to call themselves a democrat, then the current process we have probably does not fit that.

Deputy M. Tadier:

We are also told that the ... one issue might be that it can take quite a long time for a licence to be issued in terms of how often the Licensing Assembly sits. But we have heard counter evidence that perhaps the Licensing Assembly could be asked to sit more frequently or to expedite the way that they consider the consideration of licences. Have they ever been asked to increase their frequency, do you know? Has that been suggested?

The Minister for Sustainable Economic Development:

It has been talked about in the past. I could not say whether it has directly been suggested or not, but it has definitely been raised in the past many times. The response from the Licensing Assembly generally is as you, Chair, have just suggested, which is, well, they are happy to sit in extraordinary circumstances so if a request is made for a sitting outside of that quarterly rhythm, then they will happily do that. But I think then, Chair, your comment about is that a good use of ...

Deputy M. Tadier:

It is a question.

The Minister for Sustainable Economic Development:

Sorry, your question, absolutely correct, your question about is that a good use of the Licensing Assembly, so is that a good use of jurors' time that they spend an ever greater amount of time determining licences rather than other aspects before the court.

Deputy M. Tadier:

Okay. Thank you. We can probably move on. I hope I have not stolen too many of Constable Johnson's questions, but if there are any left you can take over.

The Connétable of St. Mary:

It deviates from the script slightly, Chair. I mention this without pushing any particular view. The panel of 10 years ago, and I am sorry to keep going back to that, did have before us at one stage the then Bailiff and jurors. It was not a public hearing, it was a private hearing, and we went through

various things, very much the same problems we have today. Certainly, they volunteered the fact that, yes, on further hearings there was no problem with that if they wanted them. The other point they mentioned in the context of alcohol policy group and guidance, they said they would welcome guidance. I am just wondering. I appreciate your points about the doctrine of separation of powers. I was a lawyer so I appreciate that. Is there any way that that doctrine could be satisfied by the alcohol policy group having guidance notes which the licensing bench were committed to following?

The Minister for Sustainable Economic Development:

Well, I think that is one of the things Deputy Bailhache said to me was that his amendment could refer to taking guidance from Minister or Ministers. It could be done through that perspective, but I would push further and say everything that I have just said about a Licensing Assembly that confers upon itself the power to fine people; a Licensing Assembly that you have to appeal to if you want to appeal its own decision. These are all issues that I think are fundamental to democracy and I would question why is a court so keen to maintain a role in licensing alcohol. It is an interesting position.

The Connétable of St. Mary:

I am not sure they were keen, but the Licensing Assembly, at the annual one in December, the Bailiff made the point that it might be the last time they do it but it was not at their behest if they were not doing it. They are not saying they should keep it, they seemed to me to be quite happy to do it and again it gives retired jurats something to do as well. I do not know how much of a cost it is to the system.

The Minister for Sustainable Economic Development:

I have been reading about backlogs in the court system and the slow process in Jersey's court system so I do believe I would prefer ... as an Islander I am speaking, not as a Minister. As an Islander, I would prefer them to be focusing on those cases rather than ...

The Connétable of St. Mary:

Yes, it was not about backlogs to the court system. I am not sure the Licensing Assembly necessarily could contribute to that. I think they might regard themselves ...

The Minister for Sustainable Economic Development:

I do not know enough about the processes, yes.

The Connétable of St. Mary:

No, I just make the point that I only raise it because that was considered by the Assembly of ... sorry, the panel of whenever it was and we actually had prepared amendments to go in on that basis. If they had done, maybe we would not be here but there we are.

The Minister for Sustainable Economic Development:

No, that is right.

The Connétable of St. Mary:

Okay. So you reckon there could be a possibility of doing it that way, do you, to overcome the ...?

The Minister for Sustainable Economic Development:

No, I am taking ...

The Connétable of St. Mary:

Leaving the appeals out, the actual ...

The Minister for Sustainable Economic Development:

No, I am taking Deputy Bailhache ... it was a brief conversation with Deputy Bailhache where he said that he felt that through statute you could find a process by which guidance from Ministers could be used by the Licensing Assembly. I have not looked any deeper into it and I take him at his word that it is possible. Maybe it is. I think it still creates a democratic deficit because at the end of the day if there were any issues between the interpretation of the guidance and the guidance, et cetera, the Government cannot wade in and hold the Licensing Assembly to account.

The Connétable of St. Mary:

That certainly would depend on the following ...

The Minister for Sustainable Economic Development:

Ultimately, the Licensing Assembly is accountable to no Islanders except the judiciary itself, whereas the Regulatory Directorate is accountable to Ministers and Ministers are accountable to the States Assembly and the States Assembly is accountable to Islanders. So there is a clear line from the Regulatory Directorate to Islanders in the democratic way. I do not believe that line exists for the Licensing Assembly.

The Connétable of St. Mary:

Okay. I was not pushing that point. I just wanted to see it being considered because it could be a relatively easy solution in a way. It could also amend the Assembly format we are dealing with. Anyway, I will leave that for the moment but I just wanted to see if you had actually considered that as a possible way forward, as it were.

Deputy M. Tadier:

Do you see this similarly to the Archive Law and the Cyber Law, where your department brought amendments in or last minute changes, effectively, to make sure that the Assembly or Government was not directing non-Ministerial departments? Is there a parallel there to be made?

The Minister for Sustainable Economic Development:

There is similar parallels, actually, certainly with the Public Records Law. That was something that we were ...

Deputy M. Tadier:

Public Records Law?

The Minister for Sustainable Economic Development:

Yes, we had to make amendments there because parts of our institutional environment which fell outside of government, the executive so to speak, yes, could not be told what to do by the executive. So there are perhaps parallels there.

Deputy M. Tadier:

Okay.

The Connétable of St. Mary:

Okay. Shall I move on to my actual questions then?

Deputy M. Tadier:

Yes, by all means.

The Connétable of St. Mary:

The panel is in a strange situation. We have 3 separate amendments to look at.

The Minister for Sustainable Economic Development:

That is right, yes.

The Connétable of St. Mary:

It is not for us to determine policy, but given the main one we are here for, the regulation authority, as it were, can I raise questions of you, Minister? I think there are some more to come to the Regulatory Directorate separately. You already answered why you think this is the right body, but I understand that already the regulation authority is intrinsically involved with licence applications so I am not sure the parishes would necessarily ... could you confirm that, the extent to which ...?

The Minister for Sustainable Economic Development:

I can confirm it from everything that Kelly has already told me, so I think Kelly would be the best person to explain the work that is already done by the Regulatory Directorate.

Group Director - Regulation, Infrastructure and Environment Department:

Thank you, Minister. Yes, since 2020 we have been administering the Licensing Law. So we have a team of technical support officers that ... in the first instance what is really important is customer service, so taking a lot of phone calls from people who are interested about gaining licences and the process in which they have to go through in order to get licences and potential conditions, renewals processes and things like that. So first is the customer service, which we already do. We also run the application process. So we have the database. When people do make an application we put it within our dynamics database. We do the fees administration and the reconciliation of the fees. We also then send out all the consultation requests to the various bodies. We receive the information back from those bodies and chase up those bodies for those consultation requests. We package it all into a report to provide to the Parish Assembly. It goes from the Parish Assembly to the Licensing Assembly and the Judicial Greffier would issue the licence itself. But then we take on some acts of enforcement. So we do routine inspections and support the other agencies in making sure the conditions are adhered to, and we also run the current renewals process, so the reapplication. That also involves contacting pretty much all the businesses to remind them that renewals are coming up and to help them to make sure that they comply with the law. So in essence, we cover the majority of the whole end to end process with the exception currently of the decision-making, which rests with the Licensing Assembly and also the input from the Parish Assembly, which is not proposed to be changed.

The Connétable of St. Mary:

Yes. I am not challenging that in any way, but again for Parish Hall applications we have ... as far as I am concerned, the applicant comes to the parish. In fact, we have to do quite a lot of the legwork often. We do the D.B.S. (Disclosure and Barring Service) check, et cetera. Are you saying that it is all done by you on behalf of the court at the moment?

Group Director - Regulation, Infrastructure and Environment Department:

The work that the parishes do, which is talk to the applicant and they do D.B.S. checks and other stuff, and then obviously the applicant has the right to speak at the Parish Assembly. That is all done by the parish currently. I think potentially what is unknown is the work outside of what the parishes do we support as well. So if it is not the parish doing the work, then it is the Regulatory Directorate ...

The Connétable of St. Mary:

But the applicant itself should be basically responsible for getting his own D.B.S. check, et cetera, should he not? Is that where you see it going, that the applicant goes to you and then you give him the package as to how to get it, that it comes to the Parish Assembly first?

Group Director - Regulation, Infrastructure and Environment Department:

In terms of the up-front process, which is currently coming to regulation and then to the parish, we would not envisage that that would change wholesale. So what the applicant does with the Regulatory Directorate and then to the parish would remain as it currently is. It would only be from the Parish Assembly decision point into instead of the Licensing Assembly it will come back to ...

The Connétable of St. Mary:

So it will go to the court and they organise it and ...?

Group Director - Regulation, Infrastructure and Environment Department:

Yes, it is proposed that that potentially would come back to the Regulatory Directorate for decision-making in accordance with the alcohol policy framework, which is a key point for the Minister's amendments on the table.

The Connétable of St. Mary:

I have various questions relating to that, but from what you say as far as you are concerned you envisage already you have the necessary staff training, inspection?

Group Director - Regulation, Infrastructure and Environment Department:

Yes, we definitely have the capacity and also the capability. The Regulatory Directorate, as you know, Constable, regulate over 35 different pieces of legislation, all with different decision-making powers, on behalf of Ministers and on behalf of Chief Officers. Mostly those decisions are made in accordance with policy frameworks. That is something very similar. The key thing for regulation is the consistency of the function. So irrespective of the subject area, what we try to maintain is a consistent, proportionate and fair approach to regulating. I think that is why we can adapt to different subjects like alcohol licensing to other types of licensing, food regulations or housing regulations and different types of subject areas. It is because we maintain that consistency in the functioning of the administration of the laws.

The Connétable of St. Mary:

Again, going back to the starting point, in the event that the Parish Assembly does not approve a licence application, would an appeal go to you then?

Group Director - Regulation, Infrastructure and Environment Department:

So I think in the proposal from the Minister, if it is okay, the proposal from the Minister is that the parish would make their recommendation like they would currently to the Licensing Assembly. So that would be a recommendation to the Regulatory Directorate. The Regulatory Directorate officers would take the Parish Assembly recommendation. They would also take into account the public comments that have been submitted, and that is a new proposal as part of this amendment as well, and then weigh up all the material considerations in line with the alcohol policy framework. That is quite a key aspect to make sure that decisions are made in accordance. So where the parish has recommended one way or the other, where the decision is going in line with the alcohol policy framework, I think there is a provision in there that we must inform the Constable of the reasons why the decision may have gone in a different direction to the recommendation. The appeal would then be to the Royal Court.

The Minister for Sustainable Economic Development:

Because I was going to say at the moment there is the Parish Assembly ... I was in the Licensing Assembly last week. It is only a recommendation from the parish today that goes to the Licensing Assembly. The Licensing Assembly does not need to agree with, they can go against that recommendation or they can go with it, but there is no appeal of the Parish Assembly decision. The Parish Assembly decision in today's law is effectively a consultative role to get the view of the parish. The view of the parish is not binding on the Licensing Assembly. The new law as proposed, one of the key elements Kelly is quite right to have put her finger on is that the Regulatory Directorate will have to give reasons for all of their decision-making, most specifically so when it is against ... if it is against policy or against the Parish Assembly's recommendation, the Regulatory Directorate have to give written reasons as to why they have chosen against the Parish Assembly decision, that sort of thing. Today that is not necessary, is my understanding.

Private Secretary for Minister for Sustainable Economic Development:

That is correct, yes.

The Minister for Sustainable Economic Development:

I do not want to say anything wrong, but the Licensing Assembly do not have to give any reasons today as to why they have chosen to go against the Parish Assembly decision.

The Connétable of St. Mary:

Okay, but in that scenario if it got to the stage where the regulation authority approved a licence which the parish did not want, then the parish would have to appeal against that to the Royal Court, presumably?

The Minister for Sustainable Economic Development:

They would go to the ... in the new law or today's ...?

The Connétable of St. Mary:

Yes, if your latest ...

The Minister for Sustainable Economic Development:

Yes. In the new law they would appeal to the Licensing Appeals Panel, which is today's Licensing Assembly. So they would not have to appeal to a full Royal Court ...

[16:30]

The Connétable of St. Mary:

Okay, there is an appeal procedure mechanism in there.

The Minister for Sustainable Economic Development:

... or judicial review. It would go to the Licensing Assembly where those jurats would hear those appeals. I think that is a really good place for the jurats to be in that appeals perspective.

Private Secretary for Minister for Sustainable Economic Development:

Sorry, Minister, if I may, there is one other recourse that the parish would have under the new law that they would not have under the existing law. So under the existing law, as the Minister says, your only route would be to effectively write to the Attorney General, setting out your reasoning why you would like the issue to be revisited. The Attorney General would then pick that up with the Licensing Assembly and ask them to revisit their own decision. Under the new law you would have in the first instance an Article 12 review. So each parish Connétable, equally the States of Jersey Chief of Police, the Chief Fire Officer, can instigate a review of a licence or licensees, perhaps writing: "We do not think that these conditions are appropriate" as the case may be. That triggers a formal review. You would then get a report back saying whatever the outcome was: "Yes, we have decided to change the conditions" or: "No, we have decided to maintain our current position." Then you could appeal to the now independent Royal Court, which has not hitherto been involved in the decision. So you have an objective, independent decision-maker.

The Connétable of St. Mary:

Okay. You have already mentioned the alcohol policy framework. Am I right in thinking, therefore, that whichever rendition goes through this is going to happen because that policy framework has to be put in place and that will be for the next Assembly, will it?

The Minister for Sustainable Economic Development:

Yes. So one of the things again when the Licensing Assembly sat perhaps in December and said this could be the last sitting of the Licensing Assembly, the Attorney General or whoever was chairing, the Bailiff, whoever it was, was jumping the gun a little bit because we have always made it really clear that there is going to be a year between the passing of the law, if it is passed by the Assembly, and then the implementation of that law in order to enable a proper changeover. So it was never going to be the case that December 2025 was the last sitting of the ...

The Connétable of St. Mary:

In fairness to the Bailiff I am not sure he said that it was the last one but it might be the last annual one, the last December one, I do not know.

The Minister for Sustainable Economic Development:

Might be the last December one. You never know.

The Connétable of St. Mary:

No, he was not jumping the gun. Okay.

The Minister for Sustainable Economic Development:

So there will be a year's grace, effectively, to enable the new system to come in.

The Connétable of St. Mary:

I think I have done my area.

Deputy M. Tadier:

I just have a couple of questions following up from that. So as things currently operate, when you are doing your regulatory side of things specifically in the field of alcohol, do you need to get legal advice in terms of pursuing a particular enforcement process? Are you allowed to say that?

Group Director - Regulation, Infrastructure and Environment Department:

Would you like me to take that, Minister?

The Minister for Sustainable Economic Development:

Absolutely, yes. I was going to say this is very much more your place than mine.

Group Director - Regulation, Infrastructure and Environment Department:

In general, we have a strong working relationship with the Law Officers in both the civil and the criminal division. As and when we refer to the Law Officers' Department, that is under legal privilege so it becomes confidential.

Deputy M. Tadier:

Yes, but as a general rule, these are delicate questions but do you automatically need to seek that advice every time and what is the ... the reason I ask that is to understand what the threshold is for intervention. Is it on the balance of probability? Is it beyond reasonable doubt, et cetera?

Group Director - Regulation, Infrastructure and Environment Department:

I can speak generally to the laws that we do regulate. We would seek the opinions generally when we are collecting evidence. So if we see that there is an enforcement potentially could occur, we would then consider taking advice. We have processes and procedures with both the departments and the Law Officers and I meet regularly with the Attorney General to ensure that the Attorney General and the way that they would want things to come forward is complied with so we have a working relationship. In terms of balance of probabilities or beyond, that is dependent on the article of each law. If it is a civil threshold, then it could be on the balance of probabilities. If it takes it to a criminal level, then yes, it is beyond reasonable doubt. Depending on the collection of evidence, depending on where we are in potential enforcement or possible prosecution will depend on the level of advice that we seek, but a good working relationship with the Law Officers is we are in touch with them quite generally speaking across all of our pieces of legislation. But I would like to say that the Regulatory Directorate would only use that as a last resort and I know the Constable has heard me speak quite often about the 4 Es of enforcement. They are absolutely critical to our mission, our philosophy and regulation, to engage and to explain why the laws exist and how to comply with the law and try to seek voluntary compliance with the law in all cases. We would only consider that referral to the Law Officers and force formal enforcement or prosecution in only the most severe cases where all other aspects we have not been successful with.

Deputy M. Tadier:

Thank you. This is a political question for the Minister but to what extent is it a problem or is it a problem at all that the Attorney General is overseeing that system of offering advice and deciding whether or not to prosecute under the alcohol current regulations and that he also sets alcohol policy? Is that a potential conflict?

The Minister for Sustainable Economic Development:

It is a current conflict, I would say, rather than a potential conflict.

Deputy M. Tadier:

Does your system help resolve that?

The Minister for Sustainable Economic Development:

Yes, the proposed system, this system that we are proposing, absolutely. One of the things I like about it is it brings the relevant parts of the process into the right bits of our institutional framework to do it. So alcohol policy becomes democratically drawn up and voted on by the States Assembly. The actual Regulatory Directorate in making their determinations have to provide the feedback to the people interested so people know why decisions have been made. There would be under the new law a clear route to appeal, which there is not today, and the people you are appealing to have had no previous role in decision-making, which is not the case today. As I said, the Regulatory Directorate cannot make up regulations on the hoof. It appears currently that the Licensing Assembly from previous judgments can make things up as it goes along under its inherent ... and I apologise to anyone who feels that I have been a bit loose in my description of that, but it has happened in the past that it has made things up as it has felt necessary. So under the current system there is extremely limited, if any, democratic accountability. Under the new system it will be clearly democratic and really importantly it will be clearly accountable to the people engaging in that system.

Deputy M. Tadier:

Can I ask about costs? So in terms of the current system, when an applicant applies and pays a sum, which varies - there is a sliding scale - who does that get paid to at the moment and how does it get divided up?

The Minister for Sustainable Economic Development:

So at the moment it gets paid to the Regulatory Directorate and I am best to pass to the Regulatory Directorate for how it gets divided up because I do not know.

Deputy M. Tadier:

Can you give us a typical fee? So if it was a new application, say, for a ...?

Group Director - Regulation, Infrastructure and Environment Department:

The overall income from licensing for the Regulatory Directorate is approximately £260,000 per annum and that is within the Regulatory Directorate's budget. So the budget for the Regulatory Directorate is twofold. We have income and then we have a small amount that is provided by Treasury and we have a budget expenditure. Pretty much 90 per cent of our expenditure is on staffing, so the £260,000 already ...

Deputy M. Tadier:

So is the £260,000 specifically alcohol related or is that ...?

Group Director - Regulation, Infrastructure and Environment Department:

Yes.

Deputy M. Tadier:

Okay. Does that all stay with you or does any get ...?

Group Director - Regulation, Infrastructure and Environment Department:

Yes.

Deputy M. Tadier:

Do the parishes get any money at the moment for the ...?

Group Director - Regulation, Infrastructure and Environment Department:

Not presently. It would stay within the ...

The Connétable of St. Mary:

I am glad you said not presently. It gives me hope.

Deputy M. Tadier:

That is fine.

Group Director - Regulation, Infrastructure and Environment Department:

Just a matter of fact, Constable.

Deputy M. Tadier:

Okay. So without wanting to be indiscreet, and some might say it has never stopped me before, to what extent would you say that in terms of the workload how much workload do you do versus what the parish do for free already?

Group Director - Regulation, Infrastructure and Environment Department:

I think the Constable would probably be in a better position to understand the ...

Deputy M. Tadier:

I know it is not a fair comparison. The parishes are an honorary system, of course.

Group Director - Regulation, Infrastructure and Environment Department:

... differences between the 2. I am not sure that I have awareness of the amount of hours the parish would do versus regulation. I am not sure if Michelle would know that breakdown.

The Minister for Sustainable Economic Development:

I might actually look to Ben in the corner to see because Ben has been looking at the global process and it is a thing ...

Deputy M. Tadier:

Part of where I am going with this really is that there is a drive to cut red tape from the Government's point of view, and while we understand the need for democratic safeguards at a parish and a devolved level, you could argue that - and it has been said to us I think by the Comité - having both the Parish Assembly and a system where you can have public comment submissions, certainly the latter seems to do the same job as the former in the sense that more people can submit public comments than arguably could attend the Parish Assembly and have the automatic right to speak at one. So I suppose the question is there: is it necessary to have both and could we not have an expedited system where an Assembly is only really called if the parishioners feel that is necessary, if there is a contentious or controversial application?

The Minister for Sustainable Economic Development:

So I think it goes back to the politics, where we started at the beginning. I think it is really important to be aware of the States Assembly and the States Assembly's own views. I think you could design a system which does not involve a Parish Assembly. It is quite possible to do that and certainly our first iteration of our proposal gave the power to the Connétable of any parish to decide on an ad hoc basis whether they wanted to have a Parish Assembly for licensing application or not. It was the Constables who felt that that should be mandatory and we changed it to mandatory. I do not quite understand why the Connétables wanted that to be mandatory because I think to have an option is a greater power than to have no option. So I think the Connétables were actually pushing away extra power or extra control that they could have had because the idea of having an option for the Connétable to decide whether to call in anything or not meant that the Connétables could in themselves have greater control over the cost and the hassle around any given application. If it seemed to be a very routine application in their mind, then if they felt that the parish would not have a problem with it, they would not need to call it in for a Parish Assembly. Anyway, they chose that they did not want that, so now we have said it will be mandatory and that ...

Deputy M. Tadier:

I suppose from our point of view if we are here to make recommendations we need to decide whether that system is necessary red tape or unnecessary red tape. Can you give us any evidence?

The Minister for Sustainable Economic Development:

I think it is really interesting. I do not have evidence. It is really clear to me that alcohol licensing does have to get the views of the local population, so those people who will be most affected by a

new pub or a new nightclub or a new retail in an off-licence. So I think it is really important to get those views. That can be done through public consultation via websites, et cetera, social media, but it can also be done through the Parish Assembly. I think the Parish Assembly at the moment creates a focal point because it is a live event that takes place so it tends to bring things to a head a little more than just an ongoing public consultation. So I think there is a genuine role for the parish in that. I think there is a benefit to a Parish Assembly. But I think what is really important is not to limit it to just the Parish Assembly so you have wider public consultation as well. The Parish Assembly I was at last week, the votes were coming in at 18 and 13, there were 2 groups in that Licensing Assembly, and so 31 people were voting. Obviously, in the Parish of St. Lawrence or in a parish of thousands of people, 31 people voting is not a large amount of people. So I think it is important to maintain a wider ability for the public. You know, 7.00 on a Wednesday or Tuesday evening is not an easy time for people to get to a Parish Assembly.

Deputy M. Tadier:

They might all be at the pub, ironically.

The Minister for Sustainable Economic Development:

They ironically may be, though in this day and age that is not ...

Deputy M. Tadier:

Buying alcohol from Waitrose.

The Minister for Sustainable Economic Development:

Yes.

Deputy M. Tadier:

Thank you, Minister. Okay. Thanks for those.

The Connétable of St. Mary:

This is going on to the access questions, if I ...

Deputy M. Tadier:

Yes. Did you want to ask questions or shall we let Deputy Andrews ask them?

The Connétable of St. Mary:

Let Deputy Andrews ask his questions, I think.

Deputy M. Tadier:

That would be fair, that is democratic.

Deputy M.B. Andrews:

Thank you, Chair. I would just like to move on to the Regulatory Directorate and what involvement you as officers had when the Minister originally brought forward the proposition and obviously the Alcohol and Gambling Commission was the preferred option at that point in time.

Group Director - Regulation, Infrastructure and Environment Department:

Yes, we have been involved when it was originally proposed, when the Minister's secretary, Ben Jehan, came to us, so we have submitted consultation comments in the original consultation period. Our consultation comments at that time, we felt that in regulation determining licensing was quite a natural fit but we are always here to support the Minister's decision so we were supportive to help with the drafts for the Gambling Commission. Then when the Minister approached us following the debate and made a suggestion would we be supportive for that to come to the Regulatory Directorate, of course we said yes, we are happy to step up and we will work with you to try to find a fit. So we have been involved throughout.

Deputy M.B. Andrews:

What consideration, if any, was given originally for the Regulatory Directorate to take on that responsibility?

[16:45]

Group Director - Regulation, Infrastructure and Environment Department:

So exactly as we had mentioned before, obviously we already undertake the administration. We make decisions in different laws and it would be quite a good fit, but also the benefits potentially of joint inspection regimes. So we made that provision as well. But like any department, we support the Minister in the way that the policy is drafted and we are here to support the Minister again with a different approach.

Deputy M.B. Andrews:

Obviously, the panel earlier on today heard from the Assistant Minister for the Environment in his capacity as chair of the Comité des Connétables. He was mentioning about the concerns, including resource within the department. I just want to have your view on whether there are any concerns that have to be addressed before everything is implemented.

Group Director - Regulation, Infrastructure, and Environment Department:

Certainly, we can take that, Minister, if that is okay.

The Minister for Sustainable Economic Development:

Oh, yes. Sorry, yes, these questions are not for me.

Deputy M.B. Andrews:

Yes, no, the questions are addressed to officers.

Group Director - Regulation, Infrastructure, and Environment Department:

Yes. In terms of the volume of new applications, so the additional work that potentially regulation would cover is the decision-making on new applications for the year, which are approximately between 30 and 40. So on the whole, taking into account quite a lot of work being done with the parishes, taking into account the parishes' recommendation, referring to the alcohol policy framework and summarising the public comments would potentially be - I would estimate and look to Michelle because it will be Michelle's team that will cover this - possibly a day or a day and a half in terms of doing a report and making that decision. Across a year, with the officers we have, that is not a substantive amount of additional work. So although all departments are stretched and, yes, budgets are tight, as we said, regulation is effectively a 90 per cent staff cost budget, so with the team that we have currently ... we also have the educational qualifications and skills within the team who have experience of making decisions on alcohol licensing from other jurisdictions. So we feel that we have the qualifications and skills, the capability to do it. In terms of the capacity, we do not feel that there is a substantive amount of additional volume.

Deputy M.B. Andrews:

Okay, thank you very much.

The Minister for Sustainable Economic Development:

I was going to suggest, Michelle, that you might want to say something about the work that does not need to be done now.

Head of Environmental and Consumer Protection:

Yes, absolutely. So we would not be undertaking the renewal process under the current amendment and the current proposal, so that frees some capacity up within the team from that administrative purpose. But there is also other streamlining we can do and drive for efficiencies in reducing the amount of inspections we may need to do. Because rather than 2 people going in to do an inspection, one person can go in and do both inspections at the same time. So I really see that we can drive some efficiencies around that area.

Deputy M.B. Andrews:

Okay. When you say inspections, that is about, for instance, there would be a food inspection and an alcohol inspection rather than doing 2 separate inspections?

Head of Environmental and Consumer Protection:

Yes.

Deputy M.B. Andrews:

Yes, just the one, okay. Obviously, we have touched upon a few numbers there in terms of what we are expecting to see an increase with, but what are the number of applications that we are seeing on a per annum basis currently?

Head of Environmental and Consumer Protection:

I am trying to recall the number. Just bear with me.

Deputy M. Tadier:

That can be sent on subsequently.

Deputy M.B. Andrews:

Yes.

Deputy M. Tadier:

Or you can give us a ballpark.

The Minister for Sustainable Economic Development:

In short, to Deputy Andrews' reference to the Assistant Minister for the Environment Department, he seems to have a different perspective to the actual department.

Deputy M. Tadier:

Do you know what that is?

The Minister for Sustainable Economic Development:

Well, according to what Deputy Andrews just said, which was that he was raising concerns about the capacity capabilities of the department, the department itself does not seem to share those concerns.

Deputy M. Tadier:

So the department does not think that on the ground you will need extra staffing?

Group Director - Regulation, Infrastructure, and Environment Department:

I can answer that. Yes, I think the Regulatory Directorate is quite wide in terms of its remit. There is 100 F.T.E. (full-time equivalent) and we divide ourselves into 3 sections. So while the planning and building team and the development and land have different capacity issues, the team in environment and consumer protection, Michelle's team, again they are split into a different range of subject areas. So there is about 45 people within that team that have a different range of capacity issues.

Deputy M.B. Andrews:

Is there likely to be more resource within the Regulatory Directorate compared to, say, the Alcohol and Gambling Commission?

Group Director - Regulation, Infrastructure, and Environment Department:

I think the benefit from the Regulatory Directorate is because we retain the fees currently we already have the staffing capacity, as we mentioned, because we undertake quite a lot of the role. Then we do have the benefit of having quite a large number of inspectors on the ground going into these premises for different types of legislation, weights and measures for Trading Standards and food inspections and hygiene inspections and things like that, where we can drive that efficiency. So it would potentially be a new aspect for the Gambling Commission where it is more business as usual for regulation. So I would anticipate we already have a certain amount of capacity and this would be only adding a small amount into work we already do.

Deputy M.B. Andrews:

Okay. Thank you very much.

Deputy M. Tadier:

So we are going to move on to the next section, which is to do with the role of the parishes. Deputy Wilson, you can take this section, please.

Deputy K.M. Wilson:

Thank you. Minister, the panel has concerns still that the draft law still obligates the convening of a Parish Assembly. What consideration was given to removing the requirement and why was the decision ultimately taken to retain it?

The Minister for Sustainable Economic Development:

As I referred earlier, the original draft of this law did ... sorry, I said it is not so much ... it removed the requirement, the mandatory requirement, but it did not remove the option for Parish Assembly. So what the previous draft did was it gave the Connétable greater power because it gave the

Connétable the choice as to whether in their opinion they wanted to hold a Parish Assembly or not. So it was entirely their call and from my perspective that seemed like a reasonable thing. As I was saying to the Chair earlier, I think if you have an option you have more power than if you do not have an option. So I could not quite understand why the parishes ... when we got the feedback from the Comité they were very focused on wanting to have mandatory Parish Assemblies, but while I could not understand their perspective, because like I said I think you have more power if you have an option than if you do not, it also was not something which was of such great importance to the law and to my understanding of the law that we should maintain that option. So I made it really clear from the outset that I wanted the parishes' roles in this draft to be maintained and that was principally from the perspective of having that local level representation for any licensing applications. I have stood by that and the Connétables' role in my law as proposed today, even with the new amendment from my law, has been maintained and, in fact, enhanced through other extra powers. So there has been absolutely zero chipping away at the parish role at all. What we have done is enhanced the parishes' role. So I think it is an important role. I will remain slightly confused as to why you would want to remove an option from yourself but that is up to the Connétables to decide.

The Connétable of St. Mary:

I have to clarify I think it would be a brave Constable who did not want a democratic vote as to whether they should allow or not.

The Minister for Sustainable Economic Development:

Sorry, I did not understand that. I apologise.

The Connétable of St. Mary:

Sorry?

The Minister for Sustainable Economic Development:

I did not hear that properly, sorry.

The Connétable of St. Mary:

Well, I think Constables ... as in planning applications, Constables are often asked to throw their weight behind a particular application or not. I take the view it is not for a Constable, any one Constable, to decide what is good or bad. I would want the comfort of a Parish Assembly to decide which is a better route. It is as simple as that, I think.

The Minister for Sustainable Economic Development:

In which case, as a Connétable, under the original draft a Connétable could have said: "Yes, we will have a Parish Assembly for every single licensing application".

The Connétable of St. Mary:

Which I think is what we are getting at.

The Minister for Sustainable Economic Development:

It was in the gift of the Connétable to decide that. I just found it interesting that they chose that they did not want that gift. It is the Connétables' choice.

The Connétable of St. Mary:

Did not want to offend one half of the parish rather than the other, that is all.

The Minister for Sustainable Economic Development:

If you are worried about the offence, you would just call in every licensing application. That is what you would do.

The Connétable of St. Mary:

Effectively, where we have arrived at, is it not?

The Minister for Sustainable Economic Development:

Effectively, yes, but there is no option not to have the Parish Assembly anymore. But like I say, for me it was not something I wanted a big argument over. I felt that it was something that should go with ...

Deputy M. Tadier:

I think what certainly seems to be welcome from our point of view is the ability for a wider section of people to submit comments because not everyone goes to a Parish Assembly.

The Minister for Sustainable Economic Development:

As I said, 31 voting members last week in St. Lawrence.

Deputy M. Tadier:

There is an opinion I think that you sometimes elect a Constable to make decisions on behalf of the parish and you do not expect to second guess every decision, but not everyone has that opinion, I do not think.

Deputy K.M. Wilson:

Could I just ask questions about the views of the industry stakeholders on that position? Did they express any view about that at all in terms of it being a barrier to streamlining the process?

The Minister for Sustainable Economic Development:

Industry has a wide range of views. There are definitely those in the industry who feel that the Parish Assembly part of the process, in the current process, is something which slows down the process, but there were those who also see a value in it. So I do not think there was ... and again, please step in if you feel that I have this wrong, but I do not think there was a strong view one way or the other as to whether the parish should or should not. I think overall the industry understood why local representation should be involved and that ultimately the parish offers that local representation most easily. But I know there are some members of industry, individuals, that strongly dislike the inclusion of the parish process as part of that, but that is individuals rather than the industry as a whole.

Deputy K.M. Wilson:

Depending on where we get to, given the option is there, are you confident that industry would actually be able to take that on board as a process?

The Minister for Sustainable Economic Development:

Absolutely. So everything that is proposed by me in the coming debate, including the current new amendment that I have lodged, is supported by industry.

Deputy K.M. Wilson:

Thank you. There is just one other question. You are introducing a new power for the police and honorary police around temporary closure orders. Could you just give us the rationale behind that and what you are intending to change?

The Minister for Sustainable Economic Development:

So again this was interesting. This has been partly instigated by police and also by the parishes. So it was felt that one of the things that was important to have in your toolbox if you are on the policing side is the ability in the most extreme of circumstances to order the closure of premises. It is only in the most extreme of circumstances such as a big bar brawl, a riot, that sort of situation. In the first draft it was just the police that were going to have that power?

Private Secretary for Minister for Sustainable Economic Development:

That is correct, yes.

The Minister for Sustainable Economic Development:

That is correct, but when I met the Comité one of the Connétables in a more far-flung parish raised the point that actually the honorary police, the Chef de Police, would benefit from having such a power, particularly in the further-flung parishes where it could take 20 minutes or longer for the

States of Jersey Police to get there. That made sense to me. So, as I have said, I have been incredibly ... or I have been very co-operative with the parishes and I have tried to show my desire to maintain the parish role and listen to the parishes in this, which is why it was so interesting that they lodged their own amendment because what we have done here is accommodate the parishes continually. As a result of that intervention by one of the Connétables we amended our original proposition to enable the Chef de Police to have that power to close down premises. But it does need consultation with the States of Jersey Police because closing premises has its own problems. I think Ben in the past quite rightly said if there is a riot going on in a bar, you do not necessarily want that riot to go outside on to the street. Keeping it in the bar is perhaps the best thing to do. Obviously, it is only expert policing that enables people to make those decisions. So as a non-police person, I would not know should we keep this maintained within the premises, should we let it spill out, I do not know what is the best thing to do. But obviously closing premises means something spills out and you do need to be trained to understand what the right call is in those situations.

Deputy K.M. Wilson:

I would imagine you are going to need training for people around that.

The Minister for Sustainable Economic Development:

That would be the policing, the police would do that training, but I think it is also really interesting in 20 years ... so speaking to the police and others, they said in the past 20 years there has not been a single incident which would have required the power of closure. Speaking to a previous officer in government who was involved a lot in licensing and did alcohol licensing in the U.K. (United Kingdom), he said that in the area of the U.K. that he was working in his ... I cannot remember whether it was 10 or 20 years as well. He said he did not see that power used once by the U.K. police.

Deputy M. Tadier:

Is the closure just for behavioural issues or is it for other ... just because the premises is unfit for purpose?

The Minister for Sustainable Economic Development:

No, in theory it could be for that but that would be through the Regulatory Directorate making ... but they would be closing that under different laws. If it was unfit, unhygienic, there are different laws that the Regulatory Directorate would use to close the premises in that situation.

Deputy K.M. Wilson:

How will that be overseen? How will it be overseen in terms of fairness and proportionality?

The Minister for Sustainable Economic Development:

That closure order?

Deputy K.M. Wilson:

Yes.

The Minister for Sustainable Economic Development:

I think Ben is probably best positioned to speak to that.

Private Secretary for Minister for Sustainable Economic Development:

Sure. So the Minister is quite right that the closure order is only for very specific instances and we really are talking about significant threats to public safety like an ensuing riot or an ongoing riot rather. The bar is fairly high necessarily but there is an option for an appeal after the fact. Because the decision would be taken by the police or the honorary police, the appeal would then be dealt with by the Royal Court.

[17:00]

The police I think are pushing towards signing an M.O.U. (memorandum of understanding) with the honorary police if the law was to be adopted so that there is a shared agreement into how the power would be used, but that is something that those 2 bodies will need to work on independently.

Deputy M. Tadier:

Minister, can I just have a check? We are at 5.00 p.m. Did you say you needed to go at 5.00 or have we got a little bit of time?

The Minister for Sustainable Economic Development:

A little bit. I do have an appointment at 5.00 or maybe 5.30, but I do have an appointment.

Deputy M. Tadier:

I just want to ask this first question but it is not my questioning block. I am interested in the alcohol policy group. You have specified in the law who has to sit on that. Can you tell us why you have chosen those particular individuals and why you have not left it perhaps open to the Assembly to appoint a body which could constitute different members?

The Minister for Sustainable Economic Development:

We were trying to include the range of principal stakeholders at the governmental level, and so the main Ministers who are involved, so myself as the Minister for Sustainable Economic Development,

the Minister for Home Affairs, the Minister for Health and Social Services - so both of those are involved in either the enforcement side or the health side of it - the Connétable of St. Helier specifically because obviously most licensed premises are in St. Helier, but then also another Connétable nominated by the Comité so that the wider non-St. Helier views are taken into account, and then the Attorney General. That is as much as anything because the Attorney General and the Licensing Assembly obviously have a great deal of experience in that area and are also involved in not so much the policing but then the enforcement of that policing around that. So it could be ... I think that is a good selection and a good rounded selection but ...

Deputy M. Tadier:

Given your earlier comments about the potential or the actual conflict of the Attorney General who is involved in this in another area, is it wise to have him on a policy framework of politicians?

The Minister for Sustainable Economic Development:

I think the input ... obviously the decision to actually make the policy would be the Minister's decision. It would be the Minister for Sustainable Economic Development signing off on those policies, but I think input from that legal side is quite a help.

Deputy M. Tadier:

So if anything goes to a vote and say if you have, I do not know, 5 members on that panel or 6 or 7, does the Attorney General get to vote?

The Minister for Sustainable Economic Development:

I have found that it is rare in government for votes to take place within government. It tends to be by consensus.

Deputy M. Tadier:

But if it did?

The Minister for Sustainable Economic Development:

I think you would discuss that on a case by case basis. If it felt that the Attorney General felt conflicted and unable to do that, then I think he would step aside.

Deputy M. Tadier:

Would you find it problematic if the Attorney General was not on there, if we suggested it should only be politicians and you could still revert to the Attorney General for legal advice?

The Minister for Sustainable Economic Development:

The Attorney General is always available for legal advice to all parts of government so in that sense I do not think ... I personally would not have an issue with that myself.

The Connétable of St. Mary:

Just leading on from that, the alcohol policy framework is not being considered in connection with the policy group. In the framework we have a requirement to consult with the various people already on it and also a person or body that is representative of alcohol retailers. Is that wide enough again? I seem to recall before that a seaside resort in the south of England, they involved the local university and perhaps had more far-flung representatives of the public as a whole. Is that something that you might give consideration to?

The Minister for Sustainable Economic Development:

I am always happy to take consideration. I think that is a list as a minimum and so it does not stop any consultation taking place with others. It is just saying that the law is saying you must consult these 4 groups or people but ...

The Connétable of St. Mary:

Yes, get the emphasis and maybe no one else. Maybe that could be adapted.

The Minister for Sustainable Economic Development:

... you can go off and speak to anybody else as well.

The Connétable of St. Mary:

Okay. All right.

The Minister for Sustainable Economic Development:

Yes, it is not restricting it to only those 4. I also take alcohol retailers to mean not just the retail ... I will look at Ben here to make sure I am not ... I have always understood alcohol retailers to also include off and on-licence as opposed to just off-licence because an on-licence is also retailing it.

Private Secretary for Minister for Sustainable Economic Development:

That is correct, yes. That is certainly the interpretation that we have envisaged within the law. As the Minister said, it is a minimum, not a maximum. It would quite likely be the case that you would get public submissions forthcoming anyway because the policy needs to be debated by the States Assembly. So it would be quite public that it is coming down the line. As we know, when there are submissions like that, often members of the public do email in.

Deputy M. Tadier:

I think we are going to wrap this up fairly shortly. I know we have to go soon. Deputy Porée first, do you have any burning issues? We will put some of these I think as written questions to you, Minister.

Deputy B.B. de S.V.M. Porée:

The set of questions I was going to ask would be around the public engagement, but maybe if I just stick to one question because obviously we have members of the public who may be listening to this hearing so it would be respectful for them to ask this question. Can you please outline in your proposed alcohol licence process how can members of the public raise concerns? I know we spoke lightly but could you just be a bit more specific? Moving forward, how would they raise concerns?

Group Director - Regulation, Infrastructure, and Environment Department:

So under the proposed legislation when an application comes in, then there is a provision to ensure that that application is then published in a manner to which would draw attention to the public. We would usually do that on the Government of Jersey website, in the Gazette, and that would obviously draw attention and people can make representations to the directorate. So it is very similar to a lot of other laws that we have where there is a public engagement process. Once the directorate receives a recommendation from the parish, inclusive then of the public comments and also the representations made at the Parish Assembly, in making a decision in line with the alcohol policy framework we would take into account all of the public comments that were made and in preparing a decision for a licence we would also then make public on the Government of Jersey website the licence, the conditions and the reasons for the decision. So in that way we are really respectful of making sure that we have transparent decision-making and then everybody can see where their input and their comments has formed in terms of making that final decision.

Deputy B.B. de S.V.M. Porée:

So how will you ensure that the right people will evaluate the public submissions appropriately alongside any other forms of evidence?

Group Director - Regulation, Infrastructure, and Environment Department:

So we do that through the transparency of publishing a report that outlines the way in which decisions are made. The reason for that is so the public can scrutinise our decision-making. So then if they feel that there was errors in the way decisions are made or misrepresentation, then again there are different routes of appeal. But that can be brought to the attention of the Ministers, the alcohol policy framework group, and that is the way in which decisions are robustly scrutinised.

The Minister for Sustainable Economic Development:

It might be worth mentioning the expertise of your officers in dealing with applications and all sorts.

Group Director - Regulation, Infrastructure, and Environment Department:

Yes, absolutely. Thank you, Minister. We do deal with so many different laws that have public comments, and ensuring that in all the decisions that we make we ensure that the officers have the suitable qualifications and experience to make those decisions but most importantly those decisions are transparent - so publishing the reasons and being very specific for the reasons and the judgments that are made in weighting for or against a range of material considerations - is really important. I think the Regulatory Directorate has proven across all those laws that that transparency is really key. Again, as the Minister said, we are always very comfortable with scrutiny and appeals and making sure that the decision-making and the decisions of the directorate are examined. It is the way that we improve. We make changes after that. So we are very comfortable with that type of process.

Deputy B.B. de S.V.M. Porée:

Thank you for that. I will leave it now. Maybe you have emerging questions.

Deputy M. Tadier:

Yes. I think that is all from me.

The Connétable of St. Mary:

Just a very quick one. To add on to the process, is there scope for including a process when you go out for submissions of notification that the Parish Assembly to consider it is going to be held on a certain date so it would be killing 2 birds with one stone?

Group Director - Regulation, Infrastructure, and Environment Department:

Yes, I do not see any issue with including that. Michelle, would that be ...? Yes. Again, I think as the Minister mentioned, the law is the minimum and lots of legislation tend to be a minimum, so there is quite a lot that we would do more in terms of community engagement and things like our practice that are requested from the public that would not necessarily be ...

The Connétable of St. Mary:

That can be done outside of the actual legislation, yes.

Group Director - Regulation, Infrastructure, and Environment Department:

That is the process and procedure that we would take and build on the legislation.

Deputy M. Tadier:

Thank you.

The Minister for Sustainable Economic Development:

Just before we wrap up, Chair, in response to your panel's request to defer the proposition to the next sitting, so not tomorrow's sitting but the one afterwards, that is something I have indicated that I am more than happy to do, but because the debate has already started on the First Reading we have to ask the Assembly to agree to that. So I will send an email round letting the Assembly know that we will be asking ...

Deputy M. Tadier:

Thank you, yes.

The Minister for Sustainable Economic Development:

In order for scrutiny to be able to do their work. So it is just that is why it still appears on the Order Paper for tomorrow.

Deputy M. Tadier:

Yes, I was wondering about that. Thank you for clarifying that. I do not think there will be any problem with that. I think you have given notice as well previously.

The Minister for Sustainable Economic Development:

Yes.

Deputy M. Tadier:

Can I just say thank you for coming in? We appreciate your time. We know you all have busy schedules. I think that has been very helpful with our process as well. So I will draw these proceedings to a close.

[17:10]