

**REPLY BY THE CHIEF MINISTER
TO A QUESTION ASKED PURSUANT TO RULE 6 OF THE
RULES OF PROCEDURE BY DEPUTY M. J. FALLAIZE**

Preamble

Fully 76 months ago – in September, 2006 – the States of Deliberation resolved: “To direct the Policy Council to initiate an investigation into the desirability of the enactment of legislation –

- (a) enabling people to enter into legally recognised and binding civil partnerships in Guernsey;*
- (b) addressing all issues that might be associated with, or arise out of, the creation of such partnerships; and*
- (c) enabling the recognition for the purposes of Guernsey law of similar civil partnership arrangements entered into under the laws of other jurisdictions.”.*

Question 1

How long after the aforementioned Resolution of September, 2006 did the Policy Council initiate the investigation as directed by the States of Deliberation?

Answer

As I stated, following the Rule 5 question by Deputy Gollop at the November 2012 States meeting, the Policy Council has reviewed the priority of work including the requête led by the then Deputy Roffey in September 2006 on civil partnership. The Policy Council agreed that the prioritisation established by the States, following the debate of the Government Business Plan in July 2007 and following debate on the States Strategic Plan in October 2009, should remain.

This set the priority of work as follows:

First - the research on the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)

Second - the Disability Strategy

Third – Civil Partnership

The States considered the Policy Council’s report on Maternity and Paternity Provisions and the United Nations Convention on the Elimination of Discrimination against Women (CEDAW) in February 2012. It resolved to undertake further work on statutory leave and Social Security benefits for expectant mothers and parents, thereby improving Guernsey’s compliance with CEDAW.

Work on the Disability and Inclusion Strategy is underway and it is anticipated that the States will consider this in the late Spring or early Summer of 2013.

I explained that planning of work relating to Civil Partnership was therefore likely to commence in the New Year but timings would be dependent on the outcome of the Disability and Inclusion Strategy. Planning is now likely to commence in the late Spring allowing time for the States report on the Disability and Inclusion Strategy to be finalised.

This will be ahead of the proposed commencement date of 2014 given in the 2009 States Strategic Plan (p.2386 Billet d’État XXVI, October 2009).

Finally, the need to prioritise work on these projects is not a reflection of any Policy Council view about their relative merits. Rather, it is the fact that with the limited resources available to the Policy Council it cannot reasonably pursue such projects simultaneously and must therefore prioritise.

Question 2

How long after the aforementioned Resolution of September, 2006 does the Policy Council expect to lay the findings of their investigation before the States of Deliberation?

Answer

As stated above planning has not yet commenced on civil partnership and therefore timings cannot be stated other than in general terms. It is the aim of the Policy Council, through the Social Policy Group, to bring the matter before this States, but it will depend on the scope of the work undertaken in this complex area as to when this will be.

Question 3

Are members of the Policy Council of the view – in principle – that there should be enacted in Guernsey legislation which would enable people of the same gender to enter into civil partnership or civil union or other such similar legally-recognised and binding arrangement?

Answer

The Social Policy Group is committed to this work being undertaken in this term of the States. However, the full Policy Council cannot pre-empt that work and any views given would, therefore of necessity, be individuals' views without the benefit of the research having been undertaken.

Question 4a

Are members of the Policy Council committed to providing the States of Deliberation, as the island's government, with an opportunity to determine on a regular basis – say, annually – the order of priority which should be attached to drafting legislation which remains to be enacted pursuant to extant States Resolutions, albeit that such an order of priority may in the first instance be proposed by the Policy Council?

Question 4b

If so, when shall the first such opportunity arise during the 2012-16 States Term?

Question 4c

If not, what in the opinion of the Policy Council is the disadvantage or risk of providing the States of Deliberation, as the island's government, with an opportunity to determine on a regular basis – say, annually – the order of priority which should be attached to drafting legislation which remains to be enacted pursuant to extant States Resolutions, albeit that such an order of priority may in the first instance be proposed by the Policy Council?

Answer

Dealing with question 4 in its entirety, Section (a)(xvi) of the Policy Council mandate requires the Policy Council to be responsible for “the prioritisation of the States legislative programme”.

The mandate does not require the Policy Council to seek guidance or a definitive view on the programme by way of States debate although there is nothing to prevent it from adopting such an approach should it so wish.

The question refers to “legislation which remains to be enacted pursuant to States Resolutions”, however for the avoidance of doubt the Prioritisation Programme is confined to those matters where there is a specific States Resolution requiring the drafting of legislation. There are other Resolutions committing the States to a course of action that may lead to legislation in due course but only after the matter has been investigated and further Reports submitted. The issue of civil partnership is one such case.

I make this point because, not infrequently, some States Members, the media and the general public mistakenly assume that the moment the States resolve to approve a policy initiative, or even direct further investigation of a possible policy initiative, the drafting of legislation will commence. For obvious reasons that is not the case. Unless and until there is a resolution to draft legislation it is not prioritised. I suspect that it is this misunderstanding that generates frustration around prioritisation.

The current Policy Council has to date been content to follow the arrangements established in the last Term whereby it considers the recommendations of a Prioritisation of Legislation Group (comprising HM Procurer, HM Comptroller, the Director of Legislative Drafting and the Chief Executive and Deputy Chief Executive) which propose a quarterly programme of drafting built around clear political priorities as established from consultation with Departments and Committees and having regard to the available drafting resources.

The Policy Council then considers the programme and makes adjustments as it sees fit on a quarterly basis. As States Members will be well aware the programme is published quarterly on the States website and sent by e-mail to all States Members. Since the inception of this States Term there has been little comment from States Members on the published quarterly programmes and where States Departments have asked for particular legislation to be given new priority, this has been accommodated. So, on the face of it, the current system appears to be working well.

On a regular basis the Policy Council invites all Departments and Committees to review all extant Resolutions of the States relating to their respective Departments or Committees directing the preparation of legislation and to identify the status attaching to such items. That enables each Department and Committee to assess its own legislative priorities.

The Policy Council intends to review this process in consultation with the Crown Officers and States Departments and will advise States Members of the outcome of that review and of any changes that may be proposed.

Date of Receipt of the Question: 11th February 2013

Date of Reply: 15th February 2013