



# PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

**AFTERNOON SESSION: 2.50 p.m. – 9.25 p.m.**

**Gibraltar, Thursday, 28th May 2020**

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# The Gibraltar Parliament

*The Parliament met at 2.50 p.m.*

[MR SPEAKER: Hon. M L Farrell BEM GMD RD JP *in the Chair*]

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

## PAPERS TO BE LAID

**Clerk:** (vi) We continue with Papers to be laid.  
The Hon. the Chief Minister.

5 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to lay on the table the Gibraltar Annual Policing Plan for 2021, and the Revolving Credit Line Facility Letter for £150 million sterling from Gibraltar International Bank Ltd as lender, to Her Majesty's Government of Gibraltar as borrower, also known as the 'Facility Letter'.

10 **Mr Speaker:** Ordered to lie.

**Clerk:** The Hon. the Minister for Health and Care.

15 **Minister for Health and Care (Hon. P J Balban):** I have the honour to lay on the table the Mental Health Board Annual Report 2018-19.

**Mr Speaker:** Ordered to lie.

20 **Clerk:** The Hon. the Minister for Business, Tourism and Transport.

25 **Minister for Business, Tourism and Transport (Hon. V Daryanani):** I have the honour to lay on the table a Command Paper on a draft Bill to make provision for the regulation of personal light electric transporters, to restrict their use to roads, to stipulate their use in traffic, to specify a minimum age for their operation and also to provide for their seizure and detention on the imposition of penalties for outside use.

**Mr Speaker:** Ordered to lie.

## Questions for Oral Answer

### HOUSING, YOUTH AND SPORT

Q221/2020

#### Stay and Play and Summer Sports – Programme offerings for 2020

**Clerk:** (vii) Reports of Committees. (viii) Answers to Oral Questions.

30 We now proceed to Answers to Oral Questions. We commence with Question 221/2020 and the questioner is the Hon. E J Reyes.

**Hon. E J Reyes:** Mr Speaker, what are Government's plans in respect of offering Stay and Play and Summer Sports programmes for this year?

35 **Clerk:** Answer, the Hon. the Minister for Housing, Youth and Sport.

**Minister for Housing, Youth and Sport (Hon. S E Linares):** Mr Speaker, several models are being considered, as we are very keen to run the Stay and Play programme. These models consider all Public Health advice where possible, including social distancing, sanitation and other factors. We have a duty of care to provide a safe environment for staff and users alike, so we will make an announcement as soon as we have finished the plan.

**Hon. E J Reyes:** I am grateful, Mr Speaker.

I notice, posing the question, some things have come up more in the press. I want to thank the Minister for having worked together and closely with the different sports associations as and when things are starting to return, and I just want to place on the record that, should at any stage, in the same spirit of co-operation as some of my colleagues have done, I am always available to assist the Minister in anything he may need in respect of looking for a way forward for our sportsmen, many of whom I know are eager to burn all those extra calories and kilos that they have been building up recently.

Thank you, Mr Speaker.

**Hon. S E Linares:** Mr Speaker, just as a matter of order, on the paper I have one last line – because the hon. Member opposite asked about the Summer Sports programme this year: in respect of the Summer Sports programme, unfortunately this will not take place this year.

**Hon. E J Reyes:** So then, what is working is obviously the Stay and Play, because of the special circumstances, which reluctantly has to happen. But I am glad he has given priority to that area. It does bring great difficulties to families and so on, and it is definitely the children who will benefit most from that programme.

**Hon. S E Linares:** Yes, Mr Speaker. It is not reluctant; it is just to do with health. We understand the needs of people with disability, and especially children, and especially after a lockdown. It is such an important programme for us anyway, but we are going to have models so that it will hopefully work as it should and will work for them.

**Hon. K Azopardi:** There is an alarm in the building. (*Interjection*)

Mr Speaker, I hear what he says, and indeed this morning we remarked, all of us, on how sensitive the situation is, but would the Minister consider – because we are still in May – keeping

the matter under active review or perhaps a more ... because the opportunity might arise for a much more limited programme, especially in relation to certain children and not others, in smaller groups? It is a matter, perhaps, that he may want to reflect on.

**Hon. S E Linares:** We will have that in consideration, Mr Speaker.

40 **Hon. D J Bossino:** Mr Speaker, the Hon. Minister is absolutely right, this is a vital programme for many children with special educational needs and, as he also rightly points out, particularly in circumstances where they have been subjected to a very strict lockdown for the last 17 weeks.

Can I ask him, when he talks about several models, what models he is considering? Can he be a bit more specific in relation to that?

45 **Hon. S E Linares:** Yes, Mr Speaker. Like I said at the end, it is not finalised yet, but I can give the hon. Member just an insight that we will be having separate groups working in different areas so that there is at least the social distancing, and we will have like a bubble, where you have the carers and the children working in a group, and that group will probably stay together through the summer, so there is no contact with others and it will be in different locations where they can work. So, they will be rotating the locations but they will also be rotating with the staff. That is the sort of model we are looking at for the safety of the children.

50 It is important, like I said in my answer, that both the staff and the users are looked after properly. We have got to make sure that it is done in the proper manner. We are not going to rush into it just for the sake of doing it, and then we have problems. We are very conscious of that fact, and that is why I said it is a model – because we have not done it before – but we are working on that.

55 **Hon. D J Bossino:** Thank you. I am not going to necessarily pin him down on a date, as I know he cannot do so, but is it at least his expectation that the programme will be up and running in July – I think it is normally in July when it ordinarily starts – everything else being equal?

60 **Hon. S E Linares:** Without committing myself, I think it is probably about that time, the beginning of July, yes.

65 **Mr Speaker:** Next question.

**Q222/2020**  
**Government rental homes –**  
**Arrangements for repairs and other works**

**Clerk:** Question 222, the Hon. E J Reyes.

70 **Hon. E J Reyes:** Can Government indicate to this House the date by when non-emergency repairs will be recommenced in respect of rental homes, together with details of any special arrangements which may be undertaken in order to catch up with pending works?

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

75 **Minister for Housing, Youth and Sport (Hon. S E Linares):** Mr Speaker, at present, phase 2 of the Unlock the Rock route map allows for works within non-occupied properties, albeit with the relevant Chief Technical Officer's (CTO) permit in place, subject to certain conditions imposed such as wearing of masks, gloves, temperature checks and social distancing, if possible. This

80 should change when phase 3 is initiated, whereby works within occupied properties can take place, again subject to a CTO permit with the relevant conditions.

Emergency works have been exempted from the regulations from the very beginning.

**Hon. E J Reyes:** Mr Speaker, thank you.

85 The final part of my question was does the Government envisage trying to make any special arrangements because there is a backlog, and obviously that will take a few weeks. Some of these tenants are understandably starting to get a bit impatient. Is there anything we can offer these people as a ray of hope that the works will be undertaken as soon as possible once we commence phase 3, like the Minister has just explained?

90 **Hon. S E Linares:** Mr Speaker, we are trying to get on top of every single report. If the report is an emergency one, like I have just stated, it is seen to immediately. If the report is something that has to wait, like again I have mentioned, if they are works that are within a household where there are people in it, it would not be sensible, whether the tenant likes it or not, to have workers going into their house. So, we would rather now wait for phase 3, and again like I have  
95 said, within phase 3 we will try and catch up as many ... but again within the limits, and the limits are that construction are not working at a 100% pace.

**Q223/2020**  
**Emergency housing allocations –**  
**Terms and conditions**

**Clerk:** Question 223, the Hon. E J Reyes.

100 **Hon. E J Reyes:** Can Government provide details of any emergency housing allocations made as a result of COVID-19 lockdown consequences, indicating what terms and conditions may have been attached to these allocations?

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

105 **Minister for Housing, Youth and Sport (Hon. S E Linares):** Mr Speaker, 16 flats have been allocated to applicants on the waiting list as a result of COVID-19 lockdown consequences.

110 **Hon. E J Reyes:** Mr Speaker, these 16 flats have been allocated because they were the next 16 due, or have been allocated in a more temporary type of measure – which is why I ended my question asking if there have been any terms and conditions that, once these things are back to normal, they have to return the flat because it was just issued on a temporary emergency basis?

115 **Hon. S E Linares:** Mr Speaker, basically what has happened is that five flats have been allocated to the GHA for bed management – that means the people who have had to be moved from the Hospital we had to accelerate to be able to be given a flat; four flats have been allocated for Women in Need – we also thought it was necessary to have accommodation ready for people who might have issues and therefore Women in Need would be ready to take on issues that could happen in a lockdown, very important, I think; one flat was directed, due to COVID-19, to ERS for an isolation unit, to build the isolation unit; three flats were allocated to high-risk frontline workers; and three flats were allocated to high-risk living situations.  
120

I must add that all of them have been on the housing list and what we have done is taken into consideration COVID-19, and at times, although they might be, just as an example, fifth or sixth on the list, we have accelerated them due to their conditions and due to their problems

125 and due to COVID, to be able to have allocated these 16 flats. And some of them are under conditions, as the hon. Member said.

**Hon. E J Reyes:** So, of these 16, how many will, in the foreseeable future, be returned to Government housing for allocation to others on the list, and how many have been issued on a permanent basis? Otherwise, I may not be understanding the Minister.

130 **Hon. S E Linares:** Mr Speaker, these flats are given to people who are on the list, who have been waiting. It is not that they have not been waiting. They are on the list. That means that all we have done is, if there has been a problem, we have accelerated in order to be able to give them a flat. For example, if a woman in need ... We have tried to empty some of the places.  
135 These people are on the list, they are waiting for a flat, so we are accelerating for the needs of COVID-19.

## HEALTH AND CARE

**Q224/2020**

**MRI scanner –**

**Status re order and intended location**

**Clerk:** Question 224, the Hon. E J Phillips.

**Hon. E J Phillips:** Mr Speaker, apologies for the length of this question.  
140 On 24th June 2019, the Government confirmed that an MRI scanner should be in place by the beginning of 2020, having also confirmed that it had been ordered to deal with the 2,500-3,000 MRI scans required each year. In February 2020, the Minister for Health said in Parliament that the Government was committed to bringing home an MRI scanner and exploring all options as the location of the MRI scanner. On 19th May 2020 – last Tuesday – the Government stated that  
145 the GHA remained committed to providing an MRI scanning service at the GHA.

Can the Government now state: (i) that the Government and/or the GHA did in fact not order the MRI scanner on or before 24th June 2019, and, if it did, when that order was cancelled and for what reason; (ii) the reason for the seven to eight months' delay – namely between 24th June 2019 and before the COVID-19 crisis – to making provision for the acquisition by the  
150 Government/GHA of the MRI scanner; (iii) will the Government and/or the GHA purchase the MRI scanner; (iv) where the MRI scanner is to be located within the Hospital?

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

155 **Minister for Health and Care (Hon. P J Balban):** Mr Speaker, the GHA initially entered into arrangements for the provision of an MRI scanner on 6th June 2019. Studies were undertaken by the prospective supplier to find a suitable area within the GHA. This study found that the original site identified was deemed unsuitable.

160 Furthermore, it was recently decided not to proceed with the purchase of this scanner. The order was subsequently cancelled, on 11th May 2020, in the interest of ensuring that Gibraltar gets the right scanner capability.

The period following the placing of the order was not a delay, and in any case no predetermined delivery date had yet been agreed. The GHA's position therefore remains as stated on 19th May.



165 **Hon. E J Phillips:** So, Mr Speaker, to be clear, the Government had not at that stage ordered and paid for the MRI scanner, or at least an instalment or a deposit for the scanner. Is that correct?

170 **Hon. P J Balban:** Mr Speaker, at that moment in time ... *(Interjection)* I fear I may have lost the thread there, but –

**Hon. E J Phillips:** I will repeat it.

175 **Hon. P J Balban:** Yes, please.

**Hon. E J Phillips:** I seek clarification as to whether in fact the Government had or had not ordered the MRI scanner and paid a deposit on 24th June 2019.

180 **Hon. P J Balban:** Mr Speaker, there was a study that was carried out with the prospective company, who came over to check the potential location of the MRI scanner. It was at this point that, during that study, it was found that the area which was initially earmarked for the scanner would not be suitable because of magnetic interference. I think it was magnetic interference from things like vehicles, because it was a low level, and the interference that it could also provide. That was the reason why it did not proceed from that point, so what was started was  
185 the study into the prospective location of the scanner.

**Hon. E J Phillips:** So, the statement made in the House as to the ordering – because they are very specific words, that the Government had ordered an MRI scanner – is incorrect. Is that right? Or can we correct the record, for the purposes of *Hansard*?

190 **Hon. P J Balban:** Mr Speaker, the scanner had been ordered but we had not yet paid a deposit.

**Hon. E J Phillips:** Just to confirm, the cancellation date for the order, the Minister said, was  
195 11th May 2020?

**Hon. P J Balban:** Yes, Mr Speaker.

200 **Hon. E J Phillips:** Mr Speaker, the arrangement that was put in place, who was that with – the external party outside, I assume, Gibraltar – to provide the MRI scanner? Does the Minister know the name of the company that the Government was going to order the machine from?

**Hon. P J Balban:** The company in question at the time was Phillips.

205 **Minister for Digital and Financial Services (Hon. A J Isola):** A horrible name! *(Laughter)*

**A Member:** Any interest?

210 **Hon. E J Phillips:** I am not sure whether the Minister meant the screwdriver or the other company. *(Laughter)*

Mr Speaker, is it the Government's intention to acquire this MRI scanner itself, as the Government acquired GHA?

215 **Hon. P J Balban:** Mr Speaker, not this scanner itself – obviously, it was cancelled – but as I said in the last part of the reply to the hon. Member's question, our position remains as stated on 19th May: the intention is to bring scanning MRI scanning services to Gibraltar.

220 **Hon. E J Phillips:** Whilst I appreciate that the Minister is confirming that he wishes to ‘bring home’ the MRI scanner – to use the language that he adopted back in February of this year – it is important for our community to understand that if 3,000 images are going to be taken via the MRI scanner, reassurance is given that the GHA will be the ones that are purchasing this scanner and that it will be deployed in other parts of Gibraltar. Or is this going to be acquired by a third party to provide that service to the people of our community, rather than the GHA itself?

225 **Chief Minister (Hon. F R Picardo):** Mr Speaker, that is a question on cost, and as Minister for Public Finance I think the answer is that the option that the Government is looking to secure is the one that provides the best service for the best value for money for the taxpayer. I am sure he is not encouraging us to take an option that would be less good value for money if that meant that we owned the scanner but it cost us more per scan.

230 **Hon. E J Phillips:** Mr Speaker, I completely understand that. There are obviously a significant number of scans that this community needs. I think the last count was 3,145, in the recent statement on 19th May. I just simply wanted to know whether the Government had taken a view as to whether purchasing this would be more cost effective than farming it out, effectively, to a third party that will provide this service on behalf of the GHA.

235 **Hon. Chief Minister:** Mr Speaker, the answer to that – which is a question as to whether we have taken a view – is that we have not yet taken a view but we are keen to be able to take a view which delivers that best value for money for the best standard of care possible to produce the best possible scans in Gibraltar, which I think is the key issue here, that we have taken a policy position to bring MRI scanning to Gibraltar and we must do so in the interest of the patient and in the interest of the taxpayer in the way that is the most financially efficient way to do so.

240 **Hon. E J Phillips:** I assume, for the purposes of this question, that the Government will issue a tender notice in respect of this particular piece of expensive equipment, Mr Speaker.

**Hon. Chief Minister:** Mr Speaker, if we were to decide to purchase a piece of equipment.

245 **Hon. E J Phillips:** In that regard, Mr Speaker, the tender notice would obviously require that the individuals providing this service to our community have the relevant experience in this aspect of medical and health care.

**Hon. Chief Minister:** Mr Speaker, I am conscious that we have a lot of questions on the order paper and I am happy to descend to the most minor particular necessary.

255 It does not for one moment enter into the Government’s potential area of action that we should in fact contract MRI scanning to people who do not have the necessary expertise.

**Mr Speaker:** Next question.

**Q225-26/2020  
Pioneer Healthcare Ltd/Group –  
Introduction and relationship**

260 **Clerk:** Question 225, the Hon. E J Phillips.

**Hon. E J Phillips:** Can the Government state how the Government was introduced to Pioneer Healthcare Ltd/Group?

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

265 **Minister for Health and Care (Hon. P J Balban):** Mr Speaker, I will answer this question together with Question 226.

**Clerk:** Question 226, the Hon. E J Phillips.

270 **Hon. E J Phillips:** Mr Speaker, can the Government confirm what commercial relationship it or the GHA maintains with Pioneer Healthcare Ltd/Group?

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

275 **Hon. P J Balban:** Mr Speaker, Pioneer Healthcare Ltd was introduced to the GHA through the former Medical Director.

This company provides visiting consultant surgical services and PPE supplies.

**Hon. E J Phillips:** Mr Speaker, who does he mean by ‘the former Medical Director’?

280

**Hon. P J Balban:** Mr Speaker, Dr Daniel Cassaglia.

**Hon. E J Phillips:** Mr Speaker, as far as I understand, there is a relationship between an individual within the Health Service at the moment and Pioneer Healthcare. I know it leads on to the next question – I was wondering whether we could leave that there at that point.

285

**Chief Minister (Hon. F R Picardo):** Mr Speaker, we are not clear that that is the case but we are very happy to receive the information if the hon. Gentleman wants to give it to us.

290 **Hon. E J Phillips:** Mr Speaker, it is part of one of the questions, I think, in Question 227, so I am just – (*Interjection*) It is probably best to wait until we have dealt with Question 226, and then we can move to Question 227.

**Mr Speaker:** Next question.

295

**Hon. Ms M D Hassan Nahon:** If you do not mind, can I possibly ask a supplementary to the Hon. Minister? My hon. Friend brought up the issue of Pioneer Healthcare and I have noticed a tweet about Pioneer Healthcare, talking about how they were effectively banned from providing their equipment in the UK because they claimed that there was a lot of red tape and they did not get it through the quality control system. Can the Minister confirm why it is that this company actually made it to Gibraltar, to our standards, when it was turned away from the UK?

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**Hon. P J Balban:** Mr Speaker, I am not aware of any tweets whatsoever in that respect, so I have no reason to know that.

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**Chief Minister (Hon F R Picardo):** If she shares it with us, we will look at it.

**Hon. P J Balban:** Yes, if the hon. Lady shares it with us, we will most definitely look into it, of course.

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**Mr Speaker:** Will the hon. Lady do that?

**Hon. Ms M D Hassan Nahon:** Mr Speaker, of course I will, I will be happy to, but let me just say that I have no doubt that ... The Minister may not have seen the tweet, but this is an official

315 tweet from the company, so my question is: respecting that he has not seen it, believing that he has not seen it, why was it exactly that Pioneer made its way to Gibraltar? Given that it had this history, what kind of vetting did the Gibraltar Health Authority actually have, in light of the fact that they did not make it through other places, like the UK?

320 **Hon. P J Balban:** Mr Speaker, the issue with Pioneer Healthcare Ltd is something that happened before my time as Minister for Health and Care, so unfortunately I am not able to provide any more information in this regard. But as we have mentioned, if the hon. Lady is kind enough to pass us this tweet and this information we will look into this matter further.

325 **Mr Speaker:** Next question.

**Q227/2020**  
**PPE procurement –**  
**Interests of individuals connected to GHA**

**Clerk:** Question 227, the Hon. E J Phillips.

330 **Hon. E J Phillips:** Mr Speaker, can the Government confirm whether any GHA employee or any person connected to the GHA has a direct or indirect interest, howsoever arising, from any contract for the procurement of PPE or other supplies or equipment in relation to the Government's response to the COVID-19 pandemic?

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

335 **Minister for Health and Care (Hon. P J Balban):** Mr Speaker, yes, sir.

**Hon. E J Phillips:** Would the Government kindly reveal that direct or indirect interest?

340 **Hon. P J Balban:** Mr Speaker, as is the case in so many instances in Gibraltar, there are in fact two companies which have supplied PPE to the GHA and they have relatives employed within the GHA. These two companies and individuals who are related to them have properly declared their interests.

345 As the hon. Member will understand, with a workforce of over 1,100 employees it would be impossible to suggest that any such conflict may not arise naturally or to be able to assure the House that they do not arise in other cases that the Government may in fact not be aware of.

350 **Hon. E J Phillips:** Mr Speaker, am I correct in therefore analysing this in the sense that Pioneer Health Group Ltd was the company that provided PPE to Gibraltar, it was introduced by Mr Cassaglia, and there are a number of individuals within the GHA – given the size of the institution, as you have suggested – who have an indirect or direct interest within that company? Is that correct?

355 **Hon. P J Balban:** No. You are actually putting one and one together and not getting two. We are not saying for a moment that the two cases in question are linked to Pioneer Healthcare. That is why I would need to look into Pioneer Healthcare in more detail, because it is not something that I am fully aware of, because it predates my time as Minister for Health. I was talking about other companies that have some relation.

360 **Hon. E J Phillips:** How senior are the GHA individuals who do have a direct interest in supplying PPE to Gibraltar? How senior are they within the GHA structure?

365 **Hon. P J Balban:** Mr Speaker, I am not entirely sure how senior they would be. Again, I think you are pointing your finger to try and reveal who they are. I would need to look into it, to get an exact link between the two, to be able to provide an answer to that question.

**Hon. E J Phillips:** Mr Speaker, forgive me for asking this question again: the Minister is not aware of the names of the individuals who have negotiated with the Government for the procurement of PPE in Gibraltar?

370 **Hon. P J Balban:** Mr Speaker, I am not aware of all of the names of all of the people who could be related to the company. No, absolutely not. I do not know how many people are related. As I said, with 1,100 employees I know there is more than one person involved in it. I do know a number of these persons, but not ... I would have to really check to see who all the interested parties are. It is not something which I would be privy to.

375 **Hon. K Azopardi:** Let me try to understand what the hon. Member is saying. I appreciate at the beginning of his original answer he says in a place like Gibraltar there will be people who will be related to the people who own the company with which the GHA has contractual relations, but really what we are trying to understand is ... There is a difference, obviously, with those people being cleaners in the GHA and those people being very senior in the hierarchy of the GHA, that might be involved ... I do not know if the hon. Member is listening to me, sir. I will wait.

380 If I have the hon. Member's attention, there is a difference between those people being cleaners and someone who might be senior within the structure and not involved in the decision making but senior within the structure and involved in the decision making. So, really what we are asking is: is the Minister aware of the names of those companies and the kind of seniority of the person with which the company has any links?

390 **Chief Minister (Hon. F R Picardo):** Mr Speaker, it appears that they are talking about one type of relationship and we are talking about another. We would be very interested to hear what they believe is the situation and we are quite happy to share with them what we understand to be the situation, but obviously, because we are going to be bandying around names of people who are not here, it is probably fairer to do it behind the Speaker's Chair.

395 As far as we understand it, we have a situation where companies that have provided PPE to the GHA have on their boards or in their shareholding – it could be either of the two – relatives of people in the GHA, but not people in the GHA who have a direct interest in that company, except in one case which we are aware of but where the individuals in the GHA are not in the management structure of the GHA, they are in the clinical structure of the GHA and are therefore not decision makers as to procurement in any way.

400 We are quite happy to share that information with the hon. Gentlemen so that they are as aware as we are, and give them the names of the companies and the individuals – I think it is unfair to do it across the floor of the House – and they might share with us the information that they say they have, because it appears that they believe that there are other people involved, that we may not be aware of, who are related in some way. They may be wrong about that and they may be happy to be told that they are wrong about that once we have been able to go back and get that information, and they may be pleased to hear the information that we have been able to gather.

405 It is also important to say that beyond those two types of relationships and instances that the hon. Gentleman has identified and I have responded on, there are the instances which the Hon. Minister referred to a moment ago, namely that with 1,100 individuals it is impossible to know

all of the family tree and all of the connections there may be, but outside of the decision-making capability in the GHA.

415 **Hon. E J Phillips:** Mr Speaker, I am happy with the response. Of course I would like to know the identity of those particular companies so that we can satisfy ourselves of the answer, but also it may help for us to provide you with the information that we have, particularly in relation to Pioneer Healthcare and the relationships that may have existed before that, which may impact on the acquisition of PPE. We can do that and then we can ask further questions in the June slot, which is a fast approaching in any event.

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**Mr Speaker:** Next question.

**Q228-29/2020**

**PPE –**

**Compliance with safety standards**

**Clerk:** Question 228, the Hon. E J Phillips.

425 **Hon. E J Phillips:** Mr Speaker, can the Government confirm that all PPE currently in circulation in Gibraltar complies with EU Regulation 2016/425 and/or the standard referenced in the World Health Organization guidelines; and, if not, can the Government confirm that PPE in circulation meets the essential health and safety requirements and delivers adequate safety?

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

**Minister for Health and Care (Hon. P J Balban):** Mr Speaker, I will answer this question together with Question 229.

435 **Clerk:** Question 229, the Hon. E J Phillips.

**Hon. E J Phillips:** Can the Government confirm whether a sample of a batch PPE previously procured by the Government and/or the GHA or through a third party in excess of £1 million has been sent out of Gibraltar for external testing in respect to verification as to the quality of the said PPE?

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

445 **Hon. P J Balban:** Mr Speaker, I can confirm that the GHA has carried out all possible due diligence to ensure that the personal protective equipment being procured by it meets the required standard for its corresponding use. The Government is not able, however, to give the assurance requested by the question in respect of PPE currently in circulation in Gibraltar.

As part of its quality assurance process, the GHA has sent some items for external, independent validation. That is normal practice to ensure quality control.

450 **Hon. E J Phillips:** So, the Minister is not aware of a significant amount of PPE procured by the Government in respect of the fight against COVID-19 where there may be serious question marks over the quality of the PPE that is deployed to the Health Service and beyond?

455 **Hon. P J Balban:** Mr Speaker, I have replied to that question, I believe. The GHA has carried out, as I said, all due diligence, and we are looking, when something comes back to us and we

are not entirely satisfied with the quality of anything – it could be anything ... Any item that the GHA procures, if we believe it does not meet the standards then we will send out for external validation. This is what we have said. The GHA has sent some items abroad, to the UK, to a specialist centre, to ensure that the PPE is of a given standard. PPE comes in different levels of protection, from the simple surgical mask to FFP2s and FFP3s, and each has to conform to given guidelines as to risk of contracting any virus or any particle. Some PPE is useful for construction purposes as well.

We have to show due diligence and when, as a professional organisation, we feel that something may not be to a given standard, then it is in all of our interests to make sure that we validate it.

**Hon. E J Phillips:** I understand that, but I just wanted to know whether the Government had independently verified that the manufacturer of the PPE that is supplying it to the Government understood that it is to be in conformity with the EC regulation and indeed the WHO guidelines that have been published.

The Minister will obviously recall that there are a number of guidance for businesses and for Government in relation to high-volume manufacturers of COVID-19 ... and therefore I am just asking if the Government has conducted all the necessary checks in order to establish that the PPE so procured complies with the European standard and that of the WHO guidelines that I referred to earlier.

**Chief Minister (Hon. F R Picardo):** Mr Speaker, just to give the hon. Gentleman the same answer again but perhaps explain it in a slightly different way, not only have we done that which he says we should have done, in addition the GHA has a mechanism which sends out PPE, once received, to check it, once physically in receipt of it, before actually – and this is where it concerns me as Minister for Public Finance – it pays for it.

When you receive a consignment, which you have ensured with all your due diligence complies with everything, because that due diligence is remote, once you are in receipt of the actual thing you then, in some instances, send it to actually physically be checked. You do not send, as he says, a million pounds' worth of it. So, if you have received whatever it is worth a million pounds, you do not then send that on from Gibraltar to the place where it is to be tested. You send one mask, one gown, one set of gloves, etc., not £1 million of it. It is tested and it is confirmed to be the PPE that you bought; or it is confirmed to be of a slightly lower quality, in which case the amount that you pay is what you would have paid for that lower-quality PPE rather than the higher-quality PPE.

That, I understand, has been the process that has been in place for some time. It is unrelated to COVID. It is related to testing for PPE to be to the standard required. That is how it has been explained to me. It would meet the criteria the hon. Gentleman has provided for in his question and an additional layer of testing for the verification process, which is what the Hon. Minister has said in his first and subsequent answers.

**Hon. E J Phillips:** If I can ask one more question: it has not been the case – and I am sure it is not the case, but I have to ask it – that we have received a consignment of PPE from Pioneer Healthcare, for example, that has been delivered, found to be in conflict with the standards, the Government has paused and said, 'Hold on, I am boxing this up, storing it somewhere and sending it off for testing in the United Kingdom,' or wherever it sends it to? That is not the case?

**Hon. Chief Minister:** Mr Speaker, if that had been the case we would have said so.

I do not know why he has used the name of the company – perhaps he is going to give us information about that company that is going to be fascinating and we would be very concerned to hear it, but it is not the situation that has manifested itself, at least as far as we have been informed. What we have been informed of is not in relation to one company but a number, at

different stages and not just during the COVID emergency. Things are sent out for external verification. That happens either randomly or because of concern, and I do not know whether this is randomly or concern. The one he may be talking about may be one or the other.

He has talked in his question about a number. He said a million pounds of PPE has been sent away for validation and testing. He should have known when he wrote his question that of course you do not send away every mask for every mask to be tested and then brought back and used. You send one mask, one set of gloves, one gown, not a million pounds of it to a place for external verification, and before it is paid for. That is exactly the process that he and I would agree is the prudent process, the process of prudence at procurement and then the process of prudence before dispersing public funds.

**Hon. K Azopardi:** So, with that in mind, has the Government received the consignment that is said to be in compliance with the regulation and the WHO guidelines that it has then sent away for verification and testing and the results have come back saying it is not compliant?

**Hon. Chief Minister:** The understanding of the Government is that we have both received material, that we have sent that material out for randomised testing – in other words, not because there is any concern that it does not meet the standard – and that there are some consignments which have been sent out also because they have concern as to whether or not they meet the standard. That is exactly the type of two instances that I suggested in the answer to the question before would have occurred and occur all the time.

So, this is not a COVID-related PPE issue; this is the way that we always deal with PPE when it is procured, which we have been procuring under any administration, not just us. I am taking the benefit of this prudence that we apply. This may be something that the hon. Gentleman brought in when he was Minister for Health; I do not know. It is not something that we are saying is the prudent system that we put in place in 2011 when we arrived into Government. This is the process that the Health Service has been pursuing in order to ensure that the pieces of kit it gets are in keeping with what it thinks it has ordered and what it looks like it has got, those two types of instances.

**Hon. K Azopardi:** Mr Speaker, I think the hon. Member has misunderstood my question. I was not asking a question of process. Given the process, what I was asking is: have you had results back from that process that then advised the Government or the Health Authority that some PPE received has in fact not been compliant or quality assured?

**Hon. Chief Minister:** Mr Speaker, the answer to that is not yet, because that would have come to me for a lowering of the payment that would be made in respect of the PPE procured, or a cancellation of the contract, return of the goods and no payment, and neither of those two has yet come to me.

**Mr Speaker:** Next question.

**Q230-34 and Q241/2020**  
**COVID-19 testing swabs and reagent –**  
**Stock levels and orders pending; storage and transportation of swabs for testing**

**Clerk:** Question 230, the Hon. D A Feetham.

**Hon. D A Feetham:** Mr Speaker, in accordance with the arrangements that have been described on both sides of the House, I will be keeping my supplementaries to any obvious



supplementaries that arise from my questions, but I would ask Mr Speaker for his indulgence in the next session if I ask further questions arising on proper analysis of this.

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**Mr Speaker:** You have my advance indulgence.

**Hon. D A Feetham:** I am very grateful, Mr Speaker. *(Interjections)* Backbencher! *(Interjections)* This is now descending into a Main Street conversation here across the floor of the House. *(Interjection)* Social distance.

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Mr Speaker, how many swabs does the Government have in stock in Gibraltar in order to allow health officials to test whether someone has COVID-19?

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

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**Minister for Health and Care (Hon. P J Balban):** Mr Speaker, I will answer this question together with Questions 231 to 234 and Question 241.

**Clerk:** Question 231, the Hon. D A Feetham.

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**Hon. D A Feetham:** On its current stock of reagents in Gibraltar, how many COVID-19 tests can the Government perform?

**Clerk:** Question 232, the Hon. D A Feetham.

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**Hon. D A Feetham:** How many swabs has the Government actually ordered from suppliers and how long will it take for those orders to reach Gibraltar?

**Clerk:** Question 233, the Hon. D A Feetham.

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**Hon. D A Feetham:** How much reagent has the Government actually ordered from suppliers, and how long will it take for those orders to reach Gibraltar?

**Clerk:** Question 234, the Hon. D A Feetham.

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**Hon. D A Feetham:** How many tests will the Government be able to perform with both the swabs and reagents that it has ordered from suppliers in order to replenish current stocks in Gibraltar?

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**Clerk:** Question 241, the Hon. Ms M D Hassan Nahon.

**Hon. Ms M D Hassan Nahon:** Is Government satisfied that the COVID-19 swabs sent outside of Gibraltar for testing are stored and transported adequately?

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

**Hon. P J Balban:** Mr Speaker, the number of swabs in stock, as at the date of drafting this answer, was 25,385.

With its current stock levels of reagent, the GHA could carry out 53,898 tests.

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The GHA currently has an additional 35,000 swabs on order and these are expected to arrive within the next four to six weeks.

The GHA has also ordered enough reagent from suppliers to carry out an additional 42,000 tests via the different assay platforms available to it within its laboratory. Supplies of reagent are received weekly.

605 With the current orders placed, the GHA would be able to perform a further 35,000 tests.  
In answer to Question 241, yes, sir.

**Hon. K Azopardi:** Can the Minister indicate when the GHA would expect to get to the kind of testing that is indicated in the Unlock the Rock document? In other words, it was indicated that there would be at least 300 tests a day – does the Minister know when the programme will be ramped up to that level, or higher than that, which is what the document indicates?  
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**Hon. P J Balban:** Mr Speaker, the rate of testing is something which falls under Public Health. They are responsible for the testing and the rate of testing. The aim is for us to be able to test 300 a day, but I am not entirely sure as to what our position is today in that respect.  
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**Hon. K Azopardi:** So, if I understand from the answer the hon. Member has given, it is not that the decision on the numbers of tests is not driven by the GHA, it is driven by another Department, by Public Health. Is that right?  
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**Minister for the Environment, Sustainability and Climate Change (Hon. Prof. J E Cortes):** Mr Speaker, I am happy to assist; we work very closely together in this.

Clearly Public Health Gibraltar has grown in response to the COVID crisis. The current capacity of the laboratory that has been set up at the University of Gibraltar is approximately 300 tests a day. There is a possibility of increasing that, with additional equipment, to 600 a day. At the moment, what we are doing is targeting frontline workers and, depending on the areas, they are being tested either once every four weeks or once every seven weeks. The programme started just a few weeks ago. We do not yet have an indication on when we would finish this. This is an ongoing thing.

We must not confuse this with the planned testing for antibodies, on which my hon. Friend has a question later, and that is the one where we will be targeting the whole population.

**Hon. K Azopardi:** Mr Speaker, I am not confusing that, and I appreciate there is a distinction between them. I am just looking at the Unlock the Rock document, which suggests that there would be testing of around 300 a day, so I am asking ... I appreciate that there has been an increase in testing, but since the Unlock the Rock document was published, on no day have there been 300 tests done.

**Hon. P J Balban:** Mr Speaker, the hon. Gentleman who is responsible for public health has alluded that 300 tests are potentially being done per day and this can go up to 600, and the hon. Gentleman will be in a better position to assist, if necessary.

The potential is there, as far as I am aware, to carry out up to 300 tests per day. The way that this testing is being organised, in terms of the trials that are going on, if there are not 300 subjects to swab within certain cohorts, that might be the reason why we may mathematically not be getting to the 300 a day which has been expected as a result of the Unlock the Rock document. What I am saying is that the potential is there, but because of the line of testing with the groups of the testing, we may not be hitting 300 for that reason. Yes? And that has been confirmed now by the Minister with responsibility for public health.

**Hon. K Azopardi:** Mr Speaker, the hon. Member is confusing capacity with what the document actually says. The document says two things. It talks about capacity, but it also says in a Key part of it that the Key to this, I am actually quoting:

The Key to this is:

- Screening a large number of asymptomatic people (aim to start with 1% of the adult population to be swabbed per day ~ 300 swabs per day).

625 So, the document very clearly indicates the aim to test 300 a day and I am asking the hon. Member – it is not about capacity, it is a very clear aim – when will the GHA be testing 300 a day, because since the publication of the Unlock the Rock document, and on our tracking of the tests, there has never been a day where the GHA has tested more than 300.

630 **Hon. Prof. J E Cortes:** Mr Speaker, again if I may assist, the intention is that we start off by testing frontline workers and that is what we are aiming to do. We are aiming to start a programme, and it only started, I think, the week before last when we set up the laboratory up at the University. There is a time in order to reach these targets. For example, if there are about 400 teachers, I think those 400 teachers are swabbed within a matter of days and probably at  
635 least 300, or close enough, would have been dealt with there. If we are looking at care workers, then obviously it is a question of organising it. We do not go around saying, ‘How many are we short: 300.’ We are targeting different groups with the potential of 300. We will ramp this up, once the laboratory is established and when the systems are well settled down, with the intention of reaching those targets, but do remember that two weeks ago we did not even have  
640 that laboratory in existence.

**Hon. D A Feetham:** Mr Speaker, just arising out of the answer that the hon. Gentleman has given to my hon. and learned Friend the Leader of the Opposition, how many frontline workers are we talking about? Has the Government done that assessment so that we may know when  
645 the Government then intends to proceed – and I assume that the Government then intends to proceed – to testing of the wider population in accordance with the Government’s policy of testing, isolating and contacting people who have also been in contact with those that are infected, so that we better understand how this is going to be developing?

**Minister for Justice, Multiculturalism, Equality and Community Affairs: (Hon. Miss S J Sacramento):** Mr Speaker, perhaps I could assist. There are two types of testing that are being undertaken. There is the –

**Hon. D A Feetham:** The question is next on the order paper.

**Hon. Miss S J Sacramento:** Yes, but I am setting the context so that you understand my answer.

There is the diagnostic testing that is undertaken by the GHA when someone calls 111, and that is someone who presents as symptomatic. But then there is the separate testing that is undertaken by the Public Health lab, which is targeted testing of people who work in the front line. The way that they operate it at the moment, and as my hon. Friend Minister Cortes just said, is a lab that was set up only a matter of weeks ago.

Depending on the cohort of frontline workers who are being tested ... will depend on the number of tests that are undertaken at that time. Say, for example, there is a specific area of frontline workers that the Director of Public Health will directly test that day, it will be co-ordinated with the number of tests that can be undertaken by the machine in a specific time. So, if people are swabbed, the tests are taken to the lab and are processed usually within a four-hour window, and then they will use that period of four hours to potentially go and test another cohort of frontline workers so that the swabs are being taken and then they can be processed by the machine. They will arrive back at the lab by the time that the machine has completed its testing of the first lot of tests. That requires a couple of shifts of scientists at the lab to be able to undertake these tests.

The aim is, of course, to be able to test as many of the frontline workers as possible, and that is the targeted testing, but going on to the last part of your supplementary, where you ask when we are going to test the whole population, at the moment the strategy in terms of this testing is it will be targeted testing of people who work in the front line. Obviously we are always guided

by our Public Health advice. The definition that the Director of Public Health has given us in terms of what a frontline worker is, is someone who comes into contact with in excess of 90 people a day, so it is not an intention that this targeted testing of frontline workers is swabbing that will be undertaken by the whole of the population.

**Hon. D A Feetham:** Maybe it is a mistake on my part, but I have always understood that the Government is now going to move into a phase in its fight against COVID-19 where it is going to be testing for the antibodies – there is a question on the order paper that we will get to in a moment about that – but also is going to be testing for whether you have the disease, a different type but you have the disease, but not only frontline workers, the entirety of the population. In fact, I was gladdened by the answer that the Hon. Minister gave in terms of our preparedness, in terms of the number of swabs and the number of reagents that we have, because it indicated to me – that is why I did not ask any supplementaries – that we had the capacity to in fact undertake that venture to test the wider population.

650 Now the hon. Lady is appearing to say to us that the intention is not to test the wider population, and I am just slightly confused by the answer because my understanding has always been that the wider population was also going to be tested.

**Hon. Miss S J Sacramento:** Mr Speaker, the supplementary question was in relation to the targeted testing of frontline workers. The targeted testing of frontline workers is exactly that, people who work in the front line, and we have the capacity and indeed the plan to continuously swab people who work in the front line. Depending on where in the front line you are ... will depend on how often you are swabbed. If you are a frontline worker in the health sector then your ratio is one in four, so you will be swabbed every four weeks. If you are another kind of frontline worker then your ratio is one in nine and you will be swabbed every nine weeks. So, we have the stock to be able to continue testing during this phase. Obviously, at the moment our priority is to test people on the front line, because potentially people on the front line are more exposed to contracting or to spreading it. So, in terms of being able to identify that the virus is there and therefore contain it, our priority and the strategy is in relation to people who are in the front line.

665 In addition to that, because that is a strategic testing of people in the front line, and in addition to the diagnostic testing, which is going back to my first answer to the supplementary, we have the Track and Trace Bureau, and that is what will enable us to manage to be able to continue going forward, knowing that the virus will be prevalent. The Track and Trace Bureau is again a different kind of testing strategy. That will be triggered by someone who has a positive result, whether the positive result is as a result of calling 111 because you have symptoms or a positive result arising from testing of people who are in the front line and who are asymptomatic. Then the people who are in charge of the contact tracing bureau will contact them personally and try and identify who they may have been in contact with, and then there is the standard advice and the standard procedure that people need to isolate and their family members need to isolate.

675 I hope that has clarified the position.

**Hon. D A Feetham:** Yes, it has certainly clarified what the Government intends to do in relation to frontline workers. What the Government is essentially saying is if there are 5,000 frontline workers it is not a question of testing all those 5,000 and then moving on to the population; it is a continuous process in relation to frontline workers because of course they are continuously potentially exposed to the virus and to the people that they care about. That, I understand.

685 What the Government has not answered is: when does the Government expect to turn towards the testing of the wider population, not in relation to the antibody test but in relation to the test as to whether somebody has COVID-19? I am asking in the context not of somebody

690 who presents the symptoms; I am asking in the context of random testing, because it does  
appear that the Government – and I congratulate the Government for it – does appear to have  
sufficient swabs and reagents in order to be able to do that. Certainly from this side of the House  
we have taken the position, from a very early juncture in relation to this crisis, that that was the  
way forward. The way forward was to test on a random basis and as many people as possible  
from the population at large.

695 **Hon. Prof. J E Cortes:** Mr Speaker, I think the answer to that is as and when the system  
allows. We are starting with frontline workers. From the statistics that I have, over 3,000 swabs  
have already been taken from frontline workers in the space of a couple of weeks. We have to  
get that in the system. We have to set the system to make sure that we tackle them either one  
week in four or less frequently, and superimposed on all that will be the more random – and I  
700 use the word with great care – testing of the population.

In looking at the statistics, yesterday our total swab figure was 6,859, and today 7,073. That is  
214 in a day. I do not think we are going to be counting exactly 300, but it shows the capacity  
and it shows the intensity of the work, and we have to marry both systems as we develop the  
system fully.

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**Hon. Miss S J Sacramento:** And be strategic about it.

**Hon. K Azopardi:** Yes, that is true, 214 in a day, although there have been days when ... A  
couple of days ago there were 65 and the day before that 32.

710 Can one of the Ministers help me in terms of process? Minister Sacramento very helpfully  
was indicating process. There was an interview done. See if I can understand this in terms of the  
test, and it may be that the Ministers are not aware and therefore cannot give me that  
information today, but in an interview with GBC, Dr Cortes, who I understand to be the  
consultant who has been engaged by GHA to work with GHA, was talking some weeks ago about  
715 a test, the LAMP test, that was going to be used. I am not sure if it is still the same test that is  
being used, but assuming that it is, he talked in that interview about there being a sort of first  
round, where you test, and if it is positive well then you have got to accept that result, but in the  
case of a negative result you cannot just leave it there, you have got to have a retesting round, a  
sort of second-tier process, because there may be some false negatives.

720 Are Ministers aware? Can they assist the House in terms of whether that test is still being  
used; and, if so, give comfort to the House as to whether the second-tier review is being done?

**Hon. P J Balban:** Mr Speaker, I would need to find out the specific reply to that question, but  
the way that I see it – if I can at least share how I see it – the LAMP test, which is the OptiGene  
725 test, which is the one that we have used for screening ... we have the potential for 50,000 tests  
to be carried out. Initially, if I am not mistaken, a positive test certainly meant a positive,  
whereas there was a margin for error, some standard deviation of error, whereby a negative  
could not be relied upon totally, 100%. It was very close to being very precise but had to be  
retested. Again, if I am not mistaken, that has now been adjusted and the tests are being carried  
730 out to ensure that the accuracy is as close to 99.9% as possible. That is my understanding, and I  
would like to assist the hon. Gentleman but I would not like to be held to that and I will  
endeavour to find the exact reply to that question.

**Mr Speaker:** Next question.

**Q235/2020**  
**COVID-19 antibody tests –**  
**Number of tests acquired and source**

735 **Clerk:** Question 235, the Hon. D A Feetham.

**Hon. D A Feetham:** Mr Speaker, has the Government acquired a supply of COVID-19 antibody tests; and, if so, how many tests has it acquired and who is the manufacturer and/or supplier of those tests?

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

**Minister for Health and Care (Hon. P J Balban):** Mr Speaker, the GHA has to date ordered a total of 55,000 tests from Abbott Laboratories and DiaSorin.

745 Beckmann also provide tests that are now FDA approved but do not yet have CE approval. Once that approval is received, which is expected sometime in mid-June, we will place an order for which we are already on a preferential waiting list.

750 **Hon. D A Feetham:** Mr Speaker, when did the Government put in the order and when does the Government expect to receive the antibody tests?

**Hon. P J Balban:** Mr Speaker, I am looking through my notes, as provided by my staff, to see whether I have the date of order. I am not entirely sure when the orders were placed.

755 As I said earlier, the Beckmann have yet not been ordered because they are pending FDA approval, but once that happens our order is already in place there. (*Interjection*) Yes, but they need CE approval. They now have FDA approval but not CE approval. Our orders are already in place because we have a preferential position on that wait list. Once it is classified as CE, then we will receive them.

760 The other tests have been coming in sporadically. I believe the tests have a short shelf life. We cannot amass huge amounts because of the shelf life, and they have been coming in batches. I believe that these batches have been in units of around 5,000 a go, so there are a number of order dates and I think there is a constant order of 5,000 every x amount of time.

765 **Hon. D A Feetham:** Okay, Mr Speaker, he does not have the information as to when the order was placed, but I also asked when are these antibody tests expected to arrive in Gibraltar. As I understand it, the answer he has given is that there are two separate manufacturers of the antibody tests that have been ordered. How many are in the jurisdiction, are in Gibraltar, how many are we expecting and when can we expect to receive those? Those are the types of answer that of course those of us who ask on this side of the House are interested in.

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**Hon. P J Balban:** Mr Speaker, as far as I am aware, we have already been receiving orders for antibody testing. We had the privilege of going into the laboratory recently with the Chief Minister to see how these were developed and how they were used. What I am not entirely sure of is what we have in stock at the moment of the 55,000 that we have ordered. There is a stock of these tests in Gibraltar, but again I do not have the exact number at the moment.

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780 **Hon. D A Feetham:** Mr Speaker, could the hon. Gentleman undertake to ask his staff for the answers to my supplementaries: when these tests were ordered, what exactly we have here in Gibraltar, how many of these tests are we still expecting, and which manufacturer does it appertain to? I would be very grateful if the hon. Gentleman could obtain that information and send it to me by email, and then we will analyse it internally as an Opposition, and if anything arises next time round we will ask it. Could he give that undertaking?

**Hon. P J Balban:** Mr Speaker, yes, certainly I will endeavour to provide the information the hon. Gentleman is requesting.

785 As I have said and you have mentioned, Abbott and DiaSorin are the ones that we have got approval for and the Beckmann is the one that we will receive, but I am happy to provide that information.

**Hon. D A Feetham:** Mr Speaker, I apologise for so many supplementaries, but I do believe  
790 that on this it is absolutely necessary.

In relation to these antibody tests the Government may have 5,000, the Government may have 10,000, we do not know, but when is the Government intending to start essentially testing the population at large for antibodies of the COVID-19 virus? It appears to us certainly that this is of fundamental importance in the fight against the virus and we would ask: when does the  
795 Government expect to be testing the population?

**Minister for the Environment, Sustainability and Climate Change (Hon. Prof. J E Cortes):**  
Mr Speaker, the science is developing all the time but it does take a number of weeks or months for certain antibodies to develop and therefore having a serological test too soon after an  
800 infection may not be reflected in a positive because you do not have enough antibodies to be picked up. So, there is a time lag and the science is constantly being reviewed. Obviously, whatever the advice of the science is at the time that we receive it, that is the time when we have to estimate to start, because if you do it too soon, as the Chief Minister has intimated, you would be throwing the money away.

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**Hon. D A Feetham:** Yes, I understand that essentially, for viewers who are listening, what the hon. Gentleman appears to be saying – he will correct me if I am wrong – is that it may take a number of weeks or it may take a month for the antibodies to develop within the body, and therefore somebody who has had the virus in this month will not test positive until June and it is  
810 a question of really picking and choosing the right moment to start testing.

On the basis of the advice that it has received at the moment, when does the Government expect to be able to start the testing of the wider population?

**Hon. P J Balban:** Mr Speaker, we will take advice from the Director of Public Health as he is in  
815 the right place to tell us. As my hon. colleagues have been stating, at the moment, if we look at the positive cases in Gibraltar, which are around 150-160, if that were to be the entirety of our infectivity, imagine if we did 30,000 tests: they would all be negative and you may even find that a big proportion of the ones that are positive may not have developed antibodies to that infection anyway, so of 150 you may get the impression that only 30 people are immune.

820 So, there is a timescale, and obviously as we continue with our systems in place to test frontline workers we will pick up more people and at that point then we need to give ample time, which I think is around six weeks post infection, for there to be an IGG response, which is the response that we get following the IGM response, which is the acute response which you are picking up in the swab. A swab is a photograph of one moment in time, which can be positive or  
825 negative. You could have a negative today and someone could become a positive the day after. That is the IGM, but the IGG response is one where the body has created its antibodies, and those will not show through until at least six weeks post infection.

So, for us to use a battery of antibody tests at the moment in massive scale would literally throw this investment away – 29,800 negatives would be an awful waste of resources, so we are  
830 waiting for the Director of Public Health and Public Health advice to give us the go-ahead when they believe it is the appropriate moment to undergo these tests.

**Hon. D A Feetham:** Mr Speaker, I get that and I understand all that, but the reality of the situation is that we are a victim of our own success, are we not? Here, if we only have 10 active

835 cases at the moment and we have only had 140 or 150 cases in the last two months, by parity of reasoning the answer the hon. Gentleman is that we will only start the antibody testing when we have had an epidemic in Gibraltar.

840 Hopefully that is not the position at the moment and hopefully it will continue not to be the position, but there is also a valid reason why you might want to test for antibodies at the right moment – and I accept it may not be now, it may be in a month or two months' time, I accept that, but there is a valid reason for testing for antibodies because in actual fact the infection may not be limited to those 150, the infection may be 2,000 or 3,000, of which a lot of people have been asymptomatic and there is a value in testing people so that we actually know the spread of the virus within the jurisdiction.

845 I accept it is a question of timing, but surely the Minister would have sat down and had a conversation with Public Health officials, where Public Health officials would have said to the Minister, 'I expect that the appropriate time to test may be in a month's time', or a month and a half, or two months. That is what I am trying to obtain more information from the Minister about.

850 I think the Chief Minister is going to answer that.

**Chief Minister (Hon. F R Picardo):** Yes, especially on the point of parity of reasoning, where the hon. Gentleman seems to be disappointed that we have not had more infections in Gibraltar and indeed seems to be suggesting that we might have gone for a strategy of herd immunity, although I hesitate to say those words with the hon. Lady in the room – I do not want to upset her any further.

855 Mr Speaker, let's be clear. The hon. Gentleman is getting the same answer over and over again but he does not seem to want to leave it there, although we are going to find it very difficult to get through all the questions today if we do not. What we have been told by the Director of Public Health and the public health professionals is not yet. Not yet is the advice we have received and it is not that public health epidemiology admits of the sort of forensic certainty that the hon. Gentleman seems to think it is possible to have. It might be in other jurisdictions, if he is drawing a comparison with places where there have been greater levels of infections. It might be that the level of infection in Gibraltar is found to have been higher than the number of swabs we have had returned positive, because we have all been told that one of the potential calculations to carry out is to multiply by 10 the positive test results received because that may be the number of asymptomatic people in the community. But we are not finding that in the frontline random testing. The hon. Gentleman has to remember that: we are not finding in our random testing that the numbers of the resident community are to be multiplied by 10. We are finding a factor of positives in respect of the non-resident community on the front line, but none in the community.

865 There may be many different epidemiological reasons for that, which we do not yet understand. Indeed, this may be one of the issues that only anthropology is going to give us an answer to, and that will be very far in the future, but the advice that we have – not from a senior silk like him, with a forensic mind that is trying to get to the bottom of the detail of this in a way that is like a binary yes or no answer, but by a man who is a professional in his field, which is the relevant field, not the law ... that the answer is that they are not yet able to give us the date when they believe that we should start this process as a rollout to the whole community but that is likely to be during the course of this calendar year, probably towards the end of the summer, which is why, given the questioning he was doing before, I do not think that there is that level of importance that we do or do not have 4,330 Beckmann tests and 2,000 of the other tests etc. today, because we do not need them today and it would be a waste to deploy them today – so we are advised by the public health professionals, but I have no doubt that he will have a different legal view, although he will understand that we will take the Public Health one.

885 **Mr Speaker:** Next question.



**Hon. P J Balban:** Mr Speaker, I am going to answer because I have received the information that the hon. Gentleman was requesting.

890 It has just been confirmed to me that both the DiaSorin and the Abbott tests were ordered at the end of March and that they had both arrived two and a half weeks ago. In anticipation, we have already got the stock and really we are ready to press the button once we receive the advice to do so.

**Mr Speaker:** Next question.

**Q236/2020**

**Impact of COVID-19 emergency on the disabled –  
Disability Society concerns**

895 **Clerk:** Question 236, the Hon. K Azopardi.

**Hon. K Azopardi:** Mr Speaker, how does the Government intend to address the concerns expressed by the Disability Society?

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

**Minister for Health and Care (Hon. P J Balban):** Mr Speaker, the Disability Service is following Public Health guidance and the unlock measures as indicated in the Unlock the Rock report, much the same as Elderly Residential Services.

905 The Care Agency is currently preparing protocols in order to reintroduce family visits whilst ensuring social distancing and infection control measures are adhered to.

As has previously been announced, the Care Agency is also currently actively exploring local amenities that may be suitable for the use of those with disabilities during the summer months.

910 Care levels have been maintained by extending locum employment contracts as an interim measure during this pandemic.

**Hon. K Azopardi:** Mr Speaker, is the Minister in a position to inform the House as to when visits by family will be permitted to Dr Giraldi? There have been discussions and I think a date even announced in other institutions. Is there not a date in mind for Dr Giraldi, especially given the users there and the fact that because of their disabilities they may be perplexed at not being able to see their families?

920 **Hon. P J Balban:** Mr Speaker, the return to visiting within the Dr Giraldi Home follows on similar lines as the GHA. In fact, I understand that it will run slightly behind that of the GHA because of the vulnerability of this group. It is the intention, obviously, to try to reunite these residents with their families as soon as possible but we do have to take into consideration the vulnerability.

925 **Hon. K Azopardi:** So, the answer is the Minister is not in a position to indicate a specific date in mind, or is in a position even though there might be a slight time lag?

930 **Hon. P J Balban:** Mr Speaker, no. In fact, there already has been a start. There was some visiting last Saturday. We are running slowly. What we cannot provide is full reintroduction of visits. As far as I am aware, and again I will need to check to be entirely sure but I think up to one visitor wearing PPE will be able to visit. That commenced just a few days ago, but that will take some time and it will follow the Unlock the Rock advice for the GHA.

**Hon. K Azopardi:** I am grateful. Can I ask the Minister to take an interest in the issue – I am not suggesting he is not, but to take a special interest – because some of the residents of Dr Giraldi are ... if I may describe them as non-verbal. In other words, they cannot explain what they feel necessarily, and therefore I think it is important to treat them as especially vulnerable people. Therefore, if the Minister tries to expedite his work in that regard ...

Can the Minister also assist in saying whether there will be special provision for disabilities on the beaches and so on?

**Minister for Justice, Multiculturalism, Equality and Community Affairs: (Hon. Miss S J Sacramento):** Mr Speaker, if I can assist in relation to the question of Dr Giraldi, because I have been working with my friend the Hon. Minister for Care, and the Office of Civil Contingencies is involved in the de-escalation of the lockdown and in particular to residents of Dr Giraldi Home and the satellite flats.

The hon. Member opposite can rest assured that the management and the staff of the Disability Service of the Care Agency are very passionate indeed about the service users and equally protective of them, and they have provided a very detailed plan as to when different contacts may be made available. I have a draft plan and because it is not the final plan and I am not sure whether the dates have shifted I cannot confirm any particular dates, but what I can confirm is that I have a very long, detailed plan because the management want to ensure the safety of all the service users.

In relation to people with disabilities going to beaches, can I first of all say having a disability does not necessarily automatically make somebody vulnerable? What we are doing when we look at arrangements that we are making during lockdown is to protect people who are vulnerable, and whereas some people who have disabilities may be vulnerable, not everyone who has a disability is vulnerable. What we are undertaking are two exercises. We are looking at people with disabilities who are vulnerable, to make sure that they are catered for and protected. And on the other hand, because some of the locations that we are looking at to protect other vulnerable people may be in locations which we have built, and because our policy has always been to make premises as accessible as possible, it means that since we have either modified or built these areas they have been used and they have been very popular and used a lot by people with disabilities. What we do not want to do is, in order to protect a particular bubble, take away an area that is accessible for people who may not be vulnerable, but for people to enjoy a place because it is easy for them to use because of their disabilities. We are trying to cater for both and balance both, so that both are protected and not excluded.

**Hon. K Azopardi:** And then finally, if I may, on this issue – not on this issue but on the question – the Disability Society also raised issues of continuity of employment of carers, which I understand is a longstanding issue of discussion that they have raised and may not necessarily be a COVID issue but of course it can be exacerbated by COVID because if family is not able to visit and you have a big turnaround of carers it tends to exacerbate the relationship that the vulnerable have with the carer they have grown attached to. Is the Government alive to those concerns that the Disability Society have raised? And what is its thinking in trying to address that?

**Hon. P J Balban:** Ms Speaker, yes, we are alive to that. COVID obviously has been part of the reason for this, but the individuals who are working there, some of their contracts are being covered because of long-term absences – for example, long-term sickness, maternity leave – and others are covering vacant positions, and that was on a temporary basis. So these were not people who were employed but were covering. Obviously what has happened with COVID to exacerbate the issue is that we have not been able to fill these vacancies, but in consultation with the unions as well because they are working with us on this issue and for fairness they expect that there will be an established, fair and transparent recruiting process.

985 It is not a question of someone coming in to cover a maternity leave or to cover a sick leave  
for a short period of time. I understand that they integrate with the residents, they bond, they  
become accustomed, and that is a difficult tie to break, but that would be really getting  
someone in without a recruitment process. That is something which we have spoken to the  
unions about and they have shared and expressed a concern. So, we will look at fair recruitment  
to avoid any potential discrimination in that respect.

990

**Hon. Ms M D Hassan Nahon:** Mr Speaker, if I can take this opportunity to ask, now that we  
are asking about different measures for people living with disabilities ... I have been asked by  
one mother in particular, who apparently has been writing but has not had a reply yet as to  
whether the Government is considering allowing the GSLA pools to be used by people with  
995 disabilities – children and adults, I believe.

Thank you.

**Hon. P J Balban:** Mr Speaker, there are number of amenities that are actually being looked  
into to provide inclusive access for all. These obviously, now and during the summer period, will  
1000 include the beaches, but it also includes the GASA swimming pool. Commonwealth Park is  
already quite accessible and Europa Point. And in this regard, the Care Agency is working closely  
with the GSLA.

**Hon. Ms M D Hassan Nahon:** It was a specific answer about whether they are looking  
1005 seriously at giving time to these children and adults to use the pools in particular.

**Chief Minister (Hon. F R Picardo):** But this is a specific answer, Mr Speaker. Yes, and that is  
what the Minister said.

I am surprised that people feel the need to put those questions, in this House in particular. I  
1010 can understand why members of the public might feel that it is necessary to write in, in  
particular those with children with disabilities or adults with disabilities in their family who are  
concerned about the summer months, but Members of this House will know that I have already  
said on a number of occasions that that is the case and that we were looking at the facilities that  
were going to be made available, therefore positively already setting out that that was going to  
1015 be the case.

It is a question of announcing which and when, because this year we have the additional  
concern to also be able to try to provide – and it is a balance, between all of the competing  
interests, which the Government will have to strike – a facility for those who are over 70 and  
may wish to go for a swim at some time and who still want to continue to follow the  
1020 Government advice not to be mixing more generally if they can avoid it. I am sure that there are  
some over-70s who I could not entice to the Europa pool if I tried, but there are some others  
who will be deprived of their usual annual sojourn on our beaches and we have to balance that  
competing interest of providing an alternative area for them and an alternative area for those  
with disabilities.

1025 The Government is very alive to that and we have been alive to that from the beginning.  
When I announced the issue of the over-70s I also announced that we would be dealing with  
those facilities necessary for those with disabilities. I am sure that all Members of this House  
would have heard what I had to say.

1030 **Hon. Ms M D Hassan Nahon:** Thank you for that answer.

Will the Chief Minister or the Minister for Health be able to give us any idea of by when they  
might roll out a schedule, by when they will be ready to announce something?

**Hon. Chief Minister:** Yes, Mr Speaker, of course, because those are issues relating to the  
1035 bathing season – in time for the opening of the bathing season.

**Hon. Ms M D Hassan Nahon:** Mr Speaker, the Chief Minister can correct me if I am wrong but I did not think that using swimming pools or helping people with disabilities, therapy-wise, to use swimming pools had to come under the bathing season, given that the pools are indoors.

1040 **Hon. Chief Minister:** Mr Speaker, the hon. Lady is asking about the facilities that we make available in the summer months and we are going to make them available in the summer months in the way that we have said that we will.

1045 **Hon. Ms M D Hassan Nahon:** Mr Speaker, I was not referring to the summer months; I was referring to when the GSLA pool would be available to help people with disabilities in terms of their mobility and issues like that, that I had been asked by a parent that it helps and when would that be ready.

1050 **Hon. Chief Minister:** Mr Speaker, if the hon. Lady is not asking about the summer months then her question is about the general availability of facilities, which the GSLA will make available as soon as it is safe to do so. That is unfortunately, at the moment, part of the process of how long is a piece of string. The Government is not wishing to string out when we make those announcements or when we allow people to have that access. We are simply trying to do so in a way that all parents of people with disabilities will understand is the way we must do so,  
1055 namely when we are not putting them at greater risk by the use of the facilities than we are by depriving them of the use of the facilities.

**Mr Speaker:** Next question.

#### Q237-38/2020

#### Pandemic-related mental health issues – Plans to support sufferers

1060 **Clerk:** Question 237, the Hon. K Azopardi.

**Hon. K Azopardi:** Mr Speaker, how will the Government address issues of mental well-being caused or exacerbated by the COVID-19 pandemic in terms of social isolation, over-reliance on technology, lack of human contact and any consequent rise in issues of anxiety or depression?

1065 **Clerk:** Answer, the Hon. the Minister for Health and Care.

**Minister for Health and Care (Hon. P J Balban):** Mr Speaker, I will answer this question together with Question 238.

1070 **Clerk:** Question 238, the Hon. Ms M D Hassan Nahon.

**Hon. Ms M D Hassan Nahon:** Does Government have any concrete plans to boost mental health support and facilities post-COVID-19 and as a result of the mental health effects of the crisis; and if so, what are they?  
1075

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

**Hon. P J Balban:** Mr Speaker, the Government has already carried out a study which looks into the potential impact the COVID-19 lockdown may have had on the mental health of our

1080 community. That study will form the basis of the Government strategy to address pandemic-  
related mental health issues.

Mental Health Services have already introduced new ways of being contacted during the  
crisis, which have allowed for members of the public to access direct advice on how to maintain  
both their physical and mental well-being. These services will continue post the COVID-19 period  
1085 for as long as necessary.

As the provision of mental health services gradually returns to normality, we will see the re-  
introduction of face-to-face contacts where possible, together with a number of innovations that  
are currently being explored in order to improve the manner in which support and advice is  
offered to service users and members of the general public.

1090 In addition to this, the GHA has secured the services of an additional consultant psychiatrist,  
extra nursing staff, and the Mental Health Liaison Service at A&E has been extended to operate  
24 hours a day.

**Hon. K Azopardi:** Mr Speaker, a couple of questions, if I may. I will just roll them up, and that  
1095 way it is probably quicker.

When the Minister says that the Government or the GHA has carried out a study on mental  
health impact, does he mean that there is a specific document? And, if so, would he be willing to  
share that document with the Members opposite, with the Opposition? (*Interjection*) I will ask  
the questions and then ... I was just waiting to have your attention on the questions.

1100 So, if I may, the questions: (1) is there a document, and if so will you share it; (2) whether or  
not there is a document and, because you have carried out the study and obviously we are still  
in the first phase, will there be an active review carrying on, extending that document or  
carrying out supplemental documents; and (3) because this is an area which is so sensitive,  
unless the Minister can assure the House that you are going to reintroduce face-to-face contact  
1105 soon, would the GHA consider the use of videoconference, like Zoom or something like that, to  
replace telephone consultations, because seeing a person with mental health issues might  
actually be quite relevant to the people who need to conduct the support?

**Hon. P J Balban:** Mr Speaker, there has been a study conducted and there is a document. I  
1110 am not entirely sure whether that document is something that we would be able to share, but I  
will most definitely look into that study and if it is something that can be shared it will be shared.  
On the back of that of that document I think every document or every piece of work will need  
reviewing, just like our Unlock the Rock document is being renewed, revamped and  
reinvigorated. Obviously it is something which must be fluid, and we will have to take the expert  
1115 advice and see how we can build from that.

As regards the face-to-face contact, I was under the impression that iPads have been used  
within the facilities to be able to allow that contact, but having asked that direct question  
obviously now I will need to make sure that is the case, but as far as I am aware iPads were  
donated throughout and I am pretty sure that there have been online web contacts with family  
1120 members.

**Hon. K Azopardi:** Sorry, I was not asking about that. I think the hon. Member has  
misunderstood. I am not asking about whether iPads have been donated to residents, say to  
contact family members. What I was asking is, as I understand it, users of mental health services  
1125 have had face-to-face consultations with doctors replaced by telephone consultations, and what  
I am saying is: is it not an idea, unless you can replace face-to-face consultations very soon, for  
those users of mental health services to be seen, albeit by video link, by the doctors, because in  
an area such as mental health seeing the patient might actually be relevant to the diagnosis?

1130 **Hon. P J Balban:** Mr Speaker, at the moment, as part of the service being provided, there are face-to-face consultations via video link. That is happening as we speak. Not only are there telephone messages but also the visual link with the doctors.

1135 **Ms M D Hassan Nahon:** Mr Speaker, I ask the Minister to forgive me if I have missed in his official answer ... I cannot exactly remember if he has mentioned this, but if he did not is Government planning to run a campaign to make people aware of the mental health services they are going to be putting out there, so that people understand and know what resources they can go to?

1140 **Hon. P J Balban:** Mr Speaker, I believe that the services are being promoted and I think they are established and known, but if there is a need to bring this to the attention of a wider part of the community we have absolutely no issue with that whatsoever.

1145 **Hon. Ms M D Hassan Nahon:** And how would the Ministry assess if there is a need or not? Are they asking people for feedback? How are they going to assess whether we need to make more widespread the knowledge that there are resources out there?

1150 **Hon. P J Balban:** Mr Speaker, at the moment there are a number of services in place that are working extremely well. For example, there is a 24-hour liaison service and they are providing advice and follow-up appointments. There is the Community Mental Health Team, who have also increased their telephone and messaging with patients.

1155 There are a number of innovations also currently being explored and these would have to be made public so people will be aware of what is coming. As an example, two innovations that are being explored are additional support in psychological services and we are also looking at an increase in outreach support. In fact, it was during the COVID crisis that we set up an outreach service within one of the units because what would happen before was people could come in and seek that advice, which has been extremely important. With COVID, unfortunately we were not able to, so it was replaced by a telephone service, which was extremely useful and found very useful by people who were struggling as a result of the lockdown itself and the stresses that  
1160 brings within the close family environment.

1165 What I am saying is that any services which are new, if there is a need to promote the services we will most definitely look at it, but I will take this back to my staff and see how they are bringing this to the information of the community, and if I feel that is not adequate or it can be improved by all means it will be considered and done.

**Clerk:** Question –

**Mr Speaker:** Sorry, a few things, just to remind you we need to speed up the process because we are pretty much delayed.

**Q239-40/2020**  
**Dental practices –**  
**Support offered by Government**

1170 **Clerk:** Question 239, the Hon. Ms M D Hassan Nahon.

**Hon. Ms M D Hassan Nahon:** Can Government confirm that they will support dental practices in procuring PPE for them, given practices' current restrictions in obtaining PPE from their own standard providers?

1175 **Clerk:** Answer, the Hon. the Minister for Health and Care.

**Minister for Health and Care (Hon. P J Balban):** Mr Speaker, I will answer this question together with Question 240.

1180 **Clerk:** Question 240, the Hon. Ms M D Hassan Nahon.

**Hon. Ms M D Hassan Nahon:** Can Government confirm the level of support it is giving to local dental practices so that they can practise fully?

1185 **Clerk:** Answer, the Hon. the Minister for Health and Care.

**Hon. P J Balban:** Mr Speaker, we have been supporting private dental practices, like so many other businesses, in various ways during the pandemic.

1190 Private dental practices have been given the contact details of PPE suppliers used by the GHA so they are able to purchase exactly what they need or want, depending on the type of dental work carried out and in accordance with the current Public Health advice.

Additionally, we have supported private dental practices by ensuring they have readily available Public Health advice and have been included in the targeted swabbing programme for their staff.

1195 I want to thank the Gibraltar Dental Association for their excellent co-operation with the GHA and their adherence to the BEAT COVID measures. The members of the GDA provide an essential service to our community and we have and will continue to work with them as we emerge from this situation.

1200 **Mr Speaker:** Next question.

**Q242-43/2020**  
**Addiction –**  
**Resumption of residential treatment**

**Clerk:** Question 242, Ms M D Hassan Nahon.

1205 **Hon. Ms M D Hassan Nahon:** What plans are in place, other than remote contact, with counsellors of the Drug and Alcohol Rehabilitation Team to deal with individuals who are suffering from more serious health consequences of addiction, for whom residential treatment is the only viable option?

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

1210 **Minister for Health and Care (Hon. P J Balban):** Mr Speaker, I will answer this question together with Question 243.

**Clerk:** Question 243, the Hon. Ms M D Hassan Nahon.

1215 **Hon. Mr Speaker M D Hassan Nahon:** At what stage are the plans for the reopening of the residential rehabilitation facilities at Bruce's Farm, and can Government give us an indication of when these will resume?

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

1220 **Hon. P J Balban:** Mr Speaker, other than virtual support being offered on either a one-to-one or group basis, the Drug and Alcohol Rehabilitation Team has also been offering face-to-face contact where possible.

1225 A strategic plan has been developed allowing for the phased opening of Bruce's Farm in line with the unlocking guidelines. This staggered reintroduction of residential services will be starting in approximately two weeks.

1230 **Hon. Ms M D Hassan Nahon:** Mr Speaker, has the fact that Bruce's Farm has been closed meant that this has had a spill-over effect on other parts of the Health Service, like the primary care or Ocean Views? And, if so, can the Minister enlighten us as to how they may have dealt with that in view of the fact that these other entities may not have the bespoke training and skills to deal with these casualties?

1235 **Hon. P J Balban:** Mr Speaker, I am not specifically aware of what effects there have been as a result of the closure of Bruce's Farm, but patients have been given the support, as I have mentioned, virtually, either one to one or on a group basis, and when it has been necessary there has been face-to-face contact, so it is not that the closure of Bruce's Farm has meant complete isolation for these persons who reside there.

1240 Clearly it has been a difficult time and I am sure that it definitely is not the ideal situation, but everything that has been possible has been done, and as we start planning for our reopening in two weeks' time obviously we are planning ahead to be able to reintroduce this very valuable service for members of the community.

#### Q244/2020

#### Postponed screening and surgery – Proposed date for bringing up to date

**Clerk:** Question 244, the Hon. Ms M D Hassan Nahon.

1245 **Hon. Ms M D Hassan Nahon:** Can Government give this House details of the number of (1) routine screenings, (2) elective surgeries and (3) essential surgeries that were postponed in the last two months as a result of the COVID-19 crisis and how long it thinks it will take to get these up to date?

1250 **Clerk:** Answer, the Hon. the Minister for Health and Care.

**Minister for Health and Care (Hon. P J Balban):** Mr Speaker, the number of postponed routine screenings is 1,204. The number of postponed elective surgeries is 157. No essential or emergency surgeries have been postponed.

1255 The GHA is working towards having all services up to date by the end of the calendar year and the Government will make available such resources as may be required to make this proposed timetable a reality if it is clinically possible.

**Mr Speaker:** Next question.



DIGITAL AND FINANCIAL SERVICES

**Q245 and Q247/2020**  
**Contact tracing technology –**  
**Consultation with GRA; data protection legislation**

**Clerk:** Question 245, the Hon. E J Phillips.

1260

**Hon. E J Phillips:** Can the Government state why it did not consult with the Gibraltar Regulatory Authority over its proposal in respect of contact tracing technology?

**Clerk:** Answer, the Hon. the Minister for Digital and Financial Services.

1265

**Minister for Digital and Financial Services (Hon. A J Isola):** Mr Speaker, I will answer this question together with Question 247.

**Clerk:** Question 247, the Hon. K Azopardi.

**Hon. K Azopardi:** Mr Speaker, when does Government intend to introduce legislation regulating the use, collection and sharing of data collated as a result of any contact tracing app to be introduced by GHA and/or generally governing the encryption of data and safeguards on privacy and confidentiality stemming from the use of such an app or governing the use of the app itself?

**Clerk:** Answer, the Hon. the Minister for Digital and Financial Services.

**Hon. A J Isola:** Mr Speaker, the Government does not intend to introduce any legislation at this stage regulating the use, collection and sharing of data as a result of any contact tracing application.

The contact tracing app that we are designing will not use, collect or share any personal data. We are introducing a decentralised design, meaning that a smart phone which has the active app will store anonymised phone data of any person who has been in proximity to another for a period of time, 15 minutes, within two metres.

It is only when a person has tested positive for COVID-19 that the GHA would provide a code that can be input into the app and which will then automatically notify any individual who has been in close proximity to the person who has tested positive. The notification will be an alert requesting any affected individual to call 111.

In the circumstances, there has been no need to consult with the Gibraltar Regulatory Authority and there would be no need for legislation.

**Hon. K Azopardi:** Has there been a discussion with the GRA? I know you say there has not been a need to consult them, but has there been a discussion with the GRA about the workability of this app, especially given that they expressed some concerns on data protection, not in relation to the app itself but in relation to other things? Was that a trigger for some kind of discussion in relation to the contact tracing app, or has there been no discussion at all?

1270

To the extent that the Government is advanced in its plans towards the launch of the contact tracing app and that its workings are now at a very advanced stage, can a presentation be perhaps organised for Members on this side so that we understand fully how it is going to work?

1275

**Hon. A J Isola:** Mr Speaker, there is no need for a discussion with the GRA because there is no use, collection or processing of any data. Consequently there is absolutely no need to discuss anything with the GRA as there is no data, let alone processing of data.

1280 The reason for that is quite simple, that nobody will know the name of the person who has a  
handset. If two people have the app, then that telephone number, if it is within distance of  
another for a period of time, will log it, and if that person inputs 'I have been tested positive'  
with the GHA code, the phone itself – not the individual – will send a message to every single  
1285 phone that has been within that qualifying period. There is no personal information. Even when  
you log on to this app, all you will do is click twice to abide by it. You do not even put your name  
into it. It is completely data free to avoid people being concerned that they are being tracked or  
traced, when that is absolutely not the intention. Unlike many other countries, what we have  
done is gone for a pure tracing mechanism which will work automatically, completely  
decentralised, which means that there is no server or database with all that data or information.

1290 I am happy, when we do the testing – during the latter half, I hope, of next week – to see if  
we can arrange for a quick demo, but it is incredibly simple and that is why we believe it is going  
to be effective.

**Hon. K Azopardi:** A demo would be very helpful. If the hon. Member can arrange that, we  
would be grateful.

1295 If I understand what he is saying, the phone data management is done by the user of the  
phone and the phone itself sends out, so it is then up to the person who has tested positive to  
transfer details to the GHA on a voluntary basis. I know the phone is doing it, but what I am  
saying is it is all done on an anonymised basis. But at some point the GHA then steps in because  
the GHA wants to do a contact tracing trace and track process itself. So, at some point someone  
1300 has to sit down with the positive person and say those notifications have been sent to  
anonymised numbers. But were they? No?

**Hon. A J Isola:** Obviously the person who has tested positive will be in the knowledge of the  
GHA because they have tested positive. The GHA knows that that individual has tested positive.  
1305 The person who has tested positive and has the app will log in the number and he will press  
'Activate'. The person who has been close to them will receive a message, an SMS from the app  
saying 'You have been close to somebody who has tested positive. Call 111 and get tested.' That  
is how it works, so it could not be simpler, it could not be clearer and hopefully we will get the  
60-plus percentage of the population that we really need to make it work quickly. So, the test  
1310 and trace is one function, the tracking is another.

**Hon. Ms M D Hassan Nahon:** Mr Speaker, if I could just ask the Hon. Minister ... I perfectly  
understand that we are going for a decentralised system here as opposed to a centralised  
system which is server based and therefore it is more secure and anonymous, but of course  
1315 there is a lot of misinformation and even paranoia in the community. Obviously communication  
is key because, as the Minister says, we need, according to experts, between 56% and 60%  
minimum to have a good outcome with this app. So, does the Minister propose any measures to  
reassure the community, to restore public confidence and get people to buy into this new  
measure, addressing the privacy concerns etc.?

1320 **Hon. A J Isola:** Thank you, Mr Speaker.

When we started off on this journey the Chief Minister engaged with Apple and, through  
them, the work that Apple were doing with Google, and then ultimately led us to, at the  
recommendation of Apple, an introduction to the Northern Irish ... sorry, the government of  
1325 Ireland, (*Interjection*) the Irish government, yes, to work with them, as they were the furthest  
ahead in terms of using this system. The Irish app has some aspects of what we have but we  
have taken it a step further, with their help and support, to ensure that the public can remain  
calm that we do not have this ability to have personal data.

Of course there is speculation on social media that they are not going to use the app because  
1330 it is going to be able to track and trace and they do not want people to know who they are, and

so yes, we will have to do some work to make people understand and be comfortable with the use of this app in the the full knowledge that ... I think once people log on, download and sign in they will realise that it is not in any way data related because it is two clicks and you are in.

1335 So, yes, we have some work to do, I agree entirely, in educating and helping the community to understand that this is a pure tracing app done phone to phone and there is no data on it for anybody to mess around with.

**Q246/2020**

**Impact of pandemic on financial services –  
Discussions with Finance Centre Council**

**Clerk:** Question 246, the Hon. D J Bossino.

1340 **Hon. D J Bossino:** Can the Minister for Financial Services state whether he has met or otherwise been in contact with the Finance Centre Council to discuss the impact on financial services as a result of the pandemic?

**Clerk:** Answer, the Hon. the Minister for Digital and Financial Services.

1345 **Minister for Digital and Financial Services (Hon. A J Isola):** Yes, Mr Speaker, I can confirm that the Chief Minister, my officials in Gibraltar Finance and I have been in, as a whole, what I would describe as constant contact with the Finance Centre Council as a result of the pandemic.

1350 As Gibraltar went into lockdown the Chief Minister announced in his Budget speech that he was establishing the COVID Economic Liaison and Advisory Committee (CELAC). He invited Unite the Union and the GGCA as well as the GFSB, the Chamber of Commerce, the GBGA, the Finance Centre Council and the Landlords Association to form part of the CELAC.

1355 The first meeting took place on Saturday, 21st March at 6 Convent Place and I was also in attendance. The Finance Centre Council was represented by Marc Ellul as Chairman of the body and he was accompanied by Nick Cruz, who sits on the Council as Deputy Chairman of ATCOM.

1360 The day prior to the CELAC meeting, the Chairman of the Finance Centre Council reached out to all Council members so as to obtain feedback on the initial effects of the pandemic on the various sectors, solvency and cashflow issues, if any, and ideas as to how the Government might be able to support and assist. The Finance Centre Director, James Tipping, was included in all correspondence as he sits, by invitation, on the Council, and I was kept informed at all times.

1365 There was a further CELAC meeting, with the FCC representatives in attendance, on Sunday, 22nd March, and I was also present.

1370 On Monday, 23rd March, the Chairman of the Finance Centre Council organised a videoconference for all Council members to discuss CELAC and matters arising. I was also on that videoconference, along with the Finance Centre Director.

1375 Two further CELAC meetings involving the Finance Centre Council, which I also attended, were held on 24th March and 7th April, the latter being held by videoconference. The latest CELAC meeting took place on 24th April.

1380 From the beginning of the pandemic the Finance Centre Director, at my request, has reached out to, amongst others, constituent bodies of the Finance Centre Council including its Chairman, the managing partners of the largest law firms, representatives of the insurance sector as well as fiduciary services providers, the banks, general insurance brokers etc. His colleagues, being the senior executives, also did the same as regards the DLT and blockchain sector, the funds and investment space and a selection of insurers.

1385 I personally, together, on occasions, with the Finance Centre Director, spoke with and/or engaged in correspondence with representatives from specialist intermediaries (MGAs) that

exclusively broker travel insurance policies. They form part of the Gibraltar Insurance Association and have most heavily been impacted upon by the pandemic.

1380 On 15th April, I wrote to all of the constituent heads of the Finance Centre Council inviting them to provide their detailed thoughts on policies and ideas that the Government might wish to consider and employ. This was in the context of Task Force Future. I also participated in a series of COVID-19 press conferences which was aimed at the financial services industry, the first of these being on 16th April.

1385 I attended, together with officials, the next two Finance Centre Council videoconferences, which were held on 21st April and 12th May. I am scheduled to attend the next videoconference, which is next week on 9th June.

Separate to the above, I have had innumerable telephone calls and engaged in multiple email traffic with many financial services firms as well as the Chairman of the Finance Centre Council. I have also been heavily engaged in advancing thoughts on new DTAs via a subcommittee of the Finance Centre Council.

1390 Lastly and needless to say, I and the Finance Centre Director have been in constant contact with the CEO of the Financial Services Commission and many of his senior colleagues from the outbreak of the pandemic to date. Where necessary, we have kept the Finance Centre Council Chairman and others informed of such conversations.

1395 **Hon. D J Bossino:** Mr Speaker, I would like to thank the Minister for that very full reply.

Maybe this is an unfair question, given that the Finance Centre Council represents myriad different entities and groups, but is he able to highlight, by way of high level only, the main issues which have been brought to his attention as a result of all of that intense contact that he has had over the last month or so?

1400

**Hon. A J Isola:** Mr Speaker, I think they have issues – in other words, what they face today, primarily cashflow, money going out and nothing new coming in; and, in respect of the future, a fear of what their business is going to look like in six, 12 and 18 months' time. I think those are the bulk of the discussions that we are having with them. Hence you will recall the Chief Minister announced some weeks back the private sector BEAT equivalent of the furlough scheme to enable some firms which needed to ... up to 25% of their staff, being able to reduce the cost to the business in order that they would be able to survive.

1405

Of course many of the financial services firms which are licensed by the Commission require to have three months' cashflow operating expenses in a bank account to enable them to take them through such a testing time as they are currently going through, so they should all be very well placed to be able to deal with the short-term effect of the pandemic as they begin to prepare for the longer term. So, the discussions with them really have been about the immediate here and now and far more thought-provoking sessions in terms of what the future holds.

1415

The responses that we have had from all the different heads of the associations from the Finance Centre Council for Task Force Future have been very interesting. They are not simply saying, 'Can Government charge me more rates or charge me less tax?' They are looking at ideas that can help them to make money. And so, in that sense, it has been very positive and we are adopting many of those thoughts in the future strategy that will be coming through to discuss with you as we develop those thoughts in the coming weeks for Task Force Future.

1420

**Hon. D J Bossino:** Mr Speaker, is the Government's intention still to engage with the Opposition in relation to Task Force Future? I am sure he does not have the statistics with him – it is a very specific question and I appreciate that he may not have the answer with him, available now – but can you give me an indication at least of what type of uptake there has been in relation to the BEAT furlough scheme which was offered to the private sector?

1425

**Chief Minister (Hon. F R Picardo):** If I may assist the House by saying that there is a specific question on that subject on the order paper that he has with him, but from Mr Feetham.

1430 **Hon. A J Isola:** I am grateful to the Chief Minister for that answer and I would not have known the answer to it anyway, but what I would say is that the response from the sectors has been very comprehensive; every single member of the Finance Sector Council has responded.

Absolutely it is our intention to engage fully with the Opposition as we develop that strategy. At the moment, we are going through a process of considering and evaluating all of the response we have had and putting that side by side with the strategy of the Finance Centre the officials in  
1435 the Finance Centre have developed and prepared for us to. So, we have what the Government is thinking and now we have got the private sector thinking and we will be marrying those two together to come up with our overall strategy, and I will, of course, engage with Members opposite at that time.

1440

**Mr Speaker:** Next question.

## ENVIRONMENT, SUSTAINABILITY AND CLIMATE CHANGE

### Q248 and Q255/2020

#### Road closures –

#### Impact on traffic and pollution; strategy re alternatives

**Clerk:** Question 248, the Hon. E J Phillips.

1445 **Hon. E J Phillips:** Mr Speaker, can the Government confirm that it has considered what impact the announced road closures will have on traffic and pollution, considering that motor vehicles will need to be moving at a slower speed and in lower gear?

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

**Minister for the Environment, Sustainability and Climate Change (Hon. Prof. J E Cortes):** Mr Speaker, I will answer this question together with Question 255.

**Clerk:** Question 255, the Hon. Ms M D Hassan Nahon.

**Hon. Ms M D Hassan Nahon:** Does Government have a cohesive and comprehensive infrastructural plan and budget to compensate the closure of Line Wall Road with green transport alternatives?

1450 **Clerk:** Answer, the Hon. the Minister for the Environment, Sustainability and Climate Change.

**Hon. Prof. J E Cortes:** Mr Speaker, the Government has of course considered what impact the announced road closures will have on traffic and pollution and is of the opinion that both of these negative impacts will be reduced.

The Government has a clear strategy for delivering a greener Gibraltar in respect of traffic and transport, which include the following.

We will encourage and enable people to use zero-carbon shared private transport.

We will implement a smart and equitable system of road user charging to ensure that the polluter pays principle is adhered to.

We will make it safer and more convenient for people to walk short journeys. This will include widening pavements, where possible, and making the streetscape more attractive and accessible through the creation of single-platform spaces, planting and provision of green infrastructure.

We will make cycling a safe and viable alternative by accelerating the cycle superhighway project and exploring the viability of using pop-up cycle lanes to trial new areas.

We will improve the quality, reliability, speed and accessibility of bus travel.

We will reduce emissions from freight operations, covering not just cleaner vans and lorries but also mode shift to e-cargo bikes and other e-vehicles for city centre deliveries.

We will incentivise the uptake of cleaner, electric vehicles for the general public as well.

We will reduce tourist vehicles coming into the city by providing an attractive and affordable alternative in the form of a park and ride as well as increasing parking charges in the centre.

All of these, in combination, will help to deliver a cleaner, greener urban environment and a child-friendly city. Clearly the delivery of this vision will require a great deal of work and it is for this reason that the Hon. Minister for Traffic and Transport and I, and our teams, are working together to develop this and a budget for these projects is currently being determined.

**Hon. E J Phillips:** I will limit these questions, Mr Speaker – a very few – to the question of impacts, on the basis that there are other questions on the order paper that could potentially over spill here and I would not want to take up too much time on this particular question.

1455 Insofar as the impact on pollution, would the Minister agree that by the original plan of closing Line Wall Road – and I appreciate that that language has now moved to a partial closure, now restriction – is it right in thinking that the Government takes the view that pollution levels in other areas of Gibraltar as a result of the closure will increase, obviously, at some point, and therefore all the measures that the Minister has identified, I assume as a result of the  
1460 consultation, which will take some considerable time to achieve ... that there still will be increases to pollution on other roads? Does he agree with that analysis?

**Hon. Prof. J E Cortes:** No, Mr Speaker. That question stems from the premise that all traffic that had previously travelled along these routes will be redirected to other roads, thereby  
1465 increasing traffic and pollution. However, this is a false premise. Traffic is not like water, which has to find its way through. People will respond to road closures in all manner of ways. Some will undoubtedly continue to use their cars, but studies have shown that other changes also occur. There are other responses. People can take their trips at different times. They can change their mode of travel to walk, cycle or bus. They can change the frequency of their journeys.

1470 So, there will be a modal change and we cannot necessarily say that there will be a long-lasting increase in pollution in other areas. There will probably be a certain amount of increase in some areas, but I think that when we implement all our measures overall the effect will be a reduction.

1475 **Hon. E J Phillips:** Mr Speaker, I think the Hon. Minister will need a reality check, quite frankly, insofar as the road closures that he is proposing. It is clear from their very own STTP that culturally the responses received in that plan demonstrate that most people will simply use their vehicles, will not be encouraged to motorcycle. Even in the event that alternative forms of transportation are laid on in the interim, there is going to be a push of traffic somewhere else;  
1480 that traffic will build up, there will be more fumes and there will be more pollution within our community.

He has to accept that an announcement to close Line Wall Road, pushing traffic elsewhere before we genetically, in our DNA, change our attitudes towards driving ... that there simply will be an increase in pollution in our community. How is the Minister planning for that impact?

1485

**Chief Minister (Hon. F R Picardo):** Mr Speaker, the Optigen test that we have bought is unlikely to enable us to change the DNA of the Gibraltarian as the hon. Gentleman suggests, but we are not going to accept all of the defeatist rhetoric that he puts to us. Quite the opposite: we believe that it is time, a propitious time, perhaps the only time when that cultural change can come. That is why we agree, and I am sure that others agree also, that this is the right time to act in this way, that people are ready to make a change to the way they live their lives. We have been elected to lead on this issue and on other issues, and so we do not believe that we need to check what we think is going to happen.

We think, actually, that hon. Members – under different leadership in a different time but with some similar compositions – took a radical step that we believed at the time was not going to be popular, which was to close Main Street to traffic and Irish Town, and then to close Casemates to parking. A more radical agenda than that I do not think we have seen. When we put the same points to them they gave us the replies I am giving them, and I am very happy to tell them – because when they are right, they are right – that they were right then, and that is why we think we are right now.

**Hon. Ms M D Hassan Nahon:** Mr Speaker, as the Government will know, my party is very keen on this project and we have supported it. I have had meetings with the Minister for Transport a couple of times now and we are actually very excited about it because we believe that in a climate emergency there is no time to wait, and if there is interim chaos it is for the greater good and things will work out for a better future for our children and grandchildren. We need to change mentalities and it has to happen as soon as possible.

So, I understand that there may be a little bit of chaos, but my question would be: when does the Government envisage actually breaking ground after these plans and budgets are tabled and decided on? When will Gibraltar start to see the construction of these lanes, the different types of buses, the incentives? When are we looking at? Are we looking at a six-month period from now? Two years from now? When can we start understanding what is going to start to happen?

**Hon. Chief Minister:** Mr Speaker, now I am in much more comfortable territory, agreeing with the hon. Lady. I am pleased to have the opportunity to agree with her on this because, in the same way as I have said to hon. Gentlemen that they were right about Main Street and we were wrong in those years ... We fought a General Election and on the night that I happily accepted the charge of once again, and on a third successive occasion, becoming Chief Minister of this community, I said that we had enjoyed a General Election campaign which had been devoid of the usual vitriol and there had been a lot of good ideas put about. All those good ideas were not contained only in our manifesto and there were some in other manifestos, and this frankly was one which was attractive and worth looking into, and it dovetailed well with some of the work that had been done, the detailed investigations that had been done in the STTP.

I have now seen very advanced designs. There are many Ministries involved here – Environment and Health as well as, of course, Transport, which is the lead Ministry on the transport aspects, with Environment and Public Health being the most concerned, with Health, on the pollution aspects. Those very attractive designs I understand will be completed within days ... the fact that we are now going to a more advanced rendering of what those designs are. They will be published within days, therefore people will be able to see, when the closure of Line Wall Road commences on 1st June, exactly what it is that the closure will lead to, and that, I think, will make even the most recalcitrant of objector reapply their mind to this project and to try and find a way, I am sure, of supporting it.

Mr Speaker, if hon. Members opposite do that, they will find only a welcoming hand from the Government. There will be no way that we will be in any way triumphalist in persuading them on this, because I think this is far too important. They will, I think, find it attractive. The Members opposite, I know, must be as concerned as we are in respect of the pollution in Gibraltar, must want to control it as much as we do and, in the knowledge that it is impossible at the moment to

change human DNA, must not want to wait for the test that the Hon. Mr Phillips has set up to be satisfied in order to be able to progress.

1540 So, in those circumstances, Mr Speaker, the answer I am giving to the hon. Lady is I expect in weeks, not months.

**Hon. D A Feetham:** Mr Speaker, for my part I do not think it is a question of DNA; it is a question on the fact that we have very few roads in Gibraltar and that, whether fewer people  
1545 use cars or not, we are going to be shifting a considerable amount of traffic via Queensway and that is going to create its own problems, its own pollution and its own congestion on Queensway. Of course, as always from the Opposition benches, we want the Government, in the public interest, to succeed in its measures, though not at a General Election!

Mr Speaker, bearing in mind that the hon. Gentlemen opposite are talking about DNA, and in  
1550 order to assist those who live in the Upper Rock to change their DNA and leave their cars at home, is the Government intending to put a bus service for those who live in the Upper Rock, which is a small but vibrant community – *(Banging on desks)* absolutely *(Interjection)* – composed of a number of elderly people, also people with children in schools, and who therefore will need to use their vehicles unless there is a bus service that operates in the Upper  
1555 Rock? I also remind hon. Gentlemen opposite that of course not only is there a small but vibrant community in the Upper Rock but there is also the Girl Guides' hut and other activities that take place there, which will be greatly assisted by a regular bus service.

**Hon. Chief Minister:** Did I hear him declare an interest, Mr Speaker, or not?  
1560

**Hon. D A Feetham:** Everybody and his dog knows that I live up there.

**Hon. Chief Minister:** Well, everybody knows that you and your dog live up there, yes! That is absolutely true, Mr Speaker, and we have seen some questionable tweets as to what he does  
1565 with his dog on a Saturday afternoon, but given that he is no longer leader of the party I do not need to stray in that direction.

Mr Speaker, there is no intention to set up a bus to the Upper Rock, but one of the things that the Government continues to look at, and I have just had a report on the subject, is the opening of Green Lane, which I know would provide great relief to the colony of people who live  
1570 in that particular part of the Upper Rock. It is a concern to us.

I really do not understand how the hon. Gentleman can get up and link this to Line Wall Road, but he is always keen to try and take advantage, for his own purposes, of his position in this House, and for all of his constituents up there. I really do not share with him the view that he has expressed that this is about all the same traffic going in the different direction now of  
1575 Queensway. We have already explained that this is a package of measures, some of them uncomfortable but for good reason, and therefore a lot of people who live in the Upper Rock will need the opening of Green Lane to become a reality, if it is possible. We are looking at that. We are not talking about closing the Upper Rock, so there is no need to worry about the Girl Guides, who will continue to have access to the Upper Rock in the usual way.

He has linked things which, as usual, defy logic, but then again that is his DNA and I accept that; it is not an issue. I assure him that if I can get to the top of the Rock on a bicycle, if assisted  
1580 by a small electric engine, then he would be doing his fitness regime no end of good if he left the Jaguar at home and either got on one of those bikes or got on his hind legs. I will tell him I think I live further from my office than he does from his, measured in metres or kilometres, and it does  
1585 me a world of good when I am able to walk – but I know that being driven in a Jaguar has long been a fantasy which he is fulfilling for himself. *(Laughter)*

**Hon. D A Feetham:** Well, of course, Mr Speaker, *(Laughter)* absolutely, and I did offer him a lift the other day in my gas-guzzling Jaguar. I opened the window and I said, 'Do you want a lift in



1590 my gas-guzzling Jaguar?’ and he declined. Look, it is a matter of taste. I drive a Jaguar; he drives a Porsche Camarera, or Panamera, or whatever it is called. At least on this side of the House we do not call ourselves socialists, so obviously that is an advantage!

I do welcome the fact that the hon. Gentleman has indicated that the Government is investigating the opening of Green Lane, very much welcomed by the colony and the community up there in the Upper Rock because of course if there is an issue with the health of anybody, or an accident, or anything like that, now people have to travel all the way round through Moorish Castle towards the Hospital, and that is an accident waiting to happen, if I can characterise it in that way.

1600 Can he at least give us an indication of when he expects that perhaps cliff-facing works are going to be done in relation to Green Lane, which would then enable the opening of Green Lane? *(Interjections)* Introduce it!

**Hon. Chief Minister:** *Como que* introduce it! Mr Speaker, I do not know how this arises from Line Wall Road, but the hon. Gentleman rose to ask a question, which I answered. Now he has raised all sorts of other issues. For me, with him it is not a question of lowering the tone – I think he and I enjoy our usual repartee – but I was very pleased that he started his supplementary laying waste to the last 20 years of his political trajectory in Gibraltar. He has spent 20 years telling us that he is more socialist than us, even when he was the leader of the Social Democrats. Today at last, in *Hansard* – that *chibatito*, which he does not enjoy me reminding him of and I will forever now remind him of – he has got up and said that he does not even pretend to be a socialist anymore. *(Laughter)* I am delighted and I welcome the new level of honesty that is in his DNA. *(Interjection)* First.

1605 Second, I must say you could have blown me over with a feather when I heard of the new Porsche that he has invented, which is the Porsche Camarera, which must be a combination of a Porsche Carrera – which is what Sir Peter used to drive, he will remember, so obviously a social democratic vehicle – and a Porsche Panamera, neither of which I have ever owned or own. Although I am sometimes pressganged into chauffeuring someone in it, although I do not own it, unless hon. Members take the view that one’s wife is one’s chattel. They might be taking that view. I put nothing beyond him – let me put it that way; I do not want to spoil the relationship at an institutional level between the Opposition and the Government.

1620 The only reason I did not accept his offer of a lift in the Jaguar was because I did not want to hurt his feelings. I did not want him to end up being the person who drove the Chief Minister around in the Jaguar, rather than him being the Chief Minister who was driven around in the Jaguar, which I know has been his fetish for a long time.

1625 As to Green Lane, Mr Speaker, the Government will make an announcement when it is ready.

**Hon. D J Bossino:** Mr Speaker, this is, I think, directly related to the issue of Line Wall Road. What are the Government’s plans in relation to its original plans are set out in the manifesto – I think it is at page 55, entitled ‘Walk the Wall’? *(Interjection)* Yes, it is. It is relating to Line Wall Road.

1635 **Deputy Chief Minister (Hon. Dr J J Garcia):** Mr Speaker, Walk the Wall is off Line Wall Road but not directly on Line Wall Road itself. An inter-ministerial committee was set up soon after the General election. There have been a number of meetings of that committee and concept designs are being produced in order to have the discussion.

**Mr Speaker:** May I take the opportunity to remind hon. Members on both sides ...? I will read out an extract from the House of Representatives in New Zealand on supplementary questions. It says:

Supplementary questions are to be of a reasonable number and arise directly from a Minister's reply. They must be related to it not indirectly but directly.

1640 That is all.

**Hon. E J Phillips:** Just in relation to that point, it is clear from the answer that Prof. Cortes gave in respect of that question that he opened up the ambit very significantly beyond Line Wall Road – to include cycling and road closures – beyond air pollution, that this problem presents.  
1645 *(Interjections)* DNA. Therefore, it allows for debate in that sense, which shouldn't do.

**Hon. Chief Minister:** Mr Speaker, without accepting that point, can I just ... I think you have been in the Chair now for almost two and a half hours, and we all have the liberty of being able to pop in and out. Might I suggest that this might be a convenient moment, before we kiss  
1650 goodbye to all the conviviality that we have enjoyed over the period of the pandemic, where we recess for a 15-minute break and then return and continue with the business of the House?

*The House recessed at 5.25 p.m. and resumed its sitting at 5.45 p.m.*

**Q249/2020**  
**Upper and Lower Town air quality –**  
**Commitment to monitoring**

**Clerk:** We continue with Question 249. The questioner is the Hon. E J Phillips.

**Hon. E J Phillips:** Mr Speaker, can the Government now commit to providing air quality  
1655 monitoring within the Upper and Lower Town area?

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

**Minister for the Environment, Sustainability and Climate Change (Prof. J E Cortes):**  
1660 Mr Speaker, the diffusion tube network already covers these areas. I believe there are four tubes in the Town area. In addition, an AQ mesh monitor has been placed on Line Wall Road. To be specific, it is at the end of the Piazza on Line Wall Road.

**Hon. E J Phillips:** Does the Minister have any information about the results of monitoring  
1665 with him?

**Hon. Prof. J E Cortes:** No, Mr Speaker, I would have to look at the data. The new AQ mesh  
1670 monitor has been moved very recently in anticipation of the changes. The others have been there for some time, but I would need to look into them and I would be happy with either another question here, or to answer if the hon. Member will get in touch with me.

**Hon. E J Phillips:** Mr Speaker, just one question in relation to these monitors. I remember the  
1675 last time we met we had a discussion as to data being imported on to a website that would be easy to read by members of the public and we had a very short exchange on whether that would be achievable, because some of the data that is available requires the user to input certain criteria, which makes it more difficult for members of the public to access real-time data about pollution levels in our community.

Can the Minister confirm whether the information obtained from these new installations would be incorporated into the existing online infrastructure for people to access information?

1680 **Hon. Prof: J E Cortes:** Mr Speaker, the answer is yes.

**Mr Speaker:** Next question.

**Q250/2020**

**Smoking in outdoor public areas where people congregate –  
Legislation to prohibit**

**Clerk:** Question 250, the Hon. E J Phillips.

1685 **Hon. E J Phillips:** Mr Speaker, can the Government state that it will introduce legislation or extend current legislation prohibiting smoking outside schools and public areas where people actively congregate?

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

1690

**Minister for the Environment, Sustainability and Climate Change (Prof. J E Cortes):** Mr Speaker, yes, that is indeed the intention.

1695 **Hon. E J Phillips:** Mr Speaker, I note that when this question was asked there was an exchange of press releases and an announcement by the Government that areas such as Harbour Views, which I think arose maybe in consequence of an exchange that we have had across the floor of this House in relation to that stretch of land between the Hospital and Morrison's insofar as tobacco butts is concerned ...

1700 Insofar as extending legislation, is it the Government's intention that by regulation it will also extend to certain other areas in Gibraltar apart from those outside schools? The main complaint we receive from constituents, of course, is that it is grotesquely ... it is horrific, in fact, going to school, dropping off your children whilst people are smoking around the gateways, which I know the Chief Minister agrees with from his own public statements he has made before. But what other areas would that extend to?

1705

**Hon. J E Cortes:** Mr Speaker, yes, schools had been raised in fact when I was Minister for Education. Obviously then we had the election, then we got COVID and things have been delayed, but we are already producing the plans and so on in order to do that.

1710 Other areas that are being looked at ... I have not got a list of them specifically. I am sure that people will come up with suggestions where this is problematic. There was a big problem, as we have agreed, outside the Hospital. That is being tackled and the schools will be next, and then we will see what other areas we have.

1715 **Hon. E J Phillips:** Can I just ask one question about the Hospital? I am sure the Minister may know the answer; if he does not, that is fine. My understanding was, from the last session of Parliament, where we exchanged views on Harbour Views Road and the ability for healthcare workers or other people to smoke on that gravelled area, that that land was private land. I think that was the position that the Government adopted at the time and that is why it could not legislate for the complete banning and it would introduce planting around that area in order to avoid ... and put more smoking signs up. What position had changed insofar as the Government  
1720 is concerned to then, by notice in the Gazette, demarcate that area as a non-smoking area?

**Hon. Prof. J E Cortes:** We have gone to the limit of public land but we did seek legal advice and it is possible to legislate even on private land.

**Q251-54/2020  
COVID-19 –**

**Priority re administering vaccine; numbers tested; UK guidelines; use of face masks**

**Clerk:** Question 251, the Hon. E J Phillips.

1725

**Hon. E J Phillips:** Can the Government state whether it agrees with the content of the question posed by the Director of Public Health, Dr Sohail Bhatti, on Twitter, on the prospect of putting children to the back of the queue when a COVID-19 vaccine becomes available?

1730

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

**Minister for the Environment, Sustainability and Climate Change (Prof. J E Cortes):** Mr Speaker, I will answer this question together with Questions 252 to 254.

1735

**Clerk:** Question 252, the Hon. K Azopardi.

1740

**Hon. K Azopardi:** Mr Speaker, of the 5,410 COVID-19 tests conducted up to 19th May 2020, can the Government state: (1) how many individuals have been tested once and, of those, how many were resident in Gibraltar and how many were non-resident; (2) how many individuals have been tested more than once and, of those, how many were resident in Gibraltar and how many were non-resident?

**Clerk:** Question 253, the Hon. Ms M D Hassan Nahon.

1745

**Hon. Ms M D Hassan Nahon:** Was Government following direct UK Public Health advice while declaring that the virus had to go through the community in order to achieve herd immunity, and does the Government continue to follow UK guidelines now?

**Clerk:** Question 254, the Hon. Ms M D Hassan Nahon.

1750

**Hon. Ms M D Hassan Nahon:** Given the most recent studies on the matter, why does Government advise and not mandate the wearing of masks in all public indoor spaces?

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

1755

**Hon. Prof. J E Cortes:** Mr Speaker, the tweet posed a question and so did not express an opinion with which one can agree or disagree, but it is certainly a question that is hotly debated in most jurisdictions.

1760

Up to 19th May the number of people tested once was 4,295, of which resident were 3,785, non-residents 470, and unknown 40. The number of people who have been tested more than once is 510, of which residents were 455, non-residents 54, unknown 1.

1765

In relation to Question 253, there is no 'UK Public Health' advice. All the home countries and Crown Dependencies have their own public health agencies – like Public Health England – as does Gibraltar. The UK government took the advice of the Chief Medical Officer, the Chief Scientific Officer and SAGE. Early in the outbreak the advice appeared to be that herd immunity could be achieved by allowing the virus to infect freely. In Gibraltar, in contradistinction, we took

1770 the view that those most at risk needed the most protection, which is why a legally enforced  
Order to restrict movement on the over-70s was one of the first legislative instruments put in  
place under the civil contingencies legislation. Gibraltar was the first and only jurisdiction in the  
1775 world to do that. The results, so far, speak for themselves, as we have heard here earlier on  
today. We have taken note of the advice provided to the UK government whenever that has  
been available, but given that Gibraltar is unique and special we have never felt bound by it. This  
has been reflected in a very positive set of references to Gibraltar in the current edition of  
*The Economist*, dated 23rd May 2020. The articles refer to our introduction of Golden Hour for  
our over-70s as an example of innovative ways of addressing the issues that COVID raises for the  
future for all European economies, and we are proud to have led on this.

1780 In relation to the issue of the use of masks, it would be helpful to know which studies are  
being referred to. Evidence is mounting all the time and some of it is contradicting others. The  
advice given by the Director of Public Health is that masks can and should be worn in enclosed  
public spaces where adequate social distancing cannot be maintained. The position is set out in  
our Unlock the Rock document. As the Contact Tracing Bureau starts functioning, as it has  
indeed done, people who have been found to be within two meters of someone else for more  
than 15 minutes in the last 48 hours will need to self-isolate until tested, if the person they have  
been close to is a positive case, so there is a clear need to maintain social distancing at all times.

1785 **Hon. E J Phillips:** Mr Speaker, just in relation to the question about the Director of Public  
Health's tweets, given that the Government reacted very quickly to the public tweets about a  
question as to whether children should be put at the back of the queue, who have no history of  
vaccination, and given that the Government's position is that no child in this community will be  
1790 refused a vaccine or put at the back of the queue – to use the language of the Director of Public  
Health – does the Government agree that it was not advisable for the Director of Public Health,  
in the position that he holds, to publicly question or court controversy over this question as to  
whether children should be put at the back of the queue? And although everyone is of course  
entitled to express their views, given the fact that the Government reacted so quickly in  
1795 confirming that it would not put children back in the queue, does the Government agree with  
me that it was unadvisable for that to happen?

**Chief Minister (Hon. F R Picardo):** Mr Speaker, first of all, that question is based on the false  
premise that the Government did not react quickly to the question imposed. The Government  
1800 was asked for a response to a press question that was filed very quickly, so the whole of the rest  
of the question falls away if you rely on the premise on which it exists.

Secondly, I really do not know what it is that the hon. Gentleman is suggesting. Is he  
suggesting that civil servants should not be permitted free speech and they should not be  
permitted to raise those questions? If that is the case, it would be in keeping with some of the  
1805 positions that they have taken in the past when they were in Government and which we have  
dealt with in a different way.

Is the hon. Gentleman saying that we should not have the debate? I welcome the fact that  
Sohail Bhatti, the Director of Public Health, raised this issue, because I think really only as a  
result of some of the foolishness that one sees in social media are people in Gibraltar starting to  
1810 be affected by the anti-vax argument – not in relation to COVID, where vaccinations do not yet  
exist and everything is hypothesis, but in relation to established vaccinations like MMR etc.,  
which are important vaccinations, and where there has been discredited conspiracy theory going  
around the world which has had massive damaging effects on inoculations in many  
communities.

1815 Indeed, the question that Sohail Bhatti posed puts to us in English, for discussion, almost as  
an essay question – on his private Twitter feed, nothing to do with Public Health Gibraltar, on his  
private Twitter feed that I see the hon gentleman has suggested he follows – a question that has  
been posed and answered in different ways in different European jurisdictions. In France, your

1820 child cannot go to school if he is not inoculated. Frankly, I think that is a very salutary position to  
 take, but I am not an expert in public health. I think we should all be pleased to be asking  
 ourselves whether indeed, now that we understand, given the pandemic, how important it  
 would be for people to be vaccinated, these are not things to be swept under the carpet and  
 kept quiet. If the Director of Public Health wants us to talk about that – and the issues of  
 1825 smoking and obesity, which I think about every day; every morning, at about 7.45, I think about  
 the problems of obesity – these are debates to be had, not to be shied away from.

I am surprised to have an Opposition putting it to us in the way that they do. Usually they  
 chastise us when we have suggested that somebody should not have put something on Twitter;  
 now they are chastising us for not chastising someone for having put something on Twitter.  
 Sometimes I do find it difficult to keep up.

1830 **Hon. E J Phillips:** Mr Speaker, that is not the point I was trying to make, but on the question I  
 was trying to try to elucidate the answer to ... The point I am trying to make is that on the one  
 hand the Government have confirmed that they will not have one child at the back of the queue  
 in respect of vaccination against COVID, whilst you have the Director of Public Health putting  
 1835 into the public domain the debate about whether children should be put at the back of the  
 queue, who do not exhibit a history of vaccination.

Of course we all welcome debates on any subject, but this is clearly a question of mixed  
 messaging to the public – the Chief Minister alluded to mixed messaging with the hon. Lady –  
 and we have to have a consistent message, clearly, to our community. If it is the position of the  
 1840 Government that they wish to make sure that no child gets left behind and is not put at the back  
 of the queue for vaccination, we can hardly have a debate when the Government has said this is  
 the position whilst the Director of Public Health has said let's have a debate about the question  
 of whether children should or should not be put to the back of the queue. That is the only point I  
 make, that we have clear messaging to our community on this point.

1845 **Hon. Chief Minister:** Mr Speaker, I do find it difficult to understand where the mixed message  
 is alleged to arise: something that a person has said on their private Twitter feed – remember  
 that Public Health Gibraltar has a Twitter feed and Public Health Gibraltar has not put this on its  
 Twitter feed; or because the Government has said something which is to answer a question that  
 1850 has been posed without an answer by the Director of Public Health?

Sohail Bhatti is not here. We are debating a lot of things that Sohail Bhatti has advised on, but  
 he is not here today – he is not a member of the Government. He asked the question, but he did  
 not say that the answer should be that children should not be inoculated. He said '*should*  
 1855 children who have not been inoculated be offered the COVID vaccine, or not?' The Government  
 answered the Government's view. As you can imagine, we did not answer the Government's  
 view without taking the advice of Public Health Gibraltar.

It is one thing to pose a question to have a debate in order to make people think; it is quite  
 another for that to be the position of the Government. And so I do not think that there is any  
 risk whatsoever of mixed messaging here unless the hon. Gentleman continues to talk about it  
 1860 so much that this becomes a headline – which I assume is one of the things that he would  
 consider a success – and then we might have some mixed messaging!

**Hon. Ms M D Hassan Nahon:** Mr Speaker, I myself, when I saw that tweet, was a little bit  
 surprised by it. I think that for as much as we try and move away from the individual's position,  
 1865 he is an employee of Government effectively – or of the GHA, which goes back to the same  
 place. This is a man who I am sure is very learned and skilled but at the same time has an  
 agenda, clearly, on this topic because we have seen journals published and articles in the  
 mainstream UK press. So, it is not just that he asked a flyaway question and nobody knows his  
 own views or his own plans or his own ideas about this. We know, because we have seen articles  
 1870 posted where he has been a proponent for such measures. So, I think that it is only

understandable and normal that when he comes out asking to debate this question – as an employee, effectively, of Government and for the Health Service – people are going to get a little bit shaken up, concerned and worried whether this is a Government policy. I think that Government should understand and make it clear and lay out its position instead of just shying away from it and telling us that it is his own personal question up for debate.

**Hon. Chief Minister:** Mr Speaker, that question I think asks us to do that which we have done twice already. The hon. Lady has said the Government must lay out its position. Well, the Government laid out its position in answer to a press question – which apparently happened almost immediately, the Hon. Mr Phillips has told us – and the Government has set out its position in answer to Mr Phillips a few moments ago. So, why is the hon. Lady asking us to do, I question, that which we have already done?

When it comes to mixed messaging I still have the marks on my back of when the Human Resources department issued, without reference to us, the new social media policy for the Civil Service, which said ‘you should not really comment on issues which relate to your area of departmental concern’ etc. The onslaught we had from hon. Members opposite, including the hon. Lady – I will whip out her press release and her statements in that respect – for having the temerity to issue a social media policy that did exactly the things she has now said we should be asking Sohail Bhatti to do and adhere to, was really quite remarkable.

It may be that I am cursed, if not blessed, with the memory of an elephant for now – I do hope I do not lose it in future – but when it comes to mixed messaging, those issues have also got to be factored into the equation. Do we allow civil servants freedom of speech? Do we allow civil servants to pose questions for debate? Indeed, are we defending the idea that our children should not be inoculated? I am quite happy to have the debate with anyone in this House who believes that we should not have children have the MMR vaccine, if that is what we are pretending to defend, which is what Sohail Bhatti rightly, in keeping and in concert with the Government, will want to defeat because we want all our children to be inoculated with the MMR vaccine, whatever the anti-vaxxers may say. So, I am with Sohail on this. Maybe that is a new bumper sticker for the future.

**Hon. Ms M D Hassan Nahon:** Mr Speaker, with regard to the –

**Mr Speaker:** Excuse me; we are going to have just one –

**Hon. Ms M D Hassan Nahon:** Because the Chief Minister –

**Mr Speaker:** Okay, one final question from you and then one final question from the Leader of the Opposition.

**Hon. Ms M D Hassan Nahon:** Mr Speaker, when the Chief Minister says that we have all been against the social media policies, which we believe give freedoms to civil servants, we are talking about issues that are not pertaining to their specific Departments. If they want to talk about, for example, lifeguards when they are teachers, they should have the freedom, but we do not expect them to talk about the teaching curriculum out there when they are teachers and they are privy to information. This is what has happened here. You have a Director of Public Health speaking about a very sensitive or current, live issue that pertains to his Department, so obviously people are going to understand that to be part of Government policy.

So, my question is not about whether we agree with it or do not agree with it: is Government comfortable with having somebody in such a senior position using their own personal social media tools to put out messages that can very understandably be taken as something deriving from Government policy?

1925 **Hon. Chief Minister:** Mr Speaker, I really do not recognise in what the hon. Lady is saying  
now the things that she was saying before. Or does she forget the attitude that she took to  
teachers, which is the example that she has given now – teachers who were tweeting about  
issues and Facebooking about issues that related to the profession that they exercise in the  
Government at the time that they were in dispute with the Government? I know that she likes to  
make it up as she goes along in order to fit the argument that she wants to win at the particular  
time, but it is my role to ensure that she does not get away with it and that I point that out,  
1930 because the alternative is the road to populism.

1935 What is clear here is that there is a convergence of interest between the views of the Director  
of Public Health and the views of the Government – and, I dare say, if hon. Members think about  
it, the view of everyone in this House, which is that we are in favour of inoculations, and if we  
want to have a debate about those issues then one of the areas where we might have that  
debate is around the issue of the COVID vaccine.

1940 We think the COVID vaccine is an issue where people will take a different attitude. Indeed,  
today it might seem that we want no child to be left behind. By the time the vaccine is available,  
people might not want their children to be inoculated because they might do a calculation that  
thinks, ‘Well, if my children are not going to suffer from it, do I want to take the risk of a new  
vaccine where you have not seen side effects etc.?’ And then what is going to happen when  
Sohail Bhatti says and the Government says every child should be vaccinated – whether they  
have had the other vaccinations or not, they should all be vaccinated for COVID-19? Is the hon.  
Lady going to come here and say ‘Why is the Government forcing children to be vaccinated?’  
That is the sort of one thing said today, another thing said tomorrow that we are seeing.

1945 What we are saying is very clear, and we have said it after we have taken advice on the  
subject. On the issue of COVID, if there is a vaccine we will make it available to every child  
whether or not they have been inoculated for anything else, but we hope that there are not  
children here who have failed to be inoculated for everything else because we think that is a  
very bad policy indeed.

1950 I am listening to what hon. Members are saying about the way that we should control civil  
servants’ use of their own social media channels. Perhaps they can have the courtesy of setting  
out in writing what they think of their position in that respect is. The Government has not  
curtailed Mr Bhatti from using his social media channel. We have not curtailed teachers who  
have been commenting about teaching issues on their social media channels, although the hon.  
1955 Lady was championing them at one stage and now she is saying that they should be prevented  
from using their personal social media channels to comment about matters relating to teaching.  
I just would be very grateful to have one view from the hon. Lady on what her position is on this,  
rather than so many.

1960 **Hon. K Azopardi:** Well, at least we know from the Chief Minister’s answer that the tweet was  
only for discussion, because the Government welcomed the debate, which it then scotched a  
couple of days later having taken advice from the same person who put that tweet out there. He  
could have answered his own tweet by saying ‘No, because I am going to advise the Government  
that actually the answer should be no.’ But that is fine.

1965 I wanted to ask a supplementary on the question that I have on the order paper, if I may,  
which is Question 252. I asked about residents and non-residents, and now we know from the  
Government statistics that there have been a number of cross-border workers who are positive  
and presumably at home across the border. Because the process requires retesting so that they  
can safely go back to work, how is that retesting going to be done when they are in Spain?

1970 **Hon. Prof. J E Cortes:** Mr Speaker, there are various ways of clearing somebody and it is not  
necessarily a retest. After the period of 10 or 14 days – depending on a number of factors –  
without any symptoms for somebody who has tested positive, it can be deemed that you are  
clear. If there is a need for retest, and clinically a doctor may feel that there is a need, then that



1975 will be organised. As we have made public in the last couple of days, we have close contact with  
the Spanish authorities and there would be no difficulty at all in organising that in Spain if it was  
necessary.

1980 **Hon. K Azopardi:** So, do I take it from the Minister's answer that it is not a matter of standard  
practice for someone who is positive to always be retested to ensure that they are then  
negative? I had understood the contrary and indeed it may be that someone tests positive on  
successive occasions. So, is there no standard practice? One would have thought that it should  
be the reverse, that it should be retested.

1985 **Hon. Chief Minister:** Mr Speaker, there are different standards here depending on who and  
where you are. In the frontline screening that we have done, some people have been identified  
in, for example, ERS. Those people will be tested before they are able to go back to work, but  
those people will be tested at ERS. In other words, when the period passes that allows them to  
return to work, when they are deemed clear, x days asymptomatic, then they go back to work  
1990 and they are tested at work, and that is whether you are a cross-frontier worker or not. If you  
are a patient at ERS – and the hon. Gentleman knows that we have had one or two there – then  
you are tested before you are allowed back into the general population at ERS, because of the  
danger, and so there is a need to check there.

1995 Around the world the standard established criterion to be determined to be clear of the virus  
is to be x days without symptoms, even if you were identified on a random test and were  
asymptomatic. Those are the criteria that are applied also by us in Gibraltar. I will tell him – in  
fact, I think I may have told him privately but I will tell him – that we have had one particular  
individual in one particular residential facility, who therefore required testing because he or she  
was being potentially put back into a general population, who stubbornly tested positive despite  
2000 being asymptomatic for the number of days required. I am very pleased to be able to tell him  
that late last night – although it is not in today's figures it is reported today, therefore it will be  
in tomorrow's figures – late last night that person reported negative for the first time. There will  
be another test today and if he or she reports negative again, then they are negative and then  
they go back into the general population. So, there are different criteria applied on the basis of  
2005 risk assessment – I assume that is how they have been developed.

He must not confuse what we are looking to do with what we are doing now. What we are  
looking to do is, for the next stage, where people who are symptomatic call in and say 'I have got  
the symptoms', then we want to have a mechanism, which we are very advanced in now  
finalising, which brings you the closest possibility of testing. So, in Gibraltar either you will have  
2010 someone sent to your house or you will be invited to the drive-through, and if you are a resident  
of Spain you will be invited potentially to one of two facilities that will be conducting tests for  
Gibraltar, but that in the 'I wake up with symptoms' or 'I have symptoms and where is the  
closest place to go, and how quickly do I get results?' And those results ... It is all changing now.  
Some results can now be provided within an hour by some laboratories. We are told of an even  
2015 quicker field test that can be done very quickly, which we are looking into also.

**Hon. K Azopardi:** I am grateful for that answer. I was going to say also to the Chief Minister  
that perhaps an interim suggestion also for Government to consider – and I do not know if he  
would be prepared to consider it – is in terms of, as he says, if you test positive but you are a  
2020 cross-frontier worker but you then get tested back in ERS, wouldn't it be an idea for them to be  
tested at the Frontier rather than to be walking around in the general population when you do  
not really know whether they are positive or not?

**Hon. Chief Minister:** In fact, Mr Speaker, there is very little walking around these days in that  
2025 context and people are using their private vehicles for now, but, in fact, when the new  
mechanism is set up the place you will go to will be the place closest to you, so if you are a cross-

frontier worker you will in fact go to one of the laboratories in Spain with which we have done an arrangement for this purpose. That is just a question of when we are able to finalise those arrangements, which I hope will be very soon, and it is also dependent on us being able to enter into those arrangements. The hon. Gentleman knows that although a much relaxed Spain is still under a state of emergency, or a state of alarm ... I think there is a difference constitutionally in Spain between emergency and alarm, so I must say a state of alarm, and the state of alarm does not permit the sort of contract that we want to enter into with private clinical providers at this stage, to be linked with a foreign entity like the Government of Gibraltar.

**Mr Speaker:** The hon. Lady.

**Hon. Ms M D Hassan Nahon:** I have a supplementary for the Hon. Minister on Question 254. I understand that he mentions the scientific advice and how that is changing, and how there are conflicting views on masks, but I think that most peer-reviewed scientific journals are moving towards the agreement that masks are good – and this is probably why Government has taken a view to advise people to wear them as opposed to not wear them.

So, my question was really about the fact that if the Government has stated that there is a value in wearing masks by advising people to wear them, shouldn't they be taking a firmer position on the matter in order for everybody to get the most out of it because it is an advice? Or are they advising when they do not actually believe in their own advice?

**Hon. Prof. J E Cortes:** Mr Speaker, I do not know whether the hon. Lady is advocating a law that forces everybody to wear a mask. I certainly would not support that.

I think the hon. Lady is referring to peer-reviewed journals and, as I said in my answer, it would be helpful to know which specific issues she is referring to and how recent they are, because the evidence has been moving all the time. But the current advice is that masks can and should be worn in enclosed public spaces where adequate social distancing cannot be maintained, and that is a specific recommendation. So, if you are out in the open air, if you are five or six metres from somebody else, then a mask will be of no significant value.

The other consideration is that the greatest value in wearing a mask is preventing somebody who is carrying the virus from passing it to somebody else and that wearing a mask will not be that significant in protecting you because the virus can also be passed through the eyes. You can, in fact, get an infection through the eyes. So, masks are of some value; they are of limited value in assessing the risk. In close quarters, indoors, then that is when we are recommending it, but all these considerations are relevant.

**Mr Speaker:** Next question.

**Q256/2020**  
**Social distancing guidelines –**  
**Images re non-compliance**

**Clerk:** Question 256, the Hon. Ms M D Hassan Nahon.

**Hon. Ms M D Hassan Nahon:** Despite public advice provided by this Government, we are being constantly bombarded online with images of people, including the Chief Minister, in indoor healthcare facilities, without following social distancing protocols or wearing face masks. Is the Government aware that this example is not conducive to people following social distancing guidelines?

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

**Minister for the Environment, Sustainability and Climate Change (Hon. Prof. J E Cortes):**  
Mr Speaker, health workers will, in the exercise of their duties, have to approach persons in their  
2075 care, or indeed colleagues, closer than two metres.

Photographs can be confusing and can give the impression that persons are closer together  
than they are in reality. Government Ministers and officials take great care in maintaining the  
recommended social distancing.

If I may just add, Mr Speaker, there was a photograph today, which I have seen on social  
2080 media, taken probably as a screenshot from the camera when the Chief Minister was speaking. It  
would seem to show the Hon. Minister Sacramento when they are in fact two metres away, but  
the photograph almost showed that they were within shoulder-touching distance. The Chief  
Minister has not been within one to two metres of any health worker for more than 15 minutes,  
2085 which is the advice. Photographs usually only take a moment although they last a lifetime. In the  
case of the photographs in question, they show a Government expressing its gratitude and that  
of the many people we represent to our magnificent healthcare workers. (*Banging on desks*)

**Hon. Ms M D Hassan Nahon:** Mr Speaker, with regard to the picture that the Minister is  
referring to, yesterday with civil servants, I take his word for it that they were separated – and I  
2090 agree that it does not look like they were, but I take his word for it.

The fact of the matter is how does the Government find the logic to congregate so many civil  
servants together – heads of Departments, essential parts of the Civil Service – in one room  
when, if one, two, three or more, or less, would advise anybody or would show that they have  
contracted the virus? Everybody else would probably have to be isolated. Wouldn't that actually  
2095 bring a halt to most of the key people in the Civil Service? Is it advisable to meet with so many  
people at the same time?

**Hon. Chief Minister:** Mr Speaker, I think the hon. Lady is referring to a meeting of senior  
officers called by the Chief Secretary, who considered that it was appropriate to have such a  
2100 meeting at this stage as he mapped out the route for the public sector generally and the Civil  
Service in particular to take as we emerge from the pandemic. I found out about that meeting  
and wanted to be able to address the senior officers to express the gratitude of the people of  
Gibraltar for the work that they had done and my views as to how we should progress. I was  
there for about eight minutes, 10 minutes, no longer than that. The Chief Secretary addressed  
2105 them – I do not know for how long.

The rules relate to what happens, other than at work. There are many places of work where  
more than 12 people congregate, and as long as they stay that far apart, as the rules provide, we  
are saying that it is safe for them to congregate. So, because we believe in our advice on face  
masks, because we believe in our advice on social distancing, because we believe that our rules  
2110 are correct and we follow them to the letter, we do not believe that any of the things that the  
hon. Lady says fall consequent as a result.

**Mr Speaker:** Next question.

EDUCATION, EMPLOYMENT, UTILITIES AND THE PORT

Q257/2020

Education –

Dates for pupils returning to schools

**Clerk:** Question 257, the Hon. E J Reyes.

2115

**Hon. E J Reyes:** Since the publication of Unlock the Rock, can Government provide updated details in respect of dates when pupils in different year groups will be returning to schools, together with any further related details pertaining to educational programmes which may be offered for the remainder of this term?

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**Clerk:** Answer, the Hon. the Minister for Education, Employment, Utilities and the Port.

**Minister for Education, Employment, Utilities and the Port (Hon. G H Licudi):** Mr Speaker, the Education roadmap for a partial and limited reopening of schools for the remainder of this term was published on 12th May 2020 as part of the Government's document 'Unlock the Rock Part 1: A route map out of lockdown and starting to end confinement'.

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All schools reopened for some students on 26th May 2020, Tuesday of this week: year 2 in lower primary, year 6 in upper primary, year 10 in the secondary schools and level-1 students at the College. We also expect year 12 students to return to school before the end of this term. In addition, all schools will continue to supervise children of other school years who qualify for childcare supervision. Home learning will continue for children of year groups not returning to school and those in year groups returning to school who are unable to attend for medical reasons.

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The second step in the Education roadmap is set to take place on 16th June to coincide with the start of summer hours.

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**Hon. E J Reyes:** Mr Speaker, the Minister has explained that we have put into practice the return of years 2, 6 and 10, with year 12 now imminent. However, the Minister, in other public statements, through interviews, has referred to us, as far as possible, trying to mirror the UK system because our students eventually end up doing the same examinations as students in UK, and the latest indications are that the majority of schools will open for the majority of pupils on 15th June, something which the Government I do not think has committed itself yet to doing.

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I know in the next phase the Minister refers to a particular phase which coincides with the start of what we traditionally call half days and so on, something that does not happen in the UK, and had this not happened our school term would have ended in early July, whereas in the UK they go much further into July. Therefore, in a like-for-like situation, our UK counterpart students will have far more direct classroom contact and formal national curriculum lessons delivered than what our students are here. Perhaps the Minister wants to update us on how he is trying to make sure we narrow that gap as far as possible.

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**Hon. G H Licudi:** Mr Speaker, the first thing to say at the very outset is there is no gap. We have returned to school before the UK, so it is not as if they have started with certain year groups and we have not started and therefore there is already a gap. If there is anything, there is a gap in the opposite direction with our children having started first.

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The hon. Member refers to comments that I may have made in interview on what the UK does. I do not believe, and I am pretty certain about this, that I have ever said that we will mirror what the UK does. I have said that we will *monitor* what the UK does, and it is important to monitor what the UK does because we follow the curriculum that is set in the UK. It is a statutory national curriculum. If the UK were to say on such and such a date the national

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curriculum is restored and all children go back to school, it is important for us to monitor that to decide how we are going to act, to decide precisely whether we can mirror that, whether we can act in accordance with Public Health advice and to do that in that way or whether we have to act differently. So, certainly we have to monitor what the UK is doing.

2160 There is a lot of discussion and debate in the UK as to what they will be doing. Nothing is certain. I have not seen anything at all that suggests other than a pretty clear plan for 1st June for the early years, which is the primary schools, and in fact some parts of the UK saying they are not going to have children returning to school on 1st June and other parts of the UK, in particular in England, schools reopening, and some schools even saying that they might not be ready to  
2165 reopen on 1st June.

In respect of the early years, we took a view that years 2 and 6 were important, and I have explained why they are important in terms of the transition work that they need to do as they will be moving to new schools in September.

In respect of the secondary years, the intention that we have had from the UK is in particular  
2170 relating to years 10 and 12 and it is pretty obvious why those intentions are there. Years 10 and 12 are in the middle of examination years and, according to comments made in the UK, it is important to have at least some contact with those children and those young adults before the end of term. We have already started that. We started with the year 10s. The year 10s started on 26th May, so if the year 10s go back on 15th June that will be three weeks behind us and our  
2175 year 10s will have had three full weeks of schooling ahead of year 10s in the UK if they do in fact return on 15th June.

As regards year 12, to the extent that they also return on 15th June, as I mentioned in the answer, the second step in our education roadmap is on 16th June. It is our intention to bring back year 12 on that day and possibly even earlier.

2180 Whether we bring back any other year groups earlier, we have set a roadmap which says in step 1 we bring back one year group for all the schools. Then there will be a second step on 16th June to coincide with the start of summer hours.

We have also said, both in respect of the Government roadmap as a whole and the Education roadmap, that these are fluid documents. They can change if circumstances change and there is  
2185 a need for change. We have to bear in mind that schools are open not just for these particular year groups, and therefore it is not just one year group in each school but we do have a continuing service as we have done throughout the whole period of lockdown in respect of the childcare facilities. So, the extent to which we are able to bring back year groups and when may well depend on the number of children, because we do have Public Health guidelines on small  
2190 group classes and therefore if you have smaller-group classes there is a limit as to the number of children you can have in any particular building in order to maintain all the strategies and measures which we have put in place for the reopening of the schools and which are necessary and acting on Public Health advice.

As we unlock and as we ease restrictions generally throughout Gibraltar, we are seeing more  
2195 people go back to work. So previously, during the period of lockdown, in respect of the childcare facilities what we have had is children of key workers and other workers being able to use that facility where they have not had access to alternative childcare facilities without involving relatives over the age of 70. Then we also opened it up for vulnerable children and also Safe for Children at St Martin's.

2200 There have been a lot of people working from home, from offices, and there have also been businesses which have been closed. As these reopen and people are brought back to work they will need to send their children to the childcare facilities. Already this week we have seen a substantial increase in the numbers going back to these facilities compared to the whole period of lockdown and therefore that is also something we have to monitor in terms of the teaching  
2205 staff, and staff generally maintaining good hygiene and distancing, being able to ensure that whatever rooms are used are thoroughly cleaned both before and after use. So, there are some constraints within which we have to work, but we have to make this work and we are making it

work already, both from a childcare supervision point of view and from the point of view of the groups that have come back, and we are definitely committed to bringing back year 12 certainly before the end of term and no later than 16th June.

**Hon. E J Phillips:** Mr Speaker, just one question. First of all, whilst of course we all appreciate the difficulties encountered by the teaching profession, the students themselves and of course parents insofar as the educational programme that was put online – and I use Seesaw as the example for the more primary years – I am glad the Government has ... The Minister has mentioned the word ‘monitoring’ what is going on in the United Kingdom. We issued a press release back in April, I believe, that tried to ascertain from the Government – and it is no criticism but I do not think the Government answered the point that we were making insofar as the platforms that were available through BBC iPlayer. I know there may be technical issues with that, but it would appear that the BBC announced at the time that they would be engaging in a revolution insofar as the online platform of education to be delivered at source to people in their homes in respect of education – English, maths etc. – with a very structured platform, very different of course to the Seesaw programme that is being utilised here.

Would the Minister be able to confirm that that option of delivering education in people’s homes via the BBC iPlayer platform, despite the technical issues there, was explored – or the alternative programmes such as Google Rooms, which is used in hundreds and thousands of homes within the United Kingdom – to allow children to access the basic English and maths curriculum, as it were, so that they can still continue to develop through the pandemic and after, given the fact that we are returning our children to school?

My main concern, because I have had that personal experience with my son this week going back to year 6 and watching the development of the Seesaw programme and how he interacts with teachers and how they return the assignments and they are marked etc., but there are other programmes, of course, during the beginning of the pandemic and throughout the main part of the pandemic, that demonstrate very significant educational programmes out there.

I think the point of this question is set out in my hon. Friend’s question, as in pertaining to the educational programme, so I am really seeking confirmation from the Government as to whether they explored the opportunity of using that platform or whether they also looked at other platforms to improve the quality of the education platform being delivered, but also trying to now ramp up the curriculum to a level where we can be all comfortable that our children are getting some form of education, appreciating of course that the curriculum has been suspended.

**Hon. G H Licudi:** Mr Speaker, I can confirm that we did explore that option in respect of the BBC iPlayer and the BBC option. The hon. Member will understand that there are difficulties with that and we currently do not have access to that facility in Gibraltar.

The BBC option is not a platform; it is content. It is primarily delivering content through the BBC iPlayer to the schoolchildren. We have our own platforms in the secondary ... at Bodo and there is another one, through which content is delivered by the teachers. The teachers put together the content. And so it is not that you need the BBC iPlayer, because we have already got a platform. As to what content goes into that platform, the BBC has produced some content and our teachers have also produced their own content for their own students, which they deliver through the necessary platforms.

I am glad to hear that the hon. Member’s own experience within his family with the platform that has been used for primary school students appears to be positive, and that is certainly the reaction that we have had and the comments that we have had in terms of the engagement, in particular at primary level, of the children through the Seesaw platform.

I seem to recall that in one of the daily press briefings I addressed this point, not specifically by talking about the BBC iPlayer but an alternative provider in respect of content, and that was a provider called GCSE Pod, which is a series of podcasts across 27 subjects and in respect of which we have now got a subscription. That subscription takes us all the way until, I believe, the end of

2260 the next academic year. So, it is not just available during the COVID lockdown period; it is a source that is going to be available all the way across for GCSE subjects. It is a podcast across 27 subjects.

2265 This is not just a question of saying 'There are the podcasts, go and learn it.' This is just a resource for the profession, so the professional will use this as a resource to decide what content they provide the children in this environment. It has been a challenge to put this together, but it seems to me that I am very satisfied that both the professionals in the Department of Education and throughout education as a whole, in particular the teachers and those who support the teachers – and we have already mentioned this phrase many times – across the board really have stepped up to the mark in these very difficult and challenging times.

2270 We do recognise the difficulties for children, in particular being stuck at home, the anxieties and the issues that that relates to. There have been a series of programmes and outreach that have been put in place, including a helpline for children or parents who find themselves with any anxieties and need to speak to a counsellor in particular.

2275 **Hon. E J Reyes:** Mr Speaker, if I may come back, the Minister has told us the timetable whereby this week years 2, 6 and 10 have commenced and the next phase, which will coincide with the start of half days for year 12 on 16th June. My understanding is that at present those students who are in years 2, 6 and 10 have been divided into two groups, with group 1 attending for two hours and then there is a small gap for changeover and the other part as well. When we  
2280 move into the half-day period, will the students still be going in two groups for two hours or will there be a merger of the two groups into one group, or will there be a reduction of classroom contact time with pupils, other than the two hours that we are implementing now?

**Hon. G H Licudi:** Mr Speaker, it is true that all year groups have been split into two. Half of  
2285 the group is going back in the particular school – whether it is lower primary, upper primary or secondary – in the morning for two hours, and the other half going into school in the afternoon.

That necessarily has to change on 16th June with the start of summer hours – or, as we used to call it, half days. The sixteenth of June in fact, coincides with phase 4 of the Unlock the Rock roadmap, which suggests that it is at a fairly advanced stage in the overall unlocking structure of  
2290 the Government. What is currently envisaged – and I always say this is subject to change; it may depend on COVID numbers and whether everything goes smoothly, but assuming that everything goes as we plan, as we expect and as we hope with the COVID situation generally, the intention is that as from 16th June, which is the start of phase 4, the second educational step will involve all the children who have been attending school going back to school in the morning  
2295 for the morning session. There will necessarily be some adaptations to that in order to stagger entry and dismissal, as we have said we will do – stagger break times, for example – but at the very least what is going to happen in step 2, which is on 16th June, the start of phase 4 of the overall Government Unlock the Rock, is that all children that have been going back to school go back for the morning session and in addition year 12s go as well.

2300 We may also consider whether there are other options, whether there are other children, year 9s for example, or other years, that can also be brought back at that time and an assessment on that will be made depending on numbers. But at the moment what is planned is at the start of summer hours everybody who has been going back to school goes back in the morning with appropriate mitigating measures, and year 12s start as well.

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**Mr Speaker:** Next question.

**Q258/2020**

**Summer education programmes –  
Plans to assist pupils in catching up**

**Clerk:** Question 258, the Hon. E J Reyes.

2310 **Hon. E J Reyes:** Will the Department of Education be offering any education related programmes during the summer months in order to assist pupils catch up with their national curriculum learning lost during the schools' closed-down period?

**Clerk:** Answer, the Hon. the Minister for Education, Employment, Utilities and the Port.

2315 **Minister for Education, Employment, Utilities and the Port (Hon. G H Licudi):** Mr Speaker, when schools closed in the UK on 24th March, or in March when they closed in the UK, the national curriculum was effectively paused. Nobody is, therefore, falling behind with respect to the national curriculum, because it is paused, and therefore when the hon. Member talks of 'catch-up' there is nothing to catch up because it has been paused. Learning has, however, continued for pupils through the home learning programmes. Pupils will have continued to develop key learning skills which will benefit them as learners as they progress through their educational journey.

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2325 The decisions we have taken with education professionals in the Department of Education and with the teachers' union have meant that there are no current plans to keep schools open for pupils after the end of term on 7th July. I am confident that the professionals who work with our children will ensure that our children make the progress which is expected of them when normality with respect to the curriculum resumes.

2330 **Hon. E J Reyes:** Mr Speaker, I understand what the Minister is trying to say, in that broadly speaking he is correct when are saying that the students do not need to catch up and so on. However, when a student starts in September, in year 10, he knows that within two academic years he has got so much subject matter and the finer points to go through in the learning process in order to prepare for his exams. It is also equally true to say that although the UK may not be delivering its formal national curriculum lessons, it has still not altered the material needed to be learned in order to sit the exam at the end of year 11. So, the question of catch-up could be something that could happen in September.

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2340 I did not word my question trying to be negative. What I am trying to do is to put it in such a manner that the students ... to try and avoid them having too much to catch up later on when they return to normality, hopefully at the start of the year. I was thinking of some educational programme not necessarily having to be delivered in schools but perhaps certain work set such that when the new academic year restarts in September, and whatever attendance we have of children in school, at least these teachers would be able to assess, correct and evaluate the work that has been done by those pupils during the summer months, for which they get feedback.

2345 I was aiming more in that direction, thinking ahead so that there would not have to be a catch-up, rather than trying to hint that there was a catch-up to be done now immediately. It is pre-empting: if I do nothing workwise between now and September, then it is obvious that in September I am going to have to catch up.

2350 **Hon. G H Licudi:** Mr Speaker, there are actually two points to be made in answer to that. The first one is that although the national curriculum has been paused, work has not been paused. Work has continued, as the hon. Member knows, through the platforms, through the various contacts that teachers have had and the work that has been set for ... The hon. Member talks of year 10 students and that is, of course, an important aspect and they are doing it now. The year 10 students are back in school now, and they will have six weeks of that contact with the



2355 children. Whether the hon. Member wants to call it catch-up or just contact, certainly they have resumed their education even though the national curriculum is still paused. That is in respect of year 10 students, but all the other students have the benefit of the home learning programme which we have put in place despite the fact that the national curriculum is paused.

2360 The hon. Member rightly says that when you go back to school, and in particular it would apply to year 9s who start the GCSE year in September ... it would be year 10 and year 11. Year 11 will then start the A-level year in September. What is it that they will need to do for those two years? The reality is that we do not know. Because the national curriculum has been paused effectively for one term, decisions will have to be made in the UK, particularly by the examination board, as to how they deal with that. Whether they expect all children throughout the UK to catch up with everything that they may have lost out on, or whether they take that into account and make some changes either to the curriculum, to the amount that needs to be covered, to the breadth or to the examinations themselves, we do not know that, and until we know that we do not know exactly what we are going to face in September.

2370 Having said that, in respect of, for example, year 9s, as the hon. Member will know having been in the profession and in the Department for many years, year 9s will be preparing their options for GCSEs. All that has been happening, online; through contact, the options programme has been made available to year 9s and they will have gone through that and been able to ask questions and receive the necessary advice.

2375 Year 11s have had their education paused in a way, because they will not do the exams this year. The exams were cancelled early on in this process and their grades are being assessed by each centre, as we have announced. But there is work being done and offered to year 11s in order to prepare them to start the A-level course. That work is being done at the moment.

2380 Another example is year 13s, the final year of A-levels. You would have thought that if they have no exams they have nothing to do. We have offered them, and we have put together, a programme to prepare them for the next stage, as we do at the very end, whether it is employment, in terms of giving them advice, or university, preparing them for that new experience that they will get.

2385 So, we have been doing all this work – in a different way because it affects each year in a very different way. What we will need to do in September will really be determined ... and that is why it is important that we continue to monitor what happens in the UK. There will necessarily, I believe, have to be adaptations to what happens in the UK because they cannot simply ignore the fact that a term, effectively, of the national curriculum being paused is lost and then seek to examine children as if that pause had not been put into effect. We will have to wait and see, but as I said in answer to the original question, we are very confident that our professionals will continue to work with the children in whichever way is necessary and will continue to support them.

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**Mr Speaker:** Next question.

**Q259/2020**

**Students with special educational needs –  
Facilities and programmes currently offered**

**Clerk:** Question 259, the Hon. E J Reyes.

2395 **Hon. E J Reyes:** Can Government provide details of what facilities and programmes are being offered to pupils with special educational needs during the present limited schooling set-up?

**Clerk:** Answer, the Hon. the Minister for Education, Employment, Utilities and the Port.

2400 **Minister for Education, Employment, Utilities and the Port (Hon. G H Licudi):** Mr Speaker, throughout the COVID-19 lockdown, the Reach Out initiative has been in operation. Using a common protocol, working parties of teachers and pastoral leads have been maintaining contact with students and their families. These have included socially and emotionally vulnerable pupils, those with other special educational needs or students who may not have been engaging in the home learning platform. These calls have helped to identify risks and issues around these families. Teachers are identifying families who need additional support. They are making sure that, in particular cases, children can attend school even if it is for short amounts of time. By touching base, teachers can be more informed on the well-being of these particular students.

2405 As I mentioned earlier, a Place to Talk helpline, an online form and other social media avenues have been set up so that school counsellors and other appropriate teachers have been made available to pupils and families who need support. A clear protocol has been written to ensure that this is run as safely and as effectively as possible. Any concerns have been referred on to relevant professionals.

2410 The online platform also enables teachers to keep in touch with children and identify needs. Adaptations have been made to help children with specific needs to access the provision. Bespoke home learning programmes have been devised – for example, for the pupils of St Martin’s School, who have been unable, as a result of their heightened vulnerability to the coronavirus, to come to the facility during this time.

2415 We have had upwards of 110 children with an array of special needs who have been attending our school bases during the lockdown period. In addition to this, up to 31 pupils from St Martin’s have been attending school. The facility at St Martin’s has been open to all children who usually attend St Martin’s and Early Birds Nursery and who were not specifically advised by the GHA to shield because of their heightened vulnerability to the virus. Children with special needs but who also have good general health have had access to education and peer socialisation opportunities throughout the lockdown, as they have been allowed to attend our facilities.

2420 We have also recognised that, for these children and families, the sense of routine is particularly important. Having access to the childcare facility has also provided these families with much needed respite during the time of lockdown, when tensions and difficulties undoubtedly become particularly strained because of the change in the children’s routine and the reduction in wider family support as a result of the social distancing measures.

**Mr Speaker:** Next question.

**Q260/2020**  
**St Martin’s School –**  
**Social distancing guidelines**

**Clerk:** Question 260, the Hon. E J Reyes.

2435 **Hon. E J Reyes:** Mr Speaker, given the special needs requirements for pupils at St Martin’s School, what guidelines have Government put in place in respect of social distancing at this school?

2440 **Clerk:** Answer, the Hon. the Minister for Education, Employment, Utilities and the Port.

**Minister for Education, Employment, Utilities and the Port (Hon. G H Licudi):** Mr Speaker, I will start by making a general point in respect of all the schools and guidelines generally. The Department of Education has issued a document entitled ‘Guidance on the Reopening of

2445 Schools'. This is now publicly available on [www.education.gov.gi](http://www.education.gov.gi). The document provides guidance to teachers, staff and parents and sets out key mitigating measures to be adopted in schools and childcare facilities, including on social distancing. That guidance applies to all the schools.

2450 The Government nevertheless recognises that maintaining social distancing in some settings, such as St Martin's, can be challenging given the diverse special needs of its pupils. In some cases, the needs of the pupils do not allow staff members to keep a physical distance. At lunchtime, for example, some children require to be fed. Notwithstanding these issues, classrooms have been rearranged to adapt to social distancing requirements. Attempts have been made to keep the number of pupils per classroom as low as possible. There has also been a greater use of outdoor areas.

2455 Teachers have long established a practice at St Martin's of thoroughly washing their hands with their pupils. This practice has now extended to the use of hand sanitisers. St Martin's has implemented a practice where children are taken out of the premises by the staff to parents or the school bus, instead of inviting parents into the school building, as had been the case before the lockdown. This has reduced interaction and exposure of the school's surfaces to just pupils and staff. Face masks have been provided at St Martin's, as they have been in all the schools. 2460 The public health advice is that the use of face masks is recommended indoors where social distancing cannot be maintained. In addition, staff who are required to change children who, for example, may have soiled themselves, have access to gloves and aprons.

2465 **Mr Speaker:** Next question.

**Q261/2020**

**Student UK maintenance grants –  
Arrangements re privately rented accommodation if unable to return**

**Clerk:** Question 261, the Hon. E J Reyes.

2470 **Hon. E J Reyes:** Can Government provide details on what maintenance grants will be payable to students who rent private accommodation whilst undergoing studies in the UK and who have already signed rental contracts for the academic year commencing September 2020 but who may not be able to return to the UK at the start of the term?

**Clerk:** Answer, the Hon. the Minister for Education, Employment, Utilities and the Port.

2475 **Minister for Education, Employment, Utilities and the Port (Hon. G H Licudi):** Mr Speaker, maintenance grants will be payable to students who are engaged in a Gibraltar scholarship award contract for the 2020-21 academic year in the same way as we have done for previous academic years. That is, students will need to ensure that they have submitted their continuation of studies application once they have successfully completed the 2019-20 academic year of study. If they have successfully completed the 2019-20 academic year of their chosen 2480 programme, they will then be eligible to receive a maintenance award for the 2020-21 academic year. The first of these instalments would be paid out in September 2020.

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

2485 One of the concerns is that some universities themselves may not reopen to offer physical lectures in September 2020 – in fact, I think Cambridge University has already more or less hinted that the next academic year might not see any classes at all – yet a student who does not have to attend lectures in September 2020 in the UK and could still be here in Gibraltar, where

2490 they came for the summer months, and does not return to the UK in September 2020 ... We do  
not know what the Prime Minister in the UK is going to have in respect of the proposed 14-day  
2495 quarantine when they return, but they are committed in a contract that they could have entered  
into for accommodation for about two years. There is a bit of a concern by some students that  
the Department of Education may say if you are not in the UK you do not have accommodation  
expenses, and that would only be true in respect of halls of residence. When you rent, would the  
2500 student who is able to document evidence, such as the contract and receipts and so on in  
respect of the rent ...? Would that be looked upon favourably by the Department so as to allay  
their fears? There was some fear last time around, when the Department – rightly so – asked for  
clarification on what expenses they had had in this last term when they had not been in the UK  
and therefore did not really need that maintenance grant.

**Hon. G H Licudi:** Mr Speaker, the hon. Member starts by saying that some universities may  
not open in September and he gives the example of Cambridge University. Some universities  
have in fact announced already – including Cambridge, and there are others – that they will not  
be providing lecturing facilities for students. The day that Cambridge University made that  
2505 announcement it so happens that on Radio 4 in the morning I heard an interview specifically on  
the subject, where it was suggested that the fact that lectures are not provided does not mean  
that there will be no contact with students. Lectures would be provided online, so it was said,  
but tutorials and seminars with small groups could certainly happen. That is my understanding  
of what a lot of the universities are planning. What they are seeking to avoid is a lecture theatre  
2510 full of four or five hundred students, but a lot of the working in some universities is done in  
those small groups, tutorials and seminars, and those are able to carry on.

We do not know exactly what is going to happen in September. The state of play with the  
virus in the UK is very different to what it is here at the moment and announcements will have  
to be made. I know that universities are getting ready for the eventuality of them not being able  
2515 to function normally, and that is why they have made these announcements of lectures at least  
being delivered online or through podcasts, or whichever other way the university decides to do  
it.

Having said that, we have the issue of the possibility of the university not opening at all,  
operating remotely and some students not having to return to the UK. I do not want to get into a  
2520 hypothetical issue and discussion of what happens if this and what happens if that.

It is also difficult to anticipate that students who still do not have a continuation award,  
because they still have not successfully completed this academic year – they are still in the  
middle of or finalising their dissertations or their final coursework or assignments, or the exams  
that they have to do, and therefore it is difficult to understand that students, without knowing  
2525 that they have successfully completed, will be entering into firm contracts with firm contractual  
provisions, commitments, for next year without knowing whether they have passed this  
particular year or they have a continuation of studies award. But assuming that they do pass and  
assuming that they do continue their studies, if a student, because of the need to go to the UK  
and continue their studies in whichever way is necessary, enters into arrangements, then, those  
2530 students, as we have said for this particular term, we do not expect those students to be out of  
pocket and maintenance grants will be payable in the normal way.

We will have to take into account, as we have done in this particular term, whether the  
students are here or in the UK, and that may well be reflected in the maintenance grant in the  
same way as the exercise which we are currently embarked on, on which the hon. Member and I  
2535 have had some correspondence. But subject to that, as I said in the original answer, provided  
that students successfully complete this academic year, provided that the students then go on to  
get the continuation of studies award, then maintenance grants would be payable in the normal  
way.

2540 **Mr Speaker:** Next question.

**Q262/2020**

**Returned student maintenance grants –  
Donation to COVID-19 Fund**

**Clerk:** Question 262, the Hon. R M Clinton.

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

2545 Can the Government advise on what legal basis, without an expenditure appropriation approved by this House, can the Department of Education represent to students that maintenance grants returned will be 'donated in the student's name to the GHA COVID-19 fund'?

**Clerk:** Answer, the Hon. the Minister for Education, Employment, Utilities and the Port.

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**Minister for Education, Employment, Utilities and the Port (Hon. G H Licudi):** Mr Speaker, expenditure appropriation for donations has already been approved by this House. I would invite the hon. Member to look at head 2(7)(b) of the approved Estimates of Revenue and Expenditure for 2019-20. Any recoveries which will reduce the expenditure under head 18, subheads 2(5)(a) and (b) would be matched by an equivalent contribution from head 2(7)(b) on behalf of the students.

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

2560 Head 2 is not, I believe, the Department of Education – (**Hon. G H Licudi:** No. 6.) No. 6, in which case donations will be made by No. 6, but what you are talking about are effectively refunds or returns on moneys to the Department of Education head of expenditure, which is now money coming back to the Department of Education and then being reallocated. (*Interjection*) Well, effectively it is a reallocation because this is money that the Department of Education is getting returned to itself, (*Interjection*) but what he is saying is it will be donated through No. 6 donations, if I understand the Minister correctly – but obviously he is indicating I am not.

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2570 Would the Minister, once he clarifies that point, perhaps – (*Interjection*) Well, the Minister will explain to me, or perhaps Sir Joe will explain to me, even better. But also the suggestion that the money is donated in the student's name – this is money that now belongs to the Government once it comes back into the Government's coffers, by definition. So, to then suggest it is donated in the student's name is a bit of misnomer. This money now belongs to the Government. It is the Government's money and all the Government is doing is effectively reallocating it internally. But to tell the students that this donation is being made in their name gives the suggestion somehow that that money belongs to them in some sort of way, which I think is not quite an accurate description because what is happening is the Department is getting the money back and the Department is reallocating it. If the Minister could clarify those two points.

2575

2580 **Hon. G H Licudi:** Mr Speaker, this will not involve a reallocation at all. It does not involve a reallocation of moneys in one head being reallocated to another. There is already a head. Head 2(7)(b), which I have referred to, is a head specifically for grants and donations, which is controlled by No. 6. The money comes back to the Consolidated Fund. It is paid out of the Consolidated Fund. So it comes into one account and it is paid out of the same account. In accounting terms, from the Government's accounting point of view in terms of the heads of expenditure, it comes back to the head where it was paid out. (*Interjection by Hon. R M Clinton*) Yes, it comes back to the head where it was paid out. That money will still be there and will appear as a saving under that head and there will be a separate, not reallocation but a separate but corresponding payment out of the head controlled by the Chief Minister.

2585

2590 On the issue of the second point that the hon. Member makes, yes, of course it is a donation  
made by the Government, because it is a power that the Government has. Because the money is  
returned from the students we have said that that notionally will be considered to be a donation  
in the student's name. So it is not as if it is the student's property. The money comes back to the  
Government, the Government makes the allocation, but we have said, and I do not know  
whether this is just semantics but we have said notionally – we have not said notionally but that  
2595 is effectively what will happen – that money, which will be a donation under the power of the  
Chief Minister from head 2(7)(b) to the GHA COVID Fund notionally will be made in the student's  
name, but of course it is money belonging to the Government and it is a power that the  
Government exercises under the head that the Chief Minister controls.

2600 **Hon. Ms M D Hassan Nahon:** Mr Speaker, if I can ask a question – when I heard that the  
donations were going to be made in the student's name I found it a little bit unfair in the sense  
that it might be out of the powers of that particular student ... Maybe that student was lucky  
that he or she did not have a rental contract and therefore that student now gets the kudos of  
making a donation and another student would like maybe their name to be on a donation, but  
2605 because they have a rental agreement they cannot actually have that privilege of having their  
name down on a donation. I think that if the contractual obligation ... I do not know how exactly  
it is formatted. If the student needs the money, the student gets the money, if they can recoup  
the money, which I think is perfectly right because they do not have the contractual obligation.  
The Government takes the money. Maybe the Government would be minded to reassess that  
2610 decision and make a global donation on behalf of the students of that year.

I found it a little bit startling when I read about it because it makes the whole process feel like  
some students donated and some did not, when it was beyond their control who could and who  
could not. Would the Minister be minded to rethink this policy or this idea that they have come  
up with?

2615 **Hon. G H Licudi:** Mr Speaker, although I understand what the hon. Member is saying but we  
took the view that it was right for the money to be returned and it is a view which I understand  
is also shared – the principle at least is shared – by the Opposition and the hon. Lady, so there is  
no disagreement on that in terms of the mechanics. I have explained the mechanics and the  
2620 view we took that in respect of those moneys that we have there will be a global payment to the  
GHA COVID Fund. But the view we took was that that money should be returned in the name of  
the students from whom we recover those moneys.

2625 **Hon. K Azopardi:** Can I just ask, so I understand the rationale: I certainly agree with the  
principle that if money comes back to the student by way of operation of the COVID  
emergency – and of course it comes from the taxpayer, it belongs to the taxpayer – it should be  
returned, clearly, but why was there a need to say in the letter to students that if it is returned  
you donate something in the name of the student? Is it because the Government thought it  
would incentivise people to return the money? Otherwise, I just fail to see what the rationale  
2630 was, because either the money belongs to the taxpayer or it does not. If it belongs to the  
taxpayer, it gets returned and then as a matter of public funding necessity it may be that the  
GHA may need to be supported financially more than other Departments during this time. And  
that is fine, that should happen, but we just fail to see the rationale for that part of the  
reference in the letter.

2635 **Hon. G H Licudi:** Mr Speaker, this certainly was not in terms of an incentive. It was not that  
students were being incentivised to return money by including those particular words.

The money either has to be returned or it does not have to be returned. There is an exercise  
going on which is essentially an accounting exercise with the students putting forward evidence  
2640 as to what their expenditure in the UK is and an assessment being made on a case by case basis,

rather than taking a global view, because we recognise that the circumstances of each particular student would be different, as we have explained.

2645 The hon. Member says 'Why was there a need to have these particular words added?' It is not a question of need; it is a decision that the Government took. The Government felt that it was desirable to do it in this particular way. Whether there was an imperative need to do it or not is neither here nor there. It is just a Government judgement and a view that we took.

2650 **Hon. R M Clinton:** Mr Speaker, if I may, just one final supplementary. Just for the sake of absolute clarity and for the record, can the Minister then confirm to the House that the so-called donation is not being made by the Department of Education but by the Chief Minister's Department, or head 2, which is not the Department of Education, and that in fact the Department of Education has no such authority to make such a donation?

2655 **Chief Minister (Hon. F R Picardo):** Yes, Mr Speaker, but I am going to do it in the name of the Department of Education with the relevant lists of names of students so that it is clear that it is being done in that way.

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

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

2660 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I beg to move, under Standing Order 7(3), to suspend Standing Order 7(1) in order to proceed with Government motions.

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

#### **Standing Order 19 suspended to proceed with Government motions**

**Clerk:** Government motions, the Hon. the Chief Minister.

2665 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move the following motion standing in my name:

*I hereby give notice, under Standing Order 59, to proceed with the suspension of Standing Order 19 in order to proceed with a Government motion.*

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

### **GOVERNMENT MOTIONS**

#### **Government Guarantee for Gibraltar Business Disruption Loan Guarantee Scheme – Motion carried**

**Clerk:** The Hon. the Chief Minister.

2670 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move the motion standing in my name, which reads as follows:

*THIS HOUSE NOTES THAT Her Majesty's Government of Gibraltar has negotiated an agreement with Gibraltar International Bank, The Royal Bank of Scotland International Limited, Gibraltar Branch and Trusted Novus Bank Limited to participate in a scheme to be known as the Gibraltar Business Disruption Loan Guarantee Scheme;*

*THIS HOUSE FURTHER NOTES THAT said scheme is designed to provide finance from any of the participating banks to qualifying borrowers in Gibraltar that have been affected by the COVID-19 pandemic;*

*THIS HOUSE SUPPORTS THAT the scheme should offer lending to such borrowers in a manner that is guaranteed by the Government in a sum of 80% of the amount of any borrowing agreed, with the balance of risk being borne by the relevant lending bank;*

*THIS HOUSE FURTHER SUPPORTS the Government's decision that the lending banks should be able to offer lending to qualifying borrowers up to a maximum amount of £30 million in loans and facilities under the scheme (effectively providing for loans and facilities of £10 million per lending bank);*

*THIS HOUSE NOTES THAT the said scheme enjoys the support of the Government and the Official Opposition AND THAT the said scheme requires a guarantee involving a financial liability that binds the Government and is therefore required to be given only pursuant to a resolution of this House in accordance with Section 9 of the Public Finance (Control and Audit) Act.*

*AND THIS HOUSE THEREFORE NOW RESOLVES THAT the Chief Minister, as the Minister with responsibility for Finance, be and is hereby authorised in the name of and on behalf of Government to give a guarantee or guarantees in writing to the aforesaid lending banks on the terms described above;*

*AND THAT the said guarantee or guarantees shall be binding on Government;*

*AND THAT the said guarantee or guarantees shall be limited to £24 million in total.*

2675 **Hon. Chief Minister:** Mr Speaker, one of the areas that have been hardest hit by the pandemic is business, of course. We have discussed this generally during Question Time, during the Statement this morning and during the Emergency Budget that the Government took through the House in March. We have provided various mechanisms from March to the end of June, which is when those mechanisms will end, that have ensured that businesses have been put in an induced coma, as we have described it, from which they are slowly being stirred.

2680 The Government is conscious that as businesses begin to emerge from the coma of lockdown they may well need additional help and support. That is why I have met with CELAC on a number of occasions and taken on board their thoughts on how best to advance matters in this area. We have also reached out and received communications and ideas from the wider community in this respect. In this regard the Government has also looked at many of the initiatives that have been provided in other countries to see how best to address these issues.

2685 One measure that was habitually raised with us in every forum that we addressed these issues was the need or desire by businesses that we should ensure that there is a supported lending facility to assist all viable businesses that have suffered as a result of lockdown, given both the unexpected costs which COVID has given rise to and the equal lack of revenue which has arisen. A supported lending facility is in place in a number of other jurisdictions and such a facility in effect relies on a government guarantee for commercial lending.

2690 The resolution before this House today is required to allow the Government to provide a guarantee to the three main commercial lenders in this community who will be involved in the lending under our proposed Scheme. The section of the Public Finance Borrowing Powers Act which I referred to specifically provides that the Government is unable to enter into a guarantee  
2695 unless it has the consent of the House by resolution to that effect.



2700 The Scheme before the House has largely been taken from the Business Disruption Loan Guarantee Scheme which is in place in the Channel Islands and the Isle of Man. We are in the final stages of finalising the documentation of the Scheme, so what follows is, for now, a general outline of the Scheme albeit some details may change slightly. The schemes in these jurisdictions that I have referred to have been devised between the lending banks and the respective governments and they all agreed on how best to implement the policy of providing the supported lending facilities at this time.

2705 On hearing the Government talk about the possibility of such a scheme being implemented in Gibraltar – I have said something about this in public statements before, and in fact I think the Hon. Mr Clinton has also referred to our discussions about this in some of the public statements he has made – one of the local Banks, namely NatWest, through its country head Mr Gordon Patterson, approached the Government and explained how a similar scheme worked in the Channel Islands and the Isle of Man as RBSI was part of the organisation of that scheme over there. NatWest held out to us that they could and would be happy to assist in the implementation of a similar scheme in Gibraltar.

2710 Since then, Government officials, led by the Financial Secretary, Albert Mena, have been in contact with officials in the Channel Islands, to whom we are grateful for their assistance. Government officials also engaged with the other lending banks in Gibraltar to understand whether this was something that they would support and wish to participate in. We discussed these matters and agreed – in principle, it is fair to say – with the Leader of the Opposition and the Hon. Mr Clinton how we would adapt these schemes that we were seeing develop in the Channel Islands and the Isle of Man, and the scheme that we were reading about in the United Kingdom in the international press, for the circumstances of Gibraltar. As a result, and with the consent and support of the officials and banks in the Channel Islands and the Isle of Man, we have been able to take the documentation that had been established for their schemes and adapt it for local rollout in Gibraltar.

2720 The Gibraltar Scheme is targeted at supporting our small and medium-sized enterprises. It will be available to companies with a maximum turnover of £10 million and the Scheme will be available to most businesses with a turnover below that threshold, save those in a narrow selection of ineligible sectors. These are, first of all, undertakings whose income is at least 75% funded by the Government, supermarkets, wholesalers with tobacco licences, property development companies, the banking industry itself and e-money institutions. The rationale for these sectors being ineligible should be quite easily understood, I think, from the description of them, but the idea has been to allow the Scheme to apply as widely as possible, always bearing in mind that the list of excluded sectors can be amended at relatively short notice under the documents which have been agreed between the Government and the banks.

2730 The way the Scheme works is that the Government provides a Guarantee to the lending banks for 80% of their lending, with the lending bank retaining 20% of the risk associated with the lending.

2735 We agreed with hon. Members opposite these two things, which were going to be key to the operation of the Scheme. The first was that the banks should be in the front line of the decisions as to the commerciality of the loans to be granted. The Government should not be involved in the grant of the loans to any company or business in particular. First of all, we do not want to be put in the position of having to say no to anyone in respect of their scheme proposal or business, or indeed we do not want to be responsible for having said yes to an entity that subsequently does not honour the responsibility to repay the outstanding lending, so it is right to keep the Government away from those decisions.

2740 The second key thing was that the banks should have an interest in the recovery of the loans and we therefore felt agreed that we should not move to providing a 100% guarantee of loans. This is an important part of the rationale in setting up this Scheme because in this way the banks will have an obligation to recover the full amounts of the impaired loans which they have under

documents but also 20% of the liability of losses if they do not recover the amounts lent in the case of any impairment.

2750 The resolution of the House is designed to allow each bank to form part of this club, to lend up to £10 million into the Scheme, and so that means that the Government's maximum guarantee exposure under the Scheme will be £24 million. So, there will be three banks lending £10 million each. The Government will guarantee £8 million of the £10 million that the banks are putting into this club for lending but they will each be doing £10 million of lending each.

2755 I want to emphasise that the fact that the lending banks retain 20% of the risk associated with each loan is an important feature, as the lending banks will continue to have skin in the game, so to speak, when the lending is effected. This gives the taxpayer in particular the comfort that the banks, as the prime commercial lender in the relationship in each case, will continue to have a vested interest to lend only to businesses that can persuade them as lender that they can continue to be viable businesses after COVID if they receive the assistance from the banks in this  
2760 Scheme.

The Scheme places all the decision-making in the hands of the banks themselves but does govern how they have to act in the circumstances. The way the Scheme works is that the lending banks must first consider if this was a viable business before the COVID pandemic, but whether in fact it has been a business that has been negatively affected and impacted by the COVID crisis.  
2765 The Scheme requires that the lending banks first consider the lending proposition on a business-as-usual lending basis. In other words, the first key question for qualification for the lending will be whether the businesses can borrow more by providing further collateral under normal commercial terms. If they can, the banks cannot lend to them using this Scheme; they must lend to them generally under their existing arrangements. Likewise, companies that might seek to access this Scheme are not allowed to take existing lending that they have and then restructure it under the Scheme. And it is not just the companies that cannot do that; the banks cannot approach companies in order to try and restructure lending that they might be worried is impaired, and say, 'Let me bring this potentially problematic loan into this Scheme where the Government provides an 80% guarantee.' That is prohibited. What this Scheme is designed to do  
2770 will only be engaged if a business has exhausted all other business-as-usual lending but it remains a viable business where the lockdown has created an unexpected interruption that can be addressed with lending under the Scheme.

The reason the Scheme involves the three main lenders in Gibraltar is that this will facilitate access to the Scheme for companies in Gibraltar, as these are likely to be clients that are able to  
2780 go to the bank they normally deal with. That means that the bank will already have due diligence – that always difficult hurdle these days, which is time consuming but important – on a relevant applicant, they will have an understanding of the business because they will have banked it for some time, and they will be able to assess the requirements of the business quite quickly as they will already have an understanding of the viability of the business itself and can provide access  
2785 to the Scheme therefore relatively fast.

One of the banks that we will be seeing in this club of three is already a bank that has experience in the operation of the scheme in other jurisdictions – obviously NatWest – and this should also help roll out the Scheme here locally, as the banks will be sharing experiences and procedures put in place and in operation already in the Channel Islands and the Isle of Man.

2790 Any facility provided under the Scheme can be between £5,000 and £500,000, but there is a ceiling of £500,000 and it will be subject to limitations which are set out in the state aid rules.

The facilities provided under the Scheme can be for a maximum period of six years and therefore they can end no later than 31st December 2026. The guarantee cover that this House is being asked to provide will, however, continue for a further period of two years to allow for a debt recovery period for any businesses that have been unable to repay at maturity. But I just  
2795 want to be clear that the date of 31st December 2026 is the furthest outside date for potential maturity. Agreements can be for shorter maturity dates.

The lending banks will determine the commercial rates that each client warrants, up to a maximum margin of 4.5% above base rate.

2800 The banks will be able to take security in the grant of these facilities but they are not allowed, in the use of this Scheme, to charge the principal private residence of the borrower.

Under EU state aid rules the Government is required to charge a minimum amount at least for the provision of the guarantee. We are unable to waive this charge without the whole Scheme potentially falling foul of the state aid rules.

2805 Businesses that wish to access these loans will be required to self-certify that they have met any obligations to all taxes, social insurance and rates that were due as at 31st December 2019 before the lender is able to lend.

The Scheme will also require the lending banks to report frequently to the Government on the overall amounts lent under the Scheme. The lending decision, however, will rest solely with the lending banks and the information as to lending done will be provided only after the event.

2810 The Government has also reserved to itself the right to terminate the Scheme at very short notice.

When notice of this resolution appeared on the front page of the newspapers today we have already been alerted to a large number of enquiries at the banks. It is clear, therefore, that there is an appetite and indeed therefore very likely a need in the market for this lending, as we identified in the discussions that I had with the Leader of the Opposition and Mr Clinton. I think we all agree that is the case.

2815 Before the lending is available, however, we have first to pass this resolution, finalise the documentation in terms of execution and the lending banks need to organise themselves to be able to deal with the Scheme. The Scheme is therefore expected to go live during the course of June, but I do not want to commit to any particular date when it will be made available by any one bank. I would therefore ask businesses to give banks a little latitude to get everything ready to go.

The documentation involved is complex and detailed. It has taken time to adapt to our local requirements and as ever when one reviews something other thoughts come to mind that have required adapting the documentation too. The progress made could not, however, have been achieved in this short timescale without the hard work and co-operation, which I want to recognise, of Mr Gordon Paterson of NatWest, who initially put us in contact with everyone who had dealt with the establishment of the schemes in the Channel Islands and Isle of Man and has co-ordinated all our efforts in that respect, also the work of Mr Lawrence Podesta of Gibraltar International Bank and Mr Lars Aarup Jensen of Trusted Novus Bank and their respective internal teams. I am grateful to all of them for their dedication to getting this done and to the respective legal teams that have worked on this. I am also grateful to James Roberts from the Government of Jersey, who assisted us with their experience on this; and to Mr Christian Hernandez, not in his capacity as President of the Chamber of Commerce but as counsel for the Gibraltar banks in this case.

2825 I should add that this work has been done on the basis of the discussions we have had with the Hon. the Leader of the Opposition and the Hon. Mr Clinton, where we have agreed these points in principle. I am therefore going to move an amendment to that effect by proposing we should insert the words 'the principle of the' in front of the words 'the said scheme' where they first appear in the fifth paragraph. Mr Speaker, I am going to move that amendment at the end of my speech because I am not going to speak to the amendment and the resolution.

2830 In those discussions with the Leader of the Opposition and the Hon. Mr Clinton we also agreed the terms of the rules for the COVID-19 Response Fund. Mr Speaker, given that all of these things are linked, I think it may be helpful for me to just give a few moments of reflection on that scheme.

2845 The COVID-19 Response Fund was established already by a legal notice which hon. Members will have seen was published on Thursday, 23rd April. This will be a fund where we centralise all the expenditure incurred, all of the benefits payable and all of the fiscal measures adopted in

2850 response to the COVID-19 pandemic. The regulation of this special fund will be set out within the  
Public Finance (Control and Audit) (Covid-19 Response Fund) Regulations 2020 that were  
published on Monday, 18th May 2020. The fund will be controlled by the Financial Secretary, as  
the controlling officer, and it will be administered in accordance with the terms set out in the  
2855 regulations I have just mentioned. The Financial Secretary and I have worked closely with the  
Leader of the Opposition and Mr Clinton in developing the regulations for this special fund and I  
would like to take the opportunity to thank them for their valuable input, despite the testy  
moments that the accountants have caused us on occasion in the discussions.

Following a meeting with both of them, I wrote to Mr Azzopardi to confirm certain  
procedural matters with respect to the administration of the fund. The letter I sent him includes  
2860 a commitment to the publication of financial data as soon as possible, the provision of monthly  
raw financial data to be shared on an ongoing basis and the provision of key performance  
indicators, to include income tax receipts, company tax receipts and import duties, on a  
confidential basis. Indeed, I have got the letter here and I think it will be helpful to read the  
letter into the record of *Hansard*. The letter is dated 14th May. It refers to a meeting on  
2865 28th April 2020 to discuss the then draft regulations and it goes on with me confirming the  
following:

- (1) In regulations 12 and 14, where publication of financial information as described as soon as practicable, this will not suffer any undue delay or blockage and the information will be published immediately when available. We envisage publishing in accordance with regulation 12 no later than three months from the end of the period and undertake to do this sooner if possible. We envisage complying with regulation 14 and having the COVID-19 Response Fund audited within nine months of the financial year end.
- (2) Monthly raw detailed financial information as to the status of the COVID-19 Response Fund will be provided to you, as Leader of the Opposition, on an ongoing basis, including the cumulative to-date figure. This is understood to be unaudited and subject to final adjustment and thus must be kept confidential. The information will be provided within four weeks at the end of each calendar month, or sooner if possible.
- (3) In addition, during the period of the COVID-19 crisis and existence of the COVID-19 Response Fund the Government will provide you, as Leader of the Opposition, with ongoing monthly and cumulative financial information as to the Government's key performance indicators – namely: recurrent revenue for income tax receipts, head 1, subhead (1); company tax receipts, head 1, subhead (2); and import duties collected, head 2, subhead (1) – on a confidential basis with a monthly and cumulative comparison to the prior years. This will provide a clear indication of economic impact caused by the COVID-19 crisis as well as the financial cost of the key business measures announced. The information will be provided within four weeks of the end of each calendar month, or sooner if possible.

I confirmed to the Leader of the Opposition that I would refer the House to the existence of this letter and that I would seek to set out in *Hansard* the exact provisions thereof, which I have now done.

2870 Mr Speaker, on that basis I commend this resolution to the House, so that when passed I should be empowered to enter into the said guarantees in favour of our three local lending banks to support small and medium-sized businesses in our community as aforesaid.

I commend the motion to the House with the proposed amendment in the fifth paragraph.

2875 **Mr Speaker:** I now propose the question in the terms of the motion and the amendment moved by the Hon. the Chief Minister.

Does any hon Member wish to speak on the motion?

Has the amendment been agreed?

2880 **Hon. Chief Minister:** Yes.

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

As we turn our attention from the medical emergency that has absorbed so much of our time, energy and attention over the last 10 to 12 weeks, we now quite rightly need to focus the  
2885 attention of Parliament on our economy, what it is that we can do to help the economy survive

2890 this period of disruption and, of course, later on, what we can do to stimulate the economy and get things moving on to a more normal footing and encourage growth and the prosperity that will bring. And so this motion that the Government has brought today will enjoy the full support of Her Majesty's Official Opposition for the simple reason that of course this is, we think, a necessary part of the toolkit or the first-aid kit for our economy.

2895 The Government has, with our support – and they have quite openly engaged with us – put into place the BEAT measures, which addressed one particular economic urgency, and that was making sure that our workforce and employees got paid. This particular Scheme, for which I have to commend the participating banks and of course the Chief Minister, the Financial Secretary and all those people who have worked so tirelessly to put this together in such a short period of time ... As a former bank executive I can say that putting together four parties to a master guarantee agreement is no mean feat. This is not something that you can just pull off the internet; this is bespoke and this is tailor made for our unique circumstances in Gibraltar.

2900 In terms of the recovery, what this will do is provide a backstop to businesses in Gibraltar which in ordinary circumstances would not have a problem, but because of the COVID emergency the business has effectively been paralysed. They may have suffered short-term cashflow problems and they may have other issues, and they just need a helping hand. This is where the Government, I think, has quite rightly decided that the best way to go about doing this is to provide some sort of guarantee scheme.

2905 We do not know what the shape of the recovery is going to be. There is a lot of debate, there are a lot of economists out there discussing how long it will take to recover, but I think most economists now – and Sir Joe may correct me – are probably saying that a V-shaped, quick recovery is probably overly optimistic at this stage. Even a U-shaped recovery is possibly optimistic, and in fact I think there was a Nobel Prize laureate in economics who said it looks more likely to be like the Nike swoosh, a sort of long, slow recovery over time. But of course businesses do not have the luxury of time, normally, and it is important that we see them through that slow recovery process. And of course we do not know how long that will take, which is why the Scheme, as the Chief Minister has laid out today, has a six-year time period, because we do not really know how long or how quickly businesses will be able to regenerate their financial positions.

2910 Of course it is important, as the Chief Minister has pointed out, that these schemes are obviously for viable businesses. This is not to be seen in any way, shape or form as easy money or free money. This is money which they will have to work for and which they will have to repay, and in that sense it is entirely correct that the banks should be the ones making the decision. It is the banks who, as the Chief Minister has quite rightly said, having skin in the game, up to 20% of exposure, will make sure that their lending decisions are sensible ones. No one should think that this is a free ride on the Government or the taxpayer. This is a facility which is there to protect and help those businesses get through the period with the support of the Government.

2925 We have seen that the UK has come up with three different types of schemes: the one which they poetically call the Bounce Back Loan Scheme, which is for small businesses; then they have the Business Interruption Loan Scheme for medium-sized businesses; and then the third one, the Large Business Interruption Loan Scheme. But they are all interruption loans schemes and this is about the disruption period. We have, I think with great skill and it is commendable, managed to devise in a very short period of time our own tailor-made Scheme, although we have piggybacked on the experience in the Channel Islands. But look, there is nothing wrong with that, I think it is great, I am a great believer in not reinventing the wheel and we have been able to do it very quickly. I hope we will also be able to introduce it very quickly because just by announcing it the Chief Minister is already getting phone calls as to when people can apply for a loan.

2935 As I said at the beginning, this is part of a package – I imagine a first-aid kit – which we are going to have to deploy to help our recovery for the economy. This Scheme is, as it says, a business disruption scheme and beyond this we will no doubt be talking in the months to come,

2940 if not the weeks to come, about what the next steps would be in terms of that first-aid kit. In the UK they have already been talking about something which they call a Future Fund for innovative businesses and it may be that we have to be creative and come up with some kind of scheme as well to encourage growth in the economy, new businesses, new projects, maybe redesigning of businesses. We will have to think outside the box, and I think obviously CELAC will have a role to play in that, as will the Finance Centre Council and everybody in Gibraltar who is in business generally.

2945 But this is an important first step and it is a huge signal of intent by Government. I think certainly it will enjoy the full support of the Official Opposition and if it has the full support of Parliament it will send a strong signal to Gibraltar and Gibraltar's businesses that we are here for them and we will help them to the fullest extent that we can. But of course they need to help themselves as well and they will need to make sure that they put their business cases to the banks and the banks of course will be making lending decisions on a normal basis. It is an important Scheme. It is fantastic that we have three lending banks that have signed up to this and I think it is fantastic that it has been able to be put into place in such a short period of time. In that respect I have to congratulate everybody who has been involved in putting it together.

2950 I just want to refer briefly to the COVID regulations and the side letter that the Chief Minister has read into *Hansard*. All this is to be seen against the backdrop of the bigger picture, and that is how the Government and our public finances are to be able to support measures that are put into place, what it is the Government is doing, the expenses that are being incurred, and I think the measures that have been agreed with the Chief Minister, the Leader of the Opposition and the opposition in general, will go a long way to providing complete transparency, I hope, in terms of how money is being spent in the public name. I think the COVID Response Fund was a good initiative and a good way of providing the public with the transparency that they will require – and I have already seen comments on social media, but I think what I can say is that we have been working with the Government to ensure that that level of transparency will be apparent, and I thank the Chief Minister and of course the Financial Secretary for having engaged so constructively with us in that respect.

2960 And so, Mr Speaker, we in the Official Opposition will support the motion and I am grateful to the Chief Minister for the slight amendment in terms of the principle of the Scheme, in that of course we support the principle of Scheme. The nuts and bolts of the Scheme we leave to the Government, but the concept and the way it is put together, as the Chief Minister said – that the front line are the banks and that they have skin in the game – is entirely right.

2970 And so, Mr Speaker, I have nothing further to say than I commend the motion to the House. *(Banging on desks)*

**Mr Speaker:** Does any other hon. Member wish to speak on the motion?

2975 I ask the Chief Minister to reply.

**Hon. Chief Minister:** Mr Speaker, I am grateful to the Hon. Mr Clinton for what he has said. If you had told me or perhaps any other Member of this House as we each sipped that socialist beverage, champagne, in the early hours of 1st January of this year *(Interjection)* that we would find ourselves in this situation – I did not hear the quip, I am sorry. I really am sorry I did not hear the quip.

**Hon. R M Clinton:** It's the last time I will agree with him!

2985 **Hon. Chief Minister:** Right, okay! (Laughter) Then, none of us would have perhaps imagined that we would find ourselves in a situation where we have been able to agree as much as we have, in particular in this area of the public finances, the increased expenditure we have seen, the increased borrowing that we have seen and the Emergency Budget. But I think that we have, if I may say so, worked very closely together and we have worked very well together, none of

2990 which should surprise any of us, and nonetheless something which has been harder than, of course, as I said this morning, disagreeing with each other or insisting on one particular view or another to the exclusion of the other. I think it is what the community expected from us and in that respect I think we have done and are continuing to do, I hope, the right thing.

2995 Mr Speaker, the six-year period is, as the hon. Gentleman has said, an important consideration here because when you look at what the recovery will be, whether it is a Nike swoosh, a V or a U ... I have now been in practice as a lawyer, when I have not been Chief Minister, for long enough – as hon. Members who share that profession on either side of the House also have been and those we have been in business on both sides of the House, and the hon. Gentleman has been in banking – for long enough to have lived through not perhaps as  
3000 as many recessions as the Father of the House but a number of recessions. They tend to come, almost like clockwork, every 10 to 12 years, although the 2008 recession lasted a little longer than might have been expected. So, a six-year period is probably the right sort of calibration of a lending, at the outside, for a commercial entity of this sort.

It is absolutely right that the hon. Gentleman, in analysing the Scheme, should identify it, as we hope everybody who wants to participate in it identifies it, as not easy money and not free money. This is a Scheme which is generous, which does away with the need for additional collateral to be provided if it is not available, gives the lender the comfort of a very substantial but not complete cushion in the 80% guarantee but must be seen in that way by those who are going to participate in it. And we made the decision together. The guardians of the  
3005 commerciality of the lending should be the banks, it should not be the Government that was on the front line. The banks should be making the lending decisions and we have been able to agree that.

I want to share with him the commendation of those who have been working on this documentation. We have both been professionals involved in these industries, and producing  
3015 this level of documentation, even if it is derivative from other documentation that has previously been developed, is not an easy task if you are going to get it right and if you are going to slightly improve it for the circumstances of Gibraltar, and therefore all of the people I have mentioned I think are worthy of commendation, as the hon. Gentleman has highlighted, for that reason.

Other schemes will come. What he now calls the first-aid kit is what I was referring to this morning in the context of what CELAC is proposing, the further meetings I propose that we  
3020 should have to try and achieve that toolkit should have more in it for different types of entities that may not require this sort of borrowing, and indeed for entities that may not be there now.

So, part of what will help us in the future are the businesses that have not yet been created, either those businesses that are created from businesses that have failed today and the  
3025 entrepreneurs move on to something else, or new businesses that new entrepreneurs either come to Gibraltar to establish or from Gibraltar establish. We used to have European and regional structural funds that used to help a lot with the establishment of businesses in Gibraltar. Those are, during the course of this year, coming to an end as we exit the European Union. The United Kingdom has told Gibraltar to expect to be able to form part of the United  
3030 Kingdom's alternative for European and regional funding, but it will be a completely different animal to the one that we have been participating in since the early 1990s.

Mr Speaker, finally, if I may say so, on the COVID regulations, I think that that is going to enable us to show the community the reality of what COVID has cost. I think I have said already in some of my interventions that when we look at the cost of the BEAT COVID measures, which  
3035 are one strand of what we are doing, which is paying the Minimum Wage without deduction to those employees or businesses that we have shut down, people should not think that is the cost of COVID and if it has roughly cost £6 million, it has roughly been there for three months, it is roughly going to cost £18-20 million and 'Well, if the revenue of Gibraltar was £700 million, then we have paid for that in half a month – let's get on with it and let's go back to the old ways.' That  
3040 is not the position. The position is going to be much more difficult than that. It is a position where you have impaired revenue at the same time as you have increased spending and it is

3045 very important that all of this is packaged together and people understand clearly what it is that this has cost us to date and what it could cost us again. We talked this morning about the possibility of a second wave etc. If a second wave required a second lockdown, all of these things come into play again and we certainly hope that, by then, science, contact tracing, testing and our understanding may enable us to get through those issues, if they come, without having to go to a lockdown with its once again renewed impaired revenue and increased expenditure etc.

3050 I think it is going to be very useful indeed to have this transparency, not just so that people see what the Government is spending on but so that people see how much this has really cost, and when we press the stop button on the public health emergency, which may not be for some time – and unlocking the Rock does not mean that the public health emergency is over; we will have to decide very likely together when to press that button and then see what the bottom line tells us.

3055 We need to continue to fund the Departments etc., so we will see how we provide for that impaired revenue in order to be able to continue to operate as a society and as a Government, and all of that will be provided for in the COVID Fund and the regulations will dictate what happens there. I am very happy that hon. Members will be seeing that with us on a monthly basis and we will be sharing that with the public as soon as possible thereafter.

3060 So, Mr Speaker, I am very grateful for the hon. Gentleman having indicated his support for the motion. For all of those reasons I think it is a motion worthy of unanimous support of the House and I would seek that every Member should support the establishment of this Scheme and support the Government being able to ink these guarantees in the sums I have proposed.

3065 **Mr Speaker:** I now put the question in the terms of the motion and agreed amendment proposed by the Hon. the Chief Minister. Those in favour? (**Members:** Aye.) Those against? Carried.

## Order of the Day

### BILLS

#### FIRST AND SECOND READING

#### **Insolvency (Amendment) Bill 2020 – First Reading approved**

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

3070 A Bill for an Act to amend the Insolvency Act 2011. The Hon. the Minister for Digital and Financial Services.

**Minister for Digital and Financial Services (Hon. A J Isola):** Mr Speaker, I have the honour to move that a Bill for an Act to amend the Insolvency Act 2011 be read a first time.

3075 **Mr Speaker:** I now put the question, which is that a Bill for an Act to amend the Insolvency Act 2011 be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

**Clerk:** The Insolvency (Amendment) Act 2020.



**Insolvency (Amendment) Bill 2020 –  
Second Reading approved**

**Minister for Digital and Financial Services (Hon. A J Isola):** Mr Speaker, I have the honour to move that the Bill be now read a second time.

3080 The Chief Minister has certified this Bill as urgent, pursuant to section of 35(3) of the Constitution of Gibraltar, by letter dated 28th May.

Before I begin, I think, having just heard the Chief Minister's and the Opposition Member Mr Clinton's contributions in respect of the motion on the Gibraltar Business Disruption Loan Guarantee Scheme, I would say that this Insolvency Bill is another one of those parts of that  
3085 toolkit that Gibraltar is deploying to support and assist its businesses. The reason for that is that when Mr Bossino asked me earlier today in questions what were the businesses telling me, I said one was fear of the future and the immediate one was cashflow. And that is precisely what this Bill seeks to deal with and seeks to provide some comfort and safety net for.

The Bill is, as I have mentioned, one that will allow firms time, provided they are COVID  
3090 related. In other words, as with the scheme that has just been discussed previously, the bank scheme, if a company was not viable before COVID it is not going to succeed in obtaining a loan from one of the banks in the middle of COVID. So, everything that we are talking about today in terms of the amendment to the Insolvency Bill relates exclusively to COVID-related matters and that is why it is so defined in the relevant circumstances.

3095 Our primary objective with the amendment to the Insolvency Act is to preserve business models and promote employee retention by a combination of (1) a temporary relaxation of certain aspects of the insolvency regime and (2) specific measures for delivery of targeted financial assistance by Government to companies within certain sectors of the economy. Our BEAT COVID measures have had the support of the Official Opposition and, through the CELAC  
3100 committee, industry, unions and other stakeholders who have worked with us to provide this safety net for our important business community. But those measures by themselves cannot prevent business closures and the consequential loss of employment, so important to Gibraltar and this Government.

The original idea for this legislation emanated actually at a meeting of CELAC when the Head  
3105 of the GGCA, Wendy Cumming, recommended a review of this legislation for this purpose. The Finance Centre Council agreed to consider this and a working group led by Nick Cruz prepared both the proposals and the draft legislation. Our thanks to Nick Cruz, Sir Peter Caruana, Nigel Feetham, Edgar Lavarello and Pepe Caruana, who worked with us on this legislation – importantly, in the spirit of everything COVID, at no cost to Government.

3110 The principal purpose of this Bill is to introduce a temporary relaxation of certain aspects of this regime. Why? To enable otherwise healthy and well-managed businesses the time and indulgence they may need to survive the commercial impact of this pandemic. Its aims: (1) to discourage directors from rushing to appoint liquidators; (2) to protect companies from being forced into liquidation by creditors; and (3) the process – buy time for the current BEAT COVID  
3115 measures announced and other financial assistance, as the one we have just talked with in the motion to take effect.

We are not proposing to touch the well-established definition of insolvency. Businesses  
3120 anxious with breaching the insolvency test are primarily concerned by the consequences, which include directors' concerns for the personal consequences to them in terms of personal, civil and criminal liability of not doing so and the issue of statutory demands and/or execution of judgments by creditors followed by an application by the creditor to appoint liquidators. If these two categories are suspended, there is no reason why directors cannot safely decide to continue to trade or curtail trade in the expectation of emerging as a going concern once the  
3125 extraordinary adverse commercial circumstances created by this pandemic and Government measures to control its spread and their consequences pass.

These measures are temporary and will be repealed when they are no longer required. Importantly, the measures only apply to entities or companies in Gibraltar which are licensed or authorised in Gibraltar under the Fair Trading Act or any other enactment of Gibraltar, such as for example the Financial Services Act or our Gaming Act – in essence, Gibraltar business and not their clients. It should not affect any clients of Gibraltar firms that are not local businesses.

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Parts of the current regime will be temporarily suspended to de-risk the personal liability of directors and to protect companies from the threat of being placed into liquidation by creditors. The Bill introduces a new Part 21 after section 499 in the Insolvency Act that will have that desired effect.

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The new section 500 defines 'Covid 19 pandemic' and it defines what companies and other entities this Bill will apply to and the limited circumstances in which they will apply.

The new section 501 defines 'moratorium period' and provides the period it will run from, which is identified by legal notice. It also allows this period to be extended or abridged by legal notice.

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The remaining new sections are self-explanatory. I would specifically refer to the new section 504, which suspends section 141 of the Insolvency Act so that a creditor will not be able to service such a demand on the relevant entity or business, and new section 508, which provides the protection for directors or officers of the relevant entity during this period in relation to any possible accusation or creating an unfair preference, so long as any bona fide commercial transaction entered into for the benefit or intended benefit of the company took place in the ordinary course of business. That is now being defined as including the relevant circumstances defined in section 500.

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The new section 512 prevents a court from making a finding, pursuant to section 260 of the Insolvency Act, that an officer of a company is guilty of insolvent trading during the moratorium period on the basis alone that the company was or may have been insolvent. In other words, for that to apply there have to have been other factors involved.

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Mr Speaker, I am grateful to the Leader of the Opposition and Opposition Members Roy Clinton, Damon Bossino and Daniel Feetham, who have all had extensive discussions with Government on this Bill and indicated their support, although with some reservation in respect of my friend Mr Feetham. The judgement we have all taken is that this Bill will provide relief to good firms that can run into difficulty as a result and only as a result of this pandemic and with support can see their way through it. Many European countries have adopted similar measures to protect their good firms during this difficult period.

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I am also grateful to Nick Cruz and the Insolvency Working Group for their innovative and clever work around this Bill, and of course to CELAC, all of whom have supported this legislative change.

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I commend the Bill to the House. *(Banging on desks)*

**Mr Speaker:** Before I put the question, does any hon. Member wish to speak on the general principles and merits of the Bill? The Hon. Daniel Feetham.

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**Hon. D A Feetham:** Mr Speaker, the Opposition is going to be voting in favour of this Bill but we have serious concerns about the Bill and indeed, listening to the hon. Gentleman and his explanation, I do not think, with respect to the hon. Gentleman, that the Bill quite does what the hon. Gentleman has explained to this House he thinks that it does.

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We are going to support the Bill because we, as an Opposition, want to support measures that are designed to give companies that have become or are likely to become insolvent as a consequence of the COVID crisis the opportunity to trade out of trouble and make bona fide payments without directors being exposed to claims by creditors and by liquidators of companies that could not be saved, and that is essentially what the aim of the Bill is. By instituting these types of measures we are not only helping the companies but we are also,

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hopefully, helping the employees of the companies, who of course will remain in jobs in those companies that eventually, hopefully, will be able to trade out of trouble.

3180 These are unprecedented times and we accept on this side of the House that therefore they call for unprecedented measures, but as a Parliament and as Members of Parliament debating this sort of measure and considering this sort of measure, there is always a balance to be struck between protecting companies that genuinely have fallen on hard times as a consequence of the COVID-19 crisis and, for example, the effect that may have had on their cashflow or their supply lines, and also protecting the creditors of companies, for example companies that have become  
3185 insolvent, or are insolvent, or are likely to become insolvent because of factors that are completely and utterly unrelated to the COVID crisis.

For example, what this Bill does is it does not allow a creditor – I will come to the detail in a moment – it does not allow a creditor of a company that was already insolvent on 31st  
3190 December 2019 to make an application to the court to appoint a liquidator. I asked the question of this Parliament: are we here to protect the directors and companies who have failed due to circumstances that are completely unrelated to COVID-19 and the crisis that that has caused, and do we not owe a duty to the creditors of those companies? I believe, and certainly we do on this side, that we do owe a duty to those creditors and that this Bill does not strike the right balance. It is a point that I have communicated to the Minister and it is a point that I have also  
3195 communicated to those who drafted the Bill.

I will explain and make out the points that I have made by way of introduction by tackling each of these elements.

The Bill is divided into three Parts. The first Part disables, during the moratorium period, the ability of a creditor to appoint a receiver, liquidator or administrator, or to issue a statutory  
3200 demand in relation to a company, or an individual, because it also applies to personal bankruptcy and to partnerships, for example, in circumstances where that company or that individual has become insolvent or is likely to become insolvent unrelated to the COVID crisis. In other words, it does not matter – absolutely, Mr Speaker, the hon. Gentleman shakes his head – quite unlike when we look at the powers of a liquidator, which this is also amending, where  
3205 those amendments are circumscribed by the COVID crisis. But the appointment of a liquidator is not, so you could have a situation where a company was already insolvent prior to the crisis and a creditor cannot make an application for the appointment of a liquidator.

Of course, this gives rise to then the issue of is it right that the directors of those companies that were already insolvent prior to the COVID-19 crisis or have become insolvent unrelated to  
3210 COVID, that they can just simply continue trading, depleting the assets of the company to the detriment of the creditors. It is always very difficult when creditors are facing this kind of situation. There may be good reason why a creditor may wish to make an application to the court in order to appoint a liquidator of a company that is insolvent. It may not get 100 pence in the pound, it may get 60 pence in the pound, but that 60 pence allows that creditor to then be  
3215 able to pay its own creditors and its own suppliers. That is why, as a Parliament, we have got a duty to consider cause and effect and to make sure that we essentially strike the right balance – and this does not, in my respectful submission, strike the right balance.

Secondly what the Bill does is it disables, during the moratorium period, the ability of a creditor to enforce debts and security interests. You may have a secured creditor, for example –  
3220 so, it has a mortgage over the assets of a company, that company may be insolvent before the COVID crisis, unrelated to the COVID crisis, and we are effectively preventing that secured creditor from going to court and enforcing its security. That cannot, again, be right where the insolvency is wholly unrelated to the COVID crisis.

Thirdly, it introduces limitations on the ability of liquidators to take actions against directors or officials of a company – for example, for insolvent trading, as the Hon. Minister outlined  
3225 during the course of his own intervention – but of course there what the Bill does ... That is limited to a situation where the company has gone into liquidation because the insolvency is related to the COVID crisis. In other words, you are circumscribing the powers of a liquidator to

3230 take certain actions against the directors of companies by saying that circumscription only applies in circumstances where the insolvency has been caused by the COVID crisis or by, for example, the lockdown measures and all the measures the Government have introduced during the COVID crisis. But then, when you consider whether you can place a company into liquidation, there is no such linkage between the insolvency and the COVID crisis.

3235 It would have been very easy indeed, in my respectful view, for the Government to have introduced exactly the same regime that it has introduced in relation to the amendments it is proposing in relation to the powers of a liquidator, exactly the same regime in relation to the ability of creditors to apply to a court for the appointment of a liquidator.

3240 The hon. Gentleman is looking at the Bill, but if you look at, for example section 511 – section 511 is about fraudulent trading and I will come back to that in a moment – it basically seeks to limit or clarify that a liquidator of a company cannot go after a director or the official of a company simply because the company has appointed a liquidator or a company continued to trade or entered into a transaction in the ordinary course of business. I have to say I find it very difficult to understand this particular section and I will come back to it in a moment. I have probably picked the wrong example, but it says:

even though the company was or may have been insolvent by reason of-

- (i) the Relevant Circumstances; or
- (ii) reduced demand for its goods or services.

3245 The relevant circumstances are defined in section 500:

“Relevant Circumstances” means, the suspension, restriction, continuation or conduct of trade during the moratorium period-

- (a) in such manner as-
- (i) conforms to advice or recommendations issued publicly by the Government or any minister; or
- (ii) is required or permitted by law, in connection with Covid-19 pandemic; or
- (b) in the context of and notwithstanding market conditions or circumstances prevailing; or
- (c) despite conduct and/or degree of compliance with commitments and obligations by clients and other contractual counterparties;

3250 My understanding of sections 510 through to 512 is that they only apply – these are the limitations imposed on a liquidator in relying on these sections of the Insolvency Act – where the company has gone into liquidation and has become insolvent as a consequence, effectively, of the COVID crisis, and you could have done exactly the same in relation to the appointment of a liquidator. The only argument that has been raised with me in relation to why that has not been done is because it is said that perhaps that is going to involve management in, essentially, a lot of use of managerial time in defending potential applications for the appointment of a liquidator.

3255 Actually, the way that you could have dealt with this is very simple. There are two types of insolvency. There is presumed insolvency that arises where a creditor issues a statutory demand against the company. The company does not pay that statutory demand, so the court assumes that that company is insolvent. The creditor has not shown as a matter of fact that the company is insolvent; it is presumed insolvent. The other way to do it is to go to court and to say to the court, ‘On a balance of probabilities, I can demonstrate, beyond peradventure that the company

3260 either is cashflow insolvent and it cannot meet its debts as and when they fall due, or it is balance sheet insolvent because its liabilities exceed its assets.’

3265 There are two ways of doing it. The Bill could have, for example, said ‘We are disappling the statutory demand provisions of the Insolvency Act’ but allowed creditors to go to court to seek the appointment of a liquidator in circumstances where they can demonstrate that the insolvency has nothing to do with the COVID crisis. Of course, the courts are used to dealing with disputes of that sort, and the idea that the courts are going to be inundated with applications of this nature is, in my respectful submission, pie in the sky because anybody who has practised in

3270 this area – and I have practised for many years in this area – will be able to tell you that creditors are very careful and would be very careful in making an application for the appointment of a liquidator when they have got to show actual insolvency – not presumed, actual insolvency – because of course they are going to be lumbered with a huge cost order if they lose and potentially paying damages to a company that they have dragged through the courts and essentially damaged their reputation in the process. So, I do not think that this Bill strikes the right balance, even though we are voting in favour of it.

3275 I think these are legitimate points to raise. I have raised it with the hon. Gentleman. I have raised it also with the greatest Gibraltarian of our time. The hon. Gentleman wanted me to speak to him: I did, and I think the response that I received was ‘I am not persuaded’, which reminded me of the good old days at No. 6 Convent Place, although I have to say my heart is gladdened that the traditional, solid, old GSD has risen from the ashes of our electoral defeat in  
3280 2011 to now permeate all aspects of Government business to the extent that he is now held up as the gold plate and gold standard in terms of good governance in Gibraltar and indeed as the shield against virtually every single criticism nowadays of this side of the House they level against the Government. I think that our concerns are justified and it is a matter of regret that those concerns have not been taken on board.

3285 The other point is I do not understand why there is a need to amend the sections in the Insolvency Act relating to delinquent officers and also fraudulent trading. I really do not understand it.

If I may draw the attention of the House to section 258 of the Insolvency Act, I will just read to the House section 258, which is what section 510 seeks to amend. It actually says as follows:

- (1) On the application of the liquidator of a relevant company, the Court may make an order under subsection (3)

3290 – and the order under subsection (3) is repayment, restoration of moneys that have been taken out of a company; that is what we are talking about in the orders of subsection (3) –

where it is satisfied

– in other words, where the court is satisfied –

that a person specified in subsection (2)–

- (a) has misapplied or retained, or become accountable for any money or other assets of the company; or  
(b) has been guilty of any misfeasance or breach of any fiduciary or other duty in relation to the company.

3295 Whether a misfeasance or a breach of fiduciary duty or the misapplication of money takes place during the COVID crisis or not, there are, in my respectful submission, standards that of course any civilised society would like to uphold and there is absolutely no reason, in my respectful view, for any amendment of section 258.

And indeed, with respect, section 510 appears to me to be a complete nonsense, because if we look at a section 510 it is basically saying:

- (1) The court shall not on the grounds specified in sub-section (2) of this section alone make an order under subsection (3) of section 258 ...

– in other words, the repayment of money –

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... against a person who is or has been an officer of a company for any act committed or omission incurred during the moratorium period.

(2) The grounds are that–

- (a) a company continued to trade or entered into a transaction in the ordinary course of business; or  
(b) did not appoint a liquidator or administrator

Those are irrelevant factors as to whether a court orders a remedy against a delinquent director because the remedy against delinquent directors arises out of the misapplication of funds or the misfeasance or breach of fiduciary duty.

3305 I just cannot see in what circumstances that can be condoned, whether the insolvency occurred as a consequence of COVID or not, and that point is even more stark when we come to consider section 511 of the Bill, which relates to fraudulent trading. This seeks to amend, in exactly the same terms, section 259. Section 259 of the Insolvency Act provides as follows:

(1) On the application of the liquidator of a relevant company,

– in other words, the company has already gone into liquidation –

the Court may make an order under subsection (2) where it is satisfied that, at any time before the commencement of the liquidation of the company, any of its business has been carried on–

(a) with intent to defraud creditors of the company or creditors of any other person; or

(b) for any fraudulent purpose.

3310 Again, I ask the question – of course, it is a rhetorical question, as I know the answer – what on earth are we doing, seeking to amend a section that imposes liabilities on directors for fraudulent conduct? I just do not see what the point of that is. I believe that it does not send the right kind of signal.

3315 I do not want to lower the quality of the debate, but I was thinking about this and I thought would we, for example, use COVID as an excuse for tampering with the Crimes Act in relation to a theft by somebody who has lost his job in a supermarket because he cannot feed his own children? The Government has not sought to amend the Crimes Act in that way. I just simply do not see why we have to be interfering with sections that relate to fraudulent trading or delinquency of directors, personally. In any event, it does not make sense because neither of subsections 2(a) and (b) is relevant to the sections that are being amended.

3320 The other point that I make is this. The Hon. the Minister for Financial Services says it only applies to companies that are licensed in Gibraltar. He makes the point because I have made the point to the Government that we have got to be careful about this, because you could have a company that is licensed in Gibraltar – in fact, I have dealt with companies like that and I have come across them in my own professional capacity: a company that is licensed in Gibraltar, that 3325 has its centre of main interest outside of Gibraltar, it is therefore liquidated, for example in France, there is a liquidator that is appointed in France and under the insolvency regulation, which is an EU measure, the liquidator then has a right to open secondary insolvency proceedings here in Gibraltar.

3330 So, the fact that a company is licensed in Gibraltar is irrelevant to that analysis and what I do not think is right is that, in the context of a Bill of this nature, we seek to circumscribe the ability of a liquidator in those types of circumstances to open secondary insolvency proceedings here in Gibraltar and then rely on all the arsenal and weaponry available to liquidators under our Insolvency Act. In fact, it may well be that, because we are dealing with the EU law, the argument will go in court that you cannot do it anyway because the EU regulations have direct 3335 effect in Gibraltar. But there are other countries, for example, that are not subject to the insolvency regulations, that are subject to the [inaudible] rules, where that type of argument would not apply. If you have insolvency proceedings that have been opened in another country I do not believe that we ought to be circumscribing the ability of those liquidators to then open secondary insolvency proceedings here in Gibraltar.

3340 Mr Speaker, I apologise to hon. Members because it is a technical Bill, full of technical language and explanations, but I finally end just dealing with the amendment that the hon. Lady proposes. She proposes to insert in subsection (3) of section 518 a section that says ‘unless it is not practical to do so, the Chief Minister will consult all representative parties and/or independent Members prior to the Minister making regulations under subsection (1)’. As far as

3345 we are concerned, we are quite happy with that amendment. It is a matter for the Government. That sets no precedence, because of course we are talking about fairly extraordinary circumstances in relation to the COVID crisis.

Mr Speaker, that is my intervention for today, thank you very much. *(Banging on desks)*

3350 **Mr Speaker:** The Hon. Marlene Hassan Nahon.

**Hon. Ms M D Hassan Nahon:** Thank you, Mr Speaker.

I take the points on this Bill from hon. Members and especially note those of my hon. Friend to my right who especially has concerns, someone who seems very learned indeed on this matter. I have been listening carefully to both hon. Members.

3355 In principle I have no problem supporting this Bill. The only concerns I have, which you would have seen in this legislative change, is finding yet another nugget of disdain for our democracy, this Parliament and over 20% of the electorate. This strategy of pushing together Gibraltar and its voters away from the democratic debate is really becoming a trend now and I am sure we all agree that it is about time that we put an end to this petty behaviour, for lack of a better word.

3360 So, I shall be moving an amendment, as circulated via hard copy, during the Committee Stage in a bid to ensure fairness and equal representation across this House when law making in this place and I will support the Bill if this amendment is passed.

Thank you.

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**Mr Speaker:** Before I put the question, does any hon. Member wish to speak on the general principles? The Hon. the Chief Minister.

**Chief Minister (Hon. F R Picardo):** Thank you very much, Mr Speaker.

3370 First of all, I rise to confirm that I have given the Certificate of Urgency that the hon. Gentleman, the Minister for Digital and Financial Services, referred to and I think hon. Members will have seen.

3375 Second, I rise to deal with some of the points that the Hon. Mr Feetham has raised. He is, of course, to consensus what fire is to water. I am surprised that that was the speech of a party representative that is going to support the Bill. To an extent I do not want to break consensus, but that level of concern would suggest that hon. Members should be withholding their consent to the Bill, but they should do so safe in the knowledge that it will pass if they decide to withhold consent.

3380 Even before the announcement of these legislative changes it has not been the law in Gibraltar that a company could not trade whilst insolvent, but the consequences for directors if they did was personal and criminal liability, and as a result directors would have unlikely taken such a risk. We have, with this new temporary regime, the removal of a suspension of the allowance of directors to navigate this extremely complex and challenging period and in that way face saving jobs, allowing continued economic activity, rather than the value and wealth destruction as well as job losses that might arise from liquidation and bankruptcy. This could include the incurrance of new liabilities, notwithstanding insolvency, since the risk of personal liability attaching to directors is suspended providing the business and actions of the directors are within the scope of the temporary regime. Indeed, as I have stated, abusive actions by directors would not be protected.

3390 The protection afforded under the new regime is akin to an administration without a formal insolvency process but not preventing legal access to the courts to allow eligible companies to continue to trade through their boards of directors and management whilst insolvent without the directors incurring personal liability. This could protect large trading companies with hundreds of employees, for example allowing directors to continue to pay salaries, as well as smaller retail or restaurant businesses. In particular, the larger commercial local companies that are licensed or authorised in Gibraltar would want such protections, as otherwise directors will

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not take chances and instead would act to place companies into a formal insolvency process. After the first few companies in financial difficulty had petitioned for liquidation there would have been enormous pressure on other companies to do likewise, and this would have become  
3400 as contagious within the business economy as the coronavirus itself. The negative economic impact of liquidations across the economy would then be significant and irreversible.

The Gibraltar Government has therefore acted resolutely to prevent this from happening. The new measures will therefore provide much needed breathing space to allow us to weather the economic storm. Companies in financial difficulty should, in the light of the proposed  
3405 amendments to the insolvency laws, take professional advice when implemented and devise a plan for the turnaround of the business including, where appropriate, a restructure to attempt to avoid liquidations in the future.

Mr Speaker, I do not like to pass off anybody's work as my own if it is not. From the words 'even before', that is not my view, that is the view published last week of Nigel Feetham QC,  
3410 who is a recognised expert on insolvency and whose opinion is entirely in keeping with the view of the Government. I would commend that the House should therefore bear in mind those very salutary and positive commercial reasons why many of the things which have been said by the hon. Gentleman should not persuade anyone not to support the Bill.

I just need to put down a marker in relation to the things that the hon. Gentleman has said,  
3415 because, as usual, he tries to traduce so much of what I say. The Government of Gibraltar does not consider that the Government led by the now Sir Peter Caruana was any demonstration of good governance at all. We might consider his legal advice worthy of being had and in very high regard indeed, but our political positions with Sir Peter were settled on the morning of the glorious New Dawn of 9th December 2011. We won and he lost, and he is no longer in active  
3420 politics. I do not want the fact that there may be a relationship of advice to in any way taint the political view. We take the view that Peter Caruana, as he then was, had to be removed from office for all of the reasons that we set out during the course of the General Election campaign of 2011, in which by half a whisker – I used to tell him, 400 votes was a whisker; he reminded me that 200 was half a whisker – by half a wisker, the people of Gibraltar agreed with us and not  
3425 with them, and then by an even larger majority in 2015. So, please let us not have to have those battles again. In these circumstances the Government is not persuaded by anything that the hon. Gentleman has said. We are persuaded by the deeper thinking of others with a lot of experience in the area and we commend that thinking to the House.

In relation to the amendment that is proposed by the hon. Lady and which enjoys the  
3430 support of Members opposite, it will not enjoy the support of the Government, for a simple reason: we are not taking any point simply to try to exclude her, we are taking a point which is an important point and is in keeping with the structure of other legislation that we have provided for in this House. Indeed, I think the language that she is now objecting to is language that she agreed to in the March session when we provided for the rules that enabled me, under  
3435 the amendment to the Appropriation Act, to consult with the Leader of the Opposition and not with her. So, she has called petty a provision that she voted in favour of in March. That demonstrates that she says one thing one day and one thing another. It demonstrates that if there is any pettiness in the approach it is not the Government's. Therefore, I think it is time that she woke up to the fact that this is not a place of parties. This is a place of office holders: there is  
3440 a Chief Minister, there are Ministers and there is a Leader of the Opposition. That is the way that parliaments work and they will continue to work in that way, and we will therefore not agree to the amendment.

I did feel that she suggested that if we did not indicate that we were accepting her amendment she would not be supporting the Bill. Well, I think that people who are in business  
3445 and who need the support that this Bill will provide, as so eloquently set out in the parts of Mr Feetham's – the other Mr Feetham's – article that I quoted and the Minister for Digital and Financial Services set out, will not be pleased with the approach that she is taking.



**Mr Speaker:** I now call on the mover of the Bill to reply. The Leader of the Opposition.

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**Hon. K Azopardi:** Sorry, I just wanted to make a brief contribution on the amendment, if I may, so that it is understood what our position is, as my hon. colleague Mr Feetham has indicated.

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I was not going to rise at all in this debate; but I only rise because the hon. Lady, in expressing the amendment, put it in terms which I thought reflects her position clearly but certainly does not reflect our position in terms of the stance that we take in respect of the amendment. She puts forward an amendment in relation to the Insolvency Bill and, restricted to it, as my hon. colleague Mr Feetham has said, we are happy to go along with it in terms of that consultation exercise so that it is wider than originally envisaged, restricted only to the Insolvency Act and in relation to the moratorium period that is very temporary in any event. But we do so from a pragmatic basis. We do not do it from the basis that she advanced in her explanation of the amendment because in some ways she feels marginalised and desires that there should be equality, or not. It is not for us, certainly on this side, speaking for the Official Opposition, because we are not driving consultation processes, to decide who, or not, should be included in it. Equally, this morning when in her contribution she made the point that somehow I had not protested at her non-involvement at different levels, as if it was for me to protest or not to protest. Nor do I think it is an issue that goes to lack of democracy as to whether she is or is not involved at every single stage.

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I just say this, and this is why I do not think it should be a precedent, whether or not the amendment is accepted, because there are certain constitutional realities and we are not equal, in the same way as I am not equal with the Chief Minister. We may be equal as parliamentarians, but he is the Chief Minister. I am the Leader of Opposition and the hon. Lady, who I am very fond of, is the leader of a third party. Those are the constitutional realities. We have officers and those officers have constitutional impact and therefore need recognition. That is not to say that I have any issue with the consultation process being wider, because we do not, and that is why my learned friend Mr Feetham explained our position. I only rise to say all of that so that it is understood where we are in relation to it. We are not supporting it on the basis that it is advanced; we are supporting it on a pragmatic basis only.

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**Hon. A J Isola:** Mr Speaker, I find it odd to rise and say ‘thank you for supporting the Bill’ after having heard Mr Feetham’s quite unexpected intervention. I say ‘unexpected’ because I had a long conversation with him in the last week of April precisely about this Bill, and the following day I wrote an email to the Insolvency Group and I said:

I had a conversation with Mr Feetham on these regulations. He was supportive of these measures and raised two points. One was about the date before which if somebody was insolvent they could be shielded

– which you have raised today –

and the other was about having provided sufficiently to ensure these provisions do not conflict with the application of our insolvency legislation in contracts using Gibraltar law internationally ...

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– one of the other points he also raised. *(Interjection)* Well, my email does not recollect that. So, I passed that on to the Insolvency Group and they came back with their comprehensive response disagreeing with you, after which I said, ‘Well, if you are still not happy, have a chat with Sir Peter and see if he can persuade you,’ and you then came back and told me he was not persuaded.

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So, I am not quite sure what the theatre and the drama about his intervention is this afternoon when he talks about ‘what on earth are we doing’. I would like to ask him what on earth he is doing in supporting a Bill which does what he says it is going to do, because I certainly

3495 would not. I do not believe it does anything of the sort of what he does, and in coming to that determination, as my friend the Chief Minister has said, I have taken some advice from Sir Peter, from Nigel, from Nick Cruz. My gosh, two from the GSD – one from the GSD and then the PDP – so, if it was political value, they are more in your camp –

**Hon. D J Bossino:** And now the GSLP. (Laughter)

3500 **Hon. A J Isola:** And now the GSLP. (*Banging on desks*) One thing about people is you have got to be able to learn from your mistakes, and he obviously clearly has.

3505 But we take advice from people ... with two accountants also in those discussions, the former senior partner of Deloitte in Gibraltar and the senior partner of PwC. So, if you put those five men in one room and Mr Feetham in the other and they have different advice, I know which room I would jump into.

**Hon. Chief Minister:** Which Mr Feetham?

**Hon. A J Isola:** The right one. (Laughter)

3510 I appreciate and I understand some of the points that he has made, and let me say this. This legislation can never be perfect. It cannot because we are talking about insolvency where jurisprudence goes back a very long period of time, and yet we are dealing with a pandemic where we do not have the benefit of time. So, if we make mistakes there is provision in the Bill to enable us to move quickly to see if we can remedy those defects. But if the risk of this  
3515 legislation and providing this safety net to businesses in Gibraltar is that we could lose one or two in that we should not have because they were insolvent before this Act kicked in and they have managed to cover themselves under the cloud of this protection, well then that is a consequence we are happy to live with because I do not believe that perfection should be the enemy of the good.

3520 We are doing something for good reason, for good cause, to try and save businesses and the jobs that those businesses carry – with the risk that the hon. Member has identified. I think that this House is absolutely right in supporting this Bill because it really does protect our firms from directors having no choice but to take the steps to protect their own personal civil and criminal liability. It is not by accident that most, if not all, European jurisdictions have done almost  
3525 exactly the same but in different ways. (*Interjection*) Well, I can tell you that even Spain has come very close to the changes in effect of what we are doing. And again I beg to differ, but that is the advice that I have had.

I am grateful, having said all of that, to the hon. Members for their support.

3530 I think my hon. and learned Friend the Chief Minister has answered the hon. Lady's proposed amendment and obviously I stand firmly with what he has said.

Thank you, Mr Speaker. (*Banging on desks*)

**Mr Speaker:** I now put the question, which is that a Bill for an Act to amend the Insolvency Act 2011 be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

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**Clerk:** The Insolvency (Amendment) Act 2020.

**COMMITTEE STAGE AND THIRD READING**

**Insolvency (Amendment) Bill 2020 –  
Committee Stage and Third Reading to be taken at this sitting**

**Minister for Commerce (Hon. A J Isola):** Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of this Bill be taken today, if all hon. Members agree.

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**Mr Speaker:** Do all hon. Members agree that the Committee Stage and Third Reading of the Bill be taken today? (**Members:** Aye.)

*In Committee of the whole House*

**Insolvency (Amendment) Bill 2020 –  
Clauses considered and approved**

**Clerk:** Committee Stage and Third Reading.  
The Hon. the Chief Minister.

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**Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move that the House should resolve itself into Committee to consider the following Bill clause by clause, namely the Insolvency (Amendment) Bill 2020.

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**Clerk:** A Bill for an Act to amend the Insolvency Act 2011.  
Clauses 1 and 2.

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

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**Clerk:** Clause 3.

**Mr Chairman:** The hon. Lady has moved an amendment. The House will now vote on the proposed amendment.

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**Hon. Ms M D Hassan Nahon:** Mr Speaker, am I allowed to speak on the amendment?

**Mr Chairman:** I beg your pardon; I thought you had already spoken at the Second Reading of the Bill, but by all means.

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**Hon. Ms M D Hassan Nahon:** Mr Chairman, section 518 allows a Minister to amend primary legislation without parliamentary approval, subject only to consultation, if possible, with the Hon. Mr Azopardi, Leader of the Opposition. My issue here is: why is the Leader of the Opposition being consulted exclusively but not Parliament as a whole? Why is the opposition Member with such a strong opposition mandate, and, more importantly, those who voted for her, disrespected and marginalised in this way? One would think that the appropriate thing would be that the opposition as a whole, this House, and as a consequence the entire represented electorate, be consulted.

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When the Chief Minister finds it fit he goes on television to pass policies of Together Gibraltar, promoting my percentage – to 25%, the last time I heard him on GBC, to pass through the Line Wall closure, for example – boosting my status in this House. The question is: does that reality just serve Government when they want to push an agenda which suits them, or when

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they want to undermine the Leader of the Opposition, also when it suits, calling me the ‘poll of polls leader’ and calling them ‘FLOPS’? I suppose none of that matters when it is convenient, Mr Chairman.

3580 Given that also the Chief Minister and the Leader of the Opposition have called for parliamentary and democratic reform, I would think that the truly democratic thing would be for every side of this House to be engaged in this process moving forward. Or is the Government really talking about wanting less democracy instead of more?

3585 With regard to the Chief Minister’s comments about March, I think we can all agree that in March the last thing on anybody’s mind would be to really nit-pick the legislation and see what was fair or not fair. We were in a very difficult and crazy situation and the last thing on my mind was securing my own voice in this House, which I believe I have every right to do for myself and for the people who voted for me.

3590 The point, for me, now is: are the Bills going forward going to be similar to this one, where a Member of this House is sidelined? Is this the modus operandi from now on?

Further and lastly, Mr Chairman in case these changes were to be needed urgently and the House voted for it – which, anyway, I have an indication that it will not – provisions could have been added in order to make changes temporarily valid until parliamentary ratification in a short period soon after.

3595 Thank you, Mr Chairman.

**Mr Speaker:** Does any hon. Member wish to speak on the amendment?

3600 **Hon. Chief Minister:** Yes, Mr Chairman, to confirm that the Government is not going to accept the amendment and to really do the job that has to be done, which is to demonstrate that the hon. Lady is putting a position which has no basis in democracy, in politics or in law. It is important that I do that because she pretends that she is somehow being marginalised or sidelined. That is not the case.

3605 The provision set out in this piece of legislation is identical, as I have said already, to the position set out in the Appropriation (Amendment) Act 2020, which the hon. Lady voted in favour of. I think she had forgotten that she had voted in favour of that and that she has now tried to deal with it in her intervention, but in a way that is neither persuasive nor logical.

3610 One thing that I just realised in the way that she addressed the House was that she said that there would be consultation with Mr Azopardi. This is not about consultation with Mr Azopardi; this is about consultation between the Chief Minister and the Leader of the Opposition. As has been said already, those are two posts which are offices that are relevant to the operation of this House, and it is for that reason that we designed the clause, after negotiation with the Leader of the Opposition, which went into the Appropriation Act as we did. It must be that reason which led her to understand that that clause was an important and relevant one and support it, although of course now she finds herself with that precedent and she finds it difficult to deal with.

3620 I should also say that there is someone who has a history in this House of having been voted into opposition but not into government or becoming an officeholder in the Official Opposition, and that is the now Father of the House. The Father of the House did not garner the sort of support that the hon. Lady garnered – he garnered even more support. The Father of the House, in elections in the 1970s and early 1980s, came second in the poll. He did not come first in the opposition rankings after eight Members of the Government and he came first and then another six, he came second in the poll. And yet in 1980 he was elected alone, and when he was elected alone – and he had been elected, I think, in 1976 also alone – he was a Member of the  
3625 opposition but not a Member of the Official Opposition. The Government consulted then with the Leader of the Opposition. Indeed, that is the period of the Strasbourg-Lisbon process, when the Leader of the Opposition was consulted by the Chief Minister and taken by the Chief Minister to those international negotiations, and the person who had come second to the Chief

3630 Minister in the poll was neither consulted nor taken anywhere. And there is nothing wrong with that, because that is political reality. If the hon. Lady had been elected one of the 650 Members of the House of Commons but was neither in the Labour Party nor in the Liberal Party, or in the SNP, and she was not in a parliamentary group, or she had been elected into the Spanish parliament on her own and she was not a parliamentary group, she would not have these rights. This is not to deny democracy. This is to practise democracy. The Government is not sidelining her. The public sidelined her when the result of the election gave her one out of seven opposition seats. That is the reality.

3640 I must say today has been a testing day. We have had a lot of issues between the Government and her. That does not in any way affect the high regard and affection that I have for her personally, but the politics that she is putting at the moment is not politics with which the Government agree. It would drive a coach and horses through the principle of representative democracy for the Government to allow Parliament to become a place of parties and not of office holders.

3645 The Hon. the Leader of the Opposition has said that he takes a pragmatic view, this is a short period etc. I can see why he takes that pragmatic view. One is also a party leader and has an overview of what may happen and how might things and fortunes develop and how alliances might or might not be done in the future. That is absolutely normal and proper and there is nothing wrong with that, but the Government's position is that the Chief Minister will consult with the Leader of the Opposition on the basis of a clause established and voted for by the hon. Lady herself.

3650 She said, perhaps giving herself away, that she did not 'nit-pick' in March. That was her language. I wonder whether anybody observing us might think it is really quite nit-picky and nothing more to take this point today because it is not a point that has any democratic validity, it is not a point that has any legitimacy in an understanding of a Westminster-style democracy based on the type of parliamentary representation that we have today. It is a point of absolutely no value whatsoever. It puts her in a position which would advance her from where the public in the General Election put her, and the Government is not going to accept the point.

**Mr Speaker:** Does the hon. Lady wish to respond to the Chief Minister?

3660 **Hon. Ms M D Hassan Nahon:** Mr Chairman, only to say that I think that the Chief Minister is being rather cheap and opportunistic by accusing me of a lower stature simply because I am saying I did not nit-pick when he knows very well, because he knows me rather well from many years ago, that what I meant was that I was not putting my own position in this House, which I and only myself have to defend here because I do not have any colleagues with me, and that at that moment in time I was not thinking along those lines but only about the best thing for the community as a whole without looking at the interests of my status here that I can use in order to project the voice to the people of Gibraltar.

3670 I do not think that is wrong. I think that was a normal, selfless attitude for that time and I think it is very sad that the Chief Minister has picked up on that, caught on it and is using it against me. I think it is extremely immature from his point of view and I am sorry to have witnessed that. I think we could have left it where it was, but I accept what has transpired and I rest my case.

3675 **Hon. Chief Minister:** Mr Chairman, this is the Committee Stage. The conversation continues. I am very disappointed indeed that the hon. Lady has already, in the hours that the Parliament has met for the first time after we have been through this crisis, taken us to a place where we start to call each other things like 'cheap' and 'opportunistic'. It is unfortunate. Hon. Members and she will know that banter is an important part of how we get through this, but I said in my Statement today I hoped that we would be able to get through the day without calling each other names. None of us have called each other names, but now one gets called cheap and

3685 opportunistic for having had the ‘immaturity’ of raising a clear point which entirely defeats the point the hon. Lady is making, the clear point being that the hon. Lady voted in favour of the clause she now talks down, and her reasoning for that is that she is alone in this House and she had no colleagues to point it out to her. It is exactly for the reason that she is alone in this House and she has no colleagues with her that she is not an office holder in this House and she is therefore not to be, in the context of a proper analysis of how a parliamentary democracy works, one of the office holders that is consulted.

3690 She is obviously becoming a little upset about this. I do not think it is wrong for the Government to point to what is a very good argument to demonstrate that she is wrong. I do not think that that makes me in any way immature, I do not think it is cheap and I do not think it is opportunistic. I will not say the things I think it makes her, because I will follow my own counsel and not descend into name calling.

3695 I would ask her to try, however hard she may find it, not to descend to that when we meet again because I do not think it is what the community wants, I do not think it is what the community needs, it does the democracy that she says she is trying to defend absolutely no favours whatsoever and it is entirely unwarranted. I recommend to her that she look after the stature of what she does in this place a little more than she has in those throwaway lines a moment ago.

3700 **Mr Speaker:** We will now vote on the amendment – the Chief Minister has asked by division.

*A division was called for and voting resulted as follows:*

**FOR**

Hon. K Azopardi  
Hon. D J Bossino  
Hon. R M Clinton  
Hon. D A Feetham  
Hon. Ms M D Hassan Nahon  
Hon. E J Phillips  
Hon. E J Reyes

**AGAINST**

Hon. P J Balban  
Hon. Sir J J Bossano  
Hon. Dr J E Cortes  
Hon. V Daryanani  
Hon. Dr J J Garcia  
Hon. A J Isola  
Hon. S E Linares  
Hon. F R Picardo  
Hon. Miss S J Sacramento

**ABSENT**

Hon. G H Licudi

**Mr Speaker:** Seven Members have voted in favour of the amendment and nine Members have voted against the amendment. The amendment is therefore defeated.

**Clerk:** Clause 3.

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

**Clerk:** The long title.

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

**Insolvency (Amendment) Bill 2020 –  
Third Reading approved: Bill passed**

**Clerk:** The Hon. the Chief Minister.

**Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to report that the Insolvency (Amendment) Bill 2020 has been approved in Committee without amendments and I have the honour to ask that now it be read a third time and passed.

**Mr Speaker:** I now put the question, which is that the Insolvency (Amendment) Bill 2020 be read a third time and passed.

**Hon. Chief Minister:** I call a division now on the Third Reading.

*A division was called for and voting resulted as follows:*

**FOR**

Hon. K Azopardi  
Hon. P J Balban  
Hon. Sir J J Bossano  
Hon. D J Bossino  
Hon. R M Clinton  
Hon. Dr J E Cortes  
Hon. V Daryanani  
Hon. D A Feetham  
Hon. Dr J J Garcia  
Hon. A J Isola  
Hon. S E Linares  
Hon. E J Phillips  
Hon. F R Picardo  
Hon. E J Reyes  
Hon. Miss S J Sacramento

**AGAINST**

Hon. Ms M D Hassan Nahon

**ABSENT**

Hon. G H Licudi

**Mr Speaker:** Fifteen Members have voted in favour of the Bill in terms of it to be read a third time and passed, one has voted against, and there was one person absent. So, the Bill is carried.

**Tribute to Major. Frank Dellipiani, former Member of Parliament**

**Chief Minister (Hon. F R Picardo):** Mr Speaker, before I move the adjournment, the House will have heard of the sad passing of Major. Frank Dellipiani. Major. Dellipiani was a Member of this House for, I think, eight years or more. He represented the AACR and was a Government Minister. He was a prominent and well-known member of the Royal Gibraltar Regiment and he was the head of Dell Construction in Gibraltar for many years.

He was a well-known man, a caring man. I had the opportunity of getting to know Frank more recently in the work that he was doing at Bishop Canilla House, where he was on the committee, always trying to ensure that other members with Bishop Canilla House tenancy enjoyed their time and he was always up for organising anything that he could for them to enjoy themselves. But I had also known him before, when he was very encouraging of me when I was starting in politics. He always had a kind word to say, always a defiant approach. 'Don't let him get you down,' he used to tell me, more than once, in the context of the man that some in this House still call the greatest Gibraltarian of all time in our debates at the time.

Apart from being a kindly man and a Member of this House, here was a stalwart Gibraltarian, one of those who have been the backbone of those years of the Regiment. I was enjoying, this

weekend, being regaled by my wife's uncle with stories of Frank in the Regiment and 'La perra' that they used to get up to on trips to the United Kingdom, so there was also a fun side to Frank too.

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He will be very sadly missed, of course, by his family and, of course, by Members of this House and I would invite the House to make a tribute of a minute's silence, perhaps after other contributions have been made by others.

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**Mr Speaker:** The Hon. the Leader of the Opposition.

**Hon. K Azopardi:** Mr Speaker, I associate myself and all the Members I speak for on this side of the House with those remarks.

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Frank was, of course, a longstanding Member of this House and indeed a Minister in what I have described before, when he passed away: he was a Member of this House during those years that were truly difficult as well – not that this is easy, but truly difficult to navigate Gibraltar during those closed Frontier days. I think we owe a generational debt of gratitude to Members who were in the House during the closed Frontier period.

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I knew Frank a bit, although not that well because, obviously, of the age difference. I knew his late son, Mark, much more closely; we were politically close. But I certainly associate myself with everything that the Chief Minister has said about Frank and our best wishes on this side of the House to his family. (*Banging on desks*)

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**Mr Speaker:** The Hon. Marlene Hassan Nahon.

**Hon. Ms M D Hassan Nahon:** Mr Speaker, I genuinely rise here now with a heavy heart to acknowledge the death of Major. Frank Dellipiani, a man of honour, integrity and great love for Gibraltar.

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I am sure this House knows very well how tough politics can be, and to carry the weight of responsibility for the future of your nation and the people you love is an immense privilege but can also be a very heavy burden. People like Frank carried this burden with dignity for many years of his life and they were lucky enough to make a success of it. On the one hand, it saddens me to see that many of our forefathers are leaving us now or have already left us; on the other hand, it makes me very proud to see that they have lived long and full lives enjoying the peace and prosperity that they helped to create for our society. With their hard work they paved the way for this new generation of leaders, who I am sure will continue their mission and honour their legacies.

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Frank Dellipiani will leave a void in the hearts of everyone who was lucky enough to know him. He was intelligent, sharp, witty and committed. He was a man who, throughout his life, excelled at any challenge he embarked upon. Reaching the rank of Major in the Gibraltar Regiment was something he was immensely proud of, as well as his success within the construction industry in the 1970s, another ambitious challenge at a time when our economy was very limited indeed.

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Shortly thereafter, in 1976, Frank took the arduous decision to join my father's AACR Government as a Minister, where he served until 1988. He was a close friend to my father and fiercely loyal, often recalling with so much amusement to me the way in which Joshua Hassan had dragged him into politics before even him discussing it with his wife.

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Having held a range of portfolios throughout his time – Minister for Municipal Services, Education, Labour, Social Security, Housing and Public Works – Frank never tired from his duties and obligations. The political climate in those days was so different to the one of today. Our politicians were fighting very different battles to the ones that we fight today, with the main mission running through all portfolios being to keep our necks above the water. Frank was at the epicentre of a truly existential battle and for that we owe him a huge debt of gratitude.

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3790 On a personal level, Frank retained until his very end a warmth, charisma and sense of humour that I am sure this entire community will sorely miss. This was a man who was approachable to everyone and always had a smile and a good word to say to all who crossed his path, no matter their background or their political persuasion.

3795 Frank overcame challenges both in his personal and professional life. He experienced the most trying circumstance that life can present a parent, the loss of a son, confronting this tragedy with great dignity, never losing his moral courage and noble spirit.

Despite his personal tribulations, old age and chronic illness, Frank was still an exemplary husband, caring for his wife Lourdes round the clock until his last day. Frank was also a proud father to Mark and Gillaine and an absolutely doting grandfather, who was more like a best friend to his grandchildren.

3800 For me, he was one of the last of a generation who worked closely with my father, whom I sadly lost very young in my life, and so Frank brought me much of that wisdom and paternal affection which I have had to go without for so long. I wish to thank him for that from the bottom of my heart, for his patience, guidance and for all the wonderful anecdotes he shared with me. I will always be grateful for his belief in me and my cause and for his incessant  
3805 reassurance.

Frank Dellipiani will leave a legacy which will be etched in our history, a strong political reference for future generations and an example of humanity and kindness for all his family and friends. I wish his family strength during this difficult time, and may he rest in peace.

Thank you.

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**Mr Speaker:** I too wish to associate myself with the sentiments expressed by all hon. Members.

3815 **Deputy Chief Minister (Hon. Dr J J Garcia):** Mr Speaker, can I just say that I was sorry when I found out that Frank Dellipiani had passed away.

He, I think, will be remembered from more than his involvement in politics and, as hon. Members have already said, that was in the AACR when he stood for election in 1976, in 1980 and again in 1984, and he served as a Government Minister and as a Member of this House for many years. But also he will be remembered for his charm and for his kindness, and, I think as I  
3820 said to his daughter, kindness was all he ever showed to me in the contacts that I was lucky enough to have with him.

Once again, I was very sorry to hear that Frank had passed away. My most sincere condolences to his family.

3825 **Minister for Economic Development, Enterprise, Telecommunications and the Gibraltar Savings Bank (Hon. Sir J J Bossano):** I think one thing about Frank that has not been said by others but certainly was something – when we were in opposition, I think he was in government – that we used to thoroughly enjoy was his passionate nationalism. Today, in this House, Members of the Opposition and Members of the Government talk about the fact that we are a nation as if it were something that is no longer in dispute *because* it is no longer in dispute, but  
3830 for many of the years that I have been here, to talk of Gibraltar as a nation produced a reaction of ridicule from other people and of thinking that we were getting too big for our boots.

3835 Frank had a split personality when it came to the military because he was a passionate defender of the Gibraltar Regiment and a passionate attacker of how the Gibraltar Regiment were not given the proper respect by the visiting military personnel. In the bad old days, they used to think of the Gibraltar Regiment as boy scouts, according to Frank. And of course, when we used to make fun of him from the Opposition, we used to refer to him as Gibraltar's Minister for Defence because he would, sometimes, get so excited about some failure on the part of the United Kingdom to stand up for us when the neighbouring country was being nasty to us, which

3840 was most of the time. If he had had the power, I think he would have taken us to war against Spain all on his own.

The relationship that there was between the two sides of the House was a level of warmth and affection in spite of having fundamental differences of view on how to defend Gibraltar, because what was common to both sides of Gibraltar was that defending Gibraltar was the most important thing that we were here to do and was something that made it possible for all of us to forget the differences when we were threatened I think we should remember, when we have come together as we have to defend Gibraltar against the threat of a pandemic against the lives of our people and the threat of the attempt to control the pandemic which is still to come, that what we are doing is in fact what we have been able to do whenever a need has arisen in Gibraltar for us to put our differences on one side but still stick to them in the knowledge that if we fight each other over our differences there will be nothing left to fight for, because unless we work together, in a place as small as this, Gibraltar will not make it.

Frank was somebody who often had a reaction in debates in this House, where we used to say he should really be on our side because he was totally open and had total disregard for the fact that he was a Minister in the Government when he had to say things that he felt very strongly about. He won the affection and the respect and the warmth that he deserved to have from all Opposition Members in all the time he was in government. *(Banging on desks)*

**Mr Speaker:** The Hon. Paul Balban.

3860 **Minister for Health and Care (Hon. P J Balban):** Mr Speaker, I would like to associate myself too with the comments of the Chief Minister and the other hon. Members today.

I did not have the pleasure of knowing Frank Dellipiani when he was a Minister, but I did have the pleasure of visiting him in hospital just a few days before passing, and we shared some moments there, where he spoke and shared about his time in government and how he was 'dragged' into politics, as he himself put it.

3865 My heartfelt condolences to his family.

**Hon. Chief Minister:** Mr Speaker, I move that the House should now be silent for a moment in memory of Major. Frank Dellipiani.

3870 *Members observed a minute`s silence.*

### Adjournment

**Chief Minister (Hon. F R Picardo):** Finally, Mr Speaker, I move to adjourn the House.

Now that we are out of the bear pit, I want to start by wishing the hon. Lady and all members of her community a happy Shabbat for tomorrow. For that reason, we will avoid coming to the House tomorrow and we will return on Monday at 3 p.m., 1st June, to finish dealing with questions. Given that the bathing season has not commenced, I cannot think of anything better for people to do, than to switch on and watch our undiminished democracy in action.

3875 I move that the House should now adjourn to Monday at 3 p.m.

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3885 **Mr Speaker:** I now propose the question, which is that this House do now adjourn to Monday, 1st June at 3 p.m.

I now put the question, which is that this House do now adjourn to Monday, 1st June at 3 p.m. Those in favour? (**Members:** Aye.) Those against? Passed.

The House will now adjourn to Monday, 1st June at 3 p.m.

*The House adjourned at 9.25 p.m.*