

2.1 Deputy J.A. Hilton of St. Helier of the Minister for Health and Social Services regarding the criteria for a Secure Accommodation Order for young people in the care of the Children's Service:

Would the Minister explain the criteria used when applying for a Secure Accommodation Order for young people in the care of the Children's Service and state how many orders have been applied for during the past 2 years and how many have been refused by the court when dealing with the matter?

Deputy A.E. Pryke of Trinity (The Minister for Health and Social Services):

I shall ask my Assistant Minister to answer the question. She has responsibility for Social Services.

Deputy J.A. Martin of St. Helier (Assistant Minister for Health and Social Services - rapporteur):

Yes, in order to make an application for a Secure Accommodation Order, officers have to have evidence that a child or a young person has a history of absconding from other care settings, evidence over an appropriate period and whether, if they abscond, they are likely to suffer significant harm or, if they are placed in a non-secure placement, they are likely to injure themselves or others. The figures, since the new Children's Law came in in 2005; in 2006 3 were applied for; in 2007 4; 2008 3; 4 so far this year and 2 refusals which were in 2006.

2.1.1 Deputy J.A. Hilton:

The purpose of the question was to get an idea of exactly what sort of behaviour would be deemed serious enough by the Children's Service to take immediate action to address the behaviour of young people in their care. During the summer recess, I received a number of communications from members of the public about this very matter and I did meet with Deputy Martin and explained the circumstances surrounding the behaviour of 3 individuals in the care of the Children's Service, one of whom was charged with a serious offence and 2 individuals who were in the care of the Children's Service being implicated in 2 serious offences which were occurring at 1.00 a.m. and 2.00 a.m. in the morning. So I would like the Deputy to explain to the House why she does not believe that (a) the behaviour of the individuals involved at 2.00 a.m. in the morning and apparently deemed missing at the time is not absconding and (b) the effect of being involved in the crimes that they were involved in at the time at 2.00 a.m. in the morning did not put them at serious risk to themselves and also putting the public at serious risk of the actions of the individuals involved.

Deputy J.A. Martin:

Before I start, I certainly will not be going into the specifics of any children in the Children's Service and their care. The Deputy, the Assistant Minister and I have met with the States of Jersey Police and there seems to be a discrepancy about the States of Jersey Police and Voluntary Care Orders. Now, many of these children are on Voluntary Care Orders where there has been a breakdown in family circumstances and the parents themselves have allowed the children into care. The States of Jersey Police and both myself and the Assistant Minister for Home Affairs are waiting for more information from the Attorney General as we at the Children's Service seem to believe that if we report a child - and the Deputy uses the word "absconding" but I would say "missing" or maybe "home a bit late" - the States of Jersey Police will not

pick them up. So this is where we are and if they are under an order from the court, they will pick them up but all the children are in a children's home and many of these children are already from a very, very seriously disturbed background. I do not really know what the Deputy wants me to do, other than lock them all up.

2.1.2 Deputy J.A. Hilton:

I certainly do not want the Deputy to lock them all up, as she puts it. My point is when children are placed into the care of the Children's Service, one would expect them to want to know where a 12 year-old is at 2.00 a.m. in the morning. **[Approbation]** My point is when is the Children's Service going to take the responsibility placed in them and start taking care of these young people and if a 12 year-old out at 2.00 a.m. in the morning being implicated in a street robbery is not serious enough, goodness knows what is.

Deputy J.A. Martin:

Again, I really wish the Assistant Minister would stop using ages and identifying facts in this very small community. All the children in our children's home will now know - or the parents will - of whom she is talking about. The Children's Service does take this very seriously. Everyone in this House put Williamson off for a year. The children's homes are not fit for purpose. They are too big. The offer from the police station and the policeman when I went with the Assistant Minister was: "Come around and fit locks on all the windows at the 2 children's homes." This is not satisfactory. We do take our job seriously. So do our officers, understaffed and undermanaged. I would say again we do not have the full co-operation of the States of Jersey Police. I fully accept that they are really under pressure on a Friday and Saturday night and, further down the line, you will see why I have a question to the rest of the Constables. We need more police on the streets and we need these children off the streets and we need them secure. We do not need their first contact with a policeman to end up down at Rouge Bouillon.

2.1.3 Deputy R.G. Le Hérissier of St. Saviour:

I have slightly been pipped to the post but I wonder if the rapporteur and perhaps the Attorney General could assist us also. Would the rapporteur confirm that when the department is acting in *loco parentis*, it actively dissuades children from leaving children's homes or is there an absolute freedom to go and come as they wish?

Deputy J.A. Martin:

I think the Deputy makes the comment "*loco parentis*". Now many of these children are in the children's home because they have no parents. No fault of their own. Now what do you want the Children's Service to do? This is instead of living in a home with 2 parents, one parent, an aunty. Does the Deputy think we can say: "You cannot go on school outings." **[Laughter]** "You are not allowed to go out with your friends on a Saturday night." Of course, we give them a barrier like a parent would do. They do not come home... and I can assure you a lot of children in ordinary families do not come home on the time that they are set to come home, so I do not know what the Deputy wants us to do.

Deputy R.G. Le Hérissier:

I wonder if I could follow up and ask the Attorney General if this an ambiguous area or is it quite clear?

The Bailiff:

I think not at this stage. This is question time to the Minister.

2.1.4 Deputy P.V.F. Le Claire of St. Helier:

As I understand it, if your children are around the Island up until the age of 21, you are responsible for them. In this case, it seems that with the children in the care of the Health and Social Services Department, in the words of the Assistant Minister, you are not so responsible. Nevertheless, could I ask the Assistant Minister whether or nor she is satisfied that this sort of questioning from the Assistant Minister for Home Affairs to the Assistant Minister for Health and Social Services really sends out a signal to the public that the Council of Ministers have got an issue that they cannot get to grips with and they are left throwing questions backwards and forwards to each other on the floor of this House? Does she find this satisfactory because I certainly am concerned by this level of Government?

Deputy J.A. Martin:

Let me start by saying that we had a very productive meeting, I and the Assistant Minister for Home Affairs and there was a communication breakdown. I was briefed by my officers last Monday and I wanted the okay from the Minister before sending out the letter and it never went, and then the Deputy felt she had to ask in the House. In most of these matters, I think myself and the Assistant Minister for Home Affairs and the Ministers are working together. We both find frustrations on either side of what we are trying to do. At the end of the day, we are trying to protect and help but also keep an environment for the children who are in care as near a home environment as possible and because of the large children's homes, we are not achieving this. I would be the first to say it but why we are not achieving is because nobody will let the Children's Service get on with the job. Everybody has 53 different ideas as to how it should be done and not one step forward in 5 years since the Kathy Bull Report. So I am very sorry. It might not be the best way and I do apologise again to Deputy Hilton for not getting back to her, and this could have been avoided, but the answer is really what I have said, so she may still have wanted to question me on the floor of the House which is her entitlement.

2.1.5 Connétable D.W. Mezbourian of St. Lawrence:

I am quite concerned to hear the response of the Assistant Minister. About 18 months ago, I went out one evening with the States of Jersey Police. I was shown around the operations at Rouge Bouillon and heard from them first hand that their policy then was to always respond to calls to check on missing children, whether they be from children's homes or otherwise, but particularly in the case of children's homes. They had to stop everything else and go and look for those missing children because they were considered to be at risk and if anything happened to them and they had not responded, then frankly, all hell would be let loose. Will the Minister confirm 2 things to me please? Are the doors at these homes locked to prevent the children leaving and has she queried with the Minister for Home Affairs why there appears to be a change of policy?

Deputy J.A. Martin:

A change of policy, no. As I say, there is a discrepancy that when the Deputy went out, did she understand that the States of Jersey Police will go out to look for children on a Court Care Order. If they are signed involuntary, they have, they say, no powers.

The Constable, in her question, said they will check on the children. Many times they will find the children and they will say they have located the child to the Children's Service, they will say the child is in no danger and they say they have no power to pick them up. I do not think the policy has changed and, as for the children's home door being locked, when would the Constable like us to lock it? These are children up to 17 years of age and some are nearly 18 in these homes. Of course they are given a curfew time to be home. Again, I say the doors are locked and the ones that are in that are young do not go out. If they are on a sleepover, we know where they are but the ones that are out, it is like anyone else. Once they decide they are not coming back, what is the point of locking the door? We are only locking them out.

The Connétable of St. Lawrence:

Deputy, you are locking them in.

2.1.6 Deputy K.C. Lewis of St. Saviour:

On a similar vein, I think my question has largely been answered. Is my information, with the greatest respect to the service, that people running the homes are not allowed by law to restrain, detain or prevent someone from leaving the premises? If this is correct, does the Assistant Minister believe a change in the law is required?

Deputy J.A. Martin:

The Deputy is quite correct and if you are working in a children's home - and I wish more people would go and visit - if a 17 year-old presents to you and you are of my build and my height, which many of our workers are, and they tell you they are going out, firstly, no, you cannot physically stop them and that is right and, secondly, would you want to? Because I think, at this point, we have one person who was working in a children's home who had tried to stop someone coming out and has now been suspended. So there is no easy win and children know their rights. We are working with Home Affairs and we are trying to bring a policy together that will incorporate all these things but, really, on the ground, again, I will say that the majority of the children abide by the rules in the children's homes and I am absolutely shocked at the Constable of St. Lawrence who says I should be locking the doors and locking the children in. I really cannot believe that comment in this day and age.

The Connétable of St. Lawrence:

I was not saying that she should lock the doors. I was saying that the Deputy said: "Did we want them to lock the children out?" My point was if the doors are locked, they are more likely to be safe within the home.

2.1.7 Senator S. Syvret:

I am quite familiar with the Children (Jersey) Law 1969 and the Children (Jersey) Law 2002. Both of those laws have an unambiguous requirement embedded in them but anyone who has the care of children, be it parents or when they are at school or any other organisation or the children's homes of Health and Social Services, has an unambiguous responsibility to protect those children from risk, danger, harm or whatever it may be. Does the Deputy accept that, in fact, letting a 12 year-old wander the streets at night amidst gangs of roaming drunkards is in fact potentially a threat to the health, safety and welfare of that child, so in fact if parents are letting their children do that, those parents may be breaching the law and, by extension, if the States of Jersey are letting children do that, they too must be breaking the same law?

Deputy J.A. Martin:

I fully accept that a 12 year-old on the streets and mixing with peers that are not suitable is of course not acceptable to the Children's Service and it would not be acceptable to me as a parent and many other parents. I think the Senator answered in the question. As he said, it is an unambiguous law. He said: "If children of 12 are wandering the streets, why are the parents not being prosecuted and then the Children's Service will be?" To this day, I do not know any parent that has been prosecuted and there are many, many 12 year-olds with one or 2 parents who are on our streets and that is not right either. So, in the Children's Service, instead of having one or 2 children to look after, both our children's homes are practically full again now and I do agree it is totally unsatisfactory for a 12 year-old to be on the streets of Jersey, whether in the care of us as the States or in the care of their parents, but until the law does change that is exactly where we are.

2.1.8 Deputy J.A. Hilton:

Firstly, my question was really directed not about 17 year-olds. It was directed at under 15 year-olds in the care of the Children's Service. The reason I brought the question to the House today, and it grieves me to do so ...

The Bailiff:

A reasonably concise question I think, Deputy.

Deputy J.A. Hilton:

The reason I brought the question to the House was, as Deputy Martin has just said, Deputy Martin and the department failed to respond to my valid concerns about what has been going on. All I would like to say is that it is only a small minority and I look forward very much to the Deputy working with Home Affairs to address these problems, but it is not just a question of changing the law because I believe there is provision within the law as it currently stands to address the concerns of the public surrounding the under 15 year-olds who are behaving in this way and will the Deputy agree to look at this in much closer detail with myself and the Minister for Home Affairs?

Deputy J.A. Martin:

Yes, I have no problem. I am taking advice from my officers and they are working very closely with the Law Officers. If we can get together and find a suitably political acceptable way for the safety of the children, I have no problem with working with the Assistant Minister and we are working together.