

2.4 Deputy S. Pitman of St. Helier of the Minister for Social Security regarding his discretionary powers in granting a person a benefit:

Would the Minister for Social Security inform Members what discretionary powers, if any, he has in granting a person a benefit?

Deputy I.J. Gorst of St. Clement (The Minister for Social Security):

The Social Security Department administers a wide range of benefits under several different laws. The Social Security Law and the Health Insurance Law do not include any discretionary powers for the Minister, and benefits paid under these laws are subject to a clear set of rules which are laid out in the legislation. The Income Support (Jersey) Law 2007 does include discretionary powers for the Minister. These are set out in Articles 8(2) and (3) of the Income Support Law. They allow the Minister to make a payment in exceptional circumstances. In particular, they are designed to allow the Minister to provide assistance in an unusual situation which could not reasonably be covered by legislation.

Deputy S. Pitman:

The Minister just said which laws where he cannot make discretions, Social Security and what was the other law?

The Deputy Bailiff:

Sorry, what was your answer, Deputy?

Deputy I.J. Gorst:

The Health Insurance Law.

2.4.1 Deputy S. Pitman:

With his discretionary powers under the Income Support Law, has the Minister or his former Minister allowed back payments further than 6 months?

Deputy I.J. Gorst:

The Deputy is probably aware that I recently answered a question in regard to a question put to me by Deputy Southern. I cannot answer to say whether those payments were backdated. I can say that 10 Ministerial discretion payments have been made since the introduction of income support but I do not have the details of the timing with regard to when the application was made and when the decision was made.

2.4.2 Deputy M. Tadier:

Would the Minister confirm whether the paying of social security contributions to unemployed people is discretionary or an automatic right?

Deputy I.J. Gorst:

I am assuming that the Deputy is asking about credits for contributions rather than the paying of contributions. I wonder if he could just confirm that.

Deputy M. Tadier:

Yes, that is correct.

Deputy I.J. Gorst:

Yes, it is a little bit, shall we say, of a grey area. It might depend on why the individual concerned is unemployed. If an individual has decided to take themselves out of employment rather than being made redundant it would not be fair that my department should go and credit those contributions when it has been a decision on behalf of the individual. If the individual has been made redundant against their will, then it is only fair that the department should credit those contributions in a reasonable and even-handed manner.

2.4.3 The Connétable of St. Lawrence:

Under the Income Support Law, will the Minister give examples of the exceptional circumstances under which he has discretion?

Deputy I.J. Gorst:

This is quite a difficult area because who can say what is exceptional and what is not. If I refer the Connétable to the answer, as I alluded to earlier, that I gave to Deputy Southern in March - I am not sure if the Connétable has a copy of that, but it would certainly be available on the website. It was 1240/5(4351) and there, there was a very brief outline of what those cases were and the Connétable might find that helpful.

The Connétable of St. Lawrence:

If I may, I think the question deserves an answer that elucidates more.

The Deputy Bailiff:

You were asked to give examples of any exceptional circumstances you ...

Deputy I.J. Gorst:

It is not possible for me to list every single exceptional circumstance. Unfortunately, we fall into what has become known as “Rumsfeld talk” which is unknown unknowns. I cannot say now what an exceptional circumstance that might come before me this afternoon. If I, however, refer to the answer that I gave to Deputy Southern and perhaps list 2 of those, that might satisfy the Connétable. If you just bear with me for one moment. One of the payments was made in respect of a rental component to an individual moving out of residential care. One of the payments was made in respect of a living component to a young adult previously in foster care. That is the nature of the exceptional circumstance.

2.4.4 The Connétable of St. Lawrence:

A supplementary, if I may. Will the Minister confirm that those have now set precedents?

Deputy I.J. Gorst:

I might like to think that. However, the very nature of the word “exceptional” should indicate that those circumstances were exceptional. If the identical circumstances were to arise, then, yes, I would have expected a precedent to be set. But by the very nature that they should be exceptional, one might expect that they might not arise in exactly the same way that they have in the past.

2.4.5 Deputy R.G. Le Hérisier:

A variation on the Constable’s question. Notwithstanding the very clear compassionate approach that the Minister takes to these matters, would he identify

whether there are needs that have come forward under the discretionary system which mean that the system has to be, in his view, reformed?

Deputy I.J. Gorst:

My department and I have a network for the support of the low income within the Island. There are a number of areas which over the 3 years will require to be reviewed. The Scrutiny Sub-Panel, no doubt, will shortly be making a recommendation for where they feel improvements could be made. Members have had an email circulated by a Member of this Assembly saying where that Member feels improvements could be made. There are always improvements that could be made but they come with a cost and it will be ultimately for this House to decide. I am proposing a review of Income Support next year in 2010 and perhaps that will result in improvements that could be made but they will come with a cost and it will be for this House to decide if it feels that those improvements' cost benefit are appropriate.

2.4.6 Deputy G.P. Southern:

Given that income support has now taken over from welfare as the basic safety net for all residents on the Island, does the Minister believe that his powers to use discretion should be further increased especially in deciding in individual cases where expenditure may be unusually high?

Deputy I.J. Gorst:

I am sure that the Deputy is well aware of the powers afforded to the Minister under the Income Support Law and I have got to say that they are indeed written in the broadest possible terms and, therefore, I do not believe that they, at this stage, need to be increased. I have got to say that this is a difficult area. Every job has its difficulties.

The Deputy Bailiff:

I think, Minister, you have answered the question. You do not need to elaborate at the moment.

Deputy I.J. Gorst:

Sorry, I thought now we had 2 hours I could ... **[Laughter]**

The Deputy Bailiff:

No. The 2 matters I would say to that is that first of all, at the moment, we only have one and a half and secondly, even when we have 2, answers will still have to be reasonably concise.

2.4.7 Deputy S. Pitman:

The Minister has said that under Income Support he does have discretionary powers. I presume this would include special payments and also has he given any discretionary decisions to an application for a special payment and if so, under what circumstances?

Deputy I.J. Gorst:

I do not want Members to be confused between special payments, which is a separate section of the law and Ministerial discretionary payments. They are quite separate although perhaps we sometimes get confused because they appear to be similar in

nature. I am not sure if the Deputy has a copy of the Income Support policy guidelines, but I would be quite happy to provide her with a copy, and there is, as I say, a section there which quite clearly covers special payments and there is a budget to cover those special payments. The Ministerial discretion is quite different and it is covered by 8(2) and (3), as I said, and, as I said earlier, there have been 10 such decisions made and I believe was made one of those under Ministerial discretionary payments.