

**WRITTEN QUESTION TO THE MINISTER FOR HEALTH AND SOCIAL SERVICES
BY DEPUTY M.R. HIGGINS OF ST. HELIER
ANSWER TO BE TABLED ON TUESDAY 20th NOVEMBER 2012**

Question

Will the Minister outline to the Assembly -

(a) the rights of children and parents to information when the children are under the care of and/or supervision of the Health and Social Services Department and in particular when the children reach the transitional ages between being classed as children or adults, under the various laws covering children and young adults that affect the Department;

(b) the rights of children and young adults under the care or supervision of the Department who are in the transitional age ranges between being classed as children or adults, to independent advice when various care or medical plans are being suggested to them by the Department's officers or clinicians;

(c) the problems faced when sharing information relating to children in care or under the supervision of the department between –

- (i) internal departments such as the hospital, children services and medical disciplines relating to mental and physical health;
- (ii) external agencies such as social services and police relating to their welfare;
- (iii) parents or guardians;

(d) what, if any, action she intends to take to resolve the problems identified.

Answer

The Minister recognises the complexity in dealing with issues relating to young people who are in the transitional stage to adulthood. This complexity is not unique to Jersey, it is a challenge in most jurisdictions.

The common theme which runs through these issues is one of 'capacity' of the young person to make informed decisions about their care/treatment. When considering this in Jersey due to lack of relevant legislation professionals refer to best practice in the UK. Clinicians for example would specifically take account of General Medical Council guidance; Mental Capacity Act; and 'Gillick' competency principles. There are also HSSD policies relating to consent and confidentiality.

The General Medical Council has issued guidelines for doctors working with children and young people up to the age of 18, which would indicate that a young person can be presumed to have the capacity to consent once they are over 16 years of age and that those under the age of 16 may have capacity depending on assessment.

Within the context of this guidance, therefore, the Minister would respond as follows:

- a) The amount of information shared with younger children would be assessed on their ability to understand the information and the impact that it is likely to have on them. This decision would be made by the professionals and the parent/carer and any other relevant parties.

A young person who has been assessed as having capacity to make decisions regarding their care or treatment would have the right to be provided with all relevant information.

The parents' right to information is dependent on the capacity of the child. For younger children information would be shared with the parent. Once a young person is deemed to have capacity their consent is required to share their information with others including their parents. However young people are encouraged as far as possible to allow their carers to be informed and involved in their care and treatment.

When there are child protection or criminal issues there is specific guidance that professionals would follow to cover this which may over ride issues of confidentiality. Depending on the circumstances of any particular case and process in place, this guidance may be generated by the Courts or the police.

- b) When a young person has been assessed to have capacity and a complex decision about care and treatment is required then there are opportunities for the young person to discuss their decisions and/or concerns with a range of appropriate professionals across the social care and medical fields. In some situations e.g. mental health and learning difficulties there could be opportunity to access independent advocacy services if appropriate.
- c) The Minister would wish to highlight that there is an information protocol, developed by the Jersey Child Protection Committee, which outlines the duty of professionals to share information when a child or young person is at risk. Otherwise information sharing between both internal and external departments would be governed by the principles above.
- d) The Minister would indicate that there are plans for a Jersey Mental Capacity act which will give greater clarity over issues of capacity.