

4.5 Deputy G.C.L. Baudains of St. Clement of the Minister for Health and Social Services regarding the proposed Public Health and Safety (Dwellings) (Jersey) Law:

Would the Minister explain why the proposed Public Health and Safety (Dwellings) (Jersey) Law, which would permit access to homes, includes matters such as water and energy, and would she also explain the rationale behind including owner-occupied premises?

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

I wonder if I could have the liberty first to congratulate the League of Friends in the hospital for being honoured with the Queen's Voluntary Award this week, very well deserved. **[Approbation]** The proposed law, still in consultation phase, is intended to protect and improve the health and wellbeing of residents, in cases where people are at risk and to reduce health inequalities. This is clearly the mandate of my department. Water and energy have been included to ensure that, where essential improvement or repair work is needed, that work will be carried out to meet current standards as set out by the Planning and Environment Department and in compliance with States strategies. 99 per cent of complaints and referrals come directly from tenanted properties. A small number of referrals however come into the department from concerned social workers, fire and rescue or ambulance officers who have seen dangerous conditions in people's own homes. In all these cases, the department would seek to negotiate an agreement to carry out an assessment of the property. Only where consent to enter a property cannot be negotiated directly would officers seek a warrant from the Royal Court. The draft legislation is about having the powers to deal with that small minority of cases, and it is the extreme cases, which dictate the extent of the law and there is compelling evidence to support this law, which should apply to all tenures of dwelling, including home owners.

4.5.1 Deputy G.C.L. Baudains:

Does the Minister not realise that this proposal is abhorrent to most people. In some cases, in my view, it is taking us back to the days of the German occupation where people would report you for owning a wireless, now presumably people will report you for using too much energy or you have a dripping tap or something. Is not a person's home their castle and does the Minister not accede that most of what she has just said belongs in the realm of the Planning Department, not her Health and Social Services?

The Deputy of Trinity:

We are dealing about very extreme cases and most people, the vast proportion of people, we have no intention of interfering into people's lives, but this is the extreme cases. I was told yesterday about an owner-occupier who was diverting the sewerage from his domestic toilets to fertilise vegetables he was growing in his own home. I will leave it there.

4.5.2 Senator S.C. Ferguson:

Does the Minister not realise there are already provisions in law to cover this, and it is a gross infringement of human rights? Furthermore, does she not realise that the inclusion of energy is in line with the European Union plans and the Defra plans to ration energy?

The Deputy of Trinity:

There were quite a few questions there. Regarding the human rights, I am led to understand that it is human rights compliant, but if it did get as far as court that will be the court to decide. Regarding the European Union energy, I would have thought that is the issue that comes under Planning and Environment. This is about the health and wellbeing of residents. I am led to believe there is no duplication of purposes and powers of the Planning and Building Law because building bylaws deal with conservation of fuel and power in new proposed developments.

4.5.3 Deputy J.H. Young:

Would the Minister accept that the explanation that she has given the Assembly for including regulation of water and energy within this draft law is flawed, since the works that would be carried out under her scheme would anyway fall within the building bylaws of the Minister for Planning and Environment anyway, so therefore there is no need to have those powers within this law; would she not accept that?

The Deputy of Trinity:

Not at the present moment, no. As I say, this does not duplicate any other powers; that is about proposed new buildings. Our aim, if we do go into the houses that we have had complaints from, and we can assist that way with water and energy, surely that can only be a good thing.

[10:15]

4.5.4 Deputy M. Tadier:

Does the Minister acknowledge that there is a key difference between going into owner-occupied homes, and going into tenanted homes, where there may be a complaint or complaints may arise about substandard accommodation? Will she be providing a mechanism for funding when a house is visited and it is owned by perhaps an elderly couple and the Minister's health staff will go in there and say: "Do you know that you have mould on your wall?" and they will say: "Yes, we know that, because we have been living with it for the last 10 years, but we cannot get it fixed because the insurance will not pay for it and we do not have any money" and then what will be the response of the Health Department? Will they cough up some funding to pay for the structural deficiencies in that building or will they simply issue a fine to that elderly couple?

The Deputy of Trinity:

The point is, these are extremely dangerous conditions in some cases, and if we can go in and advise and negotiate a way forward then that can be a good thing. The law there, as I said, is for extreme cases. As regarding funding, that is something that at the time officers will look at and perhaps it is the Planning and Environment Eco-Active scheme, it is there for those small cases. There is a very small proportion of owner-occupiers, and I have just described you 2, and I can give you another one too, is when an owner-occupier has a leak in rented accommodation, which is owned by this owner-occupier, and there was a leak in a tenanted property, and the owner-occupier cut off the water to this tenanted property leaving the couple there without any water.

4.5.5 The Connétable of St. John:

I am hearing some strange answers from the Minister this morning. She was talking about using sewerage on a vegetable garden. Given that person must be on a tight-tank and/or soak-away, what support has she given myself over the years in making sure that all households have proper connections to main drains, given we still have 9 per cent of the Island without main drains, and will she be supporting me the next time I come to the House asking for main drains extensions to all?

The Deputy Bailiff:

Connétable, this could not possibly come within this. [Laughter]

The Connétable of St. John:

Oh yes it does, because the Minister mentioned that people were putting sewerage on their vegetable patch, therefore the only way they could get that was they were not connected to main drains.

The Deputy Bailiff:

That is, I am sure, a very good question for another day.

The Connétable of St. John:

Can I come in on a different question then: excuse me, Minister; I am putting a question to the Minister for Health. Given that the Minister is concerned about the quality of water, will she also make sure that the other 30 per cent or thereabouts of the population, who do not have mains water, and cannot get it, for whatever reason, because the mains do not run in the area, and that water is contaminated through liquid waste that gets poured on the land, liquid waste that comes from soak-aways, will she do something about that also to make sure that we all have potable water around the Island?

The Deputy of Trinity:

I am very happy to talk to anyone about this issue, but I do not have control of the water resources.

4.5.6 Deputy S.G. Luce of St. Martin:

The Minister keeps referring to this and saying it is all about health, does she have any plans in the future to enter people's houses to see what they are eating or drinking?

The Deputy of Trinity:

No, I keep saying this is extreme cases, we get 2 or 3 complaints a week from various sources, be it from tenants or be it by other sources like fire and rescue, ambulance, social workers, even churches and C.A.B. (Citizens' Advice Bureau) do referrals. At the end of the day, it is ensuring with these extreme cases that we can firstly negotiate a way of improving their lives and in really very, very extreme cases it is where this law is needed, which is in some ways what did exist until back in 1996.

4.5.7 Deputy J.H. Young:

Would the Minister not accept that the regulation of water and energy sits fully within the Planning and Building Law, and we have a proportionate law and that is the proper place for it? Why does she feel that we need to have these blanket powers that extend way beyond the powers of the Planning and Building Law and put those in her department? How does she justify that?

The Deputy of Trinity:

The water and energy does fit within Planning and Environment; this is when we go in, this is the way of making sure that all the States strategies, there is joined-up government, and we can make sure that at the end of the day people who are vulnerable have better accommodation, and I would like to think every States Member would want that.

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

In a number of her responses, the Minister has said that this law will allow them to go in and negotiate a way forward. I do not have a copy of the law with me. I ask the Minister to advise us what part of the law provides for this, whereby people are able to go in and negotiate a way forward? If she does not have the law with her to confirm, perhaps she will circulate it to all Members.

The Deputy of Trinity:

There is a States Members presentation at lunch time about this law and it is still in consultation and it is on the website. When officers get a complaint or a referral, they will only go in if they are invited in. From that point on, if they are invited in they will sit down with whomever, whether they are tenants or owner-occupiers, to look at the problems and find a way forward. This law is needed in extreme cases where, for one reason or another, they do not wish for anybody to enter and there is a risk on the health and wellbeing.

4.5.9 The Connétable of St. Lawrence:

Supplementary: does that mean that the Minister is not able to advise us at the moment what part of law allows for this negotiation, and, if she cannot do it, will she please circulate it to Members, particularly for those who are not able to attend the presentation at lunch time?

The Deputy of Trinity:

I can do, but the proposed law is already on the website because the consultation, at the request of 2 weeks ago, was reopened until the end of this week. So it is on the States of Jersey consultation front page, whatever, and it is there. I hope the Constable will make a submission.

4.5.10 Deputy T.M. Pitman:

Firstly, I would just like to congratulate the Minister on disproving the myth that it is left-wingers who favour totally unnecessary intervention of nanny state politics. However, what I would like some explanation on is this: the Minister has just said it is only for extreme circumstances, but surely the health police in their lovely uniforms will only know they are extreme situations once they have invaded the privacy of an owner-occupier's home and then discover that it is just a dripping tap. How are we going to police this? Sorry about the pun.

The Deputy of Trinity:

As I have said, most of it has come from either a complaint or a referral. If a person, fire and rescue or ambulance or church, has made a referral, or a tenant has made a complaint, that is the point, the first point is negotiation and that is what my officers wish to do every single time.

4.5.11 Deputy G.C.L. Baudains:

I was concerned to hear that last comment from the Minister that it could be initiated by a complaint; it really does take us back to the days of the occupation. Like many Islanders, I do not want Health coming into my property telling me how to live my life, how perhaps I should not be smoking or perhaps I should not drink quite so much. It really is an interference we do not need, so I would ask the Minister whose idea was it to propose this law? Was it hers or was it her department where maybe people from the United Kingdom would prefer to live under United Kingdom legislation?

The Deputy of Trinity:

I really am shocked. I do not know how many times I can say, this is in extreme cases. Most people are law-abiding and people just would go on with their lives. This is vulnerable people in difficult home circumstances where we wish to raise their living standards, be it tenanted or be it owner-occupier. As I have said, 99 per cent of them come from tenanted accommodation. There is about 3 or 4 complaints per week and that is quite staggering, and I have seen some of it myself. The initial law went back to 1934 and in 1996 the A.G. (Attorney General) at the time said that law was not appropriate and it needed updating and this is what we are doing.