

4.8 Deputy J.A. Hilton of the Minister for Health and Social Services regarding regulation of employees working in the care industry:

What action, if any, has the Minister taken to stop any individual convicted of fraud against an elderly vulnerable person from working in the care industry?

The Deputy of Trinity (The Minister for Health and Social Services):

I currently have no legal powers to regulate the parts of the care industry that fall outside the existing Nursing Residential Law. However, Members will be aware that a new comprehensive legislation is being drafted; the instructions are with the Law Drafting Officers and I am doing everything within my power to bring the new law before this Assembly for approval at the earliest opportunity. As the Minister for Health and Social Services, I have a responsibility for regulating independent registered care homes and licensed nursing agencies and the department has rigorous recruitment and inspection procedures in place to ensure that staff are appropriately vetted and the services are regularly inspected. All providers of these services are required to carry out robust and safe recruitment process before employing anybody who may have direct access to vulnerable people. If, however, the department becomes aware that an individual convicted of a serious offence, such as fraud, is working within a registered care home or licensed agency, an inspection will be carried out immediately.

4.8.1 Deputy J.A. Hilton:

Thank you to the Minister for her answer. The reason I have brought this matter to the Assembly is because it was reported that somebody had indeed been convicted of fraud against an 85 year-old, a lady who apparently had found alternative employment in the care industry. This has got to be a matter of grave concern for everyone. I have been in touch with the department to ask where this person has been employed, and my understanding is that there are unregistered agencies operating in the Island. I would ask that the Minister goes back to her department and uses the powers for the Social Security Department and the Population Office to look at their records and establish exactly who is employing this person. Because there are families in our community who will be unaware that somebody has recently been convicted of this very serious crime who could, in fact, be caring for their elderly parent. Can the Minister ensure that she carries this out to establish exactly where this person is working?

The Deputy of Trinity:

I agree with what the Deputy said, it is very concerning, that is why the new law, coming hopefully by the end of session in July, is so important. Any concerns in any part of the care industry raised about harm or exploitation is dealt with under multi-agency adult safeguarding procedures, and we work very closely with the States of Jersey Police and we do share information between departments. As regarding Social Security, I understand as part of the multi-agency safeguarding response, the States of Jersey Police can request that information.

The Deputy Bailiff:

I think the question was whether you would go back to your department and ask whether they would make inquiries in relation to this particular matter.

The Deputy of Trinity:

Sorry, Sir, I got a little bit carried away. I can do that, but I know the questions have already been asked because I have asked those questions about safeguarding the multi-agency

working together, but to get that information, I understand it is from the States of Jersey Police.

4.8.2 Senator A. Breckon:

Could the Minister confirm that under existing regulations it is only the principal of a care provider that needs to be demonstrably fit for purpose and not those employed by that person?

The Deputy of Trinity:

No. As I understand from the registered care homes and nursing homes, when an inspection is done, the regulator looks at all employees and all their history to make sure that the D.B.S. (Disclosure and Barring Service) check has been done, and employment history, and also to check that everything is in place.

4.8.3 Deputy R.G. Le Hérissier:

Could the Minister categorically confirm, therefore, that the conditions that apply within the public sector are mirrored in the private sector because they are written into the contracts that Health and Social Services has with private providers?

The Deputy of Trinity:

Yes. I am very pleased to confirm that any service level agreement that we have with any care provider, including the voluntary and community sector, does stipulate that they have to ensure that they go through proper safeguarding procedures and check the employment history and that the new staff have been D.B.S. checked, *et cetera*.

4.8.4 The Deputy of St. Ouen:

What action can the Minister take once an inspection has been carried out and an individual has been identified who has been convicted of a serious offence within a registered or licensed care environment?

The Deputy of Trinity:

If somebody in a regulated sector has been convicted of a serious offence, the regulator goes through set procedures to see what the agency or care home is doing, and there is enforcement power within the law and ultimately registration can be cancelled and the licence revoked.

4.8.5 Senator A. Breckon:

I wonder if I could rephrase my question. It refers really to agencies that provide care in people's own homes. Could the Minister confirm that it is the principal of those agencies that needs to be registered, as the law exists at the moment, and not the employees that need to satisfy a criminal check and the like?

The Deputy of Trinity:

Care agencies providing care for people in their own home, unless they come with a service level agreement from Health and Social Services, are not regulated, and that is the whole emphasis of bringing that Regulation of Care Law and that is why it is so important. If there is a service level agreement with a care provider providing care in somebody's own home and that service level agreement is with Health and Social Services, then part of that service level agreement is to make sure that all the staff are D.B.S. checked, good employment history, *et cetera*.

4.8.6 Deputy M. Tadier:

The Minister referred to a law which is coming in which should address some of these issues. Can the Minister tell us which law that is?

The Deputy of Trinity:

As I just said, it is the Regulation of Care Law and Members had sight of it, I think, back in last June/July-time.

4.8.7 Deputy M. Tadier:

Does the Minister accept that many care homes, obviously doing their very best, the staff and the conditions are often operated under duress and it is entirely possible - and I have seen it - where background checks have not been carried out or not been done properly. Can the Minister confirm that it is not simply a service level agreement requirement for that, it is a legal requirement that all these establishments do carry out thorough background checks on all their staff?

The Deputy of Trinity:

If I recall rightly, it is those that are registered under this present law, so that is why updating the new Registration of Care Law is so important. But with any good employee, the regulator does check to make sure - and it is important when the care provider does the interviews - to check the employment history of that person, and if there are any gaps, why were the gaps not taken up with written references, and obtaining the disclosure and barring certificate. It is also important to check qualifications, if they are employing a nurse, making sure that they are registered with the N.M.C. (Nursing and Midwifery Council).

4.8.8 Deputy J.A. Hilton:

I welcome the Minister agreeing to go back to the department to track down where this individual is working at the moment and for that issue to be addressed. If the recipient of the care of this individual is not aware of what has recently happened... that the authorities, whether that is through M.A.S.H. make the person who is receiving the care aware. I understand the Regulation of Care Law is coming to the Assembly, which I welcome. One thing that is bothering me is I would like assurances that within that law, C.R.B. (Criminal Records Bureau) checks are a requirement and that it will be within the law that certain offences would bar an individual from working in the care industry, regardless of whether the owner of the agency wanted to overlook that fact, because maybe there was pressure on not having enough employees.

The Deputy Bailiff:

The question was getting a little bit out of hand, Minister, but I think it was: "Will the new law make provision to ensure that somebody with a conviction of this kind cannot be employed in the care industry?"

The Deputy of Trinity:

I certainly hope so.