

2018.03.16

**1 Deputy R. Labey of St. Helier of the Chief Minister regarding allowances made under the Control of Housing and Work policy in respect of children made the subject of a care order and placed outside the Island: [OQ.39/2018]**

In respect of children who are made the subject of a care order by the Royal Court but who are placed outside the Island before acquiring entitled residential status, how does Control of Housing and Work policy apply to this period of placement and what allowance, if any, is made if they wish to return to live in Jersey once the care order has expired?

**Senator P.F. Routier (Assistant Chief Minister - rapporteur):**

The policies do not currently specifically cover children who are the subject of care orders. For this reason, last December I asked that our policies be reviewed. Officers reported back to the Housing and Work Advisory Group in February and an update will be published within the next month. I want to make it clear that this will ensure that the time spent outside of the Island by children subject to a care order counts towards them acquiring their entitled residential status.

**3.1.1 Deputy R. Labey:**

Would the Assistant Chief Minister confirm that as anybody who has returned to the Island and tried to persuade Social Security of their qualification to be living and working here, no matter who you are and what your name is, you have to get all the right paperwork? It is important with this issue, is it not, that it cannot be some kind of off-the-record agreement? On the statute, it has to be a matter of absolute record that these children will not be disadvantaged because out of their control they were placed out of the Island.

**Senator P.F. Routier:**

I agree with the questioner wholeheartedly. I think what we are going to put in place is a policy, which will ensure that any children who are in the care of the state, who are placed outside of the Island, will not be disadvantaged.

**3.1.2 Deputy G.P. Southern of St. Helier:**

Can the Assistant Chief Minister be more specific about the action he proposes to take? Will this be a matter of general policy or will it be a matter of statutory in regulations?

**Senator P.F. Routier:**

There are a number of guidelines, which are associated with the legislation, which set out what happens in various cases, not only to do with children in this particular circumstance, and it will be put into the guidelines, which the departments will follow because it will be the policy of the Minister.

**3.1.3 Deputy G.P. Southern:**

I have had ample experience with Social Security and other departments over guidelines. Guidelines are open to interpretation and often require the person affected to go in and argue their case in order to show that the guidelines are being incorrectly applied. Will the Minister make this provision statutory so it is automatically applied and nobody is faced with having to argue with an officer in order to establish their rights?

**Senator P.F. Routier:**

What the Deputy is asking for is probably a complete ... what would be required is a complete review of all of the guidelines, which are associated with this legislation. If we were to go along that

route it would be a bigger piece of work. I want to get this into place immediately and ensure that we can assist anybody who is in these circumstances. So the route which I am proposing is that the guidelines will be in place really very quickly and if, in the future, that we need to go further to put it into legislation, that is something that will have to be considered. Obviously, it would be a wider piece of work that would be required to ensure that if we are going to put all the guidelines. But every piece of legislation that comes before this House and is dealt with by departments has guidelines for the departments to work through. So the strength of the legislation is there but the guidelines are there to ensure that the department work to keep within the legislation.

**Deputy G.P. Southern:**

So the answer to my question was no.

**The Bailiff:**

You are being asked to confirm. The answer to the question was no?

**Senator P.F. Routier:**

It was not an absolute no. At this present time we would have to see how the guidelines are working. But certainly the intention is for us to be able to support ... the origination of this question is that we want to be able to ensure that children who are in the care of the state are not disadvantaged by being outside the Island.

**Deputy G.P. Southern:**

Thank you to the Minister. The thought of variations on no fill me with delight.

**3.1.4 Deputy J.A. Martin of St. Helier:**

Yes, just briefly. I was astounded when I heard the reply, and more so when I heard the question, because I have always been under the impression the guidelines were there. We already treat these children as being in Jersey because they are under a care order from the States. I would like to press the Minister. Firstly, can he find out how many people, if any, this has affected in the last 10 years and what age. And can he tell us where to direct these children, which are now probably young adults, wanting to come back and live in Jersey because I do not want them going to each and every department. I then push him again: is there is one small area that can be done quickly and under regulations and it must not just be policy and a different interpretation in each department. Will he push this through as a regulation and make it statutory law?

**Senator P.F. Routier:**

Certainly I will inquire within the department about the way we can do this but certainly for speed we need to ensure that anybody today that comes forward is supported in the way we want it to happen. As I said earlier, it will be a matter for further discussion about whether we put all of the guidelines into regulation. That might be a major piece of work which would have to be undertaken, but we would have to look at that very carefully. But with regard to if there were any ... I am unaware if there are any other previous cases that are out there but certainly if there are I will ask the department to look into that, and if there has been anybody affected by that I will ask the department to get in touch with them directly to ensure that their housing qualifications are upheld.

**3.1.5 Deputy J.A. Martin:**

The Minister stood up and said this had never been looked at because care orders did not cover children, and so he has found somewhere where the law does not cover and we are pushing him to make this a regulation. Not every other guideline. The Minister's words in his opening answer was

this did not ever come up because it did not cover children. So now it does cover children, please can he make it a regulation?

**Senator P.F. Routier:**

I think what first made us consider this was the outcome of the Care Inquiry. There were some comments within that which actually highlighted this as this may be an issue. But as far as if it had affected anybody at the present time, I am unsure of that. But, certainly, if it requires regulation that will be something for someone to do in the next Assembly. Certainly the process we want to get in place right now is to ensure that nobody is affected and we are making it publicly known and it will be available to anybody who is affected by this, which it will be a handful of people that would be affected. But certainly we want to ensure that they do continue to have their housing regulation.

**3.1.6 Deputy R. Labey:**

If these guidelines - this and other guidelines - are robust and properly drawn up and fit for purpose, why would it be such an enormous piece of work making them statutory? Do we derive from this that there are grey areas with these guidelines, there should definitely not be a grey area with the particular one we are talking about here, which makes it difficult to put them into statute? But grey areas are areas of difficulty here for the people concerned, are they not? This is where we get into trouble.

**Senator P.F. Routier:**

With much legislation there are grey areas and that is why there are times when the Minister has discretion and hardship cases are listened to because they do not fit into the details of the existing legislation. The safeguard is having a hardship clause within any legislation and the Minister can have the discretion to work within that. There will always be grey areas but we cannot put absolutely everything into legislation.