

2019.04.30

7 Deputy M.R. Higgins of H.M. Attorney General regarding the proposed protocol relating to the provision of information to the Children's Commissioner which was subject to legal professional privilege: (OQ.117/2019)

Will Her Majesty's Attorney General explain to Members the legal standing of the proposed protocol between the Chief Minister, the Minister for Children and Housing, Her Majesty's Attorney General and the Children's Commissioner with regard to information subject to legal professional privilege; and, in particular, whether it will include Her Majesty's Solicitor General and will be binding on all future persons holding these offices and positions?

Mr. R.J. MacRae, H.M. Attorney General:

The protocol is a protocol to Article 8 of the Commissioner for Children and Young Persons Law and will be operational if the law is adopted and Article 8 is amended, as proposed by Scrutiny, and that amendment, that is amended by a proposal put forward by the Minister for Children and Housing. The protocol itself, as it says, is intended to set out the agreed circumstances, conditions and procedure for disclosure to the Commissioner for Children of advice given by the Attorney General, or Solicitor General, to the Government of Jersey and its departments. It provides an expert avenue for the Commissioner to receive determinations of the public interest, relevant to disclosure of privileged legal advice. The protocol signifies the commitment of all signatories to work together in the interests of children and young people and will enhance the Commissioner's access to legal advice in appropriate cases. Article 8 applies to advice given by the Attorney, or the Solicitor, General. If, for whatever reason, the Attorney is unavailable to attend to matters required for his attention under Article 8, the Solicitor General will do so in his stead, as acting Attorney General. The Solicitor General is bound by the terms of the protocol in the same way as the Attorney. In relation to the last question the Deputy asked, the protocol has been signed by the Attorney in his official capacity, not personal capacity and, accordingly, it is binding on all future Attorneys General.

4.7.1 Deputy M.R. Higgins:

Supplementary? I thank the Attorney General for his answer and that the Attorney General in perpetuity will be bound by it, but does it also apply to the various Ministers who take up the position? We have a Minister for Children and Housing and we have a Chief Minister, they will change over time. Is it also binding on those positions?

The Attorney General:

Certainly it is intended to be, yes.