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1 Deputy K.G. Pamplin of St. Saviour of the Minister for Health and Social Services regarding the investigation of the Council of Ministers into end-of-life choices in Jersey [OQ.52/2019]

Following the report that the Council of Ministers will investigate end-of-life choices in Jersey, will the Minister provide a timeline of the research and work to be undertaken, including the public consultation which has been announced?

Deputy R.J. Renouf of St. Ouen (The Minister for Health and Social Services):

Last week it was announced that the Council of Ministers had agreed to commission detailed research into end-of-life choices in Jersey, including issues associated with assisted dying. Reflecting the complexity, the sensitivity and the gravity of that issue, Ministers agreed they wanted to understand the legal and practical implications of end-of-life choices. Work will therefore be undertaken that will draw on the extensive work carried out elsewhere, particularly in other parts of the British Isles, before proceeding to a public consultation on the options and implications. It is true that resources will need to be found for this work, given that it does not form part of the Common Strategic Policy priorities that are shortly to be addressed. The issue is a novel one of which we in Jersey have no experience and so we must adopt a diligent and thorough approach. In the first instance, officers have commenced initial inquiries to support further exploration of key issues relating to both the regulation of care and our medical professional registration and regulation. We will need to consider the risks and benefits of applying different approaches and frameworks for end-of-life care, including assisted dying, but above all, we do need to investigate what is appropriate and achievable for Jersey before gauging Islanders' views. Today I am not yet in a position to provide the Deputy with a formal timeline but I wish to assure him that we will progress this issue with all due diligence.

4.1.1 Deputy K.G. Pamplin:

I thank the Minister for his answer. Further to what he has just provided to us, and I do thank him for it, will he reassure those listening who are campaigning or seeking to be involved with the process will be brought in?

The Deputy of St. Ouen:

Yes, we will seek to draw in all those with an interest in this topic.

4.1.2 Deputy R. Labey:

Would it be helpful if the Assembly made an in-principle decision on whether it would support assisted dying or not sooner rather than later? Obviously, Members will want lots of reassurances but do we have to wait until Health have been through their process?

The Deputy of St. Ouen:

First, it is not Health that is undergoing a process. It is the policy unit of the government that will be undertaking this work. Is it helpful to have an in-principle decision? Very often such a decision might be based on 'would we want to support those who are suffering at the end of their lives', and of course we would. The question is exactly how. That is where the difficulty lies.

[9:45]

It is a question of great complexity because while we would want to achieve that best support, we must also recognise that there are risks in changing the present way society has done things for a long time. We must remember that people are vulnerable at that stage of their life. I feel it is right that the research is undertaken and presented to States Members.

4.1.3 Deputy R. Labey:

Would it not be a good idea to test the mood of the Assembly on their feelings on this because it is obviously ethical and it is a matter of conscience for Members? Would it be a good idea to do that as early as possible so that if it has no chance of going through the Assembly time is not wasted working on it?

The Deputy of St. Ouen:

I am quite willing to hear from States Members on how they might wish to proceed but my feeling is that before we take any decision we need to be fully appraised of the risks and benefits and the various ways that this different regime has been implemented in other parts of the world.

4.1.4 Deputy M.R. Higgins of St. Helier:

I am concerned by the Minister's answers and of course the attitude towards things like this is: kick it in the long grass. Will the Minister come back to the Assembly in 3 months' time and tell us the progress that has been made so we can see whether sufficient progress is being made fast enough and if not, we can bring it into our own hands?

The Deputy of St. Ouen:

I do not feel at all that this matter is being kicked into the long grass. The Government has agreed that it will undertake research into this complex issue with a view to proceeding to a public consultation. We are taking a bold step, which has not been followed in other jurisdictions in the British Isles. So far from kicking this issue into the long grass. I am not in a position to commit to any strict timetable, partly because I know the resources that are now being devoted to producing the Government Plan, and of course Government has limited resources to start a detailed investigation into other areas not yet covered by the Common Strategic Policy. But this will be covered with all due diligence and in a thorough way and of course Members are free to question me at any time about it.

4.1.5 Deputy L.M.C. Doublet of St. Saviour:

The Minister just mentioned the limited resources in this area. Would he agree to consult with the Channel Islands Humanists whose parent organisation, Humanist U.K. (United Kingdom), has been campaigning on this issue for several years and has a great deal in the way of research and resources that they could assist the Minister in this issue?

The Deputy of St. Ouen:

Certainly. As I have said, we would wish to involve all groups who have an interest and a background in this topic.

4.1.6 Deputy M. Tadier of St. Brelade:

This is essentially a question of who one's life belongs to. I think it is important to understand that. Does the Minister agree that last September we were told by the Attorney General that, unlike the U.K. and Guernsey, in Jersey it is still illegal for somebody to attempt suicide in Jersey, even though prosecutions have not been pursued in that regard, in particular for attempted suicides of course?

Does the Minister agree that the first thing that this States should do is change that otiose law, to remove it so we can have a proper debate about end-of-life choices without criminalising people?

The Deputy of St. Ouen:

I am sure this would be a subject of the consultation that is planned. I am not sure about the statement of law that the Deputy has just given. I think that it is possible that the offence may have fallen into disuse and no longer be treated as an offence, but again I cannot comment on points of law. But I see this whole issue is encompassing the work that needs to be done and consulted upon.

4.1.7 Deputy M. Tadier:

Does the Minister accept that assisted dying, as is the preferred terminology, is about a third party helping somebody else to die whereas suicide is about somebody ending their own life and we, in Jersey, seem to be at odds with other modern jurisdictions very close to us when it comes to that fundamental human right about being able to end one's own life without third party assistance?

The Deputy of St. Ouen:

I am not going to comment on exactly what our law is and whether we are at odds with the laws of other jurisdictions. That will come out, I am sure, as a result of research.

4.1.8 Senator S.C. Ferguson:

Given that jurisdictions that have an assisted dying law that has operated for some time, such as Oregon, where there is a move to rescind it; Belgium, where they allow children to decide on it; and problems they are having in the Netherlands, will the Minister assure us that the research and consultation will cover application of this law in other jurisdictions where it has been operating for some time and where there are negative views on it; it will not just be areas where everybody supports it?

The Deputy of St. Ouen:

That would be my intention, to draw from a wide range of jurisdictions and to understand people's views and if views are changing in other jurisdictions as a result of experience, we would want the consultation to reflect that.

4.1.9 Deputy G.P. Southern of St. Helier:

Does the Minister not accept that all the protestations about due diligence and thorough research are meaningless without the key element of a date by which this topic will return to the House? Will the Minister assure Members that he will give us a date for a Green Paper, White Paper or paper of other hue, on which we can base our opinions? When will he do that?

The Deputy of St. Ouen:

I would remind the Deputy, it was only last week that it was announced that this work was going forward, and being such a novel issue for a small jurisdiction, without yet being able to scope the amount of work involved, I do not feel it is possible for me, at this early stage, to give a firm date. I trust the Deputy and the Assembly would understand that.

4.1.10 Deputy G.P. Southern:

The Minister in his previous experience as Scrutiny knows it is a matter of days or even hours to draw up a decent scoping document on which to base some papers. Will the Minister imitate the effects of Scrutiny and do the same in his department?

The Deputy of St. Ouen:

When I spoke about the scope of the work, perhaps I could reflect back on Senator Ferguson's issue that she raised, learning from the experience of other jurisdictions, and the differing views in those jurisdictions as to how their systems may be working. No one within government has begun that yet and clearly it is so difficult to say exactly where that route would lead us once having started to investigate. I can understand Members' wish to have a firm date but I hope also Members would understand the novel and complex nature of this work we are undertaking.

4.1.11 Deputy R.J. Ward of St. Helier:

The quality of research depends upon the criteria set at the very beginning of any piece of research, particularly in a topic that is so sensitive and difficult with so many people with interests and beliefs beforehand. Will the Minister publish very clearly the criteria, which groups are being consulted, which jurisdictions will be looked at, and which interest groups are being spoken to so that it is very clear as to the underlying concrete foundations of the research that is being undertaken?

The Deputy of St. Ouen:

Yes, I believe we must be totally transparent in the work we are undertaking so I will seek to publish as soon as possible an outline of the research we will be undertaking. Perhaps I could ask Members to feed-in with any issues they particularly want us to look into or groups they want us to consult with.

4.1.12 Deputy K.G. Pamplin:

I thank Members for engaging with this question. End-of-life choices of course also means the quality of care, palliative care. During the Scrutiny report into the Future Hospital we came across some startling evidence, which was highlighted in a recent Channel Television debate on the subject, where listening to nurses talking about the lack of privacy for those in those final stages of their life in our current hospital. We of course have an incredible local Jersey Hospice and I am sure Members would agree that if we lost them tomorrow this Island would be a very poorer place for it.

The Deputy Bailiff:

Deputy, this has to be a question.

Deputy K.G. Pamplin:

Of course, I am getting to it.

The Deputy Bailiff:

Could you get to it straightaway please?

Deputy K.G. Pamplin:

Will the Minister ensure that the palliative care that is being sought in the Island already is protected in these choices?

The Deputy of St. Ouen:

Absolutely. Palliative care is a vital and essential service and is delivered in a compassionate, excellent way by Jersey Hospice. The 2 concepts are not exclusive. Palliative care will always be part of the service of Health and Community Services but one can also see how there is a call for end-of-life choices without impinging on palliative care.

Senator I.J. Gorst:

There was a question, during those questions, from Deputy Tadier about suicide being a criminal offence. I am not sure if now is the right point to raise it or I should wait until questions are complete. But I wonder if the Solicitor General could advise Members perhaps in written form that that is no longer the case.

The Deputy Bailiff:

The position is obviously we cannot ask questions of the Solicitor General during question time. This is the time specifically for questions and not questions other than those given notice of to the law officers. If, having heard your invitation, Senator, the Solicitor General wishes to circulate an opinion and view to Members in order to assist going forward, then it is certainly open to the Law Officers to do so.

Deputy M. Tadier:

May I also circulate a link based on the information, which might assist Members, because it is on record?

The Deputy Bailiff:

Deputy, as you know, everyone is on email and people circulate information outside the meetings of the Assembly all the time, so I do not see any difficulty with that.