

2021.09.14

7 Senator K.L. Moore of the Minister for Home Affairs regarding the Jersey Police Complaints Authority (OQ.181/2021)

Further to Oral Question 125/2021, in response to which it was indicated that new legislation would allow the Jersey Police Complaints Authority to operate more independently, will the Minister advise what progress has been made in implementing those changes to the operation of the authority?

Deputy G.C. Guida (The Minister for Home Affairs):

Work on the modernisation of the management of police complaints was paused during the initial response to the coronavirus pandemic and began again earlier this year. Consultation with key stakeholders has yielded several proposals for amendments to process for managing complaints which together would have the effect of moving the process of decision-making around complex finalisation further towards the Jersey Police Complaints Authority. Officers are currently working with the Legislative Drafting Office to develop those proposals into law. I expect that the final legislation which will consist of amendments to both regulations and primary law will be lodged before the end of 2021.

8.7.1 Senator K.L. Moore:

I thank the Minister for his answer and ask if he could perhaps just enlighten the Assembly as to what stakeholders have been engaged in this process and what direction he thinks - because he must know at this point if the legislation will come before us later this year - that legislation will take.

Deputy G.C. Guida:

The aim of the legislation of course is to make the authority more independent in making decisions and, if possible, in leading its investigations. So right now the authority depends on the Professional Standards Division of the police for investigations, so basically any enquiry will end up with the Professional Standards Division which is a part of the States of Jersey Police. They will conduct the investigation and as a provision of the authority. This of course does not give them much independence and we hope that the new regulations will improve that.

8.7.2 Senator S.C. Ferguson:

Given the demonstrable examples of incompetence being shown by the police recently, when will the genuinely independent Complaints Authority be operational?

Deputy G.C. Guida:

I apologise, I know of no examples of incompetence of the States of Jersey Police.

8.7.3 Senator S.C. Ferguson:

I believe if you go next door to the Royal Court there is a case already going on this morning. Perhaps after we finish the questions he might like to go and just find out what is going on. Will he not do that?

The Greffier of the States (in the Chair):

I am not sure that was a question but the original question was not answered which was: when would the authority be operational, so perhaps that would be your supplementary as you have got to it.

Deputy G.C. Guida:

Absolutely, so we do expect to launch by the end of the year and with luck we will have something before the next Government.

8.7.4 Deputy M.R. Higgins:

I would like to go back over what the Minister said. Can he just clarify how he foresees the authority acting in future? Will it be involved with the Professional Standards Department or will they conduct their own investigations and not rely on the police to do so?

Deputy G.C. Guida:

That is an interesting question. Yes, of course, I think the aim is to make the authority as independent as possible. Now investigative hours and the investigative capabilities are both things that are very, very difficult to give and to pay for, so it would be quite difficult to create a new authority with all these hours and all this manpower available to do it, so I think they are condemned to work with each other for quite a while. However, there are things that can be done to help the authority ensure that things are done independently. The easiest one, and one that I really hope to see in that law, is basically to allow them to ask questions. It is not something that is normally done in the way justice is conducted in Jersey or in the U.K. but it is something that is done in France where a jury could ask a question of the investigators and say: "Why did we not look at this? Could we look at that?" I hope this is one of the freedoms that will be given the authority to just say: "Well, the complainant is saying this. Could we investigate this part of the matter or see whether this is true or false?" I think this would help a lot.

8.7.5 Deputy M.R. Higgins:

I would like to thank the Minister for that answer because it is going in the right direction. We know from past investigations by this authority, it is a toothless tiger and they tend to rubberstamp what has been brought by Professional Standards. Could I ask, will he go so far enough as to have independent investigators from the police, maybe policemen drawn from the U.K., to look at some of these things, because at the present there is a lack of confidence in the whole process?

Deputy G.C. Guida:

The Deputy is of course well aware that where needed this is already done and that we have had several investigations in Jersey conducted by British Police in the last year, including one that we hope to have the result of at the end of the year. So, when there is any risk to independence, we do call on to other forces to help.

8.7.6 Deputy R.J. Ward:

A quick scan of the Children, Education and Home Affairs work programme has next to the Police Complaints Regulations "to be confirmed". Can the Minister confirm when the panel will be seeing this and will these regulations and laws be in place before the next election or does he see other problems with that?

Deputy G.C. Guida:

Again, this is something that I consider quite important. I have been promised that we would be able to lodge something by the end of the year. After that, it is really down to the Crown whether they will allow us to put this into legislation in time for the end of this term.

8.7.7 Senator K.L. Moore:

When the previous Minister was asked a similar question last year, one of his answers was that he mentioned, as the Minister has just done, how sometimes external forces can be brought in. Will the Minister assure the Assembly that the proposals that he is going to bring to us will involve an absolute opportunity at every request to receive independent investigation of complaints made rather than the occasional ones?

Deputy G.C. Guida:

This is a difficult question. In terms of justice, I think it would be fantastic if we could indeed ask for an independent inquiry as often as possible. In terms of budget, we are talking about extremely, extremely expensive occurrences, so probably not something that we want to ... but it is hard because, yes, in terms of justice we would want to encourage that but we need to be able to pay for it. In any case, if it is not something that is presented to me in the draft law, it is probably something that I would introduce because I think it is a very good idea.