

21.11.02

1 Deputy G.P. Southern of St. Helier of the Minister for the Environment regarding the Regulation of Care (Jersey) Law 2014 (OQ.215/2021)

Following the transfer of responsibilities under the Regulation of Care (Jersey) Law 2014 to his portfolio, will the Minister explain what responsibilities under the law fall to him and advise whether he has undertaken any assessment of whether it remains appropriate for those responsibilities to sit with him?

Deputy J.H. Young of St. Brelade (The Minister for the Environment):

The Chief Minister formally transferred functions related to the Regulation of Care Law to the Minister for the Environment position in October 2020. This coincided with the first wave of COVID-19 and required me to work with the Jersey Care Commission on regulatory issues related to the provisions of care home and homecare services during the emergency, including associated temporary changes to the law. Pursuant to that, I brought the Regulation of Care amendment to the law, Temporary Amendment No. 2 Regulations to the Assembly in November last year. Of course in that time I have had to speak with the Commission and Inspectorate on practical regulatory issues arising. Early next year, I will be bringing to the Assembly new regulations that extend the Commission's remit to Children's Services, including children's social work and mental health services regardless of whether these are provided by government or an external provider. This follows the public consultation on the draft legislation on 17th September. That will be a huge milestone in our work to ensure that children in Jersey benefit from high-quality independently assured social care services. With regards to the future, I have instructed officers to bring forward options for ongoing political oversight of the Care Commission as the role develops. I am clear there needs to be independence from the Minister for Health and Social Services and Minister for Children and Education, both of which are responsible for providing the service that is subject to the regulations carried out by the Commission. I have asked in developing these options consideration is given how the Government of Jersey might best ensure the appropriate separation of operational delivery and regulatory functions across all services.

4.1.1 Deputy G.P. Southern:

I am pleased to see at least some progress being made, according to the Minister, on this particular issue. But if I could refer him to Article 38 of the care law: "The Commission shall, when requested by the Minister [and the Minister is the Minister for the Environment] prepare a report upon an aspect of health and social care as requested by that Minister and submit the report to that Minister. Would he consider investigating the terms and conditions under which homecare service agents are provided and ensure that the conditions are such that people want to become a carer? At the moment we have dreadful shortages and part of that is the fact that the terms and conditions, according to the ethical charter for homecare, which this Assembly has passed, are not in place. Could he say whether he is prepared to have an investigation into that very aspect?

Deputy J.H. Young:

The Deputy raises a really valid point that there is not any question that we have an acute need for care staff and that the issues of their pay and conditions is an issue which is absolutely germane to that. There has not been a formal request for me under the Article that the Deputy has raised. But there have been informal discussions, certainly with the officers, and that has been communicated through to the Commission. At the moment, that informal response is that there is a view that the details of employment conditions and pay and terms and conditions are not matters that fall within

the regulatory scan of the regulatory law. That is the information I have. If the Deputy requires me to go and progress this in a formal way I am quite prepared to do so. That will obviously include the legal advice as to whether or not that regulatory law has the vires. But there is no question this issue about the terms and conditions of care staff is critical to make sure these services can be staffed appropriately. I do remember, I think the Care Commission have themselves commented on the shortage of staff at the present time, and that is clearly not just a problem unique to Jersey, it is U.K. (United Kingdom)-wide as well.

4.1.2 Deputy R.J. Ward:

Can I ask a question, I think it was linked to what was just said? Does the Minister believe that the care charter that protects staff from excess hours and protects right in the workplace is a positive step for a care provision on the Island?

Deputy J.H. Young:

Yes, very much. At my age I am hoping to see my days without having to need a care home. The Care Commission is a relatively new body. It is vital. From my interactions with the Commission and the Inspectorate during the COVID time, I can tell you I was very impressed with the Commission's work. I think Members should be proud that we have such a body and they are driving and wholly behind the issue of children's services. We all know there are issues about childcare services; the Commission are driving that on. But I will add this to the list. I do have a question: here is a body being charged with care standards, is it right and was it the intention of law that we give them the job of regulating pay conditions? I am not sure. I will take that issue as a formal request.

4.1.3 Deputy R.J. Ward:

I did have a supplementary until that very last sentence. Does he not feel that that is his job to regulate those conditions and the rights of those workers given that he has the oversight of the Care Commission?

Deputy J.H. Young:

Why do we have regulation? We have regulation to ensure that the policies that this Assembly sets and the laws are delivered. We have to work within the structure of the law. At the moment, the advice I have had, is this steps outside the law. But the Deputy raises a point in this Assembly so I will act on it formally and put formal requests to have that made clear. I will be frank, if it requires a change in the law and the Commission are behind it, then I will initiate it.

4.1.4 Senator S.Y. Mézec:

It follows on from the question from Deputy Ward. If the Minister accepts that there is a link between the terms and conditions of people working in the care sector and the quality of service that they are able to provide for those they are caring for, and he accepts that the Care Commission have raised it as an issue, the question then follows is: what exactly is the Minister doing about it and will he not undertake more action to ensure that the care sector becomes a better place to work in so that we can attract the right calibre of candidates and fill those roles so that the people they look after are getting the care that they deserve?

Deputy J.H. Young:

The Senator makes a very good argument, as he always does. But I have agreed already to follow this up formally. I do not know if I can go more than that.

4.1.5 Deputy M. Tadier:

Is it the Minister's analysis that our care sector is too heavily reliant on the private sector and because of that there is necessarily an inherent profit motive, which may impact on delivery of service putting profits before people?

Deputy J.H. Young:

No, I can see this is obviously a question that is loaded with politics and it is not one I want to go here at the moment. This Island has been well-served by our care homes for decades.

[10:00]

I am not going to stand here and say: "No, we have a nationalise it all." No. But we do need to start developing policies. The question is: is government a first-place provider or a provider of last resort? In the end if we have a shortage of those facilities then I think government would have to step in. We have a number of facilities within the Minister for Health and Social Services' domain and it may be we need to find out whether they are sufficient. I think Members have raised a lot of issues that I will add to my portfolio of regulatory work in just about every other area and ask the Commission please to report along these matters.

4.1.6 Deputy M. Tadier:

I am slightly bemused that the Minister does not want to answer a political question given that he is a politician. But does he not acknowledge that where a business is run for profit rather than, for example, I do not know, a Parish home like the very good one we have in St. Brelade, it may not be run for the same motive, that there is a risk that the money does not go to the people who are providing the care directly? That in itself could be an issue before we even start about regulatory issues.

Deputy J.H. Young:

What is the question?

The Deputy Bailiff:

Is there a question at the end, Deputy?

Deputy M. Tadier:

I feel like we are in some sort of Kafka play at the moment. I asked a question and the Minister is seeming to not want to answer today. There seems to be theme here in the Council of Ministers, whether it is written questions or oral questions.

The Deputy Bailiff:

It is important you come to a question and not a comment. Have you got a question to ask the Minister?

Deputy M. Tadier:

I think I did ask a question. Does the Minister not agree that what I have said is an issue?

Deputy J.H. Young:

I hear it is an issue about written questions. I suspect the issue about answers to written questions are basically tied in with procedure that needs to be sorted out.

The Deputy Bailiff:

I do not think Deputy Tadier was getting at that. What was your question, Deputy Tadier?

Deputy M. Tadier:

I will leave this, the Minister seems incapable of answering the question today so I will not bother. Thank you.

4.1.7 Deputy G.P. Southern:

I am pleased that the Minister rather than talk about informal progress, because I have had 2 years of informal progress trying to progress the ethical care charter and nothing has happened, he has moved towards saying formally progress this issue. The problem is that the Care Commission deals only with the service received and the standards received by the patient. The patient has a separate, but not attached to the States, contract with the provider. This is about making the conditions under which providers of care in people's homes can work and stay healthy at the same time. I am pleased to hear that he wants to make some progress, and I look forward to meeting with him and making some progress in the very near future because I have been waiting 2 years.

The Deputy Bailiff:

Was there a question at the end there? **[Aside]** It is question time so it is important we ask questions.

Deputy S.W. Wickenden of St. Helier:

Can I raise a point of order please? Article 10(3) of Standing Orders says that questions will be framed primarily as to convey information rather than seek it. We are getting into this point where people are trying to make speeches not ask questions.

The Deputy Bailiff:

I think I am alive to that point but thank you for reminding me.