

2021.11.26

2.1 Deputy R.J. Ward of the Minister for Children and Education regarding ...

I would like to start just by apologising to the Assembly for adding something else to the agenda but it is a duty of a Scrutiny Chair to pursue information. Will the Minister explain why we have not received any formal response, including the documentation requested, following the statement from the Children, Education and Home Affairs Scrutiny Panel on Tuesday and when this information will be forthcoming?

Deputy S.M. Wickenden (The Minister for Children and Education):

I was not asked to issue any formal response following the statement nor do I see need for one as nothing has changed. The panel made it clear to me last week they would issue a statement if I did not provide information for the start of the sitting. I wrote to the chair of the panel on Monday this week advising that the inclusion review is still in draft and is scheduled for further review and then sign-off at the Council of Ministers on 30th November this year. After this, the panel will then get the report. At a hearing with the panel on 1st November, the panel was advised that the school funding formula was not complete and I would share more information with them towards the end of December. Additionally, in questions without notice on Tuesday this week, I once again made my position clear within this Assembly. My decision to wait until the final draft of the inclusion review has been considered by my C.O.M. (Council of Ministers) colleagues is consistent with how we dealt with the school funding review in 2020. The panel requested early sight of that report too but the Minister at the time considered it correct that it could only be shared after it had been to C.O.M. I agree with this approach. In the case of the school funding formula, the panel are asking me to provide something I simply do not have. I cannot share unfinished work and I have advised the panel more than once that we plan to update on this towards the end of December. The information will be forthcoming in accordance with the previous commitments I have made to the panel and in recent applications outside and within this Assembly. I will share the inclusion review after it has been finalised and it has been to the Council of Ministers and I will share more information on the funding formula once work has been finalised towards the end of December.

2.1.1 Deputy R.J. Ward:

Can the Minister confirm that he has seen and read the S.E.N. (Special Educational Needs) review and which part of the code of engagement with Scrutiny means that documents go to the Council of Ministers before they go to Scrutiny?

Deputy S.M. Wickenden:

I have read the inclusion review, I have had a briefing through N.A.S.E.N. (National Association for Special Educational Needs) and I am setting up a briefing for C.O.M. with N.A.S.E.N. I have offered a briefing with N.A.S.E.N., who did the review for the inclusion review, to the panel but they have not responded yet on whether they want a review or not. The code of practice, there is nothing in there that states that it goes to C.O.M. but as the Minister I have chosen that it is only fair to share it with my colleagues in Government before it goes to Scrutiny because that is when the finalisation of the report will be done and that is when Scrutiny can ask me questions on the finalisation of the report and what the outcomes of the report will be.

2.1.2 Senator S.Y. Mézec:

Following on from that previous answer where he said he does not have to do it this way, that there would be options, does he not think that it might be at least helpful for the Scrutiny Panel, given that we really do not have a lot of time before the Government Plan is debated, and that making sure that there is appropriate education funding is something that is fundamental and that we all agree on? Does he not think that it might be helpful at least to share with the Scrutiny Panel in good time so they do have time to conduct their work and is there any option for even showing some draft findings or draft recommendations to them so that they have got some idea what they might be working with?

Deputy S.M. Wickenden:

As timing will show right now, as I have not finalised the report for the inclusion review and I do not have the funding formula, just by the very nature of the timings that they are not complete yet means that they were not part of the Government Plan considerations apart from a sum of money that was no different to the sum of money that was put in the previous Government Plan for the Early Years Policy Development Board work when that paper had not been delivered or published yet. Money has been put aside a block of money in the Government Plan for consideration after these reviews are finished, very much like the Early Years Policy Development Board. But these documents themselves were not part of what the Government Plan was set up in any of my submissions within the Government Plan. I do not see how their relevance to the Government Plan meet by the very nature of the timing of these reports.

The Bailiff:

Deputy Doublet, you have indicated a point of order. It would not normally be to have one during the question but what is your point of order?

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

Thank you, Sir. I am not certain and perhaps you can advise whether the Deputy is misleading the Assembly because he stated: "I cannot share unfinished work." Given that other Ministers that the panel scrutinises has shared unfinished work and work in progress has been extremely co-operative, I wonder if that is a true statement. I wonder if you could rule on that, please.

The Bailiff:

I do not think I can generally rule on whether or not someone is misleading the Assembly because I will not necessarily know what the position is and I will simply have had conflicting views. However, simply "I cannot share" does not necessarily imply a legal impossibility or a procedural impossibility of sharing. It may imply an entirely strong preference and, therefore, I do not think I can interpret that as misleading, even were I asked to do so or were it proper for me to do so.

Deputy L.M.C. Doublet:

I am sorry, Sir. I think perhaps the point of order is: is there anything within our Standing Orders or any of the codes of engagement that states that a Minister cannot share unfinished work or work that is still in draft?

The Bailiff:

I am not sure that is a point of order for the conduct of this debate and this hearing before the Assembly. It would require me to sit down and research the matter, which clearly would interrupt the answering of this question and I will not be in a position to do that. I am afraid I cannot rule on that at this time, even were it appropriate for me to do so.

2.1.3 Deputy I. Gardiner:

I will change my question. I would like the Minister to advise that his inability to share, is it from his perspective legally bound or it is his personal preference?

Deputy S.M. Wickenden:

I am choosing that the right course of action is for a report to be considered by Government, by my colleagues in the Council of Ministers with their recommendations and way forward so that it then can be scrutinised on the way forward and the document be shared; that is my preference. It was a preference of my predecessor quite clearly and I share it.

2.1.4 Deputy I. Gardiner:

If I remember correctly, the Minister mentioned that the new formula will be introduced from January. If the formula is not finished, how would it be possible to introduce the formula from January and if not from January, when will it be introduced?

Deputy S.M. Wickenden:

There are monies in the Government Plan to work towards what the formula is. If the monies are not enough, I have a right within my powers to go to the Council of Ministers and request that we put more monies in to meet with the formula. As the Public Finances state, an agreed Government Plan can only be amended by a proposition from the Council of Ministers and that is what I would seek.

The Bailiff:

Very well. I should add that I have counted back in an additional 45 seconds to meet the point of order that had been raised.

2.1.5 Deputy J.M. Maçon:

For clarity then, can the Minister confirm that the documents being requested because the Government Plan has been a long process, therefore, were not available during the time of the formulation of the Government Plan?

Deputy S.M. Wickenden:

Yes, I can confirm that these documents were not available during the formulation of the submissions to the Government Plan. But as we have in the past, and my predecessor has in the past, we have put an amount of money aside within the Government Plan in recognition that these documents would be finished over the term of the Government Plan enactment.

2.1.6 Deputy J.M. Maçon:

Given that that is the Minister's preferred process, is the Minister able to confirm that under the part B for the Council of Ministers, Scrutiny can request any relevant documentation?

Deputy S.M. Wickenden:

Yes, that is absolutely correct, once that has been done through the Council of Ministers.

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

The reason why this is so important is the panel has had evidence from schools that the schools are being underfunded by at least £23 million. Can the Minister indicate whether the finances he has put into the Government Plan allow for an increased cover for the overall funding shortfall, irrespective of what the funding formula says?

Deputy S.M. Wickenden:

I do not believe that the panel has received evidence. They have received an opinion from somebody that there is the £23 million but, as far as I am aware, no evidence has been requested by the Scrutiny Panel to back up that opinion.

2.1.8 Deputy M.R. Higgins:

Has the Minister been contacted by headteachers saying they are underfunded?

Deputy S.M. Wickenden:

I have not.

2.1.9 Deputy L.M.C. Doublet:

Could the Minister advise who has advised him not to release these documents please? What specific concerns does he have that that might happen if he does release them?

Deputy S.M. Wickenden:

I am the Minister, nobody has advised me not to release the documents. I have listened to what has happened in the past and I agree with the process that is being applied by previous Ministers for Education. I believe that it is only fair to my Government colleagues that they get to consider the document before it goes anywhere else and they have to agree on the outcomes. As a Government we work together, so nobody has advised me. I am the Minister, I choose the course of direction.

2.1.10 Deputy L.M.C. Doublet:

Just to clarify, the Minister is stating he has not taken advice from his officers on this matter.

Deputy S.M. Wickenden:

Yes, I have chosen the course of action.

[11:45]

2.1.11 Senator T.A. Vallois:

I wonder if the Minister could advise what he believes is an appropriate evidence base and, therefore, whether the announcement that there is going to be a deficit in school funding by £2.9 million by the finance officer in the hearing on 1st November, whether that would be considered a need under the Government Plan?

Deputy S.M. Wickenden:

Our finance officer agreed that schools have run at a deficit and that we have put £11.6 million into the Government Plan for directly into schools that will address the deficit that has been seen year on year through schools, plus additional monies of up to about £1.8 million. The evidence is regarding that schools have been running at a deficit year on year. We have taken that deficit into consideration, including about £2.8 million deficit spending due to COVID and once COVID goes away that £2.8 million will stay within the funding of the schools, and that is all clear and ready to be scrutinised on the basis of what has been put into the Government Plan.

2.1.12 Senator T.A. Vallois:

In terms of an evidence base, can I ask the Minister if it does determine that there is an extra funding requirement from the school funding formula where he would be obtaining those funds

from within what is set out in the tables for the heads of expenditure, as per the documents in front of us on P.90?

The Bailiff:

I am sorry, Senator, that takes us too far outside the ambit of the urgent question, which was about the provision of information to the Scrutiny Panel and not generally funding, I am afraid.

2.1.13 Deputy R.J. Ward:

Can the Minister confirm that when the Education Reform Programme report was produced it was 2 months before the Government Plan and so, therefore, any outcomes could be acted upon? However, does he understand that by not having sight of any of these documents, the S.E.N. review or the school funding formula, it makes it almost impossible for the Scrutiny Panel to comment on the adequacy or not of funding in the Government Plan for next year's Education budget?

Deputy S.M. Wickenden:

I state again that these documents were not part of the formula of the funding within the Government Plan. The formula and the recognition of what is in the Government Plan is set out in the Government Plan. These documents will not address the decisions made in the Government Plan for Scrutiny.

Deputy R.J. Ward:

I am sorry, Sir, but I have to push this. Part of the Government Plan is demographic funding and if that is going to be on the new funding formula what has just been said is simply not true.

The Bailiff:

I am sorry, Deputy, your strong feeling that you have to push it I am afraid does not fit it within the question as such and the answer to the final supplementary has been given. It is adequate or it is not, as the case may be but it has been given.