

**WRITTEN QUESTION TO THE MINISTER FOR HOME AFFAIRS
BY DEPUTY M.B. ANDREWS OF ST. HELIER NORTH
QUESTION SUBMITTED ON MONDAY 19th JUNE 2023
ANSWER TO BE TABLED ON MONDAY 26th JUNE 2023**

Question

“Will the Minister advise whether she intends or is currently considering bringing forward legislation to protect the identity of individuals who face being prosecuted for rape until they are proven guilty?”

Answer

Usually, following a charge for a criminal offence, the identities of both the accused and the alleged victim are publicly available. This general principle is varied to provide anonymity to an alleged victim who is a child or otherwise vulnerable, which may mean that anonymity is provided to the alleged perpetrator to protect the identity of the victim.

The transparent nature of criminal charges and trials reflects the need for open justice, which is a foundational principle of the justice system. However, this has implications for individuals who are charged with, or tried for, an offence for which they are ultimately not convicted.

In most cases, the discontinuation of a prosecution or a verdict of ‘not guilty’ will be sufficient to close the matter. However, particularly serious allegations may leave a lasting reputational stain even where the individual is not convicted. This is exacerbated in the case of sexual offences, due to their particularly distasteful nature and, in the case of rape specifically, the significant challenges in securing a conviction, leading to suggestions that the accused ‘got away with it’ rather than being innocent.

Conversely, the publicity surrounding serious allegations can have positive effects, with witnesses or even other victims coming forward as a result, either because they become aware that their evidence is important or because they did not previously feel they would be believed. The power of that liberating effect on previously silent victims underpins the #MeToo movement and should not be underestimated.

The contentious question of anonymity for accused people reflects the tension inherent across the justice system between openness, the need to gather evidence, and the rights of an individual not to be punished (formally or informally) for a crime they are not proved to have committed. There is no simple way to balance those factors that will satisfy all parties, and while the established position is in favour of openness, it is very sensible to keep all aspects of the justice system under review.

If anonymity provisions were considered, it would be preferable to start with a wider consideration of the benefits and dangers of anonymity arrangements generally, considering a wider definition of offences than just rape.

I am not currently considering legislation to require anonymity for individuals accused of rape at this time. However, if a compelling case is made for a review of the current arrangements to be undertaken then I would not rule out such work in the future.