



Corporate Services Scrutiny Panel

Population and Migration

Witness: Commissioner for Children and Young People Jersey

Thursday, 11th July 2019

Panel:

Deputy S.M. Ahier of St. Helier (Vice-Chairman)

Deputy J.H. Perchard of St. Saviour

Connétable R. Vibert of St. Peter

Witness:

Ms. D. McMillan, Commissioner for Children and Young People Jersey

[10:01]

Deputy J.H. Perchard of St. Saviour:

Thank you, Commissioner, for joining us this morning. We really appreciate your time. Before we start, may I draw your attention to the witness notice and if you would not mind just confirming that you are happy to proceed.

Commissioner for Children and Young People Jersey:

Yes, that is fine.

Deputy J.H. Perchard:

Thank you. Just for the record, we will do brief introductions. My name is Deputy Jess Perchard. I am a member of the Corporate Services Panel and I am leading on this particular review.

Deputy S.M. Ahier of St. Helier (Vice-Chairman):

Deputy Steve Ahier, Vice-Chair.

Connétable R. Vibert of St. Peter:

Richard Vibert, a member of the Corporate Services Scrutiny Panel.

Deputy J.H. Perchard:

If you would not mind introducing yourself, Commissioner.

Commissioner for Children and Young People Jersey:

I am Deborah McMillan. I am the Commissioner for Children and Young People for Jersey.

Deputy J.H. Perchard:

Thank you, and if the officers would not mind.

Assistant Scrutiny Officer:

Theo Stone, Assistant Scrutiny Officer.

Scrutiny Officer:

Simon Spottiswoode, Scrutiny.

Deputy J.H. Perchard:

Thank you. We will jump straight in. We are asking different stakeholders about the work of the Migration Policy Development Board. I suppose the first question is: have you been asked to make any contribution so far to the work of the migration board?

Commissioner for Children and Young People Jersey:

No, I have not been asked to become involved but I am happy to do so. I think it is important to do so. The extra dimension that my office can bring is that complete focus on human rights, not just children's human rights but, as you know, my law is ... my law, sorry. The Commissioner for Children and Young People (Jersey) Law is nought to 25, so it is explicitly about all human rights.

Deputy J.H. Perchard:

Thank you. You have alluded to what you would be able to bring to the board. How do you expect policy brought forward by the migration board to affect your work during the coming years?

Commissioner for Children and Young People Jersey:

If I can turn the question around, it is about how we work together collaboratively. The law, as you know, those of you who have spent time digging into the detail, has a promotional mandate as well as a protection mandate. The promotional mandate is very much about working together with key stakeholders, not just the Government but civil society as well. I think if we do that what we will find is we will have a more explicit focus on and a consideration of children and young people in any of those policies moving forward.

Deputy J.H. Perchard:

Last week during public hearings with a variety of stakeholders, several of them mentioned the lack of diversity on the board and in particular the absence of younger voices on the board. Is that a particular concern of yours?

Commissioner for Children and Young People Jersey:

Yes, it is. As you know, under the United Nations Convention on the Rights of the Child, Article 12, children have a right to have a voice. It is not a “nice to have” and we would like to support all of Government and broader to be considering how children can participate in a variety of processes so that they are involved in the development of laws and policies but also day-to-day practice. That is something that my office would be happy to advise on. One thing you want to avoid is a tokenistic type approach where we would use adult processes and expect young people to turn up and comply with those. If we are genuinely going to engage with children and young people and we genuinely are putting children first, we need to do it in a way that is meaningful for them. I heard quite strongly through my survey - and I will leave a copy with you, it is a year old now - children as young as 3 and up to the age of 18 spoke clearly and said: “We are rarely asked but when we are we never find out what has happened.”

Deputy S.M. Ahier:

The Migration Policy Development Board confirmed in a hearing on Wednesday that they intend to go out and consult with stakeholders on their findings following their publication. How should they attempt to engage young people with their findings?

Commissioner for Children and Young People Jersey:

Yes, absolutely. Ensuring that children and young people can express their views and have been taken seriously is really fundamental but they need to be supported to do that. Children and young people need time to be prepared to understand the issues. They need information that allows them to form their own views. They need to meet in an appropriate space. Coming to a meeting like this might be good for some young people, it might not be for others, so you have to think about an appropriate space and the opportunity to express their views in a variety of different ways. Some children would welcome having face-to-face meetings and others might want to engage in another

way where they can perhaps report in writing or blogs or something like that. Children and young people also should be involved in a way and pace that is keeping up with their evolving capacities. I know, Deputy Perchard, you are aware that when I announced the survey and that I was going to be talking to 3 year-olds I was questioned about: "Why are you asking them?" That is because they have got a very clear view. We have just got to change the way that we work to make sure that we can hear their view. But more importantly, when they have fed back views to you, we need to make sure that those views are given consideration by the right people and that there is feedback. That feedback should be fast and friendly and full: "You have told us this. We have listened and this is what we have done because ..."

Deputy S.M. Ahier:

In the same vein, do you believe that enough attention is being paid to the views of children and young people regarding this issue?

Commissioner for Children and Young People Jersey:

I do not think there is. As I said, I would like to see a more explicit focus on engagement of children and young people but equally a focus on the impact on children and young people and their families of any decisions made by the board. If you like, I can share some of the information that children shared with me, which might reflect some of the impact. Would that be helpful?

Deputy J.H. Perchard:

That would be most welcome.

Commissioner for Children and Young People Jersey:

Yes, okay. I will leave this with you just in case you cannot lay your hands on a copy. But when I asked 3 to 7 year-olds: "What is the strongest priority for you?" 30 per cent of them said: "Can there be more money for families?" When we asked the 7 to 11 age range, 55 per cent of them said: "Can we have more help for children and families who do not have enough money?" 30 per cent said: "Can we make it free to go to the dentist?" 20 per cent said: "Can we have help for parents to bring their children up well?" and 15 per cent said: "Can we build more houses or just make houses nicer?" Now, in that younger age range, the 7 to 11 age range, they were asked: "If you were the Children's Commissioner, what would be the first thing that you would do to make things better for children on the Island?" and I had thousands of these free text comments. I will just refer to a few of them, bearing in mind this is 7 to 11 year-olds: "Being able to go to the doctor's without it costing my parents lots of money. Make sure all children have a home with food and drink. I would like to make play activities and outdoor activities something that all children can do without worrying if their family can afford it. I think houses and flats are really expensive and sometimes mums and dads do not earn enough to afford a nice house for them and sometimes landlords have nice big houses but will

not let children live in them.” Then a very lovely quote was: “Can we make sure that outside every child’s house is a garden.” The older young people, 11 to 18 year-olds, equally 50 per cent said: “Your priority should be can you make it free so that we can go to the doctor if we are not well”, 40 per cent said: “Can there be more help for young people and families who do not have enough money?” and 36 per cent said: “Can we help parents to bring their children up well?” Again, pages and pages of insightful comment. In terms of thinking about poverty and families, some of the quotes were: “Can you make sure that families have enough money to buy good food for their children? Young families with limited money, can you give them a safe environment, plenty of food and drink and a warm home? Can you focus on the financial imbalance and fluctuating behaviour that affects low income families and splits families and how it can affect the education, livelihood and future of children living in these homes?” Several of them went on to talk about the need for access for mental and dental healthcare. So children spoke very strongly about just how tough it is growing up in Jersey but I also have heard through my casework just how tough it is if you have come to Jersey as a migrant worker, and again I would perhaps like to share some of that with you. Through our casework we have been carrying out light touch casework, helping children, those that care for them and their families when they have really struggled. A theme throughout the casework has been around the Control of Housing and Work (Jersey) Law and how that has had a negative impact on children and young people. I appreciate the application of the law and its associated policies such as the hardship policy. I know that they are there to manage the objective of managing the population, so I appreciate that. I appreciate that this law was developed prior to Jersey signing the U.N.C.R.C. (United Nations Convention on the Rights of the Child). However, cases that have come my way show that decisions, particularly those relating to hardship applications, are not necessarily taken in the best interests of the child. That has not been the primary consideration. The consideration has been around the adult entitlement to live somewhere, to work somewhere. It has not been around the children who are with them and their right to access an adequate standard of living. I am not going to go into those particular cases in a public forum; children have a right to privacy and their families have a right to private lives. However, I would be happy to talk to you in more detail about those cases if it helps to explain some of the implicit issues around this. I think what we have also heard is the unintended consequences that include homelessness, and by that I mean people living in temporary accommodation. That is being homeless. I also mean families being forced back into abusive relationships. That is contained in the domestic abuse strategy but is an unintended consequence of that particular law. Also the children being removed into care, which is a circumstance that has been brought to light for us and is not in the best interests of the child. So what I am seeing here are tensions between government policies and tensions between us respecting children and adult human rights. I hope that is helpful.

Deputy S.M. Ahier:

How should children and young people influence the work of the migration policy board? Do you think they can have an influence?

Commissioner for Children and Young People Jersey:

I think they can influence because they certainly are clear about the issues. You will see from our report when we asked children across the Island: “What would make things better for you?” they did not talk about a 50-metre swimming pool or can we have an ice rink in the centre of town in the summer or can you ban us from going to school because we want to be on the beach all the time. They talked about real and pressing issues. They talked about poverty, they talked about access to mental health support, they talked about schooling and just how difficult it was. These were children from a very young age. I think, first of all, it is very clearly about let us make sure we are asking and in terms of engagement, yes, I think children and young people will have some very clear ideas just how to make this legislation better in terms of supporting outcomes for children, because the Government have made a promise to children, not just through the U.N.C.R.C. but in your children’s plan. Many of you have signed a pledge and the work of this board needs to understand how will it help to contribute to those outcomes in that children’s plan.

[10:15]

The Connétable of St. Peter:

Commissioner, from your work, what aspirations or concerns do children and young people have for the Jersey of the future and is any of this tied up into population and migration issues, some of which you just covered?

Commissioner for Children and Young People Jersey:

You will understand from my previous answers that I believe that there is a very strong view. The answer to that is yes. Over the next few weeks we hope that the Commissioner for Children and Young People (Jersey) Law will be ratified through the Privy Council. Once that law is passed through that process then we will publish our strategic plan and we have been working with children and young people to say: “What is the vision for Jersey? What should be the commissioner’s vision?” They spent a long time thinking about it and they said quite clearly that they want Jersey to be a place where their rights are realised, their voices are heard and their rights respected and that their voices shape their lives. Certainly any work around legislation and policies around migration and population are going to shape their lives and they should be involved.

The Connétable of St. Peter:

Do you think children will be concerned at the prospect of the population doubling in size during their lifetimes?

Commissioner for Children and Young People Jersey:

I am sure they will have a concern. Let us ask them. Children also quite often have innovative ideas that we quite often miss. I spent a couple of days at the beginning of this week at a conference. The first day was led and attended by children and young people across the Island and it was about emotional mental health. They came up with fabulous ideas that adults had not thought about, really simple things that are not going to cost a lot of money but they are insightful. So no doubt they will have a range of ideas that will help.

The Connétable of St. Peter:

I think the final one you have answered. Do population and migration affect directly any of the children and young people that you are involved with? Well, you have already covered that, unless there is anything further you want to tell us.

Commissioner for Children and Young People Jersey:

I think so. Part of your thinking must be around the impact on public services, so if population size grows then the impact on public services needs to be thought through. We need to make sure that the Government can effectively meet the needs and demands of those that work here. I think children and families would have a clear view about making sure that whoever comes to the Island, whether it is somebody like me who has moved here on a licence, whether it is somebody who has come perhaps to work in the hospitality industry or on the farms, but whoever it is that they are welcomed and that they have access to the support that they need and are able to become part of the community. For example, the migration policy that was withdrawn had a commitment in there to an integration strategy and this is really encouraging. The Island relies on people to come to the Island and we want to welcome that but we want to make sure that through a good quality integration strategy everybody can grow together and have that community where everybody's voice is heard.

Deputy J.H. Perchard:

How important is it that any new migration policy prioritises the assurance of an inclusive and safe environment for children?

Commissioner for Children and Young People Jersey:

Well, absolutely, that goes without saying. Children have the right to be kept safe from harm. That is a duty under the U.N.C.R.C. but it is also a commitment in the children's plan that we will keep children safe. So, very much so, that has to be a key priority.

Deputy S.M. Ahier:

During our hearing with them, the Migration Policy Development Board confirmed that they were examining possibilities such as mandatory English language tests for new migrants. How should such policies be designed for children coming into the Island?

Commissioner for Children and Young People Jersey:

What I have heard is ... I have been out a few times to speak to the English as an additional language team. What I have heard is that there have been some cuts to that team and that is worrying because one thing we want to do is make sure that children can access the curriculum, and that is all children, not just those who come to the Island with limited language. We are also talking about children who perhaps have speech and language difficulties. That particular team and their expertise is something that is vital for children. If they cannot read and write English then they will struggle to access the curriculum. So that is a concern that I have.

Deputy S.M. Ahier:

Should an initiative such as free English language tuition be made available for children arriving in Jersey?

Commissioner for Children and Young People Jersey:

I think all children arriving in Jersey should have access to learning English and if there is a cost to that then that is going to be a barrier. So I would suggest that free access is going to be beneficial because, as I said, it will help families to integrate, it will help children to access the curriculum and, beyond the curriculum, it will help children to engage and integrate with the community and extracurricular activities.

Deputy S.M. Ahier:

Do you believe that there are any other potential initiatives that should be considered for children that are coming into the Island?

Commissioner for Children and Young People Jersey:

I have seen some really good practice in schools where they are running Portuguese classes after school, so homework clubs, opportunities for children to come together, to socialise together, but equally those children teaching their language to English-speaking children in school, which helps raise their self-esteem and profile. I think there are a number of ways in which we can drive integration and help these children to become part of our community.

The Connétable of St. Peter:

Inward migration is currently averaging over 1,000 people per year. If this continues, what do you think the impact on children will be?

Commissioner for Children and Young People Jersey:

This is not something I have done a big piece of work on, so I can only talk about the issues that are being raised now with me through casework and through our survey work. I can only consider that the pressures that we are seeing on children's services, for example, and the pressures on our education services and on our health services, for example the rising trend in demand for emotional mental health services, if the population levels increase then demand for those services will increase. Therefore, the Government need to consider what systems, services and social policies are there to be responsive to the needs of that increasing population size.

Deputy J.H. Perchard:

My question is about the proposals that were withdrawn and you alluded to the integration strategy. Was there anything else contained in those proposals that you think would have an impact on children, whether positive or negative?

Commissioner for Children and Young People Jersey:

I have not looked at them in any great depth, so I cannot answer that question thoroughly, Deputy Perchard, except that certainly the integration strategy was an encouraging aspect and I would be very keen to see that as part of any policy development.

Deputy J.H. Perchard:

One of the aspects of the previous policy - and you obviously do not need to comment on it if you prefer not to - was criminal records checks for migrants and short-term work permits. If you did have any comment on those aspects they would be welcome but obviously you have not had time to prepare a comment.

Commissioner for Children and Young People Jersey:

No. I can only talk through the casework, those families that have come to us and asked for support. That is around families where one partner has a licence, the relationship breaks up and then the other partner finds themselves with children with nowhere to live because they are no longer entitled to stay and, therefore, can only access unqualified housing, and indeed there are employment issues around some of that as well. Equally, we have, through our casework, had families come to us who are suffering real hardship because they have been on the Island less than 5 years and, therefore, are not entitled to any income support. They struggle to pay for their children to go and see the doctor. They are living in unqualified housing, which the quality of some of that is not up to standard. It is not what we would call an adequate standard of living. Those are the sorts of issues that I am seeing raised and those issues could be addressed through any new policy and legislation in this area.

Deputy J.H. Perchard:

We have heard in some of our public hearings that if someone is admitted on a licence to the Island that the children potentially accompanying them are not licensed or registered in their own right. Do you have a view on whether they should or should not have their own licence, just in terms of acknowledging their presence and also monitoring their wellbeing and their journey on the Island?

Commissioner for Children and Young People Jersey:

As I said right at the beginning, I think that the focus has been very much on the adult entitlement, the entitlement to work, entitlement to live somewhere and entitlement to access income support. We need to switch the thinking around, be thinking about human rights. What are the adult's human rights in terms of an adequate standard of living, the right to family life? What are the child's human rights in terms of their access to education, making sure that they have enough food? If we look at it in that different perspective, if we look at it from a child's rights approach, I think we are going to start to change the culture and think about all children differently. The danger of focusing on people's entitlement to stay and what that might mean in terms of access to benefits I think is quite a dangerous approach, so I would like to see it completely flipped around.

Deputy J.H. Perchard:

Have you heard of any children's experiences of being treated differently because they are considered a migrant, just in terms of how they are interacted with at school or if they had negative interactions with adults or other children in the community?

Commissioner for Children and Young People Jersey:

Some of our casework has been acting on behalf of children who have lived on the Island for less than 5 years and I have heard from them just how difficult it is growing up. I have been out to visit children living in their homes right across the Island and I have seen some good practice and I have seen some bad practice in terms of their living accommodation. I have not had any children come to me to talk about racism or whether they have been bullied because of that. That has not been an issue that has been raised for me but I am not saying that therefore it does not happen.

Deputy J.H. Perchard:

Again, this is probably a question to ask children, but have you noticed a difference between migrant children who are from lower income families or who are E.A.L. (English as an additional language) or both compared to the children of people who come here who on higher incomes or have moved to a higher income job? I guess what I am asking is: are there different problems for different types of migrant, without wishing to label anybody?

Commissioner for Children and Young People Jersey:

I think that financial considerations does have an impact but saying that, some of the families that we support through casework are where there has been issues through family breakdown where one person is the licence holder and that has a big issue on family impact, so maybe the family being split apart, half of the family may be moving back to another country, such as the United Kingdom, and the impact that has on children being able to see their families. That is very difficult, but equally I have seen the impact among low income families, the impact of just trying to make ends meet in that type of situation. So I think it permeates all levels. I do not think it is necessarily particularly harder for one group than another.

Deputy J.H. Perchard:

Do you think the narrative around migration in Jersey needs to change?

Commissioner for Children and Young People Jersey:

Well, I am a migrant, am I not? I have been brought to the Island, previously living in England. I am a migrant but you do, for example, in the press see the way in which reporting is distinguished sometimes. If I were to commit a crime then they would say: "This woman of this age has committed a crime" but if I was from a particular heritage then that would generally be the first part of the headline. I think there is a lot of work that we can do across the Island to make sure that we support and drive integration, because at the end of the day Jersey relies on people coming on to the Island to perform all sorts of different tasks and work and to support civil society as well. Therefore, all people should be welcomed and embraced, supported to live well without really worrying about how long they have been here or where they have come from.

[10:30]

Deputy S.M. Ahier:

Did you at all receive any contact from the Migration Policy Development Board before it was formed as to whether you might sit on the board?

Commissioner for Children and Young People Jersey:

No, I have not. No.

Deputy S.M. Ahier:

No. Do you believe that you should have been asked?

Commissioner for Children and Young People Jersey:

Of course I would say yes, but we are in a different phase at the moment, as you know. I have been operating in shadow form. I do not yet have the law. Hopefully we will have the law at the end of July. In the law there is a duty for Ministers to consult with the commissioner on any legislation where it may impact on children and young people. Now, I would argue that all legislation impacts on children and young people in some way and therefore there is an expectation that moving forward that that routinely happens, but I am aware that people do not necessarily know that yet. So I will be spending time over the summer and through the autumn talking to all of Government and also making sure that all Ministers know and understand the role that we will be playing moving forward. However, what I will say is that the Minister for Children and Housing has commissioned my office to conduct a full and thorough review of legislation in Jersey in line with the U.N.C.R.C. For example, we will be looking at the Housing and Work Law and we will be looking at its alignment with human rights. What we will do then is use that information to inform the Council of Ministers' thinking on full and direct incorporation of the U.N.C.R.C. That means putting it into domestic law, but the benefit of that piece of work means that we will be looking at all legislation in its breadth and looking at what is the impact of this legislation on children's human rights and on adult human rights and helping the Government think those sorts of issues through.

Deputy J.H. Perchard:

That sounds like an invaluable piece of work. Do you anticipate that your assessment of the Control of Housing and Work (Jersey) Law would coincide with the work of the board? Do you think you might be in a position to share your findings with them before they finish developing their policy?

Commissioner for Children and Young People Jersey:

We will have that work ... as you know, this is a substantial piece of work. Some legislation will be a higher priority than others, for example the education law and the children's law but also housing law and health law. We hope that will be available in May or June next year but in the meantime the offer is there for us to support. One of the things that we are doing as an office is starting to write guidance around what is a child rights approach, what are the principles of a child rights approach, so how do we take into consideration dignity, respect, non-discrimination, participation, best interests of the child? So those key principles of children's and adults' basic human rights, how do we apply those when we are rethinking our policy and practice?

Deputy J.H. Perchard:

Thank you. Any further questions from the panel? Thank you so much for your time. We really appreciate your contribution. I will close the meeting.

[10:33]