

2024.07.16

2.3 Deputy H.L. Jeune of St. John, St. Lawrence and Trinity of the Minister for Justice and Home Affairs regarding the drafting of hate crime legislation (OQ.133/2024)

Further to the response to Written Question 136/2024, will the Minister advise what progress, if any, has been made regarding the drafting of hate crime legislation, and the estimated timeline for lodging?

Deputy M.R. Le Hegarat (The Minister for Justice and Home Affairs):

As Members will be aware, the hate crime legislation has been a component part of the Prejudice and Public Order Law, which dealt with the issues of public order as well as crimes motivated by prejudice. The offences in our draft law were mostly based on those in force in England and Wales, which sit in the Public Order Act 1986. Since the initial development of the law, other jurisdictions have introduced comparable legislation, which provides more effective and future-proofed ways of describing hate crime offences. In light of these developments, officers of the Cabinet Office are working on the Law Officer's Department to redevelop the offences in the hate crime law into an effective and modern form. This work is ongoing and I am still committed to finalising this legislation within this term of office. However, there are still significant questions to be answered around the treatment of sex and gender, as well as how we deal with the issue of stirring up hatred. I intend to develop a plan, with consultation in due course, and to complete the legislation as soon as practicably possible.

2.3.1 Deputy H.L. Jeune:

Could the Minister advise what is the current state of hate crime in Jersey and have there been any notable trends or changes in recent years?

Deputy M.R. Le Hegarat:

My apologies, Sir. Can the Deputy repeat the question please?

Deputy H.L. Jeune:

I said, could the Minister advise what the current state of hate crime is in Jersey, seeing as there is not legislation at the moment, and have there been any notable trends or changes in recent years?

The Deputy Bailiff:

The question is about drafting hate crime legislation, Deputy. It is important that supplementaries are focused on the question. I am not sure the Minister can answer this. Can you answer this, Minister?

Deputy M.R. Le Hegarat:

No, Sir, I cannot.

2.3.2 Deputy H.L. Jeune:

Okay, then please can I have another follow-up question? In that sense, because there is yet to be legislation specifically focused on hate crime, what are the policies and strategies that are currently in place to help prevent hate crime and to support victims of Jersey currently?

Deputy M.R. Le Hegarat:

Of course legislation already within ... the States of Jersey Police already have legislation which will cover hate crime offences. Of course what we need to do is make specific legislation which can deal with these offences as opposed to using other legislation to actually deal with them. So that is why the legislation is being brought forward. There are lots of parts of it that need to be clarified. As we said, in relation to other parts of the country the law has had its challenges, so we need to make sure that whatever we bring forward for Jersey is right and suitable for our own selves.

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

Is the Minister aware of recent attacks on members of the L.G.B.T.Q.+ (Lesbian, Gay, Bisexual, Transgender, Queer plus) community? Is she concerned about this and will she ensure that they are protected under this new legislation?

Deputy M.R. Le Hegarat:

I thank the Deputy for the question and it is not something that was brought to my attention. I have met with the new C.E.O. (chief executive officer) of the L.G.B.T.Q. community and I would anticipate that that will be a regular meeting to keep updated with. At this stage, as I said, I was not aware of that, but I would ensure and I would be totally committed that the States of Jersey will investigate these offences to the best of their ability to ensure that they are treated with dignity and also that they are investigated properly and those offenders brought to court.

2.3.4 Deputy L.M.C. Doublet:

Please could the Minister confirm which characteristics will be protected under the proposed new legislation?

Deputy M.R. Le Hegarat:

As I said, we are going to do a consultation to establish what actual characteristics the consultation process will bring. Mostly because, as I said, there have been challenges in other jurisdictions. One would want a legislation that was going to incorporate everything, but we obviously need to ensure that what we do include is actually what the people that we consult think is appropriate. Obviously the people that we will be consulting are the people like the L.G.B.T.Q. community alongside other groups who have an interest in this subject.

2.3.5 Deputy I. Gardiner:

The Minister mentioned several groups that need to be included in the future hate crime legislation. Would the Minister indicate what policies and procedures do we have in place currently to address hate speech, including hate speech towards the public figures, including State Members?

Deputy M.R. Le Hegarat:

There are still offences under the Public Order Law that relate to people's behaviour and how they are in the public domain. There is also legislation obviously in relation to the Telecoms Law which will deal with it in certain other aspects. But all of that legislation is more ... how can I put it? Is not as robust as having a legislation which will be for hate crime. That is why it is essential that we do this legislation and, as I said, it will be done as expeditiously as possible.

[10:00]

It is my intention within the next 3 or 4 months, probably in the autumn, to actually go out to consultation. As I said, we will be looking to groups for that to occur.

2.3.6 Deputy P.M. Bailhache of St. Clement:

Will the Minister confirm that in the drafting of this new legislation proper regard will be had to freedom of speech and the right of people to say things which may be upsetting to other people?

Deputy M.R. Le Hegarat:

I thank the Deputy for the question. Of course this is why we need to consult and this is why we need to ensure that whatever legislation we get in relation to hate crime in Jersey is suitable for our own jurisdiction. What we do not want is what has happened in other parts of the country whereby it has created more of an issue and people have felt isolated and then people are complaining about them not feeling supported themselves. Let us be honest, this is a very difficult type of legislation because different people in the community have different views on what should or should not be within this legislation. That is why consultation is imperative because we do not want to be in a position that we bring in legislation, like some of the other places have done, and then that causes more conflicts than it actually resolves.

2.3.7 Deputy M. Tadier:

Deputy Bailhache pipped me to the post but I think that I can continue in the vein. What importance does the Minister place politically on the right to offend and also Article 10 of the European Court of Human Rights or Convention, sorry, on the ability for people to express themselves freely and to hold opinions and to impart them also in this regard?

Deputy M.R. Le Hegarat:

I think it is important that people are allowed to speak but it is also important that their speech is not offensive and does not cause offence to others. I think there is a balance, there is definitely a balance, about being allowed to speak and say what you want to say, but also about the fact that what you are saying may offend others and your actions may also cause public order offences. I do think that and I fully accept that under the human rights we all have rights to do certain things, but those rights need to be considered alongside offences and also how other members of the public will feel by what we make and say in public.

2.3.8 Deputy M. Tadier:

I am slightly worried. We will have to listen back on the recording and maybe look at Hansard, but I am concerned that one does not have the right to offend by what the Minister said. Does she agree that offence ... it is up to the listener to decide whether they take offence at something and they do not have to take offence necessarily? Clearly there are degrees, I hope the Minister would accept that, of egregiousness. But does the Minister accept that it is a fundamental right to be able to offend, and that is something that we should defend first and foremost?

Deputy M.R. Le Hegarat:

Yes, I appreciate what the Deputy is saying but I do also think that we have got to be in a position where you are allowed to offend but you also have to be careful about what you are saying and whether you are offending somebody or you are actually targeting and it then becomes hate crime. I do think that ... I fully accept what you are saying, Deputy, but I do feel ... sorry, I should have gone through the Chair. I do fully appreciate what the Deputy is saying but I also feel that you have to be minded of what you are saying publicly. Yes, you can say what you want in public but you have to also be minded of whether your words and your actions are committing offences.

2.3.9 Deputy P.F.C. Ozouf:

I wonder whether the Minister would inform the Assembly whether or not she is considering including misogyny in the legislation traits and typologies that she is considering?

Deputy M.R. Le Hegarat:

I thank the Deputy for the question, and this subject has rightly come up before and it will be discussed in the round of the consultation process because, as I said, we need to ensure that whatever we put into our legislation is going to be workable for our community as a whole. So, yes, that has been considered. It will be considered, as will other elements be considered, but we need to ensure that whatever we put in the legislation is workable and acceptable to the community.

2.3.10 Deputy H.L. Jeune:

I thank the Minister for her responses around this important subject. I would maybe like to ask the Minister, had she envisaged this consultation ... a new set of consultations from the beginning, or is this a new development? Because the hate crime legislation, I feel, was quite advanced before the beginning of this year and there is a lot of information around what is needed in Jersey. I was wondering whether the consultation ... delaying it further to do a consultation is really why the Minister decided that this was important to do.

Deputy M.R. Le Hegarat:

I thank the Deputy for the final supplementary. In actual fact, where the Deputy says that the legislation was on track, there have been a lot of different parts and elements to this and various discussions. The consultation was, I believe, some time ago, or not fully completed. Therefore it is appropriate that consultation is made because we do not want to have the same situation, as I said, that other jurisdictions have. So we need to ensure that when the legislation comes through that it is going to come through ... it is going to be a good piece of legislation that can work well for everybody and it protects those people that it needs to protect.

Deputy K.L. Moore of St. Mary, St. Ouen and St. Peter

Sir, would the Deputy give way for a point of clarification?

The Deputy Bailiff:

No, it is not your question, Deputy Moore. I do not think that is appropriate.