

3.17 The Deputy of St. Martin of the Minister for Education, Sport and Culture regarding the human rights compliancy of suspensions under the Education (Jersey) Law 1999:

Will the Minister advise Members whether the Education (Jersey) Law 1999 in respect of suspensions is human right compliant and, if so, is he satisfied that the current policy to address the causes of suspension and to cater for the needs of suspended children is operating successfully and, if not, what steps, if any, is the Minister proposing to address the matter?

The Deputy of St. Ouen (The Minister for Education, Sport and Culture):

In response to an issue raised by Deputy Hill with my department I have considered whether the Education (Jersey) Law 1999 is human rights compliant in this respect. It is my view that it is. In respect of policy, I am conscious that we need to protect the human rights of all children in our care, including those pupils who may face suspension. There are principally 3 areas which do concern me and I will be taking steps to ensure that these are dealt with. Firstly, the guidance provided to schools needs to be made clear so that they understand their responsibilities in administering a suspension, especially in terms of making alternative educational provision for suspended pupils. Secondly, parents need to be explicitly informed at the outset of their right to appeal and the process for doing so. Thirdly, we need to monitor more closely how the suspensions policy is administered across all schools. Consequently, I have asked officers to review the guidance to schools through new arrangements we have introduced or are about to introduce this year to enhance governance. I have asked the schools' advisory team to monitor more closely the use of suspension. Thank you.

3.17.1 The Deputy of St. Martin:

The Minister will have read part 6 of the 1999 Education Law which covers suspensions. Will the Minister confirm that the law and policy does not allow for either the child or the parent to be informed of the nature and cause of the accusation against the pupil or the opportunity to defend themselves in person or the right of appeal, which the pupil is entitled to in line with Article 6 of the Humans Rights Law? Will he also confirm that he is aware of a pupil and parent who have just experienced such a denial of their rights? As the answer will be in the affirmative, what action is he taking?

The Deputy of St. Ouen:

Firstly, I do not support the Deputy's view that Article 6 is contrary to human rights compliance. Indeed we have a system not only that covers appeals but a procedure that covers how we deal with what I would call physical aggressive behaviour in schools. There are far wider issues than simply human rights compliance as the Deputy well knows. It is perhaps more important that we provide the right support for the individuals who find themselves in difficulties within the school environment. We cannot condone physical aggressive behaviour in our classroom at any age and it is not acceptable. It is clearly understood that the head teachers do have the authority to take appropriate action against pupils involving such actions. I am aware that there is far more that could be done. Indeed, I am firmly of the view that early intervention that helps to identify the issues that certain young people may face, and working closely with their parents or carers, is a much more appropriate method of addressing this particular form of behaviour.

3.17.2 Deputy G.P. Southern:

The Minister suggested that the relevant law does not contain an appeals mechanism and pointed to procedures which suggested there was an appeal. Can he point to any regulations or orders under which the appeal mechanism is clearly set out and, in particular, that the parents and student are informed of their rights and where is that in regulations or orders?

The Deputy of St. Ouen:

At this stage I cannot provide the detailed information that the Deputy requires. However, I will commit to ensuring that that information not only is provided to the Deputy but all States Members.

3.17.3 Connétable D.W. Mezbourian of St. Lawrence:

The Minister will know that a written question I lodged for today on suspensions required more work by his department and I agreed to its deferral. In the meantime, the Minister has referred to changes that he thinks should be made in the policy. I think it would be helpful for all concerned if he specified to us what the current policy is on suspensions.

The Deputy of St. Ouen:

I have some detailed information here if you will bear with me.

The Bailiff:

No, it must be done succinctly, Minister.

The Deputy of St. Ouen:

I will definitely try and do that, Sir.

Senator S. Syvret:

To be helpful, if the Minister has this information on paper would it not simply be easier for him to copy it and circulate to Members? **[Approbation]**

The Deputy of St. Ouen:

I have made that offer already.

The Bailiff:

Very well. I think that deals with that supplementary. I saw Deputy Le Hérissier.

3.17.4 Deputy R.G. Le Hérissier:

On the basis of that policy, could the Minister confirm whether or not suspensions roll over, and if they do roll over what explanation is given to parents by the school as to why it is simply being rolled over from one week to the next?

The Deputy of St. Ouen:

I hate to repeat myself but I have already offered to provide detailed information on all of these issues and I think that is the better way of managing it. Thank you.

3.17.5 Senator S. Syvret:

Does the Minister understand that Article 6 of the European Convention on Human Rights is, I believe, the Article which deals with the right to a fair trial? It is quite explicit and clear, Jersey is internationally bound to this convention, we are obliged to adhere to it via the United Kingdom, and if a States department such as his with its

suspension policy or any other matter is not in fact acting in a way that is compliant with the Human Rights Convention and, indeed, its domestic legislation which now exists in Jersey, then the department is acting in an *ultra vires* manner. Will the Minister please undertake a review to ensure that all his departments' activities are convention compliant?

The Deputy of St. Ouen:

Absolutely.

3.17.6 The Deputy of St. Martin:

I would like to thank the Minister because I think he has been put in a difficult position because he has had a case to take on almost running on board. But also I should acknowledge the fact that he has accepted the fact that there are human rights implications in his answers because clearly he said he is going to arrange an appeal mechanism which was not there. So I do not know how he thinks the present law is human right compliant. But in my supplementary ...

The Deputy of St. Ouen:

I did not suggest that I was going to introduce an appeal mechanism; I suggested that there was an appeal mechanism already in place.

The Deputy of St. Martin:

I would be pleased if that was the case. Is the Minister satisfied the schools have adequate staff to ensure the suspended pupils receive education during the period of their suspension?

The Deputy of St. Ouen:

As I have already stated, there is a responsibility for the Education Department and the schools to provide education and the provision of education for those children that are suspended. It is quite clear that on occasions, perhaps, resources perhaps are not as good as they could be. I do believe that every effort is made.

The Bailiff:

That concludes the questioning on question 18. Do Members wish to move on or propose ...?

Senator S. Syvret:

I think the view is, just from speaking to a few colleagues here, that we should dispose of the oral questions before lunch and then move cleanly on to the questions without notice after lunch.

The Bailiff:

Very well, Deputy Le Claire, question of the Minister for Treasury and Resources.