

2024.11.12

3.7 Deputy B.B. de S.V.M. Porée of St. Helier South of the Minister for Justice and Home Affairs regarding a definition of “Modern Day Slavery” into the Government’s Work Permit Policy and Procedures: (OQ.218/2024)

Will the Minister detail what work, if any, is being undertaken, or planned, to include a definition of “Modern Day Slavery” into the Government’s Work Permit Policy and Procedures or any related legislation?

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

The Work Permit Policy contains reference to the risks of exploitation and the measures that are in place to mitigate these risks and so address issues of modern-day slavery. Officers have been working closely with the Home Office on modern-day slavery, specifically on immigration matters. I take confidence that their findings that employment law, control of housing and work legislation and immigration work policy have measures similar to those in the U.K. that mitigate risk of exploitation. However, the work is ongoing.

3.7.1 Deputy B.B. de S.V.M. Porée:

Does the Minister feel that she has the full support of her officers and the Council of Minister to do this important work of inserting the modern slavery definition in the Work Permit Policy? That to me is instrumental to make sure that the welfare of migrant workers is protected within the legislation.

Deputy M.R. Le Hegarat:

I am fully confident that both officers within the department and the Council of Ministers support me in relation to the matter of modern-day slavery. In relation to a definition, this is a complicated question to answer. Neither the U.K. nor the Human Rights Convention tries to set a fixed definition of slavery, which I assume is to allow flexibility in relation to dealing with it. The U.K. College of Policing describes slavery as the status or condition of a person over whom any or all of the powers attaching the right of ownership are exercised. That is the traditional view of the person being property. That is a far more restrictive definition than being required to undertake forced labour, which the Forced Labour Convention defines as all work or services which is exacted from any person under the menace of any penalty and for which they have not offered themselves voluntarily. In relation to how Jersey works, in relation to work permit holders, I would want us to be slightly less restrictive in the way that we look at modern-day slavery and so I would want to see that we are looking closely at all of those work policies, all of those employers and employees, and how everything is working together to ensure that we do not ever find ourselves in a position where people feel like they are in modern-day slavery.

3.7.2 Deputy P.F.C. Ozouf of St. Saviour:

Like, I am sure, other Members, I declare an interest in having had previously before, in this Assembly, been involved in applying for work permits, but that is a wider issue. Given the period of time that I was Minister for External Relations, my attention was drawn to the International Labour Organization Convention, which the Minister did not set out as one of the legal issues for her to have regard to. Could she explain whether she has asked that the Forced Labour Convention Article 29, under Protocol 2014, is relevant because I am concerned and continue to be concerned that there are practices such as charging people for accommodation which is not compliant with the convention?

Deputy M.R. Le Hegarat:

I am not fully aligned, as the Deputy is, in relation to all of the convention. However, what I would say is that we do have ... or I have had concerns and the reason that the modern-day slavery legislation has not been progressed at this stage was due to the fact that the U.K. has what they call the U.K. Gangmasters (Licensing) Act of 2004, which actually for Jersey would be quite difficult to implement

due to the level of resources that would be required. This work needs to continue, and I have instructed officers, both policy and operational departments, to provide me with reassurance that Jersey is looking at all of the matters in relation to modern-day slavery. The Deputy talks about accommodation and, yes, I can fully understand why he thinks that this may be a risk if the person is actually being provided accommodation and therefore if their work permit is terminated then they lose their accommodation. This is an ongoing piece of work which I think Jersey will need to continue working with into future, because things change and we need to make sure that at all stages we are ensuring that people that come to work in Jersey are treated properly, fairly and equally.

3.7.3 Deputy P.F.C. Ozouf:

I am grateful for the Minister's response, but may I particularly press her on: is the Minister aware that practices such as unauthorised deductions, not only for accommodation, from work permit holder's wages for travel and other expenses in other places compliant with the I.L.O. (International Labour Organization) standards are incompatible? We are talking about lifting the minimum wage to the living wage where actually the elephant in the room, if I am correct in my assumptions, is the fact that the minimum wage is not being applied correctly to migrant workers?

Deputy M.R. Le Hegarat:

There are lots of elements to that question. I think in relation to the part that the Deputy talks about where people are having accommodation deducted without authority, I am not aware of that. There are elements that we raised within our Work Policy Review and our concerns in relation to how tax and social security and other deductions were made, and that all of that information was provided prior to the person taking on a work permit and coming to work in Jersey. I think it is also important from the aspect of what happens before employees come to Jersey. This was another thing that we were quite concerned about, is that people were being charged a certain amount of money in order to come to Jersey to work. That is something that we are going to look at, that is something that was highlighted at the time and it is still, like it is for the Deputy, a concern of mine because we do not want people to be in debt coming to the Island and having to therefore work purely to be able to pay off that debt. When they talk about Gangmasters in the U.K., this is basically what this is all about, it is about the recruitment of people and how they are recruited. As I said, myself and the Minister for Social Security are looking at these elements and whether there is something that we need to do further in relation to recruitment agencies and how people are actually coming to the Island.

Deputy P.F.C. Ozouf:

My question was actually about travel, which the Minister did not answer.

The Bailiff:

Well, I am about to say I have next Deputy Doublet, Deputy Jeune and final supplementary, no others. I was about to remind Members, although I did permit the question to come through, that of course the question is about the definition of modern-day slavery being introduced into legislation. I am conscious that we have stretched broader than that and I am going to rein it back.

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

Can the Minister advise whether she has changed any of the Ministerial responses to the Scrutiny Panel's report in this area and what areas of work she is undertaking, specifically the recommendations around modern slavery and exploitation?

Deputy M.R. Le Hegarat:

The answer to that is, no, I have not changed any of the responses to the recommendations. We said we were going to do all the recommendations and both myself and the Minister for Social Security have been doing exactly that.

3.7.5 Deputy L.M.C. Doublet:

In particular, a reference to any migrant workers who are experiencing issues around modern slavery and being exploited, where would they be able to go in the Island to seek help if they feel they are being exploited?

Deputy M.R. Le Hegarat:

There is currently a facility at C.L.S. (Customer and Local Services) where people can go, and that is going to be revised potentially in the future to another area, as in under the remit of the Assistant Minister Deputy Alves.

3.7.6 Deputy H.L. Jeune of St. John, St. Lawrence and Trinity:

When the Minister stood up here in late January asking us to support her as the new Minister for Justice and Home Affairs, one of her main promises was to work on modern-day slavery and do everything that she can related to this area that she had identified as something that was important to pull through. But, yet, when I hear her answer to Deputy Porée's original question about legislation and procedures on what is being planned or undertaken, I did not hear very much ...

The Bailiff:

Deputy, this is significant comment and really your purpose is to ask a question.

Deputy H.L. Jeune:

I will.

The Bailiff:

As succinctly as possible, please ask it.

Deputy H.L. Jeune:

Apologies. Would the Minister be able to explain, beyond business as usual, what concrete activities she will be doing to progress support around modern-day slavery issues within Jersey and any related legislation?

Deputy M.R. Le Hegarat:

My remit in relation to modern-day slavery has not changed. I am still determined that we will look at what we can do in relation to modern slavery. As I explained, the issue that we have is that the law in relation to the U.K. for modern-day slavery has a significant impact in relation to the U.K.'s Gangmasters (Licensing) Act 2004, which exists to provide protection to a completely different employment environment. We need to resolve that matter. We need to look at how we can, in Jersey, deal with that matter and therefore introduce some form of legislation.

3.7.7 Deputy H.L. Jeune:

Could the Minister provide a timeline in relation to looking at this?

Deputy M.R. Le Hegarat:

In relation to this particular piece of legislation, the Deputy will be aware that the priority rests with the violence against women and girls. I would hope that by the time that this particular Government has completed its term of office that I will be significantly further forward in relation to that modern-day slavery.

3.7.8 Deputy B.B. de S.V.M. Porée:

Could the Minister please explain how she intends to protect migrant workers against modern slavery without a definition that is fit for purpose and is within the legislation?

Deputy M.R. Le Hegarat:

I think, as I have explained, the definition of modern-day slavery implies that somebody is property. That, to me, is quite a significant thing. It is also quite difficult to prove. I know that people who have worked with the U.K. legislation find those difficulties. What I would want to do is have something that

ensures that Jersey is not at that high level, that we are looking at things closer and more concise so that we can deal with them efficiently as opposed to legislation, which only classes somebody as property. I think it is far more important that we look at it at a lower level.