

2024.11.25

Deputy T.A. Coles of St. Helier South of the Minister for Children and Families regarding raising the age of criminal responsibility in Jersey: (OQ.224/2024)

Will the Minister explain what consideration, if any, has been given to raising the age of criminal responsibility in Jersey (the age below which a child cannot be tried as a criminal) from 10 to 14 in order to match the UN Convention on Rights of the Child's recommendation, and if not, why not?

Connétable R. Vibert of St. Peter (The Minister for Children and Families):

Consideration has been given to the minimum age of criminal responsibility and will be referenced in the Youth Justice Strategy, due to be published in early 2025. Changes to the age of criminal responsibility are more complex than simply changing the age in a law. Guidance from the Attorney General provides safeguards against the criminalisation of children but we cannot safely raise the age of responsibility without answering the fundamental question of how we deal with children under the age of 14 who appear to have committed a criminal offence. The Youth Justice Strategy will be co-ordinated under the Building a Safer Community Framework and a Youth Justice Partnership is being convened in the coming months to work through the proposed key outcomes and action points from the strategy. The proposed group membership consists of Justice and B.A.S.C (Building a Safer Community) Co-ordinator, Deputy Chief Officer of the State of Jersey Police and representatives from Criminal Justice and Community within S.o.J.P. (States of Jersey Police), representative from the Law Officers' Department, Director of Children's Service, Head of Youth Service, Head of the Probation Service, Chef de Police from the Honorary Police, representatives from the Courts and Health and the Children's Commissioner's Office, and other members will be co-opted as required. I trust that this answers the point about whether it will be considered. At this point, it is difficult to say when we will be able to comment further and deliver on that specific item.

2.4.1 Deputy T.A. Coles:

Can the Minister confirm whether he believes that exposure to the criminal justice system for children under the age of 14 is a benefit or a hindrance in their development?

The Connétable of St. Peter:

I believe we would consider that a hindrance in their development. The current guidelines is anyone under the age of 15, the presumption is that they will not be charged. I think that everything we are doing under the Youth Justice Strategy is starting with early intervention to prevent children from coming into contact with the criminal justice system.

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

Does the Minister know how many children have been held criminally responsible for their actions between the age of 10 and 14 in the last 3 years? What has been the consequence?

The Connétable of St. Peter:

Actually, I do not have that information to hand but I am quite happy to provide that to the Deputy and I shall make arrangements for that information to be provided.

2.4.3 Deputy H.L. Jeune:

I am quite surprised. I am assuming it is quite a lot of children or not that many if the Minister for Children and Families is unable to understand how many children he has in under his care in this regard. Going on from Deputy Cole's question about the consequences of youngsters being held criminally responsible, has the Minister reviewed or will the Minister agree to review the impact of children being held criminally responsible at such a young age and how will the Youth Justice Strategy respond to this? Again, I am again extremely disappointed that in a written question the Youth Justice Strategy was going to be published in April. Why has it taken so long to now only be published in 2025?

[15:00]

The Connétable of St. Peter:

I have only actually taken responsibility for the Youth Justice Strategy in the last 10 days, so I do not think I can be responsible for its delay between April and next year. In fact, I think the fact that I have been given responsibility is to actually bring the Youth Justice Strategy to the fore and ensure that it is delivered within this Government. I think that I have already answered the question as to whether we are considering moving the age of criminal responsibility from 10 to 14. We certainly are considering that within the Youth Justice Strategy and I do not think there is anything else that I can add to that.

2.4.4 Deputy J. Renouf of St. Brelade:

For the avoidance of doubt, can the Minister state whether he is in favour of raising the age of criminal responsibility to 14?

The Connétable of St. Peter:

I think it is something that we definitely have to consider. As I have said, it is not a particularly simple matter. It needs a great deal of thought before we go along those lines. I notice in Scotland the age of criminal responsibility is actually 12, which is halfway between 10 and 14. They have somewhat different legal procedures but, as I say, it needs a great deal of thought and at this point I would want to see all the evidence before me before making any decision.

2.4.5 Deputy J. Renouf:

Can the Minister state how long he thinks it will take him to get his head around this particular difficult question?

The Connétable of St. Peter:

Well, that is going to depend on the delivery from the B.A.S.C. network and where the age of criminal responsibility rests within that. There are a number of important deliverables here and I would say that my first priority is actually looking at early intervention and for children to avoid entering the criminal justice system in the first instance. I do not think at this stage I can say when that will be delivered.

2.4.6 Deputy I. Gardiner of St. Helier North:

I would like to understand from the Minister what has happened between January and February when this Government took on their roles for Youth Justice to have only found a home 10 days ago. Why has the Youth Justice Strategy not progressed over the last 10 months?

The Connétable of St. Peter:

Right, thank you. I would not say it has not progressed. However, as I say, my own responsibility for it started 10 days ago. As to what has happened prior to that, I would need to look into that. Certainly, the idea of making an Assistant Minister responsible for that area is to ensure that it progresses faster than it has done. I would not want to comment on why it has not progressed and why there was not delivery in April this year without having had the opportunity to review everything. So I cannot answer that at present.

2.4.7 Deputy I. Gardiner:

I thank the Minister for his response. A follow-up from his previous answer where he would like to put an emphasis on the prevention in the first place to avoid 10 to 14 entering into the criminal system. Could the Minister let us know what specific actions or specific steps he is planning to do in the area of prevention?

The Connétable of St. Peter:

I think prevention starts perhaps at an age even earlier than 10 and some of the things we are looking at, in the first instance, is for the Youth Service in fact to undertake some of those early conversations with children who may have drifted into perhaps areas where they might become criminally responsible and work with the families. Moving on from there, if there continued to be a problem then possibly the next step would in fact be the Honorary Police system, which has been certainly been very useful in the past. Then there would be diversionary measures, restorative justice. Through those measures we

would hope that children who potentially might have gone into the criminal justice system would avoid that altogether. We are looking at very early intervention in the first instance.

2.4.8 Deputy M. Tadier of St. Brelade:

While the U.N.C.R.C. (United Nations Convention on the Rights of the Child) does not stipulate an age, it does strongly recommend that no child should be criminalised under the age of 12. Given the fact that the Minister has already indicated Scotland has a midway point, shall we say, of 12 years old, is that a model that the Minister might be looking to replicate for Jersey's criminal justice system?

The Connétable of St. Peter:

We would certainly look at that. I am certainly aware of it, the problem is that the Scottish system is so very different from our own that it is not possible to lift and shift and take it in its entirety. They have differences in their youth justice system that would date back to the 1960s in fact. Yes, it is something that we will look. They introduced that in 2021 so, in fact, any data that may be available is fairly new, but it certainly is something that we will look at. It is a jurisdiction which has changed the age, I would like to see how that is working and what results they have had.

2.4.9 Deputy M. Tadier:

Does the Minister accept that there is not a need for a legal system to be very similar to Jersey's, that this is ultimately a philosophical and political question about when children are old enough to know the difference between right and wrong and about legal right and wrong? Could the Minister, again, give an indication of what age he thinks, generally, children should know the difference between right and wrong when it comes to the law?

The Connétable of St. Peter:

I did actually answer that earlier. In fact, I said before making any judgment I would want to see all the evidence in front of me. I am very aware that it is not necessarily the legal system, nevertheless, the Scottish system would need to be ... it is very different from our own. At this point I am not going to say anymore, because after 10 days I do not have the evidence in front of me. I would like to see all the evidence from other jurisdictions as well.

2.4.10 Deputy T.A. Coles:

As the Minister has confirmed that they will be reviewing the Youth Justice Strategy, will the Minister commit to reviewing all U.N.C.R.C. recommendations and producing a report for States Members to acknowledge which recommendations they have accepted, partially accepted or rejected, so that Members can be better informed?

The Connétable of St. Peter:

I am not sure that all the U.N.C.R.C. recommendations are relevant to the Youth Justice Strategy. I would be quite happy to produce a report for those that are relevant to the Youth Justice Strategy and I can ask officers to do that. We certainly will review them but it is not just the Youth Justice Strategy, I have to say that there are elements of the U.N.C.R.C. where our other laws do not seem to take them into account. The right of a child to a home, for instance, I have mentioned this one before. Within the Planning Law it appears that a child can live in a house but if that child is a cared for child then it requires planning permission, because as soon as that child moves into that house, it is, in effect, a child's care home. We have actually had an instance of that and I am still working through that at the moment. I think there are numerous laws that are not compliant with the U.N.C.R.C.