

23.02.28

**4. Deputy M. Tadier of St. Brelade of the Minister for Home Affairs regarding the legal recognition given to Common Law Marriage (OQ.26/2023)**

Sorry, I cannot be with you in person. Will the Minister advise whether she is aware of any problems caused by a lack of legal recognition in Jersey of what is referred to elsewhere as “common law marriage” and, if so, will she provide any examples of concerns that have been raised with her about this, and advise whether she is minded to recommend any changes in this area?

**The Bailiff:**

Deputy Jeune, you are answering for the Minister?

**Deputy H. Jeune of St. John, St. Lawrence and Trinity (Assistant Minister for Home Affairs - rapporteur):**

I thank the Deputy for his question. The Deputy has correctly identified that Jersey law does not recognise common law marriage. Cohabiting couples are not afforded rights like those afforded to married couples or those in civil partnership in respect of matters such as property ownership and succession. The Minister for Home Affairs has recently been notified by a constituent of the difficulty this presented them in relation to their entitlement to survivor’s benefits under the previous government pensions scheme, the final salary scheme, which does not recognise cohabiting partners. However, the Minister has been advised that this is not an issue with the current pension scheme, the carer average scheme, whereas survivors benefit is payable to a cohabiting partner. It would not be for the Minister for Home Affairs to make any changes in connection with this matter specifically. No other concerns have been raised with the Minister.

**3.4.1 Deputy M. Tadier:**

Can I thank the Assistant Minister for the answer? She is correct that an issue has been raised with all St. Brelade Deputies, and I would hope in fact that even if the Minister cannot action it in a Ministerial capacity she does it as a constituency representative and speak to the department in that way. Does the Assistant Minister recognise that there is an issue with a certain generation of people, some of whom are now finding themselves not only in a very painful situation of dealing with the grief of losing a lifelong partner, someone they consider akin to a wife or a husband, yet they are finding themselves in an unexpected position of finding that provision which the loved one would have wanted to leave for them simply not being there because of a quirk in the law? Would she agree that that is an issue and that it could be looked at not necessarily solely by her own department but by cross-working with other departments?

**Deputy H. Jeune:**

I know that the Minister is aware of this case and aware of the correspondence with the individual involved and is part of the ongoing discussions; I would like the Deputy to be consoled with that. It is 2023 and how people choose to live together is, I am sure, up to them and I am sure everyone in this Assembly feels this way. We, as the Home Affairs Ministerial team, will consider this as part of our forthcoming diversity and inclusion action plan.

**3.4.2 Connétable M.K. Jackson of St. Brelade:**

Really just to reinforce the Deputy’s question. Would the Minister agree that the prevailing situation is immoral in this day and age?

**Deputy H. Jeune:**

The Minister and all the Home Affairs Ministerial team of course absolutely emphasise with the particular situation and those who are affected. As I said before, I think it is very important that the team will consider this as part of our forthcoming diversity and inclusion action plan and therefore develop plans accordingly.

### **3.4.3 The Connétable of St. Brelade:**

Clearly this is a case of which I am aware but there are other cases which may not have come to the fore because people are not always keen to do that but it clearly is a situation that needs addressing, and I thank the Minister for her response.

#### **The Bailiff:**

I am sorry, Connétable, that is an improper position to take I am afraid at this point because you should have asked a question.

#### **The Connétable of St. Brelade:**

Could I ask the Minister to agree that the field would be broadened to other applicants should they arise?

#### **Deputy H. Jeune:**

I agree that this is an important issue to look at and there are some misunderstandings that exist in this regard and I would really urge individuals to seek advice for their own circumstances from the Citizens Advice Bureau around buying property, pensions or having a child, as well as our Ministerial team will again look into this.

### **3.4.4 Deputy M. Tadier:**

I think from what the Minister has said there has already been a recognition historically about what I would call the inequality of the law as it stood, so the law has been changed. It simply is not retrospective. Given the fact that there has already been that recognition, would the Minister and the Assistant Minister consider with other Ministerial colleagues looking into what can be done, not simply in this case, because I do not think it is good policy to make rulings on a case-by-case basis, but to try and make changes so that those who are paying in under an old system can be treated equally with those under the new system perhaps?

#### **Deputy H. Jeune:**

I agree with the Deputy that this is part of our work that we should look at and we will consider this as part of our action plan because it is important, and we emphasise with those who have realised that this is a problem.