

## **2.7 The Deputy of St. Martin of the Minister for Home Affairs regarding an update of the review of the Rehabilitation of Offenders Law:**

Would the Minister give Members an update of the review of the Rehabilitation of Offenders (Jersey) Law and state whether it is proposed to bring any amendments in respect of how previous convictions are treated?

### **Senator W. Kinnard (The Minister for Home Affairs):**

I can confirm that, as I previously informed Members, there may be a need to amend the Rehabilitation of Offenders (Jersey) Law in the light of the U.K. Government's Safeguarding of Vulnerable Groups Act 2006 which will be brought into effect at the end of 2008. However, it may not be an amendment to the Rehabilitation of Offenders (Jersey) Law after all which is required in order to change the way in which previous convictions are treated. This is because the existing Data Protection (Jersey) Law 2005 and the equivalent English Act of 1998 contain articles which are yet to be brought into force but which would prevent the practice of employees being required by employers to disclose both spent and unspent convictions, known as enforced subject access. The ability to bring into force this element of the legislation is dependent on there being a basic form of disclosure which complies with the Rehabilitation of Offenders Law. Such a disclosure would only contain and reveal, where appropriate, unspent convictions. Disclosure Scotland has now confirmed that basic disclosure requests from Jersey residents and employers will now be serviced. The Data Commissioner is actively working towards implementing now the specific article of the Data Protection (Jersey) Law on the basis that basic disclosures are now available. So at last there will be some movement on this problem which has exercised myself and particular Members for some time.

### **2.7.1 The Deputy of St. Martin:**

I have not got the answer. I did ask if we could have an update of it and are we likely to get it in some near future. Is the Minister able to tell me who is part of the interdepartmental group which is led by Home Affairs, how often that group meets, and are the minutes available for Members to see?

### **Senator W. Kinnard:**

I can answer part of that but not all of it without notice. The membership of the working group is the Home Affairs Chief Officer, a Director of Nursing from Health and Social Services, the senior Human Resources Manager from Education, the Executive Officer of Home Affairs, the Police Information Compliance and Security Manager, and a member of the Law Officers' Department.

### **2.7.2 Deputy R.G. Le Hérisier:**

Would the Minister not concede that despite her enormously technical answer this has been an incredibly disappointing Act whose purpose has not been achieved? Would she not further accept that by referring to people like Disclosure Scotland it is taking away from the fact that within this very Island there are people asking for full requirements in terms of offences against the very spirit of this Law, e.g. applicants for Licensing Assembly licences?

### **Senator W. Kinnard:**

Obviously it is quite a complicated Act in that Members will be aware that there are a number of exceptions. I would agree that I have been very disappointed that the spirit of this Law has not been able to be implemented. I was the person who brought this matter to the States so I have been very committed to the whole ethos behind the Rehabilitation of Offenders (Jersey) Law. It has been a very complicated and, I have to say, tragically longwinded process in order to get to where we are today but, as I say, I am pleased to say that at last I do believe that there is movement and that this process through Disclosure Scotland is now available for local residents so that they will not be forced into a position where they have to unnecessarily reveal unspent convictions. I think that is a huge improvement and I am really glad that it is a movement forward, but clearly there is

still yet more work to be done in order to ensure that we have complete compliance with the way in which the Law works in the Island.

### **2.7.3 The Deputy of St. Martin:**

I am grateful for the Minister's reply but I think most members of the public are asking when are the results of this review going to be carried out. Will the Minister not accept the fact that the Safeguarding of Vulnerable Groups Act of 2006 is really to do with tightening-up provisions to ensure that those people who have convictions with young people in particular are strengthened? It has nothing whatsoever to do with the Rehabilitation of Offenders (Jersey) Law. What people are asking for is clarity so that when someone has a spent conviction they are not obliged to reveal it.

### **Senator W. Kinnard:**

The problem is the question itself conflated the 2 issues of the Rehabilitation of Offenders (Jersey) Law and the issue of past convictions along with this issue of the Safeguarding of Vulnerable Persons Act. The whole point of the review - the main focus - was on the introduction of the provisions to ensure that we can comply with the Safeguarding of Vulnerable Groups Act-style provisions within the Island to ensure that our children and vulnerable people are kept safe. Alongside of that I have always seen that the Rehabilitation of Offenders (Jersey) Law is the other side to that particular coin. I think I have explained in my answer that the way of dealing with the concerns that Members have had about the Rehabilitation of Offenders side of things is most appropriately dealt with, it looks now, through the Data Protection (Jersey) Law and through, as I say, the very helpful work of Disclosure Scotland on our behalf. As to the report on the review of the Law in Jersey so that we can meet the provisions similar to those of the Safeguarding of Vulnerable Groups Act, that is ongoing work so that we can ensure that we are not a back door to inappropriate persons coming to the Island when that Act comes into force in the United Kingdom in 2008. That is a piece of work that is constantly under review and will continue to be under review in the Island. There is no end date to that review because it is a matter in the protection of children and vulnerable people that we must keep abreast of at all times and keep constantly under review.

### **2.7.4 Deputy R.G. Le Hérissier:**

Would the Minister confirm that she is prepared to prepare for this House a report identifying when spent means spent? Secondly, and I know she herself fought valiantly so that the finance industry did not have the ability to go fishing, for example, unless under restricted conditions, will she produce a report outlining where people are being asked for previous convictions by agencies like the Licensing Assembly, the Honorary Police or whoever, thereby undermining the Law? Will she give us a report on that so we can see how many holes there are in this Law?

### **Senator W. Kinnard:**

I can give a report on how the Law is supposed to work in practice. The problem is that certain employers have not been abiding by the practice of the Law and this is one of the reasons why we have to change the Data Protection (Jersey) Law. I am aware of some cases that have come to me but they are a mere handful. It is the principle that I think we are concerned with. In answer to the direct question, I am more than happy to provide Members with an update with as much information as I possibly can on both those areas which are of concern, which I think are the issues around the group working on the safeguarding of vulnerable groups plus also, on the other side, the rehabilitation of offenders. I am more than happy to prepare that and will get on with it as soon as I can.