

The Chairman of the Health, Social Security and Housing Scrutiny - statement concerning the Sub-Panel's review of the Co-ordination of Services for Vulnerable Children

5.1 Senator A. Breckon (Chairman, Health, Social Security and Housing Scrutiny Panel):

The sub-panel established to review this subject is well advanced with its work and is therefore surprised an attempt is being made by the Minister for Treasury and Resources to seek the leave of the States to debate the issue contained in P.17/2009 Williamson Report: Implementation Plan. The sub-panel is supportive of providing funding for family X for the appropriate level of care and support in the United Kingdom and believes that the most transparent way is as contained in the projet of Deputy Paul Le Claire of St. Helier. The sub-panel wishes to express concern regarding a number of issues: (1) as identified in P.17/2009, the funds are not intended to benefit family X for off-Island support and placement; (2) the sub-panel has met with the trustees of Brig-y-Don and I can say with some confidence that the outstanding issues themselves are not directly related to the refurbishment and funding attached in P.17/2009. The sub-panel does not believe that the above 2 points are consistent with the appropriate identification of States spending. The sub-panel questions why the temporary use of funds from within the Health and Social Services budget cannot be utilised and topped-up in a timely fashion or that support is given by this Assembly for the P.62/2009 of Deputy Paul Le Claire of St. Helier: Family X: placement in the United Kingdom.

5.1.1 Senator P.F.C. Ozouf:

Does the chairman understand and accept that I have given an undertaking that while P.17/2009 did not identify the so-called family X, perhaps it did not identify it for all the obvious reasons that many Members do not want to discuss an individual case in the Assembly? The terms of the proposition before the States, notwithstanding the Minister's change in view of how to deal with these individuals, can be released in accordance with the desire that Members have to deal with the short-term funding issues for family X and Brig-y-Don. Does he not accept the undertakings that have been given and that the proposition can allow that to happen?

Senator A. Breckon:

When we looked at that issue it was exactly that, and I said in the statement it was about being consistent with the appropriate identification of States funding. If Members look at P.17/2009 there is resource in there, but it is not for off-Island support for this family and that was the concern the panel had. Would we agree something that is then used for something else? The same applies to Brig-y-Don. The things in there refer to staffing and to the premises; they do not address the issue that we picked up which is to do with what we would call a service level agreement.

Senator P.F.C. Ozouf:

I raise a point of order. I know that this should not take necessarily part of the time ticking on the questioning to the chairman, but there is an issue here. I have lodged and asked Members and informed the Greffe to bring forward P.17/2009 to allow funding upon the understanding that the recital that is before the Assembly, to fund urgent service improvements to address critical elements of the Williamson Report on the basis that could be used for the issue of family X which was not wanting to be identified originally, and notwithstanding the Minister's change of view in terms of the way that family X should be dealt with, that the proposition would allow funds to be withdrawn to the Health Department for that purpose in addition to Brig-y-Don, and further to that, I have given an undertaking. Is there any procedural issue that would prevent that from happening because I think we are on the same page in terms of needing to find an urgent issue?

The Deputy Bailiff:

The position is, I think, that the proposition is under Article 11(8) of the Public Finances Law for a specific sum of money and it is always open to departments who have been given expenditure approval to in fact use the money for a different purpose. That happens in the Business Plan and it could happen legally in this case too. In other words, even though the States think they are giving the money for a particular purpose to a department once it is in the department's hands they can in fact legally, under the Public Finances Law, spend it on what they wish. The remedy in those circumstances, obviously if the States feel they have been misled, is a political one against the Minister who sought the resources. I do not see at the moment that it is out of order. In other words, if Members are willing to accept an undertaking that it is going to be used in a particular way and it is used in that way, I do not see that the proposition prevents that. It would be unusual and a neater way might be for the Minister to seek to amend his own proposition to accurately state the current use and ask that the relevant 2-week period be waived; that might be a neater way of doing of it. To answer your question on a point of order, if you ask the Assembly to debate P.17/2009 and the Assembly gives you the money then the Health Department could use it to fund the English expenditure of the X family in England.

Senator P.F.C. Ozouf:

I am grateful for that clarification and certainly I have no wish to cause the Assembly any difficulty. My decision was made in relation to progressing P.17/2009 because I understood that would be the case, and I would just point out respectfully that family X was identified in the need for changes to children's services. It was not named **[Interruption]** ...

The Deputy Bailiff:

They were in Jersey at that stage, not in England.

Senator P.F.C. Ozouf:

Indeed, Sir, the implementation is different, but effectively the issue was the same.

The Deputy Bailiff:

Just to be clear, my ruling is that you can ask the Assembly. You can proceed in the way you wish. It will be entirely a matter for Members whether they are happy to proceed on that basis, because it is an unusual basis, because you are saying something slightly different in the proposition to what you are telling Members you are going to do. The alternative would be for you to table an amendment now, clarifying what you want the money for and asking the Assembly whether they would be willing to shorten the notice period. It is a matter for you as to how you proceed.

Senator A. Breckon:

I wonder if I may respond to that because I do not think, as Senator Ozouf has said, we are very far apart because I said in the answer why indeed could the Health and Social Services Department not fund it with money that they have been given, as you have perhaps alluded to there, in a Business Plan and then come to the States to seek funding providing procedurally that is possible? The other thing is the sub-panel are supportive of funding family X and I make that clear, but we are clear about how that should be and that is the U.K., which is not in the evidence we found which is in P.17/2009, and that is the reason for the statement.

The Deputy Bailiff:

I think I have dealt with the point of order so we will return to question time, having struck out that period of time.

5.1.2 Senator S. Syvret:

Notwithstanding the intervention of the Minister for Treasury and Resources, would the chairman of the panel agree with me that as far as the urgent and immediate need that family X

undoubtedly requires that the best thing to do would be to debate P.62/2009 and in fact will he support the proposal I am going to make to have that proposition moved up the Order Paper to be taken as the first item of Public Business?

Senator A. Breckon:

Another dilemma that the panel had was we were being asked to support something that was not procedurally ... or the intent. Had Deputy Le Claire's proposition not been there then perhaps we would have maybe had to seek to do something, as you suggest, with an amendment, to do that on a temporary basis albeit that an inquiry would continue. I agree with Senator Syvret that we do have an alternative and that is why the sub-panel have come out in favour of debating and indeed supporting Deputy Le Claire. Having said that, if there is the possibility of that agreement through the Treasury, and I think what we do not want to do is get bogged down in procedural stuff when really the decision needs to be made and the intent given so that the family can be assisted.

The Deputy Bailiff:

Just a comment from the chair. Deputy Le Claire's proposition, of course, does not obtain the money then if it is passed it asks somebody else, the Minister for Treasury and Resources, to go and get the money.

Senator A. Breckon:

The other thing is the sub-panel did apply their mind to that and I would not think that anybody in this situation would be demanding money as a first thing, that the care of the family would flow from a decision and the money would follow that. I do not think they want money upfront, with respect.

The Deputy of Trinity:

Just a point of clarification. If the States Assembly did decide to debate P.69/2009 of Deputy Paul Le Claire, it is only to request the Minister for Treasury and Resources to release funding so would the Minister for Treasury and Resources still have to bring a proposition to release the funding?

The Deputy Bailiff:

I would say so, yes. Deputy Le Claire's proposition, if carried, would be a vote from the States saying: "We want the Minister for Treasury and Resources to come to us and ask for the money" and he will still have to come and ask for money.

5.1.3 Deputy P.V.F. Le Claire:

Obviously it is a bit of an invidious position to be in. One of the things that I am trying to do today is to try and avoid uncomfortable debates and get what is best for these children in as quick a form as possible. I believe that it is possible to agree to both things today. The part of my proposition in (b) makes the States decision to request the Minister for Treasury and Resources to bring forward a proposition, but most importantly it makes the States decision not an agreement behind closed doors or from emails, but it makes a decision to make appropriate provision in future Annual Business Plans to meet the ongoing annual costs and that would be a States decision. If the States can do this and approve P.17/2009 today then I think we will have ticked all of the boxes. The Minister for Treasury and Resources has given me great comfort backed by the very good decision of the new Minister for Health and Social Services. If the Minister for Treasury and Resources can agree to this then I am sure we can get this done today. It is just a matter of putting on the record what he has already given me an undertaking to do and I certainly would not be seeking a long drawn-out debate. I would make a very rapid submission seeking the appel without debate and go on the record as to request Members to curtail speeches

completely and move to the debate if that is acceptable, if the Minister for Treasury and Resources is willing to accept this approach.

The Deputy Bailiff:

We have gone slightly off question time.

Senator A. Breckon:

The only thing, it is not the object of the sub-panel or anybody else, I do not think, to frustrate this process. If we can enable it procedurally to happen whichever way, if it is a case of debating both things and agreeing it, to give it belt and braces, then I do not think that is a problem for the sub-panel or anybody.

5.1.4 Senator P.F.C. Ozouf:

Can I just ask the chairman, does he not agree with me that there are a number of Members in this Assembly who do not want to make a decision in public concerning one individual case and that there is real concern about a continuing debate about one set of individual circumstances which should not be for the future on any record? There is already information in the public domain about individuals that could be traced and that is inappropriate. Does he not believe that agreeing P.17/2009 with the undertaking ... yes, it is unusual in terms of giving an undertaking, but conditions have changed? Does he not accept that debating P.17/2009 quickly now deals with the matter without any further public debate?

Senator A. Breckon:

If that covers and that satisfies Deputy Le Claire, but I do not think it does if there is an issue of second and third-year funding, and I think therein lies the problem. On the point of view of the sub-panel we have, in the course of this review, come across a certain amount of confidential information and we have been careful that from us this has not got into the public domain or otherwise. We are well aware of the background of a number of cases that are applying the minds of the court, again that we have not dealt with, and if we do include any reference to this in the review then it would be anonymised so that there will be no possibility of identifying the children involved.

5.1.5 Senator S. Syvret:

Would the chairman agree with me certainly that this would be my approach, and would he agree with me that this would be his approach if we were to debate P.62/2009 that, in fact, there would be no reference to the individual circumstances of the case or its history and so on? All that is sought unambiguously is the agreement which the Minister for Treasury and Resources could offer the Assembly right now, the agreement to accept part (b) of Senator Le Claire's proposition and if he were happy to do so I for one would be perfectly content to make no speech whatsoever.

Senator A. Breckon:

It was the intent that whichever way this is debated it is not something to play political football with and Deputy Le Claire has mentioned that. Certainly that is the way forward with care and compassion, but with a result that benefits these children.

Senator P.F.C. Ozouf:

I do not know whether Senator Syvret has read emails. I have given an undertaking to deal with P.17/2009 in the manner this year of which we have already explained and I have further given an undertaking to bring forward with the Minister for Health and Social Services a budget which includes the funding of this in the base budget. All aspects of the proposition are agreed. I have given an undertaking. Deputy Le Claire's proposition achieves nothing apart from to request.

We can deal with the fast-tracking of that, I agree, and we are moving forward. Let us get on with the debate for P.17/2009, I implore Members.

5.1.6 Deputy P.V.F. Le Claire:

With respect on a point of order, I partially correct the second part of my proposition: “Further request, bringing forward for approval a request under Article 11(8) for the necessary additional funding to meet the costs of these payments in 2009 in view of their urgency” and then to make appropriate provision. So all I am asking the Minister to do is accept my proposition. I will not make a debate about it. He has already accepted it in an email. It is just a matter of a States decision being much more robust than a States email from the Treasury, with the greatest respect. He can have P.17/2009. It is the best thing. It is a good start; it is a very productive start to what we need to do. I am slightly concerned that he is not willing to give us a States decision that he is willing to support the 3-year funding. He has done it in an email. Can he not just take that on board in a States decision?

The Deputy Bailiff:

I am sorry, we are still taking questions to the Chairman.

Deputy P.V.F. Le Claire:

Would he think that would be an appropriate way forward?

Senator A. Breckon:

I think we have got into the procedure of it and as has been stated a number of times, the sub-panel support the best way forward to benefit the family. If we can sort out the procedural issue on this then we can deal with it in a timely fashion and give this family the support that they need.

Deputy G.P. Southern:

It is questions to the chair, is it?

The Deputy Bailiff:

No, it is not questions to the chair, it is questions to the chairman.

5.1.7 Deputy G.P. Southern:

To the chairman, yes, Sir. Is the chairman aware that there is an amendment in my name to P.17/2009 which, if we go ahead and debate today, will have to be digested and put on one side and we will come back to it some time later? This is a very unusual way of proceeding with anything, to divert money from one agreed aim to another aim at will. What is to stop any Minister in future spending money where he likes?

Senator A. Breckon:

I was aware of the amendment, but again I am not sure we need to address the amendment because P.17/2009 is not in my name. What we are saying is that the Scrutiny Sub-Panel have seen a number of areas of concern to us procedurally of how best to approach this and what we are doing is bringing this to the attention of the House so that perhaps we can have an informed debate after this as to how best to proceed.

5.1.8 Deputy I.J. Gorst:

I wonder if the chairman could confirm his understanding of the tools available to the Minister for Treasury and Resources. It is my understanding that at this moment in time the only available tool to him is in 11(8) which is what he has on the table in P.17/2009. The other tool available to him is the Annual Business Plan, as it is to every Member. I am really struggling to see what it is outside of those 2 tools that the chairman is asking the Minister for Treasury and

Resources to do when they are the only tools available to him to provide both the funding for 2009 and the funding for the following 2 or 3 years.

Senator A. Breckon:

They are not the only 2 tools because the Health and Social Services Department have over £150 million at their disposal. What we have said in there, as has been mentioned, under the Business Plan that was agreed and voted, it could be moved between heads of finance, I am sure, and then funds applied for retrospectively. **[Approbation]**

Deputy I.J. Gorst:

I must have a follow-up there. It is exactly that problem that has got us where we are today. Which services is he suggesting that the Minister for Health and Social Services should stop in order to provide this? This is exactly the dilemma that the previous Minister for Health and Social Services had.

Senator A. Breckon:

Can I remind him we are in May not in December, so we are not even halfway through the year so they cannot have spent the money surely.

Deputy I.J. Gorst:

Could he say which services it is he is proposing to stop?

The Deputy Bailiff:

You have asked 2 questions, Deputy.

The Deputy of St. Mary:

If I have not forgotten, it is a question for the chairman. What was it? It has gone.

The Deputy Bailiff:

It is just as well because time has now run out. **[Laughter]**