

2015.01.20

4.9 Deputy S.Y. Mézec of the Minister for Economic Development regarding the possible introduction of anti-cyber bullying legislation:

Could the Minister update the Assembly on what progress, if any, has been made towards the introduction of new anti-cyber bullying legislation?

Senator L.J. Farnham (The Minister for Economic Development):

Senator Ozouf is the Assistant Minister with responsibility for this area so will take the question.

Senator P.F.C. Ozouf (Assistant Minister for Economic Development - rapporteur):

This is an important issue which needs to be tackled. I can advise that a Green Paper is in the process of being drafted for potential change probably to the Electronic Communications (Jersey) Law and the Telecommunications Law. The amendments that are going to be consulted on, the design to ensure that Jersey would have the ability in appropriate cases to prosecute behaviour such as sending indecent, grossly offensive, threatening, false or malicious electronic communications including via social media. This would encompass behaviour that constitutes what the Deputy is asking, which is termed cyber-bullying. The aim is to ensure that there is a level playing field in activity that would be considered illegal if it is conducted in person, for example by telephone, that would similarly be illegal if they were conducted using social media. So there are a number of high priority areas in the digital portfolio, including cyber security, telecoms regulation changes and others. But the Minister for Home Affairs has also said that this is a high priority and I agree with that. In the area I am responsible for a specific individual has been tasked with progressing this matter. The Green Paper, I hope, will be consulted on by Easter with legislation following later in the year.

4.9.1 Deputy S.Y. Mézec:

Thank you to the Assistant Minister for that helpful answer. I was going to make my supplementary about timescale but he has answered that at the end there. What prompted me to ask this question is a knowledge of a particular few individuals who we know are known to the police who are causing real strife to some individuals in Jersey, sometimes using the telephone, sometimes online, but one of the ways they are able to get away with it is because on social media it is very, very easy to completely conceal your identity. So what I would like to know is when this law comes forward will it be able to give powers to the police to be able to find out who these people are, whether that means directly enforcing organisations ... well, I do not know if it is possible to enforce but maybe directly to engage with organisations like Twitter and Facebook to find out who these people are who are hiding behind fake names so that they can target people, often very vulnerable people, and in my experience it tends to be victims of child abuse who are attacked by these people using false identities. So will that be something that will be able to be tackled under this new law?

Senator P.F.C. Ozouf:

I am happy to take that away. I am not the expert but clearly the officials that are drafting this are. I have seen this morning a copy of the draft Green Paper that the officials have worked on. I know that they have been consulting with both the Law Officers and the police and I will take exactly the issue that the Deputy raises. What I would say is that this is not an issue sadly only affecting vulnerable people in Jersey, it is an issue which Australia, Canada and around the world is dealing with. I have been informing myself of the various different ways that other countries are dealing with that, partly to inform myself about how to ask questions about this issue. The Deputy is right, there are isolated cases, particularly of vulnerable people, and as soon as we can deliver on legislation to ensure that no individual can get away with perpetrating what we would describe as crimes the better and we will put a very high priority to it.

4.9.2 Deputy J.A. Martin:

It is more of an explanation as to where exactly this piece of legislation then stands because the question to the Minister for Economic Development - and thank you to Senator Ozouf for answering it - literally where now is this piece of legislation being ... where will it come from when it is brought to the House. So if we want to keep chasing it up, who do we chase?

Senator P.F.C. Ozouf:

I am standing as one of the Assistant Ministers for Economic Development where the digital areas are being transferred to the Chief Minister's Department and it is going to be there. The Deputy can ask as many questions as she wants but I hope she and Deputy Mézec will not have to raise questions because we will make haste and inform Members quickly of these areas. It is an example where life is moving very quickly. The Telecommunications Law, which I was originally responsible for, I do not think even envisaged the existence of Twitter and social media. The world is moving and what we need is a piece of legislation that is going to be able to be capable of coping with further developments in electronic communication in order that every time a new technology comes up you do not have to change the law. I am hugely sympathetic and recognise the issue. Yes, I am accountable.

4.9.3 Deputy M.R. Higgins:

Can the Assistant Minister advise Members why the existing law or part of the existing law cannot be used? Threatening behaviour and other things like harassment and everything else laws exist at the present time. Can he explain why they have not been used to date?

Senator P.F.C. Ozouf:

They can. There are 4 pieces of legislation that cover this area. There is the Electronic Communications (Jersey) Law 2000, the Telecommunications (Jersey) Law 2002, Crime (Disorderly Conduct and Harassment) (Jersey) Law 2008 and also Data Protection. The Deputy knows, because he asked a question to the Attorney General on 9th September last year of exactly what guidance he had given for use under the existing laws. There are existing laws. Let that message go out that there is legislation here. It is the gaps that have been identified both here and in other jurisdictions that we are seeking to close. The Deputy is quite right and I would refer him to the written answer that the Attorney General gave him last September.

4.9.4 Deputy M.R. Higgins:

Supplementary. I think the Assistant Minister will find that my question to the Attorney General and to others about that time was the fact that one of the most prolific offenders of cyber-bullying in this Island claims he had protection from the police, because he had been one of the people working with the Data Protection Commissioner to prosecute former Senator Stuart Syvret. The question that I want to know is, does anyone have protection and why has this individual not been brought before the courts because his actions go beyond ... if you have given immunity it should not be allowed.

The Bailiff:

Deputy, that is clearly not a question for which the Minister is responsible. You will have to pose that question elsewhere. Deputy Tadier and then final question Deputy Mézec.

4.9.5 Deputy M. Tadier:

Following on from the theme, I know that the Assistant Minister, like any decent Member of the Assembly, would be worried about duplication of resources. It seems to me that if there are already existing mechanisms and if we know that, for example, as was alluded to by the previous speaker, that the Data Protection Law has been used by a prolific offender when it comes to cyber-bullying, when he was on the receiving end, perceivably by a former States Member, yet when this

individual has allegedly committed cyber-bullying there seems to be nothing that can be done. So is it not simply a question of will and also a question of resources because we know that anonymous cyber-bullying can be uncovered if the resources are put into that because there is a unit that can do that. It is within the remit of somebody who is I.T. (Information Technology) skilled and certainly it would be in the remit of the police. So can the Assistant Minister talk about targeting resources and making sure that there is a level playing field when it comes to cyber-bullying?

[11:00]

Senator P.F.C. Ozouf:

I am more than happy to put an answer and inform myself about the policies and the laws that need to be put in place. The Deputy I think is asking, quite rightly, matters which are about the resources that are available within the police and the prosecution service. Now, I know that this is a very high priority. The Minister for Home Affairs I think answered questions about this when she stood for office. All Ministers will want to make sure that we have the appropriate resources to investigate and to deal with the crimes that are there. It is not a complete absence of law, it is where gaps are emerging. I would say one final thing, there is also an important issue of education. There is an important issue about educating people about protecting themselves online and what already they can do. So there is a whole range of issues. I do not belittle the issue at all. It is massively important. It is high priority. We will put the legislation in place and we will also make sure the resources are available within the police, but also there is an issue of education and awareness that needs to be put in place.

4.9.6 Deputy M. Tadier:

A supplementary on that. The issue is if somebody sends you a menace anonymously on Facebook, on your email or even by phone there is no amount of education that can help you because messages appear in your inbox, *et cetera*. It is education that allows these very erudite cyber-bullies to flout the law or at least flout common decency and put that in place in the first place. So while I accept the spirit of the Assistant Minister's answer, I would ask him if he would perhaps not put so much emphasis on that last part and really focus, as he has said quite rightly, on those lacunas that currently exist.

Senator P.F.C. Ozouf:

I am trying to be really helpful. I do not put more emphasis on education, I say that it is part of society's response to it, particularly where young people are concerned and parents need to be informed and educated about what they can do to protect young people in open systems. The Deputy will be aware that Twitter, for example, can have closed accounts as opposed to open accounts. You can block people. There is an awareness to protect yourself, to open yourself to abuse in certain circumstances. But nothing should take away from the commitment of giving our law enforcement agencies the right legislation to prosecute, where people go through and penetrate into people's lives in a way that is completely unacceptable. This is a real issue and young lives, vulnerable lives, are affected and that is why we are acting and acting fast.

4.9.7 Deputy S.Y. Mézec:

The Assistant Minister's answers have been very helpful and it is possible I may have missed the boat simply by not being a States Member for too long. But would the Assistant Minister be open to perhaps having some sort of engagement either with States Members or perhaps with the wider public so that they can show specific examples of cyber-bullying so that when the law is finally brought forward it does adequately address the issues that some of these people are facing. As Deputy Higgins and Deputy Tadier have alluded to, there is one, in particular, individual who is doing a lot of cyber-bullying at the moment. I am aware of another person who is doing quite a lot as well, and it would be a tragedy for the law to eventually come forward and to allow these people

to continue perpetrating what they are doing at the moment. So would he be open to having some sort of either meeting or consultation, or something like that, to look at these to make sure the law, when it comes forward, does fill these gaps?

Senator P.F.C. Ozouf:

Absolutely, and that is why consultation will be issued. The aim is to issue that consultation before Easter, for that consultation to run for 12 weeks. In that period of time, all manner of meetings or consultation will be welcome. We will do a proper job on that and I will work with the Minister for Home Affairs on that particularly and then when the consultation is concluded we will attempt to put in place the legislative changes, some of which may be quite simple and could be done quite quickly. I have also asked officials to now put in place communication with law drafting to ensure that law drafting is ready to receive the instructions when the consultation is finished. I thank the Deputy for his questions.