

Education and Home Affairs Scrutiny Panel

Record of Meeting

Date: 16th February 2018

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| Present | Deputy J. M. Maçon, Chairman Deputy S. Y. Mézec, Vice-Chairman |
| Apologies | Deputy T. A. Vallois |
| Absent | |
| In attendance | Mr A. McIntosh, Founder, Jersey Action Against Rape [Item 2 only] Mr A. Harris, Scrutiny Officer |

| Ref Back | Agenda matter | Action |
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| Item 7 05/02/18 | <p>1. Draft Sexual Offences (Jersey) Law 201-</p> <p>The Panel conducted a line by line read-through of the draft law and identified areas for further questioning based on the submissions it had received so far. It was noted that initial questions had been sent to the Community and Constitutional Affairs Department and answers were expected prior to the hearing with the Minister for Home Affairs on Monday 19th February.</p> <p>The Panel agreed to draft a question plan for the hearing and tasked the Officer to inform the department of any additional question areas based on the submissions and read-through.</p> | AH |
| Item 1 05/06/17 | <p>2. Meeting with representatives from Jersey Action Against Rape</p> <p>The Panel received Mr A. McIntosh, founding member of Jersey Action Against Rape (JAAR) to discuss his submission on the Draft Sexual Offences (Jersey) Law 201-.</p> <p>Mr McIntosh explained that the charity had been founded after his daughter had been raped at the age of 25. It was noted during the trial that there was very little support for victims going through the criminal justice system and the case was ultimately dropped due to insufficient evidence. A civil case was subsequently brought, and won, and the compensation for damages was used to set up the charity.</p> <p>It was explained that the three main aims of JAAR were:</p> <ol style="list-style-type: none"> 1. To offer counselling to rape victims. So far the charity had helped 150 victims with over 2,000 hours of free counselling being provided. 2. To educate the public on the myths of rape and sexual assault 3. To offer guidance and assistance in changes to the law. <p>Mr McIntosh explained that JAAR was delighted that the sexual offences law was being reviewed, however there was one particular area of the law that was of concern to the charity.</p> | |

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| | <p>Mr McIntosh explained that the ability to prosecute rape cases was particularly difficult when taking into account perceived prejudices that could exist within juries. It was noted that any jury decision had to be unanimous and this caused a great degree of difficulty when prosecuting rape and sexual assault cases. It was explained that it was likely that some jurors would hold belief in the myths of rape and sexual assault, and therefore they could have undue influence on the outcome of the trial, without being based solely on the evidence. It was highlighted that this was not something that existed in other jury based trial offences. Mr McIntosh explained that public education on the myths of rape and sexual assault was the ultimate goal of JAAR, however it was accepted that this would still not be able to fully address the prejudices that existed.</p> <p>Mr McIntosh explained that he was happy that rape had not been made into a statutory offence, however he was concerned that there was a particular carve out for rape cases to be tried by juries. It was suggested that a trial by Jurat would be more appropriate and adequate training could be provided to the Jurats on the myths of rape. Mr McIntosh explained that consideration had been given as to reducing the verdict necessary to ensure a conviction, however it was agreed that the number of consequential amendments needed would be unworkable. Based on this assumption it was suggested that holding rape trials in the presence of the inferior number would be an easier amendment to bring to the law. It was noted that the Attorney General had been consulted and was open to the idea of making this change.</p> <p>It was explained that in 2017, 12 rape cases had been brought to trial with zero convictions being made. It was suggested that these statistics made it less likely that victims would come forward to report offences because of a perceived inability of the criminal justice system to convict rape and sexual assault cases. Mr McIntosh explained that he would be meeting with the Minister for Home Affairs to discuss his concerns on Monday 26th February.</p> <p>Mr McIntosh explained a further potential change to the law in respect of the appointment of prosecuting lawyers could be made. It was noted that in New York, as soon as a victim had made a report to the police, an independent adviser and prosecutor was immediately appointed to the victim. This allowed the prosecutor to spend time with the victim prior to the trial and establish a deep understanding of the case. In Jersey it was explained that the prosecutor would usually only meet with the victim the day before the trial. It was acknowledged by Mr McIntosh that this could fall outside of the law, however it was a point that was worth exploring.</p> <p>The Panel thanked Mr McIntosh for attending and agreed that it would raise the issues in the public hearing with the Minister for Home Affairs on Monday 19th February 2018.</p> | AH |
| <p>Item 2 22/01/18</p> | <p>3. Tertiary Education: Student Finance Proposals</p> <p>The Panel recalled that a public hearing was due to be held on the proposals with the Minister for Treasury and Resources and the Assistant Minister for Education at 7:00pm on Thursday 1st March at the Pomme D'Or Hotel.</p> | |

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| | <p>The Panel agreed that it would facilitate a 15 minute question and answer session after the end of the hearing to allow members of the public to question the Minister and Assistant Minister on the proposals. The Officer advised that the Minister and Assistant Minister would need to agree to this course of action, and the Panel considered the Terms of Reference for the type of question that could be asked. It was agreed that the Terms of Reference for the questions would be as follows:</p> <ol style="list-style-type: none"> 1. The question must be related to the proposal 2. It must not be of a personal nature 3. A name must be provided 4. The question (and answer) will be used as evidence in the review <p>The Panel agreed to circulate this information to the Minister and Assistant Minister immediately for approval.</p> <p>It was agreed that should the Minister and Assistant Minister not approve of this course of action then the Panel would invite members of the public to submit questions prior to the hearing. Furthermore, at the end of the hearing, the Panel would invite members of the public to share any comments on the proposals. It was also agreed that a handout would be produced for the hearing that allowed members of the public to make written submissions that would be included in the evidence for the review.</p> | <p>AH</p> <p>AH</p> |
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