

2.7 The Deputy of St. Martin of the Minister for Home Affairs regarding legislation to place children of 12 years and over in the Greenfields secure youth remand unit as a sentencing option:

In his traditional Christmas address, the Magistrate expressed his disappointment in the lack of new legislation to give the court powers to place children from the age 12 and over in the Greenfields secure youth remand unit as a sentencing option. Will the Minister advise when such legislation will be presented to the States and whether there is any possibility of expediting its progress?

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

The Children's Executive has developed law drafting proposals to allow the secure detention of offenders under the age of 15 in the Greenfields secure unit, but these need to be considered carefully against the Island's obligations under the International Covenant on Civil and Political Rights 1976. Discussions with the Ministry of Justice in the United Kingdom are taking place in that connection, and also Andrew Williamson has been asked to comment on the appropriate custodial settings for different ages of sentenced children below 18 years of age. It is intended that subject to these discussions the Children's Executive will bring forward a request for law drafting in order that these proposals can be implemented. It is difficult to provide a definitive time scale at this point for the Deputy, but everything possible is being done to try and implement the piece of legislation in accordance with their obligations. It is also worth noting that the Magistrate's address included praise for the way that the agencies were working together to deal with young offenders in the Island and some of the preventative work that is being carried out here. In addition, the Magistrate highlighted the very small number of regularly offending children who are aged under 15. This endorses the point that there is a real will to bring about positive change in some challenging young people and recent developments about which we can be proud. Indeed, since the law drafting proposals were prepared the Children's Law has been introduced which has allowed the secure detention of children at Greenfields via a civil rather than criminal route, and the criteria include children who commit a series of criminal offences as well as those who regularly abscond and represent a risk of harm to themselves or others.

2.7.1 The Deputy of St. Martin:

I am rather puzzled because on page 201 of the 2008 Business Plan it says that the amendments conferring new sentencing powers for the court in respect of offenders aged 12 and over linked with the development of a new secure facilities at the Greenfields site and the law drafting instructions were awaited as at 15th May 2007. What I am rather puzzled about is why are we having law drafting prepared yet no decision been made whether, in actual fact, that law was necessary. Can the Minister explain please?

Senator W. Kinnard:

The law drafting is just an initial brief. It is not formal instructions. They are not yet with the law draftsman. They are really put together on the back of a decision of this House, in fact I think brought by a proposition of the Deputy of St. Martin. Things have moved on, Members will be aware quite clearly, in terms of the heightened sensitivities around institutional care and children and this has led to the current hold-up on the matter.

2.7.2 The Deputy of St. Martin:

Can I just press the Minister and ask, is it Home Affairs' intention to bring forward legislation to enable the courts to sentence people of the age of 12 and over to custodial sentence?

Senator W. Kinnard:

It is a matter of a decision of the Children's Executive to bring that forward.

The Deputy of St. Martin:

With respect, Sir, the Children's Executive is not a political body. Can I just ask, was it the intention of the political body to bring forward legislation?

Senator W. Kinnard:

It will probably fall to me to bring that piece of legislation as a member of the Executive, but clearly the piece of legislation will be a matter of consultation and also agreement by the other joint members of the Executive.

2.7.3 The Deputy of St. Martin:

Have we got a date when this information will come forward to the House?

Senator W. Kinnard:

No. I have mentioned that it is difficult to give a precise definitive time scale for the Deputy for 2 reasons. One is we are awaiting the outcome of decisions with the Ministry of Justice on our international obligations, and also we are awaiting the deliberations of Andrew Williamson on the question that has been put to him about the appropriate settings for different ages of children in different custodial settings.

2.7.4 Deputy R.G. Le Hérisier:

In the light of all these discussions, would the Minister tell us what her personal view is of this situation and what particular stand she will be taking on the matter?

Senator W. Kinnard:

My personal view is well known, that my concern has been about the problem of young people below the age of 18 years of age having to be accommodated at La Moye which I consider to be entirely inappropriate. My personal view on that particular age group for which I am responsible is well known.

2.7.5 Senator S. Syvret:

Would the Minister give the Assembly an assurance that among these deliberations and examinations of what the best options may be, she will seek the advice and opinions of the Howard League for Penal Reform?

Senator W. Kinnard:

I am aware of the Howard League for Penal Reform's view on this matter and I am more than happy to review it again.