

2016.12.12

16 Deputy M.R. Higgins of the Minister for Health and Social Services regarding procedures followed in the event of complaints made by vulnerable persons: [9757]

Will the Minister explain on what basis, if any, a request from a vulnerable person for access to records relating to them might be refused, and on what basis a States Member wishing to assist such a person would be prevented from attending meetings where complaints by that person were being lodged with his department's governance team?

Senator A.K.F. Green (The Minister for Health and Social Services):

There are 2 questions here. The reasons for refusal are set out in the Data Protection (Subject Access Modification - Health) (Jersey) Regulations 2005, Article 5, which states that: "Personal data consisting of information on the physical or mental health, or condition of the data subject", that is the person: "are exempt from disclosure where it would be likely to cause serious harm to the physical or mental health of the data subject, the person, or any other person." With regard to accompanying patients at meetings, the department welcomes this involvement so long as the patient has capacity to confirm that they wish to have a States Member, or for that matter any other person, to attend the meeting in order to represent them and support them. However, given the sensitive nature of the material often involved, it is essential that clarity is sought in advance as to the purpose, parameters and agenda that applies to such meetings, and that the roles, remit and responsibilities of those attending are clear. It is also important to recognise that consent given at a point in time does not last for ever; it is time and issue-specific. It is important that any person, particularly if they are considered to be vulnerable, is giving informed consent and understands the implications of sharing information with a third party, that is, once the information is shared, the person no longer has control over it.

3.16.1 Deputy M.R. Higgins:

I accept that the Data Protection Law does state that information could be refused to a person in those circumstances. Can the Minister explain why that information was not supplied, however, to that person's legal representative when it was requested? That is number one, but I will come back on the others in a moment, because I am sure I will be the only one.

Senator A.K.F. Green:

I think the Deputy is talking about a specific case. It would be totally inappropriate for me to discuss that particular case in this Assembly in public on video and on the radio.

The Bailiff:

This is a final supplementary, Deputy, because there is no one else asking questions on this.

3.16.2 Deputy M.R. Higgins:

I think that is highly restrictive, Sir, especially on such an important issue. The point I am trying to make is the Minister says that it is an individual case; it may well be, but why would a legal representative be refused information relating to a vulnerable person because they wanted that information to see whether there was any way that they could assist them. That is one. I will ask the second question as well, and that is: I recently went, last Friday, to a meeting and was refused permission to be in the meeting, and yet previously I have been invited to a meeting by the same team, which was cancelled at short notice, and I was the

only person who arrived. Is the Minister satisfied that his officers are looking at the best interests of the person when they cannot even get either a political representative or a legal representative to a meeting?

Senator A.K.F. Green:

An appropriate health professional makes the assessment in accordance with the law. They assess the possible harm to an individual. That is not for me, or the Deputy, to assess; that is for the appropriate health professional, as in the law. With regard to the meeting, I do not really want to get into specifics, but when someone turns up halfway through a meeting and we were not aware they were coming, you can expect there to be some difficulty in determining whether they should be there or not.

The Bailiff:

That brings questions at notice to an end. We now come to questions to Ministers ...

The Deputy of St. Peter:

Sir, sorry, before we move to questions without notice, could I just make a quick apology to the Assembly? When I was answering my question earlier I suggested that the dog expert who wrote the report about Customs and Immigration in 2015 was the same who recently gave evidence in court. In fact, I was wrong, Sir, and they were different experts that had been used. So I apologise to the Assembly; it was entirely my mistake.