

McKay P (Paul)

From: Trifkovic A (Alexandra) on behalf of Minister for Education and Young People
Sent: 26 November 2004 16:27
To: Edgar R (Rachel); Minister for Education and Young People
Cc: PS/ED; MacLean CR (Colin); Laing SG (Shirley)
Subject: FW: RESTRICTED: Note re possible appointment of rapporteur in relation to child abuse

Importance: High
Sensitivity: Confidential

Rachel,

Copy: As above


POSSIBLE APPOINTMENT OF RAPPORTEUR

Mr Peacock has some additional comments:

It is now clear that the question of the rapporteur is central to our ability to manage the debate on Wednesday. I am clear from briefings of the opposition spokespeople about our broad intentions that some have been considering a Parliamentary amendment to the 'to note' motion which would cause a division on the question of a full public inquiry. This points to there being some more flesh around the bones of the idea needing to be fleshed out a bit. I will be looking to Officials to help with this on Monday and Tuesday.

Alex

Alex Trifkovic

APS/Minister for Education and Young People


-----Original Message-----

From: Minister for Education and Young People
Sent: 26 November 2004 15:14
To: Edgar R (Rachel); Minister for Education and Young People
Cc: PS/ED; MacLean CR (Colin); Laing SG (Shirley)
Subject: RE: RESTRICTED: Note re possible appointment of rapporteur in relation to child abuse
Importance: High
Sensitivity: Confidential

Rachel,

Copy: As above

POSSIBLE APPOINTMENT OF RAPPORTEUR

Comments from the Minister below;

"I am very grateful for the advice of OSSE which I have seen and read today and for the opportunity to discuss issues with the Lord Advocate yesterday, in the knowledge of the general direction of the advice.

I am clear that in the further Parliamentary handling of this issue the Executive cannot remain silent on the legitimate question being asked as to why abuse was allowed to happen and not stopped. Any failure to respond to this issue adequately will lead to rising pressure on the question of a full 'public

inquiry' with all the implications that would bring. Beyond this consideration, however, the more I have looked at the issues here it seems to me the questions need answered from a policy perspective in any event.

I note the advice that the outcome of a rapporteur working on this could have the effect of helping pull together and ease the task of individuals wishing to pursue the Executive. I understand that argument. However, it is our intention to make all the information we have available to us open to public inspection and I am particularly keen to open the old inspection reports to public scrutiny. FOI would facilitate this in any event. So, in my view, all the information is going to be available from which those pursuing us will be able to draw their own conclusions and seek expert advice on the adequacy of the regimes in place to monitor residential establishments in the past as part of any case. It does not seem to me that the effect of the actions of rapporteur will materially alter the nature of the challenges against us, other than to perhaps draw forward in time evidence that will be available anyway. Indeed, arguably, if we are to pitch any remit to examine the issues against the standards of the day when inspections took place – this might have the effect of providing stronger defenses, if appropriate. Beyond this, it does seem to me that we also need to know what the view may be of the regimes in place to be able to judge whether in all circumstances we should be defending what could transpire, in some cases at least, to be the indefensible.

Having considered the matter, and in light of my conversation with the Lord Advocate, I intend to proceed with setting out for Parliament an intention to appoint a rapporteur to look further into the issues to address the question of "why was this allowed to happen and why was it not stopped". I have never had the intention that the rapporteur should examine individual cases, but rather should take a policy look at the issues. OSSE advice would confirm that is the right approach.

I would not intend to set out in any great detail in Parliament what a remit would be, but rather deal with the principle and indicate the detailed remit, etc would be for further discussion. I wouldn't want any misunderstandings about this either so there will need to be some parameters set out. I plan to draft what will go in my contribution to the debate over the weekend and would want advice from OSSE on the content to ensure I do not unwittingly open the Executive to any wider implications than necessary."

You will note that I have not forwarded this direct to OSSE, but I am happy to do so if you would prefer?

David

DAVID STEWART

PS/Minister for Education and Young People
26 November 2004

-----Original Message-----

From: Edgar R (Rachel)

Sent: 25 November 2004 18:30

To: Minister for Education and Young People

Cc: PS/ED; MacLean CR (Colin); Laing SG (Shirley)

Subject: RESTRICTED: Note re possible appointment of rapporteur in relation to child abuse

Importance: High

Sensitivity: Confidential

Minister,

I enclose the advice from OSSE regarding the rapporteur.

Rachel Edgar