

Release by Scott Pearman, MP on the issues at the Department of Child and Family Services – 5 December 2018

There are four separate intertwined issues here.

Taken on their own, each is concerning. Taken together, this is a deeply troubling indictment of the Government support system for Bermudian children.

Litigation Guardians

You have asked me about Ms. Thomas, so I will speak to that first. I have met with Ms. Thomas. She is a Social Worker, working with children. She finds herself in an odd situation, apparently appointed by the Court to serve as Litigation Guardian, but never paid for her work.

20 years ago, Parliament passed the Children Act 1998 to protect the welfare of children. The Act mandated that children must have assistance before the Court. In specified proceedings, this assistance shall be provided by a Litigation Guardian and sometimes also by a barrister. However, Parliament did not mandate in the Act that these appointed roles be paid.

So, you have statutory obligation to provide assistance to children. But you have no Government funding allocated to meet that statutory obligation. This has been the position for the past 20 years since the Act was passed.

Ms. Thomas says she was appointed by the Court to serve as a Litigation Guardian in a specific case in 2014. This appears to be the first time the Court ever appointed a Litigation Guardian. Ms. Thomas says the Court then re-appointed her in a number of other cases involving children.

The problem, it seems, is that Ms. Thomas did not enter into any formal contract with the Government to ensure she was paid for this court appointed role. Ms. Thomas says she received many assurances. She also sent invoices in March 2017.

It remains unclear, at least to me, whether anyone else was ever appointed by the Court to serve as Litigation Guardian and, if so, whether they were paid. This is a point the Attorney General should properly clarify.

Ms. Thomas has now resigned from her appointments as Litigation Guardian. It is unclear whether any other appointed Litigation Guardians will also resign.

It is another sad fact in this story that it took the combined efforts of the Human Rights Commission and six of Bermuda's highly-regarded charities to bring to the forefront the issue of the neglect of Bermudian children: children potentially lost in "the system" with no funded Litigation Guardian to assist them.

In June, the Supreme Court ruled on the case brought against the Government by the HRC and these Charities, deciding that children have "*a constitutional right to participate meaningfully in specified proceedings*".

But the Court stopped short of ordering the Government to fund Litigation Guardians. An appeal against the Court decision has been lodged.

Allegations of abuse and neglect

Notwithstanding the importance of Litigation Guardians, the second of the four issues is even more concerning.

The second issue is that allegations have been made of abuse against children under the watch of the Department of Child and Family Services. Further, it is alleged that the Department may have failed to respond to the abuse allegations.

It is understood that the former Minister for Social Development, Michael Weeks, commenced an investigation into these allegations before he was removed as Minister.

Now we are told by the Government there is a *second* investigation into these allegations being conducted by the Department of Internal Audit. Yet the outcome of the *first* investigation has yet to be revealed.

Allegations that Bermudian children, under the care of the Department of Child and Family Services, were abused should be of extreme concern to all Bermudians.

To add to this, allegations have emerged that certain children in the care of the Department were sent to institutions overseas without any Litigation Guardian advocating on their behalf. This too is of significant concern and it is hoped the second investigation will also focus on this aspect.

Troubles at the Department

Thirdly, we have the lamentable reality that with every passing day problems at the Department of Child and Family Services seem to grow worse. This is not a criticism of the social workers in the Department, who work extremely hard in their jobs helping children and families.

Yet the Director is suspended.

Minister Michael Weeks, a man with a commendable history of social work, has been reshuffled out of Cabinet.

The Permanent Secretary has retired.

The Ministry of Social Development has been axed by the PLP.

The Department itself has been moved by the Premier and placed under the Ministry of Legal Affairs, another Ministry already under considerable strain.

The Departure of Minister Weeks

Finally, we have allegations, admittedly from anonymous sources, that Minister Weeks was removed *because* he commenced the investigation into the allegations at the Department of Child and Family Services, suspending the Director as part of the first investigation. The Minister has since issued a statement about this.

No matter what the Premier's reasons may have been for removing Minister Weeks, his decision has caused increased uncertainty at a time when the Department of Child and Family Services is rudderless and taking on water.

Time for Solutions

The OBA's position is this: the Supreme Court has rightly recognized that Bermudian children in court proceedings are not getting the support which the law mandates our children must have. This needs to change, now.

The PLP have been in power for 15 of the last 20 years. The current Government needs to solve this problem and, respectfully, the Government needs to solve it quickly.

On Friday in the House of Assembly, Opposition Leader Craig Cannonier called for former Minister Weeks to give a personal explanation to the House. It is hope this statement from Mr. Weeks will explain what is going on and *why* the results of the *first* investigation have not yet been revealed. I support Mr. Cannonier in calling for an explanation from former Minister Weeks.

At present, it is now the Attorney General who is responsible for the Department of Child and Family Services. She must explain to Bermuda the scope of the *second* investigation. Who is the person leading this investigation? To whom will this investigator report? Does the investigation include all the allegations of abuse and neglect? How many people from the Department are currently suspended because of these allegations? When is the investigation likely to be concluded?

With all these complicated moving parts, we must not lose sight of the big picture: the system is failing our children.

Children who show up in the court system, without proper representation or protection, have no-one to guard their best interest. These are Bermudian children most in need of support and guidance – yet they have none.

Also on Friday, the PLP Government rushed to table a Bill in the House to amend the Children Act 1998. However, the PLP apparently did so without first consulting the HRC or the relevant charities. Of even greater concern, the PLP amendment seeks to *reduce* the level of support for Bermudian children in the Court system by limiting the appointment of Litigation Guardians. The PLP's proposal has been much criticized, including by Tawana Tannock of the Human Rights Commission.

It is hoped that statements by former Minister Weeks and by the Attorney General will address these very significant concerns.

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