

2019.10.22

**8 Deputy J.M. Maçon of the Chief Minister regarding the governance of Andium Homes: (OQ.268/2019)**

Further to his recent statement in response to the resignation of Andium Homes' Finance Director, will the Chief Minister say what improvements in governance and remuneration he has been seeking?

**Senator J.A.N. Le Fondré (The Chief Minister):**

Following the leak to the *Jersey Evening Post* of a letter from the Finance Director and Chief Operating Officer of Andium, I did think it was appropriate to issue a statement. That statement made it clear that the ongoing dispute with the Board is in respect of the governance around and levels of remuneration. More specifically, it relates to the high increases in the remuneration of the executive directors since incorporation, which has seen the total pay and bonuses of the C.E.O. (Chief Executive Officer) of Andium grow even more than 75 per cent since 2014 when the company was incorporated. Just to put some flesh on that, between the executives that is a range of £70,000 to £90,000. We are in dispute with the Board, because we do not believe that the level of remuneration and the most recent increase of 26 per cent, with a 10 per cent bonus, are appropriate, or justifiable. Furthermore, neither the considerable increase in pay, nor the payment of a bonus were awarded in accordance with the Memorandum of Understanding between the Company and the Treasury, which required approval in advance of their payment. Just to reiterate, that did not take place. So, action taken by the Government has been firstly to direct the Board to reverse the increases in remuneration and requiring that any payments made under the discretionary bonus scheme be recovered, subject to the outcome of an expert review of remuneration commissioned by the Treasury. In agreeing to the extension of the current Chair's term of office, the Treasury asked that the recommendations of the Board effectiveness review to appoint further independent directors be progressed. This has not occurred. So, while we are improving governance through the current overhaul of the Memorandum of Understanding between the Government and the entities it owns, it is clear we need to develop an overall pay policy for those entities also and we shall be doing that.

**The Bailiff:**

Minister, could I ask you to bring your answer to an end? You are now well over.

**Senator J.A.N. Le Fondré:**

I was monitoring it quite carefully. Can I just finish off by saying the Comptroller and Auditor General will be issuing a report into the remuneration of Boards later this week?

**3.8.1 Deputy J.M. Maçon:**

I thank the Chief Minister for clarifying the process. I wonder, though, whether he would go further about the remuneration and also discuss what the pension package is available, because I believe there was a comparison to the market rate, but I do not think the pension component was mentioned in that when comparing the level of remuneration, which is received, compared to the wider market and would the Chief Minister want that to be included when looking at levels of remuneration?

**Senator J.A.N. Le Fondré:**

I have been seeking some clarification as to the levels of pension and I do stand to be corrected on this, but it is my understanding that because the members of the executive were former civil servants, they have remained in the public sector pension scheme. What I am unclear on is whether it is under the care scheme, or whether it is under the final salary scheme. I believe it is the latter but I am seeking clarification on that.

### **3.8.2 Senator K.L. Moore:**

The remuneration packages were agreed at the Andium Homes Annual General Meeting on 3rd September of last year. The Assistant Minister for Treasury and Resources was unable to attend and sent their Director of Treasury and Investment Management to attend that meeting. The Assistant Minister signed a Ministerial Decision asking that Director to vote in favour of the 5 ordinary resolutions to be put before the meeting. So, Chief Minister, what changed after that Annual General Meeting when those remuneration packages were agreed?

### **Senator J.A.N. Le Fondré:**

My understanding is that approval was not sought in advance. I believe the Assistant Minister did, at one point, reluctantly accept the position, but I believe under advice that has been retracted. What was agreed with the Board was that we would do a comparative review of the salaries, I reiterate, my understanding is that they were not approved in advance with the shareholder and that review has determined that the salaries that were going to be awarded were definitely above where they should have been. I make further points, because there have been suggestions that this is about a climate of fear, this is about knowing what good looks like. This is around the governance arrangements and the fact that the shareholder has to have control over the basic fundamentals of what is happening within the company. That goes to the fundamentals of a bonus being awarded and paid without approval from the shareholder. It is about levels of remuneration that have increased by something like 70 per cent since incorporation. So, this is not to detract from the good work of the employees of Andium, but it is looking at the executive level and saying that has raised eyebrows, but also that the governance arrangements, particularly around the bonus, have not been acceptable. I also reiterate that, in the recent resignation of the Finance Director, it is my understanding that the shareholder was not told even informally for a number of weeks after that took place and formally it was 10 days ago, even though it was in August. This is about governance.

### **3.8.3 Senator K.L. Moore:**

I do have a supplementary to that exceedingly long answer. The Ministerial Decision was signed on 22nd August. That is at least a week before the Annual General Meeting of 3rd September. The Assistant Minister clearly had seen the documentation that was going before the Annual General Meeting and would therefore be agreed. Also, and I cannot find it to hand, in an answer to an oral question, the Assistant Minister for Treasury and Resources did tell the Assembly that he had accepted this.

### **Senator J.A.N. Le Fondré:**

I cannot give the exact dates in terms of the week difference on the A.G.M. (Annual General Meeting), but what I have been informed by Treasury is that they were not informed in advance of the awards that were being proposed. What I believe we do need to do is wait for the C. and A.G. report to come out, because I believe that will shed some greater light, but certainly if we look at the levels of remuneration they are definitely excessive, even relative to the market comparison that was done. If one then ties in to the fact that the bonus that was awarded and paid, it categorically did not receive the approval of the shareholder. On a number of these occasions, information was

only received by receipt of the accounts. So, this is around the governance issues and I would very much reiterate it is about knowing what good looks like. But, in terms of the individual actions of the Assistant Minister, I believe he has taken advice at each stage but, obviously, where we are at this stage is around the overall governance and the levels of remuneration that have been taking place in that Company.

#### **3.8.4 Deputy K.F. Morel:**

I applaud the Chief Minister for wanting to ensure that Jersey's largest housing provider operates with excellent governance. But in terms of wanting to know and wanting to ensure that we know what good looks like, would the Chief Minister accept that a Board member of one housing trust should not, therefore, take part in any way in determining the makeup of the Board of another housing trust? In terms of purely as far as probity is concerned and good governance is concerned, can we have assurances that the Chief Minister has played no role in determining the makeup of the Board of Andium Housing?

#### **Senator J.A.N. Le Fondré:**

The Deputy is conflating 2 roles. I act in an honorary capacity, which is declared openly. What has become clear, under an arm's-length organisation that the States owns, is that there are issues of governance surrounding that. There is no conflict between the roles and to suggest there is any conflict, or deliberate intent, around there would not be appropriate. I have not treated this in any way different. This is around the issues of remuneration that have been raised at an arm's-length organisation. If it had been a different entity, with the same issues, we would have done the same thing.

#### **3.8.5 Deputy K.F. Morel:**

It is the Chief Minister's own words, it is about perception and it is about the public understanding the perception. I am not suggesting that the Chief Minister has done anything wrong, or without any ill motives, but in terms of what good looks like it would be appropriate, does the Chief Minister not agree, that he takes no part in determining the makeup of the Board of Andium Homes?

[10:45]

#### **Senator J.A.N. Le Fondré:**

The ultimate decisions that take place are done through Treasury, but also under the proposals going forward there is going to be greater involvement with the Minister for Children and Housing, as well. So, there is no single decision point here by any single individual, so I hope that mitigates the checks and balances required. But there have been no conflicts at all, in my view. But I go back to the point, let us not belittle the situation, so payments being made that were not approved by their shareholder is not acceptable, period.

#### **3.8.6 Deputy M. Tadier:**

I do not know if I have misunderstood, but I thought I heard the Minister, he said on the one hand that the decision did not receive the approval of the shareholder, but before that he said that the shareholder representative was at the meeting when this decision was made and that the shareholder representative voted for it. Is that the case and how do those 2 statements marry up?

#### **Senator J.A.N. Le Fondré:**

Senator Moore said that and what I have said is that I will just identify the issues around the dates but what I have been informed is that Treasury were not made aware, in advance, of the salary increases.

### **3.8.7 Deputy M. Tadier:**

The question is not about whether, or not, they were made aware in advance, the question is whether the shareholder representative was at that meeting and voted for it. I suppose the second question is: even if it did not have the approval and that is a hypothetical question so I will not ask that, but the point remains was it the case that the shareholder representative, i.e. one Minister for Treasury and Resources, was at the meeting and signed off, effectively voted for, the decision to allow these individuals to be paid significantly more?

### **Senator J.A.N. Le Fondré:**

I need to wait until the C. and A.G. report is issued, because then that will put some dates and context into play. I do not want to comment on that; it is literally in on Thursday, I believe. My understanding is that there is a time sequence in there, which will clarify some matters and the understanding is that I know at one point the Assistant Minister reluctantly accepted. I do not know on the voting position but I do know advice was subsequently taken about possibly rescinding that decision and that directions were given to the Board. What I will say is that it was around the point as to the clarity as to what those pay rises were and how expressions were made in those ordinary resolutions for the A.G.M.

### **Deputy M. Tadier:**

I want to ask a point of order, but I am not sure if it is, but the Chief Minister is very aware of the Code of Conduct for Members and Ministers, which says that Members should be open and honest and transparent at all times as far as possible. It is not satisfactory for the Minister to say that he is going to wait for a report to come out if he has salient information, which he knows, to a very straightforward question that has been asked in this Assembly. So, I do not know if you can direct on that.

### **The Bailiff:**

No, I do not think I can give a direction on that in particular. If the Chief Minister answers the question by saying he will wait until the report comes out and then matters can be dealt with, the consequences for anyone who answers in that way can be political, but they are not for a ruling from the Chair. In any event, I am afraid we must move on, so Deputy Southern. I will just remind Members, of course, the Chief Minister is answering questions in questions without notice, so there will be opportunities to ask him anything that is necessary. But if we are going to get through these questions we have to move on, so Deputy Southern.

### **3.8.8 Deputy G.P. Southern:**

Briefly, is the Chief Minister not dancing on a pin here when he relies on the difference between “reluctantly accepted” and “reluctantly voted for” this particular rise; a vote by the representative of the shareholder?

### **Senator J.A.N. Le Fondré:**

I am trying not to. The difficulty I have is that the report, I think, is landing on Members’ desks, or landing on people’s desks, in the next day or so that is under embargo and that is my difficulty; I am trying not to breach the embargo. But that is my understanding in terms of the position of what

occurred in Treasury. As I say, my understanding is that advice was subsequently taken and that advice took into account the various measures and allowed the decision then to be rescinded.

**3.8.9 Deputy J.M. Maçon:**

Notwithstanding the Chief Minister's anticipation of the Comptroller and Auditor General's report, is the Chief Minister able to give a timeline on how quickly he would like to see any governance changes implemented?

**Senator J.A.N. Le Fondré:**

Yes, as we have indicated, the present Chair's term of office was extended to 31st October and we are putting measures in place to appoint an individual on a fixed-term contract while we then appoint a permanent Chair subsequently. The role of that individual will be to look at directly governance arrangements and we have had that discussion with the Vice-Chair of the Board yesterday.