

4.9 Deputy M. Tadier of the Chief Minister regarding the suspension of public employees:

Would the Chief Minister inform Members of the criteria used when taking decisions on suspending public employees, and, in particular, clarify whether the service of a disclosure notice by the police on an employer would normally lead to suspension and whether employees are given full details of the reasons for suspension when suspended?

Senator T.A. Le Sueur (The Chief Minister):

The normal criteria when suspending someone from duty: first where it is suspected that an employee is guilty of gross misconduct or dereliction of duty; secondly, whether an investigation is required; thirdly, where an employee may be perceived as being able to influence the course of an investigation if he remained at work; fourthly, when there is any danger of repeated gross misconduct; and fifthly, where anybody, clients or colleagues, could be at risk. The serving of a disclosure notice by the police would normally lead to a suspension where there is clear evidence of potential gross misconduct, dereliction of duty or criminal behaviour and all vulnerable persons could be at risk. It is a requirement of our disciplinary process that employees are given the full reasons for their suspension at the time of suspension and in writing within 3 days.

4.9.1 Deputy R.G. Le Hérissier:

Would the Minister acknowledge whether or not it is still possible to effect a neutral suspension and would he not say that there are cases where the reputational damage would be such where there has to be such a suspension, as, for example, might have been the case with a magistrate?

Senator T.A. Le Sueur:

The policy of, I think, British justice, is that everyone is assumed innocent until proved guilty. To that extent, suspension is a neutral act, although some people may infer into it more than exists.

4.9.2 Deputy R.G. Le Hérissier:

Supplementary, Sir. Would the Chief Minister therefore say that it is impossible to apply a neutral suspension policy at the moment?

Senator T.A. Le Sueur:

I think I can apply the policy. It is how people interpret or take inference from a policy properly implemented. That is really a matter of human nature, which policy cannot deal with.

4.9.3 The Deputy of St. Martin:

Could I ask the Chief Minister what sort of risk assessment is carried out before any suspension is implemented?

Senator T.A. Le Sueur:

That would be a matter for the person making the suspension at the time. I set out the normal criteria for suspensions and if one or more of those criteria are met then there are good grounds for suspension. I am not sure what the Deputy means by “a risk assessment”. Clearly, if failing to suspend would create a risk then that will get taken into account by the person concerned.

4.9.4 The Deputy of St. Martin:

Maybe I could help the Chief Minister. Indeed, a risk assessment is very much like an Attorney General would take before proceeding with a charge. Would the Chief Officer look to see what are the benefits of suspending someone? What are the likely outcomes? Is the suspension really worth it in the first place? So would that not be part of the consideration before suspending someone? One would have thought it is just common sense practice.

Senator T.A. Le Sueur:

Yes, I think I set out the criteria. If, for example, somebody is suspected of gross misconduct, one does not take a risk of whether suspending is a good or bad thing. There is a suspicion there which needs to be investigated, though that is considered to be a good reason for suspension. So I think what the Deputy seems to be implying is that the officer should try to pre-judge the outcome of the decision before it is made. That would be, I think, unfair to the person concerned.

4.9.5 The Deputy of St. Martin:

Could I just press the Chief Minister? I do not think the Chief Minister quite understands what I am really getting at. Surely if someone is going to suspend someone, one would look to see what are the benefits from suspending someone? We have a situation where we now are spending well over £500,000 suspending the Chief Officer of Police, yet what are the benefits of suspending him?

The Deputy Bailiff:

The question was: what are the benefits of suspending the Chief Officer of Police?

The Deputy of St. Martin:

Yes.

The Deputy Bailiff:

That is not a question for ...

The Deputy of St. Martin:

Well, no. Can I ask the Chief Minister, then: would he not consider it be appropriate to consider the expense, what it is going to cost somebody to suspend someone?

Senator T.A. Le Sueur:

I think sometimes suspensions have to be taken even if there is a cost involved. That is something which, no doubt, the person suspending will take into account. But it should not be something which is a major influence on a decision. Justice does not come at a price.

4.9.6 Deputy M.R. Higgins:

The Chief Minister has indicated that a person who is suspended should be given the grounds for suspension at the time of the suspension. If that is the case and he believes that is good practice, how does he square this with the suspension of the Chief of Police, who was not given the grounds for his suspension?

Senator T.A. Le Sueur:

I do not think now is the time to go into the suspension of the Chief of Police, which is still under investigation.

4.9.7 Deputy M.R. Higgins:

The Chief Minister has not answered the question. The question was: how does he reconcile, if it is good for States employees and good practice and natural justice for people to be told the reasons for their suspension at the time of suspension, why the Police of Chief was not given that information?

The Deputy Bailiff:

Deputy, you are well aware that matters relating to the suspension of the Chief Office of Police can only be dealt with by this Assembly in camera. There is no point in asking such a question when you know we are not in camera.

Senator B.I. Le Marquand:

Sir, may I intervene to say that is factually incorrect, that what Deputy Higgins is saying?

The Deputy Bailiff:

You may. The Minister for Home Affairs has said you are factually incorrect and we are not going to debate it because we would have to go into camera to do so. Your assertion is that you are right, no doubt. The Minister for Home Affairs' assertion is that you are wrong. That is where matters are going to stand for now.

Deputy T.M. Pitman:

I will not give my opinion, then.

The Deputy Bailiff:

You are certainly not asked to give your opinion on that point.

Deputy T.M. Pitman:

Could the Chief Minister, nonetheless, answer and tell the House what process is in place to assist employees who are suspended for perhaps a year or even more, to give them counselling and to see them through what is, frankly, a very unsatisfactory process?

Senator T.A. Le Sueur:

I agree that where employees are suspended for any length of time it is a duty of the Human Resources Department to ensure that those staff do get adequate advice. I would say that the majority of suspensions are dealt with within a matter of 6 to 8 weeks at maximum and it is only on rare occasions that they are of any prolonged time. Where they are of a prolonged time there are now procedures in place, thanks to the proposition from the Deputy of St. Martin, which enables those suspended to be reviewed on an ongoing monthly basis. So I think that the persons being suspended, while clearly it is unfortunate for them, do have all the assistance that they reasonably expect.

4.9.8 Deputy M. Tadier:

We have heard today already that a Magistrate has been allowed to continue to work but perhaps not fulfilling all of his duties. We know that a senior member of the police force has been suspended completely and also we know that in the recent past a senior member of education was being investigated in relation to the historic child abuse case. Those charges were not brought but that individual was allowed to stay on. Does the Chief Minister acknowledge that there is at least... there is confusion?

[Interruption] If the Minister for Housing wants to make an interruption I am willing to give way if it is a point of order. **[Aside]** Sir, I think that requires a ruling from the Chair.

The Deputy Bailiff:

Deputy, you are aware that you put a question into the Bailiff before this particular question was approved and that question was disallowed, and I certainly would expect you to stay away from the disallowed question, which you know to be out of order.

Deputy M. Tadier:

Sir, it is not true that I knew it to be out ... I will clarify. I believe that anything I am saying is all in the public domain already. I do not think I am bringing anything new here, so ...

The Deputy Bailiff:

I have just asked you to stay away from the question which has been disallowed.

Deputy M. Tadier:

The question I will ask, and I hope it is in order: does the Chief Minister acknowledge that there is a perception with the public and with States Members that the suspension policy is not being applied evenly throughout departments, and will he take steps to make sure that is not the case?

The Deputy Bailiff:

That is a perfectly fair question.

Senator T.A. Le Sueur:

I cannot speak for the perception of every individual in the Island. I believe that anyone who thinks reasonably will believe that matters are done and dealt with in a proper procedurally correct manner. I do not accept the Deputy's inference behind the Deputy's question.