

2.2 Deputy F.J. Hill of St. Martin of the Minister for Health and Social Services regarding Verita's Terms of Reference:

Further to her answer on 2nd June 2009 when the Minister said: "In the beginning my highest priority is safety of all patients and all procedures and things that were involved in that tragic day will be reviewed" will she explain who will be investigating the actions of all persons present in the operating theatre, given that Verita's terms of reference specifically avoid acts and omissions of individuals involved with the tragic operation?

Deputy A.E. Pryke of Trinity (The Minister for Health and Social Services):

As I said then, my first priority continues to be maintenance of patient safety and that is why the investigation being undertaken is so important and must be allowed to continue. This independent investigation will provide an explanation of events that occurred in October 2006 and will review the organisational systems, processes and everything else that were in place. The prime objective is to learn from this tragedy and to do everything possible to avoid any reoccurrence in the future.

2.2.1 The Deputy of St. Martin:

Again, I will repeat the question because it was not answered. If indeed Verita's terms of reference are specific that they avoid the acts and omissions of individuals - that would obviously be in the operating theatre - who will be investigating them?

The Deputy of Trinity:

Verita is an independent company - independent of the departments - and I want the truth of what happened that terrible, terrible day. Verita, in the terms of reference, is looking into detailed events on that day, including who did what and what happened, also in the context of hospital systems, procedures and patient safety.

2.2.2 The Deputy of St. Martin:

Could I just press the Minister and ask in actual fact the answer that was given to this House on 2nd June was not an answer as a supplementary but a prepared answer given, no doubt, or I would assume ... maybe I may do an injustice to the Minister, but it was probably prepared by an officer for the Minister. So, how can a Minister say this morning that they will be investigating, when in actual fact only on 2nd June, in a prepared answer ... again, I will refer to it; it says: "The terms of reference specifically avoid acts and omissions of individuals."

The Deputy of Trinity:

The terms of reference start from when the patient was first referred to the hospital by the G.P. (General Practitioner) to the end to when the police investigation commenced. As I have said, everything in between that, including hospital systems, procedures, patient safety, and the terms of reference which, as I said, will not be engaging ... they are not there to engage in any type of disciplinary. If a disciplinary or whatever comes out of that, that will be a separate issue once the report has been given to me.

2.2.3 Senator S. Syvret:

The terms of reference are in fact in the comments that are on Members' desks this morning and those are the same terms of reference as we produced in my report and proposition. I thank Senator Perchard if he could ...

Senator J.L. Perchard:

Question ...

The Deputy Bailiff:

Senator Perchard, it is for the Chair to decide whether it is a question, not individual Members. Thank you very much.

Senator S. Syvret:

The actual terms of reference in the Minister's own set of comments state: "The investigation has no disciplinary remit and will not consider the acts and omissions of individuals." So, the question to the Minister is how can her vowed ambition of getting to the truth possibly be met if the acts and omissions of the individuals involved in the entire affair are expressly excluded from this inquiry?

The Deputy of Trinity:

As I have just said so, where the terms of reference ... that means: "Not consider acts and omissions", it is totally meaning that it will not be engaging in any type of disciplinary. That is a separate procedure. I stress that is providing a full account as possible of who did or did not do what or why.

2.2.4 The Deputy of St. John:

Will the Minister confirm who wrote or advised on the terms of reference? Could the Minister also inform Members if a member of the medical staff who was in the theatre at the time of the tragic death were part and parcel of the persons who drew the terms of reference together?

The Deputy of Trinity:

The terms of reference were drawn up by the Minister at that time with Verita. The Health employer was not involved in drawing up the terms of reference.

2.2.5 Deputy G.P. Southern of St. Helier:

Will the Minister inform the House whether the terms of reference will establish the facts around the acts and omissions of individuals, accepting that this is not within a disciplinary remit?

The Deputy of Trinity:

As I have said, I am very, very emphatic that patient safety is paramount. The truth of what happened that day ... the truth has to come out and I am absolutely adamant that the truth will come out of exactly what happened on that day. As I have said, Verita are an independent company, independently appointed by the Minister of that time, and they were independent of the health departments. They will provide as full an account as possible of who did or did not do what or why.

2.2.6 The Deputy of St. Martin:

No doubt we will return to this this afternoon, but maybe just as a precursor, could I ask the Minister who prepares the answer for her this morning and is the author of the answer the same person as the author of this report that we have now had presented on our desks this morning for comments?

The Deputy of Trinity:

As with anything, it is officers of the department that prepare answers and reports for me, I sign them off; I was part of that preparation. That is it.

The Deputy of St. Martin:

Can I press for the names? Is it possible, please?

The Deputy of Trinity:

No.

2.2.7 Deputy P.V.F. Le Claire of St. Helier:

I wonder if the Minister could please get in touch with Verita and ask them what other work they have done in this regard in their experience and whether or not they have similar terms of reference, or terms of reference that they would be able to share with Members so that Members would be able to see whether or not this type of term of reference is suitable and fit for purpose?

The Deputy of Trinity:

I have spoken to Verita and the director many times independently of the health departments. They have a good website; they have a very good track record. The Minister at that time went to the National Audit Commission and I think that is ... the National Clinic Assessment Service to get recommendations independent of the health departments.

Deputy P.V.F. Le Claire:

With respect, that really was not my question. I would like to ask the Minister again if she would please contact Verita and submit to Members similar terms of reference in relation to inquiries that they have conducted in the United Kingdom so that Members can be satisfied that the terms of reference that they have helped to formulate with the previous Minister are fit for purpose, please.

The Deputy of Trinity:

I have been through it with Verita and I asked them to come and do a States presentation, of which they agreed, and they have agreed to come next week. Because I think there are many issues here and it is important that States Members understand exactly that Verita is an independent company.

2.2.8 The Deputy of St. Mary:

I am a bit troubled by this whole business of these terms of reference. The Minister assures us that the truth will be found and that there will be a narrative explanation of the incident; that is what is in these terms of reference. But unfortunately, mistakes do happen; people do make mistakes in whatever way. Yet, we were told that there will be a narrative explanation of the incident, but the investigation will not consider the acts and omissions of individuals. Could the Minister explain how the investigation can produce an accurate, narrative explanation of the incident without considering the acts of individuals?

The Deputy of Trinity:

Under the terms of reference, they will not be able to engage in any type of disciplinary. In the recommendations they might suggest whatever; I will not prejudge any recommendations that Verita might come out with. That is not my

remit; that is for later on. From that, whatever and if ever any further on is needed, it will be done.

2.2.9 The Deputy of St. Martin:

I think the answer really is complete in itself. What we are having is an investigation but not into the acts and omissions. I would put it to the Minister, does she not think it is appropriate to have the acts and omissions investigated at the time of Verita doing it, rather than wait until October or whenever, when Verita has finished this investigation?

The Deputy of Trinity:

They are covering everything from when that patient ... the terms of reference say they will be covering everything from when the patient is referred to when ... a police investigation. There has been a police investigation; there has been a Royal Court case too. Once the Verita report is finalised, a copy will go to the Deputy Viscount when there will be a re-adjudgment of the inquest, which still has not been completed. So I will leave it there.