

3.2 Deputy C.F. Labey of Grouville of the Chairman of the Privileges and Procedures Committee regarding which Standing Order prohibited the Committee's investigation of the suspension of the Chief Officer of the States of Jersey Police:

Could the Chairman indicate which Standing Order prohibited the committee from answering the issues set out in the suspended Chief Officer of States of Jersey Police's letter of 13th November 2009?

The Bailiff:

Just before the Chairman replies, can I remind Members that under the Police Force Law, discussion of the suspension of the Chief Police Officer may only be carried out in camera as a mandatory matter. Having looked at the 3 questions I do not in fact consider that they relate directly to the suspension. They are all to do with matters of the Committee and the Chief Minister but I do remind Members that supplementaries must not stray into the forbidden area.

Connétable J. Gallichan of St. Mary (Chairman of the Privileges and Procedures Committee):

It is not so much that any particular Standing Order expressly prohibited the Privileges and Procedures Committee from looking at the issues set out in this letter but rather that they did not fall under the terms of reference of the Committee as set out in Standing Orders. P.P.C. (Privileges and Procedures Committee) cannot take upon itself matters, which are clearly outside the scope of its remit as agreed by the States of Jersey in the adoption of Standing Orders. There are several Standing Orders which are relevant to the subject of complaints in particular: Standing Order 128 details the terms of reference of P.P.C.; Standing Order 156 refers to complaints about the conduct of an elected Member, and the way in which a complaint is handled is set down in Standing Order 157. Standing Order 157(1) states: "Where the P.P.C. has information, whether or not received from a complainant, that suggests that an elected Member may have acted in breach of the Code of Conduct, it shall without undue delay inform the Member and investigate the act." Studying the detail of these Standing Orders in their entirety shows that there must be a certainty about the nature of the complaint, and also about the identity of the elected Member against whom the complaint is made. This certainty was not afforded by the letter in question, which included the following passage: "I am aware that the complaints, which are specific against serving Ministers should be addressed to the Council of Ministers. However, given the difficulty in identifying who is responsible for what and the possibility that one or more members of the Council of Ministers may or may not be implicated, the Committee may agree that the general complaint against the conduct of government falls within its remit and merits further inquiry." For the sake of clarity, there is nothing within the Committee's terms of reference, which would enable it to consider a general complaint against the conduct of government. I should nevertheless stress that it is clear that the issues referred to by the Chief Officer might be matters of significant public importance. Should a Member or Members come to this conclusion then there is a clear process set out in Standing Orders to deal with this scenario and it does not fall under the remit of the P.P.C.

3.2.1 The Deputy of Grouville:

Could the chair indicate whose remit it does fall under, and if it is that of the Council of Ministers could she tell us if she sees something of a conflict whereby the Council of Ministers investigate themselves?

The Connétable of St. Mary:

Standing Orders, as I have said, has a procedure where a matter of clear public importance is under question. There is a procedure under Standing Orders 146 to 150 for a matter of definite public importance to be investigated mainly by the establishment of a Committee of Inquiry. It is a matter for the States to decide whether they might wish to consider establishing a Committee of Inquiry and to set the terms of reference, the constitution and the budget for such an inquiry, although advice would clearly be needed on whether any such inquiry could be commenced until any disciplinary process involving the Chief Officer has been completed.

3.2.2 Deputy S. Pitman of St. Helier:

In the chairman's letter to the former Chief Officer of the Police she referred to: "I made this decision" a couple of times I believe, could she say whether or not that decision was made with her Committee?

The Connétable of St. Mary:

I do have a further question on this later but for the sake of clarity I received a letter addressed to me as chairman of the Committee and I discussed the matter with my officers, as is the normal procedure for all business that comes addressed to me. The matter was clearly outside the terms of reference of the Committee and did not require to be placed before it.

Deputy S. Pitman:

Is that a no?

The Connétable of St. Mary:

Yes, the letter was addressed to me and I answered the letter.

3.2.3 Deputy D.J.A. Wimberley of St. Mary:

I am a bit puzzled by this business of: "It is not within the terms reference of the Committee." I just want to ask the chairman whether she considered carefully the remark in the letter to her from the Chief Officer of Police where he says: "The Committee will be aware that the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. and P.P.C.) Jersey Regulations 2006 provides the Committee with the relevant powers to investigate any alleged breach of the code." I just wanted to ask her whether she considered this sentence very carefully and what conclusion did she reach?

The Connétable of St. Mary:

There is no doubt that the Committee does have powers as detailed by the questioner. The actual question here is whether there has been a breach of the code, which P.P.C. can investigate not whether it has powers to investigate a breach, and as I have explained in my answer, this did not fall within the terms of reference of P.P.C. to investigate.

3.2.4 The Deputy of St. Mary:

Does that mean that if the complaint was to be more specific than it already is - because it seems to me fairly specific about certain people saying certain things - does that mean that then the P.P.C. would, or that the chairman would respond in a different way?

The Connétable of St. Mary:

If a complaint is received, which is specific and is substantiated under the terms of Standing Orders and falls within the remit of the P.P.C. to investigate then that matter would invariably be placed on the agenda of P.P.C.

3.2.5 Deputy T.M. Pitman:

I am afraid it really follows on from the Deputy of St. Mary, could the Chairman just make it quite clear for me? We have established that P.P.C. do have the ability to choose to investigate. Surely there seems to have been enough material there to warrant that they would be severely worried. So, could the chairman just hammer it home for me why they did not take that step?

The Connétable of St. Mary:

As I have said we did not receive a specific complaint about a specific Member detailing a specific breach of the code. For that reason it was outside the terms of reference of the P.P.C. to investigate.

3.2.6 Deputy F.J. Hill of St. Martin:

I would draw the chairman's attention to the Code of Conduct for Ministers, R.114 of 2006, and Article 15 says: "Compliance: Any infringement of the Code of Conduct for Ministers must be reported to the Council of Ministers and the Council will determine an appropriate penalty." The question I want to ask is that bearing in mind that there was this particular reference made and also reference to this particular Code of Conduct was made in the letter from the Chief Officer to the chairman of your Committee, would the chairman not have considered it more appropriate then if she felt she could not deal with it herself or her Committee could not, that it would then have been referred to the Council of Ministers in line with R.114 and also in compliance with what the Chief Officer was asking? So, in other words, why was it not passed on to the Council of Ministers?

The Connétable of St. Mary:

In his letter, the Chief Officer already advised that he was fully aware of the matters that needed to be placed before the Council of Ministers and which fell under the terms of reference of their Code of Conduct. The Chief Officer already specified that he was aware of that.

3.2.7 The Deputy of Grouville:

Yes, Sir. Does the chair of P.P.C. not realise that she is probably the only chair of a privileges body of any C.P.A. (Commonwealth Parliamentary Association) legislature who regards it as, and I quote: "No business of hers to investigate allegations of a serious nature against a government"?

The Connétable of St. Mary:

I have been quite specific in my answer. The terms of reference of P.P.C. do not encompass the investigation of a general complaint against government and I would point out if such an investigation were to be undertaken, would the Assembly be

satisfied that it be undertaken by members of the government or would the Assembly look towards an independent inquiry? I would say that the terms of reference of P.P.C. and Standing Orders were crafted in the cool light of day after much reflection in order that impartiality could be maintained, and they were crafted for a reason.