

4.15 The Deputy of St. Martin of the Chief Minister regarding the States Employment Board's role in respect of the welfare of suspended States employees:

In relation to the 3-year suspension of the hospital consultant, will the Chief Minister inform Members of the States Employment Board's role in respect of the welfare of suspended States employees, why it permitted the unprecedented suspension, and given the stress and injustice suffered by the consultant, will the Chief Minister give a full and unequivocal apology to him and tender his resignation?

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

The States Employment Board does have a welfare role in respect of suspended States employees. Employees who are suspended pending disciplinary investigations and hearings are currently paid throughout the duration of that suspension. The States Employment Board is the dedicated authority for disciplinary matters - the departmental chief officers - and expects them to ensure that contact is made with employees throughout the period of suspension. The States Human Resources Department now has a Suspension Review Panel consisting of a cross-section of public employees, and this panel reviews all suspensions of more than one month's duration on a monthly basis. Suspended employees with representatives are entitled to and do attend panel meetings. The Employment Board receives monthly reports from the panel and gives consideration to these. The length of the hospital consultant's exclusion was indeed very unfortunate and we have all learnt lessons. I was given to understand that the exclusion had been made on the advice of senior medical officers at the hospital on grounds of patient safety rather than contractual employment matters, and I personally find it very difficult as a medically non-qualified person to challenge such grounds. Clearly in the light of the exclusion report, human resource practitioners and the States Employment Board will need to be more prepared in future to make such challenges. This was clearly an exceptional case involving a police investigation, a criminal trial and an independent external investigation. Clear legal advice was received not to commence disciplinary proceedings while the police investigation and court case were in train. But as I say, we have all learnt valuable lessons and I have personally written to the hospital consultant in question apologising for the manner in which his exclusion was handled. Given the exceptional circumstances of this case, I have no intention of resigning.

4.15.1 The Deputy of St. Martin:

I am grateful that the Minister has made reference to the Review Panel because he was reminding us it was my proposition that came to the States which was opposed by the Council of Ministers, and thank goodness there is common sense of this House that we have now have a Review Panel and I am grateful to fellow Members for supporting the proposition. I put it to the Minister really that the fact is that ... was he aware of the terms of reference which GoodwinHannah had to carry out, and will he explain why the GoodwinHannah Limited, the consultants, did not fulfil its terms of reference in looking as to whether there were any procedural errors or conflicts of interest for the States Employment Board? In other words, why was the role of the States Employment Board not reviewed by GoodwinHannah Limited?

Senator T.A. Le Sueur:

The terms of reference of GoodwinHannah were notified to all States Members and are a matter of public record. I believe that they have carried out the terms of

reference of their inquiry. The Deputy may not be satisfied with their report, but that is another matter.

4.15.2 Deputy A.E. Jeune:

I am heartened to hear the Chief Minister say lessons have been learnt, but could he confirm that doctors currently excluded from their posts are having their cases dealt with efficiently and effectively to ensure that we do not have a repeat of what has been shown by independent review to be a regrettable case of gross mismanagement?

[14:45]

Senator T.A. Le Sueur:

To the best of my knowledge there is only one medical practitioner currently under review. Our procedures have been amended to reflect that and I believe that the doctor in question has now been treated in accordance with the recommendations of the GoodwinHannah report.

4.15.3 The Deputy of Grouville:

Did Solace receive any evidence of bullying and harassment of the excluded gynaecologist, and why were so few of the managers responsible for the exclusion interviewed?

Senator T.A. Le Sueur:

The consultants were given free range in the terms of reference to ask whatever questions they wanted of whomever they wished or wanted to. I cannot speak as to why they chose certain people or did not ask other people, but they have confirmed that they have received all the information that they required in order to complete their report.

4.15.4 Deputy P.V.F. Le Claire:

I think it may be possible to get this one in. The question asked would the Chief Minister inform the States Employment Board's role in respect of the welfare of suspended employees, and the Chief Minister stood up to give us a long answer on what has happened, what is changing and what will happen in the future in regards to the Employment Board. But what I would like to know is what role do they have once the suspension has ceased, in making sure and ensuring that the welfare of those that have been suspended, and in particular people such as this that have been suspended for an inordinate period of time; what role do they have in making sure and ensuring that the welfare of those that have now been unsuspending is best met, and that they are not continuing to experience hard times, which I am hearing some noises on.

Senator T.A. Le Sueur:

If the Deputy has cases where he thinks there may be hard times or poor treatment of people who are no longer ...

Deputy P.V.F. Le Claire:

May I ask the Chief Minister to give way for a second, Sir, and I maybe elucidate ... no, that is the wrong word: elaborate a little? In particular to the suspension of the employee that was suspended for 3 years and went back to the hospital whose name shall remain ... I understand that that employee and another employee are having difficulties even though suspensions have ceased or are being looked into. What role

does the States Employment Board have in ensuring that once suspensions have finished that those employees have returned to a workplace that is workable for them?

Senator T.A. Le Sueur:

That is a key matter of policy for the States Employment Board that staff who are cleared and no longer suspended should be entitled to and expected to go back to work as if nothing else had happened. That is the matter which is the duty of management to deliver within the policy set out by the States Employment Board. If there is evidence that the management is not adhering to those policies then I should like to know about it.

4.15.5 Senator J.L. Perchard:

Will the Chief Minister agree with me that one of the problems, certainly in the case of this suspended consultant, was that the advice being given to the States Employment Board came from the same legal advisers that of course are representing not only the States but the judicial process against any ... in case there was any criminality or legal case against that very same person. Does the Chief Minister agree that it does put Crown Officers and legal advisers in a difficult position when they represent the States and they represent a judicial process, and is that one of the reasons why this gentleman was suspended for an unacceptably long period of time?

Senator T.A. Le Sueur:

Certainly I agree that the legal advice which the States Employment Board receives, we seek from the Law Officers' Department. It is the Attorney General, a member of that department, who is responsible for deciding on prosecutions and to that extent the Law Officers' Department has to fulfil various roles. I am satisfied that there are procedures within the Law Officers' Department to ensure that there is sufficient segregation of duties to minimise any conflict between those 2, or sometimes more than 2, roles which they have to play, but that is an inevitable part of the system. I am not able to comment on whether that made a position more difficult or otherwise, other than to say that I have every confidence in the Law Officers' Department.

4.15.6 Senator J.L. Perchard:

If I may give a supplementary, I am not suggesting that for any moment that I do not have confidence in the Law Officers' Department; far from it. But why does then the Chief Minister not ... can the Chief Minister explain why we do not see these type of lengthy suspensions in the private sector when there are 2 distinct lines of political advice being given, one about the judicial process through the Law Officers' Department and another from private sector lawyers? Why do we not see that in the private sector? Why is it only the States ... the public sector that seems to be able to come up with 3-year suspension?

Senator T.A. Le Sueur:

I cannot be categorical about every situation. I suggest, and it is pure surmise, that in many cases the private sector will take a commercial view and simply terminate a person's employment, rightly or wrongly, and even face claim for unfair dismissal. That is the commercial decision which the private sector may well choose to take, and I cannot comment on whether that is an appropriate decision for them to do so. For my sake, as a person responsible for the employment of public sector staff, I believe they were right to be treated as innocent until proved otherwise, and therefore that is why they remained employed on full pay. I accept that I would like to see a far

swifter end to the investigations which take place in the prosecution which may or may not subsequently happen. But that is a matter outside my control. It is a matter primarily of the police investigation, because these all relate to police investigatory matters, and the subsequent Law Officer's analysis of the outcomes of that investigation.

4.15.7 Senator S.C. Ferguson:

What evidence has the Chief Minister and, through him, the S.E.B. and the Suspension Review Panel got to support the fact that the submissions by the department during and after the suspension are accurate?

Senator T.A. Le Sueur:

One starts, I think, from a presumption of honesty, openness and full disclosure. One can use one's common sense to see whether the reported outcomes would appear reasonable, realistic and rational, but one cannot, I think, try to second-guess every decision made by every officer when there are procedures being laid out. Officers know and officers are accountable if policies are not properly carried out, and I believe that officers and accounting officers will do all in their power to ensure that policies are properly adhered to; and so that is as far as I can go in giving that reassurance.

4.15.8 Senator S.C. Ferguson:

Supplementary. Has the Chief Minister and the Review Panel spoken to the consultant who was suspended for 3 years in a formal Review Panel setting?

Senator T.A. Le Sueur:

Since the outcome of this particular situation, although I have written to the consultant concerned, I have had no personal contact with him whatsoever, nor will I particularly expect that to happen. I would expect that to happen from management staff at the hospital, and I understand that that has and is an ongoing discussion.

4.15.9 The Deputy of St. Martin:

I would remind the Chief Minister that had he read the Verita report it was quite clear that after the Prince review it was suggested that the consultant could have gone back to work, I think it was, in February 2007. So in other words it is 2 years unnecessary suspension. I am very disappointed, in fact I am appalled, that the Chief Minister cannot issue a public apology, and I think the fact that the Minister for Health and Social Services also cannot give a public apology I think is most disappointing. In fact I think appalled. Could I ask the Chief Minister, he says now he has written a letter of apology? Could I ask when that letter was written, and was it written after my question was lodged?

Senator T.A. Le Sueur:

The letter was written by me after the outcome of the GoodwinHannah report was published, 2 weeks ago.

The Deputy of St. Martin:

Before my question was lodged?

Senator T.A. Le Sueur:

It was drafted before the question was lodged. It was signed-off by me after the question had been lodged.