

3.15 Senator F.duH. Le Gresley of the Minister for Home Affairs regarding the publication of extracts from the Wiltshire Police Report:

Can the Minister advise whether he consulted with the States Employment Board and/or the Chief Minister before he decided to publicise extracts from the Wiltshire Police Report and whether the Chief Officer of the States of Jersey Police was made aware of the likelihood of such disclosure in the letter he was sent dated the 8th July 2010, in which the Minister indicated that the disciplinary process was to be discontinued?

Senator B.I. Le Marquand (The Minister for Home Affairs):

I did consult with the States Employment Board. I briefed the Chief Minister and the Council of Ministers in relation to what I intended to do and I believe that I had their support. The Chief Officer of Police was aware of my intentions prior to my letter to him. Indeed, on 5th July 2010 I received a letter dated 28th June 2010 from his representative who was aware of my intention to cause the Wiltshire reports to enter the public domain. Furthermore, the effect of my making a statement during a speech on 7th July 2010 was to bring my intention to the attention of the Chief Officer of Police quicker than my letter of 8th July 2010 which also explained to him my intentions. In that letter I warned him that I would shortly be making public the outcome of the various investigations made by the Wiltshire Police Force, together with a report from accounts. But of course I had said in this Assembly before that I was going to do that and, in any eventuality, got his notice before. Frankly, it is obvious from the way in which the Chief Officer of Police responded, prior to my briefings to Members, and has responded subsequently that he was very well prepared for this.

3.15.1 Senator F.duH. Le Gresley:

Page 2 of the main report that was presented by the Minister refers to an obligation to confidentiality and if I may quote it says: "The outcome of any particular case arising under the discipline code would not, as a general rule, be publicised." It also refers to the report being an independent disciplinary investigation and I would point out that the front of the Minister's report referred to an investigation into the management and supervision of the historic child abuse inquiry by the Chief Officer, which are different things; could the Minister advise whether he considers his decision to discontinue the disciplinary process is an outcome under the terms of the obligation to confidentiality?

Senator B.I. Le Marquand:

Yes, I do indeed. That was the whole reason why it discontinued early rather than letting matters run out in terms of time. That was so that I could today be answering questions in this Assembly in relation to the matter. It is quite clear from the disciplinary code that the Minister has discretion as to what to do with the material, once the disciplinary process has finished. I exercise that discretion in favour of the public interest in this matter being absolutely overwhelming in favour of my bringing to the attention of the general public the material and the matters which had come to my attention in relation to that matter. I felt, as I indeed said in my press statement and indeed my briefing to colleagues, that I was under a public duty to do so.

3.15.2 The Deputy of St. Mary:

I am fascinated that the Minister exercised his discretion in favour of the public interest. Can he explain to Members why he has published extracts from the Wiltshire Police Report and not a word of the 94-page rebuttal, in effect, by the former Chief of Police or the summary indeed which is also missing? We have absolutely one side of the story and not the other. How can that possibly be in the public interest where it is essential that this perception of fair behaviour is upheld?

Senator B.I. Le Marquand:

I would explain why it was necessary to only publicise at this stage certain parts but the point here is this, this is the assessment of a professional body, namely the Wiltshire Police, particularly the Chief Police Officer there, and having considered all the evidence, having considered all the case, having considered the account or accounts of the Chief Officer of Police, that this is his judgment. These are his finding of facts. Frankly, I find it absolutely amazing that the Deputy of St. Mary and other Members of this Assembly should suggest that I should have suppressed that information, that I should have held that back from the public. I thought that the Deputy of St. Mary and other such Members were always in favour of openness in relation to such matters. Suddenly it appears, when it does not suit them for political reasons, that that openness is no longer a matter in issue.

3.15.3 The Deputy of St. Mary:

I shall be sending the Minister a list of questions, none of the answers to which are in the redacted report with which we have been presented with and hopefully he will be able to reply to those. Again, how can the Minister think that it is in the public interest, on a highly divisive issue, to present one side to the media without a shred of the other side? I just find it unbelievable that he thinks that can be seen as fair.

Senator B.I. Le Marquand:

This is absolutely not one side. This is a judgment produced by an independent senior police officer after taking expert advice, after spending a great deal ... this is his opinion in relation to the matter. It is not one side whatsoever. He has fully taken into account the statement or statements of the Chief Officer of Police and of other witnesses who may have given evidence in favour. This is the key issue, this is a judgment, as it were, as far as we have got to so far on the matter.

3.15.4 Deputy T.M. Pitman:

I almost feel I should ask for a definition of judgment. Could I ask the Minister - and I stand to be corrected as always - he has made reference to the fact that the Chief Police Officer brought forward his retirement, being a major reason why disciplinary proceedings could not continue and happen. I am sure in Scrutiny the Minister told us, even if the Chief of Police had stayed until the end of his contract disciplinary proceedings still could not have taken place. So is that not being a bit disingenuous, if the case?

Senator B.I. Le Marquand:

It would have been tight, there is no question, it would have been tight to complete the whole process, bearing in mind that there are 3 stages to the disciplinary process, even after I have received the reports and the underlying evidence.

[16:15]

The first stage being a hearing conducted by myself, that would have required numerous preliminary hearings to determine what was the appropriate procedure in relation to issues of disclosure of documents, in relation to issues as to witnesses to be called live, *et cetera* - proprietary work. Then there would be the main hearing and after the main hearing there was then a right of appeal to a group of people, composed from people outside the Island who had been especially brought over for that purpose. Thereafter, after the right to appeal, the process was that the Minister could either take on board the effect of the appeal or not take it on board, but make a decision on that. Finally the matter would have to come to the House. I have expressed the view that this was a very complex matter which would have taken a great deal of time, but one thing that is absolute certain is that once the Chief Officer of Police had given his earlier notice, and once I only received the documents in February of this year, it was not going to be possible to proceed and to complete that entire process.

3.15.5 Deputy C.F. Labey of Grouville:

Would the Minister confirm who redacted the Wiltshire Police Report and other reports, who drew up their terms of reference, under whose authority, and just so we can absolutely clear, it is not just names that have been removed, what percentage of the reports was released to the public?

Senator B.I. Le Marquand:

The report was redacted after consultation with myself as to which parts we would seek to redact and which parts we would not, effectively, jointly by a person working for the Law Officers' Department and the Deputy Chief Executive to the Council of Ministers. There was reference there to terms of reference and I am afraid I will need to have greater clarity as to what the Deputy of Grouville means by terms of reference in this context.

The Deputy of Grouville:

I mean, what terms of reference did they have for redacting the report? Clearly it was not just the names that they had to remove. I would like to know what instructions they were given in order to redact the report.

Senator B.I. Le Marquand:

Well, instructions were given in terms of agreement as to which parts we could reasonably attempt to achieve at this stage and which we could not. Because there were some very long sections, particularly in relation to the first report. But in terms of the redaction process itself, the intention was, first of all, to achieve anonymity for individual witnesses and for other people referred to in the reports who are not public facing. Also, in a very small quantity of cases, to remove information which was of a personal nature.

3.15.6 Senator F.duH. Le Gresley:

Does the Minister now accept that this precedence means that all States employees now run the risk of the contents of disciplinary reports being put in the public domain?

Senator B.I. Le Marquand:

This was an unprecedented case of huge public interest and huge public concern following on the events of February 2008 and a subsequent press conference in November 2008. Also, Members of this Assembly must remember that the Chief

Officer of Police, through his political agents and on blog sites and other ways, has caused huge amounts of material of his own case to be put into the public arena in any eventuality. That, in my viewing, is in breach of the terms of the confidentiality clause. When you have a matter of such huge public interest, public interest is overwhelmingly in favour of the people of Jersey knowing the best information that I can provide as to what happened.