

### **2.3 Connétable D.J. Murphy of Grouville of the Chief Minister regarding reputational attacks on the former head of Property Holdings:**

Will the Chief Minister arrange to release the former Head of Property Holdings from the clause within his severance agreement which restricts his speaking out about the events leading to his resignation, in order that he can defend himself against reputational attacks?

**Senator I.J. Gorst (The Chief Minister):**

The employer and former Head of Jersey Property Holdings signed a compromise agreement in good faith. In principle, an employer is unlikely to agree to a variation of a settlement without good reason.

#### **2.3.1 The Connétable of Grouville:**

Does the Chief Minister not think that the controversy surrounding the report released by the Comptroller and Auditor General is sufficiently good reason for him to be able to defend himself against the attacks against him?

**Senator I.J. Gorst:**

As far as I am aware, the agreement did not limit the former Director from speaking freely or unhindered to the Scrutiny Panel and to the former Comptroller and Auditor General.

#### **2.3.2 The Connétable of Grouville:**

That does not put it in the public domain. Those are normally held under rules of secrecy and they do not allow him to speak out in the public domain as Ministers have spoken out in the public domain about him.

**The Deputy Bailiff:**

Who are you referring to, Connétable, when you say “about him”?

**The Connétable of Grouville:**

I am sorry, would the Chief Minister not agree that he has not had the opportunity to speak out in public in order that he may defend himself against attacks from the other Ministers in this House?

**The Deputy Bailiff:**

The former Head of Property Holdings.

**Senator I.J. Gorst:**

As I said, as far as I am aware, the contract did not limit the former Director from speaking freely and unhindered to the Scrutiny Panel. Also, as far as I am aware, although I have not quite had the time to check, I imagine that the transcript of that hearing is available in the public domain. The Comptroller and Auditor General will have used statements and evidence presented by the former Director to compile his report and I do not think I can say any more.

**The Deputy Bailiff:**

I already have 7 Members asking questions. I give notice that we are going to deal with those and then we will go back to the Connétable.

#### **2.3.3 Deputy M. Tadier:**

Does the Chief Minister acknowledge as a general principle that there is a matter of natural justice that needs to be dealt here? Because if somebody is released from their position, they can have all sorts of allegations thrown at them in the public domain in the media by Ministers or by any States Members, which may or may not be factual, and that person cannot, because of the

gagging clause, respond in the same way. Does the Chief Minister accept that there is an issue there and will he give an undertaking to address that?

**Senator I.J. Gorst:**

I am not aware of allegations that fall into the category that the Deputy is suggesting. The States Employment Board has quite clearly, however, said going forward the terms under which they might consider clauses of confidentiality in compromise agreements and that is what we will work to in future.

**2.3.4 Senator S.C. Ferguson:**

Is the Chief Minister aware that various assemblies such as the Welsh Assembly do not consider that gagging clauses are appropriate and what steps will the Chief Minister, as Chairman of the S.E.B., be taking to ensure that all Ministers comply with the contractual terms of compromise agreements?

**Senator I.J. Gorst:**

As I said, we hope in the States Employment Board that confidentiality clauses will be used as an absolute last resort, and I believe I can speak for probably most members of the States Employment Board, who cannot imagine when they would wish to use a confidentiality clause in future. However, there might be cases where that is the case and therefore I hope that this particular issue will not arise.

**2.3.5 Senator S.C. Ferguson:**

Will the Chief Minister release that particular ex-employee from that clause so that he also may have the freedom of talking to the media as the Minister has?

**Senator I.J. Gorst:**

As I said, the former Director, as far as I am aware, has been free to talk unhindered to the Scrutiny Panel and to the Comptroller and Auditor General and those reports have resulted from his unhindered comments to those panels.

**Senator S.C. Ferguson:**

Will he be able to talk to the media?

**The Deputy Bailiff:**

You have had your answer, Senator.

**2.3.6 The Connétable of St. John:**

Given that in recent times the Chief Minister has made in part 2 apologies to a former employee at the hospital, he has reneged on their agreement by not signing a letter to the former consultant at the hospital. Is that correct?

**The Deputy Bailiff:**

That does not arise, Connétable, in relation to this particular question.

**The Connétable of St. John:**

Well, Sir, it is all to do with employment and the Employment Board and it does fall within the wider scope.

**The Deputy Bailiff:**

Any question on any employees, I think not.

**Senator I.J. Gorst:**

I am sorry, Sir, but there is an allegation there, which I do not feel that I can leave unanswered. I am not quite sure what it is but it seems to be that I have dealt inappropriately with previous former employees and that is not the case. I have made 2 statements or answered questions in this Assembly with regard to that. I am aware that a letter is still to be returned to that former employee. I have made amendments to that letter and I expect that it will be going out very shortly. I do not believe that there has been any renegeing on any agreement.

**2.3.7 Deputy M.R. Higgins of St. Helier:**

This is a very important issue and I would just like to try and pin down the Chief Minister. First of all, the Chief Minister says he has no knowledge of the gagging clause or any confidentiality clause. Can he first of all give a statement that he will check to see what is there? If there is a confidentiality clause that is preventing the former Director of Property Holdings speaking, that he will release him from any clauses that prevent him from speaking so again he can get his side of the story out? Will he give an undertaking first of all to check on the nature of the agreement? If it restricts his ability to speak, will he lift that restriction?

**Senator I.J. Gorst:**

I have not said that there is not a confidentiality clause. I have said that there was a confidentiality clause undertaken by the former, I imagine, States Employment Board and the former Director. What I said was that that clause did allow for that individual to speak freely and unhindered to the Scrutiny Panel and to the Comptroller and Auditor General. I am not sure that it is my job and the job of the current States Employment Board to undo agreements previously reached.

**Deputy M.R. Higgins:**

It strikes me that it is good for one person to have things released and not for others and I do believe that until ...

**The Deputy Bailiff:**

Not a speech, please, Deputy, this is question time.

**2.3.8 Deputy M.R. Higgins:**

The question is to restore public confidence in this Council of Ministers - which is pretty ragged at the moment - would the Chief Minister go to the States Employment Board and release this individual from the ability to speak to anybody?

**Senator I.J. Gorst:**

As I said, the agreement was, as far as I am aware, entered into in good faith. I do not believe that we should go and undo all contractual agreements that were previously entered into. What this States Employment Board and what this Council of Ministers is committed to doing and is doing - not that you would necessarily know it - is moving forward and addressing the issues that the Members are referring to. That is exactly what we are doing.

**2.3.9 Deputy T.A. Vallois of St. Saviour:**

Could the Chief Minister confirm that the agreement can be removed if both the ex-employee and the employer agree to remove that clause and in the interests of openness and transparency, would he not believe that it would be the appropriate thing to do?

**Senator I.J. Gorst:**

Of course, if a request came, then it would be considered as any request would be but I am simply saying and reiterating that, as far as I am aware, the former Director was able to speak freely and unhindered to the Scrutiny Panel which resulted in a report. As I said, I suspect the

transcript is available in the public domain and others can comment on that and to the Comptroller and Auditor General.

[10:15]

**2.3.10 Deputy J.A. Martin of St. Helier:**

Surely this is partly irrelevant because the Chief Minister has undertaken, with the Chairman of the Public Accounts Committee, to do a full investigation of all statements - and hopefully there will be no gagging orders in his thorough investigation to come - on evidence given on the Lime Grove property. When the Minister re-interviews all the people involved, as he has promised in the investigation, will there be gagging orders on those?

**Senator I.J. Gorst:**

I am not sure what investigation has been promised and by whom.

**2.3.11 Deputy J.H. Young of St. Brelade:**

Would the Chief Minister confirm that an agreement signed is binding on both parties and the requirement for confidentiality by the employee on public statements also binds on the employer to refrain from public statements? In view of the comments made by the Minister, which are critical of this particular officer, is it not the case that if he gets a request, that this should be released from this agreement?

**Senator I.J. Gorst:**

As I said, any request would be appropriately considered. Some questioners have suggested that allegations have been made by Ministers with regard to specific individuals. I am not sure which allegations they are referring to.

**2.3.12 The Connétable of Grouville:**

It is refreshing to hear the Chief Minister ducking behind the sentry box of the Scrutiny Panel saying that they are free to speak to the Scrutiny Panel but not to speak to the press. Once more - and I am going to ask a question - can we have a yes or a no? If the Chief Minister is approached by the former Director of Property Holdings to release him from the gagging order, will he agree, yes or no, please?

**Senator I.J. Gorst:**

If only life were so simple. I have said that I would appropriately consider it with appropriate advice and that is the answer I stand by.