

3.16 Deputy M.R. Higgins of the Chief Minister regarding action taken by the Data Protection Commissioner relating to a complaint against the States of Jersey Police:

Is the Chief Minister satisfied with the action taken by the Data Protection Commissioner relating to a complaint, and I must stress this is singular; my actual question was plural. It says: "Is the Chief Minister satisfied with the action taken by the Data Protection Commissioner relating to complaints alleging the States of Jersey Police's failure to disclosure information allowed under the Data Protection (Jersey) Law 2005, and within specified timescales?"

Senator I.J. Gorst:

Sir, I would ask my Assistant Minister, with political oversight of data protection, to answer this question. Thank you.

Senator P.F. Routier (Assistant Chief Minister - rapporteur):

I am satisfied that the Data Protection Commissioner acts in accordance with the policies and statutory requirements under the Data Protection Commissioner's office functions. The Data Protection Commissioner receives full co-operation from the States of Jersey Police Force regarding any requests for information in connection with data protection matters.

3.16.1 Deputy M.R. Higgins:

Supplementary? How can it be classed as full co-operation of the States of Jersey Police, when the people who complained or sought information from the police, who can expect normally to have it under the law in 40 days, did not receive it till after 365 days and, in some cases, have still not yet received it? So how can the Commissioner be said to be satisfied and how can the Commissioner be said to be doing their job if that is the case?

Senator P.F. Routier:

The Deputy is referring to a particular case. If he would like to discuss that matter with myself and the Chief Minister and the Data Protection Officer, we would be happy to meet with him and discuss it.

3.16.2 Deputy M.R. Higgins:

A supplementary, Sir, again. You might have to discuss 12 cases because there are quite a number of serious complaints about the lack of co-operation from the States of Jersey Police with a request for subject access and to investigate criminal action.

The Bailiff:

So the question, Deputy, is ...?

Deputy M.R. Higgins:

I will have to bring up all 12 if we do have a meeting.

The Bailiff:

That does not sound very like a question, but ...

Deputy M.R. Higgins:

Will he meet me on that basis?

Senator P.F. Routier:

I will be happy to meet with the Deputy on any complaint he has regarding the Data Protection Commissioner.

3.16.3 Deputy R.G. Le Hérissier:

On the principle of who guards the guards, would the Assistant Chief Minister tell us if anyone does have a complaint, notwithstanding some of the excellent work carried out by the D.P. (Data

Protection) Commissioner, who would they go to for a truly independent hearing of that complaint?

Senator P.F. Routier:

At the last sitting I answered a question in relation to complaints procedure. The complaints procedure is published on the Data Protection website and it is very clear. It is a public document; any person who is dissatisfied with actions of the Commissioner may complain to the Chief Minister. Any person who is dissatisfied with actions of the Commissioner's staff may complain to the Commissioner. There is a full process that is laid out on the website of how to complain and it is very open and it is there for anybody to follow.

3.16.4 Deputy R.G. Le Hérissier:

A supplementary? Notwithstanding some of the excellent work performed by the Chief Minister, could the Assistant Chief Minister tell us what precise process is followed when the complaint lands on the Chief Minister's desk?

Senator P.F. Routier:

I have not experienced that as yet because no complaint has been made to the Chief Minister, but the process is there to be followed and we will follow it if and when it ever happens.

3.16.5 Deputy G.P. Southern:

Does the Assistant Minister accept that a delay of up to and beyond 365 days is totally unacceptable for the resolution of such a request, and does he believe that, if that is the case, then the standards achieved by the Police Department are completely unacceptable?

Senator P.F. Routier:

I have no idea of the detail of what was being asked for and the conditions of what was being asked for, so I cannot comment on that at all. There may have been some specific areas which were relating to particular open cases which were difficult for the police to divulge, but I cannot comment on that.

3.16.6 Deputy G.P. Southern:

Does the Minister accept that if the 40-day limit has been breached by such an outrageous length of time, that is unacceptable on the part of (a) our Data Protection Law and (b) the police concerned?

Senator P.F. Routier:

I am not prepared to comment whether it is unacceptable on that particular case because I do not know the details of the case. If it was, obviously, a straightforward question which needed to be answered within 40 days, well, that is unacceptable, but I have no idea of the detail of that particular case that is being talked about.

3.16.7 Deputy T.M. Pitman:

Much on the same theme, I am party to some of the same information. I would like the Assistant Minister to answer the question: how can the rules be being adhered to when people have not had information within 40 days? It is quite simple. Something is wrong here. Some people even moved on and their jobs have been terminated. Can the Assistant Minister explain to me how can this be working if that 40-day period, which applies to everyone else, is not being adhered to?

Senator P.F. Routier:

I would reiterate the answer I gave earlier: if there is a particular concern and a complaint to be made, there is a procedure to follow, and I would suggest to any Member who is involved with

any of these cases, that you seem to be privy to information which no other people are and, if they would like to make a complaint, there is a procedure to follow.

3.16.8 Deputy T.M. Pitman:

Just a supplementary? Could I please come along to the meeting with Deputy Higgins, Assistant Minister?

[11:15]

Senator P.F. Routier:

Yes.

3.16.9 Connétable D.W. Mezbourian of St. Lawrence:

I would like the Senator to explain how he can ask the Data Protection Commissioner to attend a meeting with him and the Chief Minister because, clearly, in an answer to written question 4 today, we are told that the Office of the Data Protection Commissioner is independent of government?

Senator P.F. Routier:

The law is written in a way that the Data Protection Commissioner comes under the aegis of the Chief Minister. The complaints procedure is very clear: that the process is anybody may complain to the Chief Minister if they have concerns about the Commissioner, so we have the right to ask the Commissioner to come along.

3.16.10 Deputy M.R. Higgins:

In fact, referring to question 4, the written question: “The Chief Minister states that the Office of the Data Protection Commissioner is independent of government.” I mean, quite rightly, and that is the way it should be, but then he goes on to say that he does not ... and this goes back to the Assistant Chief Minister’s answer, but he goes on to say he does not: “Judge it appropriate for him to seek to place specific data relating to an individual intervention in the public domain.” If we set up the Office of the Data Protection Commissioner, does it mean there are no checks and balances to ensure that that department is doing its job? If the Chief Minister is not prepared to look into it or answer questions, then we are going to have to change the law in this House to have some sort of accountability for that office and other public offices which are created by this Chamber, and there appears to be no redress for anyone. Does the Chief Minister think it is acceptable that we should not be able to get answers as to how efficiently the Commissioner’s office is performing?

Senator P.F. Routier:

The mechanism for ensuring that the Commission is performing effectively and appropriately, there is an annual report every year which lays out what the Commission has been doing, and it is open to any Member to read that report, and that is the way we seek to ensure that the Commission is working appropriately. I have to say, from the last few reports that I have read, certainly, there has been no concern that the Commission Office in total has not been carrying out its function correctly and, until there is any complaint, there is no justification in saying that that has not been the case. I have spoken to the Commissioner about these questions which are being laid on a regular basis; she is very prepared to sit down with Deputy Higgins in particular to talk through the concerns that he has. If the Deputy wants to come along and talk with myself, the Chief Minister and the Commissioner, we are very happy to do that.

Deputy M.R. Higgins:

A final supplementary, Sir? In fact, it is not so much a question, I was just saying the truth of the matter is I think the only way that we are really going to get the full facts out is I may have to

bring a vote of no confidence in someone to give the whole of the Assembly all the data that I have got.