

## **7.7 Deputy T.M. Pitman of the Chief Minister regarding the full and complete costs arising from the secret court proceedings against former Senator Stuart Syvret:**

Further to his answer of 10th September 2013 and his subsequent media release, will the Chief Minister clarify for the Assembly the full and complete costs arising from the secret court proceedings against the former Senator Stuart Syvret? Will he clarify what percentage of the costs, if any, were paid for by the 4 individuals themselves?

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

As explained at the last States sitting, the costs of bringing the case incurred by the Data Protection Office amounted to just over £387,000 for a 6-year period from 2008 to September 2013. The additional costs to the Data Protection Commissioner's Office were met by court and case costs. The 4 individuals did not fund the court costs. The only additional costs to the Court Service were £14,010 to the Bailiff's Chamber. There were no additional costs incurred by the Judicial Greffe.

#### **7.7.1 Deputy T.M. Pitman:**

I must ask, is the Chief Minister happy to stand by that figure? Because I think I can come back to the Assembly with a rather different one very soon.

### **Senator I.J. Gorst:**

I have no reason to doubt the figures which I have quoted. They have been provided to me respectively by the Court Service. As I said, they are additional costs. They do not include the sunk-costs of the normal running of the Court Service.

#### **7.7.2 Deputy T.M. Pitman:**

That is quite clear that it should be highlighted in the costs in their entirety and really the answer is not good enough. Could the Chief Minister not go away and come back with a proper answer?

### **Senator I.J. Gorst:**

It is a proper answer. The budget for the Court Service is approved as part of what is now the M.T.F.P. (Medium-Term Financial Plan) process and is in the public domain. The Court Service runs within those budgets, albeit, of course, there are court and case costs, and I have discussed what funds came out of court and case costs for this particular case.

#### **7.7.3 Deputy M.R. Higgins:**

Personally, I do not think it is good enough, the answer that the Chief Minister has given. This case was held in secret. There have been all sorts of fudges, non-answers given by Assistant Ministers and all-sorts about what has gone on here. How many other cases have taken place? We know that there have been other breaches of the Data Protection Law. Can the Chief Minister give us an assurance that there have been no other cases funded in this way or done secretly in the past?

### **Senator I.J. Gorst:**

Of course, hopefully one would not expect me to be aware of all the cases going before the courts. That is not within my remit and, therefore, I have had no reason to ask that question and be aware of any other such case. I have been asked in this instance. I have taken the exceptional step of releasing the costs incurred by the Data Protection Commissioner's Office because of public interest, and I do not think I need to go any further.

#### **7.7.4 Deputy M.R. Higgins:**

You say in the public interest, but was it not the Data Protection Commissioner who invited these people to come to her department and to discuss with lawyers about bringing a case in this particular instance? Why was the Data Protection Commissioner inviting people to come in and

form an action and then the public pick up the bill for it when other people, where there has been data protection breaches, have not been given any financial assistance whatsoever?

**Senator I.J. Gorst:**

It is my understanding that the judgment made it perfectly clear that the Data Protection Commissioner acted within her remit and in accordance with the law and Members of this Assembly should be satisfied with that. It appears to me that some Members are not satisfied with the law. If Members wish to see changes to any piece of legislation, that is perfectly within the remit of a Legislative Assembly, which we are.

**7.7.5 Deputy G.P. Southern:**

How much money was taken from the court and case costs funds to pay for this case?

**Senator I.J. Gorst:**

I have answered that on a previous occasion and I have just answered it again this morning.

**The Deputy Bailiff:**

I understood the Chief Minister to say what he said earlier, that he had answered the question earlier this morning.

**7.7.6 Deputy M. Tadier:**

The Chief Minister has asked whether Members are happy and they can bring their own amendment, but is the Chief Minister happy that a precedent now seems to have been set that in the past, a case which seems to be a libel case of defamation, has used data protection instead? Because the test, of course, is that some content on a website is found to be harassing. Should the test not be whether it is factual or not? Because something can be harassing and it can also be true. Is the Minister concerned that, again, public money is being used and we have created a precedent here that anybody on any site who does not like what is being written about them can now have their court cases funded and their names removed by the taxpayer?

**Senator I.J. Gorst:**

I would have thought the Members of this Assembly were fully acquainted with the Data Protection Law because they have licences as individuals to handle data. The way that we handle data is very important in the way that other individuals, reporters and media, *et cetera*, who handle data should abide by the Data Protection legislation. If they are not doing so, then they should expect to suffer the consequences of not complying with that piece of legislation. The court, as I understand it, made it quite clear in its findings that damage had been caused to those individuals in the way that the data had been handled.

**7.7.7 Deputy M. Tadier:**

Is not the only issue here that nobody had heard about this Data Protection Law being used in what would otherwise be a libel case, apart from the first time it is used that we know about when it is used against a very high profile figure who is an enemy of the establishment? That is how it is perceived. Will the Minister speak on that issue and talk about whether that recourse will be available to anybody else who wants to take action about defamation?

**Senator I.J. Gorst:**

It was a data protection case and it was connected with data handling, and that is very different from libel.

**The Deputy Bailiff:**

Can I remind Members that this is a question about the costs which have been incurred?

**7.7.8 Deputy M.R. Higgins:**

It is still about costs, but it is also about principle. We have in this House at the present time a Member who broke the Data Protection Law and was not prosecuted. Why is it that there is one rule for one person and not for another? I cannot see how the Data Protection Commissioner did not bring a prosecution in that case when it was a cut and dried breach of Data Protection Law.

**The Deputy Bailiff:**

Well, that is not a question.

**Deputy M.R. Higgins:**

Does the Chief Minister agree there should be a consistent standard across the board?

**Senator I.J. Gorst:**

Let me say I have no reason to doubt whatsoever that the Data Protection Commissioner nor our Prosecution Service act in any way other than consistent and in line with what we would expect around making appropriate prosecution decisions.

[12:30]

**7.7.9 Deputy T.M. Pitman:**

I have a nice big file here for next time about yet another data protection breach not prosecuted. Given the Chief Minister's answer and his press release, I believe he expressed his contentment with the way the process has been unfolded against former Senator Syvret. Could he tell us is he also content that other individuals are denied by the Data Protection Commissioner's Office to bring the same sanctions, processes, against one of the individuals involved in the case? Indeed, a gentleman who has numerous complaints against the police and was found guilty of making death threats to the family Stuart Syvret lived with. Where is the consistency in that? Is the Minister content and can he please give us a proper answer instead of saying that he is quite happy to accept anything the Data Protection Commissioner says?

**Senator I.J. Gorst:**

It is not me saying that, it is the court that has said that. I stand by the court's decision in this regard and I believe that this Assembly should too. We will shortly be coming today on to a proposition, very appropriately on the back of a proposition from Senator Farnham, to make sure that judicial policy and budgets have appropriate executive oversight. Part of that proposition rightly should mean that Members of this Assembly do not involve themselves in individual cases and get involved in operational matters. The court quite clearly said that the Data Protection Commissioner had acted appropriately and within the bounds of the law that she administers. The Members of this Assembly should be satisfied with that, not try and second-guess every single decision made by either the Data Protection Commissioner or the Prosecution Service.

**7.7.10 Deputy T.M. Pitman:**

A final supplementary because the Minister has not really answered my question. I can say for a fact that this is what happened because I am that individual who requested support against an individual who runs hate sites. Indeed, he was one of those behind the hate site that the email stolen by Deputy Power from the Deputy of Grouville ended up on, a pro-child abuse cover-up website. Where is the consistency? Why is the Chief Minister content, as it is his responsibility so he tells us?

**Senator I.J. Gorst:**

I am not sure that it is appropriate for individual Members to be referring to their own individual cases and trying to use this Assembly to get a hearing about decisions that have been made by appropriate authorities.

**The Deputy Bailiff:**

Very well, we come ...

**Deputy T.M. Pitman:**

A principle.

**The Deputy Bailiff:**

I understood you to be talking about your own case, Deputy.