

#### **4.5 Deputy G.P. Southern of Minister for Social Services regarding his response to a Complaints Board finding published on 18th December 2013:**

What a joy it is to be back. Will the Minister inform Members why he maintains that the application of income support guidelines to support a decision that a payment received by a claimant was to be regarded as income and not capital was just, despite a Complaints Board finding published on 18th December 2013 that it was not?

##### **Senator F. du H. Le Gresley (The Minister for Social Services):**

My response to the Complaints Board findings has already been published in our R.156/2013. Income support provides financial help to local residents in need through a system which I believe is accessible, fair and effective. The income support guidelines require a household's total income to be taken into account when considering a claim for income support benefit. Article 7 of the Income Support (Jersey) Law allows for certain payments to be disregarded or treated differently. A redundancy payment, being compensation for years of service following the loss of employment, is treated as capital not income. In the case of this particular complaint, the claimant received a £6,000 final payment from his employer. The claimant was not made redundant. In this example, if the final salary payment had not been treated as income the claimant would have received approximately £2,960 of income support while retaining £6,000 of earnings. In effect, for this period, the claimant would have been better off being out of work than in work, something which I do not believe is right. This is why I am satisfied the income support guidelines are fair in assessing the situation, something which I am sure taxpayers and most States Members would agree with. To clarify: in their findings the Complaints Board did not state that the income support guidelines were unjust. The Complaints Board felt that it was the department's decision to classify the claimant's lump sum as earnings without further investigation that was unjust. In response to the Complaint Board's comments the department has sought and received written confirmation from the employer that the claimant was not made redundant.

##### **4.5.1 Deputy G.P. Southern:**

Supplementary, if I may. Will the Minister explain why he has paid no attention to the further recommendation of the Complaints Board which stated: "It further recommended that the guidance notes in respect of the classification of sums paid on the termination of employment [not only redundancy but on the termination of employment] should be revised." Has he paid any attention to revising those guidelines?

##### **Senator F. du H. Le Gresley:**

The income support guidelines are currently and have been - for a number of months, if not a year or so - in the process of revision and the findings of the Complaints Board are being taken into consideration by the department.

##### **4.5.2 Deputy G.P. Southern:**

Is it the case, in the Minister's opinion, that not only do the guidelines need to be revised but that the regulations, which concern payments for termination of employment, should in fact be expanded to take into account what is becoming increasingly prevalent the use of severance payments to get around the Employment Law?

##### **Senator F. du H. Le Gresley:**

I take a different view from the Deputy on this particular issue. The income support benefit system is designed to assist people in need. I do not accept that people are in need when they receive large payments for leaving their employment. Only in a situation, and this is the

same with tax and also social security contributions... only when the job is no longer available ... perhaps I could define “redundancy” for the benefit of the Deputy. Redundancy according to the J.A.C.S. (Jersey Advisory and Conciliation Service) website: “The whole business closes down or is expected to close down, the business closes down in a particular place or is expected to close down, the requirements of the business for employees to carry out work of a particular kind cease or diminish because the business diminishes, productivity increases, the work is done in a different way.” That is the only situation where I accept, and we already have in the guidelines, that the redundancy resulting from the loss of that particular job in the workplace should be treated as capital.

#### **4.5.3 Deputy J.H. Young:**

Notwithstanding the particulars of the case, would the Minister not accept that the Complaints Board is the only procedure that we have in the States for individual members of the public to bring forward their grievances and have them listened to objectively, and that if we have a situation where Ministers disregard unreasonably those findings would he not accept this completely undermines the confidence of members of the public and the ability of Members of this House to have these proper matters, questions investigated?

#### **Senator F. du H. Le Gresley:**

I would dispute what the Deputy has alluded to there, that we disregarded the findings. The fact is... and I have answered in great detail. In this particular case there was no question of redundancy. Whether Members feel that in future any large payment from an employer should be treated as capital, that is for Members to decide but, as far as this Minister is concerned, I do not accept that and severance payments will not be classified as capital.

[11:30]

#### **4.5.4 Deputy J.H. Young:**

My question was in the general, rather. I accepted notwithstanding a preamble to my question by saying: “Notwithstanding the particulars of the case, will the Minister not accept that it is a point of principle in the way Ministers respond to the Complaints Board findings?” This is proper process.

#### **The Deputy Bailiff:**

I understood the Minister to say that they had considered it.

#### **Senator F. du H. Le Gresley:**

We respect the role that the Complaints Board provides in our system of government but it has to be the case that the final decision on whether a recommendation is accepted rests with the Minister where any particular complaint has been raised. Clearly, the Minister has to be absolutely satisfied that he is making the right decision when he perhaps does not agree with the Complaints Panel.

#### **4.5.5 Deputy G.P. Southern:**

Will the Minister confirm that, even though it sounds like a great deal of money, £6,000 is well below the savings limit to apply for income support? Further, will he state when he is going to come and produce these revised guidance notes for the application of income support?

#### **Senator F. du H. Le Gresley:**

The Deputy is correct; the sum of £6,000 is less than the savings limits. I do not quite see the relevance of that. The point with regard to the policy guidelines, I do and hopefully can

assure Members that they will have these in their hands, should they wish them, before the next Assembly.