

2016.03.22

3.6 Deputy M.R. Higgins of the Attorney General regarding the department's cooperation with the Napier review into the suspension of the former Chief Officer, States of Jersey Police:

I apologise to the Attorney General. I have got to turn my back on him so the microphone picks it up. Will Her Majesty's Attorney General advise whether his department fully co-operated with the Napier Review into the suspension of the former Chief of the States of Jersey Police and whether the then Attorney General's letter of 11th November 2008 to the then Chief Minister advising that the former Chief of Police should not be suspended until the full Metropolitan Police Report was received was forwarded to Mr. Napier and if not, why not?

Mr. R.J. MacRae, H.M. Attorney General:

Yes, my department provided Mr. Napier with access to all legal advice given in connection with the suspension of the former Chief Officer of Police including the advice given on 11th November 2008 by the Solicitor General to the Director of Human Resources. The advice, the subject of the question, is referred to specifically by Mr. Napier in his report at paragraphs 45, 67, 72 and 90. He quotes from the advice in terms at paragraph 67 and indicates he strongly agrees with the contents of the advice.

3.6.1 Deputy M.R. Higgins:

Supplementary. The Attorney General referred to the advice of the Solicitor General when, if I am not mistaken, that is where the comments in the Napier Report referred to the Solicitor General's advice. Will the Attorney General state quite categorically whether the letter of 11th November from the Attorney General to the Chief Minister was supplied to Mr. Napier.

The Attorney General:

I do not believe I have a copy of that letter before me and I will make further enquiries. I understood the question was directed to the earlier correspondence I am aware of, namely the advice given on 11th November referred to by Mr. Napier in his report.

Deputy M.R. Higgins:

Well, if the Attorney General will go away and come back and advise us I would appreciate it because it is quite key; the letter was from the Attorney General to the Chief Minister and that is the one I was asking for in the question.

The Deputy Bailiff:

Well, I understand, Deputy, the Attorney's answer is that he does not have it before him and he is not able to answer that part of the question. He had assumed it was referring to a different matter.

Deputy M.R. Higgins:

Well, I take it he will come back to us with the correct answer. Thank you.

The Deputy Bailiff:

That will be a matter for the Attorney, of course.

Annex

The following additional information was circulated to all States Members by H.M. Attorney General via email on 22nd March 2016:

“Will H.M. Attorney General advise whether his department fully cooperated with the Napier review into the suspension of the former Chief of the States of Jersey Police and whether the then Attorney General’s letter of 11th November 2008 to the then Chief Minister advising that the former Chief of Police should not be suspended unless the full Metropolitan Police report was received was forwarded to Mr. Napier, and if not, why not?”

I refer to the answer I gave to a question above asked by Deputy Higgins earlier today.

The question was read as referring to legal advice given to the Director of Human Resources by the Solicitor General on 11 November 2008 which referred to the report of the Metropolitan Police, and which is referred to by Mr Napier in his report.

The Solicitor General was responsible for giving advice to the Director of Human Resources and the Chief Executive of the States in respect of the disciplinary process in respect of the former Chief Officer of Police.

It was this file to which Mr Napier had access. Mr. Napier recorded at paragraph 3 of his report that all the official documents he requested were made available to him.

Since giving the answer, I now understand that an email (not a letter) passed between the former Attorney General, the former Chief Minister, and former Chief Officer on the same date. I have now shown to Deputy Higgins this email, which is publically available on the Care Inquiry’s website (see Day 127 Documents, page 383): Deputy Higgins has said that he believes this is the correspondence to which his question refers.

This email was disclosed to the Care Inquiry by my Department. It contains the Attorney General’s comments in respect of a draft press statement circulated ahead of a press conference regarding the historic child abuse investigation. Within the email, there is a passage, in brackets, which reads:

“If you get to the stage of suspending Graham Power then of course some statement would be necessary. But surely you would need to have the full Met report in your hands for that purpose and allow a little time for it to be assimilated. I hope you might want to consult on such a statement”

This is the only reference to Graham Power’s suspension contained within the email. The comment is made in the context that any decision to suspend Graham Power would need a further statement; it does not constitute further advice on the suspension itself. The email was not provided to Mr Napier as it was not in the advice file.

In any event, the comment contained in the email of 11th November 2008 does not conflict with the advice given by the Solicitor General on this issue, all of which was provided to Mr Napier. As stated at paragraph 44 of the Napier Report, the Solicitor General understood that the Minister would only consider suspension once he had a chance to consider the Metropolitan Police Report. As such, the Solicitor General’s advice was provided on this premise. The advice given by the Solicitor General on the 11th November 2008 stated that: *“I reiterate my advice that if this action [suspension] is being considered in advance of the full report [of the Metropolitan Police], there must be sufficient objective evidence available to justify what is proposed. I would urge that particular caution be exercised to check that there are no provisos or caveats to any of the conclusions reached upon which reliance is to be placed and that the reasons for actions are robust.”* (paragraph 67, Napier report).

As I stated in my answer earlier today, the Law Officers' Department co-operated fully with the Napier Review."