

**WRITTEN QUESTION TO THE CHIEF MINISTER
BY DEPUTY M.R. HIGGINS OF ST. HELIER
ANSWER TO BE TABLED ON TUESDAY 1ST NOVEMBER 2016**

Question

Further to the responses given on 22nd March 2016, would the Chief Minister advise whether, in instances where States employees are sued by a member of the public on the grounds that the member of the public has been defamed in statements made by the employee in correspondence or records, the employees' defence costs are paid out of the public purse or by the individual employee; and what steps, if any, has the Chief Minister taken, or will take, to ensure that States employees do not write or make defamatory statements about members of the public?

Answer

There is no definitive rule about liability for costs "*in instances where States employees are sued by a member of the public on the grounds that the member of the public has been defamed in statements made by the employee in correspondence or records*". The award of costs against one party or the other will depend upon whether the court upholds the allegation or allegations made in whole or in part, or dismisses the claim in whole or in part, and potentially on the respective conduct of the parties to the relevant proceedings irrespective of whether or not the claim was upheld.

There is equally no definitive rule as to whether or not an employee of the States will be indemnified by the States in respect of his or her costs of defending civil proceedings (whether for defamation or any other type of action). There may be circumstances in which it would be appropriate to indemnify the employee in whole or in part; there may be cases in which it would be inappropriate to do so at all. It will depend upon what precisely is alleged to have been stated and the particular circumstances in which any statement, correspondence or record came to be uttered or written.

If an allegation is substantiated that an employee of the States has written or made defamatory statements about members of the public (or indeed has been engaged in any other form of misconduct), as the employee is subject to the codes of practice under the Employment of States of Jersey Employees (Jersey) Law 2005, he or she, depending on the circumstances in which any such statement *etc.* was made (or in which any other misconduct took place), may be liable to the procedures for discipline or, ultimately, for suspending or terminating his or her employment.