

2016.12.12

**4 Deputy M.R. Higgins of the Chief Minister regarding the response of the States Employment Board to the findings of the States of Jersey Complaints Board in R.75/2016: [9756]**

Will the Chief Minister, as Chairman of the States Employment Board, explain why the Board has not accepted the findings of the States of Jersey Complaints Board in R.75/2016 and compensated Mr. Alwitry for breach of contract?

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

The reasons why the States Employment Board has not accepted the findings of the Complaints Board are set out in detail in the response of the States Employment Board dated 4th October 2016 and published by P.P.C. (Privileges and Procedures Committee) recently. Mr. Alwitry was offered a settlement at the time of the breach, which was not accepted.

**3.4.1 Deputy M.R. Higgins:**

Does the Chief Minister accept that what the States Employment Board has done in its response to the States Complaints Board is simply try to justify what cannot be justified? Essentially they did not follow a correct process. Mr. Alwitry had no access to what we call natural justice. He was not told what the complaints were against him. He did not know until he got his letter telling him he was not going to be employed, anything about it until that particular moment of time. The entire process was wrong and will the Chief Minister accept that the process adopted by S.E.B. (States Employment Board) and the Health Department was wrong; the process?

**Senator I.J. Gorst:**

I have accepted, it says in the States Employment Board's 2 responses that there were problems with the process, and that is why a settlement was offered in regard to that breach. But I do not accept a lot of what else is suggested in that report because of the reasons explained in the former Solicitor General's report and to other reports as well.

**3.4.2 Senator S.C. Ferguson:**

Does the Minister consider that given the fact that Mr. Alwitry had resigned from his job, was making arrangements for his children, his wife had given her notice in because she is a G.P. (general practitioner), and he gets a letter a week before he is meant to arrive here, does the Minister really consider that £25,000 is sufficient compensation?

**Senator I.J. Gorst:**

Compensation is always guided by advice and any offer of compensation rightly should be guided by advice. The Senator makes assertions about what she is asserting are the facts of the case. If she had read the details of both reports she would see that those assertions are not the facts of the case.

**3.4.3 Deputy G.P. Southern:**

In reference to the S.E.B's use of the Solicitor General, is it not almost unprecedented that the Solicitor General should be used as an independent reviewer of the Board's actions and then within a very short time be employed as adviser to the States Employment Board? Surely this practice is basically fundamentally wrong.

**Senator I.J. Gorst:**

I do not accept that assertion either. The suggestion around advice and the suggestion that the former Solicitor General, the current Solicitor General or any other Crown appointment would give anything other than impartial, independent advice, and the report that the former Solicitor General undertook was indeed just that. The States Employment Board were mindful of the difficulty surrounding this particular case, which is why they went to such lengths to commission 3 reports to try and bring resolution to the case. Therefore it is not right to assert what the Deputy is asserting, and that was one of the things that the States Employment Board could not understand about the findings of the Complaints Board; that the Solicitor General was anything other than independent of the States Employment Board.

**3.4.4 Deputy A.D. Lewis of St. Helier:**

Is the Chief Minister able to give an indication of the actual total cost of this incident? He is naming consultancy advice, legal advice, compensation. It is rather disappointing to hear all of that. Has he got any idea how the total cost of this unfortunate incident has been?

**Senator I.J. Gorst:**

This would come into cost categorisation because of course there were costs to the first individual that we asked to do a review. The idea was that that would lead to mediation and then there was the cost of the Beal report. The other costs of course are what we could describe as sum costs because those individuals are already in employment, but I cannot recall what the total costs were. I should also say that it is already the subject of legal exchanges so those costs will change going forward as well perhaps.

**3.4.5 Deputy A.D. Lewis:**

Would the Chief Minister be prepared to advise the Public Accounts Committee what the costs are to date at a later date please?

**Senator I.J. Gorst:**

I shall try and do it perhaps in the category of extra costs rather than sum costs.

**3.4.6 Deputy M.R. Higgins:**

This matter is going to go further because I will give notice to the Chief Minister I am bringing a vote of no confidence in the States Employment Board, which includes the Chief Minister, and the Minister for Health and Social Services and the officers in ...

**The Deputy Bailiff:**

Deputy, you have to ask a question.

**Deputy M.R. Higgins:**

Okay. I am just letting him know. Because again the Chief Minister referred to the Solicitor General's report and how it was independent and everything else. Deputy Southern has already mentioned how the Solicitor General then became a legal adviser to the States Employment Board and ... sorry, read the report, Chief Minister. It is in there. Also the Solicitor General at one point would not reveal information because it was privileged, because the Solicitor General and so on, which would be useful in the case. Does the Chief Minister still think that the process ... remember it is process here, if anyone is dismissed they should have due process.

**The Deputy Bailiff:**

Deputy, please ask the question. You have spent probably about 45 seconds and you have not got to a question yet.

**Deputy M.R. Higgins:**

I would like the Chief Minister to answer the question whether he feels ... he mentioned the process was defective. He has not said that it was totally defective. Will he agree that it was totally defective, the process of the dismissal?

**Senator I.J. Gorst:**

The Deputy has made a number of accusations and sometimes we arrive at cases where advice is on the one hand and someone else looks at a case and thinks that something else is the case. Sometimes those issues can only be resolved before a court. I suspect that is why this particular case is now the subject of legal exchanges. I would just ask him to bear that in mind before he decides on the timing for the lodging of his vote of no confidence, but that of course is entirely up to him. "Total" is an all-inclusive word and I stand by the points that I made earlier about the deficiencies of the process. I do not use the term that he did.