

6.1 Deputy R. Labey of the Chief Minister regarding review by departments of findings of the States Complaints Board:

Given the immediate rejection of the States Complaints Board's recent findings by the States Employment Board and the Minister for Health and Social Services what confidence can we have that States departments will be reviewing those findings with open-mindedness or that any member of society would in future have any desire at all to sit on the States Complaints Board now?

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

The matter recently considered by the States Complaints Board has been the subject of considerable and regular review throughout the nearly 4 hours of the complaint, most especially and in detail by the then Solicitor General. His investigation found that while there were clear procedural issues that needed to be addressed, and subsequently were, the decision to withdraw the contractual offer of employment was the right one for the hospital given the breakdown in relationship between Mr. Alwitry and the hospital clinical leadership and management teams. Unfortunately, the Complaints Board discounted the independence of the former Solicitor General's report. His report is the only report that has had the benefit of interviewing all those involved, including Mr. Alwitry, which the Complaints Board was not able to do. As was stated in the press release of last week, the States Employment Board will be responding in detail to the recommendations made by the Complaints Board in due course.

6.1.1 Deputy R. Labey:

I wonder if the Chief Minister could expand on the comment by his employment board that while procedural aspects of the case were unsatisfactory - the understatement of the year - even if they had been correct the outcome would be the same because we have been here before, painfully, and this is not acceptable in the 21st century. They keep saying that lessons have been learnt. Well, clearly, lessons have not been learnt.

The Deputy Bailiff:

So your question was asking the Chief Minister ...

Deputy R. Labey:

I asked him to expand on that statement.

Senator I.J. Gorst:

He says that lessons have not been learned but he bases that upon one report of an incident that happened around 4 years ago. We will be responding in detail to all the issues raised by the Complaints Board. We will publish the former Solicitor General's report with that detailed response and subsequent to those procedural problems the hospital have employed just short of 20 other consultants and they have employed them appropriately and with a process that we can be satisfied is the appropriate one. So it is wrong to say that lessons have not been learned. They have.

6.1.2 The Deputy of St. John:

Does the Chief Minister not agree that it is about time that we request that there is a fully independent assessment of H.R. (Human Resources) and senior management within the public sector to prove that lessons have been learned and that we can move forward with an appropriate human resources practice and an appropriate corporate structure?

Senator I.J. Gorst:

I think the Deputy knows that there have been changes in the H.R. structure and the way that they are delivering the service. They have much more information about what is happening right across all departments and the policy and processes that are being followed. We obviously accept that there were procedural issues in this particular case, but ultimately the correct decision, when one looks at the former Solicitor General's report, that report says that the correct decision was made. I would welcome any Scrutiny Panel wanting to engage and review the changes that we have seen and delivered across the H.R. system because I think that would be of great benefit to delivering confidence to Members of this Assembly and wider members of the community.

6.1.3 The Deputy of St. John:

Supplementary. The Chief Minister is suggesting that Scrutiny Panels can review operational practices and, as I understand it, we have been warned off that many times with regards to looking to operational practices. Would it not be better that a fully independent assessment - not review, assessment - of the way that these things are carried out is done so that there is evidence to prove that things have been learned and we can move forward?

Senator I.J. Gorst:

I am sorry if Scrutiny have been warned off from doing anything. I thought they had a wide remit. As I stand here trying to answer the question fairly, I do not think that another costly independent review is the way but I certainly would be happy to speak with the Appointments Commission. We have a first class independent chairman of that commission. They carry out audits already and report to the States Employment Board and I would certainly be happy to have a conversation with the chairman to see whether there was not some piece of work which would perhaps satisfy the Deputy, along the lines that she is suggesting, and I will take that forward and see if we could not do that.

6.1.4 The Connétable of St. John:

Would the Chief Minister agree that governments get things right and governments get things wrong and the measure of the success of a government is how much they get right and how much they get wrong? However, the reputation of a government is how they treat things when they get it wrong. Will he admit that in this case you were wrong, apologise and make up the necessary apologies.

Senator I.J. Gorst:

The Constable knows that there are always 2 sides to every story. As I said in my opening response, this is an issue that the States Employment Board, and I know the present and previous Minister for Health and Social Services, wrestled with and tried to find an appropriate solution in the early days of this arising. We thought, and hoped, that mediation might be the answer. That proved not to be the case and it was felt by the States Employment Board that the best approach was to take one step back and to have an independent review by the then Solicitor General. That review was undertaken. It took many months. There were many interviews undertaken with all those people involved and the finding of that review does not correlate with the finding of what the Complaints Board is suggesting and that is why I believe that the correct course of action now is to do a detailed response to the Complaints Board finding and to publish the former Solicitor General's review. Then Members will have both sides of the story and they will then be able to make their own minds up about what has been a difficult and complex issue.

6.1.5 The Connétable of St. John:

Supplementary. The reputation of the Government rests on how you deal with a problem when you have got it wrong. My worry is that my name is being tarnished, as is the name of the whole Assembly, when you fail to take the correct action.

The Deputy Bailiff:

Was there a question there, Connétable?

The Connétable of St. John:

Yes. Will he take the necessary steps to apologise?

[11:45]

Senator I.J. Gorst:

I can assume that the Connétable has not had sight of the former Solicitor General's report. He obviously has not had sight of the detailed response that the States Employment Board, together with Health and Social Services, are providing. So I ask him to wait to ask that question until he has had sight of both of those.

6.1.6 Deputy J.M. Maçon of St. Saviour:

In this particular case it appears that when patient safety concerns are raised the machinery of government works in order to stamp that voice out of our services. That is how it is coming across. We know that in previous reviews, such as the Verita Review, that there may be a culture of fear within particularly our health service. What or how, with this news, will the Chief Minister provide confidence to those working within our public services that when they have genuine concerns about patient safety that they will be listened to genuinely and what protections are there for these individuals so that they will not be, as seems to be time and time again, hounded out of our services?

Senator I.J. Gorst:

That is not the case. There were a number of complex interacting issues in this particular regard and the Member will see that when the States Employment Board give their detailed response and when he has the benefit of seeing the former Solicitor General's review patient safety is extremely important at the hospital and by the whole of Health and Social Services. I leave it to the Minister for Health and Social Services in answer to his next question to touch on that in further detail but Members will see that these issues, when they have the benefit of all the information, are not straightforward and even issues like patient safety clinicians, themselves, do not always agree about what the best timetabling is, about what the best processes are to ensure patient safety for all.

6.1.7 Deputy G.P. Southern:

Does the Minister accept, or not accept, the condemnation of the Complaints Board when it says: "We have no hesitation in concluding the decision to withdraw Dr. Alwitary's contract of employment was contrary to law, unjust, based on irrelevant considerations and misunderstandings as to the factual position and conclusions on alleged facts and law that could not have been reached by a reasonable body of persons properly directing themselves as to the facts and law"? Does he accept that fundamental condemnation?

Senator I.J. Gorst:

No.

6.1.8 Deputy M.R. Higgins:

First of all, I have to say that I do not accept the Chief Minister's assertions that lessons have been learned. Those of us who are dealing with States departments have found repeatedly that they go on the defensive as soon as ...

The Deputy Bailiff:

Deputy, please, this does have to be a question. There are many people who would have liked the opportunity to ask questions. It cannot be a statement.

Deputy M.R. Higgins:

Fine, I shall. Will the Chief Minister allow, as the Deputy of St. John asked for, an independent body to look at these complaints because there are States Members here who have beaten their head against the wall with States departments who go defensive and in fact delay. So will he agree to an independent body and let all the States Members who have had trouble with States departments, and can prove they have not learned their lessons, be able to put that in public?

Senator I.J. Gorst:

I sometimes do wonder how to respond to the Deputy when he makes such outrageous unsubstantiated comments about our staff. He wonders why they are demotivated. He wonders why they will not engage with him when he makes such outrageous comments in the public domain.

Deputy M.R. Higgins:

Absolute rubbish.

Senator I.J. Gorst:

But I stand by the commitment that I gave to the Deputy of St. John because I think that her suggestion is something that I can work with, with the independent chairman of the Appointments Commission who has vast experience of employment of civil servants in the United Kingdom and is a lady that in no way at all pulls any punches and I think would give confidence to Members having undertaken such a piece of work and then briefed Members about her findings and her opinion of where we are on the journey to change.

6.1.9 Deputy R. Labey:

Let us not be blinkered. We have all heard from health service staff who crave a competent, confident, secure senior management who can be challenged on practices without a black mark being put to their name or them being fired before they are hired.

The Deputy Bailiff:

Deputy, could you please ask a question?

Deputy R. Labey:

Would Ministers please do something to keep management in check rather than colluding with them on 19th century practices?

Senator I.J. Gorst:

Sometimes in this Assembly outrageous things are said. I have to be extremely careful because I can fear compromise because I, of course, do know, to some extent, as other former Ministers do, and understand the difficulties that those on the shop floor providing care to members of our community have to encounter day-in day-out and we ask them to do difficult jobs. We ask them to do that often under pressure. They deserve our support. It cannot be a simply clinicians and management divide. The work that the current management at the hospital have

undertaken, post the Verita Review, the work that the former Minister for Health and Social Services started, to bridge what was a divide, and in the past some of the comments might have been appropriate, has been outstanding. The issue here ... the Deputy looks away. He has made his comment and now he feels satisfied. The issue here was not about what people would consider as management, i.e. management that they had no clinical skills. The issue was about the clinical leads, those with clinical qualifications, and what they felt about the process and what they felt about the outcome not, as the Deputy is trying to suggest, bureaucratic management sat in offices.. These were clinicians making recommendations to the Minister and to the Sates Employment Board. When Members have the full details of those reports and of the detailed response they will be able to see that. It was Ministers supporting clinicians, not management, and I would ask that Members of this Assembly think very carefully before they start making outrageous statements about staff in this Assembly.

The Deputy Bailiff:

Very well. That brings us on to the second urgent question that Deputy Southern will ask of the Minister for Health and Social Services.