

2017.01.30

9 Deputy M.R. Higgins of St. Helier of the Chief Minister regarding the Chief Minister's awareness that a complaint had not been made to the British Medical Association against the Clinical Director in the Alwitry case: [1(84)]

Will the Chief Minister inform Members when he was first made aware, or read documents to show, that Mr. Alwitry had not made a complaint to the British Medical Association against the Clinical Director; and what actions, if any, did he take in response to this information?

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

The then Solicitor General's report makes it quite clear that the B.M.A. (British Medical Association) had approached the hospital in an email on 12th November 2012 referring to problems. It was also highlighted in the Health and Social Services Department report on 21st November 2012 that he had now engaged the B.M.A. to support a formal complaint about the Clinical Director. So clearly a complaint of some nature was made. The said meeting of the 18th December 2012 agreed that a review be conducted on the process of hiring and subsequent termination of Mr. Alwitry.

4.9.1 Deputy M.R. Higgins:

The Chief Minister has not been straightforward in terms of his answers. On the 13th November a message was received by a hospital employee that the B.M.A. had phoned up with a very vague sort of statement. Pardon?

The Deputy Bailiff:

Deputy, this does have to be a question, it cannot be an answer to the Chief Minister's answer.

Deputy M.R. Higgins:

It is. Just coming to it. So on the 13th there was an allegation that Mr. Alwitry had made a complaint to the B.M.A. There was no complaint at all. When did the Chief Minister receive a letter from the B.M.A. confirming that no complaint had been made? Or from Mr. Alwitry providing proof that no complaint had been made?

Senator I.J. Gorst:

The Deputy is accusing me of being not very straightforward. That is because these matters are not very straightforward. There was, and the then Solicitor General confirmed it in his report, an email that says that the B.M.A. had approached the hospital. The Deputy is now saying that that was not a complaint and I said in my answer that there was obviously a complaint of some nature because Mr. Alwitry's lawyers - to the then Solicitor General - advised him in writing that they believed that the hospital had been prepared to hire him but for the error with the handling of the B.M.A. complaint.

4.9.2 Deputy G.P. Southern:

Has the Chief Minister not seen the evidence in the report that there was no complaint?

Senator I.J. Gorst:

Does the Deputy suggest that Mr. Alwitry's lawyers, when they were defending his position, were wrong to say: "But for the error of handling the B.M.A. complaint." I might add subsequent to this, so the problem of some description - the Deputy is trying to say it is not a complaint, that is fine - there was then a complaint made to the G.M.C. (General Medical Council).

The Deputy Bailiff:

Final supplementary then, Deputy Higgins. I beg your pardon, Senator, I did not see your light then, it was not in the front. Senator Ferguson.

4.9.3 Senator S.C. Ferguson:

I did light it very noisily, Sir. Did the Chief Minister not see the correspondence with the B.M.A. that explained that Mr. Alwitary's inquiry was about the terms of the contract where his contract said he was working for 11 and a half units and he understood that he should be working for 10 units? Nobody would explain it to him and there was definitely no complaint about Mr. Downs. Has the Chief Minister on the S.E.B. (States Employment Board), in his role as chairman, not queried the evidence? Has he not seen the evidence?

Senator I.J. Gorst:

I have seen reams and reams of documentation between the parties and reviews and some transcripts of interviews with various parties, but I go back ... the assertions that the Senator, the Deputy and the other Deputy have made, I am not sure how that can stand with the evidence, to use their term, in correspondence from Mr. Alwitary's lawyers to the then Solicitor General that talks in terms of: "But for the error with the handling of the B.M.A. complaint." That is the term Mr. Alwitary's lawyer used in that correspondence. But if we were to say then that that was not a complaint, subsequent to that there was a complaint to the G.M.C. and that upheld the decision of Health and Social Services.

4.9.4 Senator S.C. Ferguson:

Was that not in 2015, well along the way?

Senator I.J. Gorst:

Yes, it was but it was around the same issue.

4.9.5 Deputy M.R. Higgins:

So the Chief Minister did not receive notification on 18th December that Mr. Alwitary had not made a complaint, and would the Chief Minister not accept that a complaint may have been forthcoming later after the States Employment Board had broken its contract?

Senator I.J. Gorst:

I did not say that. I said on the 18th December the States Employment Board instructed that a review be undertaken because there was a letter of that date suggesting and saying that no complaint had been made, despite the fact that subsequent or post that, in correspondence with the then Solicitor General ... so the situation was correspondence received saying no complaint had been made, the States Employment Board made the decision to carry out an independent review but subsequent to that Mr. Alwitary's own lawyers confirmed to the then Solicitor General in terms: "But for the error with the handling of the B.M.A. complaint."