

2019.07.16

1 Deputy M.R. Higgins of St. Helier of the Chairman of the States Employment Board regarding the legal costs incurred by the Board in the various legal proceedings it had engaged in concerning Mr. Amal Al-Witry: (OQ.196/2019)

Will the Chairman advise Members of the legal costs incurred to date by the States Employment Board in the various legal proceedings it has engaged in concerning Mr. Amal Al-Witry; and can he explain how value for money has been achieved with this expenditure?

The Bailiff:

Just one moment please, Chief Minister. I presided in the Court of Appeal on this appeal in this case. Costs are outstanding. I shall ask the Greffier to take over.

Senator J.A.N. Le Fondré (Chairman, States Employment Board):

This is a difficult matter, which this Board has inherited from previous S.E.B.s (States Employment Board). They had taken the view that the facts of the case merited defending, based on what they considered to be sound advice received by them at the time. To date, around £90,000 has been spent on external legal advice relating to Mr. Al-Witry's claim in the Royal Court Order of Justice. This does not include work carried out this month in the Court of Appeal, which has not been invoiced yet and may come to around £10,000. The majority of legal time spent on the case has been met internally by existing resources within the Law Officers' Department and so is not, therefore, affecting external cost incurred by the Board, or the Health Department in that respect. The present Board picked up on this matter when the case was already in the legal process. It did ask for mediation to take place, which did occur. Unfortunately, we were unable to reach agreement. The S.E.B. is considering its next steps and remains open to negotiations, but needed to consider the Court of Appeal's judgment and, as we have heard, costs are still outstanding. But, because of that and on that subject, there will be points which I cannot comment on at present, so as not to prejudice any future outcome.

5.1.1 Deputy M.R. Higgins:

The States Employment Board to date has been like a gambler who has lost money and keep on going back in and trying to bet more money, hoping to win back their losses. This has probably been one of the most shocking cases of a waste of money by a Government Department. The advice from the beginning was flawed, as anybody who has ever studied law of contract would know. If you make an offer to someone and they accept it unconditionally, you have a binding contract. Would the Chief Minister accept that the advice they were given to pursue this case was flawed, as was illustrated by the Complaints Board and many others?

Senator J.A.N. Le Fondré:

I do not think it is appropriate to re-run the merits, or not, of all the aspects of the legal arguments that were run. I will state, without getting into the technical details, that a number of the arguments that were raised from a legal perspective were upheld in the court. That is my understanding. But not all of them. At the end of the day, there was a judgment call made and a lot of it was made before our time to go down the route that was taken. The present S.E.B. did try and seek mediation, but obviously, unfortunately, was not able to get to an arrangement. What I have said, at which point I am not commenting any further on that, is that there are potentially still negotiations that could take place, but obviously where we are now is the appeal was lost.

5.1.2 Deputy M.R. Higgins:

I certainly hope that mediation does take place, but obviously the States is now mediating from a position of weakness in the sense they have lost every case. Will the Chief Minister confirm that the actual claim is for £8 million and so, therefore, they are hoping that they can reach an agreement?

Senator J.A.N. Le Fondré:

I believe that was one of the considerations as to the exposure and therefore why it was taken to appeal. I will say that mediation has taken place previously, an agreement was not capable of being reached. But my understanding is that there is still an ability to do some further negotiations. We will see what the outcome is as a result of the next few days. S.E.B. are meeting on Friday to consider this matter.