

20.11.30

5 Deputy K.G. Pamplin of St. Saviour of the Chief Minister regarding States of Jersey Complaints panel (OQ.352/2020):

With regards to the complaint against the chief operating office that is currently being investigated by the States of Jersey complaints panel, will the Chief Minister explain how he and the chief operating office have engaged with the complaints process; and, if they have refused to engage, will he explain when such refusal was communicated to the complaints panel?

Senator J.A.N. Le Fondré (The Chief Minister):

Yes. Probably not the answer that the Deputy wishes to hear, but following some consultation with the complaints panel, it has been agreed it would be inappropriate to comment on an ongoing review by the panel before they have concluded their considerations on the matter. I know that sounds somewhat formal, but it is usual, the standard procedure, you do not comment on an ongoing investigation or an ongoing review until it has been concluded. Particularly in these circumstances.

3.5.1 Deputy K.G. Pamplin:

I fully understand where the Chief Minister is coming from. But, as the chair of the panel has spoken publicly and I quote: "In his view that the current administration had deliberately obstructed the board by its refusal to engage in the process." So not talking about the matter in question, we are talking about the process. What is the Chief Minister's response to the public comments by the panel chair?

Senator J.A.N. Le Fondré:

Basically, as I have said, there is an ongoing review by the panel and unfortunately I cannot comment, even though I would very much like to. But we are engaging with the panel and I am sure when the matter has been resolved then we can comment on it.

3.5.2 Deputy K.F. Morel of St. Lawrence:

Does the Chief Minister accept that a refusal to co-operate with the panel, to work with the panel - and I am speaking in general terms - also a refusal by Ministers to accept the recommendations of the complaints panel on numerous occasions, suggests in the public mind that the Government does not take the complaints panel seriously? Therefore undermines the authority of the complaints panel, which is, for many Islanders, the only form of redress they get when the Government does not act appropriately?

Senator J.A.N. Le Fondré:

Just to address all of those, just to be very clear, I do take the complaints panel very seriously. Although I will freely admit that because of COVID we have slipped, we have tried to have [offline] levels with the output and the reports from the complaints panel than has been done previously. But I also accept we can do better. This particular issue, I really cannot comment on further. I am trying to think of a way of applying it generically. My best bet is I am very happy to brief the Deputy separately and then we can work out a way I can put it into the public domain. But we are engaging with the panel. It is a complicated discussion, more about process rather than the issue, and that is what we are trying to address. Other than that, I cannot comment further. But I do take the principle of how we deal with complaints very seriously and I absolutely agree and take the point that the Deputy makes where for certain Islanders who come to that point, the complaints panel is

one of the few places of redress. I do believe there is more work that we should be doing in that area.

3.5.3 Deputy K.F. Morel:

When mentioning that there was more work to do in this area, is the Chief Minister referring to the Public Ombudsman Law, which we are still waiting to see any results, and which ideally would end up replacing the complaints panel and create a very formal footing for complaints and the need for redress by Islanders? So in essence, when can we see the Public Ombudsman Law being brought before the Assembly?

Senator J.A.N. Le Fondré:

The law is easy. When I say it is easy, it is the very clear intention the law is brought in before the election. So whether that is towards the end of 2021 or the very first 2 months of 2022, I cannot give the Deputy a precise date. But it is the very clear intention that the law will be brought in before the election. One of the delays again, as with many things, has been because of COVID. As I have said previously, it does give the opportunity then for things like Health to be brought in under the auspices of the Ombudsman, whereas previously that was not intended to be the case in that first iteration. But in terms of the law, then the issue is when the Ombudsman goes live versus acting in fact in a shadow form initially. There will be a handover period but the law is very clear, we want it in before the election so that this Assembly approves it.

3.5.4 Deputy R.J. Ward:

Could I ask the Chief Minister, given his answer to the last question, does he think it may not be the best idea therefore to suspend funding for the Public Service Ombudsman next year, and that is something he may want to look at again?

Senator J.A.N. Le Fondré:

The point there is that the Ombudsman cannot operate until the law is in place. What has been delayed because of COVID is the law. So therefore that has an automatic impact on when the Ombudsman needs funding because it is dependent upon when we start. I know we will all have our individual priorities, and that is what we had to do in this Government Plan, it has not been easy to prioritise all the various costs and expenditure, given the impact of COVID, not only on society and on Health, but also on our finances. Those are the choices we have had to make. So we are not stopping it. We have had to delay it but part of that is because of the impact of COVID and then getting the law drafted.

3.5.5 Deputy R.J. Ward:

Given the impact of the changes proposed in the Government Plan, does the Chief Minister recognise that the Public Service Ombudsman will not be in place until 2024, which is way after the next election? There are real questions whether the law can be produced before the next election. So would he like to reconsider his previous statement?

Senator J.A.N. Le Fondré:

I do not think I can reconsider the previous statement. What I have said, and I think the Deputy just confirmed it, i.e. you cannot have the Ombudsman in place until you have the law in place. The Deputy is suggesting, which is not my information I hasten to add, doubts as to whether the law can be in place before the election. I am very keen and clear that it needs to be. But there is no point in providing funding to a body that has not yet been created or given the statutory authority. It is a

cart before the horse scenario. You have to have the law in place to then have the body in place to then use the funding. If the law is not in place, there is no point in having the funding there.

3.5.6 Deputy K.G. Pamplin:

I thank Deputies Morel and Ward for joining in with the question period. To follow up their questions, again I quote the chair of the complaints panel: "For the process to be obstructed, or seemingly to, does [to his mind] suggest that the Government is not willing to maintain an independent transparent oversight of its processes." Is it indeed the case the sooner an Ombudsman with effective power is brought in, the better? Does the Chief Minister thereby, listening to his answers, agree with that statement?

Senator J.A.N. Le Fondré:

I do not know if the Deputy used the word "wilful" or not. The particular issue we are dealing with is complicated and it is a specific process issue, which, for example, many politicians will know what we have to deal with when we are dealing with certain advice that we all receive that we cannot relate to it publicly. So if I referred, for example, to Scrutiny protocols, that is kind of what I am applying at the moment. But in terms of do I think the Ombudsman needs to come in? Yes, But, as I have said, because of COVID there has been a significant delay in a whole range of things that we are trying to do. So the intention is to bring the law in place, i.e. to the Assembly, I would expect by the end of next year, so during the course of 2021. No doubt Scrutiny will want to go through it as well. As soon as we have the law in place then we can work out the timing. The issues within all of the things around funding particularly is, once we have a clearer idea, once we come out of the pandemic, the precise nature of the impacts on our finances, we can give some greater certainty. So what we have done is taken a precautionary basis on the future funding for the Ombudsman. But also based on realistic expectations of when we can get the law in place, which I obviously do support.