

22.03.01

9 Deputy G.P. Southern of the Chair of the States Employment Board regarding political activities of public sector consultants (OQ.42/2022)

Will the chair state what consideration, if any, has been given to the use of paid consultants by the Government of Jersey who might subsequently decide to stand as candidates in the election, in particular the applicability of Part 5 of the Employment of States of Jersey Employees (Jersey) Law 2005 concerning the political activities of public employees?

Connétable R.A. Buchanan of St. Ouen (Vice-Chair, States Employment Board - rapporteur):

The law mentioned by the Deputy is not applicable to those who are not employed by the States Employment Board and therefore it will not surprise the Deputy that we have not considered that in relation to paid consultants. There is no bar for suppliers, including consultants, who are not employees of the States Employment Board, and indeed politically eligible employers, standing for election.

3.9.1 Deputy G.P. Southern:

By what mechanism then and by which body was this person, who was responsible for advice and consultation on Island identity, appointed and what timescale this person to advise the Government on Island identity?

The Bailiff:

Is that something within your knowledge as chair of the S.E.B. (States Employment Board)?

The Connétable of St. Ouen:

It is probably better directed at the Minister for International Development. That person was employed by the Minister for International Development on a contract to her team.

3.9.2 Senator S.Y. Mézec:

If part 5 of the Employment of States of Jersey Employees Law does not count in this instance, does the States Employment Board have a view on the appropriateness or otherwise of other routes for employment for people by the Government of Jersey in instances where there may at least be a perception of that enhancing their candidacy for politics?

The Connétable of St. Ouen:

The States Employment Board does not have a view on that in that the law applies to employees and does not apply to consultants. So if a consultant is employed by a Minister then the suitability of that consultant in some respects is the direct responsibility of the Minister. It would not be something that the States Employment Board would consider routinely.

3.9.3 Senator S.Y. Mézec:

Given that Jersey is now inevitably heading down the route to having party politics, but we do not have the infrastructure in place to ensure that Government funding is used appropriately and that the civil service remains impartial, would he in his role with the States Employment Board undertake to take some form of exercise to ensure that the routes for employment for potential political candidates is examined within the wider framework on the rules of employing people by the Government to ensure that there can be no concerns about the partiality of this in future?

The Connétable of St. Ouen:

I am not sure I understand the Senator's point. Employees who are employed by the States of Jersey are bound by certain rules and they are allowed to carry on working until such time as they are elected. Indeed, as the Senator will know, 2 of his members are bound by those rules at the moment. Anyone who is employed as a consultant signs a statement of works, which makes it explicitly clear that any information that comes into his or her possession is not to be used other than for the purpose it was given to him. I really do not see personally that there is an issue.

Senator S.Y. Mézec:

Might I raise a point of order? I can cite the points. Standing Order 63, part 4(b) allows us to invoke that Order if we feel that a question without notice is not answered. I asked quite specifically in that question whether he would be prepared to undertake some form of exercise in his role as the States Employment Board to determine whether this sort of thing is appropriate in future. I guess that could be answered with a yes or no and he has not provided either of those.

The Bailiff:

I understood the answer to simply be it is not a matter for the States Employment Board. That is of course the only basis on which the Constable answers questions in connection with this matter and not in any other capacity. But if the Constable wants to elaborate in any way on his answer I think he reasonably may.

The Connétable of St. Ouen:

Yes, I am happy to elaborate. The Senator well knows that he and I have been exchanging a number of emails over the last few days on this particular point and I understand his concern and the States Employment Board will put it on the agenda to discuss. But what I cannot do is guarantee any outcome from it. But we will certainly talk about it.

3.9.4 Deputy R.J. Ward:

I am going to change my question given the answer. Can I ask the Minister, the chair of the S.E.B., whether he understands he may have inadvertently misled the Assembly in his answer when he said that Members can work up until the point when they are elected? Can I inform him that when a number of Members of this Assembly were elected they had to stop working and took 6 weeks' unpaid leave before they were sworn in. So that is not the case and can he confirm that is the case?

The Connétable of St. Ouen:

Given the concern expressed by the Deputy, I would prefer to get back to him with a written answer once I have consulted with my officers. Clearly I do not know every single piece of legislation but I understand his concern and I am more than happy to get back with a response.

Deputy R.J. Ward:

It is very clear that it is from nomination day and the discussion we have just had is simply incorrect in this Assembly and we cannot be misleading the Assembly in this way. Because it does impact on the answer to the question.

The Bailiff:

It is not a matter on which the Presiding Officer can rule. Therefore it is a matter on which the Connétable has said he understood the position to be A, you have said that you understand the position very clearly to be B, and the Connétable has said in effect: "I am not completely certain and

I will have to check.” That is really where the exchange ends. There is no misleading or anything of that nature going on, or at least not in any sense that is clear from any of the answers given.

3.9.5 Deputy R.J. Ward:

Can I just confirm with the chair of the S.E.B. then that any employment of consultants directly advising Government, be they members of a similar party, be they members who will be candidates, are entirely up to the will of the Minister themselves and it is their decision to make that choice?

The Connétable of St. Ouen:

That is indeed my understanding of the situation.

3.9.6 Deputy G.P. Southern:

Turning to Article 40 of the relevant law, where politically ineligible States employee tends to stand for election, a politically ineligible States employee who intends to stand for election as a Senator, Deputy or Constable, shall, as soon as reasonably practicable, notify the chief officer of the department or unit of administration in which the employee is employed. My question to the chair is what timescale was employed and what notification was given that this person was choosing to stand for election?

The Connétable of St. Ouen:

I am not sure I am entirely clear on what the Deputy is asking because the person was not an employee. I thought I had made that explicitly clear. My understanding is that his term of engagement ran from early this year and finished in November at the time that the person concerned declared that he was a member of a political party. He cannot possibly be nominated to stand in the States because nominations have yet to open.