

2024.04.30

3.12 Deputy G.P. Southern of the Minister for Health and Social Services regarding the Troy Rule on number of ministerial positions (OQ.83/2024)

Let us see if we can get this one right. Will the Minister advise if he consulted the Chief Minister or the chair of the Privileges and Procedures Committee before offering Deputy Bailhache responsibility for certain health matters, what responsibility the Deputy has been given, and what impact, if any, this has had on the Troy Rule which limits the number of Deputies in Government?

Deputy T. Binet (The Minister for Health and Social Services):

I have not appointed Deputy Bailhache as an Assistant Minister or offered him any Ministerial responsibilities for health matters. As such, I do not believe my actions have any impact on the Troy Rule and did not require me to consult with the Chief Minister or the chair of the Privileges and Procedures Committee.

3.12.1 Deputy G.P. Southern:

Could I ask again then: what responsibility has the Deputy been given by the Minister and what limits has this had on the Troy Rule?

Deputy T. Binet:

I think I can do no more at this stage than to repeat what I have just said that Deputy Bailhache was not appointed for any Ministerial responsibilities for health matters.

Deputy J. Renouf:

A point of order, the question was surely what kind of responsibilities had been delegated? That is what I understood the follow-up question to be.

The Bailiff:

The answer from the Minister was he has delegated no responsibilities. It may be that a request had been made to carry out work but the answer, I believe, unless I misunderstood you, Minister, is that you have given no responsibilities. That is, as I understood, your answer. It may be there is a different ...

Deputy T. Binet:

I shall stand up, no formal responsibilities for health matters.

The Bailiff:

Now I have got to challenge you, Minister, because you have just said no "formal" responsibilities. Your original question was "responsibilities" and now you have said no formal responsibilities. So if there are responsibilities ...

Deputy T. Binet:

What I said in the first instance, no Ministerial responsibilities. Apologies for that mistake.

The Bailiff:

No, not at all. No Ministerial, very well.

3.12.2 Deputy J. Renouf:

Clearly Deputy Bailhache has been asked to do something. No one is questioning the right of a Minister to ask people to try and find out information but why did the Minister not, in this instance, use his civil servants to do the work or, failing that, ask one of his Assistant Ministers' team? Is it not the case that if the report or work or whatever it is had been commissioned through official channels, then it would have greater weight?

Deputy T. Binet:

The work related solely to taking a series of statements of people who wanted to speak to me. I only have a limited amount of hours in the day and it appeared that an awful lot of people wanted to make their points known to me. I thought it was appropriate to pick somebody like Deputy Bailhache who was independent of the Ministerial team and would be held in high regard for the purpose. I thought it was a good choice and it was a fairly simple request to undertake that particular piece of work.

3.12.3 Deputy J. Renouf:

Could the Minister clarify whether or not he spoke to his Chief Officer about this work before it was commissioned? Would he agree that the lack of formal commissioning, terms of reference or oversight means that this was just an exercise in gathering gossip, and that is not necessarily going to be particularly helpful to draw conclusions?

Deputy T. Binet:

That is an interesting turn of phrase “gathering gossip”. In the end, 30 senior consultants have come forward to speak to me. I would venture to suggest that there is probably nobody in this Assembly that has not been treated by one of these people or certainly one of their family members. I think they are held in high regard and I think these people have got better things to do with their time than indulge in gossip.

3.12.4 Deputy H.L. Jeune:

Could the Minister please clarify if there were any written terms of reference for Deputy Bailhache to follow, including what follow up, how he will present his findings to the Minister and, if not, why not?

Deputy T. Binet:

No, there were no formal written terms of reference because it was a simple request to take some statements. In the end it ran into a larger piece of work than I was expecting because more people wanted to speak to me than I had thought in the first instance. I did ask if Deputy Bailhache would be kind enough to just summarise his findings for me for convenience.

3.12.5 Deputy H.L. Jeune:

Is the Minister aware that he was asking Deputy Bailhache to tread in the very sensitive matters of employment relating to employer/employee relations and this could compromise discussions going on elsewhere of which Deputy Bailhache may not have been aware?

Deputy T. Binet:

No, this was simply an exercise in conveying messages from people to me because of the volume of work that I have and the fact that I was unable to do it. It involved no more than taking statements from people for that to be passed on to me.

3.12.6 Deputy M. Tadier:

It is strange to say that Deputy Bailhache is not doing any Ministerial work because of course he is not a Minister, therefore, he cannot be doing any Ministerial work, so the question still needs to be answered: why is a member of the Health Scrutiny Panel doing departmental work for the Minister for Health and Social Services?

Deputy T. Binet:

At the time of commencement, Deputy Bailhache was not a member of the Panel.

3.12.7 Deputy M. Tadier:

There is a wider problem here, and I am wondering if the Minister sees it as a conflict of interest which I think so many other Members do, hence why this question seems to have been lodged, that, if you are not a member of the Executive it is very strange to be asking somebody to act effectively as a private secretary for you, which might be the case in other Parliaments, when the Minister has his own fairly large Ministerial team to do that work and also civil servants to do that. Would the Minister agree to

publish the nature of the work that is being done and also ask for that work to cease immediately so that this Assembly is not brought into disrepute?

Deputy T. Binet:

I do not think for a moment that this Assembly has been brought into disrepute. I think there were 4 or 5 requests there and I may need to be reminded of them. I will start with the last one first because I can still remember it. The work has been concluded. I will make a further statement insofar as I spoke to the chair of the Scrutiny Committee and we had an exchange of emails. I explained the nature of the work and I received on 4th April an email stating the following: "Given the fact that this work was already undertaken before the Panel was formed, we discussed the timings around when it could be concluded. I am content to give a reasonable timeframe for the work to conclude and for any conflicts to then be avoided." On that basis, we continued. I have to say, if the work was to be discontinued that was a matter for the chair of the Scrutiny Panel, between the chair and Deputy Bailhache.

3.12.8 Deputy P.M. Bailhache:

Would the Minister agree that very heavy weather is being made of this issue and that in a collegiate and co-operative Assembly any Backbench Member is free to offer assistance to any Minister without attracting carping criticism from other Members?

Deputy T. Binet:

I wholeheartedly agree with that statement.

The Bailiff:

Assumingly no supplementary, Deputy Bailhache? **[Laughter]**

3.12.9 Deputy L.M.C. Doublet:

Can the Minister please confirm that I had asked for the work to be stopped as soon as I was aware of the full nature of the work? I asked for this in a telephone conversation where I explained to the Minister the Troy Rule. I followed this up with an email where I once again explained the Troy Rule. I also requested that the work should be made fully transparent. Can the Minister confirm this, please?

Deputy T. Binet:

I cannot confirm the latter because that was not where the conversation ended. I am certainly happy to publish the email exchanged between us. Sorry, there was another part to the question which I have forgotten, but I am certainly happy to make the email exchanged public.

3.12.10 Deputy L.M.C. Doublet:

The Minister did not hear part of my question. What I had asked was: can the Minister confirm that when I asked for the work to stop that I also asked for it to be made fully transparent?

Deputy T. Binet:

As far as the transparency is concerned, I think everything is contained in this email exchange. When people approach me to talk privately about their concerns, I certainly do not expect Members of this Assembly to ask for that to be made public. It would be similar in another way to asking the Speak Up Guardian to make public all the comments that have been made to the Speak Up Guardian. I think that is totally out of order, if I may say so.

The Bailiff:

Minister, I do not think the Deputy was asking for you to publish the responses, unless I have misunderstood the position, it was to publish her view of what was going on and that she asked for full transparency. Was that not your question, Deputy?

[11:15]

Deputy L.M.C. Doublet:

I can clarify. In my letter I asked for the terms of reference, membership, agendas, minutes and reports of any work undertaken in a similar way to the Policy Development Board and indeed the Women's Health Strategy Group, which is also under the Minister for Health and Social Services.

Deputy T. Binet:

There were not any minutes or agendas. They were not formal meetings, as such. It was simply Deputy Bailhache listening to people's concerns, putting them on paper, and then handing them to me for my attention. There is a pretty serious problem in H.C.S. that I am trying to address and it is strange that Members in the Assembly seem to want to focus unnecessarily on a very simple process rather than being concerned about the issues that I am trying to resolve.

3.12.11 Deputy I. Gardiner:

Nobody is questioning that a Member of the Assembly can do work, the question is why this has not been made in the proper way, requesting if Deputy Bailhache can undertake specific work with the terms of reference for the Minister and explaining the reasons why the Minister cannot use the 3 Assistant Ministers, why the Minister cannot use Speak Up Guardian, why the Minister does not use the Health Board that needs to listen to the concerns and why that Deputy Bailhache was the only Member of the States who could listen to the employees which the States Employment Board is available for?

Deputy T. Binet:

I think I counted 7 points there; I have got a very bad memory, I cannot remember them all. I will ...

The Bailiff:

Well I think you can summarise them: why did you not ask for a number of other people?

Deputy T. Binet:

I will start with the Speak Up Guardian. Could we not assume that these 30 people that have passed on their thoughts to me are intelligent people? If they thought it was appropriate to use the Speak Up Guardian I suggest they would have done; there must have been reasons why they did not. I was not aware of a formal process for asking for this sort of what I would consider to be relatively minor work to be undertaken. It is simply conveying people's thoughts to me. As I say, if there is a process, I am not aware of it.

Deputy L.M.C. Doublet:

The Minister may be inadvertently misleading the Assembly because I made it very clear in my email to him what the process would be.

The Bailiff:

I am sorry, you will have to take this up outside of the Assembly at this point. We have reached the end of the ... you have a supplemental question you are entitled to, Deputy Gardiner, I think.

3.12.12 Deputy I. Gardiner:

The Minister did not respond why his 3 Assistant Ministers could not ... just a minute, can I finish the question, please? Why 3 Assistant Ministers could not undertake this work and why the Health Board could not undertake this work.

Deputy T. Binet:

I will take them in reverse order. The Health Board could not undertake this work because, as an elected representative, we do live in a democracy and people have got a right to speak to me. I did start to speak to some of these consultants myself and I quickly realised that I would not have the time, so there we are. In terms of why not the Assistant Ministers, I wanted to keep this work separate from the team so that I could not be accused of meddling in any way and I thought that Deputy Bailhache was an appropriate appointment for this purpose. I make no apology for this either because it is an important piece of work and I want it to be done properly.

3.12.13 Deputy G.P. Southern:

What I think I have heard is that the Minister is unaware of any mechanism by which he can legitimately consult with his consultants which operate the health service in the hospital in particular, is that the case? Is there no mechanism by which the Minister can consult with his consultants?

Deputy T. Binet:

The question is: am I free to do what I have done and I believe that I was.

The Bailiff:

Well, the question is: is there a mechanism in place for consultation with the consultants?

Deputy T. Binet:

I am certainly not ... I did make that statement before, I am not aware of one.