

STATES OF JERSEY



COMMITTEE OF INQUIRY: SUSPENSION OF THE CHIEF OFFICER OF THE STATES OF JERSEY POLICE (P.9/2010) – COMMENTS

**Presented to the States on 23rd February 2010
by the Council of Ministers**

STATES GREFFE

COMMENTS

The proposition calls for a Committee of Inquiry to be established to review the manner in which the Chief Officer of the States of Jersey Police was suspended. Following the suspension of the Chief Officer, Wiltshire Police were commissioned to review the background to the way in which the investigation into the Historic Childcare Abuse Inquiry was managed by the States of Jersey Police and in particular, identify evidence of misconduct by the Chief Officer of the States of Jersey Police.

The Wiltshire Investigation is being undertaken in accordance with the Disciplinary Code of Conduct for the Chief Officer of Police which requires confidentiality to be maintained by all parties throughout the investigation. As a consequence, it is not possible to discuss in open debate the background or context to this investigation, much of which might be required in a meeting the Inquiry's overall objectives as set out in paragraph (a) of the proposition.

Paragraph (a) of the proposition for a Committee of Inquiry can be split into 4 particular elements –

- (i) The manner in which the Chief Officer of the States of Jersey Police was suspended from his duties on 12th November 2008.
- (ii) The procedures and the documentation used in the suspension process.
- (iii) The grounds relied on by the previous Minister for Home Affairs in taking his decision.
- (iv) The role of the Minister and of other parties who were involved in the suspension process.

The issues covered in (i), (ii) and (iv) above could be investigated by a Committee of Inquiry. However, item (iii) requires the background information that led to the Minister for Home Affairs to take the decision to instigate disciplinary procedures to be available to a Committee of Inquiry. Under the Confidentiality Agreement in place with the Chief Officer of Police, and given that this line of inquiry is fully covered by the Wiltshire Investigation as part of the Disciplinary Procedure against the Chief Officer of Police, it is hard to see how a Committee of Inquiry can gain access to, and use this information in, an open Inquiry whilst the Disciplinary Procedure is running that requires confidentiality to be maintained throughout.

Consequently a Committee of Inquiry, as proposed, could not commence activities until the Disciplinary Procedure had been completed.

The Chief Minister has reviewed all correspondence over the past few weeks and recognises that some Members are concerned at the way in which the management of the suspension process was handled by his Department at that time. As a result, the Chief Minister has given an undertaking to commission a review and report on specific areas as outlined in the attached Terms of Reference. This Review will be undertaken by an independent external expert qualified in Employment Law and the Chief Minister has undertaken to make the findings of the Report public.

With the recent publication of the sworn Affidavit by the suspended Chief Officer of Police, it is essential that the Review of the Suspension Process be undertaken in the shortest possible timeframe, to enable all relevant facts from all parties to be fully investigated to establish the true position. However, the proposition as drafted would appear to prevent this course of action being taken, as a Committee of Inquiry will not be able to gain access to all relevant information. The Chief Minister is of the view that if the Committee of Inquiry were to be approved, the terms of reference would have to be amended in such a manner that allows it to perform its function before the disciplinary process has been completed.

The alternative, which is proposed by the Chief Minister, is that an independent expert should be engaged in the shortest possible timeframe to undertake this review and report. The Chief Minister has requested Deputy Hill to assist him in the appointments process, and has also asked JACS to assist in the selection and appointment process for the Reviewer to ensure transparency. Subject to the successful appointment, the Chief Minister will bring a Report to the States advising Members of the individual selected, together with their background and curriculum vitae.

The Chief Minister is of the opinion that conducting a review as outlined in his Terms of Reference will be a much quicker and simpler process than that required in the formation of a Committee of Inquiry, but still provides the level of assurance Members are looking for.

Members will note however, that the Terms of Reference proposed by the Chief Minister contain a specific clause that asks the Reviewer to establish whether there are grounds for a full Committee of Inquiry. Should this be confirmed, the Chief Minister commits to bringing back to the Assembly a Proposition for a Committee of Inquiry, and for the appointment of a panel of members through a formal advertising and selection process in line with best practice.

This appointments process is seen to be open and transparent for all parties and in contrast to the appointments process outlined in this Proposition whereby members are pre-selected by the proposing Member.

Paragraph (b) of the proposition is unacceptable and should be rejected. For complex investigations such as, this where professional reputations of senior ranking officials are at stake, the recruitment and selection process for individuals to form a Committee of Inquiry must be managed in an open and transparent manner. If Members are minded to approve a Committee of Inquiry, it must be subject to the input of an independent body responsible for the recruitment process, the outcome of which will be presented to the Assembly for final approval.

Financial and manpower implications

The costs shown in the proposition for the Committee of Inquiry appear to cover administrative costs only and, given the timescale for previous Committees of Inquiry, these costs appear to be on the low side.

The main cost that is not identified for a Committee of Inquiry will be that of meeting the costs of legal representation for individuals called to give evidence. Providing an accurate cost for this legal representation is not possible, but assuming that the key witnesses will be past and current politicians and employees most, if not all, of whom will be seeking legal support, costs could be in the order of £20,000, in addition to

those costs identified in the Deputy's Proposition. If individuals called to give evidence no longer live locally, travel and accommodation will also have to be factored in.

Based on previous independent reviews of this nature, the Chief Minister believes that the cost for the review as proposed in the Terms of Reference would be in the order of £5,000 to £10,000.

Recommendation

Members are urged to reject this proposition on the basis that it will become a lengthy process and, as presented, does not provide the required level of transparency in terms of the selection of a Panel to form the Committee of inquiry.

Members should instead support the proposal from the Chief Minister to commission an independent review with the safeguards as outlined in this report, and if the findings are of such magnitude, the Chief Minister commits to bring a Report and Proposition to this Assembly calling for a full Committee of Inquiry.

A review of the management process that led to the suspension of the Chief Officer of Police

1. Commissioner

The Chief Minister wishes to appoint a Commissioner to undertake a review of the manner in which the Chief Officer of the States of Jersey Police was suspended from his duties on 12th November 2008. Given the length of time that has elapsed since the Chief Officer of Police was suspended, and the concerns raised by States Members particularly following the publication of the Affidavit from the suspended Chief Officer of Police, the Chief Minister is proposing to commission an independent review to assure himself and States Members that the management of the process was conducted correctly.

2. Terms of Reference

The purpose of the Review is to –

- (a) Examine the procedure employed by the Chief Minister's Department and the Minister for Home Affairs in the period leading up to the suspension of the Chief Officer of Police on 12th November 2008.
- (b) Review the manner in which senior officers collated the information and presented it to the Minister for Home Affairs that ultimately led to the suspension of the Chief Officer of Police.
- (c) Investigate whether the procedure for dealing with the original suspension was correctly followed at all times, including –
 - (i) the reason for the immediate suspension of the Chief Officer of Police;
 - (ii) whether there were any procedural errors in managing the suspension process.
- (d) Review all information relating to the original suspension procedure, including relevant sections of the published Affidavit from the suspended Chief Officer of Police.
- (e) The Report should highlight any areas where, in the opinion of the Commissioner, sufficient evidence exists that would support in the interests of open government a full Committee of Inquiry into the manner in which the Chief Officer of Police was suspended on 12th November 2008.

3. **Report**

A Report should be prepared for the Chief Minister. The Commissioner must be aware that the entire disciplinary process for the Chief Officer of Police is conducted under his Terms and Conditions of Employment, which include a Code of Conduct for Disciplinary Process. This Code requires confidentiality to be maintained by all parties throughout the disciplinary process. As such, the report should therefore be in 2 parts –

- (i) Part I should consist of matters appropriate for immediate publication to States Members and the Public;
- (ii) Part II relating to those matters specific to the Chief Officer of Police which under his Code of Conduct have to remain confidential until the disciplinary process has been completed.