

2.13 Deputy R.G. Le Hérisssier of the Chairman of the Privileges and Procedures Committee regarding the wider implications of the alleged secret recording of a member's comments and the use of this material by a Committee of Inquiry:

What steps, if any, is the Committee taking to deal with the wider implications of the alleged secret recording of a Member's comments and the use of this material by a Committee of Inquiry?

The Connétable of St. Mary (Chairman, Privileges and Procedures Committee):

The Committee's report into the incident in question has now been published as R.123/2010, and I believe that the contents speak for themselves. The report deals with one specific incident in a particular set of circumstances and it is hard to see what wider implications there would be for other situations. Matters such as data protection or regulation of investigatory powers legislation which might, in certain circumstances, be relevant in relation to the recording of conversations, do not fall under the P.P.C.'s remit and it would be inappropriate for the Committee to become involved in considering issues relating to those aspects. The duty of a Member to provide information to a Committee of Inquiry is dealt with by Article 9(c) of Schedule 3 of Standing Orders.

2.13.1 Deputy R.G. Le Hérisssier:

Would the Chairman not concede, particularly in the light of her other answer on parliamentary privilege, that we have a situation where a Member may in the future engineer a conversation, record that conversation and use it as a form of entrapment against another Member? Would she not concede that this is the situation we have laid ourselves open to and P.P.C. should be fighting this with all the energy at its command?

The Connétable of St. Mary:

I would like to make it clear that the report R.123 does not find any evidence of entrapment. In fact, quite the opposite. It accepts that there was no intention on the part of Senator Shenton to entrap the Minister into calling him back on a recorded line; that is just a matter of circumstance. Furthermore, the Committee found that Senator Shenton did have no idea that a conversation which was routinely recorded would have been of use in a Committee of Inquiry called 2 years later. I think the questioner is perhaps reading too much into this situation.

2.13.2 Deputy R.G. Le Hérisssier:

While I do not doubt for a moment that the Senator's motives were not open to question in that respect, would the Chairman not concede further that another Member could well act in this manner, disguise it as a benign phone call and use that information against that other Member?

The Connétable of St. Mary:

I do not believe I am required to answer hypothetical questions, but I would refer the Deputy to my original answer, which said that there are matters which would fall under data protection or perhaps regulatory investigatory powers legislation, and these are not matters for the P.P.C. to consider.

2.13.3 Deputy M.R. Higgins:

I would just ask the Chairman to confirm to the House that when P.P.C. was considering this matter - and I am a member of P.P.C. - we work on the basis of the evidence we have, and we cannot infer motive on the part of the particular individual. We have to go with the facts that we have. The Chairman agrees?

The Connétable of St. Mary:

I would say that all investigations carried out by P.P.C. into alleged breaches of Code of Conduct are carried out fully in accordance with Standing Orders.

2.13.4 Deputy R.G. Le Hérisssier:

A final. Despite the unusual sight of Deputy Higgins acting as an apologist for P.P.C., would the Chairman again not concede that when it comes to fighting for Members' rights, it is not a question of taking an interpretation or taking the laws at face value; it is a question of looking beyond the surface and fighting as strongly as possible to ensure that incidents like this in whatever manner they occur, are not repeated.

The Connétable of St. Mary:

I can only say that because the Deputy in his earlier question referred to the matter of privilege, that the matters of privilege as detailed in the excellent report produced in 2009 by the Greffier, do not allow for any excuse for a breach of law. There are laws which deal with certain aspects of recorded conversations, but above all, Members of this House should act with honour and integrity; and the element of the Code of Conduct that P.P.C. was investigating dealt with Members treating all other Members with respect and courtesy at all times. That is something Members can take from themselves, and I would expect Members of this Assembly to act with honour and integrity, not only towards each other, but towards members of the public and all persons.