

3.9 Senator S. Syvret of the Attorney General regarding compensation claims against the insurers of the States by child abuse survivors:

Will H.M. Attorney General advise whether discussions have taken place between his department and those insurers of the States of Jersey who may be expected to fund compensation should any successful claims be made against the State by child abuse survivors, and if so, list the insurers involved and state what role he, or officers of each department have played in any negotiations concerning compensation, including any putative redress board?

Mr. W.J. Bailhache Q.C., H.M. Attorney General:

The responsibility for insurance matters lies with the Minister for Treasury and Resources. If my department had had any discussions with insurers, they would have been undertaken on behalf of the Minister. For all the reasons debated in this Assembly last March, when considering the code of practice for Scrutiny Panels on accessing legal advice given to Ministers, I am not able to answer this question. I would suggest that questions on the extent of insurance cover should be put to the Minister for Treasury and Resources. Questions on any claims for compensation should be put to the Minister the Health and Social Services, and perhaps on any other related matters to the Chief Minister.

3.9.1 Senator S. Syvret:

This is a legal question as opposed to a financial one. Will the Attorney General, and I do not believe this is asking him to reveal any legal advice, simply state whether he or his department have played any role in discussions or advising on insurance matters? It is a yes or no question.

The Attorney General:

Perhaps the Senator would indicate what issue of law arises out of that?

Senator S. Syvret:

The liability of insurers, and for example whether, given that there are certainly possibly a variety of serious malfeasances by the States of Jersey over the decades, whether the insurers have been notified of those potentialities, and if not would that not in fact be fraudulent conduct on the part of the States of Jersey?

The Attorney General:

The liability of insurers will depend upon the extent of the cover which the States of Jersey have taken out, for which the Minister for Treasury and Resources is responsible. Whether the insurers are legally liable in relation to any particular claim will depend upon the terms of the policy and the nature of the claim, and whether the States themselves would be liable, whether insured or not. So, the answer to these questions will be fact specific and I am simply not able to help the Senator.

Senator S. Syvret:

Then perhaps, as a point of order, we could be advised how we ask questions and to who, in respect of questions whereby we simply wish to know whether legal advice has been taken and given, in respect of any matter. It seems to me that the appropriate person to ask is the Attorney General or Solicitor General.

The Bailiff:

I am not sure that it is, Senator. I think if you wish to ask whether a Minister has taken legal advice in relation to a particular matter, then you are perfectly entitled to do so, and it is up to the Minister to say whether or not he has taken legal advice. If we go further than that we get into more complicated matters.

Senator S. Syvret:

I know for a fact that the Attorney General's Department has, in fact, been involved in such discussions. It would have just been better if he had said so.

The Bailiff:

I do not think it is appropriate for questioners to make statements of that kind, but if there are no further supplementary questions, we come to the ...

The Attorney General:

I would like to say something. The Senator has unfortunately made a statement which is completely incorrect. I have had no discussions with insurers whatsoever. I did not wish to be driven to the point of saying so because there is a practice which Members ought to respect in relation to legal advice. It was the subject of debate in this Assembly last year, and the rules are absolutely straight forward, but what the Senator just said a moment ago was in effect to put my professional integrity into question, and therefore I feel obliged to say that in fact I have had no discussions with insurers whatsoever.

Senator S. Syvret:

I do not believe I put the Attorney General's professional integrity in question and if I did, that certainly was not my point. But I was not just referring to him, I was speaking of his department and I know that they have received draft terms for a putative redress from the Lavelle Coleman.

The Bailiff:

Do you wish to say anything further, Attorney?

The Attorney General:

I am grateful to the questioner for confirming that he intended no assault on integrity.

The Bailiff:

We come next to a question by the Deputy of St. John of the Attorney General.