

2024.10.23

2.1 Deputy J. Renouf of St. Brelade of the Minister for Sustainable Economic Development the Minister for Sustainable Economic Development regarding the removal of the Chief Officer of the Department for the Economy from the ferry tendering process. (UOQ.3/2024):

Will the Minister provide further information on the ramifications of the statement yesterday that the chief officer in the Economic Development Department is stepping aside from the ferry tendering process owing to an error of judgment?

Deputy K.F. Morel of St. John, St. Lawrence and Trinity (The Minister for Sustainable Economic Development):

I thank the Deputy for his question. I have requested that the Government C.E.O. (chief executive officer) provide a new S.R.O. (senior reporting officer) to oversee the remaining stages of the process, and this appointment will be in place next week. In the meantime other members of the project team, both within Government and Ports of Jersey, will provide support, given their extensive knowledge of the procurement process and familiarity with the issues at hand. The project team on the procurement process was formed from a cross section from Ministerial and non-Ministerial departments including Ports of Jersey and the Law Officers' Department.

2.1.1 Deputy J. Renouf:

Can the Minister provide any information about how the *faux pas* came to light and what the nature of the mistake was?

Deputy K.F. Morel:

As I understand, the mistake came to light as a result of a media enquiry. I believe, and I have spoken to the senior reporting officer, that this was a genuine mistake and that the officer was - having been involved in this process a very long time - seeking to view the results of an online poll. Having realised his mistake, the vote was retracted. Nevertheless, the senior reporting officer has voluntarily recused himself from the process in order to protect the integrity of any eventual decision.

2.1.2 Deputy M. Tadier:

Could the Minister advise how much input that officer had had up until this point and whether it is likely that any different outcome will be achieved because of his absence from that role?

Deputy K.F. Morel:

The senior reporting officer over the course of this whole project, for want of a better word, has obviously been involved in all sorts of ways, but he has not been involved in marking the different parts of the tender process. In order to keep the marking separate the tenders were provided to other nominated individuals who went through the marking themselves, so he had not been involved in that stage of the process. The idea was that he would then come together with his counterpart in Guernsey to discuss that.

2.1.3 Deputy M. Tadier:

Could the Minister confirm whether the error of judgment that was made or referred to constituted a material conflict of interest or whether he just stepped aside simply to avoid any perception of conflict of interest?

Deputy K.F. Morel:

There is no doubt in my mind that he has stepped aside to avoid any perception of conflict of interest. I do not personally believe - and I do not like speaking on behalf of other people but I also believe this is the view of the chief executive officer - that this was a genuine error. He wanted to understand what the public was thinking when he saw the poll, but the only way to see at that time how the results were

going was to press one of the voting buttons. He did that and we are where we are now. But he genuinely has been an amazing adviser throughout this whole process and - because obviously he has a role in my department - he continues to have my full support in that role.

2.1.4 Deputy H.L. Jeune:

Could the Minister tell us who will be guiding the process now the chief officer is not there to make a recommendation?

Deputy K.F. Morel:

There will be a new senior reporting officer appointed. At this stage - and I only say this because I always want to err on the side of caution - I believe that the chief officer of Infrastructure is most likely to take up the role of the senior reporting officer going forward. In case that changed, and I do not see any reason that it will, that is the information that I have at this moment.

2.1.5 Deputy H.L. Jeune:

Will this change lead to a delay in making any decision?

Deputy K.F. Morel:

We are, as I am sure Members will be relieved to hear, towards the very end of this process. My concern has been about further delay but I think any delay will be in a matter of days, not any longer particularly than that because, yes, at the moment the new senior reporting officer needs to get up to speed and so on. But I am being supported, as I said, by the chief executive of Ports of Jersey who is across this whole subject as well, which helps. But there will be, I believe, some days of delay because, for instance, a meeting has had to be delayed as a result of this by some days.

2.1.6 Deputy H.M. Miles of St. Brelade:

Has the Minister taken any legal advice to try and ensure the decision making is not going to be the subject of legal challenge?

Deputy K.F. Morel:

Can I ask whether Deputy Miles could clarify whether she is talking about legal advice in regard to this specific issue around the senior reporting officer and his recusal?

Deputy H.M. Miles:

No, the question was more about legal challenge from any of the applicants for the tender process.

Deputy K.F. Morel:

In which case I would point out that is not a supplementary to this question.

The Bailiff:

That is not the subject matter of the urgent question and, therefore, it cannot be asked.

2.1.7 Deputy P.F.C. Ozouf:

I wonder whether I may ask the Minister, in relation to the advice that is given to Ministers, could he take this opportunity of clarifying that he is the Minister that will be receiving and making the decision, or whether there are other Ministers going to be involved in the actual decision in Jersey.

Deputy K.F. Morel:

I would question whether that is supplementary to this question, Sir, because it is not about the senior reporting officer and it is not about his recusal.

The Bailiff:

No, but I think it does arise from the question as to the process that is happening now and who is going to be doing what.

Deputy K.F. Morel:

In which case, yes, I am the ultimate decision maker in this but I am not someone who likes to take decisions in a vacuum so I will be speaking to the Council of Ministers, and I may speak to more people as well. I would obviously be seeking the support at the very least of the Council of Ministers.

2.1.8 Deputy P.F.C. Ozouf:

I am grateful for your acceptance of this supplementary question because it relates to the senior reporting officer and who he is reporting ...

The Bailiff:

Deputy, we are taking up limited time. Do you have a supplementary question because you are simply making a statement?

Deputy P.F.C. Ozouf:

I want to ensure that there are no predetermined outcomes and if other Ministers are involved they are also completely clear about their openness in relation to taking this decision, and simply ...

The Bailiff:

I am afraid in my judgment that goes too far outside the ambit of the original question.

2.1.9 Deputy I. Gardiner:

Would the Minister please remind us what was the original date to make a decision on this tender and announce the next ferry operator, and what is expected to be the date now for the final tender, and when he expects a new senior officer to be appointed?

Deputy K.F. Morel:

It is interesting talking about original dates because there has always been the understanding - and I believe to the best of my knowledge it is in the invitation to tender document - that the dates can be fluid because this is not a simple process; this is a process between 2 jurisdictions which also has a political element to it. We were aiming for the end of September, if I remember rightly, into October. At the moment we have not got there yet but, despite this event, I expect to come out with a decision within a couple of weeks. I do not know if it will be this side of the month or whether we will go into November. But it is important that we make the right decision for the Island. It is important to get this right and time in that sense needs to be subservient to the fact that we need the best decision for Jersey.

2.1.10 Deputy I. Gardiner:

I think the timeline is extremely important as we are heading to the Easter time and none of the Islanders and tourists can book anything for Easter and it is coming very quickly. When will the senior officer be appointed?

Deputy K.F. Morel:

I said next week. As I said, I believe I know that senior officer in the sense of I know their title, I know who they are, and it is just a matter of him having to get into this, if you understand what I mean.

2.1.11 Deputy J. Renouf:

I thank the Minister for answering the questions very directly. I just wanted, if I could, to test Deputy Miles' question a little bit further. My question said: will the Minister provide further information on the ramifications of the statement? One ramification might be that the process might be seen to be contaminated by prior decision or a certain somebody being predisposed to make a decision. So the question would be: has the Minister considered the risks of prior contamination and the legal risk that might arise from that potential contamination?

Deputy K.F. Morel:

I believe that is entirely in order as question. It is well worded to keep it so. I am and have been throughout this process highly aware of the desire to keep a lack of contamination, to use the Deputy's word, but I do understand what he means. So it is a consideration of mine, it is something that concerns

me. But I believe because the officer concerned immediately recused himself, and it was a genuine error. I know there was a headline recently that said: "Bias or blunder?" This was a blunder, it was not bias, and I am absolutely convinced by that. You only ever find out if it is tested in court but I believe we are on safe ground in that sense. He has made an error, he has immediately recused himself, I will shortly have a new senior reporting officer, I have other team members who are able to work with me on this continuously. So I believe we are in the right place from that perspective.

The Bailiff:

Thank you very much, Minister. That brings this question to an end and we now resume the Order Paper proper.