

3.10 The Deputy of St. Martin of the Chairman of the Privileges and Procedures Committee regarding the Chairman's response to a letter dated 30th October 2009 from the suspended Chief Officer of the States of Jersey Police:

Will the chairman inform Members whether the response she sent on 13th November 2009, to a letter dated 30th October 2009 from the suspended Chief Officer of the States of Jersey Police, was discussed by members of the Committee and, if not, why not? Will she inform Members whether she discussed the letter with elected or non-elected members and, if so why? Did she forward the letter to any Ministers or officers and, if so, to whom and when?

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

My response dated 13th November 2009 to the letter of the suspended Chief Officer of the States of Jersey Police was not circulated to the Committee. Standing Order 128 is quite clear on the terms of reference for the Privileges and Procedures Committee and Members will be aware of these. They do not include the review of a general complaint against the conduct of government as referred to in the Chief Officer's letter. Standing Order 155 says that any person may complain to the P.P.C. that an elected Member has breached the code of conduct. In order for the complaint to be considered by the Committee it must contain the name of the person who is being complained about. In his letter the suspended Chief Officer of the States of Jersey Police stated that he could not be clear in his complaint. He stated that there was difficulty in identifying who was responsible for what and the possibility that one or more members of the Council of Ministers may or may not be implicated. The letter of the suspended officer did not identify specific States Members and therefore the Committee does not yet have a complaint which it is capable of investigating. Turning to the second part of the question, I discussed the matter with the Greffier of the States and the Deputy Greffier of the States in formulating my response. I did not discuss the letter with other States Members, either elected or otherwise. I did not raise the matter with the Committee as the matters it raised were clearly outside the terms of reference of the Committee and it would not therefore have been appropriate to place it on a Committee agenda. Although they have now been circulated to members of the P.P.C., neither the letter nor the reply was forwarded by me to any other elected or non-elected States Member or any other officers.

3.10.1 The Deputy of Grouville:

If the chair felt that P.P.C. could not investigate the complaint which I have an issue with - having read the letter I think it is far more specific than she is alluding to - what exactly precluded her from setting up an independent body to investigate the complaint or bringing P.P.C.'s planned action forward to the States for approval?

The Connétable of St. Mary:

I believe that clearly it would have been inappropriate of me, as the chairman of P.P.C., to give advice to a suspended Chief Officer or to take any further action myself with this complaint as that might have been perceived to damage the impartiality of my role in the event of any future specific complaint coming forward which might well have fallen under the terms of reference of the P.P.C. Therefore, the questioner will have seen from my response that I had noted that the Chief Officer

had already involved another States Member and I suggested to him that he might discuss a possible political remedy with that States Member.

3.10.2 The Deputy of St. Mary:

The suspended Chief Officer of Police in his letter to the chairman of P.P.C. wrote that the Minister for Home Affairs had this power of suspension. His power of suspension should only be exercised through due process and the proper consideration of evidence. He further wrote: "Finally on this issue but certainly not least, there is the question of the integrity of Government and the degree of trust we can place in the statements made and assurances given by those in executive positions." Now, I quote that just to help us all see just how important these matters are. So my question to the chairman is, first of all, does she agree that this is a matter of the utmost seriousness? Secondly, does she agree that in the letter there are specific charges of possible cover-up, possible bad practice and possible falsification and alterations of documents and that individuals are named? Thirdly, in the light of those 2 points, why should the correspondence not have been referred to her Committee and the documents as requested by the suspended Chief Officer of Police?

The Connétable of St. Mary:

I will do my best to answer that. I am sorry; there was a lot in that question. Firstly, the questioner made reference to acts potentially undertaken in the course of Ministerial action. Those are quite clearly under the terms of the Ministerial Code of Conduct. The questioner also gave rise to there are people mentioned in the documentation which were not necessarily States Members. There was the potential to involve Chief Officers or certainly civil servants and perhaps former Members of the States of Jersey. I would simply say that, as I have tried to indicate, the terms of reference for the P.P.C. are specific. The code of conduct which we are charged to enforce is the code of conduct for elected States Members. We require specific complaints in the terms of the Code which fall under the remit of the Privileges and Procedures Committee in order to be able to investigate. I would simply refer to the earlier answer I gave where, if Members feel these items are matters of specific public importance, there are remedies available through the Standing Orders of the States. They are quite clearly set out. They do not fall under the terms of reference of the P.P.C.

3.10.3 The Deputy of St. Mary:

Can I ask a supplementary about the chairman's reference to the Code of Conduct for Ministers? At Article 12: "Ministers shall co-operate when requested to appear and give evidence before or produce documents to (a) (b) and (c)", P.A.C. and Scrutiny Panels and: "(d) the P.P.C. for the purpose of an investigation of a suspected breach of this Code or to any person appointed by the P.P.C. to investigate a suspected breach." So Article 12 clearly says that P.P.C. does and can investigate failures to meet the code for Ministers. So would the chairman like to comment on that? There is there in the code of conduct ...

The Bailiff:

You have asked the question.

The Connétable of St. Mary:

I believe the Code of Conduct referred to is the Code of Conduct for Ministers (R.14/2006). It must be quite clear all Ministers are elected Members of the States.

Some of their actions will fall under the Code of Conduct for Members, some of their actions will fall under the Code of Conduct for Ministers; dependant on whether they are acting in a Ministerial capacity for example. Therefore, the actions need to be specific and need to be identified as falling under the terms of reference for elected States Members.

3.10.4 Senator A. Breckon:

Regarding the process, I would like to ask the chairman of P.P.C., she said that she did not circulate the letter to members of the Committee; is this the usual practice not to circulate something like that? Because if she is asked to investigate then who is ... she is not the person being asked to investigate, it is in her position as chairman of P.P.C. I would ask why she thought it appropriate to make that judgment in isolation?

The Connétable of St. Mary:

Firstly, I did not make the judgment in isolation. The terms of reference of P.P.C. are clearly set out and clearly defined in Standing Orders. The officer involved with the P.P.C., the Greffier of the States, and I discussed the matter. I made an initial review of it and then I took more time to have a more thorough review to see whether I could apply anything towards Standing Orders. I did take several days to do this. As regards whether this is normal practice, I believe that in all committees and panels various matters may be put towards them that do not fall within their terms of reference. It is normal practice for committees and all other panels and bodies to act within their terms of reference.

3.10.5 Senator A. Breckon:

On a number of occasions the chairman of P.P.C. has talked about being impartial. Would she agree with me that to be impartial, regardless of whom the complaint is about, then the policy must be consistent?

The Connétable of St. Mary:

Yes. I would entirely agree, which is why I have applied the usual consistent policy.

3.10.6 Deputy T.M. Pitman:

The Deputy of St. Mary really stole my thunder but, nevertheless, I would ask with the value of hindsight - which we know is a wonderful thing - would the chairman concede that for her members of her Committee apparently to learn of this letter from the blog site Voice for Children, does that promote good practice and would she take that same action again; because if she would, what is the point of a committee?

The Connétable of St. Mary:

I will take the last point first. The point of a committee is to fulfil the remit of the committee and that is quite clear and I have maintained that. What would normally happen is that the letters I produce are circulated for information to the Committee. For one reason or another, perhaps due to time factors or whatever, this did not happen. The letters were on the agenda to be circulated at the next meeting in fact and that was accelerated in view of media interest. However, the course of action that was taken was the normal course of action. My only hope is that in future the Committee would receive the copies of the letters in a more timely fashion and that I acknowledge.

3.10.7 The Deputy of St. Martin:

I would say to the chairman that, given these were 6 pages of serious allegations and also on her Committee was the Minister for Home Affairs and also Deputy Higgins who had got a proposition before the House on Operation Blast, I have been rather disappointed with her answers. Given now that we know what these correspondences are, will she now reconsider that letter and then discuss with her Committee so it can be a Committee decision not hers alone?

The Connétable of St. Mary:

I am quite astounded to think that the Deputy would not think that I had not given this a lot more consideration. I have given it more consideration. I have discussed it again with the officers. The position is still the same. It has now been discussed by the Committee. It is quite clearly outside the remit of the Committee.

3.10.8 The Deputy of St. Martin:

Could I just get confirmation? Could I ask when that letter then was discussed by the Committee?

The Connétable of St. Mary:

The Committee met yesterday.