

STATES OF JERSEY

OFFICIAL REPORT

(In Camera Proceedings)

TUESDAY, 10 MARCH 2009

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1. Statement by the Minister for Home Affairs regarding the suspension of the Chief Officer of the States of Jersey Police.

1.1 Senator B.I. Le Marquand (The Minister for Home Affairs):

I wish to inform the Assembly that following the in camera debate which took place on 21st January 2009, I met with the Chief Officer of Police and with his representative, Dr. Timothy Brain, on 13th February 2009 and 5th March 2009 for the purpose of reviewing the suspension of the Chief Officer of Police. During the review process I considered submissions from Dr. Brain in relation to the procedure which I should follow, the documents or other matters which I should consider, the criteria which I should apply in making my decision and whether or not the Chief Officer of Police should continue to be suspended. I then proceeded to make detailed decisions in relation to each of these issues with the outcome being that I decided that the suspension of the Chief Officer of Police should continue pending the current investigation. I also wish to inform the Assembly that my current information is that the current investigation will not be completed before the end of June 2009. It is my intention to continue from time to time to review the current suspension but any such review will be based upon any relevant change of circumstances and will not be a further general review.

1.1.1 Senator S. Syvret:

Could the Minister confirm that this view of his that the investigation will not be completed before the end of the June 2009 has been already relayed to the Chief Officer and would he agree with me, and would he accept that justice delayed is justice denied? **[Approbation]** Would he also agree with me that given the very damaging reputational, that is for the States of Jersey, range of suspensions which have been so much in the news lately that really there is a strong ground for making this process happen much faster?

Senator B.I. Le Marquand:

Yes, is the answer to the first question. It was made known to the Chief Officer of Police during the last hearing. I am concerned in relation to the delay in the investigation process. When I was first given information it was due to be reported back in March, that then became May, it is now the end of June and I regret that. I regret particularly the fact that the Chief Office of Police therefore has this matter hanging over him for a long period of time, which is very stressful to him. But I am afraid that the matter is not within my control. Obviously an outside force are investigating and they are no doubt proceeding to do so as soon as possible. It did ask Mr. Pennall(?), who was assisting me - I am afraid I cannot remember his official title.

The Deputy Bailiff:

You are meant to refer to them by title.

Senator B.I. Le Marquand:

I do not know what it is, Sir.

The Deputy Bailiff:

Then you must refer to the official.

Senator B.I. Le Marquand:

The official who was assisting me on the occasion ...

The Deputy Bailiff:

Standing Orders are to be followed by everyone, Minister.

Senator B.I. Le Marquand:

Indeed, I understand that, Sir. I just did not know the name. So I shall refer to them as the official. The official was assisting me to make representations to the investigating officers to see whether it was possible to speed up the investigation process.

1.1.2 Senator S. Syvret:

A supplementary, if I may on that. Does the Minister recognise that organisations can and do hypothetically sometimes make a deliberate point of dragging out suspension processes in order to wear down and eventually make impossible the return of the suspended person? Would he take the necessary safeguards to ensure that is not occurring in this case?

Senator B.I. Le Marquand:

That is most certainly not what I doing in this case. I am very anxious to proceed with this matter as soon as possible. I cannot answer the hypothetical question.

1.1.3 Deputy T.M. Pitman of St. Helier:

Senator Syvret has effectively asked much of my question and I fully appreciate that the Home Affairs Minister is keen to get this drawn to conclusion. Could I just ask, as this would be a period of something like 9 months now, at the very earliest, before this is cleared up, could the Home Affairs Minister just give the House assurances that he will do absolutely everything to assist to speed it up? We hear a lot of talk about neutral acts but 9 months suspension does not look to the public like a neutral act and I just do not feel that is very fair on the individual.

Senator B.I. Le Marquand:

I repeat that I am very keen to dispense with this matter as soon as possible and have made all efforts to speed the process up and regret the delays.

1.1.4 Deputy M. Tadier of St. Brelade:

I apologise if this question is in any way naïve but I think some of the facts are not necessarily always forthcoming. Given that Chief Officers in other departments may be, and possibly are, currently being investigated and they are allowed to remain in office, why is there a different approach in the Minister's department?

Senator B.I. Le Marquand:

I have taken the decision based on correct principles as I understand them. I hope that other people have done the same in other departments.

1.1.5 Deputy M. Tadier:

I appreciate that is something that perhaps the Minister cannot answer here, it may be that we need to hear from the Minister for Education, Sport and Culture as well, but as a new Member I cannot see why there is a different approach if someone is being - and this is in camera so I hope we can speak a bit more candidly - investigated in a different department for abuse, for example, and they are allowed to stay on, why is there a discrepancy in States policy?

Senator B.I. Le Marquand:

I cannot answer. I know what principles I followed and those principles include there needing to be sufficient credible material for a disciplinary investigation to take place, and it may that in other cases the decision was made that there was not such credible material to warrant this. There is a whole number of different criteria which I applied in making the decision which I made. Maybe others will apply the same criteria and come to different conclusions on different facts and circumstances.

1.1.6 Deputy C.B. Labey of Grouville:

Could the Minister confirm what the date is that the Chief Officer of Police is due to retire, his official leaving date, given his contract has been renewed for 2 years anyway. So this final contract, what date does it terminate?

Senator B.I. Le Marquand:

My understanding is that that date is 31st December 2010.

1.1.7 Deputy D.J.A. Wimberley of St. Mary:

It is just a simple question. Who is defending the current action in the Royal Court that the Chief Officer of Police is bringing? Which actual organ of the Government is defending that action and who is liable, who will pay if the States lose that action, or if that body loses that action?

Senator B.I. Le Marquand:

I think the reference here is to the application for judicial review. The answer to that is that I am defending that at the moment through the intermediary of the Solicitor General. If an order for costs were to be made against me then those would be paid out of public funds.

1.1.8 Deputy F.J. Hill of St. Martin:

Is the Chief Officer aware of the allegations being made about him and who has made them? Are Members entitled to know what those allegations are?

Senator B.I. Le Marquand:

Yes, he is aware because that was made clear in the letter that he received originally at the time of his suspension and, no, Members are not entitled because it was confidential by virtue of the terms of his disciplinary code.

1.1.9 Deputy P.J. Rondel of St. John:

Given the former Minister suspended the Chief Officer, is the Island responsible for any costs that may have occurred in relation to that action taken by the former Minister?

Senator B.I. Le Marquand:

Sorry, I am not clear what costs the Deputy of St. John is thinking about here. Obviously there have been costs incurred inasmuch as the Chief Officer has been suspended but what is being paid out over and above that I am not quite sure what the Deputy of St. John is referring to.

1.1.10 The Deputy of St. John:

If I could come back in with a supplementary, any costs in relation to wrongful dismissal.

Senator B.I. Le Marquand:

He has not been dismissed. He has been suspended on pay so it is difficult to see what costs there might be. I believe that on a previous occasion either the learned Attorney or the learned Solicitor were asked advise on this and took the view that there would not be any such claim.

1.1.11 Deputy G.P. Southern of St. Helier:

Will the Minister give his reasoning for the decision he has made and, in particular, will he refer to the absence in the process of, for example, proper representation and the short notice given for the first disciplinary hearing, and what part that played, if any, in his reasoning?

Senator B.I. Le Marquand:

I made it clear during the previous debate that I was not minded to review the original decision or its procedure because that became otiose by virtue of the complete review of that I was conducting. On both occasions I made decisions, I gave detailed verbal reasons based upon notes which I had written and follows my former practice when I was Magistrate in so doing. I can assure Deputy

Southern that those reasons are very detailed indeed and lengthy. If he wishes me to summarise them I will happily do so.

1.1.12 Deputy G.P. Southern:

Would the Minister rather than summarise them, would he circulate them in detail?

Senator B.I. Le Marquand:

I prefer to give them now.

The Deputy Bailiff:

That is a matter for you, Minister.

Senator B.I. Le Marquand:

I will give them now. On the first occasion I decided that paragraph 2.3.3 of the Disciplinary Code was capable of standing on its own if the allegation/circumstances were sufficiently serious and other factors were present which would warrant this. That was on 13th February. On the second occasion, on 5th March, I decided that the allegations and circumstances were sufficiently serious to allow section 2.3.3 to stand on its own. I secondly decided there is sufficient credible material for a disciplinary investigation to take place. Thirdly, I decided that it was necessary and proportionate to suspend the Chief Officer of Police.

1.1.13 Senator S. Syvret:

Could the Minister inform the Assembly as to whether he is aware that at the time of the suspension action being taken against the Chief Officer the Chief Executive, who was instrumental in that procedure, was in fact under formal complaint and investigation for alleged conspiracy to pervert the course of justice?

Senator B.I. Le Marquand:

If the Senator is asking me whether I am aware that that was so in November, I do not think I am aware of that.

The Deputy Bailiff:

Very well, that brings matters to an end. The time has expired. Could we ask the media to come back in.