

21.01.19

8 Deputy G.P. Southern of the Chief Minister regarding the new post of Director of Analytics and Statistics (OQ.16/2021):

Will the Chief Minister explain how the proposal to create a new post of director of Analytics and Statistics operating from the S.P.P.P. (Strategic Policy, Planning and Performance) Department and ultimately responsible to the S.P.P.P. director general, does not remove the necessary independence of Statistics Jersey?

Senator J.A.N. Le Fondré (The Chief Minister):

The new role of director of Statistics and Analytics will have exactly the same independence as that of the chief statistician but will operate at a more senior level across the public service. The independence of Statistics Jersey is enshrined clearly in the Statistics and Census (Jersey) Law 2018, and this is not and will not be changed. The director general of what I call SP3 (S.P.P.P.) is accountable for the good governance of a number of important functions of statutory independence, which also include the Children's Commissioner, Care Commission and Charities Commission. The director general never has and never could interfere with the statutory independence provided by this Assembly to Statistics Jersey or any other such body. I would note the point, the C. and A.G. (Comptroller and Auditor General) has made points around governance over independent bodies and we believe that the structures in place do comply with that. But just to be clear, really clear, and I hope, like all Members of the Assembly of the present Assembly, I absolutely support the independence of Statistics Jersey. I have previously confirmed that in writing in October 2020 to S.U.G. (Statistics Users Group). What I would just say is we will shortly be making announcements in relation to a permanent chair of S.U.G., which the process has now, effectively, been completed.

10.8.1 Deputy G.P. Southern:

Does the Chief Minister have any clue as to why we have seen the resignation or the putting on gardening leave of the current head of Statistics? When the Chief Minister says that he has assured him that there will be no interference with independence, how come the Stats senior, a rational man, has interpreted what has been going on as a limitation on Stats' ability to criticise not only what Statistics are investigating but their interpretation by Ministers and civil servants?

[12:00]

Senator J.A.N. Le Fondré:

There are a variety of issues that come out of that question. Can I just say, bearing in mind we do not talk from an H.R. (Human Resources) perspective unfortunately about individuals because of privacy and all the rest of it, but within that constraint I will answer the question as well as I can do? Firstly, can we just clarify, which I have sort of anticipated this might come through, the chief statistician is not on gardening leave, certainly as far as I am concerned? I am informed he is using up his annual leave and his last official day is tomorrow. I would also say I had understood that he had asked for his departure to be very low key and without a fuss, therefore, we were respecting his wish for privacy, which seemed to be the least we could do after 20 years of absolutely dedicated public service. We had planned to make an announcement following his departure in accordance with his wishes but obviously that seems a little bit moot at this stage. In terms of what else the Deputy has suggested, I am not entirely sure that the actual chief statistician has said that or whether that has been an interpretation that has been put into the media. I am clear that I have written to S.U.G. within October 2020 and was very clear in my support for their independence. The

issue, I understand, from reading the minutes and from correspondence, which I can refer to shortly, is that there have been some differences in opinion in the law-drafting instructions. Those are in the process of being resolved and when they come to me we will need to make sure that they are as strong as possible.

The Bailiff:

I have questions logged from Senator Mézec, Deputy Ward, Senator Ferguson and Deputy Higgins and the final supplementary, Deputy Southern. I will not be able to take any more after that, already very much pushing the envelope in terms of time permissible for questions, I think.

10.8.2 Senator S.Y. Mézec:

Can the Chief Minister tell the Assembly what personal oversight he has had for the proposed changes in Statistics Jersey and the creation of this director's post? Could he tell us at whose initiative this change is being made?

Senator J.A.N. Le Fondré:

Firstly, it is an employment matter, so it goes up through the States Employment Board. Essentially, I was kept informed of the matter but it was the full S.E.B. (States Employment Board) that approved the changes. In terms of how it got instigated, I have to say I have not gone into that level of detail. I had understood it had been in discussion either within the Statistics Department or with the S.U.G. But part of the issue was trying to resolve, essentially bringing in, effectively, a career progression ladder, which then gave, essentially, promotional powers and things like that. But I believe that was as a result of the decision of the chief statistician to leave. Can I also make one clarification, which in no shape or form is meant to be a dig at the Senator but it was based on a public remark he made, which is germane to the subject? Which is I am slightly disappointed he had not obviously visited the Stats Department in the last 2 years because having commented that he thought they were in an open-plan office with everybody else, that is clearly not the case. They are in a secure area with electronic locks on it and to which, as far as I am concerned, only they have access to. They are not sharing the floor space with the normal departments, as there have been other departments on the floor; they are in a completely secure and separate space. Just to be really clear in terms of independence.

10.8.3 Senator S.Y. Mézec:

Good to hear the last part. Every time I had engaged with Stats Jersey I had been in other parts of the building clearly. But what I would like to ask the Chief Minister is: how necessary is this change really? He has spoken about a career progression when, let us be frank, this has quite clearly had the opposite effect in this instance. Would it not be more appropriate to support those employees in Statistics Jersey to fulfil their duties in that role by finding an alternative employment arrangement and trialling their independence in another way? There are other examples of this, like, for example, the Children's Commissioner, rather than put in a new way of doing things, which the Chief Minister does not seem to be able to account for where the initiative came from, which many of us consider to undermine the independence of that group.

Senator J.A.N. Le Fondré:

Again, it is quite a long and complicated subject. My understanding, I believe, is that the restructuring side may well have come out of the chief statistician's recommendation. What I will say as well is that part of it is around ... the director of Statistics and Analytics is still part of Statistics Jersey and remains at independence and is designated as chief statistician but at a more senior level,

relative to the civil service. What that has also allowed is that somebody within Statistics Jersey to be, essentially, promoted to what is, I think in shorthand, deputy chief statistician. The formal title is “Head of Statistics Jersey and Principal Statistician”. The point of the role of the director of Statistics and Analytics is not to bring analytics under the control, as it were, of Statistics Jersey but to allow them to set, essentially, methodologies by which analytics can be operated, which is, essentially, starting to address some of the issues within the Stats (Jersey) Law where there has not been the resource to do certain parts of the functions required under the Statistics Law. What I will say is in returning to the independence element, which seems to have been at the nub of the issue and I take this at face value, that there seems to have been an element of a conflict between either within the Statistics (Jersey) Law itself or between that law and another piece of law, which may or may not have constrained the functions of members of the Stats Department to comment on certain areas. I am very clear that if there is such a conflict that should not exist; that, I believe, is part of the law-drafting instructions that are being sought to resolve the matter. I know we have got another question coming up, so I will not make any further comments on that point. But we have put some measures in again to hopefully strengthen and expedite that process.

10.8.4 Deputy R.J. Ward:

I think it does lead on slightly. Can I ask the Chief Minister, the Statistics Unit can be independent on paper and in a separate room and decide on its methodology that it has used but can he reassure that because those members will be on civil service contracts, that they still have the independence to use the data as they feel fit in terms of a statistical analysis, whether or not it is data the Government wants people to see and that independence is assured, regardless of the contracts within the new target operating model?

Senator J.A.N. Le Fondré:

There is an awful lot in that question. Firstly, the independence is guaranteed under the law and I think it is the Statistics Law that specifies that they are employees of the States Employment Board. The structure is, I understand, the norm, particularly around the British Isles and the wider Commonwealth, so that is where statisticians and others within national statistical institutes are public employees. Just to quote the Article, it is Article 2(7) of the Statistics Law, it says: “There is appointed a chief statistician and such other officers as may be necessary for the carrying out of the functions of Statistics Jersey under this law.” The important bit says: “All such officers being States employees within the meaning of Article 2 of the Employment of States of Jersey Employees (Jersey) Law 2005.” Just reading that again may be that link into the Employees (Jersey) Law that is causing the theoretical issue that may or may not need to be resolved. What I was just going to absolutely say though is the independence of Statistics Jersey from my perspective is absolutely guaranteed and indeed, as the Deputy’s colleagues have pushed me, to try and encourage and speed up work to be produced. I have not been able to do that because of that independence and I have absolutely resisted the urge to put pressure on the department in any shape or form because of that independence, so ...

The Bailiff:

I must ask you to bring your answer to a close, Chief Minister, we are ...

Senator J.A.N. Le Fondré:

Can I just wrap that up, Sir? What I was trying to say is it would be a very foolish politician, particularly a very foolish Chief Minister or Minister, that sought to control in any shape or form or undermine the Statistics Jersey independence because then that will start casting doubts on things

like the R.P.I. (retail price index) and all those type of areas. Be very, very clear, if there is anything needing to be strengthened to the independence of Statistics Jersey, I am absolutely behind that and that is what I have said ...

The Bailiff:

I think we are now at 2¼ minutes, Chief Minister, on a 1 minute 30 second answer.

10.8.5 Deputy R.J. Ward:

Can, therefore, the Chief Minister just quickly confirm that the chief statistician, or whatever it is called in a new structure, which will find a line management to the chief executive, that the chief executive of the States of Jersey will not have the ability to exert control over which stats are used and which stats are not used, thus maintaining the independence of the Stats Department?

Senator J.A.N. Le Fondré:

As far as I am concerned, he cannot and that is a matter of law.

10.8.6 Senator S.C. Ferguson:

The Chief Minister stated on Friday on Radio Jersey that he did not know of the shenanigans going around before last Thursday when the actual sort of events occurred in November. Can he explain that?

Senator J.A.N. Le Fondré:

I do not think I quite said that. I would need to just seek some clarification. What I was trying to say is that ...

The Bailiff:

I am sorry, I am going to rule that question out of order, Senator. The Chief Minister is answering questions more generally in a 15-minute slot; that is a reasonable question to raise then but not in the context of whether or not the new arrangements remove the necessary independence of Statistics Jersey, is that not sufficiently on point?

10.8.7 Deputy M.R. Higgins:

Chief Minister, tell us what arguments or disputes have taken place between Statistics Jersey and senior civil servants on such things as methodology or any other matter.

Senator J.A.N. Le Fondré:

I am not aware of any arguments that have taken place on methodology. The reference I made to methodology was basically making sure that I was essentially saying that under the new structure, gives the ability of Statistics Jersey to set, if you like, some professional standards to ensure that internal analytics, i.e. statistics produced by the Government, do meet a set of professional standards.

10.8.8 Deputy M.R. Higgins:

Does the Chief Minister accept that this dispute has called into question the question of independence and also the quality of statistics going forward in this Island?

Senator J.A.N. Le Fondré:

I would hope it is not called into question the quality of the statistics because I remain absolutely supportive and confident in the quality of the team in Statistics Jersey. I think what might be helpful

is I was just looking to a letter that I had received from the S.U.G., which is where it was very clear that when matters were originally spoken to me in 2018, actions were based on the express intention of consolidating the independence of Statistics Jersey established by the law and following international best practice, which was, essentially, what I have said.

[12:15]

The letter does say there have been delays, partly due to the S.U.G. being inquorate for nearly a year and then COVID and then the letter obviously carries on. But the point being there have been a number of delays all out of anybody's particular hands to get this resolved but progress was being made. But, as I said, I think there is a distinct difference in terminology between a dispute and when I say "a discussion", it can be a strong discussion saying as to how you achieve the solution you are trying to resolve. What I will say though is my response back in October 2020 said I had asked policy officers to reengage with S.U.G., to discuss their concerns in detail before continuing to provide provisional policy proposals in the form of law-drafting instructions. That was the last update I had on 20th October 2020, although obviously since then I ...

The Bailiff:

Again, Chief Minister, we are over the 2-minute mark, so could you bring your answer to a close, please?

10.8.9 Deputy G.P. Southern:

Do the words of the Chief Minister today guarantee that there are no elements of the Employees of Civil Service (Jersey) Law that will be used to curtail in any manner the activities of the States Statistics Unit?

Senator J.A.N. Le Fondré:

As far as I am concerned, I can guarantee that Ministers will not in any shape or form interfere in the activities of Statistics Jersey and their independence. What I also want to see is if there is an anomaly either within legislation or between 2 pieces of legislation that that is resolved.

Deputy G.P. Southern:

The question with the use of the law and not the Ministers.

Senator J.A.N. Le Fondré:

I have no intention of using the law in that way at all.

Deputy G.P. Southern:

Is that a guarantee?

Senator J.A.N. Le Fondré:

Yes.

The Bailiff:

There we are, the post went out to Members that we are more than halfway through the time allocated for questions and we have only done 8 questions out of the 23. In part that may be my fault but in another part it is because those answering the questions are not restraining themselves to answering within a 1 minute 30 second slot, which is generally applicable and those asking the questions are often not asking them in a succinct and focused way in accordance with the

parameters of the questions. I do not single anyone out, it has happened throughout a lot of the morning. I intend to focus much more from now on on the appropriate way of getting most questions reasonably answered within the period. Of course there are Ministers who are asked questions who also have slots for answering questions later on and perhaps if Members could keep that in mind when they consider whether they wish to ask supplemental questions.