

4.13 Deputy T.M. Pitman of the Chief Minister regarding the cost of supporting four individuals bringing actions under the Data Protection (Jersey) Law 2005, relating to the Internet:

Will the Chief Minister clarify how much taxpayers' money has thus far been spent in support of the 4 individuals bringing action on to the Data Protection (Jersey) Law 2005 relating to the internet?

Senator I.J. Gorst (The Chief Minister):

Could I ask my Assistant Minister, Senator Routier, who acts as political liaison with the Data Protection Commissioner, to answer this?

Senator P.F. Routier (Assistant Chief Minister - rapporteur):

As has already been confirmed in previous answers, there are proceedings that are ongoing. Therefore not only would further discussion be *sub judice*, there is an order in place that all hearings in relation to this matter are held in private until a further order of the court and that no party may disclose information to any one party. At this point in time, while matters are ongoing, it is not appropriate to comment on any fees incurred.

4.13.1 Deputy T.M. Pitman:

The Attorney General in the past said there was a limited amount of taxpayers' money that would be available in such cases. Can the Assistant Minister at least confirm to the House a figure that is the ultimate that can be used from the taxpayers' purse and who is monitoring this because I think that is very important to the public?

Senator P.F. Routier:

Every year in the accounts of the Data Protection Office, there is an amount set aside for the running of their department. They keep within that budget and that is publicly known. I do not have the figure with me here today but it is a figure which has been advised to this House in the past.

4.13.2 Deputy T.M. Pitman:

Sorry to push that but from what the Assistant Minister is saying, he is suggesting that it is entirely down to the Data Protection Commissioner's discretion. Do I understand that correctly?

Senator P.F. Routier:

The Data Protection Commissioner is an independent person who has responsibility for the budget and as long as they keep within the budget, we should be satisfied.

4.13.3 Deputy G.P. Southern:

The Assistant Minister has just said that we should be satisfied. If he expands that to "we" in this Chamber concerning public spending, can he justify in some way his linking of the sum spent on this case with an injunction that says we cannot talk about the proceedings? Surely there is no link between the amount spent and the actual proceedings going on. How can he justify not informing Members how much public money has been spent on this particular case to date?

Senator P.F. Routier:

In the opening answer, I did say that the court has put an order in place to not talk about any matters in relation to these cases so we are bound by that.

4.13.4 Deputy G.P. Southern:

Is the phrase used in the document in front of him "matters relating to these cases" in which case possibly one might justify not talking about how much has been spent. Is that the actual wording

and, if not, will he tell us what the wording is because I cannot believe it encompasses the amount spent by the States on pursuing these cases?

Senator P.F. Routier:

I do not have the court order in front of me. I can certainly look at that to see what the court has decided but my understanding is that the whole relates to everything relating to the case.

4.13.5 Deputy M.R. Higgins:

Can the Assistant Minister tell us whether the person who is on the receiving end of the Data Protection's action receiving equality of arms? Are they also being funded by the States or is it just the 4 individuals who are bringing the action?

Senator P.F. Routier:

I have no knowledge of the cases at all so I cannot answer that.

4.13.6 Deputy M.R. Higgins:

Do you believe the person should receive equality of arms?

Senator P.F. Routier:

I have no knowledge of the cases at all so I cannot comment on that at all.

4.13.7 Deputy M. Tadier:

It seems that the Assistant Minister has been chosen to answer the question specifically because he does not have any knowledge about any answers that he can give which is convenient because we are not allowed any information on the question which has been approved by yourself, Sir, but I am sure it is more complicated than that. The question I have to ask is: is the Assistant Minister concerned that taxpayers' money is being used for a case which ostensibly could or which could possibly use the defamation law because this is a case about defamation, not necessarily about data protection, which would not have to be funded by the taxpayer. Does the Assistant Minister have any concerns that taxpayers are being used to fund a secret case which we cannot even find out what the costs are at the moment when perhaps the best use of procedure would be for a civil defamation case to be brought against this individual so that taxpayers would not have to fund it.

[12:15]

Senator P.F. Routier:

The Deputy's understanding of what cases are going on is greater than mine. It is not part of the responsibility of the Chief Minister or myself to be involved in any particular cases and I would respectfully suggest to Members that when there are cases which are *sub judice*, that politicians should not really think about being involved in it and I maintain that position and as long as the Data Protection Officers are working appropriately within the law, that we should be satisfied with that.

4.13.8 Deputy G.P. Southern:

If I may, can I ask the Assistant Minister to circulate the documents he has not brought with him today, the 2 items that he has mentioned in his answer?

Senator P.F. Routier:

I am not sure what the Deputy is referring to. All I have is an answer to the question that ...

Deputy G.P. Southern:

I refer to the wording of the injunction from the court and the sum allocated to data protection issues within the budget, both of which he mentioned and said: "I do not have them with me." Can he circulate them before day's end?

Senator P.F. Routier:

The Data Protection Office budget is publicly known. It is available to anybody. Regarding the court's order, I presume that would be on the court's website if there is such a thing. I cannot find it.

4.13.9 Deputy G.P. Southern:

Effectively, he has not answered the question and said he is not prepared to do anything to elicit the answers. Can the Assistant Minister be more co-operative?

Senator P.F. Routier:

Certainly, I will have a look to see what can be provided but as I have said previously, these cases are *sub judice* but I will do whatever I can.

4.13.10 Deputy M. Tadier:

May I have a supplementary simply to be helpful? I appreciate that this is a *sub judice* case so would the Assistant Minister make an undertaking to look into a policy area which relates to the use of defamation cases as opposed to the use of data protection law because they are fundamental issues which border on the right of freedom of speech versus the right to not be defamed and it is critical that there is not an abuse, first of all, of taxpayers' money being spent or an abuse, potentially, of the wrong law being used when another law should be used. Would the Assistant Minister undertake to take that away and discuss that?

Senator P.F. Routier:

In preparing to answer this question, I looked at Hansard when the Chief Minister answered a very similar line of question previously and it was suggested to Members that if they have a concern with the Data Protection Law, that they should consider bringing forward an amendment to that law. I certainly do not have any concerns about the way it is currently being used but if other Members do, I would suggest that they bring an amendment to the Data Protection Law.

4.13.11 Deputy T.M. Pitman:

I am tempted to ask if you can apply retrospectively to use this law but what I will ask the Assistant Minister is: is he really happy and content that here we apparently have taxpayers' money being used and yet no one in this Assembly is allowed to know how much is being spent, what that limit is effectively or who is monitoring it. Is that a good way to handle taxpayers' money?

Senator P.F. Routier:

We have put in place a system to provide protection to the public through the Data Protection Office and when it was established, it was established in a way that gave the authority and the backing to the Data Protection Officer to use the funds available to them wisely and I have no reason to believe that it is not happening in any of these cases and I maintain that we have sufficient protection for public funds because the Data Protection Officer is using the money within their existing budget.