

#### **4.13 The Deputy of St. Martin of the Chief Minister regarding the present complaints procedure:**

Will the Chief Minister inform Members whether he is content for the present complaints procedure whereby complaints made against Ministers are considered by the Council of Ministers and, if not, what steps, if any, is he taking to establish an alternative body?

##### **Senator T.A. Le Sueur (The Chief Minister):**

I am content that a complaint against a Minister is considered by the Council of Ministers. I am not contemplating the creation of any other body. As a matter of law, it is the Council of Ministers which is responsible for dealing with complaints against a Minister. The requirement also mirrors the States Members' Code where P.P.C. (Privileges and Procedures Committee) deals with a complaint against States Members. While it is only the Council of Ministers which has to consider a possible infringement of the Code of Conduct for Ministers, there may be an opportunity to improve the process by which a complaint is considered. In conjunction with my Ministers, I intend to review the Code and if there are to be any changes, I will inform the House. The present Code of Conduct was presented to the States on 10th February 2006. By way of advice, the Ministerial Code deals with infringements or alleged infringements as follows. Article 15: "Any infringements of the Code of Conduct for Ministers must be reported to the Council of Ministers and the Council will determine an appropriate penalty. In extreme cases of non-compliance, this penalty may consist of bringing a proposition to the States calling for the dismissal of the Minister concerned."

##### **4.14.1 The Deputy of St. Martin:**

I am grateful for the Chief Minister's answer. Is the Chief Minister in a position to say how soon these documents or this report will be coming to the States?

##### **Senator T.A. Le Sueur:**

Sadly, not. The Council of Ministers have a variety of things to consider. It will be one of those matters for consideration at an early stage.

##### **4.14.2 Deputy M.R. Higgins:**

Can I ask you a question about the status of Assistant Ministers? If Assistant Ministers are not recognised in law, why is the Council of Ministers conducting ... if a complaint is made against an Assistant Minister, why should it be the Council of Ministers and why not P.P.C.?

##### **Senator T.A. Le Sueur:**

Because the Code of Conduct applies to Assistant Ministers as well as the Ministers, and when they accept office as Assistant Minister they are aware that the Code of Conduct applies to them as well. It is a Code of Conduct and not a matter of law.

##### **4.14.3 Deputy M.R. Higgins:**

Could I just clarify that? I know the A.G. (Attorney General) or S.G. (Solicitor General) is not here but is that correct that "Minister" includes "Assistant Minister"?

##### **The Bailiff:**

Is that a question for the Chief Minister.

**Deputy M.R. Higgins:**

Sir, it is.

**Senator T.A. Le Sueur:**

I fail to see the relevance of this. As I have said in my previous answer, Assistant Ministers agree to be bound by a Code of Conduct. They could have chosen not to be so bound because they are not Ministers but they voluntarily chose to be bound by that Code for, I think, very good reasons; that a Code of Conduct is appropriate for persons with that authority and dealing with matters which often relate to Ministerial function. So I think it is only fair that, although they are not Ministers in law, they should follow the same standards that Ministers have to follow.

**4.14.4 Deputy J.A. Martin of St. Helier:**

I am very sorry to hear that the ... and I am on P.P.C. I am very sorry to hear that the Chief Minister is not looking into this. When is a States Member acting as a Minister or a States Member? We have had this in the past recently. Now whose code do they come under under “discipline”? They fall between the 2 and nobody gets disciplined. That is exactly what is happening.

**The Bailiff:**

So your question, Deputy Martin, is ...? Deputy, what is your question?

**Deputy J.A. Martin:**

Well, will he consider again looking at this because it is very frustrating on P.P.C. and I presume it is very frustrating on the Council of Ministers when you have got a Minister who is saying: “I was not acting then as a Minister; I was acting as a States Member” and it comes to P.P.C. and it is a Ministerial complaint, and they are saying they are acting as a Minister and not a States Member. So they fall between the 2 stools and can the Minister assure us that this will not carry on?

**The Bailiff:**

Yes, I think you have asked the question now, Deputy, yes.

**Senator T.A. Le Sueur:**

The fact is that the Code of Conduct for States Members applies to all States Members whether they are Ministers or not. The Code of Conduct for Ministers is an additional sanction or additional way of setting standards specifically applying to Ministers and Assistant Ministers in addition to the Code of Conduct of States Members. Where it is questionable is whether conduct or alleged infringements that fall within the remit of the Code of Conduct for Ministers or just the States Members? one is done by general agreement with P.P.C. that we will, as Ministers, consider whether any breach of the Ministerial code has occurred. If we believe that no breach of the Ministerial code has occurred, it is then up to the Privileges and Procedures Committee to see if they consider whether, nonetheless, in terms of States Members that Code has been breached in that respect.

**4.14.5 Deputy M. Tadier:**

I think that the Minister is correct. I would share the same interpretation but my question would be would it not be simpler and would look better if P.P.C. were given the Ministerial Code to decide whether or not an infraction of the Ministerial Code, in addition to any infraction of the Code for Members in general, had been broken? If

they did find that it had been infringed then action could, at that point, be taken by the Council of Ministers where I think the appropriate sanctions, if necessary, could be administered. Would the Minister consider looking into doing that?

**Senator T.A. Le Sueur:**

I am prepared to consider looking at that. It does occur to me that, although that might have some advantages, in terms of sanctions, very often the sanction that could be applied could not be applied by the Privileges and Procedures Committee but could be applied by the Council of Ministers and, equally, the ultimate sanction - that of dismissal - can only be brought by the Chief Minister on behalf of the Council of Ministers. So there is merit in thinking about that. I would not say it is necessarily a suitable way to proceed.

[16:30]

**4.14.6 Deputy M. Tadier:**

A simple acknowledgment even as the Chief Minister has said. For example, one scenario where it could be used - and I would ask the Minister if he would agree - is that they could consider dismissal if an infraction had occurred and then the Chief Minister himself could propose to the House that a Minister be dismissed under those circumstances.

**Senator T.A. Le Sueur:**

Yes. As I said, I am prepared to consider that in conjunction with the Privileges and Procedures Committee but I would point out that if a proposition to dismiss a Minister were to be brought then I think the Council of Ministers in fairness would need to consider the whole facts themselves and not rely on the recommendation from P.P.C.

**4.14.7 Senator A. Breckon:**

A nice opening for me that the Chief Minister has given me. Could the Chief Minister say - he has mentioned the Code of Conduct - if the Council of Ministers have been determining any complaints made about a Minister in the last 8 weeks and, if so, whether he considers the process is robust?

**Senator T.A. Le Sueur:**

I am not sure that it is appropriate in this Chamber to talk about matters which are within the Council of Ministers agenda at this stage. I think it wise, as I said, if I make no comment on that question. **[Aside]** I have said I am not prepared to give an answer at this stage.

**4.14.8 Deputy T.M. Pitman:**

I am sorry but surely the Minister's answer means that is a yes. My question would be if a Minister has the option of deciding that he is a States Member does that not mean - and I am sorry if I misunderstood the long and winding answer - there are no sanctions that the Chief Minister can take against these Ministers? If in a very awful case - say somebody had been accused of stealing from another Member - would that Member just opt out and say: "No, I did that as a Member?" Would there be no sanction open to the Chief Minister? Is that what he is saying?

**Senator T.A. Le Sueur:**

It is certainly not what I am intending to say. The Code of Conduct for Ministers sets a standard which is at least as high or in fact higher than that for ordinary States

Members. If there is a breach of the Code of Conduct for States Members then in normal circumstances that would also imply a breach of the Code of Conduct for Ministers. But I am not prepared to speculate on individual cases at this stage without knowing individual circumstances.

**4.14.9 The Deputy of St. Mary:**

Does the Chief Minister not agree that the practice of hiving-off Ministerial problems to the Council of Ministers just looks completely absurd to anyone looking at this situation from outside this Assembly? To ask the Ministers to judge on Ministers is just not complying with natural justice. Would he not agree that the best way to deal with this is to put it in the hands of P.P.C., as is the case with States Members, or are Ministers some sort of different kind of animal?

**Senator T.A. Le Sueur:**

No, I think perhaps some Members misunderstand the nature of a Code of Conduct. A Code of Conduct is, if you like, the rules of a club. In fact maybe less so than even the rules of a club. They have no legal validity. They are purely a method of distributing self-discipline agreed by the members of that Council of Ministers. On that basis it is for the members of that Council of Ministers who have made their rules to judge when a breach of those rules may have occurred.

**4.14.10 The Deputy of St. Mary:**

A supplementary if I may. I am sure I remember rightly that P.P.C. have been asked to deal with issues surrounding Ministers and have hived it off and said that is none of our business, we cannot do that, even though the Ministers are States Members. They have denied the fact that they can have jurisdiction in a case of States Members. Would the Chief Minister not agree?

**Senator T.A. Le Sueur:**

I thought I had already made that clear in an earlier answer. The Privileges and Procedures Committee have a role in respect of all States Members. But where the person concerned is a Minister, it is often more expedient for the Privileges and Procedures Committee to let the Council of Ministers deal with it first and then, if needs be, if that does not produce the required solution, P.P.C. still has the opportunity to look at that under the Members Code.

**4.14.11 The Deputy of St. Martin:**

Would the Chief Minister agree that the Code of Conduct and the complaints procedure was established way back in 2005 at the onset of the Ministerial government? One could understand there has been a honeymoon period but quite clearly this honeymoon period has now come to a stage where serious questions are being asked about how effective it is. Could I get an assurance maybe from the Chief Minister that he will agree to meet with P.P.C. certainly within the next 2 months with a view to discussing how a working party can look at the relationship between ongoing States Members and any complaints that are made against States Members as States Members, whether they are Ministers, Assistant Ministers or just ordinary Back-Benchers?

**Senator T.A. Le Sueur:**

I already said in my original answer that the present Code of Conduct was presented to the States in February 2006 and is currently being reviewed by the Council of

Ministers. I cannot guarantee when the Council of Ministers will come to their conclusions, but having come to those conclusions it may well be appropriate for me to discuss those with the Privileges and Procedures Committee. In passing, it may well be that the Code of Conduct for States Members is also one which should be subject to review for the same reasons.