

2019.07.02

4 Deputy M.R. Higgins of the Chief Minister regarding the division of responsibilities between Ministers and Directors General: (OQ.178/2019)

Will the Chief Minister explain how responsibility is divided between Ministers and Directors General for the actions of their departments and how he ensures a distinction between policy and operational responsibility is maintained; and, in light of the machinery of government legislation agreed by the previous Assembly, how, if at all, he has changed this approach to this area since being appointed?

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

The legal relationship between Ministers and officers is clear. Ministers provide policy direction having received the advice of officers and officers are required to implement the policy directions of their Ministers. This is laid down in Article 18(3A) of the States of Jersey Law 2005 as a result of the P.1/2018 debate.

3.4.1 Deputy M.R. Higgins:

Since last year and the Chief Minister has taken over, we now have a system where collective responsibility has supposedly gone but the Chief Minister did impose it in the effect of a vote on the States Employment Board, and equally we have a Chief Executive who has full executive powers for the budget. How do you reconcile the powers of the Chief Executive being able to override the Directors General in the departments and equally your ability to override Ministers?

Senator J.A.N. Le Fondré:

The powers of the Chief Minister to remove Ministers was put in place by this Assembly before my time... when I say "before my time" before my time as Chief Minister. The powers of the Chief Executive were outlined as a result of the P.1 debate. They are all powers that this Assembly has, in its wisdom, decided to confer. Let us be absolutely clear, the Chief Executive cannot override Ministers. If there is a real issue that comes forward, ultimately Ministers do make that decision. I would expect that would go to the Council of Ministers if there was a real problem. In terms of the comments around the ability to override Ministers, ultimately Ministers ... sorry, what I was trying to say is one of the problems that was originally identified, and I go all the way back to C. and A.G. (Comptroller and Auditor General) reports probably for the last 5, 8 years, along those lines, and I believe it was referred to as a double fracture. The point was that the Chief Minister did not have the power to encourage Ministers, shall we say, in one direction but more importantly that the Chief Executive also could not direct officers. So, when for the implementation of policy, it was perfectly feasible that the Council of Ministers might decide something but nobody could implement it. Where that has now changed, as a result of the amendments by previous Assemblies, is that the ability for the Chief Officers to direct officers in departments was put in place and also the greater power, if that is the right expression, the ability of the Chief Minister to encourage Ministers in a particular direction was put in place as well by the ability to remove. Let us just be very clear, the ability to remove a Minister is a double-edged sword because one would rather assume the power still remains that if a Minister is removed that Minister can then stand again for any replacement. Therefore it is something that the Chief Minister would have to consider very carefully.

The Bailiff:

Final supplementary?

Deputy M.R. Higgins:

No, Sir, that was very illuminating.