

20.11.02

22 Deputy K.F. Morel of the Chair of the States Employment Board regarding the appointment of the Chief Executive as a non-executive director of a UK real estate company. (OQ?297/2020)

Will the chair advise whether the States Employment Board, Chief Minister or Deputy Chief Minister were informed before the Chief Executive took up a role as a non-executive director at New River R.E.I.T. (Real Estate Investment Trust) and, if so, whether their written permission was sought and provided? If permission was given, will the Chief Minister provide an electronic copy to all States Members?

Senator J.A.N. Le Fondré (Chair, States Employment Board):

As I set out in my written statement last week, I was aware of the appointment and verbally agreed to it on the basis of the conditions which have been outlined, such as the issues of no conflicts of interest. The matter was raised with the Deputy Chief Minister during my leave, as has also been set out in my written statement. The S.E.B. (States Employment Board) were not consulted or informed about the appointment and have expressed their disappointment to both the Chief Executive and me and have accepted our respective apologies. The Chief Executive has also apologised to me for not instigating the written request for permission. Following a detailed consideration by S.E.B. at its meeting on Thursday, written permission has now been given, subject to completion of certain due diligence matters. In relation to publishing, it is difficult. I am advised that as this is an individual contractual matter with the Chief Executive - an individual is the point - I would be unable to publish the full contents of the letter. However, the C. and A.G. (Comptroller and Auditor General), as with all these types of arrangements, will be able to access it. One other matter that may also help, I am, I think as Members are aware, intending to make a statement later. Just to give advance notice, I would like to eventually, not now, seek the permission of the Assembly to take it before Questions without notice, because that would then potentially inform Members and hopefully in the right order. Then obviously if there are any issues we missed, they can obviously pick them up in Questions Without notice afterwards.

The Bailiff:

I can confirm to Members that a draft of a statement has been lodged and accordingly the Chief Minister will, at a time to be agreed by the Assembly, be making a statement, after which a period of questions of course are available to Members.

4.22.1 Deputy K.F. Morel:

With regard to the permissions that the Chief Executive did or did not receive in advance of taking the appointment, a statement was issued in which the Chief Executive said that the correct permissions had been received from the Chief Minister and the Deputy Chief Minister. This statement was incorrect and as such was not an honest account of the permissions that had been received. What has the Chief Minister done to address this and correct this as a disciplinary matter?

Senator J.A.N. Le Fondré:

You have got to be slightly cautious about the use of "honest." I appreciate the way the Deputy is implying it, but we have to be very careful that we do not implicitly imply ... cast aspersions, but I understand what the Deputy is trying to say. First, let us be very clear. Both myself and the Deputy Chief Minister have said that the press release that was issued was not seen by us, therefore there was a clear failure in the protocols around the issue of that press release. What I have done, I have

asked basically the Director of Communications, but most particularly one of my Assistant Ministers, i.e. the Connétable of St. Ouen, to perform an investigation or at least oversee an investigation and to come back to me with the reasons and what happened, the reasons behind it and also any recommendations as to how we need to make sure this never happens again. We have been very clear with the relevant department that any press releases that go out, if they refer to a Minister or an Assistant Minister or any other politician, those individuals need to have seen that before it goes out. That did not happen.

The Bailiff:

I have next Deputy Ward and Deputy Tadier, Senator Moore and then a final supplementary. I will not take any more questions on this at this point in the light of the fact the Chief Minister is going to be making a statement and there will be a question period available to Members after that.

4.22.2 Deputy R.J. Ward:

I will ask my question now. I did lodge it as an urgent question, but I can ask it now. Will the Chief Minister confirm what, if any, independent legal advice he sought before approving of the Government of Jersey's Chief Executive Officer taking a non-executive directorship in a real estate company and what liabilities the Government could be at risk of if a claim were made on the basis of a conflict of interest?

Senator J.A.N. Le Fondré:

I have tried to respond to that question in the email we sent to Members earlier today. Essentially it is not necessary to seek advice from the Attorney General, law officers or an external body. Such matters are set out in the contract and our policies. However, the group director of People and Corporate Services should have been asked for advice on the matter. He has now provided his advice to the S.E.B. and obviously I referred to those answers elsewhere. In terms of potential future liabilities, if there is a conflict of interest, there is a requirement for the C.E.O. (Chief Executive Officer) to notify the employer if there is a perceived potential or actual conflict of interest arising from outside interests, both personal and professional, and the procedure for this is set out in his contract. The Chief Executive made it very, very clear to New River that he would not and could not accept the position if they held any operational business interests in Jersey and the Chief Executive is required to notify the S.E.B. if this position changes. I am trying to keep this short. A court case obviously cannot take place based on perception, but I do draw the Deputy's attention to the answer I have sent out to States Members earlier.

4.22.3 Deputy R.J. Ward:

Yes, I can see that answer. Can I ask the Chief Minister to confirm that, in his opinion, he does not believe that we are at any risk of any liability court case through any conflict of interest, given this current situation that arose?

Senator J.A.N. Le Fondré:

Certainly on the basis of all the facts I have to date, I have absolutely no concerns of any cases that might arise from the sort of circumstances the Deputy is referring to. As I said, that remains the position.

4.22.4 Deputy M. Tadier:

The Chief Minister said that he gave verbal permission to the Chief Executive for his new role and then he went on to say that he was disappointed subsequently that the Chief Executive had not

asked for written permission, but did the Chief Minister ask at the time when he gave verbal permission for the Chief Executive to submit something to him in writing so he could give formal permission?

Senator J.A.N. Le Fondré:

I did not ask for that to happen. It was not an unreasonable expectation that from a consummate professional, this would be followed up with a written request. If that written request had been made, that would obviously have triggered the relevant notifications and so on to the relevant bodies and would have obviously essentially avoided this entire situation. I do also make the point this was a singular lapse in focus, a rare lapse of focus. It is not ... what is the word I am looking for? It is not something that has happened before from a consummate professional and I think we need to keep that in mind in terms of perspective.

4.22.5 Deputy M. Tadier:

There was certainly a lapse in focus from somebody, I am just not sure who that was. My question is: does the Chief Minister agree that all of these things taken as a whole, does he agree that there is an increasing perception with the public of Jersey, which may or may not be true, that the politicians, and in particular the Chief Minister, is no longer the one in control and that we now have a Chief Executive who has not only been writing his own report and doing his own homework, but he has also, in this case, been writing his own press releases, it would seem and not bothered showing them to the Chief Minister? If this is a perception the Chief Minister is aware of, does he realise that he needs to put a firm message out about who is in control and the C.E.O. works for Government and not the other way around?

Senator J.A.N. Le Fondré:

Let us be very clear, and the C.E.O. is also very clear. that the C.E.O. works for both me, the Council of Ministers and obviously Members as a whole. I cannot comment on who produced the press release. In my understanding the press release was produced by the Comms Department. I am not entirely sure what the Deputy was referring to about producing his own report. I presume he means the evaluation, in which case I would make the point - because I have selected a number of them, and in fact I believe one of them is one of his political colleagues - there are a number of Assembly Members who are involved in the appraisal that is produced. That is to make sure that we avoid these type of allegations being made. In terms of do I agree with that perception, it is always difficult to assess perception in terms of Islanders, because perception also changes. What I do admit and acknowledge - and I will be referring to it in my statement later - is that in the last few days there is definitely an anger, which I recognise and for which I apologise, but which I recognise is a result of how this has come to fruition and also how it has been reported.

[16:45]

One of the things I have tried to do is we look at it dispassionately and get to the facts. I will also cover that in the statement.