

2.17 Deputy T.M. Pitman of The Chief Minister regarding ‘golden handshakes’ paid to two civil servants:

How ironic that this follows on talk of controlling public expenditure. Will the Chief Minister clarify the exact sums paid as golden handshakes to 2 civil servants; clarify who was paid which sum and explain why such large payments were considered justified?

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

As I have already stated in my written answer, I am not in a position to comment publicly on the nature of the terms of any individual settlements. Any settlements which have been entered into have taken proper account of each individual’s terms and conditions of employment. I will not comment publicly on the specific amounts other than to advise the Deputy and other Members that one of the figures quoted in the media is totally incorrect and the level of payment made to that individual was significantly less than that reported. I would be happy for these matters to be looked at in confidence by an independent body or a person such as the Comptroller and Auditor General, as I have already stated.

Deputy M. Tadier:

May I raise a point of order? The Minister has stated that he would not give the information publicly. I did ask before whether it would be possible to go into camera, even though I do not generally like to do that; but it is better to have information rather than not have it and if it needs to be done confidentially within the confines of the States I think that would preferable.

The Deputy Bailiff:

Do you wish to make the proposition that we go into camera?

Deputy M. Tadier:

I do, and if we could have the vote.

The Deputy Bailiff:

Before we come to that, Chief Minister, if we do go into camera will you be in a position to answer the questions in any more detail or not?

Senator T.A. Le Sueur:

If we go into camera I will be prepared to disclose the amounts of money paid to the 2 persons concerned. I do stress concern that past experience has shown that matters disclosed in camera do not always, regrettably, remain in camera and I do give Members warning that if disclosure is made out of an in camera position, it could give rise to a claim for damages which may or may not be successful.

The Deputy Bailiff:

Deputy Tadier, do you wish to maintain your proposition?

Deputy M. Tadier:

I maintain it and I am sure that all States Members are honourable and they would never ever consider disclosing such information.

The Deputy Bailiff:

The purpose of going into camera under Standing Order 81: “A Member of the States may propose, without notice, that the States conduct any part of the debate on a proposition or any other part of its business in camera for a specified purpose.” This is clearly not debate on any part of a proposition but it would have to fall under any other part of its business for a specified purpose and the purpose, it appears to me, will only be to receive the information which the Chief Minister has said he would be prepared to give. Thereafter we would then go out of camera and back into public session. So that is the proposition. Is it seconded? [**Seconded**] Chief Minister, you have already said what you have to say I think?

Senator T.A. Le Sueur:

I have said what I wanted to say, other than maybe to advise Members that I believe a preferable route might be to have an inquiry which could be done in total confidence without running the risk of exposure, but it is up to Members to choose which way they believe in to go forward.

The Deputy Bailiff:

This is a very straightforward matter, I am sure we are not going to need a debate on it.

Deputy M. Tadier:

If no one wants to speak I would be asking for the appel; that is all.

Deputy T.M Pitman:

I want to object to going into camera because I think it is an absolute insult to the public of Jersey. This is public money and it is absolutely right that they should know what is going on when everyone else has got to tighten their belts. I think it is disgraceful.

Deputy R.G. Le Hérisier:

Just to confirm that I believe it is totally wrong. It will obviously leak; let us have no doubt about that. But on principle, it is a public issue; it should be discussed publicly.

The Deputy Bailiff:

It is a matter for Members, Members can vote on it. The appel has been called for.

Deputy M. Tadier:

Can I just add to that? Clearly I do not want to go in camera either. If the Chief Minister is willing to give that information publicly then that is the preferable course.

The Deputy Bailiff:

The Chief Minister has already explained why he is not prepared to do that. The proposition is made. I would invite Members to return to their seats, the vote is on whether to go into camera for the specified purpose of receiving information from the Chief Minister as to the 2 payments which are alleged to have been made. I ask the Greffier to open the voting.

POUR: 14		CONTRE: 30		ABSTAIN: 1
Senator B.E. Shenton		Senator P.F. Routier		Senator T.A. Le Sueur
Senator F.du H. Le Gresley		Senator P.F.C. Ozouf		
Deputy R.C. Duhamel (S)		Senator T.J. Le Main		

Deputy J.A. Martin (H)		Senator F.E. Cohen		
Deputy G.P. Southern (H)		Senator J.L. Perchard		
Deputy of St. Ouen		Senator A. Breckon		
Deputy of St. Peter		Senator S.C. Ferguson		
Deputy J.A.N. Le Fondré (L)		Senator B.I. Le Marquand		
Deputy K.C. Lewis (S)		Connétable of St. Ouen		
Deputy I.J. Gorst (C)		Connétable of St. Helier		
Deputy M. Tadier (B)		Connétable of Trinity		
Deputy of St. Mary		Connétable of Grouville		
Deputy A.T. Dupré (C)		Connétable of St. Brelade		
Deputy M.R. Higgins (H)		Connétable of St. Martin		
		Connétable of St. Saviour		
		Connétable of St. Peter		
		Connétable of St. Lawrence		
		Deputy of St. Martin		
		Deputy R.G. Le Hérissier (S)		
		Deputy J.B. Fox (H)		
		Deputy of Grouville		
		Deputy J.A. Hilton (H)		
		Deputy S.S.P.A. Power (B)		
		Deputy S. Pitman (H)		
		Deputy of St. John		
		Deputy A.E. Jeune (B)		
		Deputy T.M. Pitman (H)		
		Deputy A.K.F. Green (H)		
		Deputy D.J. De Sousa (H)		
		Deputy J.M. Maçon (S)		

2.17.1 Deputy T.M. Pitman:

Bearing in mind all we have just heard, does the Chief Minister genuinely believe that figures - derived from taxpayers' money, let us not forget - that equate to what someone on minimum wage will likely earn in a lifetime of work, can justifiably be swept under the carpet with the excuse of confidentiality? Does he really consider that is acceptable?

Senator T.A. Le Sueur:

Sadly I do, because the alternative of unnecessary public disclosure would lead to the payment of an even greater sum which would be even more detrimental to the taxpayers of the Island. I have weighed-up very carefully and, in the interest of taxpayers, I believe that this is the preferable route to adopt.

Deputy T.M. Pitman:

I just have to find that statement absolutely mind-numbingly unbelievable and I would ask that the Minister really lay his cards on the table and at least tell us what was the justification for these sums. That much he can certainly tell us.

Senator T.A. Le Sueur:

Firstly, I should say that these were 2 very different situations, although they are both significant amounts of money. In the one case it was a negotiated settlement and in the other case it was a contractual obligation. The terms of the contract had been in existence for a number of years and the States Employment Board merely honoured the terms of the contract.

2.17.2 Deputy M. Tadier:

Will the Minister comment on how the unwillingness or inability to release very important information which is in the public interest marries with statements in the Strategic Plan which says that we will work openly and inclusively with all sections of the community to embrace a progressive culture of openness, transparency and accountability to the public, and that we will try to establish as system of greater transparency, public participation and collaboration? How does that ideal and the lack of information we are getting, even as States Members, marry to that very laudable aspiration?

Senator T.A. Le Sueur:

Simply because we have a legal and contractual obligation in the arrangements which were entered into with the parties concerned. There was a clause of confidentiality and the potential for a penalty for damages should that confidentiality not be maintained. That confidentiality enables a satisfactory settlement to be achieved at a potentially better figure than might otherwise have happened. So I am quite confident that, in achieving that and accepting the position of confidentiality, we were working in the public interest.

2.17.3 Deputy G.P. Southern:

The Minister has revealed that one of the figures suggested is incorrect. Will he state now whether that is the higher or the lower figure and will he state which of the higher or the lower figures was contractual and which negotiated?

Senator T.A. Le Sueur:

I am surprised that the Deputy is not capable of solving problems for himself.

Deputy G.P. Southern:

Will the Minister answer the question please?

Senator T.A. Le Sueur:

Frankly, if it needs answering, I think it should be obvious that the higher figure related to the contractual arrangement.

[11:30]

2.17.4 Deputy S. Pitman:

Yesterday it was reported in the *J.E.P. (Jersey Evening Post)* that the Minister for Treasury and Resources said that there would have to be exceptional circumstances if detailed information was to be released on contractual agreements. Could the Chief Minister tell the Assembly what constitutes exceptional circumstances?

Senator T.A. Le Sueur:

No, only to state that in my view the circumstances here are not exceptional. They are circumstances which are unusual, but not such as would be likely to be a satisfactory defence should the litigation arise.

2.17.5 The Deputy of St. John:

Will the Minister confirm that, given the higher figure that has been spoken about already and the £414,000 pension agreements that the person concerned can walk away with, it is close to £1 million of States' money, one way or another, that is going to one particular former employee?

Senator T.A. Le Sueur:

The pension obligations under the Public Employees Retirement Scheme are such that would apply to any employee. It is not a pot of money that the person can walk away with. It is a pot of money which is available to pay a contractually entered into pension at the appropriate time and is partly funded by the States and partly funded by the employee.

2.17.6 Deputy M.R. Higgins:

I am going to ask a question I hope the Minister can tell me, because I am not asking about specific sums. I would like to know who was involved in the negotiation of these contracts. So, in other words, the contractual one; did the Ministers know who employed these individuals in their jobs, what their salaries were? Were they involved in the negotiations? You mentioned the States Employment Board. Was it the entire States Employment Board or was it particular Ministers? Please tell us who knew what, when and who was involved in the decision-making.

Senator T.A. Le Sueur:

The written answer makes it quite clear that for the Chief Executive the position was taken by the States Employment Board. It was taken by the whole States Employment Board as a duly constituted meeting of the States Employment Board. As the written answer also says, the decision in respect of the other employee was taken under delegated powers by the former Chief Executive of the States.

Deputy M.R. Higgins:

Can I follow up on that? Just to confirm, it was a civil servant determined the salary of another civil servant?

The Deputy Bailiff:

Chief Minister, I understood the question to relate to the position when the contract was offered and not when it was terminated.

Senator T.A. Le Sueur:

Well, the contract terms in respect of the previous Chief Officer of Health would have been done under the delegated powers by the Chief Executive of the States at that time. The contract of the Chief Executive was entered into by the former subcommittee of the Policy and Resources Committee prior to the introduction of Ministerial Government.

Deputy M.R. Higgins:

Can I just clarify on that, did Ministers know ...

The Deputy Bailiff:

Not under the new rules, Deputy.

2.17.7 The Deputy of St. Mary:

The negotiated settlement, we are told by the Chief Minister, comes under confidentiality and that made the settlement cheaper. I would like the Chief Minister to explain why and I would also like to know about the negotiated settlement, what it was based on. I am still in the dark.

Senator T.A. Le Sueur:

A negotiated settlement requires negotiation and agreement on both sides and part of the terms and the ability to reduce any sum in a negotiated settlement is the desire by one party or both parties to maintain confidentiality. So it is, by its very nature, a negotiation. As to the other part of the question, I have forgotten what the ...

The Deputy of St. Mary:

What the settlement was based on, what are we negotiating about? I also wish to find out why confidentiality makes it cheaper; what is being hidden?

Senator T.A. Le Sueur:

I have tried to explain that it can lead to a cheaper outcome if there is an agreement not to disclose, which may be of benefit, for example, should the employee wish to pursue further employment opportunities and not wish details of a private transaction to be publicly disclosed.

2.17.8 Deputy R.G. Le Hérisier:

Would the Chief Minister not acknowledge that the culture of secrecy has led us into this situation and that he is utterly dissatisfied with what happened in the Government's name a few years ago and will ensure it never happens in this way again?

Senator T.A. Le Sueur:

One has to distinguish between a culture of secrecy and an obligation of confidentiality. In respect of what happened a few years ago; yes, I am anxious to ensure that does not recur and that is why the States Employment Board has changed its policies recently and is also discussing and implementing the proposals raised in respect of employees over £100,000.

2.17.9 Deputy J.A. Hilton of St. Helier:

Is the Chief Minister able to tell Members whether the terms of either of the contracts changed while the employee was in post which resulted in these massive pay-outs and if so, who made the decision to amend the contract?

Senator T.A. Le Sueur:

To the best of my knowledge, there was a significant change in all contracts when the employee became the States Employment Board back in 2005 and that would have applied to all employees of the States, including people at that time. There was an additional change to the contract of employment of the former chief executive at that time in 2005.

2.17.10 Deputy C.F. Labey of Grouville:

If there are contracts in existence - which I gather there probably still are an awful lot of them - that run contrary to the ideals of the Strategic Plan for an open and transparent Government, how is the Chief Minister going to marry these up or should

there not be some renegotiation so that contracts now conform with the Strategic Plan?

Senator T.A. Le Sueur:

I do not believe that any contracts of employment are in opposition to the Strategic Plan. As I said earlier in answer to another question, I do not believe there are any other situations which would give rise to similar payments. Other than that, the contractual arrangements with employees are standard contractual arrangements that have been in place for many years, irrespective of Strategic Plans. They do not change when Strategic Plans change.

2.17.11 Senator J.L. Perchard:

What message would the Chief Minister like to give Members, and thereby the general public, to assure them that this golden parachute leading to huge severance packages no longer features in any of today's contracts of employment? Would the Chief Minister outline briefly the new policies he referred to in the contracts of employment in this respect that can assure us that these golden parachutes no longer are included?

Senator T.A. Le Sueur:

The message I would like to give to other Members and to the public is my appreciation of the concerns over the level of these payments and the reassurance that, so long as I am Chief Minister and the current States Employment Board is in post, such contractual arrangements would not occur with any current employee or future employee. I cannot bind future States Employment Boards, but I would hope that would happen. In respect of the arrangements to be made, I have already indicated in response to a previous question arrangements in respect of voluntary termination and severance pay and the arrangements whereby any contract over £100,000 would come to the States Employment Board were there any peculiar terms and conditions in the contract such as would give rise to what the Senator refers to as a golden parachute. So I am satisfied that situation will not recur in the past and is not contained in any existing contracts and I hope that Members and the public can appreciate that these are isolated incidents which I am sure we all regret having to pay; but we believe and I believe that the payments made, nonetheless, were the least that were capable of being paid in those particular situations.

2.17.12 Deputy T.M. Pitman:

Deputy Hilton did ask my excellent follow up. Nevertheless, isolated incidents viewed against the £255,000 shared out between 6 other employees: does the Chief Minister think that it is any way appropriate to the people who leave very much under a cloud merit such payments, rather than being faced down and sacked. What does the Chief Minister say to this and does he think his position following his comments is in any way tenable?

Senator T.A. Le Sueur:

People who are deserving of being dismissed will be dismissed. It is very often quite difficult to determine satisfactorily the difference between actions warranting dismissal and actions warranting disciplinary measures or other measures short of dismissal. Employment relations will be a matter for each individual employee at that particular time. Termination in respect of severance or dismissal follow guidelines and set sums laid down by the States Employment Board and are not exceeded.

Therefore, employees are well aware of those contractual arrangements which are no greater, or in fact in many cases less, than would apply in the public sector and are clearly published and understood by all concerned. I believe that the actions taken by the States Employment Board in recent months have been realistic, responsible and timely and I have every confidence that they will lead to far better procedures. I have no doubt that we are doing the right thing by doing that and I have no feelings of remorse or regret whatsoever.

The Deputy Bailiff:

We come to question 19, which Deputy Tadier will ask of the Minister for Transport and Technical Services.

Deputy M. Tadier:

Before I do that can I inquire, I conveyed a message asking whether it would be within Standing Orders to ask the Solicitor General in relation to something that the Chief Minister said. Is that an order?

The Deputy Bailiff:

It is not an order. This is question time for Ministers, not to the Law Officers. Question 19.