

21.02.09

**9 Deputy M.R. Higgins of H.M. Attorney General regarding the confidentiality or otherwise of Government of Jersey contracts (OQ.42/2021)**

With regard to major contracts, such as for the new hospital, where there is a major public interest due to the cost or impact of the project, will Her Majesty's Attorney General advise members of the legal position of whether each individual contract as a whole is confidential or whether only certain clauses are required to be; and in what circumstances and for what time period does such information remain confidential?

**The Attorney General:**

In a nutshell, the answer depends on each case and it depends on what the parties have agreed. I have researched practice in the United Kingdom in relation to hospital construction contracts. I have not been able to find any examples of contracts where either the whole of the contract or parts of the contracts have been published. That suggests that the practice there, where they also have freedom of information legislation, which is similar to ours, is not to publish such contracts. In terms of the duration, the period of time in which restrictions on disclosure of information apply, that is covered by Article 19 of our Freedom of Information Law, which provides in summary that, where an exception in the law has been relied on for a scheduled public authority to not publish the requested information, then the information must be published after 30 years. I hope that assists the Deputy to some extent in relation to his question.

[12:00]

**6.9.1 Deputy M.R. Higgins:**

I must say I am surprised at the Attorney General's answer. I am sure I will be coming back at him on it. Could he tell me though, for example, is there anything to prevent the cash sum involved in a contract being revealed to the public? So, in other words, if you have a main contractor who is being paid X-money for providing the hospital that his sum will not be disclosed? Or in the case of a subcontractor, the amount of money that he is being paid for a particular activity is not disclosed to the public?

**The Attorney General:**

That information, as I say, I have not been able to find examples of that being published in the U.K. Obviously, there are issues concerning the commercial sensitivity of that information. A contractor may insist that sort of information is not published in relation to a particular construction project. These are bargains that are struck between the parties, between the contractor, subcontractors, and the authority that is commissioning the project. So these are matters for negotiation between the parties. But certainly, from the research that we have done, we have not been able to find examples where that sort of information the Deputy has referred to has been published.

**Deputy M.R. Higgins:**

Final supplementary.

**The Bailiff:**

The way it works is that there is only a final supplementary if there is someone else has asked a question in between, otherwise your last supplementary was the final supplementary.