

**2.12 Deputy R.G. Le Hérisier of the Minister for Housing regarding the criteria used for prosecution where category (a) to (h) housing has been taken out of the market without permission:**

Under what criteria does the Housing Minister decide to recommend cases for prosecution where category (a) to (h) housing has been taken out of the market without permission?

**Senator T.J. Le Main (The Minister for Housing):**

Decisions as to whether to refer the case for prosecution are taken by officers under the relevant Law Officers' guidelines.

**2.12.1 Deputy R.G. Le Hérisier:**

Would the Minister indicate, Sir, how serious a case has to be when prosecution is considered?

**Senator T.J. Le Main:**

The general policy objective of the housing laws is to prevent further aggravation of the housing stock. The law defines what transactions are subject to the law and entitles a Minister to attach conditions to consents granted relating to the use of the land and persons by whom the land may be occupied. As a general principle we will consider permitting accommodation previously reserved for occupation of locally qualified individuals to change to commercial property, including the lodging house, subject to planning approval in exchange for the delivery of an equivalent number of (a) to (h) units of accommodation on an alternative existing commercial site under the same ownership and which have not already been identified for residential development. Such an exchange would have to achieve the objective of preventing further aggravation of the housing stock and, indeed, an enhancement of the housing stock available for locally qualified individuals. May I also say, Sir, that over a period of the 7 or 8 years that I have been heading the Housing Department, the Housing Law and loans side of the department has had numerous, numerous commendations from many people in the private sector of the way and manner we treat individuals, companies and businesses and I am very proud of the work they do and the commonsense approach.

**2.12.2 Deputy R.G. Le Hérisier:**

Would the Minister acknowledge, therefore, that if a person does not have a property which can be developed to make up for the former so-called illegal property that their chances of prosecution are much higher?

**Senator T.J. Le Main:**

I do not get involved in the day-to-day running of the department. **[Laughter]** Sir, the officers and the department work under strict guidelines issued by the Attorney General and his department. I do not get involved in the day-to-day running, so I cannot answer that question in any shape or form.

**2.12.3 Deputy G.P. Southern:**

Can the Minister clarify for me, and I think for others, whether he referred to prosecutions taken out under the Law Officers' articles and would he further, if that is what he did say, explain to Members what those are?

**Senator T.J. Le Main:**

I have not understood the question. If the Deputy could speak a little slower so that I can try to understand what he is getting at?

**Deputy G.P. Southern:**

Certainly. I think I heard the Minister in his first answer say that prosecutions were taken out under Law Officers' articles. If he did say that, could he confirm it and could he then explain to Members what these Law Officers' articles are?

**Senator T.J. Le Main:**

Those guidelines have been issued and tabled this morning in the last 15 or 20 minutes. They are guidelines that have been issued to my officers, and I presume to planning officers in other departments, on, as I say, guidelines for the officers in these cases.

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

The Minister has moved on about the investigations, *et cetera*, about the loan managers. Can he advise Members who now is responsible for the investigation of potential unlawful occupancy? Is it his department or Housing or is it now Property Holdings?

**Senator T.J. Le Main:**

It is the Population Office, and the Housing Minister currently administers the Housing Law with the Population Office. It is the Population Office and their officers that investigate the housing laws.

**2.12.5 Deputy G.P. Southern:**

If I may take it on to a different area of prosecution, but a legal matter nonetheless; recently the Minister has delegated the authority for evictions to his Chief Officer. Could he explain to Members why he feels this was justified?

**The Deputy Bailiff:**

I am sorry, Deputy, I think that is a bridge too far. There is not much connection with...

**2.12.6 Deputy R.G. Le Hérissier:**

In the light of his previous comments, could the Minister confirm that it is now policy that if one is running a property judged to be illegally occupied that one can get retroactive permission to have done so? Secondly, if one can offer up a development site, this acts as a form of forgiveness for the first act?

**Senator T.J. Le Main:**

There is no change of policy. Commonsense has been applied by the Housing Law Department for the last 20 years. The policies have to be applied in a commonsensical way, as I have outlined, which would be beneficial for the maintaining and the improving of the housing stock in all areas, whether it would be qualified or unqualified. We have a duty under the Housing Law to provide accommodation to make sure there is suitable accommodation for all residents of this Island. Commonsense has been the prime objective of my officers. I have to say that I will be very sorry to be losing one of my senior officers - Peter Connew - who is retiring very soon, who has been an absolute star in this department.

**2.12.7 Deputy R.G. Le Hérissier:**

While we all give our best wishes to Mr. Connew, I wondered, Sir, if I could continue just finally? Sir, if the Minister has delegated these matters to staff, as in administrative matters, why has his department been so keen to publicise recent court cases where people were prosecuted for allowing the illegal occupation or the wrongful occupation of dwellings?

**Senator T.J. Le Main:**

I sent a little note back to Deputy Le Hérissier only recently and I asked him that under his New Year's resolutions he should stop asking me silly questions. **[Laughter]** He has certainly not taken the advice because I can assure the Deputy that the Housing Department do not go out and

publicly advertise people that have been prosecuted or otherwise. The issue about prosecution is that the department, when they have a case, refer it to the Attorney General. The Attorney General then takes over the issue of that case and whatever happens after. If it eventually goes for whatever reason to the courts then that is public knowledge and the media pick up those cases. The Housing Department do not go out and publicly announce or get involved with these issues.