

**WRITTEN QUESTION TO H.M. ATTORNEY GENERAL
BY DEPUTY M.R. HIGGINS OF ST. HELIER
ANSWER TO BE TABLED ON TUESDAY 6th NOVEMBER 2012**

Question

Will the Attorney General explain to Members in relation to the Planning and Environment Department -

- (a) what is the full role of the Law Officers' Department in the issuing and prosecution of Enforcement Notices?
- (b) how many times has the Law Officers' Department been approached regarding the issue of Enforcement Notices in the years 2008 to end of October 2012 and the nature of those enquiries.
- (c) the number and nature of the Enforcement Notices that have been prosecuted by officers of his department or by officers supported by, or instructed by, officers of his department.

Answer

- (a) The decision to issue an Enforcement Notice is a matter for the Planning and Environment Department. The Law Officers' Department may provide advice if requested but the ultimate decision is made by the Planning and Environment Department. It is a criminal offence to fail to comply with the terms of an enforcement notice and it is assumed it is this to which the question refers by the expression "prosecution of Enforcement Notices". When consideration is being given to the prosecution of an individual or a company for an alleged failure to comply with the terms of an Enforcement Notice, in most cases, advice will be sought from the Law Officers' Department before proceedings are issued although there have been occasions when a matter has been referred directly to the Honorary Police without any involvement of the Law Officers' Department.
- (b) The question as to the number of occasions on which advice has been sought from the Civil Division of the Law Officers' Department in relation to the issue of Enforcement Notices is privileged information.
- (c) On the assumption that this part of the question relates to prosecutions brought for alleged failures to comply with an Enforcement Notice we are informed that approximately thirty Enforcement Notices are issued each year and that in most cases the issue of an Enforcement Notice results in the activity complained of stopping or the breach being rectified. In the context of the number of Enforcement Notices issued, prosecutions are few and nearly all of the matters which have resulted in prosecution have been dealt with in the Magistrate's Court. In the cases dealt with in the Magistrate's Court, the cases are conducted by a Legal Adviser who is a member of the Law Officers' Department. No records are kept which allow the answer to be entirely precise about the number of cases brought before the courts for alleged breaches of Enforcement Notices but, for the period specified, namely since 2008, it is believed after enquiry that there have been no more than ten such prosecutions.