

**WRITTEN QUESTION TO H.M. ATTORNEY GENERAL
BY DEPUTY M.R. HIGGINS OF ST. HELIER
ANSWER TO BE TABLED ON TUESDAY 29th JANUARY 2013**

Question

Will Her Majesty's Attorney General explain to members the various checks and balances that apply to the Law Officers and the Law Officers Department and explain how and in what way the department is accountable to the States of Jersey Assembly?

Answer

It is unclear from the question precisely what is intended by "accountability" and "checks and balances".

The Attorney General and Solicitor General are appointed by the Crown and hold office during good behaviour. Although the Attorney General is the senior Law Officer they are independent of each other. The Law Officers have supervision of the Criminal and Civil Functions of the department through the Director of the Criminal Division and the Director of the Civil Division. The Law Officers are sworn office holders and are bound by the terms of their oaths.

Many of the members of the Department are also lawyers who owe independent professional obligations. Other than the Law Officers, all members of the department are subject to the codes of conduct and other policies applying to all civil servants.

The Law Officers' Department carries out a number of different functions and different considerations apply to the various functions.

Neither the Law Officers nor the department are accountable to the States Assembly for prosecution decisions or prosecutorial matters which are and must remain independent of political considerations and pressure.

Similarly, the Law Officers' Department is not accountable to the States Assembly for operational matters as it must maintain its ability to give impartial and independent advice.

Subject to such exceptions the Law Officers' Department is accountable to the States Assembly through the Attorney General or Solicitor General who are members of the Assembly.

Financially the Law Officers' Department is accountable to the Chief Minister's Department and Treasury and thereby ultimately to the States Assembly for matters of financial management.

Some decisions of the Law Officers may be challenged before the courts. In the exercise of their functions, the Law Officers are public authorities under the Human Rights Jersey Law and must therefore act compatibly with the Convention rights of others, whenever such rights are engaged by the exercise of those functions.

Should the States Assembly fundamentally lose confidence in a Law Officer then the Assembly could adopt a motion of no confidence in that officer. Although the motion would not be legally binding, the Crown and the officer concerned would inevitably pay regard to the views expressed by the elected representatives of the Island.