

**WRITTEN QUESTION TO THE MINISTER FOR PLANNING AND ENVIRONMENT
BY DEPUTY J.H YOUNG OF ST. BRELADE
ANSWER TO BE TABLED ON TUESDAY 18th MARCH 2014**

Question

Will the Minister inform the Assembly of the conclusions he has reached in respect of the completeness, accuracy, fairness, openness and transparency of the Planning enforcement procedures, from his review of recent cases, including -

- (a) his exchanges with the Complaints Board in respect of their report R.144/2013 (R.154/2013 and R15/2014);
- (b) the invalid enforcement notices and quashing of convictions in the case confirmed in his reply to my question of 18th February 2014;
- (c) those referred to in reply to my question of 4th March 2014 and supplementary questions when he advised the States that he had apologised for the conduct of his enforcement officers; and,
- (d) current cases.

Will he further advise whether the enforcement procedures which were recommended by the Planning Officers Society report of 2011 and the recommendations of the Reg's Skips Committee of Inquiry (R.118/2010 and R.38/2011) have been followed and, if not, why not, and will he explain his intentions for future improvements in enforcement procedures and when they will be implemented?

Where such procedures are found to be wanting, will he be apologizing to the people concerned and making restitution to those who have suffered stress, consequential cost and loss?

Answer

In answering this question I would like to provide additional information to help put my answer in context.

In October 2013 an internal review was requested by the Chief Officer of the Department for the Environment (DoE) to examine how the planning and building enforcement service operates.

This was prompted by a recent increase in Freedom of Information requests, requests under data protection processes, and individual cases and Court cases highlighting the need to ask whether the administration of complaints through to investigation and possible formal enforcement action needs to be reviewed.

The Deputy Chief Officer, assisted by the Department's Planning Performance Manager was asked to draft a report to include recommendations and an outline implementation plan on any changes that may be required. The review was intended to underpin the way the service develops into the future.

The Terms of Reference for this review asked that the following seven areas be considered:

1. Policy and Process.
2. Systems and Administration.
3. Records Management.
4. Enforcement Culture and Officer Behaviour.
5. Consistency of Planning and Building Services Enforcement with broader DoE Enforcement.

6. Management, Location and Officer Support.

7. Performance Management and Reporting.

I have received the *Shaping the Jersey Planning and Building Enforcement System for the Future - A Review – February 2014* report and reviewed the recommendations with the Chief Officer of the department. An implementation plan has been drawn up; this has been agreed by the Chief Officer and is being implemented with priority. Some recommendations have already been implemented and the remainder will be implemented in the coming months.

It is my intention to share this report and the recommendations with States members shortly.

With regard to parts (a), (b), (c) and (d) of the question, I have the following additional comments to make.

(a) *his exchanges with the Complaints Board in respect of their report R.144/2013 (R.154/2013 and R15/2014);*

Details in relation to this complaint and my response to the Complaints Board findings have already been published and heard in public.

(b) *the invalid enforcement notices and quashing of convictions in the case confirmed in his reply to my question of 18th February 2014;*

This case relates to an enforcement matter considered by the Royal Court last year. This was a hearing to request an appeal against a Court conviction. In assessing whether to allow the individual the right of appeal, the Court considered the grounds put forward by the prospective appellant. In assessing these grounds, the Court decided to allow the opportunity to appeal. It also went on to allow the appeal against conviction. In doing so the original enforcement notice was withdrawn as it considered the wording unclear. Due to this technicality the Crown did not consider it in the public interest to continue with the charges. The findings of the Court in this case were considered in the Planning and Building Services enforcement system review.

(c) *those referred to in reply to my question of 4th March 2014 and supplementary questions when he advised the States that he had apologised for the conduct of his enforcement officers; and,*

In answering Oral question 8178 on the 4th March 2014 I clearly set out how the department dealt with informal and formal complaints and confirmed the number of formal complaints received. I went on to clarify that in the specific case referred to by Deputy Higgins, an apology was given to the person involved for the actions of a department enforcement officer. This complaint was investigated by department officers and no formal disciplinary action was taken. The findings of this case were considered as part of the Planning and Building Services enforcement system review and will inform department improvements.

(d) *current cases.*

I do not believe it appropriate or practical to go into the details of all current enforcement cases.

I can confirm that last year (2013), 305 enforcement cases were opened. This resulted in 45 enforcement notices being issued and 3 formal prosecutions. During this time, the department received 2 formal complaints. I would like to suggest that these figures clearly demonstrate that despite what some States members may think, we resolve the majority of enforcement matters without issuing enforcement notices or undertaking prosecution.

In his question, the Deputy's refers to the recommendations made in the Planning Officers Society report of 2011 and the recommendations of the Reg's Skips Committee of Inquiry report. Annex D and Annex E of the POS Enterprises 'Shaping the Jersey Planning System for the Future' report, published earlier this year clearly sets out the progress made against each recommendation.

These Annexes clearly show that most recommendations have been implemented and of those that have not been implemented, some have been overtaken by events and others will be progressed as soon as department resources allow.

With reference to this most recent POS Enterprises report, I think it is worth noting that the report recognised the important strides made in improving planning performance, protocols and information technology, and its recommendations will form a useful basis to develop and evolve our planning practice over the next three years.

The final part of the question relates to where procedures are found to be wanting. My department and I are happy to apologise when we get things wrong. In terms of compensation, the Planning and Building (Jersey) Law 2002 protects the Minister from compensation and therefore any such ex-gratia claim would need to come to the States for consideration.