

**WRITTEN QUESTION TO THE MINISTER FOR PLANNING AND ENVIRONMENT
BY DEPUTY T.A. MCDONALD OF ST. SAVIOUR
ANSWER TO BE TABLED ON TUESDAY 23rd JUNE 2015**

Question

With reference to the Minister's answer to written question 8774, tabled on Tuesday 28th April 2015, can he advise whether he has been made aware of any concerns by officers within the Department regarding –

1. the possibility that officers in the Department may have acted outside of the powers contained within the Regulation of Investigatory Powers (Jersey) Law 2005 and the Police and Criminal Evidence (Jersey) Law 2003; and,
2. actions taken by officers acting in the Minister's name being contrary to several procedures detailed in the "Supplementary Planning Guidance" Practice Note 4 of 3rd December 2010, published by the Minister following the publication of recommendations and findings by the Reg's Skips Committee of Inquiry?

Answer

Question 8774 asked by the Deputy and tabled on Tuesday 28th April was divided into six parts and most of the question related to Magistrate and Royal Court prosecutions initiated by my department. For the benefit of States members I include below the full answer I gave to question 8774 in April.

Part 1 of this new question appears to be very similar to part 6 of question 8774 and part 2 relates to the guidance issued in 2010 in relation to enforcement procedures under the Planning and Building (Jersey) Law 2002. I believe both questions from the Deputy imply wrongdoings in the compliance or enforcement function of my department and I am surprised and disappointed that despite my request in April the Deputy has failed to provide me with any evidence of irregularities within my department or met with me to discuss any concerns he has.

While I am aware of allegations of abnormalities against my department by some members of the public and I have been in contact with some of these people, neither my Chief Officer nor I have seen any evidence to support the serious claims being made.

In answering question 8870 asked by Deputy Mc Donald at this States sitting I have clarified the States of Jersey complaints procedure which includes the escalation of complaints to the independent States of Jersey Complaints Board, who can review any matter relating to the administration by any Minister or Department of the States. I would urge the Deputy and those he is trying to support to provide any evidence they have of any irregularities to me, my department Chief Officer or to the Greffier of the States in order that this can be investigated and appropriate action taken.

I extend my invitation again to the Deputy to meet and discuss any concerns he has.

Copy below of Question 8774 referred to in Question 8871 above:

**WRITTEN QUESTION TO THE MINISTER FOR PLANNING AND ENVIRONMENT
BY DEPUTY T.A. MCDONALD OF ST. SAVIOUR
ANSWER TO BE TABLED ON TUESDAY 28th APRIL 2015**

Question

Will the Minister –

1. Provide a list of all cases the department has recommended for prosecution from January 2008 to April 2015, and in which court (Magistrate's Court or Royal Court), they were presented;
2. Detail the alleged breach of which statutory provision/enactment in each case;
3. Provide the result of each case (withdrawn, dismissed, or resulting in conviction);
4. State whether, given the resources and cost of pursuing and resolving each case, the department believes that each case was sufficiently justified and in the public interest;
5. State whether the department has any reason to believe that there are cases that it has been recommended to pursue by investigation, which are questionable with regards to the lawful procedures and probity in connection with why and how they were pursued and actions taken;
6. Notify the Assembly if the department has any reason to believe that there are cases where investigative officers may have exceeded their duties and taken a non-departmental approach with regards to exercising non-existent rights under the Regulation of Investigatory Powers (Jersey) Law 2005, the Data Protection (Jersey) Law 2005, Criminal Justice (Evidence and Procedure) (Jersey) Law 1998 and the Police and Criminal Evidence (Jersey) Law 2003?

Answer

The answer has been supplied in parts as set out in the question, as follows:

1. *Provide a list of all cases the department has recommended for prosecution from January 2008 to April 2015, and in which court (Magistrate's Court or Royal Court), they were presented;*
2. *Detail the alleged breach of which statutory provision/enactment in each case;*
3. *Provide the result of each case (withdrawn, dismissed, or resulting in conviction);*

My department is responsible for progressing enforcement actions in relation to several different laws. To provide the detailed information requested by the Deputy in parts 1, 2 and 3 of his question requires several hours of detailed work and I will provide this information to Members as soon as possible.

4. *State whether, given the resources and cost of pursuing and resolving each case, the department believes that each case was sufficiently justified and in the public interest;*

Depending on the law which has allegedly been breached and the particular circumstances of the case my department will consider what action (if any) to take in relation to an alleged breach of the law and will endeavour to avoid taking formal action unless necessary. My department will refer some cases to the States of Jersey Law Officers' Department or to the appropriate Parish Centenier before a case is brought to the Magistrate's or Royal Courts. The public interest test in deciding whether to bring a prosecution to the Courts is made by the Attorney General's Office or appropriate Parish Centenier. Officers from my department may submit a report to the Attorney General's Office or Parish Centenier outlining an alleged breach of the Law, but it rests with the Attorney General's Office or Centenier to decide if to proceed with a prosecution.

5. *State whether the department has any reason to believe that there are cases that it has been recommended to pursue by investigation, which are questionable with regards to the lawful procedures and probity in connection with why and how they were pursued and actions taken;*

My department only progresses enforcement matters it believes merit action and cases are only brought to the Courts following States of Jersey Law Officers' Department or Parish Centenier review and support.

6. *Notify the Assembly if the department has any reason to believe that there are cases where investigative officers may have exceeded their duties and taken a non-departmental approach with regards to exercising non-existent rights under the Regulation of Investigatory Powers (Jersey) Law 2005, the Data Protection (Jersey) Law 2005, Criminal Justice (Evidence and Procedure) (Jersey) Law 1998 and the Police and Criminal Evidence (Jersey) Law 2003?*

Any matter relating to the conduct of a States Employment Board (SEB) employee is dealt with by the department Chief Officer or his nominee in accordance with agreed SEB policies and procedures.

If the Deputy is aware of any irregularities within my department I would ask that these are brought to my attention, or the attention of the Department Chief Officer, in order that these are investigated. I would welcome the opportunity to meet with the Deputy to discuss any concerns he has.