

**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 Provide the result of each case (withdrawn, dismissed, or resulting in conviction);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 *Provide the result of each case (withdrawn, dismissed, or resulting in conviction);*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 Officer 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.