

**WRITTEN QUESTION TO THE H.M. ATTORNEY GENERAL  
BY DEPUTY M.R. HIGGINS OF ST. HELIER  
ANSWER TO BE TABLED ON TUESDAY 6TH JUNE 2017**

**Question**

Will H.M. Attorney General explain to members in detail the role and duties of both himself and H.M. Solicitor General with respect to Ministers, members and the Assembly and explain how each Law Officer would operate in the event of a conflict arising between any of the three?

Will he also explain the legal basis for their duties and powers in respect of Ministers, members and the Assembly and where any documents setting out this legal basis can be examined?

**Answer**

Since the passing of the Loi (1930) Constituant la Département des Officiers de la Couronne, the offices of Attorney General and Solicitor General have, in respect of giving advice to the States, evolved into what they are today. The 1930 Law has now been replaced by the Departments of the Judiciary and the Legislature (Jersey) Law 1965.

As was recognised by the Carswell Report in December 2010, the “*core function*” of the Law Officers is, in modern times, to give advice to the States. This extends to Ministers, Scrutiny Panels, and individual members of the Assembly and is referred to in the Members’ Handbook which says:

*“Any member may request a Law Officer to give legal advice on any matter currently before the States.”*

The question of possible conflicts was considered in the answer to sub-paragraph (d) of the response to a question from the Deputy on 30 January 2017.

In that answer it was explained that the Law Officers’ Department is structured so as to manage any conflicts of interest. The Attorney General and Solicitor General are independent Law Officers; the Criminal and Civil Divisions of the Department are managed and operated quite separately from each other and both are segregated from one another by an electronic case management system, which enables files to be locked electronically with only certain lawyers and staff having access to such files.

Accordingly, in the event of there being a conflict between the parties seeking advice, whether it be a Minister or a member who is not a Minister, then a separate Law Officer can give advice and, if for any reason that is not possible, then a senior lawyer in the Civil Division may provide advice to the member in question. In very unusual circumstances, it may be necessary for the Law Officers’ Department to instruct a lawyer in private practice to give such advice. Generally it is preferable for all parties to be advised by the Law Officers’ Department where possible in order to ensure general consistency of advice (particularly where such advice may ultimately be repeated before the Assembly) and to ensure that public expenditure is kept to a minimum. In accordance with well-established principles neither the fact that a member has sought advice nor the content of that advice will be revealed by a Law Officer to another member of the Assembly without the consent of the member seeking advice and the consent of the Law Officer who has given that advice.