

**WRITTEN QUESTION TO H.M. ATTORNEY GENERAL
BY DEPUTY M.R. HIGGINS OF ST. HELIER
ANSWER TO BE TABLED ON TUESDAY 4TH JULY 2017**

Question

Will H.M. Attorney General inform members of the legal powers, if any, of the Lieutenant Governor with regard to Crown appointments (i.e. Bailiff, Deputy Bailiff, H.M. Attorney General and H.M. Solicitor General), stating any relevant legislation that may apply?

Answer

Appointment

The process for the appointment of the Bailiff, Deputy Bailiff, Attorney General and Solicitor General (“**the Crown Officers**”) is set out in Chapter 7 of The Review of the Roles of the Crown Officers, December 2010 (the ‘Carswell Review’) which is available from the [gov.je](http://www.gov.je) website:

<https://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/R%20Crown%20Offices%20Review%20Report%20101202%20WM.pdf>

The Crown Officers each hold office during good behaviour or until such time as they attain the age of 70 years when their respective warrants expire.

As set out in Chapter 7 of the Carswell Review, the role of the Lieutenant Governor is to receive applications for appointment of the Crown Officers. Following the appropriate selection process, in which the Lieutenant Governor does not take part, the Lieutenant Governor then transmits a recommendation regarding the appointment to the Queen.

The Lieutenant Governor is the personal representative of Her Majesty the Queen and therefore the senior Crown appointment in the island. In those circumstances, although he has no involvement in relation to the actual performance of the judicial and prosecution functions in particular cases, he is the natural point of contact for any complaint made against a Crown Officer. That is why the complaints process set out below involves him.

Complaints

The procedures for making a complaint against the Crown Officers are published online and are closely modelled on procedures for making complaints against members of the judiciary in England and Wales:

Procedure for complaints against the Law Officers:

<https://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/ID%20Law%20Officers%27%20Complaints%20Procedure%2020160805%20ALS.pdf>

Procedure for complaints against the Bailiff or Deputy Bailiff:

<https://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/ID%20Bailiff%20Complaints%20Procedure%2020150901%20JR.pdf>

Under these procedures, the Lieutenant Governor acts as the receiving authority for complaints against the Crown Officers. His powers and duties include the following:

- he may dismiss complaints which do not pass the threshold test (for example where the complaint is vexatious or is plainly without substance) or where the complaint is received more than six months after the events giving rise to the complaint (and exceptional circumstances do not exist which justify the complaint being made outside that period);
- he may stay a complaint if he considers it might cause prejudice to an ongoing court case;
- he may resolve minor complaints informally;
- in exceptional circumstances, he may summarily recommend to Her Majesty that Letters Patent be withdrawn i.e. that the Crown Officer is dismissed, without further investigation (but with an opportunity for the Crown Officer to make representations). Such circumstances include, for example, where the Crown Officer has been convicted of an offence and sentenced to imprisonment, or convicted of an offence involving dishonesty or a sexual offence, or has been made bankrupt;
- if a matter is not dismissed, resolved informally or dealt with summarily, the Lieutenant Governor shall cause an appropriately qualified person to be appointed to investigate the matter and report on it. If the investigation concludes that there is not sufficient evidence to justify further action, the Lieutenant Governor shall dismiss the matter. However, if there is sufficient evidence then the Lieutenant Governor shall either informally resolve the matter (if minor) or otherwise shall appoint a disciplinary panel to hear the matter;
- if a disciplinary panel is to be appointed, the Lieutenant Governor shall, in the case of the Bailiff/Deputy Bailiff, request the Lord Chief Justice of England and Wales to nominate three appropriately qualified persons as members of the panel, and in the case of a Law Officer, request the Bailiff to nominate three appropriately qualified persons as members of the panel (and the Bailiff may consult with the Lord Chief Justice in doing so);
- the Lieutenant Governor shall, if a disciplinary panel is appointed, appoint an appropriately qualified person to present the case against the Crown Officer;
- following a hearing before the disciplinary panel, the panel shall make a recommendation to the Lieutenant Governor, with an accompanying report. The recommendation may be to dismiss the matter if the panel is not satisfied that there is misconduct, or if it is satisfied that there is misconduct the panel may recommend sanctions. The sanctions available are wide and include, in the more serious circumstances, inviting the Crown Officer to resign, allowing him or her to remain in office subject to conditions or undertakings, or recommending to Her Majesty to dismiss the Crown Officer. The Lieutenant Governor is required to act in accordance with the panel's recommendations, and to communicate, without delay, the decision to the Crown and the Crown Officer affected (and if there is a complainant, to him or her).