

3.14 Deputy M.R. Higgins of H.M. Attorney General regarding ultimate responsibility in instances where a civil action was brought against a Centenier: [1(655)]

Will Her Majesty's Attorney General advise who, in instances where a civil action is brought against a Centenier, is ultimately responsible for the actions of the Centenier acting in either their prosecutorial role or policing role?

The Attorney General:

Taking first the Centeniers' policing role, the Constable of the Parish is liable under Article 22 of the Honorary Police (Jersey) Law 1974 in respect of civil wrongs committed by members of the Honorary Police of the Parish in the performance of their functions. This liability is on the same footing as the liability incurred by an employer in respect of civil wrongs committed by his or her employees in the course of their employment. Any proceedings in respect of a claim made under Article 22 must be brought against the Constable or, in the case of a vacancy, the senior officer of the Honorary Police for the time being. In relation to the prosecutorial role of the Centeniers, under the 1974 law the power of the Centenier to charge is confirmed without prejudice to the powers of the Attorney General in the prosecution of offences. The answer tabled on 1st November last year to an earlier question from the Deputy made clear that any failure on the part of a Centenier in respect of his or her role as prosecutor will be considered and determined by the Attorney General pursuant to his supervisory role over the Honorary Police and customary law or his functions under the Police (Complaints and Discipline) (Jersey) Law 1999 and the Police (Honorary Police Complaints and Procedure) Regulations 2000. But to the extent that the civil action may arise from an act or omission of a Centenier in his or her role as a prosecutor, Article 22 of the 1974 law also applies, and therefore the Constable is also liable. So in relation to civil claims arising out of either the prosecutorial or policing function, the proper defendant to a civil claim is the Constable of the Parish.

3.14.1 Deputy M.R. Higgins:

Supplementary: is that still the position, since we changed the law regarding the role of Constables as part of the Honorary Police? Secondly, what if Constables are disavowing that they have any liability as is the case in one case I am aware of?

The Attorney General:

The law remains unaffected by the change in the nature of the Constables' function in respect to policing in 2012. In the case of any disavowal, it is right to say that under Article 22(4) of the 1974 law a Parish may, to some extent, as the Parish Assembly think fit, pay any damages or costs awarded against a member of the Honorary Police. So in circumstances where the Constable was reluctant to do so, the Parish Assembly could refuse, it appears, to indemnify the officer concerned.

3.14.2 Deputy M. Tadier:

Have there ever been any civil action cases brought against the Constable in such cases?

The Attorney General:

I am unable to answer that question. I would be surprised if there had not been and I know that the Parishes are insured in relation to such claims.

Deputy M.R. Higgins:

I will leave it at that for the moment.