

**Deputy M.R. Higgins of St. Helier of H.M. (Her Majesty's) Attorney General regarding the legal duties of Members in respect of reporting alleged corruption in the public sector: [OQ.8/2018]**

Will the Attorney General advise what Members' legal duties are with respect to the reporting of alleged corruption in the public sector, and in particular, whether failing to report such allegations would be a breach of their oath; and whether a failure by Ministers, Assistant Ministers, officers or civil servants to act on such information would be a breach of their oaths of office and codes of conduct?

**Mr. R.J. MacRae, H.M. Attorney General:**

In the first instance, an individual, whether a Member or an officer who suspects a criminal offence may have taken place, should report it to the States of Jersey Police, then the States of Jersey Police will decide whether or not to investigate the matter. The Corruption (Jersey) Law 2006 provides for specific offences in relation to corruption concerning a public body and corruption by a public official. Any such concerns may also be raised by individuals under the Ministerial Code of Conduct, the Code of Conduct for Elected Members, the anti-fraud and corruption policy and the reporting of serious concerns or whistleblowing policy. For example, in relation to the anti-fraud policy, it is specifically provided that all States Members and employees must help to apply this policy. They do this by maintaining high personal and professional standards and helping to discourage, prevent and punish fraud and corruption by others. That includes providing all instances of suspected fraud or corruption must be reported immediately in the way described in the policy. Reporting arrangements are in place to ensure that those who complain are treated responsibly, openly and consistently and anyone who does complain is protected from victimisation or reprisal. The Ministerial Code of Conduct for Ministers and Assistant Ministers, the Code of Conduct for Elected Members and the relevant oaths of office for each Member *inter alia* require them to uphold and maintain the laws of Jersey and to maintain the general principles of conduct for holders of public office. The code in respect of States Employees stipulates it is incumbent on all staff to report concerns without delay. In answer to the question, which of course any answer is heavily fact dependent, in summary, a failure to report and/or failure to act in such circumstances could amount to a breach of oath and/or contravention of the relevant code of conduct.

**4.2.1 Deputy M.R. Higgins:**

I thank the Attorney General for that. Can he tell me whether he has had or how many cases of alleged corruption have been brought to his attention since he has been in office?

**The Attorney General:**

I do not have a figure to hand, I am afraid to say.

**The Deputy Bailiff:**

If no one else asks a question this will be your final supplementary. No, you can ask a final supplementary. Very well, this is the final supplementary.

**Senator S.C. Ferguson:**

I have not asked my question yet, Sir.

**The Deputy Bailiff:**

I am sorry, your name has not appeared. I do apologise. I am relying on the screen and the name just has not come up. I apologise, Senator.

**Senator S.C. Ferguson:**

Happy New Year to you too. [Laughter]

**The Deputy Bailiff:**

I think it is a lesson to me that I must look up from the screen now and again and look at the lights on in the Assembly.

**4.2.2 Senator S.C. Ferguson:**

Is the Attorney General aware that a previous chief internal auditor commented ... not the current one, one a couple of appointments ago, commented on the fact that in his experience for an organisation of 5,000 to 6,000 people to never have any cases of corruption, fraud or malfeasance was totally unbelievable?

**The Attorney General:**

Sorry, I was not aware of that expression of opinion.

**4.2.3 Deputy M.R. Higgins:**

I just want to take this a stage further. Would the Attorney General confirm that as the sole prosecuting authority in the Island that any allegations of corruption would be considered by him and that he would apply a public interest test and an evidential test, and that as corruption could never be in the public interest, if there was credible evidence that he would prosecute the alleged offender?

**The Attorney General:**

In summary, yes, I think that is right. Certainly if there is evidence of corruption in a particular case or the evidential test was passed, the Deputy is quite right, that the public interest test would almost certainly pass as well. It would generally be in the public interest of prosecuting in those circumstances.