

2020.05.12

21 Deputy M.R. Higgins of the Minister for the Environment regarding actions to rectify department's failings (OQ.130/2020)

Following presentation of the Comptroller and Auditor General's recent report, *Use of Enforcement Powers* (R.40/2020), will the Minister advise Members what actions he is taking to address the findings of the report in respect of his Department and, in particular, to clear the backlog of outstanding enforcement actions?

Deputy J.H. Young (The Minister for the Environment):

The Comptroller and Auditor General's report on the enforcement services will be acted upon by the Director General of G.H.E. (Growth, Housing and Environment) Department. While some of the conclusions of the report are acknowledged, I do not believe in particular that it adequately reflects the difficulty of enforcing planning and building controls in a small Island. We have seen strong criticism of the service from those who believe it has been too harsh on some while others consider it has not been tough enough and this is a very difficult balance to strike and be effective. The service has of course struggled to find appropriate staffing for the last couple of years and remains still under-resourced. By the end of February the list of outstanding compliance cases had reached 232. The Department employed a temporary contract member of staff to reduce this and as at 10th May it has fallen to 163 registered cases and we continue to prioritise the matter and will reduce the figure further throughout 2020, provided of course we can keep the temporary resource that we have now managed to get.

4.21.1 Deputy M.R. Higgins:

The Minister knows from correspondence and communications we have had between us it is the substantial backlog in certain areas, which do not seem to be addressed, and also the Department is inconsistent with enforcement, it has penalised some to the extreme and let off others who I could argue have some connection with the Department going forward. Will the Minister give an assurance that his Department operates without fear or favour and it will deal with this backlog of cases expeditiously?

Deputy J.H. Young:

I am slightly troubled about the Deputy's suggestion that there is deliberate partiality going on there. The fact is that it is extremely difficult to enforce planning matters within a small Island when people's connections of families, friends and workplaces, are so close. But nonetheless we do manage to resolve the majority of them in time but of course people's expectations I think sometimes in the planning enforcement system is not right; it does not take account of people's legal right to do things and the court processes. So I will give a commitment that we will try to do our best but there is a big issue of resources, which, as far as I am concerned, I am focusing on.

4.21.2 Deputy K.F. Morel:

Given the Minister's answer to Deputy Higgins's first question, I am slightly troubled to hear him say that the Director General of G.H.E. will address enforcement issues. Surely there is meant to be a wall between the regulatory aspects and the other aspects of G.H.E. and in fact this is something that the Minister himself has said there is a wall between them, so how will he square the fact that he said the Director General of G.H.E. will oversee the changes to the enforcement aspects of the Department?

Deputy J.H. Young:

A very good question; I would like to separate it briefly in 2 parts. Firstly of course the Director General would not be looking at the substance of individual cases. The role of the Director General is organisation as a business unit, the kind of standards and goals and the resourcing that one works to. Why is it the Director General, and I asked that question myself, and of course there was a protocol agreed between the Public Accounts Committee and our new One Government structure in November 2018, which I have to confess I was not aware of and had never seen, that indicates quite clearly that the Comptroller and Auditor General reports are seen as executive matters and politicians have very little role in this process under the procedures. I am happy to provide a copy of that protocol to the Deputy if he wants it.

4.21.3 Deputy M.R. Higgins:

Will the Minister give an undertaking that he will prioritise the cases that have been outstanding the longest? Some of the cases that his officers should have been dealing with have been basically been on the books for almost 2 years or more, so will he guarantee that those cases will be the first to be dealt with?

Deputy J.H. Young:

We always prioritise but the Deputy will know that every single planning enforcement case probably has its own history, which often goes back sometimes many years. Often there are matters before the courts and we have of course to follow those rules, and quite often persons affected by enforcement invoke those rights, so we take time; so one just cannot give an absolute assurance that time is the only factor. What we will try to do is, particularly the degree of transgression there, but we will have to work within the court processes that we currently have. Personally, my aspiration, I would like to see a very different law to try to strengthen the whole way enforcement is carried out but that is a story for another day. At the moment I will give that assurance within the current rules as they are, which I have to say are very, very far from perfect.