

**WRITTEN QUESTION TO THE MINISTER FOR THE ENVIRONMENT
BY DEPUTY M.R. HIGGINS OF ST. HELIER
QUESTION SUBMITTED ON MONDAY 24th JANUARY 2022
ANSWER TO BE TABLED ON MONDAY 31st JANUARY 2022**

Question

“Further to my oral questions to the Minister on 18th January 2022 regarding the Norfolk Police Investigation, will the Minister state whether Norfolk Police advised him and his Director General that one of his officers had wilfully lied under oath in court as a prosecution witness, and that although this failed to meet the criminal test of perjury, the officer had in fact wilfully lied; and, if so, will the Minister state whether this was acceptable and advise members what actions he proposes to take regarding this officer?”

Answer

My recollection of the meeting - which I, the Director General for IHE, the Deputy, and Senator Moore all attended – does not include Norfolk Police using the words ‘wilfully lied’ during their commentary on the investigation and, more specifically, as it related to those officers involved. For ease, my response to Oral Question 6/2022 referenced in the question can be found here in [Hansard](#).

On this topic more generally, I am sure the Deputy and other members will understand that I would like to avoid entering the territory of commenting on behalf of Norfolk Police, particularly as they are an external police force. Additionally, I must stress that Standing Orders, Schedule 3, Code of Conduct for Elected Members provides guidance on speaking on matters related to specific officers. I would recommend, as I have done previously when the Deputy has provided their views on the conduct of staff in IHE, that any members with concerns related to staff should liaise directly with the appropriate Director General or the States Employment Board.

Standing Orders, Schedule 3, Code of Conduct for Elected Members Extract

“Elected members who have a complaint about the conduct, or concerns about the capability, of a States’ employee or officer should raise the matter, without undue delay, with the employee’s or officer’s line manager (or, if he or she has none, the person who has the power to suspend the employee or officer), in order that the disciplinary or capability procedures applicable to the employee or officer are commenced, rather than raising the matter in public.

Elected members should observe the confidentiality of any disciplinary or capability procedure regarding a States’ employee or officer and its outcome. If an elected member is nevertheless of the opinion that it is in the wider public interest that he or she makes a public disclosure of or comment upon the outcome of any such procedure, he or she should inform the parties to the procedure before so doing and, when so doing, refer to the individual by the title of his or her employment or office rather than by his or her name.

In this paragraph, “States’ employee or officer” means a States’ employee within the meaning of the Employment of States of Jersey Employees (Jersey) Law 2005, a member of the States of Jersey Police Force and any officer mentioned in the Schedule to that Law who is not a member of the States”

Hansard 18 January 2022 Extract

“3.11 Deputy M.R. Higgins of the Minister for the Environment regarding the Norfolk Police

Investigation (OQ.6/2022)

Will the Minister advise Members what, if anything, he has learnt from the Norfolk Police investigation into his department and explain whether he considers it necessary to take any action to ensure the public has confidence and faith in the department going forward?

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

The 3½-year independent police investigation, as the Deputy knows, was in respect of historic cases. In the intervening 14 years the planning system has had many substantive changes and improvements. The department has an ongoing improvement programme with recommendations, which come from the regular external reviews. It is my intention to publish a report on this implementation programme, the changes made I have mentioned and those in the pipeline because there certainly needs to be a process to continue improvements. However, the publication of that report will need to wait a while because, as the Deputy knows, one of the complainants in the matter investigating the Norfolk Police did lodge a civil claim, which was previously stayed until that stay was lifted by the Royal Court this week. There is an active there for a piece of live litigation, which means that I am restricted in what I say about that matter but it is my intention, as I have said, to publish that report.

3.11.1 Deputy M.R. Higgins:

The Norfolk Police have stated that although their investigation did not meet the very high criminal standard of beyond all reasonable doubt, required by a criminal prosecution, it did say that the department was massively inconsistent, dysfunctional and not fit for purpose. They also stated that one officer wilfully lied to the court as a prosecution witness. Surely any lies told in court taint the evidence of all officers giving evidence and the case as a whole and reflect badly on the public service. Would the Minister accept that no officer should lie in court and state what action, if any, has been taken against the officer who wilfully lied under oath in the court and was still working in the department?

Deputy J.H. Young:

I think the Deputy's supplementary question seems to re-run the entire inquiry, repeating many allegations which were made in the court. As the Deputy knows, he and I both had a briefing from the 3 police officers concerned and the stakeholders and there were allegations of perjury and misconduct in public office, which the investigation has concluded no foundation sufficient for a prosecution, so they were not upheld. I think that is very, very important. Of course it is absolutely right that the planning system, the integrity of everybody is above question. There is no question that those are the standards we aspire for. But of course the planning system is not perfect, it involves judgment, as the Deputy knows, and there is always that subjectivity in that and individuals are going to differ. Personally, frankly, I think that each of the police officers did of course a bit, they are not experts in the planning system. At the moment I would rely upon judgment of those that are in this matter. As I said, I will be publishing a report on that.

Deputy M.R. Higgins:

Sir, the Minister did not answer the question.

The Bailiff:

You will have a further supplemental at the end. You have a further supplemental at the end, Deputy Higgins. You can come back and explore the answer in greater detail.

3.11.2 Deputy M. Tadier:

I believe the Norfolk Police also said that there were a number of issues relevant to the implementation of planning legislation during the time period they were investigating, including questionable processes, procedure and conduct of individuals. What action will be taken to rectify the issues described?

Deputy J.H. Young:

I have of course had to because those comments were made at the briefing. As I said, I have got my reservations about them because obviously the police investigation was a criminal one. It was not run by those who had an understanding of the planning system. But, nonetheless, I have written to the chair of the States Employment Board and invited him to discuss the report that they have heard. I have also had a chance to talk to the director general of the department about the matter and I have subsequently

written to further and I said my opinion is that I do not think that since these matters are historic and that a number of the staff who were named who are no longer employed, that I do not consider there is a case for further investigation of any disciplinary matter but, nonetheless, that is how things lie.

3.11.3 Deputy M. Tadier:

Will the Minister agree to review the planning decisions taken by his officers following the statement of the Norfolk Police?

Deputy J.H. Young:

I think what would ...

Deputy M. Tadier:

Sir, I have not finished my question yet.

Deputy J.H. Young:

Sorry, my apologies.

The Bailiff:

Yes, let us wait for the Deputy to finish his question.

Deputy M. Tadier:

Sorry, apologies, it may be a delay and that is not helping. Will the Minister agree to review the planning decisions taken by his officers and also the statement that different officers were applying the same rules differently, which has led to some people being denied planning permission for which other people were granted planning permission?

Deputy J.H. Young:

I think the premise of the Deputy's question in that final sentence I could not accept, that, therefore, there was differentiating treatment under law. I do not believe there was any evidence to suggest that was the case. There were in fact different judgments of how planning policies would be applied, which in my experience is a normal characteristic of a planning system; it requires judgment, as I said. It is not a simple one way or the other. I do not believe there is any evidence or suggestion of contravening the law but, nonetheless, there are improvements which need to be made. Therefore, I said I shall be publishing the report of that programme that is in place to try and do that. I think that is the best answer I can give at the moment.

3.11.4 Deputy K.F. Morel:

In his answer to Deputy Higgins the Minister mentioned the importance of integrity in the planning system. Does the Minister believe, following things such as the Norfolk investigation and other concerns, that individual members of the Island have raised particular issues and complaints about the system, does he believe that Islanders feel that the planning system has integrity?

Deputy J.H. Young:

I think with any planning system it relies on public confidence in it. Deputy Higgins, of course, he is absolutely entitled to do this, has been very clear and I believe there were, I think, 15 complainants, and I think Deputy Higgins represented them. There has been a 3½-year in-depth investigation involving interviews and so on. My reluctance to concede any things that require further investigation is because simply we would be repeating the same. Thousands of planning decisions are made and of course he is entirely happy for any of these matters for people to come with new applications which the planning system will do. Yes, I want to keep the confidence. If I felt that I lacked that confidence I would say so; I do not. I have confidence in the officers that are currently in place and also the system changes that have been introduced to improve them. But it is not better.

3.11.5 Deputy K.F. Morel:

Does the Minister believe that a lack of planning officers and planning enforcement officers is eroding the faith of Islanders in the planning system?

Deputy J.H. Young:

Certainly, the issue of enforcement has been a problem area. Historically, there were complaints, and I think these have been upheld, about very heavy-handed processes done by previous enforcement officers who are no longer employed by the Government. New rules and standards and different training has been introduced for people now who do that enforcement work, so I feel much more content with that than things that went on in the past that are still subject to the investigation. There has been a shortage of resource. We could do with more planning officers because when people are put under pressure and are carrying twice the workload that normally should be required, it is inevitable that mistakes be made, and I am hopeful now the Government Plan has given us decent resources that can be put right in the improvement plan and that would be our undertaking to do so.

3.11.6 Deputy M.R. Higgins:

I must admit I have been absolutely amazed by the Minister's answers, especially as he has known from the beginning the problems that were going on there and did nothing. Norfolk Police also said there are still current issues regarding people working in the department and 2 of those were interviewed under caution by them as part of their investigation. What is the Minister proposing to do about these problems or does he consider it is no one's fault and no one should be held to account for the failures of the department, which includes, I may add, the chief officer or the Minister himself, who are responsible for

the oversight of the department? The Minister had direct knowledge of these problems since 2014, before he became the Minister and had direct contact with the people making the complaints. How he can say this, I find it amazing.

The Bailiff:

The question is the report said this and what will he do about it? Is that right?

Deputy M.R. Higgins:

Certainly the report said the police said one of the officers wilfully lied under oath. It may have not met the test of perjury but they wilfully lied under oath. What will he do about that person and who will take responsibility for this fiasco?

Deputy J.H. Young:

What can I say? The Deputy now repeats his allegations, despite the findings of the police inquiry. He says things that have not been substantiated, including he makes allegations against me personally, that I strongly reject and I would need a separate occasion to be able to answer those, not now. Frankly, I am speechless about the way he has approached that. Nonetheless, what will I do? There are improvements. The States Employment Board has the matter on the agenda. I have asked them to discuss it and if the States Employment Board feel there is a case for further disciplinary investigation into these matters that will be looked at, then the board will trigger that. I brought that to their attention.

Deputy M.R. Higgins:

I should like to bring a vote of no confidence—

The Bailiff:

Comment at the end of questions not in accordance with Standing Orders is an abuse of the question system.

[15:00]”