

**WRITTEN QUESTION TO H.M. ATTORNEY GENERAL  
BY DEPUTY M.R. HIGGINS OF ST. HELIER  
ANSWER TO BE TABLED ON TUESDAY 3rd JUNE 2014**

**Question**

Will the Attorney General advise Members of the procedure or procedures which have been adopted by the Law Officers' Department when it deals with Planning Enforcement actions, detailing in particular:

- (a) the interaction(s) between Planning Enforcement Officers and other Officers of the Planning and Environment Department and the Officers from his department or lawyers appointed by his Department when considering and undertaking an Enforcement action or prosecution under the Law;
- (b) who is responsible for determining whether a prosecution is in the public interest;
- (c) who is responsible for the formulation of the charges that are laid before the Magistrate in the Magistrate's Court and for seeking any changes to these charges once proceedings have been commenced;
- (d) the role of the Centenier in such actions, particularly in relation to charging and the changing of charges once initial proceedings have commenced.
- (e) the role of the Planning and Enforcement Officer once the matter has been handed over to the Law Officers' Department with a recommendation for prosecution; and,
- (f) any changes to the procedures adopted over time, indicating when these changes came into effect?

**Answer**

- (a) In cases where a Planning Enforcement Officer considers that a prosecution may be appropriate, the officer will submit a file to the Law Officers' Department with a report setting out the history of the matter, details of the alleged conduct, the evidence and the reasons why a prosecution may be appropriate. Once referred to the Law Officers' Department the matter will be allocated to a Legal Adviser in the Criminal Division, who will examine the documentation and liaise with the Planning Department as necessary to make a decision, on behalf of the Attorney General, whether or not a prosecution should be brought.
- (b) Prosecution decisions, which include whether a prosecution is in the public interest, are normally made by those within my Department and, very occasionally, by external advocates instructed by me, in accordance with the Code on the Decision to Prosecute.
- (c) When providing advice to bring charges, the Legal Adviser will normally provide details of the draft charges which he or she wishes to be brought. If proceedings are to commence in the Royal Court, the Crown Advocate responsible for the case will draft the summons and arrange for the defendant to appear before the Royal Court. In the less serious matters, the proceedings will be brought before the Magistrate's Court. In these cases, the Honorary Police arrange for the defendant to be charged and they will draft charges in accordance with the advice given by the Legal Adviser.
- (d) If proceedings are brought in the Magistrate's Court and if a defendant pleads guilty, the Centenier may deal with the case throughout. Once a defendant pleads not guilty, the case is then dealt with

by a Legal Adviser. Any amendments to the charges may be applied for by the person who is dealing with the case at the stage at which the amendment is necessary.

- (e) The Legal Adviser responsible for the matter will liaise with the Planning Enforcement Officer as necessary. In some cases further information or an update will be needed. Where a prosecution is brought, the Planning Enforcement Officer may be required to give evidence at trial.
- (f) In 2013, my office had discussions with the Planning and Environment Department with a view to securing improved practices. As a result of those and other discussions, a Senior Legal Adviser in the Department has been given responsibility for providing guidance and support to all those investigating suspected regulatory breaches in States Departments with a view to improving the quality of investigations and the files submitted to me for consideration of a decision to prosecute.