

**WRITTEN QUESTION TO H.M. ATTORNEY GENERAL
BY DEPUTY M.R. HIGGINS OF ST. HELIER
ANSWER TO BE TABLED ON TUESDAY 30TH JANUARY 2018**

Question

Would H.M. Attorney General advise members whether a teacher, social worker or someone who was in a position of responsibility involving children would be breaking the law if they tried to dissuade a child, possibly with implied threats, from making a complaint against one of their colleagues for sexual abuse and, if so, what they could be charged with?

Answer

Dissuading a child by making threats from making a complaint of sexual abuse may amount to an attempt to pervert the course of justice.

Careful analysis of the facts would need to take place in order to ascertain whether or not the offence is made out. An offence is committed where a person or persons:

- (a) acts or embarks on a course of conduct
- (b) which has a tendency to; and
- (c) is intended to, pervert
- (d) the course of public justice.

Each of the elements is necessary. There must be a positive act on the part of the defendant and a course of justice must have been embarked upon. Accordingly if an investigation has not begun then no offence would have been committed.

There is also a possibility of the offence of misconduct in public office although the ambit of "*public office*" on the case law is unclear and it may not extend to teachers and social workers.

The new Criminal Procedure Law will establish an offence of intimidation of witnesses which will extend to acts which intimidate and are intended to intimidate a person assisting in the investigation of an offence or who is a witness or a potential witness in criminal proceedings.

All prosecutions have to pass a two-part test; there has to be sufficient evidence to make out the offence and it must be in the public interest to prosecute.