

**WRITTEN QUESTION TO H.M. ATTORNEY GENERAL
BY DEPUTY M.R. HIGGINS OF ST. HELIER
ANSWER TO BE TABLED ON TUESDAY 9th DECEMBER 2014**

Question

Will H.M. Attorney General advise Members whether the Law Officers' Department has, at any time, given the Planning Department or Planning Enforcement Officers the power to directly file or instigate charges in the Magistrate's Court without first requiring the case files to be supplied to the Law Officers' Department for consideration and approval, and if so, would the Attorney General set out for Members:

- (a) why, when, and in what circumstances this occurred;
- (b) the number of cases involved;
- (c) how many cases were prosecuted by Centeniers on behalf of the Planning and Environment Department and the outcome of those cases (whether the defendant pleaded guilty or not guilty and whether the defendant was convicted or acquitted after trial);
- (d) how many cases, once commenced by a Centenier, were taken over by a legal adviser or representative of the Law Officers' Department and the outcome of those cases?

Answer

Guidance issued to States Departments is available on the Law Officers' Department website and it makes it clear that all matters considered appropriate for prosecution should be referred to my office for a legal adviser to decide whether a prosecution should be brought. That is and has been the almost invariable practice. However, I am aware that there have been two instances of proceedings being started in the Magistrate's Court – one in 2012 and one in 2013 – as a result of a direct approach by officials from the Planning and Environment Department to the Honorary Police. Both cases were dealt with initially by a Centenier in the Magistrate's Court. Both defendants pleaded not guilty and the matter was referred to the Legal Advisers at Police Headquarters who subsequently handled the cases on my behalf. In the one case, the charges were dropped and, in the other, the defendant changed his plea to guilty.

As a result of these cases, guidance was given to the Honorary Police that they should ensure that advice had been given on my behalf by a Legal Adviser before charging any cases which had been referred to them by States' Departments. I have no reason to believe that this practice is not being followed in all such cases.