

2020.06.16

**16 Deputy M.R. Higgins of St. Helier of the Minister for the Environment regarding the backlog of enforcement actions (OQ.152/2020):**

Further to the Minister's answer to Oral Question 130/2020, will he update Members on the actions he has taken, if any, to address the backlog of enforcement actions and will he investigate why enforcement and planning officers have not responded to emails from members of the public and States Members, including some which are over 7 months old and have been repeatedly pursued?

**Deputy J.H. Young of St. Brelade (The Minister for the Environment):**

Since the Deputy's question I have certainly looked at the case records myself and also met with the director general and the officer in the Planning Department. Of course the situation is remaining that there is a backlog, mainly because I think on the last answer there was 163. That backlog is now 87. The problem of course is that the numbers of new cases that are arising have dramatically increased during the period of the lockdown; 24 new cases in May and 64 since the beginning of the year. What I have asked the director general to do is to transfer a member of staff from the development control planning team into the enforcement that will help and prepare a case to the S.E.B. to put the team back to where it used to be. There are 3 people at the moment. It was reduced to 3 as a result of the cuts that were made previous to my ministership. Those are the actions I have taken. On the question of the communication issues, there is no question that the disruption is because the team have had to move offices several times in recent months because of displacing COVID tracing work. The department is running at 50 per cent at the moment. There are communication issues and I myself am picking up a lot of those myself, daily emails, daily phone calls, so I am doing that. But it is something that I do not think it is true to say that people are not getting emails, but I think the standards that some people are expecting are too high. We are doing our best and I shall keep on top of it.

**3.16.1 Deputy M.R. Higgins:**

Will the Minister ensure that the ones that have been outstanding for so long, including the correspondence of 7 months, will be answered within the next week or 2? We have to get this department moving forward because it has been criticised by the Comptroller and Auditor General, the Complaints Board and lots of others, myself included, because of its failure to do its job properly.

**Deputy J.H. Young:**

Thank you. Of course I know the Deputy has very high expectations, and we all share that, but my concern about that report is it completely failed to address the issue of resourcing. The Deputy will know that that was stripped down badly under previous administrations and I am desperate to get the resource back. The problem is now we have got a very high rate of transgressions in planning matters. I have looked at the list myself. There are 112 active cases at the moment, of which 17 are extremely difficult and will probably involve going to the courts and so on. Yes, I think those are the cases that get priority, particularly where we have got a mixture of planning breaches and environmental health nuisance cases, which are causing a lot of issues for people at the moment. I would prefer to concentrate on the priority cases and solve them.

**3.16.2 Deputy K.F. Morel:**

Would the Minister please explain his comment that people's expectations of standards are too high, when all members of the public are asking for is for the Planning Department and the planning enforcement arm of that department to be doing its job?

**Deputy J.H. Young:**

I think there is a common misunderstanding about what the planning enforcement team can do. If Members or some members of the public - and not all do - see them as a kind of private police force to be wheeled in to take a one-sided view of their complaints, that is not correct. The enforcement team has to look at both sides of the story - there are always 2 sides to the case - and has to go through proper procedures to investigate and allow full rights of appeal and the other side of the party to be heard. That takes time. I have found the situation where some members of the public seem to have a situation, they look for instant action and they look, for example, for the service of injunctions and so on, as if we had those powers. It has to be a service that performs that balance. Now, I am not saying everybody has those expectations, but I am afraid there are some cases that do. What we try to do is do what is possible within the law.

**3.16.3 Deputy K.F. Morel:**

Given that the Minister has claimed a lack of resources is the problem due to the COVID-19 crisis, does the Minister believe that with only 5 infections in the Island that the use of those resources on COVID-19 contact tracing is the most suitable use of resources and that in fact they should be brought back into the planning enforcement team?

**Deputy J.H. Young:**

Yes, I think there is a strong case for bringing back those teams. I think at the moment, my understanding is there is currently 30 members of the regulatory team that have effectively been moved from their day jobs into this area. The director general is actively working to try to release those skilled professional staff in all areas, in environmental health, planning officers, enforcement building control, trading standards and so on to get them back, but that is taking time and it is linked into the recruitment process for contact tracing. Personally I believe contact tracing is the highest, highest, most important priority to make sure that we keep COVID under control as we leave the lockdown, so I have been supportive of that.

**3.16.4 Deputy R.E. Huelin of St. Peter:**

There was a lot of data given to us there, but I did not hear - if I missed it, I apologise - are there any planning enforcements currently in the process of prosecution and, if so, how many?

**Deputy J.H. Young:**

I cannot say how many are subject to enforcement notices being served, which I think is the Deputy's question, but I can say, having looked through myself, there are 17 very difficult cases which will involve matters I think potentially of that sort of nature or potentially. Of course the Deputy and I both know that one of those cases is in his district. I do not want to get into the specific, but I can tell you that that particular case is consuming a huge amount of attention at the moment and will continue to do so.

**3.16.5 The Deputy of St. Peter:**

I see you mentioned there are 17, as you say, difficult cases and I am sure they are very testing for the department, but also if you go to the C. and A.G.'s (Comptroller and Auditor General) report, I think there has been one prosecution since 2015 on any planning enforcement cases. Is the bite big enough to try to bring some controls to these many unfortunate situations?

**Deputy J.H. Young:**

Yes, I think there are 2 issues there. First, the question I ask is do the procedures that you have to follow, defined in the Planning Law, are they sufficiently flexible to be used fast enough and do they allow excessive periods of appeal and so on which can stymie enforcement? I think the answer is the law does need changed. I have got work in progress which I am still waiting to come through the system. The other thing of course is we are in the hands of legal officers in this and I cannot at the moment say how many are in that pipeline awaiting services of notice. I will have to provide the Deputy that information later.

**Deputy M.R. Higgins:**

The Minister has ...

**Connétable C.H. Taylor of St. John:**

I have asked for a question. It is the Constable of St. John.

**The Bailiff:**

I beg your pardon, Constable, you are quite right and you did come before the Deputy of St. Peter, so I will let you ask your question and then it will be final supplementary after that.

**3.16.6 The Connétable of St. John:**

Here in St. John, an enforcement notice was issued in July last year. The actions have not been taken and my emails have gone unanswered by officers and I find it a very unsatisfactory position. Can I ask the Minister to give this his urgent attention because my parishioners concerned are very, very worried?

[11:30]

**Deputy J.H. Young:**

Yes, I will certainly go through and see if I can find out about Constable Taylor's case. I certainly was not aware of that at this moment, but I will follow it up.

**3.16.7 Deputy M.R. Higgins:**

The Minister says people have great expectations of his department. Many of the cases that I have been pursuing and he is aware of have lasted over a year. When will these cases be dealt with?

**Deputy J.H. Young:**

I think if the Deputy is referring to the case which I think he is pursuing very strongly and has been for a long time, the advice I have had is that the case has been dealt with sufficiently under our powers, if I have got that correct. If I am wrong, I will have to correct myself later, but my recollection is that that case has been dealt with but I think this is probably a case where the Deputy will disagree. I do not know that I can continue because I would have to go into the specifics of the case but, as far as I am concerned, if there are outstanding cases where there are things that have to be done and should be done, they will be done and I will give that undertaking.

**Deputy M.R. Higgins:**

I will say to the Minister you have been misinformed by your staff.

**The Bailiff:**

I am sorry, Deputy, this is an exchange to be taken outside of the Assembly. That was the final supplementary and the answers. We are running out of time.