

5.11 The Deputy of St. Mary of the Minister for Planning and Environment regarding a pollution incident which occurred in early 2009 at La Collette during construction of the Energy from Waste Plant:

Can the Minister advise Members what progress has been made regarding the referral of a pollution incident which occurred in early 2009 at La Collette during construction of the Energy from Waste plant to H.M. Attorney General for possible prosecution, and would the Minister advise whether the case file was referred without the person who raised the alarm being interviewed by his department, and if so, why?

Deputy R.C. Duhamel (Assistant Minister for Planning and Environment - rapporteur):

The case file for the alleged pollution incident to which the Deputy refers was compiled by environmental protection and submitted to the Law Officers' Department on 20th August 2010. The file is currently being considered by the Law Officers and I am unable to comment further on their progress or their conclusions at this stage. I would assure the Deputy that the investigation has been undertaken by officers from my department in accordance with advice from the Law Officers' Department and established protocols agreed with the Attorney General. I would further advise that officers from the department in the enforcement of this law and other environmental regulations report to the Attorney General rather than to Ministers in order to ensure the independence of any investigations from the political system. I am aware of the Deputy's interest in the alleged pollution incident and, as he will appreciate, the incident is part of an investigation under the Water Pollution (Jersey) Law 2000, and I am unable to provide further comment on the case at this stage. The detail to which the question relates is an inherent part of this investigation and consequently it would be inappropriate for me to discuss the findings prior to the department receiving a response from the Attorney General. However, I do understand that in order to assist the Environment Scrutiny Panel and to assure them that there is no continued pollution; officers from my department have recently undertaken a confidential briefing to the panel adviser of the incident during the ongoing review into monitoring and regulation of coastal waters.

5.11.1 The Deputy of St. Mary:

The Minister wants to not comment because this case file has gone to the A.G. (Attorney General) but I would like to hear from him if he thinks it is good practice when a complaint is made of this quite serious nature that the person who made the complaint is simply outside the loop completely? So, the whole process has taken place without hearing from the person who made the original allegation. Does the Minister not agree that is quite extraordinary?

Deputy R.C. Duhamel:

That might well be the case but I am not a lawyer, I do not have legal training, and that is what we employ the courts for.

5.11.2 The Deputy of St. John:

Will the Assistant Minister give details of why it took 15 months before the paperwork was sent to the Attorney General's office for review on whatever action is to be taken, and whether or not they have contacted the Attorney General's office to see if information can be forwarded to our panel so we can finish our work within that particular review, and will he accept that our panel only have a few months left in

office or is it his department's will that this does not get answered before we finish our term of office, thereby the whole lot falls?

Deputy R.C. Duhamel:

The Deputy of St. John will know, as I mentioned earlier, that the pace at which cases are determined is entirely down to the Law Officers and the number of staff presumably or the difficulty of the case before them. I am familiar with the concept of justice being delayed is justice denied, but over and above that I am not able to make any further helpful comments as to what should have gone or what should not have gone. All of this is in the hands of the Attorney General and, in due course, when the court has decided upon the case the Scrutiny Panel and others and, indeed, Members of this House will be informed as fully as possible.

5.11.3 The Deputy of St. Mary:

I want to go back to the question of my chairman on the Environment Scrutiny Panel which was not answered I noticed. Why did it take 18 and a half months for the papers, I beg your pardon it is 15 months because it was in April, 15 months to send the papers to the A.G. concerning this case, the file, 15 months to carry out an investigation into one or more incidents of the same type at one site, and does this indicate ... first of all does he not agree that there is an issue there about how his department carries on its work, and secondly, would he comment on the fact that maybe he has insufficient resources in that particular area of his department to get things done in a timely fashion, because, as he said, justice delayed is justice denied?

Deputy R.C. Duhamel:

All I can usefully add at this stage is that it is an extremely complex case file and these things do take time to put together.