

**WRITTEN QUESTION TO H.M. ATTORNEY GENERAL
BY DEPUTY M.R. HIGGINS OF ST. HELIER
ANSWER TO BE TABLED ON TUESDAY 19th FEBRUARY 2013**

Question

- (a) Will H.M. Attorney General set out clearly each of the steps that need to be taken by anyone wishing to make a complaint (including misconduct) against the actions of any of the following office holders, explaining in detail each step and each level, until the matter reaches the persons or bodies ultimately responsible for determining such matters:
- (i) Legally qualified members of the Law Officers Department;
 - (ii) Solicitor General;
 - (iii) Attorney General;
 - (iv) Deputy Bailiff;
 - (v) Bailiff;
 - (vi) Jurats;
 - (vii) Magistrates?
- (b) To whom are the office holders (i) to (vii) listed above accountable for appraisal purposes?

Answer

- a) The question is not clear as to what is meant by “complaint”, particularly in respect of the officer holders who are listed at (iv) to (vii) whose functions require them to act as judges in the Jersey courts. It is important to distinguish between two types of complaint in relation to a judge.

In so far as the complaint relates to matters occurring in the course of legal proceedings (for example, a complaint that the judge’s decision is wrong or that he or she has behaved unfairly or should not have sat because he or she had a conflict of interest) then the appropriate remedy is for the aggrieved party to use the judicial process and appeal or apply for *doléance* (an alternative method of review) where available.

Where the complaint alleges misconduct other than in the course of legal proceedings, then the appropriate course in respect of a complaint made against a Jurat or a Magistrate is to lodge that complaint with the Bailiff. The Bailiff can then decide if the complaint requires investigation. If it does, he will seek to replicate the procedures applied in England and Wales as far as possible and, where appropriate, will appoint an independent person to investigate the matter.

The process thereafter in respect of a Jurat is set out in the Royal Court (Jersey) Law 1948. The Bailiff can convene the Superior Number at the conclusion of any investigation so that the Royal Court can consider whether or not to petition the Privy Council seeking the removal of the Jurat (if no resignation is forthcoming) by Order in Council.

A Magistrate may only be dismissed by Order in Council. Should the independent investigation merit such a course of action, the Bailiff would make a recommendation accordingly.

The Bailiff and Deputy Bailiff are appointed by Her Majesty and may only be dismissed by Her Majesty.

If a complaint of misconduct outside court proceedings concerns the Bailiff or the Deputy Bailiff then the complaint should be lodged with the Lieutenant Governor as Her Majesty's personal representative. If he decides that the complaint requires investigation, he may appoint an independent person to investigate in the same manner as described above. Should the result of the investigation merit such a course of action, a recommendation can then be made to Her Majesty.

The Attorney General and the Solicitor General are appointed by Her Majesty and may only be dismissed by Her Majesty. The procedure for a complaint against either of them would be analogous to that in respect of the Bailiff and Deputy Bailiff.

The Law Officers' Department has its own internal disciplinary procedures and any complaint about a legally qualified member of staff should be made to the Attorney General in the first instance.

The procedures described above are designed to provide for effective investigation when merited but at the same time preserve the independence of the office holders as the independence of the judiciary and the prosecuting authorities is vital to the maintenance of the rule of law.

- b) The management at the Law Officers Department conducts appraisals of legally qualified members of staff. The Law Officers and members of the Judiciary are not the subject of appraisals. The members of the Judiciary receive training on a regular basis. The Court's judgments are subject to public scrutiny and litigants are able to exercise any rights of appeal.