

2.15 Deputy M.R. Higgins of the Minister for Home Affairs regarding Data Protection Breaches by Police Officers.

Will the Minister comment on the Police Complaints Authority Report regarding data protection breaches by police officers and advise whether police officers are treated like ordinary members of the public who break the Data Protection (Jersey) Law 2005 and if not, why not?

Senator B.I. Le Marquand (The Minister for Home Affairs):

The security and integrity of police data is of high importance. Police officers and police staff are in an extremely privileged position in having access to sensitive and personal information held on the police national computer and local databases on a daily basis. Officers and staff who access computer systems for a non-authorized purpose are liable to be prosecuted for criminal offences of unauthorised access, that is computer misuse, under Article 2 of the Computer Misuse (Jersey) Law 1995 or for obtaining, disclosing or procuring the disclosure of data for non-authorized purposes which is Article 55 of the Data Protection (Jersey) Law 2005.

[11:15]

Staff may also face misconduct proceedings for failure to meet the appropriate standards. All data protection breaches are viewed seriously and no distinction is made between the behaviour of police officers, police staff and members of the public. Since the introduction of the Data Protection (Jersey) Law 2005, the States of Jersey Police have identified a number of data protection breaches all of which have been investigated and files submitted to the Law Officers' Department and the Jersey Police Complaints Authority and 2 officers have subsequently been found guilty in the Magistrates Court and subsequently disciplined and 2 further officers and one member of civilian staff have been dealt with by misconduct procedures and 3 further cases, which are mentioned in the 2012 report, are currently being considered by the Law Officers' Department so these matters are taken very seriously.

2.15.1 Deputy M.R. Higgins:

Would the Minister be surprised, therefore, to hear that in 3 cases of data protection breaches, one officer was dismissed, one was given a stern speaking to and the third had to buy cakes for his colleagues. Now, would the Minister think that that is acceptable and a consistent policy and would members of the public be treated in the same way?

Senator B.I. Le Marquand:

I am afraid I did not pick the third thing.

Deputy M.R. Higgins:

The third was that he had to buy cakes for his colleagues.

Senator B.I. Le Marquand:

I think that is pretty unlikely, but the fact is that there will be variations of seriousness in relation to such matters and those decisions are made by the Law Officers' Department as to whether it is appropriate that there be criminal process or not and indeed decisions are then made as to whether there should be disciplinary process or not. You will never have a one scenario fits all approach to such matters because they can be from something which is extremely serious which can lead to criminal prosecution and dismissal on the one hand or something that was very technical on the other.

2.15.2 Deputy T.M. Pitman:

Is the Minister aware that there are a number of officers who are complaining that the Data Protection Commission are not acknowledging them and their request for data information which they should be entitled to within I think it is 40 days? Is the Minister aware of those complaints?

Senator B.I. Le Marquand:

I am aware of officers who are seeking data but not from the Data Protection Commission. I am aware that there are issues in relation to officers who have been seeking data from the police force in relation to matters and that those requests have proven to be quite complex and required high level advice. I do not know if those are the cases that are being referred to.

2.15.3 Deputy T.M. Pitman:

Could the Minister then clarify are requests from police officers subject to a time limit or can they go on indefinitely or what is the situation?

Senator B.I. Le Marquand:

I take it that this is requests for data or information. Obviously, each request will have to be dealt with on its own merits and in accordance with whatever the nature of the particular matter is. As I say, these matters are sometimes very complex and require high level advice to determine what is appropriate in terms of what can be revealed or should not be revealed in relation to matters. I do not personally get involved in individual cases but I am aware of the existence of such matters.

2.15.4 Deputy M.R. Higgins:

I must admit I am aware of correspondence to the Minister and his department where no action has been taken of former police officers seeking information and not getting it. Also in that correspondence were copies of correspondence or comments about the Data Protection Commission not acting as well, which is one of the reasons for my written question to the Chief Minister. I think that the Minister for Home Affairs needs to get closer to what is going on. There are an awful lot of problems in the police force at the present time and especially about the misuse, for example, I think it is Article 31 of the Terrorism Law, which is being used even against police officers to get data from their own force when they feel they are being wronged so there are certainly I think it is 2 cases where I think this Article has been misused. Will the Minister look into it?

The Deputy Bailiff:

That does not arise out of the Data Protection Law does it, Deputy?

Deputy M.R. Higgins:

It is certainly the same type of thing. They have been complaining to the Minister that these things have been used and he has not answered the question so will the Minister look into it and report back to the States?

Senator B.I. Le Marquand:

Correspondence has been shared with me. I have had approaches directly from individuals trying to get me to intervene in relation to certain matters. Now what I have done in such cases is I have asked my Chief Executive at Home Affairs to get involved and to work on that in conjunction with the States of Jersey Police. I do not think I should be allowing myself to be drawn into the details of individual cases in the way suggested.

2.15.5 Deputy M.R. Higgins:

If the Minister is saying his office is saying go back to the police and the police are the ones who are not answering the questions, surely the Minister has a responsibility to intervene and make sure that some action is taken?

Senator B.I. Le Marquand:

I have a responsibility to ensure that there is a proper process in relation to matters and I have chosen to do that in relation to certain cases by not getting personally involved in relation to

them but by getting my second Chief Officer to get involved to ensure that they are being dealt with properly.