

2018.03.06

4 Deputy M.R. Higgins of St. Helier of the Attorney General regarding how many cases of alleged corruption in the public sector had been made to him since he was appointed: [OQ.42/2018]

Will H.M. Attorney General advise how many cases of alleged corruption in the public sector have been made to him since he was appointed, if any, and what proportion of any such cases were taken forward by his department for investigation or prosecution?

[10:15]

Mr. M.H. Temple Q.C., H.M. Solicitor General (rapporteur):

The question asked specifically about corruption and corruption is an offence defined under the Corruption (Jersey) Law 2006. It is one of a number of offences that may be committed by public officials or those dealing with public officials. Under Article 7 of the Corruption Law it is an offence for a public official to act corruptly, which means to do or not do any act in relation to that official's position for the purpose of corruptly obtaining any advantage. An advantage includes any gift, loan, fee or reward. The advantage may be for the public official or for the benefit of any other person. Since the Attorney General took office in May 2015, according to the records of the Law Officers' Department, he has not received any allegations of corruption as defined under the Corruption Law, or indeed any of those other allegations in relation to possible offences under the Corruption Law. He has received allegations of other misconduct in public office, including separate offences of misconduct in public office and perjury, but those are outside the scope of the Deputy's question.

3.4.1 Deputy M.R. Higgins:

So if a Member of the Civil Service commits perjury in a court or perverts the course of justice, or as you just said, misconduct in public office, do you consider those other things a form of corruption? It may not be the legal definition that you have given but is corruption within the public sector, is that correct?

The Solicitor General:

They are not offences, as I have explained already, under the Corruption (Jersey) Law, and the Corruption (Jersey) Law was introduced in response to international treaties that dealt with corruption. There are other offences, which I have already explained, such as misconduct in public office and perjury, and those can be committed obviously by those in the public sector. But they are not offences under the Corruption Law.

3.4.2 Deputy M. Tadier:

Would the Solicitor General state what he thinks the optimum number of complaints about corruption would be in a healthy democracy?

The Solicitor General:

That is an impossible question to answer. Corruption offences are not routine events such as offences of violence, sex or drugs; they are unusual offences and it is not surprising that we have not received complaints under the Corruption (Jersey) Law. I am aware that in Guernsey one offence has been prosecuted successfully by law officers there in relation to their Corruption Law, but that, as I understand it, concerned an offence that was committed by someone who was not in the public sector. It was in the insurance industry. It is not surprising that there are few prosecutions for corruption offences under the Corruption Law. As I said earlier in my first answer to the question: we have received complaints or allegations of offences, such as misfeasance in public office, and

there are about a handful of complaints since the Attorney General took office in May 2015. Allegations of that nature are made but, again, in relation to those sorts of offences, misfeasance in public office and perjury, again those sorts of offences are relatively rare. Again, I think it is no surprise that it is only a handful of offences that have been received in almost 3 years. For my part, I am not troubled by the relatively low number of offences.

3.4.3 Deputy M.R. Higgins:

I must say, as a layman, who believes that corruption includes the things I mentioned, it may not be part of the definition, but corruption in the public sector is a cancer and it needs to be cut out. There are members of the Civil Service or public service who are engaging in such practices, and I would ask the Solicitor General how many cases alleging perjury and perversion of the course of justice, have been given to his department and acted upon?

The Solicitor General:

The Deputy has just raised another category of offence, which is perversion of the course of justice. I am not in a position now on the floor of the Assembly to undertake a detailed investigation in relation to that other category of offence. But I repeat my earlier answer that in relation to offences of perjury and misfeasance in public office, there are no more than 5 of those sorts of allegations. Those have been investigated. One is still under the course of investigation but so far we are not bringing prosecutions in relation to each of the allegations of the incidents that have been raised with us. But again that is no surprise because misfeasance in public office, there is a very high test in order to satisfy that particular offence. Again, I repeat my earlier answer, that I am not troubled by the lack of prosecutions for those offences. Although I do agree with the Deputy that they clearly are extremely important types of offending and if there were to be a set of facts or a complaint, which did in the Law Officers' Department meet the evidential test, clearly it would meet the public interest test. But if there were a case in that category then we would prosecute it.