

**REPLY BY THE PRESIDENT OF  
THE COMMITTEE FOR HOME AFFAIRS  
TO QUESTIONS ASKED PURSUANT TO RULE 14 OF THE  
RULES OF PROCEDURE BY DEPUTY G ST PIER**

**QUESTION 1**

**What are the circumstances in which Bailiwick Law Enforcement (BLE) instructs legal advisers from law firms (i.e. other than advocates from within St. James' Chambers) on or off the island to act on behalf of BLE or its officers?**

**ANSWER**

Bailiwick Law Enforcement (BLE) comprises the Guernsey Police and the Guernsey Border Agency (GBA).

Generally, BLE would seek legal advice and representation from St James' Chambers.

There are limited circumstances, however, in which external legal assistance may be engaged, such as where particular legal specialism is required, or where St James' Chambers may not assist for professional reasons.

This applied to recent legal proceedings brought against police officers directly. The judgement of *Le Huray v States of Guernsey* (2011) determined that police officers are not 'employees' but hold public office. Police officers may therefore face some civil legal claims directly. That being so, generally, and in accordance with the principle of freedom of choice in selecting legal services, police officers may independently engage such legal services as they wish. However, given that police officers may face some civil legal claims directly, but other staff groups do not, support may be offered by the States of Guernsey in respect of legal fees.

**QUESTION 2**

**In the circumstances where law firms are instructed to act for BLE or its officers:**

- **What are the competitive tender processes used to select the successful firms? Is States procurement always involved?**

**ANSWER**

In respect of external legal advice for civil matters pertaining to Guernsey Police, there is no tender process to determine which law firm undertakes this work. Legal services are selected on a case by case basis taking in to account factors such as an Advocate's experience, availability and whether there are any professional reasons why a particular legal representative cannot act.

In terms of police officers facing civil legal claims in their capacity as office holders, they are free to engage legal assistance of their choosing and remain responsible for paying for such services unless the States of Guernsey considers it appropriate to meet any such legal costs.

- **Is the Directive on Litigation always applied to case management?**

#### **ANSWER**

The Directive on “Managing Matters of Litigation with Committee Business” is a States of Guernsey guideline working towards best practice in litigation. However, it may be appropriate to depart from it, or adapt it, depending on the particular circumstances of the litigation. It is not legally binding but intended to set out;

*“the roles and responsibilities for the management of litigation matters in the States of Guernsey (“the States”) where the States is the claimant, .....*

Or

*“In exceptional cases where the States is a defendant to a claim .....which raises issues of general public interest”,*

It is not necessarily the case that the Directive on Litigation is always applied, or applied in all respects, by the States of Guernsey in managing the way in which it brings or defends litigation.

The Directive may be of less obvious application, perhaps, to the range of litigation that appears to be referenced in this question (civil litigation against individual officers or the BLE) given that that the States is not the claimant or respondent in those matters.

- **From which budgets are costs managed?**

#### **ANSWER**

Any expenditure incurred by BLE as a result of engaging external legal services in respect of civil litigation is managed from the Bailiwick Law Enforcement budget. The BLE budget allocation is included in the Committee *for* Home Affairs’ budget allocation.

- **Can the Committee provide a breakdown detailed between instructing law firms of the total costs (i.e. fees and disbursements) incurred for each of the five calendar years ending 31st December 2023?**

#### **ANSWER**

Such information is confidential and subject to legal professional privilege.

### **QUESTION 3**

**How many litigation cases involving BLE or its officers have been resolved by Tomlin Orders or other form of consent orders in the 12 months ending 7<sup>th</sup> February 2024 and each of the preceding four years to 7<sup>th</sup> February each year?**

### **ANSWER**

The Committee understands that there has been one such case which concluded in 2024.