

STATES OF JERSEY



PRISON BOARD OF VISITORS: COMPOSITION

Lodged au Greffe on 31st May 2011
by the Education and Home Affairs Scrutiny Panel

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

- (a) to agree that –
 - (i) the composition of the Prison Board of Visitors should be amended to provide that independent members of the public should be permitted to sit on the Board;
 - (ii) that Jurats of the Royal Court should not be prohibited from being members of the Board, but that their number should be restricted to a maximum of 3 members out of the total membership of 7; and
- (b) to request the Minister for Home Affairs to bring forward for approval the necessary legislation to give effect to the proposal.

EDUCATION AND HOME AFFAIRS SCRUTINY PANEL

REPORT

In the spring of 2009, a Sub-Panel established by the Education and Home Affairs Scrutiny Panel conducted an extensive review into the workings of the Board of Visitors, which included site visits to H.M.P. La Moye, H.M.P. Winchester; interviews with a variety of stakeholders, including members of the current Board of Visitors; members of an Independent Monitoring Board in the U.K. (attached to Winchester); interviews with the Jersey Prison Governor and his Deputy, as well as with a random selection of 6 prisoners at H.M.P. La Moye.

The Sub-Panel made several recommendations, the key one of which was that membership of the Board of Visitors should be 'opened up' to members of the public (*i.e. non-Jurats*); that there should be nothing preventing a Jurat from putting him or herself forward to serve on the Board; and that the number of Jurats serving on the Board at any one time should not exceed 3 (of a total of 7).

Currently the membership is made-up solely of Jurats.

The Minister for Home Affairs, in his response¹ to the Education and Home Affairs Scrutiny Sub-Panel's Report S.R.7/2009, accepted the recommendation for a review of the role of the Prison Board of Visitors in Jersey. This review, however, has yet to take place and so we are following up our recommendation with this proposition.

In this proposition we request that the Sub-Panel's key recommendation regarding the composition of the Prison Board of Visitors be implemented. We recognise that the necessary legislative changes are likely to become the responsibility of whoever is the Minister in the new States.

Rationale

We believe there are several good reasons for the opening-up of Board of Visitors to non-Jurats. These can be broken down into 2 categories –

- (1) **'Inclusion'** – The inclusion of 'lay people' on the Board would allow greater flexibility and representation, and give members of the wider community an opportunity to volunteer their time and skills in what is clearly a very important function.
- (2) **'Best Practice'** – There is increasing pressure for the clear separation of powers when it comes to Members of the Judiciary serving in other non-judicial capacities, where they may be an actual or apparent conflict of interest.

Voluntary Service

Jersey has a long tradition of voluntary service, whether that be in the honorary or charitable sectors, and the Jurats are a fine example of this. However, in the case of the Board of Visitors, anyone who is *not* a Jurat is currently precluded from serving on the Board, even though they may have all the requisite skills and traits that would be required to carry out such a role. In our view, this seems like a terrible shame. There are, no doubt, many members of the Jersey community who would wish to volunteer

¹ Letter to Chairman of Scrutiny Sub-Panel, dated 4th December 2009

for this role, but who would not necessarily want or be able to fulfil the other roles of the Jurats.

Independence

The Panel is also of the opinion that the perception of conflict between their current dual roles within the judiciary and the Prison must be addressed. The Jurats are elected primarily to serve in the context of the Royal Court. Consequently, the nature of their primary role within the judiciary, and in sentencing, gives rise to a potential conflict. This is borne out by the legal advice received by both the Sub-Panel and the Minister.

The Sub-Panel noted in its report: *'It is vital for the Board of Visitors to not only be independent, but to be seen as being independent, especially from the perspective of the prisoners. The current constitution of the Board precludes this, with the link between the Board of Visitors and the Jurats being impossible to ignore (Key finding 7.18).'*

Amending the Law

The Panel believes that broadening the composition of the Board of Visitors and allowing individuals, who are not Jurats, to apply for appointment to the Board of Visitors would resolve this problem; however, the law does not currently allow for this.

Article 6 of the Prison (Jersey) Law 1957 provides for a Prison Board of Visitors consisting solely of Jurats. Article 2(1) of the Prison Board of Visitors (Jersey) Regulations 1957 allows for 'not less than seven' Jurats.

The Panel does not believe that it is necessary to exclude Jurats altogether from serving on the Board of Visitors, simply that the Board should not be exclusively composed of Jurats. As with the U.K. system where there is nothing preventing a magistrate from sitting on an Independent Monitoring Board (I.M.B.), there should be nothing preventing a Jurat from sitting on the Board of Visitors, however, this should be capped at 3. This would allow the Board of Visitors to draw on a wider pool of people.

Legal Advice and the position of the Minister

To reiterate, what we are proposing will make service on the Board of Visitors accessible to lay people. There will be nothing to stop serving Jurats putting their names forward, but the number thereof will be limited to 3 (of the current 7).

However, the Minister has, on more than one occasion, expressed concerns to the Panel that the legal advice he has received tends to suggest that Jurats should not be on the Board *at all*. To this we would respond –

- (1) There is nothing that would prevent an entirely **lay board** being appointed; however, if any Jurats are appointed it will be by virtue of them being chosen by the Appointments Panel, rather than solely by virtue of their positions as Jurats.

- (2) The current proposal put forward by the Scrutiny Panel should be seen as an evolutionary, moderate approach; however, if he feels it does not go far enough, we would invite him to bring his own amendment, which would actively prohibit Jurats from serving on the Board. We would, however, consider this unfortunate, as we feel that Jurats are likely to have many of the requisite skills which could be useful in the context of a 'mixed' Board.
- (3) We would draw the Minister's attention to the fact that a parallel can be drawn with the U.K., where the Board of Visitors, which used to be composed solely of Magistrates, moved to an Independent Monitoring Board, which does not preclude the membership of Magistrates, but it does limit their involvement on the Board to 2.

Remuneration and expenses for Board Members:

Members of the U.K. Independent Monitoring Board are unpaid. The Jersey Board of Visitors should follow this model.

We attach as an Appendix to this report 2 chapters of the Sub-Panel's report (S.R.7/2009) dealing with the Constitution of the Board of Visitors and the views of prisoners interviewed by the Sub-Panel.

Financial and manpower implications

There are no financial and manpower implications for the States arising from this proposition.

Excerpt from S.R.7/2009: Prison Board of Visitors Report

“7. The current constitution of the Board of Visitors

7.1 During the course of its review, the Sub-Panel considered the current constitution of the Board of Visitors, with regard to comments that had been made in a submission by Mr R. Pittman to the previous Education and Home Affairs Panel in March 2008, which highlighted concerns regarding the Board of Visitors consisting of Jurats. Mr Pittman stated:

“First of all this seems highly inappropriate in that the Jurats are part of the machinery of justice and will have been active in determining guilt and the length of sentence of those imprisoned in La Moye. It is hard to imagine how they can be totally neutral and objective adjudicators of prisoners’ complaints and concerns when it is they who have sentenced them and ‘sent them down’.”

7.2 Mr Pittman subsequently extended upon this point during his attendance at a Public Hearing with the Sub-Panel:

“I think it is ironic and inappropriate that Jurats who play an integral part in the whole machinery of justice are also those people who are meant to monitor the prison, and I do not believe that they are suitable people, therefore, to hear complaints from prisoners who might have a justified complaint about the system there.”²

7.3 This issue was discussed with members of the Board of Visitors during their attendance at a Public Hearing, where Jurat J. Tibbo made the following statement:

“It was suggested that a broader group of people was required to form the board yet Jurats are from different backgrounds, a cross-section of the community. In their positions as Jurats they have always been considered to be independent, a factor which is recognised by the courts. There is no reason to believe – or I have no reason to believe – that any one of those Jurats changes when they act as members of the Board of Visitors.”³

7.4 It was further explained by Jurat Tibbo that he did not believe the prisoners were aware of the fact that members of the Board of Visitors were Jurats:

² Transcript of Public Hearing, 2nd April 2009, p.3

³ Transcript of Public Hearing, 2nd April 2009, p.8

“I think most of them do not even know (a) that we are Jurats and (b) because we are not announced as Jurats.”⁴

- 7.5 However, Mr Pittman did not believe that the prisoners not being aware of the situation, or not having complained about the potential conflict, were reasons to argue that the current constitution of the Board is appropriate:

“Well, to my way of thinking you cannot expect a prisoner at La Moye – perhaps you have found differently – would know the ins and outs of this matter. A prisoner at La Moye would not know how independent monitoring boards... or probably, unless he has served time in an English prison, as to how it operates in England.”⁵

- 7.6 In contrast to the above statements, during the Sub-Panel’s meetings with prisoners at HMP La Moye, the Sub-Panel found that the prisoners were very aware of the role of the Jurats. This may be a result of the direct contact some prisoners have with Jurats in the Royal Court. The view that prisoners were not aware of the dual role of the Jurats was further conflicted by a letter that was sent to the Jersey Evening Post from D. Hare, a prisoner at HMP La Moye. The letter stated:

“For many years now the inmates have been complaining how it is very wrong that the Board of Visitors is, in fact, the very people who sentenced them to prison. It is very unfair and biased and during the many years I have spent in La Moye, I have yet to hear anybody say that they see the Jurats as being in a strong position to help them. And I have also yet to hear that anybody has received any help from them. The Board of Visitors should be an independent body and not be the very people who sentence us. It’s about time the judicial system in Jersey had a major overhaul to get with the real world.”⁶

- 7.7 With reference to the dual role of the Jurats, Jurat Le Breton made the following statement during the Public Hearing:

“I can honestly say that when I go up to the prison – and I am sure it is true of all the Jurats that go – we are not Jurats then. We are people that are sympathetic and wanting to help.”⁷

- 7.8 The Sub-Panel does not question the Board’s empathy; however it was concerned by this statement, as it highlights the acknowledgement that

⁴ Transcript of Public Hearing, 2nd April 2009, p.50

⁵ Transcript of Public Hearing, 26th March 2009, p.10

⁶ Jersey Evening Post, Letters to the Editor, Friday 3rd April 2009

⁷ Transcript of Public Hearing, 2nd April 2009, p.27

in order for the Board of Visitors to function appropriately it was necessary for them to set aside their role as Jurats. The Sub-Panel further believed that it was not possible for a member of the Board of Visitors to comment on their own impartiality, or ability to set aside their role of being a Jurat.

- 7.9 The constitution of the Board of Visitors was discussed with representatives of HMP Winchester's IMB during the Sub-Panel's visit. One member of the IMB described Jersey's Board of Visitors as it was currently constituted as archaic. He further stated that the Board of Visitors was not an independent board, with there being huge risks attached to the system, especially for the welfare of the prisoners.
- 7.10 This was elaborated upon by a second member of the IMB, who explained that one of the principles of IMB members is to not know what a prisoner has done, to ensure they are treated fairly and without prejudice. However, the Jersey system makes this impossible.
- 7.11 On a slightly separate issue, one matter that arose during the course of the Sub-Panel's review was the fact that unlike IMBs in England, Jurats do not apply to be a member of the Board of Visitors; it is a function that is fulfilled because of their role as Jurats:

Jurat J. Tibbo:

*"We, in fact, as Jurats do not have a vested interest because you will be aware that in fact it is the Prison Board of Visitors Regulations that require the Board of Visitors to consist of at least 7 Jurats. It is not the Jurats who are seeking the position."*⁸

- 7.12 This was an issue that was raised by representatives of HMP Winchester's IMB, who explained that people apply to be a member of an IMB, and work hard to get that role.
- 7.13 This was further discussed during the Public Hearing with the Board of Visitors, where they were asked which role they would choose if they had to choose between being in court or being on the Board of Visitors.

Jurat J. Tibbo:

"Well, there is no choice. It would obviously be being a Jurat."

Deputy M. Tadier:

"In the Royal Court?"

Jurat J. Le Breton:

*"In the court. The work is much more varied."*⁹

⁸ Transcript of Public Hearing, 2nd April 2009, p.4

⁹ Transcript of Public Hearing, 2nd April 2009, p.62

7.14 However, Jurat Clapham went on to explain:

“But also I welcome, I like the fact that we can put something in a different way. For me personally I quite like being able to do that and hope I do it to the best of my ability and I would probably be the sort of person that would volunteer to be a Prison Board of Visitor if I lived in England or whatever.”¹⁰

7.15 A further issue arising from the Jurats sitting on the Board of Visitors is the implications the role has on their ability to attend meetings of the Board. This was an issue discussed during the Jurats’ attendance at the Public Hearing, where Jurat Tibbo explained the difficulties the Jurats have in attending every meeting of the Board, as a result of their duties in court:

“Honestly, we cannot always go up. There are not always 7 of us there. We are not going to pretend that all 7 of us attend every month because some people are in court.”¹¹

7.16 The Regulations state that at its first meeting, the Board of Visitors should fix a quorum of not less than 3 for the purpose of carrying out its duties.¹²

7.17 Mr Pittman explained that in terms of the future constitution of the Board, it would be preferable if the Chairman of the Board was a layperson, and not a Jurat. However Mr Pittman further acknowledged that it might be helpful to the Board if it did consist of a minority membership of Jurats.¹³ Mr Pittman further explained:

“I honestly think the future, if there is a change in the system here and you advocate it, it should get slotted into the whole I.M.B. organisation in England and the members of such a board of visitors – perhaps the nomenclature should also be changed – should actually go for training and have the feedback and the know-how and the instruction from the English I.M.B.s.”¹⁴

¹⁰ Transcript of Public Hearing, 2nd April 2009, p.63

¹¹ Transcript of Public Hearing, 2nd April 2009, p.58

¹² Regulation 7(1)

¹³ Transcript of Public Hearing, 26th March 2009, p.12

¹⁴ Transcript of Public Hearing, 26th March 2009, p.17

KEY FINDING

7.18 The current situation precludes individuals that are not Jurats from becoming a member of the Board of Visitors, and there may be individuals within the Island that are very keen to join a similar body, but are currently prevented from doing so.

The Sub-Panel is of the opinion that whilst the Jurats genuinely believe themselves to not be conflicted, by the nature of their primary role within the judiciary this argument is simply unsustainable. It is vital for the Board of Visitors to not only be independent, but to be seen as being independent, especially from the perspective of the prisoners. The current constitution of the Board precludes this, with the link between the Board of Visitors and the Jurats being impossible to ignore. The Island therefore needs to be moving away from the dual role of the Jurats.

RECOMMENDATION

7.19 The Minister for Home Affairs should implement a new system, enabling independent members of the public to sit on the Board of Visitors. However as with the UK system where there is nothing preventing a magistrate from sitting on an IMB, there should be nothing preventing a Jurat from sitting on the Board of Visitors. This would allow the Board of Visitors to draw on a wider pool of people.

Does the Jurats' role enable them to assist prisoners with issues that other individuals would not be able to assist them with?

7.20 One issue that arose during the course of the Sub-Panel's review was whether the Jurats' role in the judicial system enabled them to 'open doors' for prisoners that would not be possible if the Board of Visitors consisted of individuals that were not members of the Island's judiciary. This matter was discussed with Jurat Le Breton during his attendance at the Public Hearing, and he believed that having Jurats sitting on the Board of Visitors was of benefit to the prisoners, rather than representing a conflict:

"It was made to sound as though involvement with the judiciary was a perceived handicap or would create some problem. In fact it can be

seen entirely the other way. In other words, we can be of more benefit to the prisoner's welfare because we have access to their lawyers."¹⁵

- 7.21 This was also an issue that was discussed with the Minister for Home Affairs during his attendance at a Public Hearing, where he explained that having a group of individuals that carries some weight is undoubtedly useful in terms of dealing with issues such as prisoners being unable to get hold of their lawyers. The Minister went on to explain:

*"If one of the Jurats rings up a law firm to complain on behalf of a person that the lawyer simply has not come and seen him, there is going to be action, whereas one doubts whether there would be the same reaction if it was an entirely lay person."*¹⁶

- 7.22 These were views that were echoed by Mr Millar, who explained that the Jurats' position gives them privileged access to certain areas that can be helpful to prisoners, although it was acknowledged that these links and communications could be developed by other independent individuals over time. Mr Millar went on to explain that although the prison and the management side of the prison would consider that it would be possible to remove the Jurats and to reconstitute the Board with independent members, he believed that individual prisoners may feel that they had suffered as a result, and had lost privileged access that they perceive the Jurats might have.¹⁷

- 7.23 Jurat Clapham also explained an additional benefit of the Jurats also sitting on the Board of Visitors:

*"The other thing that I think is a by-product to the fact that they are Jurats, and maybe it could be coped with in another way, is that if we sentence people that we think are vulnerable for all sorts of reasons, either because of the crime they have done, they might be isolated or bullied or be a young girl who has to go to the Women's Unit (which we keep highlighting is not a good thing but anyway) all Jurats will alert the Prison Board and we would make it our duty to check that person is all right."*¹⁸

- 7.24 The Minister further explained that individuals that work in and around the criminal justice system – including the Jurats – have a greater understanding of the issues that arise and the problems that are faced by prisoners.¹⁹ When asked if the Minister thought prisoners might be

¹⁵ Transcript of Public Hearing, 2nd April 2009, p.20

¹⁶ Transcript of Public Hearing, 26th March 2009, p.5

¹⁷ Transcript of Public Hearing, 26th March 2009, p.20

¹⁸ Transcript of Public Hearing, 2nd April 2009, p.67

¹⁹ Transcript of Public Hearing, 26th March 2009, p.9

deterred from meeting with the Board of Visitors because of their dual role, the Minister explained:

“I think I could concede that some prisoners might see Jurats as being some sort of establishment figure or pro prosecution figure or whatever that might be a hindrance, but it is not the reality, of course, of the role that they perform.”²⁰

KEY FINDING

7.25 The Sub-Panel recognises that, as a result of their main function within the judiciary, Jurats are well placed to gain access to a lawyer on a prisoner’s behalf. However, the Sub-Panel questions whether it is the role of the Jurats to assist prisoners with legal queries in this way. This is certainly not something that falls within the remit of IMBs and it is considered that this function is supplementary to the Board’s main role.

Moreover, the Sub-Panel is of the opinion that even if this function were legitimate, this level of relationship between Board members and lawyers could be built up over time by an appropriately skilled independent member of the public. If the Board of Visitors do require, and have special access to lawyers, this should be by virtue of their position as members of the Board of Visitors, and not by the contacts they have developed indirectly through their work in the Royal Court.

RECOMMENDATION

7.26 The ease with which the Jurats are able to access the prisoners’ lawyers should not feature in the decision as to whether the Board of Visitors should include independent members of the public. If there are issues with lawyers not responding to prisoners’ contact this is a systemic failure which needs to be resolved without having to rely on the Jurats to contact them on their behalf.

7.27 This issue raises questions regarding what the function is of the Board of Visitors, and whether one of its roles is to assist prisoners with contacting their lawyers. It was explained by Mr Millar that as a result of the Board of Visitors comprising of Jurats, its role in Jersey is somewhat different to the role of the equivalent bodies in Scotland and the United Kingdom:

²⁰ Transcript of Public Hearing, 26th March 2009, p.10

“The kind of matters that they raise with the board of visitors here they would probably raise with their legal representatives in the Scottish system and that would probably be true in England as well. Here, as I say, they probably feel they get that more privileged access because of the role of the Jurats. They are not the kind of complaints they would normally take to a board of visitors in England or Scotland or anything.”²¹

- 7.28 With reference to this issue, Mr Pittman questioned whether contacting the prisoners’ lawyers was a role that should be adopted by the Board of Visitors:

“I also do slightly question whether it is the job of an independent monitoring board member actually individually to help a prisoner with advice on legal matters or contact and so on. There should be ... that is something which the prison should be able to offer...”²²

- 7.29 Jurat Tibbo subsequently confirmed that:

“It was suggested that Jurats gave legal advice. That is not so either, other than in the most simple form when dealing with trial procedures and with the help of a Greffier, who is in fact the Secretary of the Board, who deals with these matters in the course of her work. Obviously if we can call upon experience then we do so and will guide a prisoner, but in most cases the members of the board will emphasise the prisoner must discuss legal issues, such as sentencing – we never discuss sentencing – with their lawyers. But we do help to establish contact with their lawyers and we get things done fairly quickly as a result.”²³

- 7.30 Mr B Millar, Governor, HMP La Moye, explained that before discussing any changes to current procedures it would be important to clarify the role that is required of the Board of Visitors:

“I would agree with the Minister’s comments and separating the roles between a watchdog role and a role that might be involved with disciplinary cases. But obviously it would require a change in the law, so I think we would have to think carefully about what we want the board of visitors or the role you want that body to perform, and that might inform how best to make up that body.”²⁴

²¹ Transcript of Public Hearing, 26th March 2009, p.21

²² Transcript of Public Hearing, 26th March 2009, p.15

²³ Transcript of Public Hearing, 2nd April 2009, p.8

²⁴ Transcript of Public Hearing, 26th March 2009, p.7

KEY FINDING

- 7.31 The Sub-Panel believes that there is a lack of clarity surrounding the role of the Board of Visitors in Jersey, which would benefit from investigation by the Minister for Home Affairs. For example, whether it simply has a monitoring role, whether the Board should be involved with appeals, and whether members should be initiating contact with the prisoners' lawyers.

RECOMMENDATION

- 7.32 The Minister for Home Affairs should initiate a full review of what the role of the Board of Visitors should be in Jersey, to be completed within the next six months with a report then being brought to the States.

The process that is followed if a visiting Jurat has been involved with an individual prisoner's case

- 7.33 With regard to the process that is followed if a prisoner asks to see a member of the Board of Visitors, and the visiting Jurat had been involved with that prisoner's sentencing, it was explained to the Panel by Mr Millar, Governor, HMP La Moye that in some circumstances the prisoners prefer this arrangement:

"Because of a fairly recent case where one of the Jurats was extensively involved with an individual prisoner's case. It was put to the prisoner and the prisoner's response to that was: "Well, they know the case and I would prefer it was them that I saw because I do not have to start from scratch and explain the background to them."²⁵

- 7.34 This was an issue that also mentioned by Jurat Clapham, who explained that:

"Quite recently somebody who the Jurat had not only sentenced them, they had found them guilty, that Jurat was going up and the prison said: "Do you want to see that person? Clearly, you might not." "No", was the answer, "I would rather see them because they will understand more about it."²⁶

- 7.35 The Panel asked the Governor what the situation would be if it became apparent that prisoners at HMP La Moye were not happy with the current constitution of the Board of Visitors. Mr Millar explained to the

²⁵ Transcript of Public Hearing, 26th March 2009, p.13

²⁶ Transcript of Public Hearing, 2nd April 2009, p.25

Panel that if he became aware of that he would be advising the Minister and suggesting a change in the law because the body would not be able to perform the function it was set up for; however he went on to explain that he did not feel the need for that to occur at this stage.²⁷

- 7.36 Mr Millar summarised that the main issue was whether the current situation merits a change in the legislation, and whether a different constituted body would definitely perform the function any better, or provide better support to the prisoners, than the current situation. However, he confirmed that he was not convinced that this was the case.²⁸

KEY FINDING

- 7.37 The Sub-Panel acknowledges that there may be both positive and negative implications of a Jurat who has been involved in a prisoner's case later coming into contact with that prisoner in their role as a member of the Board of Visitors. However, as demonstrated by the comments received from the prisoners during their meetings with the Sub-Panel (see Section 8); it is evident that the prisoners are not happy with this situation. With a fully independent Board of Visitors, this situation simply would not occur.**

8. Meetings with prisoners at HMP La Moye

- 8.1 During the course of its review, the Sub-Panel visited HMP La Moye, and met on a confidential basis six prisoners: two adult male offenders; two female offenders and two male young offenders; all of whom had met a member of the Board of Visitors since November/December 2008. These prisoners had been randomly selected from a group of 38 prisoners, and had simply been told that the Sub-Panel wished to meet with them to discuss the Board of Visitors. The prisoners made the following statements:

8.2 Adult male offenders:

- Of the two adult male offenders the Sub-Panel spoke to, one stated, *"Board of Visitors are the ones that put us in here"* and also expressed the perception that the Board of Visitors always agree with the prison.

²⁷ Transcript of Public Hearing, 26th March 2009, p.13

²⁸ Transcript of Public Hearing, 26th March 2009, p.20

- The adult male offenders also explained that there was one instance where 58 people wanted to see the Board of Visitors, however only 5 people of those 58 were picked to see the Board.
- It was also explained that the last time one of the prisoners had been to see the Board the members were in a hurry, and he was frustrated because he thought they were meant to listen to the prisoners, but he explained that the Board members do not ask any questions, or try to ascertain any further information.
- The time it took for prisoners to hear from the Board of Visitors about their query, after having met them, was mentioned by the adult male offenders, and the female offenders, with both sets of prisoners explaining that they had been waiting for responses for three to four weeks.

8.3 Female offenders:

- The female offenders made reference to the Jurats sitting on the Board of Visitors, and stated, *“they put us in here and now they’ve got a say in how to run us up here. It should be someone independent.”* They also believed the Jurats were making judgements based on their pasts and not taking into account how they behaved in prison.
- The female offenders referred to the notice they were given about a visit from the Board of Visitors, and explained that they were only told about the visit a couple of hours beforehand, and would appreciate further notice so the Board could read their files and check up on their progress.

8.4 Young offenders:

- In terms of the comments received from the young offenders, one explained that he had made a request to the Board about a certain issue, and was told that they would pass a message on to the Governor in response to this query, but then he never heard back from them.
- One of the young offenders explained, *“Having Jurats on there, if someone understands the legal process some are a bit sceptical and think “they’ve just given me 5 or 10 years, why should I go and see them?””*
- The young offenders explained it was believed better to just complain to the unit manager rather than going to the Board, because unit managers know the prisoners and speak to them frequently.
- The young offenders thought that if there were younger people on the Board it might help them to identify with them.

- It was also believed that a lot of prisoners do not use the Board as a result of them not understanding what it does, or how the Board of Visitors can help, with it just being used as one method to make complaints, and prisoners not really knowing what else they do.
- They also explained that as the Jurats put them in prison, they must have passed judgement on them, and so they might just meet with them and think “*well he deserves it*” if they go to see them.

8.5 With reference to the comments that had been made by the prisoners, Jurat Clapham made the following statement during the Public Hearing with the Sub-Panel:

“Can I just say that I think that if they said that it is because they know that is why you were there and so they are concentrating their mind, because I can honestly say that we have never had anybody not want to speak.”²⁹

8.6 However, the Sub-Panel strongly refutes this statement, as during its meetings with prisoners, care was taken to ensure that Panel members did not make reference to any concerns regarding the constitution of the Board of Visitors.

KEY FINDING

8.7 The Sub-Panel notes that the Minister for Home Affairs and the Jurats sitting on the Board of Visitors did not consider that the current constitution of the Board affected its independence, however the comments received from the prisoners that had met with the Board cannot be ignored.

The comments received indicate that the dual role of the Jurats is seen as a negative element. Significant concern was raised about a number of different, though inter-related issues: Board of Visitor members being judgemental as a result of having already found someone guilty of a crime; the clear lack of demonstrable independence; and from the young offenders, the belief that it would be easier for them to identify with members of the Board if it consisted of younger members.

These comments support the notion that the current constitution of the Board prevents it from fulfilling its function as an independent monitoring body, and support the Sub-Panel’s recommendation for the constitution of the Board to therefore be addressed by the Minister for Home Affairs, and to ultimately include independent members.

²⁹ Transcript of Public Hearing, 2nd April 2009, p.25