

**STATEMENT TO BE MADE BY THE PRESIDENT OF THE HOME AFFAIRS COMMITTEE ON
TUESDAY 9th DECEMBER 2003**

On the 3rd October 2003, the Home Affairs Committee held a special meeting to discuss several well publicised cases of prisoners not abiding by the conditions of their temporary release. As a result of that meeting, the Committee agreed to commission an independent report to investigate the issues leading up to these incidents and to review the procedures applicable to temporary release. The Committee also decided to suspend all unescorted home leaves and to curtail the outside work scheme pending the outcome of the report. For that reason, the Committee decided that the report should be completed within a month of the review commencing.

The Committee was fortunate in being able to appoint Dr Debbie King, formerly the Island's Chief Probation Officer, to carry out the report. She commenced work on the 16th October 2003, and produced her first draft report on the 7th November 2003, well within the remit of one month. The Committee has had to have time to consider the report and recommendations and draft the revised procedures for temporary release which flow from the report's recommendations. Ideally, I would have preferred that Members had had the opportunity to consider the report and the revised procedures prior to our going out to consultation on the revised temporary release scheme. However, time was against us if we were to have a new scheme in place before the Christmas period. Therefore, the Committee is in the process of consulting the judiciary, those who were interviewed by Dr King and other professionals involved in temporary release with the aim of having the new temporary release scheme in place later this month.

Before turning to the report itself and the new procedures, I should like to pay tribute to the quality of the report produced for the Committee by Dr King. After three weeks of starting her review, Dr King produced for the Committee a professional, thorough and balanced report which has enabled the Committee to move quickly towards producing revised procedures.

I appreciate that some members may not have had a chance to digest the detail of the report, but I would like to comment briefly on its findings and recommendations. Members will recall that the previous Committee sanctioned the first ever HMI Inspection findings in July 2001 and authorised the implementation of all 147 recommendations. The present Prison Governor, who was recruited shortly after, was charged with implementing these recommendations and, remarkably, has achieved 114 of the 147 during his period in post. In addition, working closely with the Probation Service, he was instrumental in introducing the electronic monitoring scheme in April this year. Indeed, the current ethos of the Prison is one of incentive and rehabilitation which has been tremendously motivational to staff and prisoners alike.

The temporary release system itself underwent internal review at the Prison in July 2002 and a new set of criteria regarding eligibility was introduced. Unfortunately, the then Home Affairs Committee's endorsement for these changes was not sought at the time and, consequently, wider consultation on the criteria did not take place. The key effect of the new criteria was that some prisoners could become eligible for temporary release having served only half of their custody time - in effect a third of their sentence. Other developments included some prisoners being granted temporary release to other jurisdictions and some prisoners spending longer periods of time at liberty due to the effect of combining outside work and weekend home leave even though these schemes were developed as separate entities. Dr King questions whether the new criteria and the practices that were adopted constituted a policy change which would have normally required endorsement by the Committee. She concludes that it would probably have been wiser to have had the Committee's approval to all such developments. She also remarks that, unlike the new electronic monitoring scheme, which went through comprehensive scrutiny and policy formulation with the Committee, the present Home Affairs Committee inherited temporary release which had been a long standing practice at the Prison. In any case, there was no indication for some time that there should have been any concern about the running of temporary release and, in fact, it enjoys a very good success rate overall in terms of compliance. The criteria that were in operation first came to light in May 2003 when, at the first sign of a potential problem, I requested a full briefing of the risk assessment procedures. At that meeting, the Committee noted the conditions under which a prisoner might be eligible for either outside work or home leave. As Dr King concludes, at this point the criteria became Committee policy and should have been followed. In other words, the eligibility criteria should not have been viewed as guidelines inferring a measure of discretion or interpretation.

Dr King's study of those prisoners on the outside work scheme showed that five of the fifteen prisoners who had been released before their eligibility dates had been released for compassionate reasons but had actually started work after their eligibility date for temporary release. In the remaining ten cases, prisoners started work before their eligibility date. Dr King expands on the reasons for these releases in Chapter 9 of the report. In concluding, Dr King records that temporary release is seen as a great motivator, an incentive to behave well in prison, to become drug free and to try to address offending behaviour. However, temporary release has to be earned and is not seen by prisoners as an easy option. The scheme had lifted spirits and created a better atmosphere in the prison where prisoners derived greater self esteem from the benefits of being able to hold down a job and the pride they could take in supporting their families. However, the main criticism of the scheme from those interviewed for the report were the criteria that were being followed and, in paraphrasing several interviewees, the developments were felt to be too much, too quickly, too soon for Jersey. Dr King goes on to conclude that temporary release has wide support in principle and has on the whole been a very successful scheme. She concludes that, following a consultation exercise, the policy on the eligibility criteria, the scope and the limits of temporary release should be agreed and new procedures put in place that would have the mandate of the criminal justice system.

In addition to Dr King's report, I have sent to Members separately a personal copy of the new policy and practice relating to temporary release for home leave and outside work. These new procedures are entirely in line with the recommendations contained in Chapter 11 of Dr King's report. They cover the principles, eligibility criteria, the process to be followed and the scope and limitations of temporary release. The main features of the new temporary release procedure are as follows:

Only sentenced prisoners are eligible.

They must have been in custody for at least half of the sentence passed by the Court and will not be considered for temporary release earlier than twelve months before their earliest date of release.

Prisoners breaching conditions of their temporary release licence will be removed from the scheme and reported to the Home Affairs Committee.

There will be no absolute exclusion from the scheme for prisoners who have committed serious offences; however, the reason and need for temporary release would need to outweigh the seriousness of the offence and there would need to be a favourable risk assessment.

Applications will be assessed by a panel which will consist of the Prison Governor, the Prison Probation Officer, the Prison Psychologist and, in the New Year, an independent member appointed by the Home Affairs Committee, although temporary release applications will still be authorised by the Prison Governor in accordance with his delegated powers.

The Assessment Panel will procure reports as necessary from the Police, Probation Service and Children's Service and, where appropriate, will consult with the sentencing court, persons to be visited, prospective employers and any victims identified as a result of the original crime. Child protection issues will be paramount.

Prisoners will not be considered or granted temporary release prior to their eligibility date unless there are compelling compassionate grounds for so doing.

For those prisoners not involved in the Electronic Monitoring Scheme, overnight temporary release will only be considered during the last four months of sentence at the rate of no more than one night per month.

The procedures I have summarised will result in much tighter management of the temporary release scheme in which, ordinarily, temporary release is restricted to the last twelve months of a prisoner's sentence, thorough risk assessments are carried out for all forms of release and adjudicated on by an Assessment Panel of professionals, and prior consultation is carried out with other professionals in the criminal justice system and those who will be most affected by temporary release authorisations. It must be said though that, despite all the precautions we have put in place, there is still an element of trust placed in the prisoner. It is inevitable, therefore, that from time to time a temporary release licence will be breached. The alternative is a custodial regime in which rehabilitation is

given a low priority and prisoners are not afforded the opportunity to prepare for their eventual release. I trust, therefore, that members will embrace the temporary release scheme and the principles upon which it is based.

Finally, I am sure that Dr King's report will raise questions in members' minds as to accountability for the shortcomings of the temporary release scheme highlighted in her report. The report is critical of some of the management practices in relation to temporary release, the instances of eligibility criteria not being adhered to and some of the decisions to grant temporary release which were subsequently taken. These decisions were taken in accordance with the delegated authority given to the Prison Governor. The Home Affairs Committee will pursue these matters in accordance with the appropriate procedures. There is then the question of my own position and that of the Home Affairs Committee. The report does not level any specific criticism at the present Home Affairs Committee. Indeed, the Committee acted decisively once it was clear that the temporary release scheme was not operating as it should. It did this by removing those prisoners from the outside work scheme who did not appear to fit the eligibility criteria, suspending the temporary release scheme for new applicants, and commissioning an independent report to review the circumstances that had given rise to breaches of licence and to make recommendations about the operation of a future scheme. In so doing, the Committee was prepared to be accountable for the outcome and has been entirely open about the findings and recommendations. The Home Affairs Committee intends therefore to get on with the business of instituting a more robust and transparent temporary release scheme and, in so doing, I trust that it will have the support of this House.