

4.5 Deputy R.G. Le Hérisier of St. Saviour of the Minister for Home Affairs regarding the recommendations of the Scrutiny report into the Prison Board of Visitors:

What progress, if any, has been achieved in implementing the recommendations of the Scrutiny report into the Prison Board of Visitors?

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

There has been a difficulty in relation to perhaps the core issue, which was the issue as to whether or not the board should continue to be composed solely of Jurats, or whether it should be a mixed board of Jurats and non-Jurats, or indeed whether Jurats should not be there at all. The position was further complicated because advice was taken by the Scrutiny Panel which tended to indicate that the Jurats should not be there at all, but the recommendations of the Scrutiny Panel were that there should be a mixed board. This created a real problem for me, and I felt obliged to seek my own legal advice from a source which I normally would not wish to indicate the identity of - but will no doubt be pressed further on - but by my having said that you will know who it is anyway. That advice has been slow in arriving. The good news for Deputy Le Hérisier is that upon my making inquiries as a result of his question, I am told that the advice now exists in draft form, and hopefully will be with me shortly. That is the main issue. In relation to other matters, some of the matters recommended were already happening; some of them, some progress has been made towards them happening; and some of them, the current Board of Visitors did not want to happen, but of course, if we had a differently constituted board, we could look at again.

4.5.1 Deputy R.G. Le Hérisier:

Does the Minister always get very lonely, as he seems to spend a lot of his time in his office waiting for advice that never arrives? **[Laughter]** Would the Minister not accede that the panel in fact, was trying to be pragmatic, and, given it knew it was going to meet heavy opposition in certain quarters, it graciously decided to be pragmatic and see whether the concept of a mixed board could work, and that, in fact, was its intention. It was not trying to pose insoluble challenges to the Minister.

Senator B.I. Le Marquand:

I am grateful for the pragmatism of the panel. It did, unfortunately, create this difficult position. It must be remembered that any changes to the constitution of the Prison Board of Visitors are matters for legislation, and therefore there would have to be amendments, and if there was an amendment indicating there was going to be a mixed board, I would have to make a statement to the House that I was satisfied that that was human rights compliant. So, as the issue being raised in the first place was human rights compliance, it seemed sensible for me to take advice first. I must say, it is a bit of a reversal of roles, because from my days in private practice, it was my clients who were waiting for long periods for me to reply.

Deputy M. Tadier:

Can I make a clarification, because I think there has been some misinformation given out, probably not deliberately. As Chairman of the review that went on, the recommendation was not that we have a mixed board. The recommendation was that we have a lay board, a board of visitors entirely made up of lay people, but that Jurats would not be prevented from putting themselves forward for service. I think that is a distinction that needs to be made, otherwise the questions will be going forward on a false footing.

4.5.2 Deputy T.M. Pitman:

I was tempted to ask whether the Minister's advice was coming attached to an email, but I am not going to do that. I would like him to clarify, if he can, whether one of the main reasons for the delay is the strong objections from within the Jurats themselves to moving towards a board which would ultimately be made up of lay people, as Deputy Tadier has said.

Senator B.I. Le Marquand:

I could read out, at 2.24 of the recommendations, because this may be where there is an ambiguity: "The Minister for Home Affairs shall implement a new system enabling independent members of the public to sit on the Board of Visitors." To me, that means, to sit in addition to the people who already sit there, and so there was obviously an ambiguity there, and maybe I misread that. I have now completely forgotten the last question from Deputy Pitman.

The Deputy Bailiff:

The Deputy was really asking whether or not the Jurats were opposed to any change?

Senator B.I. Le Marquand:

The Jurats' view is, I think: "If it ain't broke, don't fix it", although they have expressed it rather more elegantly than that.

4.5.3 Deputy M. Tadier:

I would simply say, if the document is taken in its entirety, and I do not happen to have it at hand, that it is quite clear that what is being asked for is for the board to be made up of lay people, as I said before, and Jurats could put themselves forward, but would not be automatically necessarily selected. Will the Minister state now, for the record, whether he is in favour of a board of lay people being appointed, and if he believes that it is not human rights compliant to have Jurats sit on that board, then he can take whichever steps he thinks is necessary?

Senator B.I. Le Marquand:

If it is not human rights compliant for Jurats to be on the board, then we will need to have a lay board. If it is human rights compliant for Jurats to be on the board, then I will have to balance various different issues as to whether the existing board functions better than a mixed board or with a board with just a few Jurats on. That decision I have not yet made. I simply put that decision off, pending the advice that I receive.

4.5.4 Deputy M. Tadier:

The point here is not the Jurats, we are getting bogged down by the Jurats. The point is that a board should be set up which allows members of the public, who may well be qualified in various different sectors, with various relevant experiences, to serve on the board. It is not about being "Jurat-centric", as the Minister seems to want to make this argument. Will the Minister simply say whether he is happy for the board to be opened up to lay people or not?

Senator B.I. Le Marquand:

If it is human rights compliant for Jurats to remain on the board, then my preference, in terms of a mixed board, would be to retain a number of Jurats. I think that is very valuable having Jurats on the board, if they can be there, for a whole number of

reasons. But I am entirely open to the possibility of other people who are non-Jurats joining them, if that is possible.

4.5.5 Deputy J.A. Martin:

Human right compliant: someone who has put you in prison visits you in prison to ask you if you are okay. I think that is pretty, pretty ... as plain as the nose on my face. My question is, the Minister said, the Jurats would be of the opinion: "If it ain't broke, don't fix it." This is after independent reviews for the visitor reviews yearly, and in 2 of those years we have had damning, damning independent reports from the U.K. (United Kingdom). Is the Minister satisfied with this paragraph in the summary, about the Committee of Prevention of Torture and Inhumane, Degrading Treatment? This, to me, has been taken out of context, and when we do get this report late in the summer, I think we will get another damning report of the prison and the Jurat system.

Senator B.I. Le Marquand:

There are about 5 questions there, and I cannot remember very many of them, and a document has been referred to, which I do not even know what it is. I am in great difficulties here.

The Deputy Bailiff:

It ended up without a question at all, Deputy. Would you like to frame your question again?

Deputy J.A. Martin:

Yes. The last part, which is the most concerning, in the summary of the recent Prison Board of Visitors Annual Report 2009, it quotes that the prison staff and the Jurats were happy that the European Committee for the Prevention of Torture and Inhumane or Degrading Treatment or Punishment made a number of complimentary remarks. They had not done their final report; they made some complimentary remarks about different systems, but they also made some very worrying remarks about the prison. Why has this been allowed to be put in this report?

Senator B.I. Le Marquand:

The report is the report of the Prison Board of Visitors, and not the report of the Minister. That is the first point I wish to make. Secondly, although we have not received the outcome of the Committee on Torture et cetera's report, the preliminary indications which we received were very positive. But there are issues of course, in relation to young people being kept in the prison, particularly those of school leaving age, and Deputy Martin should know well that this is an issue which the former Magistrate was repeatedly raising for many years and felt very strongly about. That we needed to get our young people of school leaving age out of the Young Offenders Institution and into Greenfields. So there is nothing new about that, but I await the detail of the report with interest.

4.5.6 Deputy J.A. Martin:

Just a supplementary there: I do understand that the Board of Visitors say also, they agree that young people should be in Greenfields and: "Would only require the goodwill of all those involved." Is this naivety? The name on this report is the Minister for Home Affairs, that is why I am directing this question to him.

Senator B.I. Le Marquand:

No, this is not my report, this is the Prison Board of Visitors' report. It is simply my role to lodge it, as an "R", that is in accordance, as I understand, with the law and good practice. It is not my report. I have to say that I have been extremely frustrated by the lack of progress for many years in this very issue of getting the 15 and 16 year-olds out of the Y.O.I. (Young Offenders' Institution). I have been very patient ...

The Deputy Bailiff:

That is not within the context of the Scrutiny Report.

Senator B.I. Le Marquand:

No, it is not.