

STATES OF JERSEY

Education and Home Affairs Scrutiny Panel

WEDNESDAY, 10th FEBRUARY 2010

Panel:

Deputy R.G. Le Hérissier of St. Saviour (Chairman)

Deputy T.M. Pitman of St. Helier (Vice-Chairman)

Deputy M. Tadier of St. Brelade

Witnesses:

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

Deputy J.A. Hilton of St. Helier (Assistant Minister for Home Affairs)

Mr. S. Austin-Vautier (Chief Officer for Home Affairs)

Present:

Ms. S. Power (Scrutiny Officer)

Mrs. E. Liddiard (Scrutiny Officer)

[11:46]

Deputy R.G. Le Hérissier of St. Saviour (Chairman):

Okay, I would like to welcome you.

The Minister for Home Affairs:

Merci, monsieur.

Deputy R.G. Le Hérissier:

We hope to finish at the latest by 1.15 p.m. So, sorry, we are slightly late in starting. One question, Mr. Dunn has asked me to ask you, given that at some point I think, Mr. Minister, you yourself, I do not know about the other 2, agreed to videoing. Members of this panel, individually do they agree to having a video shot taken?

The Minister for Home Affairs:

Yes, I am happy.

Deputy R.G. Le Hérissier:

What about the others?

Assistant Minister for Home Affairs:

Can I go and do my hair first? [Laughter]

Deputy R.G. Le Hérissier:

If you wish, and you, Mr. Vautier?

Chief Officer for Home Affairs:

Fine.

Deputy R.G. Le Hérisier:

Good, thank you. Well, I would like to formally welcome you to the session. You are obviously familiar with the document and the function of the witnesses so we will introduce ourselves for the tape, Roy Le Hérisier, Chair, of St. Saviour.

Deputy T.M. Pitman of St. Helier:

Deputy Trevor Pitman, St. Helier No. 1, Vice-Chair.

Deputy M. Tadier of St. Brelade:

Deputy Montfort Tadier, St. Brelade No. 2.

Ms. S. Power (Scrutiny Officer):

Sam Power, Scrutiny Officer.

Mrs. E. Liddiard (Scrutiny Officer):

Elizabeth Liddiard, Scrutiny Officer.

Deputy R.G. Le Hérisier:

Okay, thank you, and Constable Butcher, for reasons you will probably hear later, he gives his apologies.

The Minister for Home Affairs:

Do you want us to identify ourselves for the tape?

Deputy R.G. Le Hérisier:

If you would be so kind. My considerable apologies for that.

The Minister for Home Affairs:

I am Senator Ian Le Marquand, I am the Minister for Home Affairs.

Assistant Minister for Home Affairs:

I am Deputy Jacqui Hilton, the Assistant Minister for Home Affairs.

Chief Officer for Home Affairs:

I am Steven Austin-Vautier, Chief Officer for Home Affairs.

Deputy R.G. Le Hérisier:

Okay, thank you. We have got, as you can see, some fairly broad questions and some of them sort of merge into each other or overlap, so we will probably arrive at answering them all - if we arrive in a straight line that might be unusual. So, just to kick things off, we did have a very extensive list from the Minister of all the things he was working on at the moment but I wonder if he could answer question number one, if we could focus him, what are your department's priorities for the year 2010?

The Minister for Home Affairs:

This is quite a complex question to answer, in the sense that I have different sections which have different priorities. I have not come armed with the priorities of each section except for those of the police which, of course, are set out in the policing plan

for 2010, and those are: to reduce instances of serious violence and abuse; bring offenders to justice and reduce the harm to their victims; to reduce the impact of prolific and priority offence on crime and community safety in Jersey; to ensure Jersey remains a hostile environment for organised crime groups by working relentlessly to identify, disrupt and dismantle them; bring offenders to justice and remove their assets; fourthly, to work with partner agencies and local communities where anti-social behavioural problems emerge and ensure the people can go about their daily lives without fear of intimidation or harm and, fifthly, to make optimum use of the available resources to deliver the safety and security our community expects. Those are set out in much greater detail in the policing plan but, I mean, essentially, serious violence, prolific and priority offenders, organised crime, partnership working and proper use of the resources of their priorities. Now, each of the organisations of other priorities, and I have just signed off today the fire service 3-year plan, in terms of things there ... but if I start going on about that I will start waffling quite quickly, it is very good stuff, and so on. Now, in addition to that, of course, you have my own list of items which I think I sent to you.

Deputy R.G. Le Hérissier:

Yes.

The Minister for Home Affairs:

I have come with copies of that because I think I gave that to you in email form or letter form and this is ... if I can pass up copies of that.

Deputy R.G. Le Hérissier:

Yes, we will take a couple of copies, thank you.

The Minister for Home Affairs:

Sorry, I have not stapled it together, it is my own work. In addition to that, Steven, to my right, has his own priorities or action plans, which I have not brought with me because there are certain projects which are not mentioned in that, such as the T.E.T.R.A. (Terrestrial Trunked Radio) radio replacement which he is working on, and various other things. So when you are asking a question about departmental priorities it is quite complicated. I have not attempted to set an order of priorities in what I do because in reality we are trying to run parallel with a whole number of things. One of the problems ... as I said before, one of the difficulties, is that if I am not very careful I will end up chasing so many metaphorical hares I will not ever catch any and this is a huge trap, I think. Unfortunately, I have to say there are pressures on Ministers to do exactly this because people are raising issues which they believe are very important or are very important. But which ones do I do? The programme here is really telling you all the things we are doing in parallel and there is no way I am going to achieve the 2010 things in 2010. If I were to achieve all the things set out here in 2010 and 2011 I would be a complete genius. In fact I would be offered Barack Obama's job next. **[Laughter]**

Deputy R.G. Le Hérissier:

Or even Terry Le Sueur's. **[Laughter]**

The Minister for Home Affairs:

But it is difficult and what happens in practice is that some things go forward relatively smoothly and you run with them, other things will run into difficulties and side tracks. You know you are never going to achieve all the things, but you set out and you mean to do all the things and there are a lot of them. I do not know whether Steven would agree with me, but my estimation is I probably inherited a department which on legislation is about 3 years behind, and that is simply based on the dates when the law drafting time was meant to happen and some of the things here are 2005, 2006. In the figures of my office, if I have caught up by a year I think I will have done quite well. If I can catch up by 18 months I have done really well, but that is realism.

Deputy R.G. Le Hérisier:

Do you think all the fallout from Haut de la Garenne and the abuse inquiry, has it seriously diverted your department and absorbed energies?

The Minister for Home Affairs:

Obviously issues of disciplinary matters of the chief officer has taken up quite a lot of my agenda and will continue to do so. I feared at one stage that I might spend months of this year on the disciplinary matters. I do not think I will now do that but the matter disrupted my own activities. Obviously other things are happening but because my own style of political leadership is to be quite involved with the likes of due process I think I add value to that. I think I may slightly stir things up but they will be better for the time that I give to them. Inevitably how much time I can give to things is important to me. For instance, I was looking at the first draft of the Explosives Law and hoping to review that before we go out to consultation but I just have to resist in doing that before my holiday, so I will be picking that up that again when I come back in February-March.

Deputy M. Tadier:

Minister, sorry, I hope this does not appear rude, but to clarify my mind you are not an administrator you are a politician, so as a Minister it is not really your job to run the department on a day-to-day basis. While I appreciate there is a huge backlog, I would question what part of that role falls to you and what is for the civil service to take care of?

The Minister for Home Affairs:

Well, in a sense, if you are going to go out to consultation on a particular document you must have politically decided if you are happy with the generality of that document otherwise I would be sending things out to consultation which potentially I might not even agree with.

Deputy M. Tadier:

I am not talking specifically in the consultation area here but just to do with the backlog and law drafting and all these things.

The Minister for Home Affairs:

Yes. It is not my job to draft laws; obviously we have specialist law draftsmen in relation to that. But I am the one charged with taking the laws to the States so I have got to be happy with them and, of course, because I have particular skills in this area I can indeed make improvements. Now, as an issue, should I be doing that or should I

not be doing that? In reality I think it is one of the things that my own personal skills adds to the department hence we will have better legislation. I mean, some pretty dire legislation has gone through in times past, you know, and I was trying to sort out what it meant as magistrate. I prefer to do things well and properly. That may slow things down slightly. On the other hand, I think you saw when we eventually got to the Sex Offenders Law, which is a complex law, I had a very smooth passage because I had foreseen most of the problems - I had not foreseen all of them.

Chief Officer for Home Affairs:

Can I give an example to the Chairman's question as well and Deputy Tadier. You talked about the effect of the Haut de la Garenne situation but, of course, we were running with the new Police Force Law which incorporated the Police Authority provisions. Well, a lot of that got seriously disturbed by 18 months of that inquiry because it preoccupied the main decision makers. You cannot really advance a law like that without those being engaged and it happened right at the time of an election, so clearly the new Minister brings a view on these issues. So you do get quite natural ... I do not know what the plural of "hiatus" is but the plural of it, where you cannot seriously progress these things, you have got to wait. But that does not mean to say we are not doing a lot of the background work and you are quite right, that is the job of officers to do. But there comes a point where it needs ministerial review because at the end of the day that is where the policy is and that is where the Minister gets engaged.

Deputy R.G. Le Hérisier:

But it is a strange situation because were the Minister not to possess these skills the conclusion has to be that potentially defective laws would be going through all the time. It just happens by good fortune we have got somebody, yes, who is skilled. Somehow he has to play the role of a sort of legal adviser to the department as well as heading the department.

The Minister for Home Affairs:

I take legal advice as well. But to effectively understand the laws to the degree people can file them through the States would require one to do most of the work anyway. What happens, I think, is that I do it earlier at the sort of drafting stage so that when it comes to the passing through I have got a much greater understanding really of it.

Deputy T.M. Pitman:

Sitting there now as the Home Affairs Minister, does it not shock you in a way to feel that you can say that there are some fairly appalling pieces of legislation that have gone through? I mean, it does not reflect very well on your predecessors, does it?

[12:00]

The Minister for Home Affairs:

Some of the things might be just my opinion, of course, in relation to that. I had a letter today from the magistrate who had just dealt with a particular order for the first time and sort of raising a number of issues and concerns that she had in relation to the operation of the law. Now, I can see immediately some of those were entirely valid and I would not have wanted the law to have gone through exactly as it was in those

areas if I considered those points. But some of them may be just a matter of opinion and style, and so on. I do think that political input is very important in relation to the law-making process because otherwise what happens is the officers - and they are very competent - they will get on and they will put together what they think perhaps should be there without really being looked at politically. That is just one of my personal interests.

Deputy M. Tadier:

If it is not to do with the competence of the staff what are the reasons for the deficiencies in the law, as you see them?

The Minister for Home Affairs:

It goes wrong for a multitude of reasons. Steven can probably remember in the days when I was magistrate intervening on one occasion in relation to a particular piece of legislation that was about to go through. It was my fault to a degree, having read it and not understood it until very late in the day, which had a very bizarre effect, but it went through. It had got to that stage because the draftsman had thought it strange and assumed that a political decision had been made to do this. If those were the effects, it would have been unfortunate. So there was a complete misunderstanding. But if the draftsman thought: "Well, this is what my instructions say, so I will produce it; I think it is a bit odd, but I will assume that the instructions mean what they mean." So, if the instructions are not right in the first place the draftsman then may start to put into place something which was never intended by the politicians, but the draftsman thinks that is what they intended.

Deputy T.M. Pitman:

Can you give us a tangible example?

The Minister for Home Affairs:

Well this is a particular case which was to do with disqualifications and the time requirements to take tests. Details are starting to escape me, but the effect would mean that every person who was convicted of careless driving would have to have retaken a driving test, even if they had not been disqualified. Now that is a strange result. I think that is right; Steve?

Chief Officer for Home Affairs:

That is right, yes. This is not the Home Affairs piece of the law. .

The Minister for Home Affairs:

No. I happened to pick that up just before it went to the States, as magistrate, and intervened and said: "My goodness, you cannot put this through.". It was corrected.

Deputy T.M. Pitman:

But to take down another step with those concerns, I mean, I have heard from another politician, who will remain nameless, but in his past life there were pressures to say something was human rights compliant when he certainly was not confident that it was. Have you had any concerns that this is just a rubber stamp, in some cases?

The Minister for Home Affairs:

No. Very much the reverse. I have to say that obviously as a Minister one gets advice in relation to human rights compliance, so I would look at that advice and read it and, I have to say, I have not come across a case where I did not think that was reasonable advice. If I had queries about it, I would have gone back and said: "Well, hang on, is this right?"

Deputy T.M. Pitman:

I am thinking of the past where you are saying in previous laws that you have had concerns over. They would not have got through under you? I appreciate you are very thorough.

The Minister for Home Affairs:

Let us just say I think that I would hope to improve them; let us put it that way. But I am very experienced you see. It is very rare to have somebody who as Minister who has been a Chief Officer, a Judicial Greffier and a magistrate and a qualified lawyer. You know, just been peculiar, sort of, skills. I think it is right that I am trying to add value, although I am aware that I might slightly slow the process down in so doing.

Deputy M. Tadier:

I think the Chairman is right in saying that it does raise issues. If this is possible in your department, then what is going on in other departments where they do not necessarily have experts as a Minister?

The Minister for Home Affairs:

It is a very difficult area. I mean, law drafting, with the interplay of politics and policy and style of drafting and so on, I mean, you have seen the difficulties in the P.P.C. (Privileges and Procedures Committee) with quite amazing complications which arise in relation to the Freedom of Information Law. I have been to committees spending enormous amounts of time trawling through in great detail. What I am saying is that is what I am doing. You know, if you think about the amount of time and effort, I think, with other laws, I would not say the same degree of care has been given by politicians.

Deputy T.M. Pitman:

From what you are saying, it would tend to make me think that you are a strong advocate that jobs, Ministers, should go to people in terms of ability, not just because their face fits.

Assistant Minister for Home Affairs:

One would hope it was always based on that.

The Minister for Home Affairs:

Is that blindingly obvious? I have said some controversial things in the past, in this area, of course

Deputy T.M. Pitman:

Say some more. [Laughter]

The Minister for Home Affairs:

I do believe that while we have a ministerial system, the success of our system is going to be dependent upon the quality of the Ministers and I do believe that it is vitally important, for the future of the system that we have people holding ministerial office, who have the ability to make the good decisions. There are different aspects to this. I mean, there is the sort of political judgment aspect, but there is also the ability to read and understand the reports and assimilate the information and ask the searching questions. But, you know, the role of Minister, towards the people, has oversight over, is a kind of scrutiny role in the sense of asking the right questions and knowing where to probe.

Deputy M. Tadier:

So, would it follow that any Minister should also have a good grasp of the English language.

The Minister for Home Affairs:

French is optional. [Laughter]

Deputy R.G. Le Hérisier:

Very delicately put. I will carry on now. I will cut across my dear friend, Deputy Tadier. Can we move - although, as I said, we are going to come back to some of these things - we are going to look at timescales for the introduction of various pieces of important legislation.

The Minister for Home Affairs:

Yes.

Deputy R.G. Le Hérisier:

I wonder, Mr. Minister, if you could tell us the next stage of the vetting and barring scheme; when do you hope to bring this forward or, well, initially present it to us?

The Minister for Home Affairs:

I have got detailed timescales. My experience tells me that these are slow(?), they always do; but here they are. Vetting and barring stage 2. The intention is March/April this year, green consultation paper to the Council of Ministers and then wider circulation, supported by public information events, then, after that, a policy proposal presentation for the Council of Ministers. September 2010, drafting and legislative provisions. First quarter of 2011, extension of scheme through Privy Council and we hope in the second quarter of 2011 to have the full scheme active. That is the timescales. I think that will slip, inevitably there will be complications.

Deputy R.G. Le Hérisier:

Do you find yourself boxed in apropos the meeting yesterday with the House of Commons Select Committee? Are we going to end up just mirroring English legislation?

The Minister for Home Affairs:

Yes. What I have discovered in the last 3 months, I would think probably, since the last meeting with your good selves, is that whereas I thought that we would have more discretion in relation to the area of which categories of employee fall within the schemes, I am now being told that the U.K. (United Kingdom) are saying to us:

“Look, we want you to be in on the same terms as us” and the rationale for that being that if they are running a scheme which vets certain categories of people, they want information about people from Jersey in the same categories and, therefore, would want us to sign up on a similar basis and that disappoints me, slightly, because I had hoped that we would, in practice, have more discretion. Fortunately, as you know, there has been some back-tracking in the U.K. and they back-tracked now on some of the more extreme proposals which, incidentally, were misrepresented in the press anyway, is my understanding, but we could arrive in a situation where it is take it or leave it for the U.K. I think that is where we need to be in terms of the system; we either buy into it entirely or we do something different.

Deputy R.G. Le Hérissier:

Are you satisfied, Mr. Minister, that in a place like Jersey - sorry, I am almost going into the scrutiny of the legislation, but I will try and ... I mean, there have been various points made about parents having to be vetted and/or examined for example. Now, there have been concessions made that if you are just driving children to events on a fairly occasional basis, you should not be. But that end of things, where you would have thought in a small society there would be other kinds of controls or other kinds of information loops available, you would have thought this is not the sort of heavy-handed approach you need in a small society. Have you found any areas like that, where you can say that?

The Minister for Home Affairs:

We do not yet know, precisely, what the U.K. system is going to involve, because they are still moving on it. Obviously, my hope is that when it ends up it will be a system which will be fully acceptable here. If it is not; if it is thought to be over the top in some areas, if we are in a take it or leave it situation, we are going to be put into a bit of a quandary, in reality. But I am disappointed that my previous understanding was incorrect on that and I am now being told: “No there is a much more directive view coming from the U.K.” I understand the logic of that, for the reasons I have explained, you know, they want to know that they can trust the information that comes from us as covering all the areas they are interested in and, therefore, they expect us to follow the same system.

Deputy R.G. Le Hérissier:

Can we go to 2B? It may involve the Assistant Minister. The major item of discrimination legislation and then the first part of the subordinate legislation, which is likely to be racial discrimination; so, where is that at, at the moment?

The Minister for Home Affairs:

Again, the timescale information I have got is first quarter of this year, redrafting of, it says, part 6.

Chief Officer for Home Affairs:

That is the part that deals with the tribunal.

The Minister for Home Affairs:

Okay, that is really redrafting of the law. The previous draft was assuming that there would be 2 separate tribunals which, administratively, would just be very costly and

inconvenient and we now have got, I think, an agreement in principle, for one tribunal.

Assistant Minister for Home Affairs:

We have.

Deputy R.G. Le Hérisier:

Quite, yes.

The Minister for Home Affairs:

If you remember, we had this anomaly that the employment related matters were going to go to the Employment Tribunal anyway, so all we were going to be left with at the second tribunal would be the non employment related matters, but you would have 2 experts. You would have one expert advising the Employment Tribunal and another one advising the other one. It is ludicrously inefficient. The second quarter of 2010, I have got human rights compliance check. The fourth quarter of 2010, lodging of principal legislation and, parallel with that, I have got the race attribute, because my hope is to pass the race attributes at the same time as the principal legislation. The second quarter of 2010, instructions delivered. Second quarter, redrafting. Fourth quarter, lodging. So, we are aiming to achieve both to be passed by the States before the end of the year.

Deputy M. Tadier:

Can you just explain to us about the race attribute? What is that? Is that just ... Why is that separate?

The Minister for Home Affairs:

Can I just explain this? The core legislation in relation to discrimination provides the general structure and then you have to say what attributes are going to be people are not going to be able to discriminate on and so you have got race, you have got age, disability, you have got gender, you have got sexual orientation - I think I have remembered all of them this time - and you then bring in sets of regulations in relation to each and each one requires the States to pass a complex piece of legislation to say how you deal with each one of those. There was some drafting done in relation to these areas in the past in terms of the possibility of a standalone law for each, but all that now needs to be reviewed and redrafted. So there is some work done.

Deputy T.M. Pitman:

What about the issue of hate crimes, as it would be classed in the U.K.? Can I push you on that?

The Minister for Home Affairs:

Hate crime? Do you mean specific offences relating to ...?

Deputy T.M. Pitman:

Especially incitement of violence, as we have seen quite a lot in the U.K. with extreme political groups. Or perhaps you do not feel there is a need.

The Minister for Home Affairs:

That is a completely different level of legislation. That was, I think, considered, was it not?

Deputy T.M. Pitman:

It is my understanding it was being considered.

Chief Officer for Home Affairs:

Yes.

The Minister for Home Affairs:

It was initially considered.

Chief Officer for Home Affairs:

Racially hatred criminal offences. That was a piece of criminal law, was it not?

The Minister for Home Affairs:

Yes.

Chief Officer for Home Affairs:

Racial hatred.

The Minister for Home Affairs:

Yes. My view is the priority is to go ahead with what we are doing and the work in relation to that would need to follow at some point. You get the situation, already, that people may be committing an offence under the Harassment Law, or whatever, and it may be treated by the courts as a racially, or whatever, exacerbated offence, in any event, so you have already got some provisions. But the U.K., they have printed parallel criminal provisions. It is not the highest priority, I have to say, in my view.

[12:15]

Deputy R.G. Le Hérisier:

Am I right in understanding, Mr. Minister, that the disabled part, or the last part, you have introduced because of a lot of the complexities surrounding that issue; is that correct?

The Minister for Home Affairs:

I think that is going to be well beyond my present term.

Deputy R.G. Le Hérisier:

So there is no schedule for that as yet?

The Minister for Home Affairs:

No.

Chief Officer for Home Affairs:

No. We are only dealing with the first attribute but, in a sense, the order in which they come forward is entirely up to Members.

Deputy M. Tadier:

Mr. Minister, is it not difficult to have the race attribute included, given that most scientists and any rational thinking person obviously knows that race does not actually exist.

The Minister for Home Affairs:
[Laughter] It does not exist?

Deputy M. Tadier:
Given that race is a myth and any scientist will tell you that. How is one going to enforce something which is ... although racism exists, race, in itself, does not exist.

The Minister for Home Affairs:
You create an attribute. You are doubting whether there is such an attribute?

Deputy M. Tadier:
I am saying there is no such thing as race. I think that is an understood common myth among scientists.

The Minister for Home Affairs:
I do not know how it is defined.

Deputy M. Tadier:
For example, you know, a French person is not ...

The Minister for Home Affairs:
But it has been defined elsewhere in a way that has been acceptable.

Deputy M. Tadier:
Certainly, you have nationality but then you have the human race versus animals.

The Minister for Home Affairs:
Well, you have nationality and, of course, you also have skin colour, have you not?

Deputy M. Tadier:
You have.

The Minister for Home Affairs:
And you have, sort of, an African- Caribbean person, a Black African would be a person.

Deputy M. Tadier:
But these are just very crude classifications that any anthropologist will tell you.

The Minister for Home Affairs:
Well, I think the concept is that you should not be taking any account of it, in any event. That is what it is about.

Deputy M. Tadier:

So, the logical question I ... I mean, why is it that we need to define, in these very crude terms, if we are simply talking about discrimination? Should that not be sufficient?

The Minister for Home Affairs:

No, because the trouble with the word “discrimination” is that, in its literal meaning, there is nothing wrong with it. I mean, we discriminate in the sense of determining that something is of greater value than another in all sorts of ways. I mean, we discriminate between Ministers and non Ministers.

Deputy M. Tadier:

We do.

The Minister for Home Affairs:

What we are talking about is unfair discrimination. I prefer to use the term “unfair discrimination” because discrimination is now used very loosely in common parlance and, you know, we may discriminate between the quality of beers or whatever. I mean, we do discriminate between people who have a criminal record and who do not have a criminal record, for instance, for different purposes. There is proper and, in fact, necessary discrimination between people who are paedophiles and others in the Sex Offenders Law, there is nothing wrong with that. We have to do that in terms of risk assessment and so on. We are talking about unfair discrimination. Now, otherwise, if you had a nobleness concept of discrimination, how would you determine what was fair and what was unfair, in relation to that. I mean, it would just be impossible. So that is why the whole basis is set out to say it is unfair to discriminate between people upon the basis of these characteristics. It does throw up anomalies in legislation. There are some types of things that people might think ... I mean, sizism for instance; discriminating against people on the basis they are fat. I do not think that is an attribute, even in the U.K.

Deputy M. Tadier:

How do you balance that with practicalities? Presumably there are practical limitations due to size. So, if somebody cannot physically - and I do not mean to be comical - but on a bus, for example, if somebody cannot physically sit in a seat, then they are not being discriminated against necessarily because they cannot sit down, it is just a practical issue.

The Minister for Home Affairs:

You are starting to understand exactly the sort of difficulties and complexities which are thrown up by the legislation which come in the regulations. It is complicated stuff. In the U.K. of course, they have dealt with this slightly differently, because they have got access to buildings, apart from disability, and they have expressed certain things in a positive way; that all people must have equal access to buildings, rather than in a negative way. But that is why it is done this way, because otherwise it would just be completely unworkable.

Deputy R.G. Le Hérissier:

Sorry, we are going to have to appoint Deputy Tadier chairman of this particular panel, obviously. I wonder if we could move on to the draft Police States Law, Deputy Pitman.

Deputy T.M. Pitman:

If you could just bring us up to speed on the draft Police Law, where we are and particularly the establishment of a police authority.

The Minister for Home Affairs:

Yes, I can. I wanted to hold back work on this until the dust had settled, in relation to current issues, but now realise that things are moving on in time, to a certain extent. The fact that now there is a finite date with the notice of resignation of Mr. Power makes it easier and I think the time is now right to start working. Now, what has been happening is that Mr. Austin-Vautier is producing a paper in relation to that, setting out different sorts of options and approaches to the setting up of the police authority and also there are other things contained in the Police Law. I am engaging with different colleagues to set up an advisory group, in relation to that, which will consist of myself, and Jacqui and 5 other people, who I have chosen to try and be reasonably representative.

Deputy R.G. Le Hérisier:

How have you chosen the group, Mr. Minister?

Deputy T.M. Pitman:

On size. [Laughter]

The Minister for Home Affairs:

I just wanted, basically, people who have interest in this.

Deputy R.G. Le Hérisier:

These are lay people you are talking about?

The Minister for Home Affairs:

No. These are politicians.

Deputy R.G. Le Hérisier:

Politicians, okay.

The Minister for Home Affairs:

I am quite happy to say who I have asked. I have asked Deputy Pitman. This has to be an advisory group, not a policy making ... [Laughter]

Deputy R.G. Le Hérisier:

You never told us.

The Minister for Home Affairs:

... on that. I have asked Deputy Hill. I have asked Constable Vibert - partly because of his honorary links, but also he was Deputy President.

Assistant Minister for Home Affairs:

Vice President.

The Minister for Home Affairs:

Vice President; I am sorry; Vice President of the last Home Affairs Committee. I have asked Deputy Fox, who has been excluded from any matters to do with police, for a very long time, but he knows a lot of things.

Deputy T.M. Pitman:

Did he not used to be a policeman or something in a former life? He never mentions it.

The Minister for Home Affairs:

As, indeed, Deputy Hill was and Deputy Egré, who also has a particular interest in this area. I need some people with wide spectrum to bounce some ideas off, in relation to that. So, that will be the next stage. Hopefully they will come up with ideas. This is going to be a very difficult job because if you have something that is too weak it will be ineffectual, if you have something that is too strong and independent of the Minister it is going to be tripping over the Minister all the time, and we cannot avoid the fact that in Jersey the Minister sits on the top floor of the building, over there in the middle of the Island, rather than 200 miles away in London. People expect the Minister to be doing things and to be involved with policy and so on; so this is quite difficult and is the Minister going to be chairman of the thing or is the Minister going to be entirely separate from it? Is it going to be all the great and the good outside of politics, is it going to be a mixture, what is its functionality going to be? It is very difficult to get it right. But we have yet to start work on it.

Deputy T.M. Pitman:

The timescale? How long before you think that comes to fruition? Realistically.

The Minister for Home Affairs:

What I said in my piece of paper.

Deputy T.M. Pitman:

I do not think you told us.

Chief Officer for Home Affairs:

You will be getting the paper within the next ... well when you come back off holiday.

The Minister for Home Affairs:

Yes. The group should be set up and functioning during the first quarter of this year. I would hope to have come up with some ideas by the second quarter of the year. I would hope that we would be in a position to produce drafting instructions in the third quarter of this year and drafting would start in the fourth quarter, I guess.

Chief Officer for Home Affairs:

We do not have drafting time this year, but the timing is such that it is going to tip into 2011 drafting time, by the sounds of it, anyway.

The Minister for Home Affairs:

Yes. So we come up with the ideas this year and we try to do the draft in time for ...

Assistant Minister for Home Affairs:

So that will be a bid for drafting time.

Chief Officer for Home Affairs:

Yes, for next year.

The Minister for Home Affairs:

Yes. Things have kind of changed for the drafts. At one stage we thought we did not have to have a formal process. But now we are going back into the formal process for prior notification for drafting time again.

Deputy R.G. Le Hérissier:

That spills us over, Mr. Minister, into the next question. As you know we have studiously avoided getting involved in the issue of the rightness or wrongness of decisions in terms of the personalities involved around suspension, but there is an enormous concern both in the States, increasing concern, as to the way the suspension process is working or not working in the States. You have been in the middle of the fire, so to speak; what lessons have you learned thus far from how the suspension process is operated?

The Minister for Home Affairs:

That is a different question to the one I was prepared for, oddly enough. But I think you asked me what lessons had been learned within the police service, so I got the police to write me lots of spiel.

Deputy R.G. Le Hérissier:

No, sorry. What lessons have been learned from suspension issues within the police service? In other words, what has been learned from the suspensions that have occurred within the police service?

The Minister for Home Affairs:

Well, the acting leadership of the police have particular views. I mean they have set out here the principles which they generally follow, but they would like to see the system changed. It is rather adversarial at the moment and they prefer to move towards more of an (a) cats(?) model, which is more of a general employment model rather than adversarial model. That will require, they tell me, changes to legislation and Mr. Warcup, the Acting Chief Officer, has only been here since the summer of 2008. He had a real baptism of fire in terms of the way things panned out and, obviously, he has had experience elsewhere. The Acting Deputy Chief, Mr. Taylor, also has had experience elsewhere as a Deputy Chief, and they would prefer a more conciliatory model, although you still need to have a disciplinary approach in cases. For myself, there will be, and still are, issues in relation to the disciplinary code for the Chief Officer of Police, the document is absolutely appalling. One of my difficulties has been to work out what on earth it means from time to time, and I think there will be a need to be a review of such documentation because, presumably, if that was poor, it will be poor in other cases. There are difficult political issues, not just in relation to police inspections but generally and I put it this way; that I think those involved are in danger of being damned if they do and damned if they do not, in this way, that if things go wrong in an organisation, or if there is dissatisfaction - and I am talking generally - with the performance of a person and you then, sort of, sidle up to the person and say: "Look, things are not going very well here, you know, I am not

happy with your performance. Would you think about leaving early and we will buy you out of your contract” or whatever. If you do that approach, then a cry goes up: “Well, nobody is ever helping out at all. Another person has made mistakes and got away with it and nothing has happened.” If, on the other hand, you go down the approach of saying: “Okay, we are going to go for formal disciplinary proceedings” et cetera, then there has to be an investigation and the matter is complex and the costs of the investigation become substantial, then the cry goes up: “Oh, you should have sidled up to them and tried to buy them out of their contract, why was that not thought of before?”. I can hear Deputy Hill’s voice ringing in my ears, in relation to this sort of approach.

[12:30]

If you eventually come through the whole process and there is not a dismissal, then we get into a quite absurd position... we were discussing this with the acting officers the other day, about the difficulties that can arise, because a person could be properly suspended; there could be proper reasons for suspension and yet, when the whole thing is done, it would not be proper and right for them to be dismissed. There could be nothing wrong with the initial decision and yet it does not lead to dismissal. Now we are getting into an absurd situation, if we are not careful, where if there is a suspension and the suspension for a lengthy period does not lead to a dismissal, people are going to say: “Oh, something has gone wrong. The people who did this, did it wrong”, yet the decision could be right at each stage and if we start to get into a situation where there is political pressure, then you could have the absurd situation where those dealing with the disciplinary would feel under pressure to dismiss, even if it was not justified, just to justify the earlier suspension. That would be nonsensical. If I could give you a parallel position, in my own experience, would be when a magistrate makes a decision as whether to grant bail or not, one of the things that they consider is whether or not a custodial sentence is likely at the end of the day; certainly that was part of my approach. Now, you may consider that the risk of re-offending is so grave that you should remand somebody in custody, even though, ultimately, there is not a custodial sentence. But then when they cry: “Oh, the magistrate made a wrong decision in not granting bail, because he has not ultimately sent them to prison.”

Deputy T.M. Pitman:

You mentioned Deputy Hill. I believe you are not supportive of the Deputy’s proposition, are you?

The Minister for Home Affairs:

No. It is quite complex. This is quite a complex area because there are 2 quite separate issues, I think. There is the issue which I think he is driving at, which is the issue as to whether there was some sort of political motivation for the initial suspension of the Police Chief and a suspicion has been put out that somehow a decision was not made, or the process was not initiated, by the Minister. Now, I do not personally think that is going anywhere. I would tell him to just ask the Minister rather ... tell him what he said happened rather than going down that route. But there is, quite separately, an area as to whether the process of the original suspension was correctly carried out. Now, the Royal Court was very critical in relation to that, and I understand why the Royal Court was critical in relation to that. I conducted a process

that was so entirely different, probably completely over the top, in terms of the level of care and time that I took, but I felt that necessary. I am not saying that that standard was correct. It was probably too high a standard of fairness and so on, compared with what is the normal process. But this is quite a separate issue. So you have Mr. Hill, who is looking for conspiracies, and you have the Chief Minister who is basically saying: "Something may well have gone wrong with the initial process, but we want to look at that as part of checking that the correct process has been followed in relation to it."

Deputy T.M. Pitman:

But, are you supportive of the Chief Minister, because there is the other counter argument that would almost ... because he has been criticised, it is almost like putting Richard Nixon in charge of setting the terms for the Watergate inquiry.

The Minister for Home Affairs:

Well, I think what the House is going to have to decide is whether they want something which is purely looking at the H.R. (Human Rights) procedures or whether they want something which is looking for a wider sort of political interference in the process. That is what this is about.

Deputy R.G. Le Hérisier:

Can I interrupt? There are other issues, Mr. Minister, which, in a sense, have only unravelled in the fullness of time and one of them is the fullness of time. Even if you accept the most benign explanations, people are saying, just in terms of human rights - and you, as a magistrate have experienced this - even though courts seem to deal with never ending remands, there does come a point where an appeal court says, or the law says, you know: "Enough is enough. You really have to deal with this case." There is a feeling that it is a denial of human rights just to keep cases going on for ever and ever and ever, as appears to be the case, not only the sheer expense of it, but keeping people hanging in the sense of uncertainty, where sometimes it appears there were not terribly strong, well formulated, allegations, so people then have to embark on a fishing expedition to quickly, sort of, sharpen up the allegations.

The Minister for Home Affairs:

Are you talking about Mr. Day, are you?

Deputy R.G. Le Hérisier:

Yes, or others. The second issue, which I will add on, which came out in the Verita report and is possibly crucial in some of the police suspensions which do not have the profile of Mr. Power's suspension, is when the Criminal Law procedure is activated. Because once that is activated, as you know, it stops everything else in its tracks, it seems to be a totally open-ended procedure, in terms of how long it goes on. We have absolutely no control, because we cannot be seen to interfere, and it just goes on and on and on and the argument has been made that, in some of these procedures, you should put the Criminal Law aspect at the end of it, unless there are some utterly compelling reasons, rather than at the beginning.

Deputy T.M. Pitman:

Can I just add on to that then? The whole ethos of what is a neutral act, from what Roy is saying, I mean that is of grave concern to many people, is it not?

The Minister for Home Affairs:

Are you asking me the question as to whether a suspension is a neutral act? It is an interesting question, if you are asking me that question. [Laughter] Perhaps I have asked myself that question. It is not completely neutral, no. It is neutral in the sense that it has no effect on the ultimate decision as to whether to dismiss or not dismiss or to discipline or not discipline. But it is not neutral in the sense that, rather like with my bail application test, part of what has to be considered is whether there is an allegation serious enough to warrant a full investigation and as to whether that investigation can happen properly while the person is in office and as to whether there is a serious chance - I may have the wrong words there. Can I have the test in front of me - but I will call it a serious chance for a moment - of dismissal. It may be as high as this; I cannot remember the exact wording. So, of necessity, there is some sort of estimation being made from the start, in relation to suspension proceedings, of what possible outcomes there may be. So, to that extent, it is not entirely neutral, because you have to consider that kind of thing. The fact that there has been a suspension must mean that this is a matter of some seriousness at this interim stage. But, what I am objecting to is the concept that if, subsequently, it turns out it is not as serious as is first thought that, inevitably, the suspender has made a bad decision; that is simply not so. It may have made the correct decision and yet, subsequently, there may not be grounds. It is one of the reasons why it is vitally important that there be a regular review of the process so that as further information arises there can be a review looking back saying: "Is the suspension still warranted?"

Deputy R.G. Le Hérisier:

What about the intervention of the criminal process, Mr. Minister; who makes the decision?

The Minister for Home Affairs:

That is quite interesting.

Deputy R.G. Le Hérisier:

Because there is - although they have not been heavily publicised - a feeling in one or 2 of the cases, that have not received publicity, that it has been heavy-handed to have brought criminal intervention in right from the beginning.

The Minister for Home Affairs:

Well, there is a principle in Jersey Law which is a French maxim, the *criminel tient le civile* or *tient le civile en l'état(?)*, where the criminal holds the civil or stops it from going on. It is not a very good translation, is it? I should probably translate that better. That does create difficulties. Where I think the complication arises is this; you might have a situation in which, whether or not a person had committed a criminal act, they may have committed a serious breach of contract, or whatever, and there are cases in which, arguably, you could go ahead with disciplinary proceedings on that aspect without making any decision, which in some way might be held to bind the criminal. That, I think, is a difficult area. But where you have a case where it is exactly the same factual matter, that forms the basis of both, then I think the Jersey maxim holds and has generally been held as applying not just to civil proceedings but also to disciplinary.

Deputy M. Tadier:

If we can look at this from a different angle, and I do not know if you can answer this at this stage; what lessons would you have learned, or would you think that any reasonable person would have learned, from the suspension of Mr. Power? What were the mistakes made and what are the ones to be avoided?

The Minister for Home Affairs:

My own personal view is the initial suspension was done much too hastily and did not follow up on the procedure. That is my own personal view, but others may have a different view in relation to that and that is one of the reasons why I felt it imperative to conduct a review with a proper procedure and so on, and I have continued to review the suspension every month, roughly. I did so again this morning, before I go away on holiday. So, I think there are lessons to be learned, in relation to that, and I do understand those issues, because ... let us come away from that case, for a moment, because I really do not want to talk about that, but let us think about another scenario. Let us think about a hypothetical scenario in which a public report comes out which heavily criticises the banishment of a particular organisation and then political pressure can come on to the Minister: "Well you must be seen to be in charge here. You must take strong action to show that you are in charge and you are reacting that things have gone wrong" and that is where there can be a temptation to fast-track suspension proceedings or whatever, rather than going through a proper process.

Deputy M. Tadier:

This is still hypothetical?

The Minister for Home Affairs:

This is hypothetical, yes.

Deputy M. Tadier:

Because you could argue, to a reasonable bystander, that you could say that that is effectively what did happen in the case of Haut de la Garenne and Mr. Power. There was strong criticism about the handling of Haut de la Garenne. Rightly or wrongly, it was sensationalised, you could argue, in the media and then there was a lot of pressure on somebody to suspend Mr. Power.

The Minister for Home Affairs:

That is a matter that Mr. Lewis would need to be asked, not myself. But, I can see that arising in other situations and I can see the temptation that there could be and that is where it is very important to have a very robust, clear procedure which says: "Well, hang on. We need to do this." My own personal view is that you could have a situation in which something pretty serious had happened and it would be perfectly justifiable, at fairly short notice, to call in the person and say: "Look, I am very concerned about this. I am now going to suspend you *pro tem*, because of the height of the concern I have about this, but I will conduct a formal suspension hearing in a week's time" or whatever. Now, that, I believe, is perfectly possible. It is not an area of my particular expertise in law, I hasten to add, but I cannot see why you should not do that and then you conduct your proper procedure.

Deputy T.M. Pitman:

Like Deputy Tadier, I am not one to be pushy but, given that statement you made, it was your personal opinion, do you think there is a danger that it almost set a process in place where it was impossible to put the brakes and, really, where we are today was almost bound to happen. With a bit more reflection at the very start, as you seem to indicate, things might have been different.

The Minister for Home Affairs:

No. I am talking about process not substance. But you must remember that I conducted ...

Deputy T.M. Pitman:

I am really trying to get the process as well, because it just seems this whole ... it has just snowballed.

The Minister for Home Affairs:

But you must understand that I conducted a very thorough review, I think probably too thorough review, unnecessarily thorough - I will put it that way; perhaps too thorough was wrong. There was nothing wrong with the decision, ultimately, to suspend and there is nothing with the fact that as far as still suspended, I have continued to monitor that as extra information has come in. I cannot tell you why, because that is all confidential, but it is obvious that I am receiving information. I have now received, in fact, a second report from Wiltshire; I received that yesterday. I have one more to come.

Deputy M. Tadier:

So, in what sense was it too hasty then?

The Minister for Home Affairs:

Because a fair process requires that the person have the ability to think about the accusation against them, think about the grounds of suspension. Can I just describe to you the process I did? That may help you to understand. First of all there was some correspondence with Mr. Power in relation to how I was going to proceed and the order in which I was dealing with things, and there was a general agreement in relation to that. The first day that I met with him and his representative, February last year, I spent the whole day hearing submissions as to what the disciplinary code meant, because it is very badly drafted, deciding what it meant and deciding what the appropriate procedure was and deciding what criteria were correct criteria to apply in relation to the matter; I think I did that also on the first day. Subsequently, there was a second meeting, which was the next month, in which I looked at factual issues and submissions and so on, in order to determine how I was going to apply the criteria.

[12:45]

Now, this was quite a complex matter, deciding what criteria, because we had no precedent in Jersey, in relation to the criteria that should be applied in relation to the suspension of a Chief Officer of Police. They have different criteria in the U.K. I had to consider those, I had to hear submissions, I made decisions. None of this is secret, incidentally; there exists a transcript of the entire thing and of my decisions and everything else, and then I came to the conclusion. Now, that is the process I followed through, a 2-stage process, which was very detailed, whereas process which

occurred with Mr. Power was very short. My own personal view would be that I do not know what view was taken as to what the actual code meant. It took me the best part of half a day to work that out, with all the submissions. A somewhat different approach.

Deputy R.G. Le Hérissier:

Obviously it is a very significant issue but we are going to have to ... well we will just do a wrap up. Just to come back to my question, earlier, Minister. Open-ended suspensions, which seem to go on and on; does the notion which you have in the judiciary of case management apply to the way investigations are carried out, suspensions. Secondly, where there is a borderline case as to whether or not persons suspended should be subject to the criminal process, who makes that decision and who do they make it in consultation with?

The Minister for Home Affairs:

Whether or not there might be a criminal process?

Deputy R.G. Le Hérissier:

Yes.

The Minister for Home Affairs:

That would be dealt with effectively by the police force in exactly the same way as any other criminal background. There would be arrangements made but, of course, what complicates the matter is that the investigation that takes place at that stage is a kind of hybrid investigation. If it is senior police officers, it is going to have to happen with a force from outside the Island and at the stage you start off, you may not know how it is going to end. It could turn into a criminal investigation. It may not do. Now, in the case of the other suspended police officers, it very definitely went down the route of potential criminal charge and that delayed it massively. It took time for the officers to come to conclusions.

Deputy R.G. Le Hérissier:

You mentioned that they wish your senior officers ... it would be useful if, I do not know, anonymised, we could get those views since you did kindly pull them together. You mentioned that they want to follow an A.C.A.S. (Advisory, Conciliation and Arbitration Service) model which is, of course, more a model of conciliation and exploration of the issues.

The Minister for Home Affairs:

Yes, that is right.

Deputy R.G. Le Hérissier:

What are the standard issues in management of courses, say, bullying allegations? Now, they may take on a more sombre tenor in the police service but basically employees often accuse their managers of bullying them and I am sure obviously that occurs in the police as well.

The Minister for Home Affairs:

Yes.

Deputy R.G. Le Hérisssier:

Now, simply because the word “bullying” is used, would that lead to an outside force coming in, possibility of criminal charges, or would you simply say there is bullying in a lot of organisations. Ideally, it should be solved by a senior manager. We should not have to go through all this incredible procedure. Do you think the police culture is up for dealing with it in that way?

The Minister for Home Affairs:

There has got to be a judgment made, has there not, by the local senior officers to whom the complaints are being made as to whether the nature of the allegation is sufficiently serious to warrant a formal investigation by an outside force. But that kind of judgment is also going to have to be made so ...

Deputy R.G. Le Hérisssier:

Often, one person’s bullying is another person’s strong management, for example. In that very contentious grey area, where it is so easy for the allegations to be made, and indeed, for the bullying to occur it has to be said, would you say: “I would expect a proper exploration of the issues first before we put it in a criminal context” so to speak?

The Minister for Home Affairs:

That would be a criminal context if it is a bullying, not if it is a disciplinary context. There would have to be a separate criminal act.

Chief Officer for Home Affairs

It is probably an area you have not dealt with, bullying, but I have dealt with 3.

The Minister for Home Affairs:

I have never actually dealt with this and had to make that decision.

Chief Officer for Home Affairs:

Yes, I have had 3 bullying cases to hear within the civil service. You have to have an investigation first, but you do have to listen carefully to both sides and come to a decision and that is difficult but bear in mind, just like any criminal case, the person can appeal. They always have the right of appeal so if they do not agree with the decision that you have reached there is always somewhere else to go. After the appeal, of course, that is it. But I think in the 3 cases I have heard, one was appealed and my decision was upheld and then proceedings stopped. The person accepted the decision at that point but it was dealt with fairly, I would like to think. Everything was looked into. People had their chance to say and people who are paid to come to difficult decisions do that.

Deputy T.M. Pitman:

Can I ask one final question? It is not about Mr. Power and it will probably be a “Yes” or “No” answer and I apologise if it is a naïve question. As Home Affairs Minister, if our police had been asked to investigate serious allegations, which I suppose would be corruption, against a senior political figure, would you know about this? Would you know about that request to investigate or would you not necessarily know about that?

The Minister for Home Affairs:

I would not necessarily know about it. If I was informed of it, it would be purely for information because I have no role in relation to that. It is pretty rare for me to be informed about something that is happening of that nature. I might be at some stage if there were political sensitivities but surely I would be saying: "Well, Minister, we think you ought to know that we are currently investigating this or that or the other" because there may be fallout from that. If it is suddenly seized upon by the press and you are asked questions about it, you need to know something is happening. It is purely for information. I would never have a role in deciding whether it should happen or not.

Deputy T.M. Pitman:

But you would expect to know for information?

The Minister for Home Affairs:

No, not necessarily. It is a Dutch judgment call for the police as do they think that they need to inform me of something or not. I sometimes pick up information from other sources.

Deputy R.G. Le Hérisier:

Okay, we will move to Deputy Tadier and knife crime.

Deputy M. Tadier:

Yes, could you give us an update on the work which Parliament is taking regarding knife crime?

The Minister for Home Affairs:

Yes, I can. I had already been doing quite a lot of thinking about this myself and was trying to see whether there was a way of taking forward the equipment provisions, and one that the States had rejected, but in a different form. I have to say I am running into difficulties in every direction that I am thinking about. The basic problem was that the States were not happy with a law in relation to bladed instruments which put the burden of proof on to the defence as to there being a justification in relation to that. So I have explored issues like the same law but with the burden of proof on everything being on the police beyond reasonable doubt, but in practice that is virtually worthless in terms of improving the situation. I have explored the possibility of confining it to night time but, in reality, I am not at this point in time convinced that there is a particular problem at night time. Most of the incidents that we might get are not happening at night time, in the night time economy. Now, I have asked the police to produce for the next 3 months specific statistics for me as to how many occasions they come across somebody carrying a knife at night time in St. Helier which they would have charged if the equipment for the U.K. law had existed. I am going to wait now to see what they say because it makes no sense to go ahead with a provision for night time if night time is not the problem. I do not think it is the problem and there is a very simple reason for this. If you are going to go out to a night-club or a pub at night time, you are going to be pretty stupid to be carrying a knife or something in your pocket (a) because it may be found and (b) because if you start dancing, you might stab yourself. The instances of break-dancers who stab themselves with knives is very low, but I think that is what would happen.

Deputy M. Tadier:

But are you still maintaining that the law itself is necessary? If there is not a problem at night time, is there a problem in the day time?

The Minister for Home Affairs:

The current police acting leadership's view is no, that it is not necessary because they can deal with it in other ways. They have powers of search. If they thought there were gangs or whatever, they have powers to search people in a particular area, not that they would use that aggressively, and they have powers to confiscate knives if they find them on people. At the moment, they are simply not saying to me: "We have a problem that requires an answer." My interest in this came out in the federal cases I came across as magistrate where it was very difficult to prove the intent to harm unless people made admissions. Obviously, if somebody goes into town with a carving knife stuck in their waistband, they have quite a lot of explaining to do, even within the existing law. It is more so the cases where they might have something in their pocket hidden away.

Deputy T.M. Pitman:

It sounds as if you are not going to progress that. There is law drafting time, is there not, set aside for this issue. Will that be used for one of your other priorities?

The Minister for Home Affairs:

Yes, I have given it a lot of thought, as we have been saying, and have analysed it. If the police come back to me and say: "We are surprised; there are actually quite a lot of cases", then I might go ahead with something which targeted night time. There will be anomalies of fishermen going to work early and so on and so forth although obviously they are dressed as fishermen. It is pretty obvious that is what they are doing. I may not go ahead with something but I have given it some thought. If there was a change, obviously, if we suddenly had a splurge of night crime ...

Deputy T.M. Pitman:

Obviously, we discussed it a few times and I had to put my proposition on hold. How do you react, then, to the story the other day that doormen or security must have stab vests? Do you think that paints an unfair realistic picture or ...

The Minister for Home Affairs:

I was very surprised by that. I cannot recall in my entire career an instance of a policeman ... there may have been one but I just cannot recall it. I think that is entirely a matter for employers but I would imagine that if I was running a night-club or a pub, I would not be too delighted at the prospect of potential clientele being met by people with stab vests.

Deputy M. Tadier:

It is almost like putting demand before the supply sort of thing. If we want to start this now, we need some knives to be gift-wrapped.

The Minister for Home Affairs:

I was surprised the *J.E.P. (Jersey Evening Post)* are running a series of articles. Unfortunately for them, they are running them at a time after a very unfortunate blip

last year around about August. We are seeing a considerable drop in violent crimes. That is very unfortunate for them but there we go.

Deputy M. Tadier:

You are not saying that the *J.E.P.* have got it wrong?

The Minister for Home Affairs:

I hope that the current articles being run by the *J.E.P.* will lead greater pressure to review the licensing laws and to look at the whole culture and the poor politicians involved with making decisions as to what sort of nightlife culture we want. I am not happy with the current heavy drinking culture. I want to see it gradually change. I want to see the night-club and others find other means of earning money other than selling alcohol.

Deputy M. Tadier:

You are not saying the *J.E.P.* article with a big photo of a potential candidate for [Laughter] ... is a cynical self-promotional act? You are not saying that?

Deputy R.G. Le Hérisier:

No, just like people touted for bank holidays.

The Minister for Home Affairs:

I am not saying that. I agree with you that I am not saying that.

Deputy R.G. Le Hérisier:

Okay, if we can move straight on to equally serious issues. Mr. Minister, I think you have signed up to what has been tagged a £50 million variation cost saving and yet, Sir, your department, I think it is your department, will be subject to the comprehensive spending review which will either justify, if indeed, wax eloquent about the more resources that are needed. So if this goes ahead, you are in the middle of a real set of counter pressures. Where will you make the inevitable cutbacks?

[13.00]

The Minister for Home Affairs:

That I cannot tell you because I am committed to defending our current service levels in general terms. Home Affairs is not in a position, in my view, to make massive cutbacks without us cutting back staff. There are some areas that we can look at. For instance, when you see the document I signed off today in terms of the fire service policy, you will see that we firmly believe that it is absolutely and completely ludicrous that we are providing a free service to developers and builders of property in terms of fire safety plans and things of that nature. I do not know how we ever got into that situation but we have and I am firmly of the opinion that if we are going to carry on doing that kind of work that the developers must pay for it. So there we have a user pays recovery which we most certainly should be going down the route of. Planning have large fees and we have zilch in relation to that so there is that sort of area. Our problem is that most of our costs are in manpower and the percentages are pretty high and the fire services take 90 per cent of manpower. Nevertheless, there is no doubt that the exercise of looking at different areas to try and find ways in which we can do at the same levels of service more efficiently will always be a worthwhile

area. What I do want to make plain to you, and I have made plain to my colleagues, is that we are not accepting a repetition of what happened last year in terms of everybody having the same percentage reductions across the board. Home Affairs says “No” to that approach and that is clear. In the long term, if there are going to be substantial savings in Home Affairs, they would come out of the review of pay and terms but that will take some years to achieve.

Deputy R.G. Le Hérisier:

You have been asked in the States about this but are you happy, for example, that - to use this horrible jargon word - “civilianisation” of the police force has been pushed as far as it can?

The Minister for Home Affairs:

We need to push that as far as we can but there will always be limits on that because one of the limits is the fact that in virtually small forces and the supplies in all organisations while the people are multi task. So you can have a situation where a person may be performing sometimes a civilian role but we need them at times to transfer them on to a frontline role and that is a limit on civilianisation. But we have to do that as far as we can, bearing in mind the overall needs. We have the same issue in the fire service where we have got people who may be involved doing safety work most of the time but we sometimes need them to go and be frontline fire-fighters or to manage fires.

Deputy R.G. Le Hérisier:

What about this notion very long held where at the age of 50 you apparently become no longer fit to be a police officer and you lose some very highly experienced people?

The Minister for Home Affairs:

Yes, we are in a real bind on this one because Deputy Pitman was at the presentation yesterday and will have seen that 25 per cent of our police officers have less than 5 years’ experience. So there are issues in relation to keeping experienced people and we have particular issues in certain areas where they are liable to be poached by the private sector or whatever. There is always going to be these sorts of difficulties. On the other hand, if people are going to be available for frontline stuff sometimes, they have got to be capable of doing the frontline stuff. They have got to be sufficiently fit to do so. Also, on the other hand, experienced officers cost us more than new officers. We are being hit, as you know, by the effect of increments at the moment quite seriously. So we are in a kind of bind because if we had all experienced officers, we could not afford to pay for them with the same numbers.

Deputy T.M. Pitman:

Taking on from that point, it certainly is equally worrying to me sitting in that presentation to hear that it is true that there is often times when there is absolutely no police on the beat at all. I was very shocked to hear that.

The Minister for Home Affairs:

Well, that is right. We run a 5 shift system and so you have got a certain number of officers ... I am talking about the central core officers who would be available to do that rather than the specialists who are doing specialist areas. So we run a 5 shift system. At any given time, you have got a certain number of officers on the shift.

Some of them are committed to things like the duty sergeants or manning the cells, et cetera, and cannot go out. What was being said yesterday by Mr. Warcup was that on a day after a busy evening, you have got officers trying to clear up the backlog of stuff and deal with the people who are in custody to get them out of custody as soon as possible. So we have a mass of officers dealing with paperwork clearing up from the night before and therefore the number of people available seem to be less.

Assistant Minister for Home Affairs:

I think he was referring to day time, was he not, he was not referring to night time, I know that.

The Minister for Home Affairs:

Yes, he was referring to, shall we say, Saturday. It would probably be a Saturday morning and a Sunday morning.

Deputy R.G. Le Hérisier:

Okay, thank you. This is a very big topic and obviously, in a way, we are all waiting for the results. That is when the proverbial will hit the fan obviously.

The Minister for Home Affairs:

If we get criminals to sort of space out their crimes and drunks to space out their getting drunk, then we would have a nice even flow of work.

Deputy R.G. Le Hérisier:

What you might call staggered working. **[Laughter]** Can we move then to Deputy Pitman?

Deputy T.M. Pitman:

In line with the Strategic Plan, what work is your department undertaking with Education, Sport and Culture in terms of preventative interventions to address antisocial behaviour in young people?

The Minister for Home Affairs:

We have got a number of projects, of course, which we will bring in through the Building a Safer Society in this area, including the Youth Inquiry Service which is known as the Y.E.S. project. You probably know a great deal more about it than I do. The Move on Youth Street-based Youth Work project, the Positive Futures Community Development project, which is football and other sports. The person is attached to Education but it is still a B.a.S.S. (Build a Safer Society) programme. We have got the work being done by the Safer St. Helier Partnership. There are also some other minor things, the Fire Services work with the Princes Trust and Key Service and Y.A.T. (Youth Action Team) and so on, and we have Prison? Me! No Way! Now, obviously, in addition to that, because I have got joint 3-way working and I have to be involved with the other 2 Ministers to do with the Children's Plan and work of that nature. Those are the B.a.S.S. headline projects. Some of those like Prison? Me! No Way! are doing more, the police service, prisoners and so on, are joint projects.

Deputy T.M. Pitman:

Do you see your involvement on the new St. Helier group as well having a spillover, an impact to youth?

The Minister for Home Affairs:

Yes, I think so because sadly, there are always worse difficulties in terms of antisocial behaviour of youngsters throughout the St. Helier area. They sometimes get into trouble in St. Brelade. The Honoraries actually do quite a lot of active policing, but it is mainly St. Helier and St. Saviour.

Deputy T.M. Pitman:

All the projects you have talked of tend to operate within certain hours and from my own experience in a former life in the U.K., there would be some of that work going on right up to, say, 2.00 a.m. Do you think that would have some possibilities in Jersey? There may be some potential for achieving something. You know young people do not all go home at 11.00 p.m., as we know.

The Minister for Home Affairs:

I would not want young people to be out at 2.00 a.m., would I?

Assistant Minister for Home Affairs:

I think the outreach workers are working out to the early hours of the morning, the St. Helier outreach workers, yes, I am sure about that.

Deputy T.M. Pitman:

That would be good, yes, but I would be surprised if they ...

Assistant Minister for Home Affairs:

Well, that was my understanding through my work at St. Helier Youth Committee. We had a meeting up at Le Mont just recently to have a look round there and just talk through the projects and all the rest of it and it was certainly my understanding that there was work going on in the early hours of the morning. That was my understanding. Unless I misunderstood that because it was a question I brought up about Friday and Saturday nights.

The Minister for Home Affairs:

The notes say the young people they see are often out on the streets very late, often in the presence of many drunken adults and the only responsible adults anywhere near are the S.B.Y.W. (Street-based Youth Workers) and the police. There are some nights now being manned by the street pastors, so that does indicate they are.

Assistant Minister for Home Affairs:

I have got to say in the 7 years that I have been in the States there is a lot more investment in our youth in the past couple of years, a hell of a lot. Certainly, in St. Helier, we have got projects or are involved in projects at First Tower, La Pouquelaye Youth and Community Centre which has temporarily moved down to I think it is Janvrin School, one of the schools, because of the work going on. Move On Café, okay, it has been shut for a couple of years but we will have that there. There is the provision at D'Hautrée Gardens. I know there has been a little bit of a problem there in that I do not think they have been receiving the support that they needed. But the Youth Services apparently have taken on somebody to specifically support all the youth projects in St. Helier recently so there is a hell of a lot going on and Le Mont is going great guns from what I have been told.

Deputy T.M. Pitman:

Could you pass that information on about what you said in the early hours? If you could organise that. I would be interested in that.

Assistant Minister for Home Affairs:

Yes, I will do that. One of the senior youth workers comes to our meetings every time so I will clarify that but that was certainly my understanding because my own view was that, through the Parish because the Parish do fund a lot of these projects, if the outreach workers were not out on a Friday and Saturday night in the early hours, then really I would question the ...

Chief Officer for Home Affairs

I have got some leaflets that summarise the projects which I will leave with officers.

Deputy R.G. Le Hérisier:

Okay, thank you.

Deputy M. Tadier:

Mr. Minister, very quickly, would you ever consider extending this kind of system in the various operations that you have for young people to older people who may have exactly the same problems, who may have behavioural problems so that they can have centres that they can drop into with similar provisions?

Assistant Minister for Home Affairs:

Are you talking mainly about people possibly with drink and drug problems?

Deputy M. Tadier:

Yes, possibly, but just general behavioural problems and there are people who may be on the margins of society for whatever reason. There are things that exist but it is not encouraged in the same way as it is for young people and these are not just issues that are related to young people exclusively.

Assistant Minister for Home Affairs:

That is an interesting point that you make because there has been a lot of talk recently about how to deal with the alcoholics who currently gather on Parade Park and that is a huge issue. Certainly, my understanding is that once the law was changed so that they were moved on from the car parks, they then moved to Parade Park. So we got the situation where they seemed to be moving around and I sometimes wonder if maybe we are not putting enough resources into certain areas.

The Minister for Home Affairs:

That is a daytime issue though, is it not, because they would normally be in the shelter.

Assistant Minister for Home Affairs:

It is, yes. It is not a night time issue so much.

Deputy M. Tadier:

So if we take the example of alcoholics, I think a lot of the time it can be just to do with an environment. So they will drink because there are certain triggers and things like that. While we always hear that there is nothing for young people to do which is, of course ... there are lots of things for them to do, it may be that there is not enough things for adults to do apart from pubs.

The Minister for Home Affairs:

Yes, Grace Trust, of course, do quite a lot of work with them because that is a Christian organisation which is funded from the States funds. It is part of our B.a.S.S. stuff. I think it is an immensely difficult problem.

Deputy M. Tadier:

I think the difficulty is you can go from a stage where you are 17 one day and you become a certain age and then all those provisions are no longer there and this can be a very abrupt awakening.

The Minister for Home Affairs:

A common criticism in other areas is mental health, disability.

Deputy R.G. Le Hérisier:

Can you move on to 7? This is about the very issue you are talking about, question 7.

Deputy M. Tadier:

It is to do with the student plan. What is your department doing to implement policies that will bring about attitudinal change and deliver permanent and sustainable reductions in alcohol use?

The Minister for Home Affairs:

Yes this is your question. You have asked me how I am going to bring about attitudinal change and so on and I say with great difficulty because changing cultural attitudes towards the use of alcohol, particularly what I call binge drinking subculture, is really quite a difficult thing.

[13:15]

Deputy M. Tadier:

Is there a real appetite in government for us to change it or are we quite happy for people to drink?

The Minister for Home Affairs:

There is in Home Affairs. Here are the answers I have got, okay, so you will see that there is stuff. I mean obviously there is the work we specifically do with E.D.D. (Economic Development Department) to implement a plan to address the night time economy. Now, there are going to be political divides on this because some people are going to see the priority with law and order and health as I do. Other people are going to be very supportive of the night time economy, and call me a killjoy and all sorts of other interesting names, but the extent of the problems that we now have in terms of health alone, clogging up Accident and Emergency, et cetera, on key nights, is now completely unacceptable. My own view is well known. I believe that politicians must start creating policies to what sort of nightlife we want. What we

have at the moment is politicians have made laws and then somehow thought miraculously that the nightlife would go in a direction we want it but, of course, it does not. What you do is you decide what you want first and then you tailor your laws to that, and that is where historically there has been a failure. This is going to be a difficult area. I start talking about these areas and people say: "Oh, yes, we have got to do something about it." Then I start talking about perhaps higher drink prices per unit consumption and suddenly a whole number of other issues are in play.

Deputy M. Tadier:

Can we pursue the idea of the higher drinks prices? There has been a suggestion from at least one Member that there should be a minimum price per unit of alcohol.

The Minister for Home Affairs:

Yes, that is my view.

Deputy M. Tadier:

Would your department be involved in bringing that forward?

The Minister for Home Affairs:

Well, it is an E.D.D. law and we have got to work together. The B.a.S.S. people, again, were very heavily involved in the drafting of the consultancy document in relation to this and we have got to see what comes out of that. I know that one of my colleagues is about to do some research.

Assistant Minister for Home Affairs:

Yes, I was going to look into the prices of alcohol in supermarkets. I was at the Licensing Assembly last week and there was an application to sell alcohol from a newly opened garage and the question I raised at the Parish Assembly was should we be agreeing that garages are the right sort of establishment to be selling alcohol anyway? So that came out of the Licensing Assembly last week. I was approached by somebody in management of the supermarket saying: "If you went and had a look at the prices of alcohol being sold in the supermarkets you will find that it is very, very cheap. Do not blame the night-clubs", which I was not doing, because if there is going to be drinking, I would prefer to see drinking in a controlled environment rather than people buying 4 large cans for a fiver or £4 or something and drinking at home which is what is happening. So I was going to do that.

The Minister for Home Affairs:

There are issues of price as a mechanism to try to reduce consumption. There are issues of availability. We have huge numbers of off-licences, some of them in small shops, much larger numbers of off-licences per capita, particularly St. Helier. There are issues as to where alcohol should be available. Should there be a time in the evening beyond which you cannot go to an off-licence but the shops can carry on but the off-licence aspect no longer? These are the sorts of hard decisions that will have to be made if we are going to create the framework. Now, I know I have got a political will to do something about this but whether I can ultimately carry a majority of the House with me, I simply do not know.

Deputy M. Tadier:

Are these ultimately things that all need to be brought by a Back-Bencher, because simply I do not think there will be time for your department, probably not for the Health Department or E.D.D., to do this?

Assistant Minister for Home Affairs:

That is all part of the licensing ...

The Minister for Home Affairs:

If there is going to be a licensing law ultimately then this will put forward a definite surge of reply. I have said over and over again I think we have a once in a generation opportunity to start the review.

Deputy M. Tadier:

What is the time scale for that review?

The Minister for Home Affairs:

There is no law drafting time this year.

Chief Officer for Home Affairs

Well, it is an E.D.D. law so I am not aware of the time that they ... all the drafting days they have got.

The Minister for Home Affairs:

I think it is all part of creating the structure. What I want to do is try and create a situation in which economic forces, as it were, force the trade into diversification so they are no longer dependent upon the sale of alcohol for their profit. We are very unhappy with what has happened here in the night-clubs where we moved from a situation where they sold tickets for people to go in and also they sold drinks. Now they do not sell tickets for people to go in. They just sell drinks so their entire trade is dependent upon that. I questioned whether that is not contrary to the licensing law because with entertainment licences, the sale of alcohol has to be ancillary to the main purpose, well economically. It is not. Economically it is made up with ...

Deputy M. Tadier:

Is there a contradiction then and will it become difficult because alcohol is a State-endorsed drug? Other drugs like cannabis or Ecstasy are not State-endorsed so obviously there is an inherent conflict, one could argue, in governments trying to regulate alcohol which is being sold when they are making money from it.

The Minister for Home Affairs:

Government has taken the view historically that it is going to do alcohol in a particular way and I think there are reasonable reasons for this because small quantities of alcohol are not harmful. They have some beneficial effects, particularly in relation to things like red wine and so on. That is the difficulty whereas cannabis is a psychotic drug. It is always psychotic.

Deputy M. Tadier:

I would say that it is prescribed. We are not here to debate the rights and wrongs of cannabis or alcohol but I think it has been proven that alcohol is more harmful than cannabis.

The Minister for Home Affairs:

The effects of alcohol, because of widespread use of it, are greater, yes, but if you are comparing like with like, you do not know what quantity of cannabis is equivalent. Cannabis is a psychotic drug. It is a mind-altering drug. It sometimes triggers long-term psychiatric illness, particularly the scuff, the more modern version of it.

Assistant Minister for Home Affairs:

I thought the evidence was that what is being used now is completely different to the substance that was used 30 years ago. It is far more powerful than ... and produces ...

The Minister for Home Affairs:

It is much stronger. It is skunk, I think.

Deputy M. Tadier:

Well, we know the government scientists in the U.K. listed alcohol as one of the top 5 drugs in terms of harm and that was after, I think, things like methadone but cannabis was far down the list. So was Ecstasy and that was taken on the global perspective.

The Minister for Home Affairs:

Yes, Ecstasy is dropping because of being a Class A drug. There is not much Ecstasy around these days. There is lots of stuff that purports to be Ecstasy with the same logos but ...

Deputy R.G. Le Hérissier:

I am going to have put a line under this although it is a very ... Montfort always leads us into these philosophical ... which are fascinating but sadly ...

The Minister for Home Affairs:

Can I come back to this stuff because I got side-tracked as well? We have got all sorts of stuff here.

Assistant Minister for Home Affairs:

Can I just offer my apologies? I have got a dental appointment with my daughter at 2.00 p.m. so I am really going to have to make a move.

Deputy R.G. Le Hérissier:

What I was wondering, Mr. Minister, rather than rush you, and because we also have ... which although it is a minor point, as you have so diplomatically told us, the Jurat's report does require a bit of a discussion. We do seem to be slightly at loggerheads on that one so ...

The Minister for Home Affairs:

Well, please wait until I get legal advice because ...

Deputy R.G. Le Hérissier:

Yes, but what I was going to suggest was if we could have a short meeting on a lunchtime next week. Would that be possible?

The Minister for Home Affairs:

No, I am on holiday now.

Assistant Minister for Home Affairs:

No, the Minister is away.

Deputy R.G. Le Hérissier:

You are away?

The Minister for Home Affairs:

Yes, I am going very shortly. Despite the best efforts by cruise liner to cause me not to be able to get back to Jersey for the next States sitting, I am due on the 7.30 p.m. from Gatwick.

Deputy R.G. Le Hérissier:

Well, during the next States week, could we maybe have a meeting during the lunch time? Could we wait that long, Montfort?

Deputy M. Tadier:

To be fair I need to draft an official response anyway.

Deputy R.G. Le Hérissier:

On the Jurat's report?

Deputy M. Tadier:

On the Jurat's report.

The Minister for Home Affairs:

Can I give the answer to these questions?

Deputy R.G. Le Hérissier:

Okay, we will complete that and then we will ...

The Minister for Home Affairs:

Detailed handbooks. That is really a matter for the existing people to draft and, of course, would become much more important if you did not have all the Jurats, because the Jurats self-train each other. Signing out visits: the answer is that such visits have always taken place informally. I do not think they have taken place as often as they would do under a revised system. "B.O.V. (Board of Visitors) boxes [whatever those are] are now in place on completion of moving the V.P.U. (Vulnerable Prisoner Unit) population to J wing", so that is pretty well happening. "According to prison query, that already takes place. Meeting with the Minister, that already takes place on a quarterly basis. Role of the B.O.V. would only be required ..." That is on advice. My position is this, I need to get the advice first because if the legal advice were correct, as suggested in the report, then the scope for direction would not be there at all.

Deputy R.G. Le Hérissier:

Well, in a way, while they are only fashion and Deputy Montfort can explain it, there is a fashion that J.P.s (Justice of the Peace) were involved in U.K. boards. It was a way of trying to be pragmatic. We have gone into it.

Deputy M. Tadier:

With the Jurats?

Deputy R.G. Le Hérissier:

Yes.

Deputy M. Tadier:

Yes, the make up. I think there has been a basic misunderstanding in the sense that we were never suggesting that Jurats must be on a revised body. It was more permissive rather than prescriptive. What we are saying is that the Board of Visitors should be opened up to lay people and, in their capacity as members of society, Jurats should not necessarily be precluded from serving on the Board of Visitors or the revised body that would be taking over from that. I think that is the position. We were never suggesting that we would necessarily need a hybrid body which Jurats have to make up a certain percentage of.

The Minister for Home Affairs:

Yes, I know. The difficulty is to know whether Jurats should be there at all.

Deputy M. Tadier:

Well, that is another decision to be made.

The Minister for Home Affairs:

It is difficult for me to formulate a view.

Deputy M. Tadier:

The point is I quite understand you need to take legal advice on whether Jurats should be allowed on any kind of Board of Visitors at all.

The Minister for Home Affairs:

At all, because the report said that your expert had said they should not be.

Deputy M. Tadier:

I think my only concern is the fact that you said I have to liaise with the Jurats whereas I do not think you do necessarily have to liaise with them apart from a matter of politeness because any new Board of Visitors panel would be constituted of lots of different people from society.

The Minister for Home Affairs:

Yes, the difficulty is that for certain purposes there are advantages in Jurats having the functionality. There is certainly a reason which lawyers, for instance, have not turned up when they should have done to see their clients. They are going to listen to a Jurat whereas they may not take seriously a lay person. In relation to other functions, I can understand why sometimes it might be better to have a younger person, for instance, or a different age group or a non-official person.

Deputy T.M. Pitman:

The fact that a lawyer might not listen to an ordinary member of the public and Jurats, that is just a failing of the system. That should not be dependent on him being a Jurat.

Deputy M. Tadier:

I think we have suggested in the report that over a period of time respectively built up for the position itself irrespective of whether one is a Jurat or not.

Deputy T.M. Pitman:

You would hope if you were there, for instance, as a retired magistrate or whatever, people would listen because you are a respected member of society.

The Minister for Home Affairs:

Yes. It is difficult. Say you disagree with me but because of the advice, I need to know what the position is.

Deputy R.G. Le Hérissier:

Okay, well, let us wait for that advice and then further debate can take place. Sorry that we had, at your very kind insistence, the debate. I am going to put a line under this now. I mean the first part of the debate. I will put a line under this now. I would like to thank you, Mr. Minister, Madam Assistant Minister, Mr. Chief Officer, and all those who sail with you after 7.30 p.m. tonight. I would like to thank you very much for coming. Thank you for your answers and we look forward with great interest to your great list of priorities coming to fruition.

[13:29]