

STATES OF JERSEY



THE RÔLE OF THE CENTENIER IN THE MAGISTRATE'S COURT (S.R.18/2007): RESPONSE OF THE MINISTER FOR HOME AFFAIRS

Presented to the States on 19th November 2007
by the Minister for Home Affairs

STATES GREFFE

COMMENTS

Introduction

This review has made a useful contribution to the overall understanding of the role of the Centenier in the Magistrate's Court and my overall impression is that it has passed inspection.

Findings

Section 8.11: On the understanding that it will promote a synergy between the executive, the judiciary and the prosecution on criminal justice matters, the Panel welcomes the establishment of an informal forum on criminal justice matters.

Response:

I am pleased to have the Scrutiny Panel's support for the manner in which this important consultation forum has been established.

Section 8.16: During the initial consideration of whether to progress Rutherford Recommendation 4, there was inadequate examination of Human Rights implications.

Response:

The Panel makes this observation with some foundation. However, the draft policy has had regular review from a Human Rights perspective throughout its genesis and I am satisfied that recent examination as a result of the scrutiny process has shown there to be no compelling reason why the Island should establish a Public Prosecution Service.

Section 9.7.9: It is not for the Panel to reach a conclusion as to whether or not Centeniers presenting cases in the Magistrate's Court is Human Rights compliant; this may only be conclusively decided upon within a court of law.

Response:

The Attorney General has already given detailed consideration to the matter of whether Centeniers presenting cases in the Magistrate's Court is Human Rights compliant. I have discussed this with him and he will be responding separately. The prosecution role played by the Centenier is deemed to be compliant. The role played by Centenier in some trials has received criticism, but the case that this role is also compliant is defensible.

Section 11.1.14: It is not for the Panel to reach a conclusion as to whether or not the dual role sometimes played by the Magistrate is Human Rights compliant; this may only conclusively be decided within a court of law.

Response:

I have discussed this finding with the Attorney General and he will reply in more detail. Although the dual role sometimes played by the Magistrate in trials involving Centeniers is defensible, the Legal Advisers will now conduct the prosecution in all cases where there is a not guilty plea. Consequently, the Magistrate will no longer have a dual role in trials.

Section 11.2.6: There is a risk of confusion regarding the lines of authority and responsibility for Jersey's criminal justice system.

Response:

The Attorney General will reply setting out his responsibilities for the prosecution process with which I agree. I am quite clear that, as Minister, I do not have a part to play in the judicial process exercised by the Court. However, since the inception of Ministerial government, I have a responsibility for any criminal justice matter

which has policy implications with the exception of sentencing policy which is the preserve of the Court. The forum will give further thought to lines of authority and responsibility in due course.

Recommendations

Section 9.7.10: Detailed consideration should be given by the Attorney General and the Minister for Home Affairs to whether the current system, whereby Centeniers present cases in the Magistrate's Court, meets the requirements of the European Convention on Human Rights.

Accepted.

Section 11.1.15: When considering whether the current system meets the requirements of the European Convention on Human Rights, particular attention should be paid by the Court Service and the Attorney General to the dual role sometimes played by the Magistrate.

Accepted.

Section 11.2 7: The proposed informal forum to be established as part of the Criminal Justice Policy should ensure that the lines of authority and responsibility for Jersey's criminal justice system are clearly set out.

Accepted.

Conclusion

I accept the Report's conclusion. I am particularly pleased that the Panel took as its first guiding principle the need to maintain public confidence in the Honorary Police. Human Rights compliance did emerge as an issue, and I agree with the course that this review eventually took that this matter should be flagged up for further consideration.