



Education and Home Affairs Scrutiny Panel



Issues surrounding the review of financial management of Operation Rectangle

Presented to the States on 9th November 2011

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CHAIRMAN'S FOREWORD

It is unfortunate that I find myself feeling no option but to use this foreword to outline some of the concerns the sub-panel has experienced in carrying out our review rather than discussing the findings themselves in depth. Fortunately, however, I believe the following report speaks for itself: its findings being based as all Scrutiny must be on hard, evidenced facts.

To say that the process of undertaking this Scrutiny review has been an eye-opening experience would, I believe, be a huge understatement. I feel that I also speak for my colleagues when I state that it has also raised concerns that have been deeply troubling to us with regard to how some involved with the implementation of the original review and the underlying subject matter appear to view any attempts to question – let alone criticise – any actions taken or conclusions reached.

This defensive and at times obstructive attitude became evident right from the start of our review. I further believe that this cannot bode well for the future of Scrutiny itself if left unchallenged. It can also undoubtedly only give further fuel to those who – rightly or wrongly - view the continuing blanket criticism of those originally charged with overseeing the whole Historic Abuse Inquiry as highly questionable.

It is often voiced in politics that not only must natural justice be done but that it must be *seen* to be done. In accordance with this it must also surely be expected that Scrutiny will at times be both uncomfortable and challenging for those under the spotlight. Yet it has appeared to the sub-panel that the attitude from within BDO Alto Limited has been that the very undertaking of the Scrutiny review has in itself been seen as an attack on the very integrity of the company.

That Members be left in no doubt it must be reiterated here that nothing could be further from the truth. The decision to review arose from concerns first raised by a member of the public active within the 'Citizen's Media' fraternity. Furthermore, whilst our decision to undertake the review has been fully vindicated by the findings outlined not all of the initial concerns have been borne out upon investigation.

Indeed, some of the evidence that has unfolded before the sub-panel has, in some instances, undoubtedly also resulted in more additional questions being raised rather than providing clear cut answers.

Certain evidence, given the review's comparatively limited Terms of Reference, we can only recommend most strongly be examined by a future investigation. The sub-panel has striven at all times to remain within the framework of our Terms of Reference. However, given the highly complex nature of the Historic Abuse Inquiry we also recognised right from the start that there would be times when we would have to be prepared to acknowledge wider matters.

In making this point clear for Members I would give as an example allegations made by both senior police officers, and, indeed, ex-Senator Syvret regarding assertions of inappropriate political interference within the investigation itself and relating to the removal of the former Senator from his position as Health Minister.

Clearly this was beyond the scope of the sub-panel's review. I nevertheless feel that given the serious nature of these allegations they certainly should be examined by the forthcoming Independent Committee of Inquiry into the Historic Abuse saga.

Readers of this Scrutiny report will further see that in circumstances of quite staggeringly different explanations from witnesses under questioning the sub-panel cannot hope to ascertain – beyond doubt – who is telling the truth on occasion when no paperwork exists to back this up. We do not see this as a failing. It is a simple statement of fact.

As well as accepting that there would be occasions when we would have to stray slightly beyond our framework in order to try and ascertain the bigger, underlying picture that had informed the issues being examined by BDO Alto; so we also came to conclude that we would consequently need to include some observations on how the subject matter had been reported in the local media.

It is obviously very important to make clear here that BDO Alto Limited can in no way be held responsible for the imbalanced way that Jersey's media and, indeed, the Home Affairs Minister subsequently chose to publicise the review's findings to portray a consistently negative picture. BDO Alto Limited can also hardly be blamed for the original setting of Terms of Reference that were far too narrow.

From the very onset of the review the attitude of the Home Affairs Minister, Senator Ian Le Marquand, has in my view been deeply troubling in his attempts to undermine the credibility of both myself and other members of the sub-panel: even to the point of seeking my and others removal. In reality I believe simply because we had expressed differing views to his on the issue of the suspension process relating to the former Chief of Police. I strongly contend that such attempts to interfere and manipulate the Scrutiny process by members of the Executive simply cannot be acceptable if Scrutiny is to be the strong an independent check and balance that was intended back in 2005.

Neither I would suggest as being acceptable was the attitude displayed by one Member of the Chairmen's Committee in suggesting that Scrutiny should not be undertaking the review: effectively because the original concerns were raised not by an expert but by (and I quote) 'a pipe fitter'.

Indeed, when one considers this can there really be any surprise that so many in the community are deeply suspicious of possible ulterior motives in how the whole Historic Abuse saga has been portrayed by some senior political figures; let alone our media? That all of the above has been largely echoed by BDO Alto Limited themselves can only further add to this perception.

I also feel that I must comment upon the company's unprecedented attempt (as far as I am aware) to bill Scrutiny for its participation in the review to the sum of approximately £14000 (discounted from £26000!). That included in this huge sum was a charge for attending a meeting set up by Scrutiny as a courtesy to the company to try and talk through and alleviate their initial concerns about the review only further compounds this feeling of disbelief.

Scrutiny and its Select Committee counterparts the world over, to the best of our knowledge, do not pay witnesses for giving evidence that in reality any individual or company could ultimately be subpoenaed to give. Nor should they do so for bills of such staggering quantity would spell the death knell of Scrutiny being more than the entire cost of a number of reviews. Indeed, the issuing and threat of such bills could, I believe, interpreted as an attempt to intimidate and curtail an investigation.

As I have indicated the sub-panel is of the view that the findings of the report fully justify its undertaking. That it is of such detail and substance demands that I also give full recognition to all involved. Not just my colleagues Deputies Le Herissier, Wimberley and Tadier; but also to our Scrutiny Officer, Mr. Mike Haden who has worked so diligently on this for many months. Without him it is no exaggeration to report that we would likely still be ploughing through the wealth of material today!

As I and the sub-panel have been at lengths to stress: we bear no allegiance to either Mr. Power or Mr. Harper as the central figures at the heart of the Historic Abuse Inquiry that underlies this Scrutiny review. Yet perhaps the most striking and uncomfortable question that arises from all of this has been as to just how and why the Island's media and some senior political figures have seen fit to report the unfolding of the Inquiry in such uniformly critical terms.

Not least within the consistently and wholly inaccurate impression given to the public that not only was a sum of approximately £7.5 million of taxpayers money wholly wasted on a 'bungled' and unnecessary investigation; but that all of this sum was attributable to Power and Harper.

Let this falsehood be ended here.

In reality the budget for expenditure by the States of Jersey Police was £4.5 million. The other £3 million was accounted for by other States Departments. This £7.5 million figure was also never all down to decisions taken by Mr. Power and Mr. Harper. Half of the spending on the inquiry was committed after their time leading the investigation. That such easily researchable facts have consistently been ignored within both the BDO Alto Limited review and local media reporting surely demands the question as to why?

With regard to Mr. Power and Mr. Harper whilst upon interview both men make no attempts to shy away from shortcomings in a number of areas relating to their personal control I further believe that two fundamental questions also have to be asked? That the public have every right to expect their hard-earned taxes to be both well spent and accounted for – both politically and at officer level - is obvious.

However, can it really be credible that within a case of unprecedented scale and complexity only two individuals 'got it all wrong' and deserve to be scrutinized – many would likely use the term 'trashed' – within the public eye again and again whilst those at Home Affairs and the senior politicians of the day who also bear significant – if not equal – responsibility attract no such condemnation whatsoever? The sub-panel believes the answer to this first question is no.

Secondly, and perhaps of even more fundamental concern for us if we are the caring and civilised society that we like to believe: when and how did purely financial matters, no matter how undoubtedly serious, become more important than turning our focus and attention to discovering how our most vulnerable children - instead of being protected and cared for by the States - could actually be systematically assaulted and abused over a period of decades?

If this review leads to nothing else other than a re-focussing by government, media and society on to this final question then all of the obstruction and sniping that we as a Scrutiny team have been subjected to these past months will have been well worth it.

A handwritten signature in black ink, appearing to read 'T Pitman', with a horizontal line underneath.

Deputy Trevor Pitman - Chairman

INTRODUCTION

What is the significance of the BDO Alto report?

1. BDO Alto Limited was commissioned by the Home Affairs department to conduct a review of the efficient and effective use of resources in Operation Rectangle, the States of Jersey Police investigation into the Historic Child Abuse (HCA) in Jersey. Their report was published in July 2010 along with two reports from the Chief Constable of Wiltshire which had investigated the responsibility of the Police Chief, Graham Power, for any failures in the management of the Haut de la Garenne Enquiry.
2. By that stage the Wiltshire disciplinary investigation had been discontinued due to lack of time before Mr. Power's retirement.
3. The BDO Alto report identified a number of concerns regarding the manner in which resources were utilised and managed during the course of Operation Rectangle, particularly in the period post the decision to undertake a search and excavation at Haut de La Garenne.
4. The media response to the publication of the report was to highlight alleged extravagant spending during the enquiry on the part of Mr. Harper, the senior Investigating Officer. The Jersey Evening Post headlines on 15th July 2010 stated; 'Celebrity Lifestyle of Lenny Harper and his officers: meals in top-class restaurants and first class travel at expense of taxpayers'. Other details were given regarding alleged breaches of rules for expenses claims and the use of purchase cards, 'lavish' hospitality at expensive hotels, unnecessary business trips to London and an overtime 'bonanza' for junior States police officers.
5. The Historic Child Abuse investigation remained ongoing when the Wiltshire and BDO Alto reports were published. It has been alleged that the way in which the conclusions of both Wiltshire and the BDO Alto review were reported in the media has had a seriously detrimental impact on public confidence in the police conduct of the HCA investigation.

What were the specific concerns about the BDO Alto report which initiated the Scrutiny review?

6. Despite the fact that he was the Senior Investigating Officer (SIO) and subject of significant criticism in the report, Mr. Harper was not interviewed by BDO Alto as part of their review nor given the opportunity to respond to the findings in the report. In his evidence to the Sub-Panel, Mr. Harper, as the person responsible for taking the key financial decisions which BDO Alto was commissioned to review, claimed that there was a substantial body of evidence which BDO Alto had failed to consider. This has raised questions regarding the objectivity and independence of the report.

7. Mr. Harper was also concerned that reference was made in the BDO Alto report to confidential statements he had made to the Wiltshire enquiry.
8. Thirdly, sections of a 'leaked report by financial auditors' were quoted by a reporter of the Mail on Sunday (4th October 2009) eight months before the BDO Alto report was submitted to the Minister and was used in a highly critical article on the conduct of the Haut de la Garenne inquiry. It was also noted that apparent references to findings of the BDO Alto review were included in a Channel Television interview in September 2009 with Mr. Gradwell, Mr. Harper's successor as Senior Investigating Officer.

What was the scope of the Scrutiny review?

9. On 14th June 2011 the Education and Home Affairs Panel agreed that these matters should be investigated and established a Sub-Panel led by Deputy Trevor Pitman for this purpose.
10. Members agreed at the outset that it was important that its review of these matters should remain tightly focussed on the issues arising from the above concerns and should not re-investigate the substance of the findings in the BDO Alto report.
11. Nevertheless, our review has pointed to the importance of understanding the context in which the BDO Alto review took place. We have found it essential to understand the broader issues around the governance of the States of Jersey Police and in particular the concept of the Accounting Officer as it existed at the time of Operation Rectangle. It has been acknowledged by the Minister for Home Affairs and the Comptroller and Auditor General that the system whereby the Chief Officer for Home Affairs is Accounting Officer for the States of Jersey Police and responsible for oversight of the Police budget is seriously flawed. This is not a peripheral issue. It left both the Chief Officer, Home Affairs, and the Chief Officer of Police in a vulnerable position with regard to monitoring police expenditure.
12. This situation gives a different perspective to the issues examined by BDO Alto and we have tried to set this out in our report. We acknowledge that the terms of reference given to BDO Alto required them to focus on the details regarding the use of resources but in our view the Minister should have ensured that the review he had commissioned looked beyond these matters. We have concluded that a review of an issue as highly sensitive as the Police handling of Operation Rectangle should not have been commissioned by the States department which had responsibility for overseeing the Police budget. The review should have been assigned to a completely independent body, such as the Comptroller and Auditor General.
13. At a late stage in our review we were offered access to Mr. Power's confidential statement to the Wiltshire disciplinary enquiry and for this reason we requested a further interview with this witness. We found this to give important insights into the constraints and pressures under which the senior management of the States of Jersey Police were operating during Operation Rectangle. BDO Alto was unable to take account of Mr. Power's perspective due to the ongoing disciplinary enquiry.

We believe that ultimately this had important consequences for the overall balance of their report.

14. Conscious of the terms of reference for our current review we were able to deal with only a limited number of areas of Mr. Power's statement. We have not been able to make this statement available as evidence as there are sensitive issues which require redaction. This has been subject to an unacceptably long delay in publishing the document and we have urged the Minister on a number of occasions to resolve the matter.
15. Our two discussions with Mr. Power have led us into issues which are beyond the remit of the current review. His statement gives important insights into how the States of Jersey Police initiated and conducted a complex investigation into historical child abuse in the Island, and the difficulties they faced in pursuing such a high profile investigation. Mr. Power expressed his frustration that the focus on police expenditure and procedures has tended to divert public attention from key issues about failures in public administration for the care of children revealed by the investigation. Mr. Power said that critical comment had become focussed on himself and Mr. Harper whereas he believed that there were much broader questions to be resolved:

If there was a failure here, people have said that it was not handled well and that there was a failure in management. Jersey failed to manage it well. It is just simply not credible to say that the police did not manage it well but everybody else did. Jersey failed to manage it well. Jersey's Government failed to manage it well. The Law Officers, as I think they have admitted, did not handle it well and you could certainly look back on the police operation and say there are things that we might have done differently. As previously mentioned about it, if the abuse inquiry was a police investigation carried out under my command which was absolutely perfect then it is the first one ever because that does not happen. You spend minutes, sometimes seconds, taking decisions that people are going to pick over for years afterwards and it is always possible to look back and say: "Well, you could have done it better." So, no, there is no claim on my part that the police operation was a perfect one. The failure to manage effectively was right across the spectre of Government and also the failure to come from ... the bigger question is: "Excuse me, but what is it about Jersey and the way it is run that has allowed all this abuse to go on for all these years and somehow it never got dealt with. It was not confronted, it was not addressed, it was quietly swept under the carpet" and I think that they are focusing on the narrow issue of whether the police followed procedures set out in the manual designed for English forces and this has really taken over from some rather bigger and slightly more awkward questions.¹

16. It was not possible for us to deal with the issues identified by Mr. Power in our review; however, we look to the Committee of Enquiry, which is to be launched in the near future, by the Council of Ministers to ensure that they are fully addressed and subject to rigorous evidential tests.
17. We also agreed at a late stage to a request from Mr. S. Syvret to be called as a witness to provide testimony on issues which had broader relevance to our review.

¹ Public hearing 28.10.11

As a former Minister for Health and Social Services Mr. Syvret had some experience with the use of external agencies within the context of governance and scrutiny of public departments and functions. We accepted that his testimony could support certain conclusions which we had already drawn from our review. Mr. Syvret's testimony is available on the Scrutiny website; however, he also used the occasion to make a number of serious allegations against named and unnamed individuals. For this reason, we have decided to redact certain sections of the transcript.

18. Our review has led us to consider another issue which strictly speaking goes beyond our terms of reference. It is impossible to ignore the media interest in Operation Rectangle and the way new developments, including the conclusions of the BDO Alto report have been presented. Given the immense controversy and polarisation that surrounded Operation Rectangle, we believe that balanced and well informed reporting is crucial. Our review has tended to draw us to a conclusion that this has not been the case with regard to the outcomes of the BDO Alto report. The reporting of one-sided information based on leaks has had the effect of reinforcing negative stereotypical images of the Police handling of the investigation. In the particular case of the conclusions of the BDO Alto report, the media themselves failed to give the person responsible for financial decisions an opportunity to give his views.
19. We are conscious that our review has not been able to fully examine the issues with media coverage but we believe that they ought to be considered by a future Scrutiny Panel.
20. Finally, it is important to clarify the role of BDO Alto in our review. At the outset, many of the questions that we had meant that they were at the forefront of our review and we are grateful for the detailed response they made in their submission which clarified how the initial concerns on which our review was based had come about. During the course of the review, it became clear to us that the genesis of the problems which had been identified in our terms of reference related to matters largely beyond BDO Alto's control, namely the way the report was commissioned, the conflict between their review and the disciplinary enquiry being conducted by the Wiltshire Police at the same time and the circumstances under which assistance was provided to them by the States of Jersey Police. The crucial fact is that BDO Alto was blocked from interviewing Mr. Harper and for this reason we believe that their review was incomplete and flawed. Aside from this fundamental point, which we believe should have been addressed by those who commissioned the review, our conclusions do not criticise the way BDO Alto conducted the review which they had been commissioned to undertake.

TERMS OF REFERENCE

1. To examine the instructions under which BDO Alto was engaged to review the financial management of Operation Rectangle and their methods for gathering evidence for this review;
2. To clarify the connection between the BDO Alto review and the review on the same matter separately commissioned by the Acting Chief Officer of Police;²
3. To identify the reasons why the Senior Investigating Officer for Operation Rectangle was not interviewed by BDO Alto and was not given the opportunity to respond to the report's findings;
4. To clarify the liaison between BDO Alto and the Wiltshire Police, in particular the references in the BDO Alto report to the Senior Investigating Officer's statements to Wiltshire Police;
5. To investigate how details of the review into the financial management of Operation Rectangle came to be published in a national newspaper in October 2009; and
6. To consider the implications of the Sub-Panel's findings.

Sub-Panel membership

Deputy Trevor Pitman, Chairman

Deputy Roy Le Herissier,

Deputy Montfort Tadier (resigned from the sub-Panel on 11th July 2011),

Deputy Daniel Wimberley.

Acknowledgements

The Sub-Panel is grateful to all the witnesses who took time to prepare submissions on these issues and to attend public hearings. Their evidence greatly assisted the Sub-Panel in understanding the issues.

The Sub-Panel also wishes to acknowledge the contribution of Mr. R. Sorda whose questions regarding the review carried out by BDO Alto prompted the Sub-Panel to investigate this matter.

The Sub-Panel was disappointed that Mr Gradwell, the Senior Investigating Officer who took over responsibility for Operation Rectangle following the retirement of Mr. Harper, declined their invitation to attend. His explanation of a number of issues would have been very pertinent.

² Note: the Sub-Panel's original terms of reference stated that the review commissioned by the Acting Chief of Police was 'on the same matter' as the BDO Alto review. It became clear however from the evidence of Mr. Warcup that the review he had commissioned was on a quite separate matter – see section 2 of this report.

In accordance with the Scrutiny Code of Practice all witnesses are given an opportunity to comment on the evidence sections of our draft report, that is, without our conclusions and recommendations. A copy of the Sub-Panel's draft report was provided to BDO Alto and Mr. Michael Kellett on 20th September 2011. BDO Alto informed the Sub-Panel that they had decided to write to the Privileges and Procedures Committee to raise a number of concerns regarding the conduct of this Scrutiny Review. BDO Alto Limited and Mr Kellett advised the Sub-Panel that they were unable to comment on the draft report pending receipt of a substantive response from the Privileges and Procedures Committee. The timetable for the publication of our report was deferred for over a month due to our decision to hold additional public hearings. However, the response from the Privileges and Procedures Committee remains outstanding as at the date of issuing this Report. Due to the imminent end of the current States Assembly following the elections in October 2011 the Sub-Panel considered with regret that there was no alternative but to proceed with publication without waiting for comments from BDO Alto and Mr. Kellett.

Written submissions were received from

- Mr. L. Harper, Senior Investigating Officer
- BDO Alto Limited
- Mr. M. Kellett, Police consultant engaged by States of Jersey Police
- States of Jersey Police
- Mr. G. Power, former Chief Officer, States of Jersey Police
- Mr. D. Warcup, former Acting Chief Officer, States of Jersey Police
- Mr. A. Bellows

Other Relevant documents

- BDO Alto report, May 2010
- BDO Alto Letter of engagement, dated 29th September 2009 (confidential)
- Ministerial decision dated 23rd February 2009 (confidential)
- Wiltshire Police: Finance Report, July 2010
- Wiltshire Report: Appendix: Chronology of Operation Rectangle September 2007 - November 2008
- Extract from Statement by Mr. G. Power to Wiltshire Police regarding financial management (confidential)
- Home Affairs Department Briefing Pack including correspondence with SIO, Police Chief, Treasurer, Minutes of Financial Oversight Board (confidential)

- Minister for Home Affairs Statement, dated 14 July 2010: three reports in relation to the management of aspects of the Historical Abuse Enquiry
- Home Affairs Department: Timescale for matters relating to Historic Abuse Inquiry and Operation Blast from November 2008
- Home Affairs Department: Memo dated 16th August 2011 in response to issues raised in Mr. Power's submission
- Comptroller and Auditor General: Report on Historic Child Abuse Enquiry, July 2010

Witnesses at Public Hearings

04.07.11 Mr. L. Harper, former Senior Investigating Officer,
15.07.11 Managing Director, BDO Alto Limited & Mr. M. Kellett
15.07.11 Minister for Home Affairs
15.07.11 Chief Officer, Home Affairs
15.07.11 Mr. R. Sorda
16.08.11 Mr. D. Warcup, retired Chief Officer of States of Jersey Police
17.08.11 Mr. G. Power, retired Chief Officer of States of Jersey Police
25.08.11 Minister for Home Affairs
25.08.11 Chief Officer, Home Affairs
28.10.11 Mr. G. Power, retired Chief Officer of States of Jersey Police
28.10.11 Mr. S. Syvret

Terms

ACPO Association of Chief Police Officers
HCAE Historic Child Abuse Enquiry
HDLG Haut De La Garenne
HOLMES Home Office Large Major Enquiry System
JAR/6 Item recovered from HDLG on 23rd February 2008, initially identified as part of a child's skull
MIRSAP Major Incident Room Standard Administrative Procedures
SIO Senior Investigating Officer
SOJP States of Jersey Police

KEY FINDINGS AND RECOMMENDATIONS

- 1. To examine the instructions under which BDO Alto Limited was engaged to review the financial management of Operation Rectangle and their methods for gathering evidence for this review.**

Key findings

- 1.1 Under the Public Finances (Jersey) Law 2005 the Chief Officer of Home Affairs is legally responsible for the expenditure of the States of Jersey Police. All concerned now agree that the decision to place accountability for the States of Jersey Police budget with the Home Affairs Accounting Officer was a mistake. This arrangement made it unnecessarily difficult for the Chief Officer of Home Affairs to ensure effective oversight of expenditure on Operation Rectangle which was an event of unprecedented complexity.
- 1.2 The terms of reference for the review of financial management during Operation Rectangle were drawn too narrowly. They directed BDO Alto to focus solely on the internal Police arrangements and the use of resources.
- 1.3 As a result, the review conducted by BDO Alto promoted a perception that the high levels of expenditure in the investigation were caused by a lack of management control by senior police officers whereas there was in fact a much broader failure by States systems to provide adequate and timely monitoring of the way financial resources were being used, which has not been acknowledged or examined.
- 1.4 The examination of governance arrangements in section three of the BDO Alto report is incomplete as it does not take into account evidence from Mr. Power, the Chief Officer of Police at the time.
- 1.5 An opportunity to include a more strategic examination of how Jersey runs and funds policing and lines of accountability, both professionally and politically, was missed.
- 1.6 The appointment of a Finance Manager seems to have fallen between two stools. BDO Alto review did not examine why Home Affairs did not appoint a finance manager at an early stage to work closely with the Police.
- 1.7 The Minister for Home Affairs should have ensured that the BDO Alto review fully examined the implications of the flawed structure for monitoring and challenge.
- 1.8 Operation Rectangle had significant unbudgeted consequences for the States of Jersey as a whole. However, it is not clear whether the senior management in the States had any established procedures for identifying and managing the risk. This aspect was not examined by BDO Alto as it was outside their terms of reference.
- 1.9 The review of an issue as highly sensitive as the Police use of resources in Operation Rectangle should not have been commissioned and overseen by the States department which had responsibility for the Police budget.
- 1.10 A completely independent body should have commissioned this review in order to provide a more transparent, comprehensive and rigorous challenge to the financial

monitoring arrangements in place between the Home Affairs Department and the States of Jersey Police.

- 1.11 In the highly charged atmosphere about the Historic Child Abuse Enquiry and the way it was handled it was inevitable that narrowly drawn terms of reference and the way the report focussed on specific expenditure decisions and less on wider issues of governance and control would be seen by some as less than objective and a deliberate attempt to discredit the HCAE.

Recommendations

- R.1 The Council of Ministers should report to the States on whether it believes that its procedures for the identification and management of major financial risks are adequate. If they think they are adequate, they should explain why, in the light of two successive failures³ when major unprecedented risks were not well managed. If they think they are not, how they have made the procedures fit for purpose.
- R.2 Reviews of exceptional matters of public interest such as Operation Rectangle should be commissioned, their Terms of Reference set, and supervised in a completely transparent and independent way. The Council of Ministers must report to the States on how this is to be achieved.
- 2. To clarify the connection between the BDO Alto review and the review separately commissioned by the Acting Chief Officer of Police**

Key Findings

- 2.1 Mr. Kellett was originally employed by the States of Jersey Police to undertake an internal review, commissioned by Mr. Warcup, relating to the overall conduct of the HCA investigation by the police.
- 2.2 Mr. Kellett, however, was not made aware of this intended task and was given separate instructions which required him to work closely with the BDO Alto review on the use of financial resources. These different instructions were given by Mr. Gradwell and had not been seen or authorised by Mr. Warcup.
- 2.3 Mr. Gradwell's instructions to Mr. Kellett caused confusion about the police consultant's role. Mr. Warcup initially praised Mr. Kellett's work but subsequently decided that it was inappropriate for him to be working on a joint review with BDO

³ The negotiating of a major contract with a French company with regard to the construction of the incinerator, and the running of a major crime investigation into historic child abuse, and possibly child homicide.

Alto on the grounds that it was inappropriate for anyone working for the States of Jersey Police to be investigating matters which were connected to the disciplinary enquiry being conducted by Wiltshire Constabulary.

- 2.4 The long delay in bringing the Wiltshire disciplinary enquiry to a conclusion had important consequences for the BDO Alto review as it led to Mr. Warcup's decision to prevent Mr. Kellett from interviewing Mr. Harper regarding his expenditure decisions during the course of the BDO Alto review.
 - 2.5 Despite the significant limitation imposed on the BDO Alto review by his decision, Mr. Warcup did not convey his concerns to the Minister for Home Affairs. The Minister was therefore unable to resolve the problem.
 - 2.6 Due to Mr. Gradwell's widely known negative views on the management of Operation Rectangle by his predecessor it was not appropriate for him to be directing the police consultant's work on the financial review. This undermined the independence of the BDO Alto review.
- 3. To identify the reasons why the Senior Investigating Officer for Operation Rectangle was not interviewed during the review and was not given the opportunity to respond to the report's findings**

Key findings

- 3.1 It is self evident, and all parties agree, that BDO Alto should have interviewed the key witness so that his evidence could have been included and evaluated in their report. Natural justice requires no less.
- 3.2 The failure to provide Mr. Harper with the opportunity to respond to the findings of the BDO Alto review was also, in our view, a significant error and inevitably undermines the credibility and fairness of that review.
- 3.3 Given that it was surely obvious that not to interview the Senior Investigating Officer in Operation Rectangle would leave the review open to criticism of being fundamentally flawed, BDO Alto should have brought this problem to the attention of the Home Affairs and insisted that some solution be found.
- 3.4 No one involved in the review brought to the Minister's notice the fact that there were apparent obstacles in the way of interviewing Lenny Harper.
- 3.5 The terms of engagement for BDO Alto should have made clear that their review would be subject to public scrutiny.

4. To clarify the liaison between the review of financial management and the Wiltshire Police Investigation, in particular the references in the BDO Alto report to the Senior Investigating Officer's statements to Wiltshire Police

Key findings

- 4.1 BDO Alto stated that the references to Mr. Harper's statement to Wiltshire were included in their report in order to add some support to Mr. Harper's approach to certain financial issues.
- 4.2 The three references briefly made in the BDO Alto report actually concern contentious issues which deserved a much fuller explanation of Mr. Harper's position.
- 4.3 In our view, the justification given for referring to Mr. Harper's statement in fact supports the argument that he should have been contacted to establish his point of view across the whole review of financial resources.

5. To investigate how details of the review into the financial management of Operation Rectangle came to be published in a national newspaper in October 2009

Key Findings

- 5.1 The evidence we have received points to Mr. Gradwell as the person responsible for leaking information from draft sections of the work which Mr. Kellett had prepared for the BDO Alto review.
- 5.2 Neither BDO Alto nor Mr. Kellett were responsible for the leak of information to the Mail on Sunday.
- 5.3 Mr. Gradwell's action in releasing prematurely to the media draft sections of an uncompleted report would have been a serious disciplinary matter for the Police. However, no action could be taken against him by the SOJ Police as Mr. Gradwell had completed his secondment and left the Island.
- 5.5 Mr. Gradwell's reasons for taking such an unprofessional step are not clear to us as he refused to participate in the Scrutiny review.

6. Media coverage

Key Findings

- 6.1 The emphasis on alleged misuse of taxpayers' money in instances of media reporting risks implanting the impression in the public mind that the entire expenditure on Operation Rectangle was badly managed.
- 6.2 In our hearing with him on 25th August 2011, the Minister was sympathetic to our concerns about the way negative messages about Mr. Power and Mr Harper had been spun in the media and he offered to make a joint statement to this effect with the Sub-Panel. We believe that this would be a positive step.
- 6.3 Our primary concern about the premature leaking of details of the review of financial management relates to issues of fairness in the way these leaks are reported in the media without an adequate opportunity for an alternative perspective to be considered.
- 6.4 It is essential that the Chairmen's Committee give serious consideration to establishing a Scrutiny Panel which could undertake a review which will look specifically at the kind of issues we have identified in this report.

Recommendation

- R.3 The Chairman's Committee should establish broadly-based Scrutiny Panel to undertake a review to examine issues relating to the media coverage which we have raised in our report.

1. TO EXAMINE THE INSTRUCTIONS UNDER WHICH BDO ALTO LIMITED WAS ENGAGED TO REVIEW THE FINANCIAL MANAGEMENT OF OPERATION RECTANGLE AND THEIR METHODS FOR GATHERING EVIDENCE FOR THIS REVIEW.

Background and terms of reference

1. On 23rd February 2009, Senator Ian Le Marquand, the Minister for Home Affairs [the Minister], endorsed the undertaking of an external review of the use of resources incurred by the States of Jersey Police (SOJP) during the Historical Child Abuse Enquiry (HCAE) codenamed Operation Rectangle. This review had originally been requested by the former Minister for Home Affairs (then Deputy Andrew Lewis) following the suspension of the Chief Officer of the States of Jersey Police (Mr. Graham Power QPM) in November 2008 *'in order to provide an independent opinion which would satisfy scrutiny in the future'*.⁴
2. Prior to this the Council of Ministers had already commissioned the Chief Constable of Wiltshire Constabulary to undertake a disciplinary investigation [the Wiltshire Enquiry] relating to the conduct of Mr. Power in respect of his supervision of Operation Rectangle. The Wiltshire Enquiry included as part of its remit an investigation into the financial management of Operation Rectangle insofar as it related to the Chief Officer; however, it was intended that the review commissioned by Home Affairs would deal with decisions taken by the police officers directly involved in the HCA investigation.
3. The Minister explained that the review was commissioned:

*for purposes of determining whether things had gone wrong, if so, what had gone wrong, to learn lessons from that, to see in general terms who was responsible, but it was not a disciplinary report.*⁵
4. The Chief Officer, Home Affairs, explained why he had believed that it was necessary to commission an external review of the use of resources:

I think you have to go back quite a long way to the genesis of expenditure. So I think I will start with the former Chief Minister's statement on 26th February 2008 where he said that all necessary resources will be made available to the investigation. That had various interpretations at the time and I think the former Chief Minister himself sought to clarify it later what he meant by that. But, as we now know, because it is a matter of record, that gave rise to quite an unprecedented level of spending, during the course of which, because I am the Accounting Officer for the Home Affairs Department and I am legally accountable for public money, I clearly had an eye on expenditure right the way

⁴ Ministerial Decision MD-HA-2009-0016

⁵ Public Hearing 15.07.11

through. So, in the course of the next few months, we had two sample audits, one was on the police budget, which was a routine audit of expenditure. I then followed that up with a sample audit of some of the expenditure, which was just to check that some of the invoices had been correctly authorised. At the same time, I was in liaison with the Treasury and Mr. Harper and Mr. Power over what arrangements were being made to make sure that money was being spent appropriately. [] That then culminated, towards the end of 2008, with a situation where most people still, including me, still wanted some reassurance about what had been spent, how it had been spent, whether it was value for money, and so there seemed no alternative than to authorise a value-for-money audit.⁶

5. The Ministerial Decision defined the objective of the review as follows:

To provide an independent and objective opinion on the financial and governance controls in place in respect of the Historic Child Abuse Enquiry (HCAE) in order to provide an assurance to the accounting officer and Minister that resources have been used efficiently and effectively.⁷

6. The terms of reference given to BDO Alto were focussed on the issue of the use of financial resources, which had not previously been addressed⁸. The terms of reference were specifically to examine and consider the following in respect of the HCAE:

- *the costs associated with personnel eg overtime, accommodation, travel and subsistence;*
- *the costs associated with external supplies and services;*
- *the internal governance arrangements which existed within the States of Jersey Police to ensure the effective management control and the efficient and effective use of resources.⁹*

BDO Alto Engagement letter

7. BDO Alto Limited, an international accountancy and consultancy firm with a branch in St Helier, was commissioned to undertake the review. On 18th March 2009 the Home Affairs Department received a draft letter of engagement from BDO Alto and on 25th March 2009 confirmed that they were happy with the draft. Work on the review began straight away. The terms of engagement letter was finally confirmed six months later on 29th September 2009. The Managing Director, BDO Alto, explained the reasons for this delay:

⁶ Public hearing 15.07.11

⁷ Ministerial Decision MD-HA-2009-0016

⁸ BDO Alto report page 4

⁹ Ministerial Decision MD-HA-2009-0016

There was no adverse reason for that other than we had not at that point in time determined how we were finally going to report. When we started the process, we were not entirely sure what information we would be receiving. The investigation was clearly an ongoing investigation and, therefore, the format of the final report had to be determined.¹⁰

8. One of the initial concerns expressed to the Sub-Panel related to the date of the BDO Alto letter of engagement (29th September 2009) as stated in the preface to the BDO Alto report. Yet, only a few days later, on 4th October 2009, the Mail on Sunday was referring to the findings of 'a report by financial auditors'.¹¹ It is clear from the explanation given by Home Affairs and BDO Alto that work had begun on the review much earlier, in March 2009.

BDO Alto methods of working

9. BDO Alto told the Sub-Panel that their review was not about the historical child abuse investigation per se:

We were simply interested in whether or not financial spend on Operation Rectangle had been done in accordance with all of the usual controls and governance that surrounds any sort of spend within the States of Jersey or within States of Jersey Police, and to summarise what our conclusions were and to make some recommendations to help Home Affairs and the States of Jersey Police in managing that spend going forward. It is very, very different to an inquiry or an investigation.¹²

10. BDO Alto described their method of working as follows:

The level and nature of costs incurred was able to be analysed based on the financial data and all of the invoices and other documentary evidence that supports it. The discussions with the officers, with civilian staff, with contractors very much supported that process, but if we put our audit disciplines hat on, then the majority of our evidence is linked to documentary evidence and is also linked to compliance with procedures and financial policies in place, []

Organisations rely on financial decisions to be documented, for there to be a robust documentary audit trail supporting decisions and supporting individual aspects of spend. []

The Home Affairs Department account for the expenditure of the police force, among other things, so they were able to provide a full data dump of all of the costs relevant to Operation Rectangle, and that was our starting point. Having categorised the various aspects of the investigation spend, we were able to

¹⁰ Public hearing 15.07.11

¹¹ See further discussion of how the newspaper became aware of these findings in section five of this report

¹² Public hearing 15.07.11

*then start to obtain detailed documentation and evidence to properly interpret firstly what that spend was and secondly that it had been procured in a way that is consistent with the policies and procedures in place in the States of Jersey and in the police force.*¹³

11. In order to assist BDO Alto with the review and to provide independent advice on the management of police operations and police regulations, Mr. M. Kellett, a former Senior Investigating Officer with experience in the North West Regional Asset Resourcing Agency, was engaged separately by the States of Jersey Police.¹⁴ Mr. Kellett reviewed the relevant financial documentation contained in the Major Incident Room at SOJP and he undertook interviews with SOJP officers and other civilian contractors. The BDO Alto report states that its findings are '*the joint findings of Mr. Kellett and BDO*'.¹⁵ (see further discussion in section 2 of this report).
12. BDO Alto stated that they had been able to conduct a thorough review and that the interaction with both Home Affairs and the States of Jersey Police and the provision of information by them had been very effective. There had there were no limitations or boundaries set upon them in gathering evidence, except for the fact that they were unable to take comments from Mr. Harper, the Senior Investigating Officer (SIO) of Operation Rectangle from its inception until his retirement from the SOJP Force in August 2008.¹⁶ (see further discussion in section 3 of this report).
13. BDO Alto worked on their review throughout 2009. Initial indications given in May 2009 were that a full draft of the report would be available to Home Affairs by 10th July 2009.¹⁷ However, it was not until February 2010 that the final version of their working papers document was forwarded to the Home Affairs Department, shortly before the Minister received the report of the Chief Constable of Wiltshire in relation to the finance related aspects of Operation Rectangle.¹⁸
14. The Minister told the Sub-Panel that the BDO Alto review had fundamentally come to the same conclusions as Wiltshire, except with much more detail. BDO Alto had covered issues which came under the responsibility of the SIO and which were not directly the responsibility of Mr. Power (for example, management of the security cordon at Haut de la Garenne, employment of a specialist dog handler and the associated costs and forensic expenditure):

*I viewed frankly the BDO Alto as just providing me the detail in relation to some areas where the detail was lacking in the Wiltshire financial report.*¹⁹
15. As it now appeared that the Wiltshire Police had concluded their investigation in respect of financial management it became clear that the BDO Alto report would be for audit purposes only rather than potential evidence in the disciplinary

¹³ Public hearing 15.07.11

¹⁴ States of Jersey Police Submission. Mr. Kellett's terms of engagement are set out in his submission

¹⁵ BDO Alto Report page 4

¹⁶ Public hearing 15.07.11

¹⁷ BDO Alto submission appendix (confidential)

¹⁸ Timescale for matters from November 2008 relating to Historical Abuse Enquiry and Operation Blast, Home Affairs Department

¹⁹ Public hearing 15.07.11

proceedings.²⁰ It was also agreed with Home Affairs that the report would be made public. As the full working papers document was too long for public consumption BDO Alto undertook to prepare a shorter summary report.

16. The final redacted document with 19 recommendations for the future conduct of major police investigations was received by Home Affairs at the end of May 2010.
17. In July 2010 the Minister wrote to Mr. Power indicating that the disciplinary process was to be discontinued due to lack of time.
18. The BDO Alto report was published by the Minister along with extracts from the Wiltshire report and a statement by the Minister on 13th July 2010.

Criticisms of BDO Alto review

19. During the course of the Sub-Panel's review significant criticism of the scope and balance of the review undertaken by BDO Alto has been expressed by the senior police officers responsible for the conduct of the Historical Child Abuse investigation from September 2007 through to 2010, namely Mr. Power, Mr. Harper and Mr. Warcup.
20. The Sub-Panel made it clear at the start of its review that it did not intend to re-examine the substance of the findings of the BDO Alto report; nevertheless the Sub-Panel has found it essential to consider whether these criticisms have any basis in fact.
21. Mr. Power told the Sub-Panel that in his view the BDO Alto review was insufficiently strategic as it had failed to examine the flaws in the system of financial management which existed at the time of Operation Rectangle:

It is frustrating, particularly with the almost impossible situation that we found ourselves in in operating the system of financial management that was imposed upon us contrary to best practice advice, and how that arose and how responsibility for that ought to be shared.²¹

22. In his submission Mr. Power invited the Sub-Panel to consider:

...whether the balance of investigative effort and critical comment has been correctly struck between the actions of operational Police Officers, with no financial training or qualifications, and the trained accountants of the Home Affairs Department who share a legal responsibility for the financial management of the Police Service. In my view a fair balance has not been achieved. It appears to me that the actions of Police Officers have been subjected to intense scrutiny and critical comment, whereas by comparison the

²⁰ Timescale for matters from November 2008 relating to Historical Abuse Enquiry and Operation Blast

²¹ Public hearing 17.07.11

*actions of those with the training, qualifications and statutory responsibility have been relatively immune from critical examination.*²²

23. Mr. Harper stated in his submission:

*The BDO report totally misunderstands and misrepresents the situation of the SOJP as it was then in relation to the management of its budget. The report compares the management of the police budget unfavourably with UK forces and rather misleadingly equates (supposed) operational independence with the financial decision making ability of UK forces.*²³

24. Mr. Warcup described the review, after having seen initial sections of the report drafted by Mr. Kellett, as follows:

*The review had become overly focussed on Mr. Harper, lacked objectivity, had the potential to be unfair to Mr. Power and could have seriously undermined the investigation by Wiltshire Police.*²⁴

25. This section of the report focuses on the criticism by Mr. Power and Mr. Harper regarding the balance of financial and governance control which existed between the States of Jersey Police and the Home Affairs Department. The criticism expressed by Mr. Warcup will be discussed in section two of this report.

Role of Accounting Officer

26. In order to assess the criticisms of Mr. Power it is necessary to understand the position of the Accounting Officer for Home Affairs and the financial expertise available to the States of Jersey Police. Under the Public Finances (Jersey) Law 2005 the Chief Officer for Home Affairs is the Accounting Officer and is '*personally accountable for the proper financial management of the resources*'²⁵ within his department, including the SOJP budget.

(a) BDO Alto Report

27. In section three of its report entitled 'Financial Governance and Control', the BDO Alto report deals with the difficult position in which the Accounting Officer for Home Affairs found himself during Operation Rectangle where, although he had legal responsibility for police expenditure, the overall control of operational expenditure remained the responsibility of the Chief Officer SOJP.

²² Submission by Mr. G. Power QPM, page 2

²³ Submission by Mr. Harper, paragraph 10

²⁴ Submission by Mr. Warcup, page 6

²⁵ Article 38(1) Public Finances (Jersey) Law 2005

28. The BDO Alto report makes a number of key observations on the financial governance and control of the HCAE investigation. These are summarised as follows²⁶:

- The investigation did not have a proper budget established from the outset
- There were few finance policies in place to ensure proper management of investigation spend
- The increase in the scale of the enquiry following the discovery of JAR/6²⁷ should have resulted in the formalisation of procedures in respect of management of cost, however this did not occur
- The investigation lacked a dedicated Finance Manager and, even if not deemed necessary at the outset, then one should have been appointed following the discovery of JAR/6 and the significant increase in the investigation.

29. The key issues identified by BDO Alto were (in summary)²⁸

- There was no budget against which SOJP and Home Affairs could monitor investigation costs on an ongoing basis
- With no budget in place Home Affairs had no visibility on forecast expenditure levels
- This coupled with minimal financial reporting generally did not allow the Accounting Officer at Home Affairs to discharge his obligations under the Finance Law, ie he did not have timely information to enable him to scrutinise investigation expenditure or forecasts
- MIRSAP²⁹ states that a Finance Manager should be appointed immediately and is crucial in setting up a major inquiry
- By not appointing a Finance Manager, the roles are necessarily covered by operational policing resources and other administrative staff on a more fragmented and uncoordinated basis, which does not maximise investigation efficiency or effectiveness.

30. The Comptroller and Auditor General endorsed the conclusions of the BDO Alto report in respect of the :

The effect is that the Department's Chief Officer is denied the means by which he might satisfy himself that appropriate financial controls have been instituted

²⁶ BDO Alto report, pages 17 - 19

²⁷ Item recovered from HDLG on 23rd February 2008, initially identified as part of a child's skull

²⁸ BDO Alto report, pages 17 - 19

²⁹ Major Incident Room Standard Administrative Procedures

*within the States of Jersey Police as one would normally expect an Accounting Officer to do.*³⁰

31. The Minister, on the basis of both the Wiltshire and BDO Alto reports, drew the conclusion:

*There was an extraordinary situation that the historical abuse inquiry, as it unfolded, it expanded in terms of Haut de la Garenne, had no budget, and had no additional financial safeguards, no Finance Officer, no Gold Command Group, et cetera, it is quite an extraordinary situation, I mean it is quite contrary to the normal controls that would happen where you would expect there to be a budget.... There should have been a Gold Command Group; that is where much of the managerial failures came down to the decision of Mr. Power and Mr. Harper to centralise control in the 2 men alone. That is the core of the issue because, if you had a Gold Command Group you would have had finance people on it, you would have had other police officers, and you have proper checks and balances built in.*³¹

(b) Mr. Power's view

32. In Mr. Power's view the BDO Alto report does not fully examine the issue regarding the role of Accounting Officer from the perspective of the Chief Officer of Police and consequently does not appreciate that, as Chief Officer of Police, he was also denied the means to ensure that appropriate financial controls were in place.
33. Mr. Power said that the introduction of the Public Finance Law 2005 had produced a 'bizarre' arrangement whereby the Chief Officer of Home Affairs had responsibility for financial management in the police service while the Chief Officer of Police had no financial staff under his management.³²
34. Mr. Power told the Sub-Panel that he had strongly opposed these arrangements but had not been supported by the Chief Officer of Home Affairs. He commented:

The Chief Officer for Home Affairs was keen to go along with that arrangement in spite of me producing copies of the best practice advice from other jurisdictions which say you should not do that. You should not split financial control away from the operational management. The Minister for Treasury at the time and the Chief Minister were very determined to impose that arrangement. So I think all of the financial staff were taken away from police headquarters so we were operating around the £20 million a year budget and we did not have a qualified financial person within line management within the police service. So I think a good strategic report which looked at this would

³⁰ Historic Child Abuse Enquiry Report under the Public Finances (Jersey) Law 2005 July 2010

³¹ Public hearing 15.07.11. See also the Minister's statement: Three reports in relation to the management of aspects of the Historical Abuse Enquiry, dated 14 July 2010

³² Public hearing 17.08.11

identify that is where the problem began because I do not think anybody is disputing that there were problems.

I speculated at the time were we being set up to fail. It was [] an arrangement which every expert on the proper governance of a police force would tell you it is one that would not work most days and certainly would not work under pressure as proved to be the case³³ (emphasis added by Sub-Panel)

35. Mr. Power covered this issue in some detail in his statement to Wiltshire police³⁴ and also in his oral evidence to the Scrutiny public hearing on 17th August 2011. He described the arrangements as ‘a seriously imperfect system’. I should be noted that the disciplinary enquiry was focussing on Mr. Power’s responsibilities which included overall financial management. However, there was an understanding that the BDO review should not encroach onto the disciplinary enquiry (see further discussion in section two of this report). As a result, although Mr. Power’s evidence would have been relevant to an understanding of the monitoring relationship between Home Affairs and SOJ Police, those carrying out the review of financial management were not made aware of the wider issues identified by Mr. Power.
36. Mr. Power described how he tried to make an imperfect system work (i.e. before the advent of Operation Rectangle). He told the Sub-Panel:

What I did was to make sure that the senior management meetings that we had, which occurred on average every couple of weeks, were attended always by a member of the Home Affairs Department finance section. So we also had a qualified accountant sitting at the table of the management meetings representing Home Affairs and we always had a financial report as a standard item.³⁵

37. The BDO Alto report makes only a brief and oblique reference to the system of financial accountability in place at the time implying that UK forces would have had stronger arrangements available to the Police. The report states:

The Accounting Officer has no managerial and/or operational oversight role, and the SOJP have total operational independence and autonomy at all times. This is consistent with the UK forces, albeit we understand that they have a more evolved system of financial accountability in place.³⁶ (emphasis added)

38. The Chief Officer of Home Affairs told the Sub-Panel that, with the agreement of Mr. Power, he had moved the Finance Director and HR Senior Manager to the Home Affairs Office in the Royal Square in 2000 in order to set up the central Home Affairs Department. Thus the financial management arrangements and access to financial advice that applied during Operation Rectangle had endured for five years before Ministerial government and for the next three years prior to the start of Rectangle (and for the four years since). He said that Mr. Power always had ready access to the financial advice he required. Even though it

³³ Public hearing 17.08.11

³⁴ Paragraphs 265 - 284 dealing with financial management. The extract from the statement was provided to the Sub-Panel on a confidential basis

³⁵ Public hearing 17.08.11

³⁶ BDO Alto report page 12

wasn't under his direct command, it was only ever fifteen minutes walk away and the arrangements had worked perfectly well for the eight years before Rectangle.³⁷

39. Mr. Power told the Sub-Panel that when it became clear in the latter part of 2007 that Operation Rectangle was likely to have significant financial implications, he had asked the Chief Officer, Home Affairs, what arrangements he wanted to establish in respect of financial management:

*I was conscious that it was his decision to take. He was the Accounting Officer and he had a legal responsibility for the budget. He said that he would appoint the senior finance officer, who I know, to work directly with the Rectangle team... The person who would be, if you like, the eyes and ears of the accounting officer inside the Rectangle team.*³⁸

40. Mr. Power had been satisfied that this was appropriate as the officer was well accustomed to working with the police and his abilities were well respected. Mr. Power appears to have placed a great deal of reliance on this arrangement, referring to it three times in his statement:

'I was satisfied that qualified financial personnel were being given unrestricted access to all relevant items;

the feedback I received from the appointed financial experts was that all matters were properly documented and records were available for examination;

at every stage I was advised by qualified financial experts'.

41. Mr. Power told the Sub-Panel that in the early stages of the HCA enquiry there were meetings held between Mr. Harper and the Chief Officer of Home Affairs and his senior accountants discussing issues such as the financial Policy Group and travel costs. At this stage, he said, no concerns were expressed. Nevertheless, despite the reassurances that he was receiving he became uneasy that there was perhaps not sufficient rigour in the Home Affairs approach. He believed that the turning point came after a meeting of the Council of Ministers (22nd May 2008) in which Ministers had raised questions which were beginning to circulate publicly about police expenditure about hotel bookings for visiting police, business class flights to Australia and police overtime.
42. At that point (27th May 2009) the Chief Officer for Home Affairs contacted Mr Power asking him to sign a letter of assurance that expenditure was being controlled within financial directions. Mr. Power said that he was not comfortable with this because of the lack of financial staff within his own office. He then made a suggestion, in response dated 9th June 2008, saying that a more robust arrangement was required and recommending the establishment of a 'Financial Oversight Board'. This proposal was accepted although Mr. Power felt that it was not acted upon with sufficient speed as the first meeting of the Board did not take place until 23rd July 2008. Mr. Power commented:

³⁷ Public hearing 25.08.11

³⁸ Public hearing 17.08.11

At that meeting I was able to make some proper recommendations, the concept of constructive challenge, the idea that we should bring in some independent auditing procedures. []

The minutes will show that nobody raised any concerns and so whatever I might have felt intuitively the fact is that the people who had the knowledge of financial procedures, who had daily access to all of the accounts was unanimous in telling me that there was nothing I needed to do and nothing I needed to worry about. ... Whatever people are saying in hindsight what they said at minuted meetings is simply a matter of record and what is a matter of record is that nobody had any concerns.

Any alleged revelations regarding irresponsible spending that came to light came to light after I was no longer in post. [] It was when I was no longer in post when people started telling a very different story.³⁹

43. Mr. Power said that he had not seen the Financial Oversight Board as a permanent feature because it was going to be absorbed into a Strategic Co-ordinating Group (Gold Group) which he expected Mr. Warcup to establish once he had been appointed as Deputy Chief Officer. The lack of a Gold Group to oversee the management of Operation Rectangle was subsequently seen as a key failure in Mr. Power's administration.⁴⁰ Its early establishment would have been in accordance with standard police procedures for major crime incidents. BDO Alto also draw attention to this on page 16 of their report and the principal conclusions of Chapter 3 (Financial Governance and Control) are based on a requirement for formalisation of procedures in respect of the management of costs which they say did not happen.
44. In the second hearing with Mr. Power the Sub-Panel sought reasons for his not proceeding on these lines. Mr. Power said that he could defend his position on a number of grounds. The principal reason, however, was that in the early stages of Operation Rectangle there had been a cascade of allegations, including a number which accused police officers of covering up abuse. A Gold Group would have involved bringing in to the management of the enquiry people who were, at the time, potentially suspects or associates of suspects

It is clear that there are certain people who you normally bring in, some of the senior management team, who had some questions to answer. Now, as it is has turned out some of those questions have been answered and been answered in a satisfactory way but you did not know that then... As soon the fog had cleared, and we began to get a clearer picture, it became more realistic to talk about establishing a gold group. The Gold Group was established in 2008 and I am pleased ... it came at the right time,⁴¹

45. Mr. Power believed that by the summer of 2008 the corporate governance around the enquiry had become quite solid:

³⁹ Public hearing 17.08.11

⁴⁰ See reference to Minister's evidence paragraph 31 and Chief Officer's evidence paragraph 63

⁴¹ Public hearing 28.10.11

I think everyone agrees that long before I left office in November 2008 that there were very robust arrangements in place. Nobody is accusing anybody of not having a sound arrangement in place, say, in July, August, September, October or November 2008. That is where we had got to. I fully agree with hindsight we did not get there quickly enough but it was all rather moving very fast and unfamiliar territory for everybody, including some of the senior politicians.

With hindsight, perhaps I was a little bit too intimidated about the fact that ... the law was very clear that the responsibility for financial oversight was not mine it was the Chief Officer for Home Affairs and although I was getting assurances from his department, as I think I discussed already, I thought: "No, this really is not good enough, I have got to get some rigour around this".⁴²

46. Mr. Power considered that the Chief Minister's statement to the effect that all necessary resources would be provided for the HDLG investigation without the setting of a normal budget had caused particular problems:

The political background was very difficult because in one sense we were trying to produce financial rigour and on the other hand the Chief Minister at the time, no doubt for reasons of reassurance or whatever but possibly with different motives was making public statements to the effect that money was no issue.[] I found myself intercepting the expenditure which was being made on the strength of Chief Minister's promise that we were not going to worry about money and Home Affairs said: "No, you cannot do this because there is not a budget approved by the States." []

The Chief Minister was handling it under pressure, he assured us he knew what he was doing in his public statement that cost was no object with the best of motives but he effectively undermined those of us who were working to try and bring some control.⁴³

47. Mr. Power said that he had urged both the Chief Officer, Home Affairs, and the Treasurer to regularise the situation by ensuring that there was a proper budget approved by the States:

We may have got away with that before the Finance Law where somebody would have found a pot of money in a quiet corner but under the Finance Law you can only spend what is in the budget. That is the way the law is now and the Chief Minister had not got his head around that and what was then necessary was for the Treasurer to produce a paper for the States asking the States to vote for the official budget.⁴⁴

48. Mr. Power's overall criticism of the balance of the BDO Alto report is based on the perception that the actions of the police in Operation Rectangle had been subjected to intense scrutiny against best practice guidelines in other jurisdictions

⁴² Public hearing 17.08.11

⁴³ Public hearing 17.08.11

⁴⁴ Public Hearing 17.08.11

whilst the context in which the Police found themselves with regard to financial management had not been fully examined:

It seems to me very clear that substantial amounts of investigative effort has been ploughed into making critical comments regarding the police service. They were facing critical comments in the States about the expenditure on the [Wiltshire] investigation and I suppose this - in my reading of it - caused a lot of energy to be directed towards finding critical things to say about policing which perhaps justified, the long-running suspension, the anticipated inquiry, the £2 million of expenditure. []

I am not aware that anybody has been appointed [] to look critically at the actions of Ministers or senior civil servants in establishing arrangements which prove to be if not unworkable at least very difficult.⁴⁵

49. Mr. Power believed that BDO Alto had focussed on matters of financial detail which had led to strong criticism of the Senior Investigating Officer at the time but had failed to examine the wider governance issues:

I think there was an inordinate emphasis on the detail of expenditure in restaurant bills and matters of that nature rather than how did you get into a situation where there was so many fingers in the pie of financial management and no clear line of accountability. I mean that is the bigger question.

I still think there are some important lessons. It is just not good enough to say that: "The senior investigating officer at the time did not control expenditure properly and so let us criticise him and we can all go home." I think that that are some serious issues about how Jersey runs and funds policing and lines of accountability, both professionally and politically, which need to be taken on board and I think that opportunity perhaps has been missed.⁴⁶

(c) Mr. Harper's views

50. Mr. Harper believed that it was important to understand the context for financial management in which the States of Jersey Police were operating at the beginning of the HCA Enquiry. He described the situation in scathing terms:

In reality, unlike UK forces, we did not have the ability to track our budgets as they do in the UK. Where the UK forces had in house finance departments which reported to the Chief Officer, we had an ever diminishing number of Treasury personnel who nominally worked with us but reported to the Treasury.

⁴⁵ Public hearing 17.08.11

⁴⁶ Public hearing 17.08.11

*We had to rely on them for monthly bulletins as to how we were doing. These bulletins became a joke, so inaccurate were they...*⁴⁷

51. BDO Alto, however, believed that Mr. Harper's criticism was not relevant to their review which was focussed on the management costs of Operation as a 'stand-alone' major investigation.⁴⁸
52. Note; The Sub-Panel has not examined the criticism levelled by Mr. Harper regarding the Treasury reporting, as this would be beyond its expertise and its remit; nevertheless, it is important to point out that this difference of view is a crucial matter in any assessment of the above criticisms of the BDO Alto report.
53. Mr. Harper told the Sub-Panel that he had received little guidance in respect of financial affairs and that concerns about overspending had not been raised with him during his period in charge of the investigation. Nevertheless, he claimed, he had been mindful of the importance of controlling costs from the start of the investigation.
54. Mr. Harper pointed out that he had even been criticised for commenting in a press release on the potential financial implications of launching a potential formal homicide enquiry following the discovery of JAR/6 at Haut de la Garenne. The press release read as follows:

*it is unlikely that a formal homicide enquiry could be justified in circumstances where the suspects are very likely deceased. As well as having huge financial implications such an enquiry could also detract from the serious allegations of criminal abuse in which the victims and suspects are still alive*⁴⁹

55. The Chief Executive of the States had commented

*'the financial implications are irrelevant here, the issue is how is justice best served? Should the investigation continue or not.'*⁵⁰

56. Mr. Harper referred to a meeting on 4th June 2008 with the Chief Officer and Finance Director of Home Affairs which had been called to discuss the financial management controls he had put in place at the start of the investigation and to deal with certain specific queries relating to travel costs (the cost of accommodation for visiting officers and the expenses for the trip to Australia by his officers), all of which were dealt with to the satisfaction of the Home Affairs finance team at the time.

⁴⁷ Mr. Harper's submission paragraph 10

⁴⁸ BDO Alto submission, page 16

⁴⁹ Update regarding skull fragment found at HDLG dated 18th April 2008

⁵⁰ email dated 18th April 2008, copy supplied to the Sub-Panel

(d) Chief Officer, Home Affairs

57. The Chief Officer, Home Affairs, gave his account of the difficulties of his position as Accounting Officer in two public hearings. He explained to the Sub-Panel that he had argued in support of the principle of the Accounting Officer arrangements under the Finance Law as he had not accepted that the Police should be a special case in comparison with the other heads of department within Home Affairs.⁵¹ He acknowledged, however, that the circumstances of Operation Rectangle had led him to change his mind on the issue.

With the benefit of hindsight when you have a major inquiry like this, whatever weaknesses there are show through, and Mr. Warcup described them as systemic. Where you have a service that is entirely its own master, except that it clearly reports at the moment to the Minister and does not report to me, then there will be a tension set up at times like this. It would be far better in hindsight if the Chief of Police was an accounting officer.⁵²

58. The Chief Officer summarised the two major difficulties that he faced in terms of his responsibility for financial management:

(a) lack of budget: *I knew from 26th February 2008 that I was on a bit of a sticky wicket. Here is a huge amount of expenditure, unprecedented really, no budget, nobody telling me how the money is going to be refunded, no control over instructing the police how to spend it, and yet I am legally responsible in law.*

(b) lack of timely information: *The other thing, of course, is we were not party to any of the spending decisions so things were being looked at in retrospect and we had to build a pattern of expenditure based on what had already happened rather than what was going to be authorised.⁵³*

59. He said that he had been mindful of the seriousness of the police investigation and had wished to retain a discreet distance from operational matters:

In February 2008, when the former Chief Minister made that statement, I was going to be the last person to interfere with what the police were doing and the last thing they needed was me on their backs saying: "Have you filled in these balance sheets?" There was a time and a place for that but it was not just then.⁵⁴

60. The Chief Officer recounted the steps he had taken to seek reassurance from Mr. Power and Mr. Harper that appropriate financial controls were in place.⁵⁵

⁵¹ Chief Officer's Letter to the then Chief Executive dated 7 November 2005, provided to the Sub-Panel

⁵² Public hearing 25.08.11

⁵³ Public hearing 15.07.11

⁵⁴ Public hearing 15.07.11

⁵⁵ Full records of relevant correspondence with the SIO, Chief Officer Power, the Treasurer of the States and minutes of the Financial Oversight Board were provided to the Sub-Panel in a confidential Briefing Pack from Home Affairs

- On 21st February 2008 (prior to the discovery of JAR/6): The Finance and Administration Manager sought details of the potential costs of the operation including overtime in order to prepare a financial projection
- On 26th March 2008: The Finance and Administration Manager provided the SOJP with a report of the estimated costs of the operation with projected costs to 30th June 2008 of £1.5 million
- 7th May 2008: The Finance Director, Home Affairs, requested a meeting with Mr. Harper to discuss how he was planning and monitoring current expenditure. Mr. Harper responded giving an assurance that all expenditure was operationally necessary, governance had been checked by ACPO homicide working group. This was confirmed in a further email on 28th May 2008
- The requested meeting took place on 4th June 2008. The Chief Officer commented that he had found no reason to challenge the assurances he had received at that stage:

*The point [is] that this is a major inquiry and people who had been brought over to look at the way they were conducting it were apparently saying that this was okay; this was being conducted in the right fashion. I am not going to question that. Why would I challenge that?*⁵⁶

- 27th May 2008: The Chief Officer wrote to Mr. Power asking for a formal assurance that expenditure was being controlled in accordance with finance directions. This action followed prompting by the Chief Executive to the Council of Ministers and the Treasurer of the States who had faced questions from the Council of Ministers on 22nd May 2008 regarding the costs of the HDLG investigation. The Treasurer had pointed out in an email that it was not unreasonable 'given that there are no budgetary constraints on this expenditure' to seek such an assurance.⁵⁷
- The Chief Officer stated in his letter that monitoring of expenditure had been conducted by his Finance Director and her staff hitherto in a discreet manner so as not to impact on the progress of the investigation.
- The Chief Officer told the Sub-Panel that this letter had been a clear indication to Mr. Power that he was concerned about the current situation:

*This was me saying to the Chief of Police: "I need your assurance that what is going on you are happy with." So, that is a written challenge. There is no other way of describing it.*⁵⁸

- The Chief Officer believed that it was his letter which made Mr. Power think that something else was required and led to Mr. Power's suggestion of a Financial Oversight Board.

⁵⁶ Public hearing 25.08.11

⁵⁷ email dated 22.05.08 provided in Home Affairs Briefing Pack

⁵⁸ Public hearing 25.08.11

- The first meeting of the Financial Oversight Board took place on 23rd July 2008 with two subsequent meetings on 3rd October 2008 and 12th February 2009
- The Chief Officer said that given the time of year (July) it had been difficult to find an earlier date due to the absence of key individuals.

61. Following the establishment of the Financial Oversight Board the Chief Officer, Home Affairs, felt able to write to the Treasurer of the States on 31st July 2008 to provide assurance that he had received the required confirmation from the States of Jersey Police that appropriate arrangements were in place to monitor and control expenditure.

62. The first meeting of the Gold Command Group took place on 1st September 2008 and this was attended by the Chief Officer. The Chief Officer commented that he immediately saw the value in these meetings as he was able to talk in real time with the senior management running the enquiry - there had been no platform for that before the Gold Group - however, he had been unaware of this procedure:

I did not know that Gold Groups were the order of the day as a policing thing. I did not know that it was in their procedures to establish the Gold Group for things like this.⁵⁹

63. The Chief Officer said that recent experience of another major police enquiry⁶⁰ had proved the importance of the Police appointing their own Finance and Administration Manager to organise all the financial issues from within the Police Force, something that had not been done for Operation Rectangle. He maintained that this was a police procedural issue:

It is not for me to do that: that is standard operating procedure for major enquiries. If Mr. Power had asked me: "I cannot get anyone, I need to have one of your 3 people" we would have talked about it but that was never requested.⁶¹

64. The BDO Alto report picks up this point:

It has also been suggested to us by the Home Affairs Finance and Administration Manager that had he been seconded to SOJP during the course of the investigation, or at least during its most intense period, that he may have been able to actively contribute to the management and control of expenditure.⁶²

65. It was at the end of November 2008, some four months after his letter to the Treasurer of the States providing assurance regarding the expenditure on Operation Rectangle, that the Chief Officer found that he was no longer able to provide this assurance. This followed as a result of the Metropolitan Police report which had culminated in the suspension of Mr. Power as Chief Officer. On 31st December 2008 he wrote again to the Treasurer stating

⁵⁹ Public hearing 25.08.11

⁶⁰ The Victoria Crescent case

⁶¹ Public hearing 25.08.11

⁶² BDO Alto report page 15

*serious doubt has been cast ... over the appropriateness of significant expenditure ... and the overall course of the enquiry. In such an unprecedented situation where the States of Jersey Police is concerned, I am clearly unable to give the assurance requested.*⁶³

66. The Chief Officer told the Sub-Panel that he had fully expected that his own role of Accounting Officer would come under scrutiny when he proposed the review of the use of resources; however he was prepared to stand by the decisions he had made in relation to the oversight of the investigation. He said that his own conduct during the police operation had been subsequently endorsed by the Comptroller and Auditor General in his review which followed the publication of the Wiltshire and BDO Alto reports:

*I accept that the Chief Officer of the Home Affairs Department was throughout mindful of his personal responsibilities and took reasonable steps to discharge his responsibilities within the constraints that I have described.*⁶⁴

(e) The Minister's view

67. The Minister defended the focus of the BDO Alto report:

*The primary purpose of the BDO report is to look at whether monies had been spent efficiently and effectively and, therefore, by its nature it was always going to be delving into a great deal of detail and producing some sort of view as to whether or not this was the proper use of expenditure. It was always going to be focusing on the dog expenditure, it was always going to be focusing on the hotel expenditure, it was always going to be focusing on the outside company being paid an hourly rate rather than a daily rate, it was always going to be focusing on the overtime at double time running on, et cetera. It was always going to be focusing on those individual things.*⁶⁵

68. The Minister acknowledged, nevertheless, that he had expected the review of financial management to deal with broader governance issues including the functionality of the Home Affairs Department, albeit he recognised that this issue was not expressly within their terms of reference. He noted that BDO Alto had in fact included a chapter on 'Financial Governance and Control' in their report (chapter three).⁶⁶
69. The Minister also acknowledged that the system of accountability was flawed. He said that he had been clear 'right from the start' that it would have been better for the Chief of Police to have been the Accounting Officer at the time, with his own

⁶³Chief Officer, Home Affairs, letter dated 31st December 2008

⁶⁴Report of Comptroller and Auditor General report on Historic Child Abuse Enquiry, July 2010

⁶⁵Public hearing 25.08.11

⁶⁶Public hearing 25.08.11

financial staff⁶⁷; however, in his statement in July 2010 he had dismissed this as a major problem:

*There is no doubt that the unsatisfactory finance structure of the Home Affairs Department will have slightly contributed to the problems. It is simply not satisfactory that the Chief Officer at Home Affairs should be the Accounting Officer for the SOJ Police when he has no oversight or control over the activities of the States of Jersey Police.*⁶⁸

Sub-Panel comments

Setting BDO Alto terms of reference

70. The Sub-Panel believes that a broader examination of the difficulties caused to both the Police and the Home Affairs by the flawed monitoring structure would have been appropriate and consequently the terms of reference for the BDO Alto review were drawn too narrowly. As a result, the review tended to promote the perception that the high levels of expenditure in the investigation were caused by a lack of management control by senior police officers whereas there was in fact a much broader failure by States systems to provide adequate and timely monitoring of the way financial resources were being used, which has not been acknowledged or examined.

71. BDO Alto acknowledge the wider context in their report, but in effect make only a passing reference without developing the point:

*We have formed the overall view that the monitoring environment in place around Operation Rectangle did not support the proper scrutiny of expenditure by Home Affairs on a timely basis....*⁶⁹

72. Had BDO Alto been fully conscious of the problems described by Mr. Power in his statement to Wiltshire they might have considered that an examination of the 'monitoring environment' deserved more weight in their report. However, as stated elsewhere⁷⁰ this was not available to them because BDO Alto was required not to encroach upon the disciplinary enquiry being undertaken by Wiltshire.

73. It could be argued that the Ministerial Decision allows for a much wider perspective. It states the objective of the review to be 'an independent and objective opinion on the financial and governance controls in place in respect of the HCAE investigation'.⁷¹ However, in his public statement in July 2010, as stated above, the Minister dismissed the issue as of 'slight importance' and focussed attention on the management failures of the police.

⁶⁷ Public hearing 25.08.11

⁶⁸ Minister for Home Affairs: three reports in relation to the management of aspects of the Historical Abuse Enquiry, dated 14 July 2010

⁶⁹ BDO Alto report page 13

⁷⁰ See paragraphs 121

⁷¹ Ministerial Decision MD-HA-2009-0016

74. We believe, on the contrary, that an understanding of the split responsibilities of the Accounting Officer at Home Affairs and the Chief Officer of SOJ Police has an important bearing on the specific problems of financial management identified by the BDO Alto review. In our view, the Minister should have ensured that the implications of the flawed monitoring environment were examined fully in the review of financial management.
75. We also believe that the fact that the terms of reference were drafted by the Home Affairs Department and approved by the Home Affairs Minister had important consequences for the review. This meant that the review was commissioned, overseen and finally signed off by the Home Affairs Department. The Home Affairs Department was too closely involved in the matters under review and should have passed over the commissioning of the review to a separate body for independent scrutiny and oversight.
76. We suggest that this arrangement is unlikely to fulfil the overall objective set for the review of financial management, namely an '*independent and objective opinion of the financial controls in place*'.⁷² There is also a risk that there will be a lack of challenge towards those who have commissioned the review.

Monitoring and Oversight by Home Affairs

77. We have identified a number of areas where there appears to have been a lack of challenge by BDO Alto for Home Affairs
78. One of the key findings of the BDO Alto report was the importance of appointing a Finance Manager to any major police enquiry. From the evidence we have heard there is a disagreement between Mr. Power and the Chief Officer, Home Affairs, about whether such an appointment was made. Mr. Power appeared to believe that such a person was in place at an early stage of the police investigation. However, the Chief Officer, Home Affairs, said that no such request was made until the establishment of the Finance Oversight Board where the Finance Director, Home Affairs was nominated to represent the interests of the Chief Officer, Home Affairs. BDO Alto did not have the opportunity to examine the contradiction in the evidence because they did not have access to Mr. Power's evidence.
79. Related to this matter is the evidence of the Finance and Administration Manager was that he was obtaining very little information about ongoing spend. The BDO Alto makes the following observation:

It has been suggested to us by the Home Affairs Finance and Administration Manager that had he been seconded to SOJP during the course of the

⁷² Ministerial Decision MD-HA-2009-0016

*investigation, or at least during its most intense period, that he may have been able to actively contribute to the management and control of expenditure.*⁷³

80. The suggestion by the Finance and Administration Manager was made in hindsight; it must be questioned why a secondment was not proposed at the time during the investigation.

81. The BDO Alto report refers to the lack of structure and the reliance on unminuted and infrequent meetings between the Home Affairs Finance and Administration Manager and SOJP personnel. BDO Alto gives the following explanation

*This approach appears partly driven by Home Affairs desire to provide the enquiry team with 'space' to deal with, what was thought to be at the time, a child homicide investigation.*⁷⁴

82. We understand why this approach was adopted by Home Affairs in the very early stages of the investigation but we suggest that it would have been appropriate for BDO Alto to challenge why the approach was allowed by Home Affairs to persist for so long without rectifying the evident failings.

83. No direct reference is made in the BDO Alto report of the Financial Oversight Board (FOB) which was established by Mr. Power following the request by the Chief Officer, Home Affairs, on 27th May 2008 for reassurance about how expenditure was being monitored.⁷⁵ (The establishment of the FOB is referred to in the Accounting Officer's letter of 31st July 2008 to the Treasurer of the States⁷⁶ but not described in any detail).

84. The Chief Officer, Home Affairs, and Mr. Power both regarded this as an important development and as a result the Chief Officer, Home Affairs, was able to give the Treasurer and the Council of Ministers the reassurance they were seeking. However, despite this importance of this development, it does not appear that its establishment was treated with any great urgency as there was a period of six weeks between the suggestion by Mr. Power and the first meeting of the FOB.

85. In our view, BDO Alto does not question this delay in their report.

States wide issues

86. Another consequence of the narrow terms of reference and limited focus of the BDO Alto review is that the broader context for the way HCA investigation was handled by the States beyond the Home Affairs Department was not considered. As previously stated by witnesses, this was a matter of unprecedented seriousness for the Island, particularly following the discovery of JAR/6 and the possible implications of this find. This led to the Chief Minister's statement on 26th

⁷³ BDO Alto report page 15

⁷⁴ BDO Alto report

⁷⁵ see paragraph 39 above

⁷⁶ BDO Alto report page 14

February 2008 that all necessary resources would be made available to the investigation.

87. However, as time progressed the scale of the expenditure became more and more acute. By the end of March 2008 the projected police costs were £1.5 million. By 3rd June, when P.91/2008⁷⁷ was lodged for debate by the States, estimated overall costs across all departments had risen to £6m. This was later revised upwards to £7.5m.⁷⁸ Given the nature of these extraordinary costs it is appropriate to ask what forms of risk assessment were being undertaken at the most senior levels of the States management.
88. The Chief Executive to the Council of Ministers and the Treasurer of the States prompted the Chief Officer of Home Affairs to seek formal assurance from the Chief of Police on 22nd May 2008 regarding control of expenditure, as described above⁷⁹. However, there is no record which has been made available to us which shows evidence of any further enquiries made by senior management for a considerable period of time.⁸⁰
89. The Chief Officer, Home Affairs, provided the assurance requested by the Treasurer of The States on 31st July 2008. It was not until 1st December 2008 that further questions were asked by the Treasurer of the States regarding the justification of expenditure. It seems clear, however, that serious doubt about expenditure had been appearing for some time prior to that point. We understand that the matter was not discussed at the Corporate Management Board in the intervening period.
90. In our view there is a parallel to this situation in the failure of the States to hedge the Euro in respect of the management of the Energy from Waste plant project. Here too there was confusion about where responsibility for financial oversight lay which led to the problem. In the hearing with the Public Accounts Committee the then Treasurer of the States commented:

There are lots of learning points from this. One of them was, we have not had such a major procurement before and one of the issues was, I think if you look through there, was a lack of clarity about who was responsible for what, and all things being equal, and if you read it under the law the accounting officer is responsible for the revenue and capital spend of their department. So, the accounting officer for this project was clearly the Chief Officer of Transport and Technical Services and that is responsibility for all risks to do with that project.⁸¹

91. The then Chief Officer of Transport and Technical Services, on the other hand believed that the risks were being managed by the Treasury:

I disagree with that statement that was made. ... In this particular case the whole issue about managing the funding of this project, [] was passed to the Treasury and Resources Department....

⁷⁷ Historic Child Abuse: Funding

⁷⁸ Amendment to P.91/2008 lodged 13th August 2008

⁷⁹ See paragraphs 60

⁸⁰ Full records of relevant correspondence with the SIO, Chief Officer Power, the Treasurer of the States and minutes of the Financial Oversight Board were provided to the Sub-Panel in a confidential Briefing Pack from Home Affairs

⁸¹ Transcript of PAC hearing 20.04.09

At that stage, 2007, the project was going to be funded by external borrowing and that, as I have already said, has to be the responsibility of the Treasury and Resources Department, the Treasury and Resources Minister, because under the Public Finances Law they are the only people who can enter into external borrowings. As the project progressed and it became clear that tenders were received and there was a considerable euro element which had to be managed, the Treasury officers continued to take that role. Now at no time - I repeat, at no time - did any Treasury officer or the Treasurer come to me and say: "The goalposts have changed, the scope of this project has changed, we cannot manage the split of it." They accepted that work and they carried on with that element of it, which was the euro management.⁸²

92. Among the conclusions reached by the PAC was that the Chief Executive and Corporate Management Board had failed to prioritise this substantial capital project. In our view, there appears to have been a similar failure by the senior management in the States to manage the financial risks involved with Operation Rectangle.
93. We believe that there was a missed opportunity in the BDO Alto review to learn important lessons for the States as a whole due to the narrow focus of their review. In a more strategic review, it would have been appropriate, to ask why the Corporate Management Board had not scrutinised the governance and control arrangements earlier and more closely.

Independent oversight

94. In our view, it would have been more appropriate for an independent body such as the Comptroller and Auditor General, to have been given responsibility for this review in the first instance. Instead, the various reports which had been already undertaken meant that any review undertaken by the Comptroller and Auditor General would have duplicated the work⁸³.
95. In the event, the Comptroller and Auditor General issued no more than a summary report making a generalised reference to the problem caused by the conflict between the Accounting Officer's personal responsibilities under the Public Finance Law and the importance of safeguarding the operational independence of the police. He also pointed to the importance of an independent police authority for the States of Jersey Police, a provision which was finally approved by the States in February 2011⁸⁴ after many years of delay.
96. In our view, had the Comptroller and Auditor General undertaken the review from the outset, he would undoubtedly have included a more thorough analysis of the difficulties described by Mr. Power and a greater challenge to the Home Affairs Department.

⁸² Transcript of PAC hearing 11.05.09

⁸³ Historic Child Abuse Enquiry: Report of Comptroller and Auditor General, July 2010

⁸⁴ P.192/2010

97. In addition, any issues arising from the review by the Comptroller and Auditor General would have been subject to further public scrutiny by the PAC. Instead, it has been necessary instead for our Sub-Panel to take up this matter some time after the events.

Key findings

- **Under the Public Finances (Jersey) Law 2005 the Chief Officer of Home Affairs is legally responsible for the expenditure of the States of Jersey Police. All concerned now agree that the decision to place accountability for the States of Jersey Police budget with the Home Affairs Accounting Officer was a mistake. This arrangement made it unnecessarily difficult for the Chief Officer of Home Affairs to ensure effective oversight of expenditure on Operation Rectangle which was an event of unprecedented complexity.**
- **The terms of reference for the review of financial management during Operation Rectangle were drawn too narrowly. They directed BDO Alto to focus solely on the internal Police arrangements and the use of resources.**
- **As a result, the review conducted by BDO Alto promoted the perception that the high levels of expenditure in the investigation were caused by a lack of management control by senior police officers whereas there was in fact a much broader failure by States systems to provide adequate and timely monitoring of the way financial resources were being used, which has not been acknowledged or examined.**
- **The account given in the BDO Report of the arrangements which took place between Home Affairs and SOJ Police to monitor and challenge expenditure on the HCAE is at odds with the account given by Mr. Power.**
- **The examination of governance arrangements in section three of the BDO Alto report is incomplete as it does not take into account evidence from Mr. Power.**
- **An opportunity to include a more strategic examination of how Jersey runs and funds policing and lines of accountability, both professionally and politically, was missed.**
- **The appointment of a Finance Manager seems to have fallen between two stools. BDO Alto review did not examine why Home Affairs did not appoint a finance manager at an early stage to work closely with the Police.**
- **The Minister for Home Affairs should have ensured that the BDO Alto review fully examined the implications of the flawed structure for monitoring and challenge.**
- **Operation Rectangle had significant unbudgeted consequences for the States of Jersey as a whole. However, it is not clear whether the senior management in the States had any established procedures for identifying and managing the risk. This aspect was not examined by BDO Alto as it was outside their terms of reference.**

- **The review of an issue as highly sensitive as the Police use of resources in Operation Rectangle should not have been commissioned and overseen by the States department which had responsibility for the Police budget.**
- **A completely independent body should have commissioned this review in order to provide a more transparent, comprehensive and rigorous challenge to the financial monitoring arrangements in place between the Home Affairs Department and the States of Jersey Police.**
- **In the highly charged atmosphere about the Historic Child Abuse Enquiry and the way it was handled it was inevitable that narrowly drawn terms of reference and the way the report focussed on specific expenditure decisions and less on wider issues of governance and control would be seen by some as less than objective and a deliberate attempt to discredit the HCAE.**

Recommendations

- **The Council of Ministers should report to the States on whether it believes that its procedures for the identification and management of major financial risks are adequate. If they think they are adequate, they should explain why, in the light of two successive failures⁸⁵ when major unprecedented risks were not well managed. If they think they are not, how they have made the procedures fit for purpose.**
- **Reviews of exceptional matters of public interest such as Operation Rectangle should be commissioned, their Terms of Reference set, and supervised in a completely transparent and independent way. The Council of Ministers must report to the States on how this is to be achieved.**

⁸⁵ The negotiating of a major contract with a French company with regard to the construction of the incinerator, and the running of a major crime investigation into historic child abuse, and possibly child homicide.

Supplementary issue: Mr. Power's remarks on authorisation of payments

98. It is necessary to refer to one matter not directly connected to our review but which caused some particular comment in the hearing with Mr. Power. In his submission Mr. Power refers to the unauthorised payment of expenses by Mr. Harper in the course of Operation Rectangle. Mr. Power stated that, since he had not countersigned any of the claims, someone outside the Force must have done so. He draws the following conclusion:

It appears that some person has made payments to the Deputy Chief Officer in breach of the rules governing payments, and in particular it appears that payments were made without any prior authority from the Chief Officer and without the knowledge of the Chief Officer. It is hard to see how the person making the payments could have been anyone other than a member of the Finance Section of the Home Affairs Department.⁸⁶

99. These expense claims were examined in detail in the BDO Alto report. It should be noted that the report actually refers to the claims being signed off by one of the three Chief Inspectors.⁸⁷

100. The Sub-Panel raised this matter with the Chief Officer, Home Affairs, who provided an explanation in a Memo dated 16th August 2011. He pointed out:

The essential point to make concerning Mr Power's submission is that Members of the Finance Section of the Home Affairs Department do not make payments. The authorisation process relies upon bills and claims being countersigned before the finance staff receive them. In other words, the expectation is that they will have been checked and certified as an appropriate charge to public funds. With the correct authorisation (two signatures from within the SoJP) payments are then processed by the Treasury and Resources Department, not by the Home Affairs Finance Staff.

101. The matter was raised during the hearing with Mr. Power. The Sub-Panel was not aware at the time of the Chief Officer's explanation and consequently Mr. Power's statement was not corrected in the hearing. It is unfortunate therefore that Channel Television chose to highlight this allegation in their coverage of the hearing with Mr. Power. The Chief Officer addressed this matter in the subsequent hearing on 25th August 2011. However, Channel Television failed to cover this hearing despite their focus on the issue in the previous broadcast. The Chief Officer commented:

I was sick to the pit of my stomach when I heard that. It is just not true. We do not see any bills in the Home Affairs Department. The process is that the person who makes the order or incurs the bill signs it off. [] The first we know of expenditure is when it comes up now on the J.D. Edwards system and we are able to make our financial profiling in our reports. I never see any of this stuff and this either needs to be retracted or corrected because [] it shows an ignorance of the process.⁸⁸

⁸⁶ Mr. Power's submission paragraph 5

⁸⁷ BDO Alto Report page 57

⁸⁸ Public hearing 25.08.11

2. TO CLARIFY THE CONNECTION BETWEEN THE BDO ALTO REVIEW AND THE REVIEW SEPARATELY COMMISSIONED BY THE ACTING CHIEF OFFICER OF POLICE⁸⁹

Background

102. In December 2008 Mr. Warcup, the then Acting Chief Officer of Police, tabled a proposal to the Police Strategic Co-ordinating Group (Gold) to conduct a review of a broad range of issues relating to the conduct of Operation Rectangle but which were not covered within the other reviews currently being undertaken (by Wiltshire and subsequently by BDO Alto)⁹⁰. Mr. Warcup told the Sub-Panel:

*We had a number of internal issues which we needed to review including learning lessons of how we should do things in the future. We [also] had had a number of public complaints, we had had a number of issues of concerns raised by members of the public, by States Members, and through that process we felt that it was necessary to research those, document those, and to have that information available should it be required either to respond to the Minister, to States Members' questions or indeed to any future committee of inquiry.*⁹¹

103. Mr. Gradwell, the Senior Investigating Officer for Operation Rectangle who had replaced Mr. Harper, was given responsibility to carry out this internal police review within the following terms of reference which were drawn up by Mr. Warcup:

'The purpose of the review was; 'to carry out a formal internal review into matters which currently do not fall within the parameters of the current historic abuse enquiry or other related investigations or review. The aim is to identify issues which have been identified during the course of the enquiry or have come to light as a result of complaints, which;-

- a) Give rise for concern in relation to the overall conduct of the enquiry.*
- b) Have been raised as a matter of complaint either internally, or by members of the public.*
- c) Have come to light as a result of information and intelligence received.*
- d) Are likely to be of relevance to any future public enquiry.*

- e) Are likely to form the basis of questions from States Members in relation to their accountability function.*

⁸⁹ Note: the Sub-Panel's original terms of reference stated that the review commissioned by the Acting Chief of Police was 'on the same matter' as the BDO Alto review. It became clear however from the evidence of Mr. Warcup that the review he had commissioned was on a quite separate matter.

⁹⁰ The Sub-Panel acknowledges that its own terms of reference, which refer to a review 'on the same matter' as BDO Alto are incorrect in this respect.

⁹¹ Public hearing 24.08.11

f) *Relate to matters which will assist in demonstrating the openness and transparency of the States of Jersey Police in respect of the overall conduct of the enquiry.*⁹²

104. Mr. Gradwell was also tasked with identifying a suitable person to lead the internal police review and Mr. M. Kellett, a former Senior Investigating Officer with experience in the North West Regional Asset Recovery Agency, was appointed to fulfil this role.

105. Subsequently, it was agreed that Mr. Gradwell and Mr. Kellett would assist BDO Alto in relation to matters of police procedure and practice as it was recognised that the accountants would have no knowledge of the management of police operations or police regulations.⁹³ The terms of engagement provided to Mr. Kellett stated: *'Mr. Kellett is being employed to liaise with and assist where possible the accountants and to identify expenditure on specific areas'*. Mr. Kellett was described as *'ideally experienced to work with the accountants'*.⁹⁴

106. Mr. Kellett said in his evidence:

*Whilst it was not explicitly stated, it was my understanding from the outset that BDO Alto and I would prepare a joint report of our findings.*⁹⁵

107. Mr. Warcup, however, had not expected that co-operation with BDO Alto would extend that far. In his written evidence, he stated categorically that he had not approved a joint report with BDO Alto and did not consider such an approach appropriate. He told the Sub-Panel:

*The BDO review was commissioned by the Minister, the terms of reference agreed by the Minister, and the involvement as far as I was concerned, when that was commissioned in December 2008, was to provide some resource to assist people from the auditors [] to understand their way through the practice, procedures and policies of policing. Not to carry out a review on their behalf, not to carry out an investigation and that was my clear understanding and instruction at that time.*⁹⁶

108. It was not until towards the end of July 2009 that Mr. Warcup came to realise that the work undertaken by Mr. Kellett was taking a different route other than that which he had prescribed. He found that Mr. Gradwell had given Mr. Kellett different instructions. He said that, whilst he attached no blame to Mr. Kellett

*We were both working under the illusion that everybody was working to agreed terms of reference.*⁹⁷

⁹² Submission by Mr. Warcup, page 4

⁹³ Ibid

⁹⁴ Terms of reference provided to Mr. Kellett contained in full in his submission

⁹⁵ Submission by Mr. Kellett, page 3

⁹⁶ Public hearing 16.08.11

⁹⁷ Public hearing 16.08.11

109. Mr. Kellett stated in his evidence to the Sub-Panel that he had never received a copy of the terms of reference for the internal police review commissioned by Mr. Warcup, indeed that he had not seen them until he had had the opportunity to read Mr. Warcup's submission, received on 14th July 2011, two years later. He said that '*to [his] great surprise*' Mr. Warcup had referred to this piece of work at a meeting with him on 21st July 2009 but Mr. Warcup had not subsequently provided him with a copy of the terms of reference.⁹⁸ Mr. Kellett confirmed that he carried out no work on the internal SOJP review:

*The only review I was carrying out was the joint review with BDO Alto that I understood I was commissioned to do.*⁹⁹

110. Mr. Warcup told the Sub-Panel that he was very concerned on seeing draft sections of Mr. Kellett's work:

*There were matters which I considered were more relevant to the Wiltshire Enquiry particularly as they concerned Mr. Power. Having considered aspects of the draft reports I was also concerned at the methodology adopted, namely that evidence was used to reach conclusions despite the fact that key witnesses had not been deposed in writing.*¹⁰⁰

111. Mr. Warcup said that he challenged Mr. Gradwell at this point and issued directions to return to original review and have that work done.

112. Mr. Kellett said that Mr. Warcup had not raised his concerns with him at the time of his meeting with him on 21st July 2009 and that Mr. Warcup had in fact expressed '*complete satisfaction with what I had produced*'. It was not until a letter dated 7th September 2009 that Mr. Warcup raised any of the concerns set out in his submission. Furthermore, Mr. Kellett claimed that Mr. Warcup had misunderstood the methodology of the review he was carrying out with BDO Alto:

*We were not carrying out a criminal or disciplinary investigation where statements needed to be taken from witnesses. I made contemporaneous and comprehensive written records of conversations I had with every member of SOJP and Home Affairs Department who I interviewed and these are quoted from in our report, together with documents to which we had access. All of our conclusions are based on sound, verifiable evidence.*¹⁰¹

113. Mr. Warcup states in his written evidence that he came to the conclusion that Mr. Kellett should not carry out any further work with BDO Alto as his original instructions had not been complied with. He went on to make further strong criticisms of the BDO Alto review:

⁹⁸ Mr. Kellett's supplementary submission, dated 18th July 2011

⁹⁹ Ibid

¹⁰⁰ Mr. Warcup's submission

¹⁰¹ Mr. Kellett's supplementary submission, page 2

*The review had become overly focused on Mr. Harper, lacked objectivity, had the potential to be unfair to Mr. Power and could have seriously undermined the investigation by Wiltshire Police.*¹⁰²

114. Mr. Kellett claims that prior to Mr. Warcup's instruction to cease work with BDO Alto he had already effectively resigned over his (Mr. Warcup's) refusal to allow him to interview Mr. Harper (see section 3 for further discussion on this matter) as well as his wish not to have a joint report with BDO Alto. Mr. Kellett had set out his concerns on both issues in an email to Mr. Warcup dated 2nd September 2009 and expressed concern that his findings would be suppressed.¹⁰³
115. Mr. Warcup told the Sub-Panel that after Mr. Kellett's departure the different aspects of internal police review had been concluded in a different way.

Sub-Panel comment

116. The confusion about Mr. Kellett's role in the review of financial management is an important issue because it relates to one of the key questions in the Sub-Panel's review, namely the reasons why Mr. Harper was not interviewed in the course of the review regarding his decisions on expenditure. We return to this matter in the next section of this report.
117. It appears to us strange that Mr. Warcup failed to keep oversight of the work he had commissioned on an internal review of the SOJ Police handling of Operation Rectangle between December 2008 and the end of July 2009 when he realised that his instructions were not being carried out.
118. The issues regarding the different instructions given to Mr. Kellett by Mr. Gradwell are discussed below.

Primacy of Wiltshire

119. It is important to understand that Mr. Warcup's views on the review being undertaken by BDO Alto and Mr. Kellett were firmly based on the principle that the Wiltshire review dealing with the disciplinary matters relating to Mr. Power's should have primacy over other investigations. He maintained that this view was based on legal advice and discussions with the investigating officer from Wiltshire. He was concerned that the instructions given by Mr. Gradwell to Mr. Kellett had led to the situation whereby the States of Jersey Police were becoming involved in

¹⁰² Mr. Warcup's submission page 6

¹⁰³ Mr. Kellett's supplementary submission, page 3

the process of investigating the financial decisions made by both Mr. Power and Mr. Harper. He told the Sub-Panel:

*That was not the expectation that I had. That was already agreed as part of the terms of reference for Wiltshire and the Wiltshire inquiry had primacy in every respect.*¹⁰⁴

120. Mr. Warcup said that he was fully cognisant of the fact that the Wiltshire investigating officer was a finance director with police experience and that Wiltshire was looking into financial issues as part of their remit. In his view, therefore, an additional investigation undertaken by a consultant working for the States of Jersey Police was inappropriate because of the potential for relevant information to be used as part of the disciplinary enquiry:

*I mentioned that some of the witnesses have not been deposed in writing so if we are making issues which are going to be substantially challenged then it would only be right to do so if you had the written evidence backing that up. Of course that written evidence may have been available to Wiltshire but it certainly was not available to anyone in Jersey, including Mr. Kellett, because the aspects of the Wiltshire inquiry were entirely confidential.*¹⁰⁵

121. Mr. Warcup said that the two issues he had highlighted in his comment on the work Mr. Kellett was doing for the BDO Alto review, namely the focus on Mr. Harper and the potential unfairness to Mr. Power were directly connected:

At the time, although I was speaking to [the Chief Constable of Wiltshire] about matters which affected the States of Jersey Police we could not discuss matters of evidence in the same way as I could not discuss matters with the Minister in relation to that. So what we had to do is we had to make sure that there was no conflict between what Wiltshire were doing and what the States of Jersey Police were doing. I was very clear in that regard that if comments were made which were critical of Mr. Harper they could, by implication, have therefore been critical of Mr. Power because we did not know at that time where the Wiltshire inquiry was at, whether the Wiltshire inquiry would draw conclusions that Mr. Power was ultimately responsible or whether indeed individually they would be responsible for their own options. The focus on Mr. Harper may have been detrimental in that regard.

122. This was the basis, therefore, on which Mr. Warcup was opposed to a police consultant playing a leading role in preparing a joint report with BDO Alto. Mr. Warcup said that, whilst he fully understood the reasons for the BDO Alto review, he had reservations about the BDO Alto proceeding at the same time as Wiltshire and would have preferred the two investigations to be dealt with separately:

It is fair to say I would not have initiated the BDO Alto review in the way it was done but it is appropriate to look certain things, to learn the lessons even while there are inquiries ongoing. What must be established, however, is what the

¹⁰⁴ Public hearing 16.08.11

¹⁰⁵ Public hearing 16.08.11

parameters of those are and where you draw the line in relation to the extent of those inquiries.

I would say that it would have been perhaps better to deal with the issues of alleged misconduct and deal with those first and to completely separate out the other issues. If there are other issues that need dealing with that are likely to overlap, they should be included within the terms of reference for the primary review.

It is not uncommon in a police discipline inquiry for the investigating officers to be asked not only to see whether there are any misconduct issues which flow from the circumstances, but also whether there are any organisational issues from which the organisation can learn and benefit in the future.¹⁰⁶

123. The Minister said that Mr. Warcup never raised these concerns with him and that in his views his concerns were 'over-rated':

All these reports were fundamentally being produced for me and at the end of the day it was my task in terms of the way in which I used the reports and information and what happened with them and when to ensure that there was not any prejudice to the Wiltshire inquiry.¹⁰⁷

124. The Minister said that in any case delaying the BDO Alto report until the completion of the Wiltshire enquiry would have meant too long a wait due to the long delay in submitting that report. It had in fact initially been expected that Wiltshire would be completed in March 2009, which was about the time when the BDO Alto review was initiated. However, he told the Sub-Panel, by the time he came onto the scene it was already clear that the disciplinary enquiry had become very adversarial. Consequently, the timetable for the Wiltshire enquiry had become very protracted.

Sub-Panel comments

125. Mr. Warcup's views on the primacy of Wiltshire relate to the matters discussed in the first section of this report, namely the fact that evidence from Mr. Power relevant to the issue of financial management was unavailable to those carrying out the BDO Alto review on these matters.
126. Mr. Warcup made it clear that he expected that there should be no discussion by the States of Jersey Police, including Mr. Kellett, of the evidence received by Wiltshire. Nor was it appropriate for the Wiltshire evidence to be discussed with the Minister. It appears that Mr. Warcup interpreted this very strictly to the extent that that he did not convey any of his concerns to the Minister about his police

¹⁰⁶ Public hearing 16.08.11

¹⁰⁷ Public hearing 25.08.11

consultant working in close connexion with BDO Alto and about contacts with Mr. Harper.

127. The Minister also kept a strict distance from the BDO Alto review on the grounds that he wanted them to produce an independent review without any interference. This meant that he was in no position to be made aware of the limitations faced by BDO Alto in approaching Mr. Harper unless a direct approach was made to him.
128. In our view, it was unfortunate that there was no communication with the Minister by Mr. Warcup on his concerns. This would have forewarned the Minister about the difficulties with the review of financial management which have emerged during our review. The Minister had commissioned the BDO Alto review and had a right to be told about any matters which impact directly, and, as it turned out, impose major limitations, on that review. It appears to us that Mr. Warcup could have communicated with the Minister on this issue without any compromise of the Wiltshire enquiry.

Lack of objectivity and focus on Mr. Harper

129. Mr. Warcup's allegations regarding the lack of objectivity in the BDO report and the focus on Mr. Harper must be considered carefully.
130. Firstly, it is necessary to deal with Mr. Harper's suggestion that there was some bias in the appointment of Mr. Kellett. In his submission to the Sub-Panel Mr. Harper called into question the close links between Mr Kellett and Mr Gradwell which, he said, seemed to have been '*conveniently overlooked*'. He based this on the fact that both officers worked in the same region of the North West of England and know each other well.¹⁰⁸
131. Mr. Kellett's evidence strongly rebutted this suggestion which he regarded as a slur on his professional integrity. He said that, whilst it was true that they were both close colleagues for a period about twenty years ago, they had had little or no personal or professional contact since 2001. Mr. Kellett claimed that, in any case, it was common practice for senior investigating officers to have their investigations reviewed in a professional and independent manner.¹⁰⁹
132. Mr. Warcup said that he was aware of the previous relationship between Mr. Kellett and Mr. Gradwell; however, he did not view that as uncommon and he did not consider that there was any reason in principle to impugn the professional integrity of either officer.
133. However, Mr. Warcup went on to say that he had indeed become concerned subsequently about the potential influence of Mr. Gradwell on the direction of the

¹⁰⁸ Mr. Harper's submission paragraph 6

¹⁰⁹ Mr. Kellett's submission paragraphs 7-11

BDO Alto and on Mr. Kellett. This was due to Mr. Gradwell's well publicised views on the conduct of the HDLG enquiry:

I would have been and would still be comfortable with ... had they carried out the work which I had initially set to them, I would have been comfortable with that. I was not comfortable in relation to the focus [] ... there was a predominant purpose to look at the activities of Mr. Harper at that particular point.¹¹⁰

134. The instructions given by Mr. Gradwell to Mr. Kellett bear out Mr. Warcup's remark about the predominant focus on Mr. Harper's activities. They required him to examine specific and contentious areas of expenditure:

1. *The Forensic Spend at Haute de la Garenne. The full cost, including travel, hotel and subsistence bills. (No forensic strategy)*
2. *The employment of Mr Martin Grime – Specialist Dogs*
3. *The deployment of officer X– SIO Driver*
4. *The cost and management of the security cordon at Haute de la Garenne*
5. *The purchase of glassware for seconded officers*
6. *A trip to London by various officers commencing on Wednesday 30th April 2008. (Other visits may also require scrutiny)*
7. *The employment of seconded and agency staff to Jersey. Including issues such as travel and rest day rate.*
8. *The use of corporate credit cards for entertaining visitors and staff.*
9. *Anomalies identified by the review.*
10. *The management of overtime on Operation Rectangle.*

Other areas may become relevant as the review progresses.¹¹¹

135. The comment 'no forensic strategy' may be worth noting. This was a contentious matter in itself. Mr. Harper maintained in his evidence to the Sub-Panel that there was a forensic strategy.¹¹²

Sub-Panel comments

136. We have not been provided with any factual evidence to support Mr. Harper's assertion that the identification and appointment of Mr. Kellett was in any way improper. We have no reason to call into question the explanation given by Mr. Warcup.

137. We have found no reason to call into question Mr. Kellett's integrity or professional qualification to undertake the review.

¹¹⁰ Public hearing 16.08.11

¹¹¹ Mr. Kellett's submission page 2

¹¹² see paragraphs 7 & 8 of his submission

138. There is no suggestion that the review carried out by BDO Alto and Mr. Kellett was not thorough and comprehensive in looking at all aspects of expenditure for Operation Rectangle. As previously indicated the Sub-Panel's review is not about a critical re-examination of BDO Alto's findings and recommendations. However, given the focus on the activities listed by Mr. Gradwell most of which were under the direct responsibility of Mr. Harper, it would appear essential for Mr. Harper to be interviewed in relation to his decisions. This issue is discussed in the next section of the report.
139. There is, however, an issue with regard to the guidance provided by Mr. Gradwell and we share Mr. Warcup's concern. The problem is that Mr. Gradwell's views on the management of Operation Rectangle were well known, arising from the review he had undertaken of the investigation with Mr. Warcup following his appointment as successor to Mr. Harper as Senior Investigating Officer. His critical views had been made public in the press conference on 12th November 2008. Therefore, it is legitimate to question whether it was appropriate for Mr. Gradwell to be responsible for directing a piece of work which was intended to be '*independent and objective*'.
140. This question is similar to our concern, expressed in the first section of this report, that the Home Affairs Department were too close to the matter to be responsible for the commissioning and oversight of the BDO report.
141. Our concerns about how Mr. Gradwell publicly expressed his views on the management of Operation Rectangle are discussed later in this report (see section five).

Key Findings

- **Mr. Kellett was originally employed by the States of Jersey Police to undertake an internal review, commissioned by Mr. Warcup, relating to the overall conduct of the HCA investigation by the police.**
- **Mr. Kellett, however, was not made aware of this intended task and was given separate instructions which required him to work closely with the BDO Alto review on the use of financial resources. These different instructions were given by Mr. Gradwell and had not been seen or authorised by Mr. Warcup.**
- **Mr. Gradwell's instructions to Mr. Kellett caused confusion about the police consultant's role. Mr. Warcup initially praised Mr. Kellett's work but subsequently decided that it was inappropriate for him to be working on a joint review with BDO Alto on the grounds that it was inappropriate for anyone working for the States of Jersey Police to be investigating matters**

which were connected to the disciplinary enquiry being conducted by Wiltshire Constabulary.

- **The long delay in bringing the Wiltshire disciplinary enquiry to a conclusion had important consequences for the BDO Alto review as it led to Mr. Warcup's decision to prevent Mr. Kellett from interviewing Mr. Harper regarding his expenditure decisions during the course of the BDO Alto review (see next section of this report).**
- **Despite the significant limitation imposed on the BDO Alto review by his decision, Mr. Warcup did not convey his concerns to the Minister for Home Affairs. The Minister was therefore unable to resolve the problem.**
- **Due to Mr. Gradwell's widely known negative views on the management of Operation Rectangle by his predecessor it was not appropriate for him to be directing the police consultant's work on the financial review. This undermined the independence of the BDO Alto review.**

3. To identify the reasons why the Senior Investigating Officer for Operation Rectangle was not interviewed during the review and was not given the opportunity to respond to the report's findings

Background

142. Mr. Harper, despite being the Senior Investigating Officer for Operation Rectangle until his retirement in August 2008, was not contacted during the course of the BDO Alto review nor invited to comment on the findings of their report.

143. Mr. Harper told the Sub-Panel:

*I picked up somewhere along the line that there had been criticism of the financial management of the investigation but at no time was I ever told by anybody, States of Jersey Police or anybody else, that BDO or any firm of auditors were carrying out an investigation into the financial management of the inquiry.*¹¹³

144. This occurred despite the clear instruction in the terms of reference contained in the Ministerial decision endorsing the undertaking of a review on the use of resources in Operation Rectangle which stipulated:

*Direct contact should be made with the appropriate key individuals to secure a full and thorough assessment.*¹¹⁴

145. All parties (the Minister, Chief Officer, BDO Alto, Mr. Kellett and Mr. Warcup) agreed in their evidence to the Sub-Panel that the failure to interview Mr. Harper was undesirable and that the BDO Alto report would have had a better basis if he had been given the opportunity to respond its findings. The Minister told the Sub-Panel:

*I think that more consideration should have been given to finding a way to allow Mr. Harper to see what the report was likely to say and to comment on it; I think that is right.*¹¹⁵

146. The Minister said that, despite noting that Mr. Harper had not been interviewed, he had considered that BDO Alto report contained references to sections of things that Mr. Harper had apparently said,

*It therefore gave me the impression that, although he had not been interviewed, that his views on different matters had been considered.*¹¹⁶

¹¹³ Public hearing 04.07.11

¹¹⁴ Ministerial Decision MD-HA-2009-0016

¹¹⁵ Public hearing 15.07.11

147. The Minister said that he would have expected that if BDO Alto had concluded that they were unable to express a proper judgment on the financial management of Operation Rectangle that they should have raised the matter with him:

Then it would come back to me and I would have then no doubt have made sure there was a way of doing it. But they did not say that; they seemed to be content to reach their conclusions, they seemed to think that they had weighed things up sufficiently.¹¹⁷

148. The Sub-Panel's brief is to examine how and why the situation occurred in which Mr. Harper was not contacted and to give an overall assessment of whether this omission damages the credibility of the review.
149. We wish to reiterate here that nothing in our report implies an opinion on the way Mr. Harper conducted Operation Rectangle or the substance of BDO Alto's findings.

How the situation occurred

150. Mr. Kellett explained in his submission¹¹⁸ that it had always been his intention from the outset to interview Mr. Harper. He was aware that Mr. Harper had already been interviewed by the Wiltshire Police and was conscious of the overlap between the two investigations. Mr. Kellett had discussed the matter with members of the Wiltshire team and had seen the statement made by Mr. Harper to Wiltshire. However, there were a number of issues not dealt with in that evidence which were relevant to a comprehensive account of the issues surrounding the use of resources. As Mr. Harper was due to be re-interviewed by Wiltshire it had been agreed, in order to save time and to interfere with Mr. Harper's domestic life as little as possible, that it would be appropriate for Mr. Kellett to do so at the same time. In an email to Home Affairs dated 2nd June 2009 Mr. Kellett explained:

The usual practice in a review such as this would be that the SIO would be the first person to be seen. In an exercise as lengthy and as complex as this review of Operation Rectangle has been, there would also likely be a meeting to discuss emerging findings. However, as Mr Harper has retired and is living in Scotland, this has not been possible so far. As some of the emerging findings suggest strongly that elements of the report are going to be critical of him, I believe that it is essential to give him the opportunity to influence the contents and to be able to respond to some of the proposed criticisms. Apart from being no more than fair I think that this is also desirable with an eye on future events - it would be difficult to rebut suggestions at a public enquiry or in the media that the report and the review exercise itself were incomplete and flawed, as

¹¹⁶ Public hearing 15.07.11

¹¹⁷ Public hearing 15.07.11

¹¹⁸ Mr. Kellett's submission page 5

perhaps the most important person in the enquiry was not even spoken to. [] If he gives us an account it will be more difficult for him to challenge things later or to spring any surprises.¹¹⁹

151. Mr. Kellett, however, discovered that Mr. Warcup had different views about whether it was appropriate to liaise with Wiltshire. Following advice received from Wiltshire Police Mr. Warcup instructed him not to interview Mr. Harper at that time.¹²⁰
152. Mr. Kellett stated in his evidence that at no time did Wiltshire raise any concerns with him directly about his liaison with their investigation (see further discussion in section 4 of this report).
153. Mr. Kellett stated that he raised the matter with Mr. Warcup on several occasions and finally wrote to him by email on 2nd September 2009 on this matter and the issue of Mr. Warcup's objections to him carrying out a joint report with BDO Alto. He felt so strongly at the time over the issue of contacting Mr. Harper that he made it clear that he would resign from his work on the review unless these matters could be resolved

I have previously expressed my concern to you, both verbally and in writing, that not interviewing Mr Harper will seriously undermine the credibility of the review. As the former Senior Investigating Officer of Operation Rectangle he should be given an opportunity to influence the outcome of the process and, given the seriousness of what has been found, natural justice dictates that he be allowed to do so.¹²¹

If you cannot change your position on this then I do not see how I can continue to contribute anything useful and I would have no alternative other than to terminate my involvement in the review of Operation Rectangle immediately.¹²²

154. Mr. Warcup, however, maintained his opposition to an interview with Mr. Harper and consequently no interview was arranged to cover the issues which Mr. Kellett had hoped to address.

Sub-Panel Comment

155. We believe that the concerns expressed by the Mr. Kellett and the consequences he had foreseen were absolutely correct. Unfortunately Mr. Kellett's warning was ignored.

¹¹⁹ Appendix to BDO Alto report (confidential)

¹²⁰ Mr. Warcup's submission, page 5

¹²¹ Mr. Kellett's submission, page 6

¹²² Mr. Kellett's supplementary submission, page 3

156. Given that it was surely obvious that not to interview the Senior Investigating Officer in Operation Rectangle would leave the review open to criticism of being fundamentally flawed, BDO Alto should have brought this problem to the attention of the Home Affairs and insisted that some solution be found.
157. We believe that the long delay in finalising the BDO Alto report, due to the fact that the report could not have been published before Wiltshire disciplinary enquiry had been concluded should have afforded the opportunity to rectify this matter. A range of people, BDO Alto, the Chief Officer, Home Affairs, or the Acting Chief Officer of Police could have brought this deficiency to the Minister's attention. However, no action was taken.

Impact of not interviewing Mr. Harper: (a) Mr. Harper's views

158. Mr. Harper contends in his submission that due to their failure to interview him BDO Alto had missed a substantial body of evidence available on the financial decisions they had been commissioned to review:

The completion of a review of my decisions relating to the use of financial resources without even seeking an explanation from me as to why I made those decisions, makes it inevitable that the review will be unfair, slanted, un-objective, and lacking in credibility. Such a review is unlikely to provide a true picture of the situation, and indeed, I would argue that there are so many factual inaccuracies and wrongful assumptions included in the report, that this is exactly what happened. If I had been spoken to it is unlikely that the report would have come to the same conclusions as it did.¹²³

159. Mr. Harper further commented on this omission:

I think it is absolutely bizarre that when they are given terms of reference to find out matters such as this that they do not even contact the person who is probably responsible for making the vast majority of those decisions.

160. To illustrate his point Mr. Harper detailed in his submission a number of examples of contentious issues where he believed that BDO Alto's interpretation was open to challenge. The key issues were:

- (a) The decision to enter and search Haut de la Garenne
- (b) The identification of JAR/6 (the fragment initially identified as the partial remains of a child)
- (c) The situation regarding management of SOJP budget (previously discussed in section 1 of this report)

¹²³ Mr. Harper's submission page 3

- (d) The cost of the forensic dog and accommodation for Mr. Grime at L'Horizon
- (e) The attendance at meetings in London
- (f) Hospitality and use of purchase cards at restaurants London

161. BDO Alto responded in detail to these points in their own submission.¹²⁴ It is not the Sub-Panel's intention to repeat the detail of these arguments, which can be read in the submissions available on the Scrutiny website, or to determine their relative merits.

162. It is significant, however, to note the first item in the list above, namely the decision to enter and search Haut de la Garenne. Mr. Harper claims that this decision was crucial to the BDO Alto conclusion that much of the spending was unnecessary. He goes on to explain that BDO Alto had based their assumptions on this on an interim report by the Metropolitan Police (the same report which was used as a basis for the Police press conference on 12th November 2008 which had called into question the previous handling of Operation Rectangle). Mr. Harper said that he had evidence to support his search strategy:

*BDO have completely missed this but would not have been allowed to if they had spoken to me.*¹²⁵

163. BDO Alto responded that Mr. Harper had misunderstood their findings. Their review was not undertaken to consider the justification of operational decisions but whether or not the use of resources following these decisions was properly based on value for money.¹²⁶

164. Nevertheless, the Minister agreed that the influence of the Metropolitan Police report on BDO Alto was an important issue. He pointed out that he had made clear in his statement on the release of the BDO Alto report that he disagreed with BDO Alto's interpretation of this matter. The Metropolitan Police's view was that they should not have started digging at all in the first place. The Minister's view, supported by Wiltshire, was that, even if it was questionable to start, once the police had thought that they had found a piece of skull fragment, then it was not unreasonable for them to carry on.

165. In our view, this argument bears out the significance of the failure to interview Mr. Harper in relation to his financial management of Operation Rectangle.

¹²⁴ BDO Alto report pages 13 -31

¹²⁵ Mr. Harper's submission paragraph 7

¹²⁶ BDO Alto submission page 14-15

The impact of not interviewing Mr. Harper: (b) BDO Alto's view

166. BDO Alto maintained that the lack of contact with Mr. Harper had not materially influenced their main findings:

*The findings contained in our Report were researched and evidenced: no facts or other information have come to, or been brought to our attention since the issue of our report that would cause us to revise the findings as stated therein.*¹²⁷

167. The Managing Director, BDO Alto, told the Sub-Panel:

*We were not allowed [to interview Mr. Harper], and therefore we formed our opinions based on all of the other evidence that we had available to us. It is not appropriate to consider that Mr. Harper was the one person in the whole world who could answer our questions. That is not the case; he was working as part of a larger team and there were a lot of other senior people involved in this investigation aside from Mr. Harper, so while Mr. Harper as Senior Investigating Officer takes overall command, it is not the case that he is involved in every single piece of detail, [] so there are lots of other people that you can get that evidence from.*¹²⁸

168. He did however acknowledge that there were certain areas where BDO Alto had been unable to report because the documentary evidence obtained was not on its own sufficient in the absence of Mr. Harper's contribution to be able to draw a final conclusion and make a recommendation.

*So, if you like, the content of the report, the format of the report, was influenced by the fact that [BDO] could not speak to him. Having said that, no information has come to our attention subsequently that would need us to change any of the findings and recommendations as presented.*¹²⁹

169. BDO Alto further maintained that Mr. Harper was not the subject of their review and it was not the intention of the report to be directly critical of him or of any other individual. BDO Alto said that they had acknowledged the hard work of Police officers and third party contractors during the course of the Operation Rectangle enquiry and confirmed that 'The report is not intended to be in any way critical of their individual efforts...'¹³⁰

170. Mr. Kellett reiterated this point in his submission:

The Review was not an investigation of any individual but was designed to ascertain what had occurred and to make recommendations for the future. Indeed, that much is clear from my terms of reference. [] The manner in which some of our conclusions were expressed was diluted precisely because we had not been able to speak to Mr Harper. Nevertheless, as he himself pointed out in

¹²⁷ BDO Alto Report page 5

¹²⁸ Public hearing 15.07.11

¹²⁹ Public hearing 15.07.11

¹³⁰ BDO Alto submission page 4

*his oral evidence, he made the bulk of the financial decisions and he therefore cannot absolve himself of the extremely serious and costly errors that were made.*¹³¹

171. Mr. Kellett made a point of praising the dedication of Mr. Harper and his determination to bring suspected offenders to justice:

*We have no doubt that Mr Harper was totally dedicated to the task of investigating serious crimes that had possibly occurred at Haut de la Garenne and that he was entirely sincere in his belief that child abuse there and elsewhere in Jersey was a major issue that needed to be dealt with. Throughout the period that Operation Rectangle was live, he and his staff displayed great dedication and did their utmost to bring suspected offenders to justice and we pointed out as much in our report. However, we were not asked to examine motivation and dedication but rather to look at how the resources available to the investigation were managed. We did so and made nineteen recommendations. Inevitably, because of the central role Mr Harper performed, his management of the resources formed a central part of our examination but to the extent that any of those recommendations constitute criticism of his actions, no criticism of, let alone attack on, the existence of the investigation or of the motivation for it is intended or implied.*¹³²

Sub-Panel Comment

172. While BDO Alto may be able to make the argument after the fact that nothing Mr. Harper has said in evidence would lead them to alter their findings, we do not see how they could confidently make that claim in the course of their review without having access to anything Mr. Harper might have told them.
173. The issues raised by Mr. Kellett's declaration above (paragraph 170) that the review carried out by himself and BDO Alto was not intended as criticism of the police investigation is a serious point which we consider later in the section on the media coverage (section 6 of this report).

Mr. Harper's willingness to co-operate in the review of financial management

174. BDO Alto claimed in their submission that it was not clear at the time of their review whether Mr. Harper wished to be interviewed. This view was based on the fact that Mr. Harper had already refused earlier in 2009 to return to the Island in respect of a court case regarding two men charged as part of the Historical Child Abuse Enquiry. It should be pointed out however that Mr. Harper did not refuse to

¹³¹ Mr. Kellett's submission page 7

¹³² Mr. Kellett's supplementary submission page 4

participate in the case and had offered to give evidence in front of a UK court, an offer which was not taken up.

175. BDO Alto also claimed that Mr. Harper had been aware of the review being undertaken into the costs of the investigation but had made no attempt to contact SOJP or Home Affairs to offer himself for interview.

Sub-Panel Comment

176. BDO Alto's suggestion that it was not clear whether Mr. Harper would agree to be interviewed was based on a newspaper report¹³³ and does not give the full story. As he had offered to give evidence in a UK court.
177. We note that Mr. Harper had co-operated with Wiltshire and there is no reason to suggest that he would not have been motivated to participate in a review of his management decisions.
178. BDO Alto's suggestion that Mr. Harper could have made contact with them on his own initiative, is not well founded. It is firmly the responsibility of the investigating team to make contact with a witness, not the other way round.

Possibility of BDO Alto interviewing Mr. Harper without the police consultant

179. In his submission Mr. Warcup states that his intervention preventing an interview with Mr. Harper related only to the SOJP internal review and not the BDO Alto report which had been commissioned by the Home Affairs Department and was outside his area of responsibility:

*What I did was to advise on what we as the States of Jersey Police would do in our role as part of that. It was not for me to advise in relation to how the BDO Alto would conduct their audit and their review.....Nobody owns a witness so there is every freedom to approach people and speak to them.*¹³⁴

180. BDO Alto's response to Mr. Warcup's submission was one of surprise. In their view Mr. Warcup had been quite categorical about the issue and there had been no question of their seeking to interview Mr. Harper without Mr. Kellett:

¹³³ BDO Alto report page 5: reference to an article posted on 'This is Jersey' website on 22nd August 2009

¹³⁴ Public hearing 16.08.11

*We could only interview any police officer or, for that matter, retired police officer with the permission of the Chief Officer, because this a live police investigation and Mr. Harper's confidentiality obligations did not disappear just because he retired from the States of Jersey Police.*¹³⁵

181. Mr. Kellett stated in his evidence:

*BDO Alto would not have been in a position to carry out an effective interview of Mr Harper without my presence and by forbidding me from interviewing him he in fact also prevented BDO Alto from doing so.*¹³⁶

Sub-Panel Comment

182. We agree that Mr. Warcup's suggestion that BDO Alto might have proceeded to interview Mr. Harper on their own, without the assistance of Mr. Kellett, was not a feasible option. However, we believe that Mr. Harper should still have been given the opportunity by BDO Alto to respond to the findings of their report before it was published.

Public enquiry or a review?

183. Mr. Harper maintained in his submission that it is a 'well established point of lawful procedure that in certain types of investigations and enquiries certain points of procedures must be followed to ensure fairness and accuracy'. He cited the case of *Maxwell v DTI 1974* and the requirement under the Inquiries Act 2005 for warning letters (known as 'Salmon letters') to give fair notice to those concerned of possible criticism in any report arising from an inquiry that might be made of their conduct so that they might be able to respond.¹³⁷

184. The Sub-Panel understands that Mr. Harper approached the ICAEW, the professional body for chartered Accountants in England and Wales to lodge a formal complaint against BDO Alto Limited regarding their alleged breach of the code of conduct which states that all reports being carried out by companies of accountants should be seen to be fair and objective and take all points of view into consideration. Mr. Harper informed the Sub-Panel that the ICAEW however had not been prepared to pursue the matter as they did not accept that his allegations had been proved beyond all reasonable doubt.

185. BDO Alto submitted that Mr. Harper's reference to the UK inquiry process was not relevant in respect of their review as they were not engaged to undertake either a public enquiry or a public investigation:

¹³⁵ Public hearing 15.07.11

¹³⁶ Mr. Kellett's supplementary submission, page 2

¹³⁷ Institute for Chartered Accountants for England and Wales

*Our review was undertaken solely for the Minister and the Accounting Officer of the Home Affairs Department and our findings were presented to them in our Report which the Minister determined to release into the public domain.*¹³⁸

BDO Alto's view was that there was therefore no legal or other requirement for Mr. Harper to be interviewed.¹³⁹

Sub-Panel Comment

186. We do not believe that BDO Alto's argument in this respect is well founded as it is clear from the evidence below that public scrutiny of the BDO Alto review was envisaged.

187. Firstly, we note that the Schedule to BDO Alto's letter of terms of engagement letter states that BDO Alto will produce an 'Executive Summary' document summarising the key findings contained within their detailed report. (The 'Executive Summary' is the BDO Alto report which was made public on 14th July 2011). The letter goes on to say:

*This document will be issued on a private and confidential basis to an agreed distribution list, rather than on a privileged basis, and may be issued in a form that could be admissible to scrutiny or any other hearing in due course, if required. (our emphasis)*¹⁴⁰

188. Secondly we note an email dated 2nd June 2009 from the police consultant to Home Affairs which clearly refers to the possibility of a public enquiry as well as media interest following the review of financial management. He wrote:

*Apart from being no more than fair I think that this is also desirable with an eye on future events - it would be difficult to rebut suggestions at a public enquiry or in the media that the report and the review exercise itself were incomplete and flawed, as perhaps the most important person in the enquiry was not even spoken to.*¹⁴¹

189. We accept that wording of the terms of engagement letters are ambiguous as they imply that the intention was for the BDO Alto review to be both private and confidential and at the same time open to scrutiny and a public hearing. However, the likelihood of future public scrutiny should have been clear to BDO Alto from the outset.

¹³⁸ BDO Alto submission page 4

¹³⁹ BDO Alto report page 5

¹⁴⁰ Letter dated 29th September 2009 (supplied in confidence to the Sub-Panel)

¹⁴¹ BDO Alto submission, Annex (confidential)

A parallel with the Napier Report

190. There is an important parallel to the failure to give Mr. Harper the opportunity to respond to the findings and recommendations of the review of financial management. This is shown in the Napier Report, firstly in the failure to seek an informal resolution to the perceived breakdown of relationship with the Chief Officer of Police (paragraphs 49-53).
191. Napier found that Mr. Lewis, the Minister for Home Affairs at the time, questioned the need to proceed to a suspension of the Chief Officer without preliminary discussions with him but was advised that this would not be appropriate (paragraph 54)
192. Napier commented: The confrontation with Mr Power was seen coming by officials weeks in advance of 12 November, and I do not know why the opportunity to head it off (or at least attempt to do so) was not taken. (paragraph 55)
193. A conscious decision was in fact taken by officials not to raise disciplinary issues with Mr Power because of the potential risk to the media announcement that was seen as essential in allowing the criminal prosecutions to go forward in the courts. (paragraph 57)
194. Napier found that the Minister should have asked the Chief Executive to carry out the preliminary investigation, before proceeding to suspension (paragraph 65)
195. The Chief Officer of Police should have had the opportunity to be shown the Metropolitan Police report and to offer some explanation, before the Minister took any decision to suspend. (paragraph 67)

Key findings

- **It is self evident, and all parties agree, that BDO Alto should have interviewed the key witness so that his evidence could have been included and evaluated in their report. Natural justice requires no less**
- **The failure to provide Mr. Harper with the opportunity to respond to the findings of the BDO Alto review was also, in our view, a significant error and inevitably undermines the credibility and fairness of that review.**
- **Given that it was surely obvious that not to interview the Senior Investigating Officer in Operation Rectangle would leave the review open to criticism of being fundamentally flawed, BDO Alto should have brought this problem to the attention of the Home Affairs and insisted that some solution be found.**
- **No one involved in the review brought to the Minister's notice the fact that there were apparent obstacles in the way of interviewing Lenny Harper.**
- **The terms of engagement for BDO Alto should have made clear that their review would be subject to public scrutiny.**

4. TO CLARIFY THE LIAISON BETWEEN THE REVIEW OF FINANCIAL MANAGEMENT AND THE WILTSHIRE POLICE INVESTIGATION, IN PARTICULAR THE REFERENCES IN THE BDO ALTO REPORT TO THE SENIOR INVESTIGATING OFFICER'S STATEMENTS TO WILTSHIRE POLICE

Background

196. Mr. Harper made a statement to the Wiltshire Police about his role in the management of Operation Rectangle. Mr. Harper has complained about the inclusion of three brief specific references to his statement in the published BDO Alto report. These refer to

- (a) Mr. Harper's meetings with Home Affairs during the course of the investigation to discuss financial matters. BDO Alto notes that Mr. Harper had maintained in his statement that he was never asked for detailed forecasting costs. They state that this contradicts discussions with the Finance and Administration Manager at Home Affairs.¹⁴²
- (b) Australia trip: BDO Alto notes that Home Affairs had queried certain expenses, such as the Australia trip but that they were always happy with the explanations given.¹⁴³
- (c) Jersey compliance with ACPO standards: BDO Alto made the observation in their conclusion to Chapter three of their report that there was a failure to implement a number of ACPO policies relating to management of the Major Incident Room (MIR), in particular the appointment of a Finance Officer, impacting effectiveness and management of resources. This was one of the key issues identified in their review. The reference to Mr. Harper's statement states that Mr. Harper had previously noted that, in his opinion, the ACPO standards of investigation do not normally apply to SOJP because SOJP is not a Home Office force. BDO Alto go on to say that Mr. Harper also appeared to dismiss the need for a review of this investigation at an early stage and a review was only carried out once the new SIO had been appointed.¹⁴⁴

197. BDO Alto stated that these references were included in order to add some support to Mr. Harper's approach to certain financial issues.¹⁴⁵

¹⁴² BDO Alto Report, page 12

¹⁴³ BDO Alto Report, page 12

¹⁴⁴ BDO Alto Report, page 21

¹⁴⁵ BDO Alto submission paragraph 32

Data Protection issues

198. Mr. Harper's complaint is made on the grounds that the statement given to Wiltshire was given on a confidential basis as part of the disciplinary enquiry and that he had been given an assurance that the statement would not be provided to anyone else. He claimed that the disclosure of his statement was a potential breach of data protection legislation.¹⁴⁶ He said that the Wiltshire Report make the obligation to confidentiality clear:

*'Paragraph 1.2 of the discipline code (for Chief Officers of the States of Jersey Police) requires that all parties involved in the operation of this code will maintain confidentiality while proceedings are being progressed.'*¹⁴⁷

199. The Sub-Panel is not qualified to make any judgment on whether or not there was a breach of data protection legislation in allowing Mr. Kellett access to Mr. Harper's statement to Wiltshire.

Contact with Wiltshire made by the police consultant

200. Mr. Kellett explained in his evidence that he had regular contact with Wiltshire Police from the early days of his involvement in the review and exchanged information with them. Indeed the first contact had been made by the Wiltshire team. This was done openly and with full knowledge of all relevant parties although the contact was solely through him. BDO Alto had no involvement in any contact with Wiltshire. Mr. Kellett commented:

*Many of the issues that we were dealing with were the same and it made sense to talk to each other, because, as I pointed out, I, during the process of my investigations, uncovered evidence that was relevant to their inquiry that they had not already found, and it was proper that we talked to each other.*¹⁴⁸

201. He acknowledges that the actions of Mr. Harper were a central focus for the work being carried out by both the Wiltshire and BDO Alto. He was aware that Wiltshire held a record of an interview with Mr. Harper in the form of a draft statement and requested permission to see it. This was granted after legal advice had been taken by Wiltshire. Mr. Kellett was given access to the document and was permitted to take notes but not make a copy.¹⁴⁹

¹⁴⁶ The Sub-Panel is aware that Mr. Harper has contacted the legal advisors for the Wiltshire team in relation to this complaint; however, it is not aware of any formal data protection complaint

¹⁴⁷ Extracts of the report of the Wiltshire Police Investigation, dated 13.07.11, page 2

¹⁴⁸ Public hearing 15.07.11

¹⁴⁹ Mr. Kellett's submission, page 7

202. Mr. Kellett told the Sub-Panel that he did not regard his access to Mr. Harper's statement as a breach of confidentiality:

It is not uncommon that the disciplinary investigation is going on at the same time as a review of this nature in the circumstances that applied to Rectangle.... The fact that the statement is confidential does not mean that it cannot be used in circumstances other than purely for the reasons that it was given.¹⁵⁰

Primacy of Wiltshire enquiry

203. As previously discussed, (see section 3 of this report), Mr. Warcup had concerns about the exchange of information between Mr. Kellett and the Wiltshire police. He told the Sub-Panel:

My understanding was that the States of Jersey Police and those working for the States of Jersey Police would not see any of the evidence in relation to the Wiltshire inquiry.....It would raise an issue should there any misconduct procedure I would have thought it would have been a matter which would be subject to challenge within the misconduct process to say why did that happen and was it appropriate and what was the purpose.¹⁵¹

Sub-Panel Comment

204. The issues regarding the primacy of the Wiltshire Enquiry are considered above in section two of this report (see Primacy of Wiltshire). As already discussed, this principle had a major impact on the review of financial management through (a) the limitations Mr. Warcup set on joint working between the police consultant and BDO Alto and (b) the Acting Chief Officer's refusal to allow Mr Harper to be interviewed by the police consultant
205. Having already noted that the issue of a potential breach of data protection is not within our remit, the issue for us in this section of our report is the use of the three references indicated above. In our view, the justification given for referring to Mr. Harper's statement, namely that it provided some additional information on the approach adopted by Mr. Harper, merely underlines the importance of contacting Mr. Harper to establish his point of view. The three references briefly made in the BDO Alto report concern contentious issues which deserved a much fuller explanation.

¹⁵⁰ Public hearing 15.07.11

¹⁵¹ Public hearing 15.07.11

- (a) First, the disputed versions about meetings with Home Affairs and the role of the Finance Officer is a central issue (see discussion paragraph 78 of this report);
- (b) Second, the use of Business Class by the officers travelling to Australia to take witness statements was an issue which caused serious questions to be raised in the States in the early stages of the investigation (May 2008) and was subsequently highlighted in the media's negative comments about Mr. Harper's handling of the investigation. (It is noted that Mr. Harper's explanation was not developed at this point of the report; however, it is given later in the report)
- (c) Finally, in our view, Mr. Harper's remarks about Jersey's compliance with ACPO standards and his apparent dismissal of the need for a review, demand a fuller explanation. His reasons for taking this position, if confirmed, ought to be the subject of scrutiny.

Key findings

- **BDO Alto stated that the references to Mr. Harper's statement to Wiltshire were included in their report in order to add some support to Mr. Harper's approach to certain financial issues.**
- **The three references briefly made in the BDO Alto report actually concern contentious issues which deserved a much fuller explanation of Mr. Harper's position**
- **In our view, the justification given for referring to Mr. Harper's statement in fact supports the argument that he should have been contacted to establish his point of view across the whole review of financial resources.**

5. TO INVESTIGATE HOW DETAILS OF THE REVIEW INTO THE FINANCIAL MANAGEMENT OF OPERATION RECTANGLE CAME TO BE PUBLISHED IN A NATIONAL NEWSPAPER IN OCTOBER 2009

Background

206. On Sunday 4th October 2009 the Mail on Sunday published an article by their reporter David Rose¹⁵² referring to 'a leaked report by financial auditors' which had been seen by the newspaper. The article then appears to quote the then Acting Chief of Police: 'Dave Warcup told the Mail on Sunday that he had appointed an independent team of auditors to examine Harper's spending - it includes two forensic accountants and a police expert in seizing criminals' assets'¹⁵³. This statement was factually inaccurate. Later in the article the leaked material is identified as an 'interim report'. No mention was made in the article of BDO Alto; however, it appears clear that the article is referring to their review.

207. In their submission BDO Alto give a full and contemporaneous record of discussions and correspondence between BDO Alto and Home Affairs following the publication of this article. Mr. Kellett stated in his submission:

It is clear that it was not an 'interim report' or the consolidated report that was leaked to the newspaper but rather content of the drafts of sections of my contribution to the report.

208. Mr. Kellett explained that he had circulated copies of his work on a confidential basis to the Acting Chief Officer, to Mr. Gradwell, to the Wiltshire team and to BDO Alto for feedback and comments. In a telephone conversation after the article had appeared Mr. Gradwell admitted to Mr. Kellett that he had been responsible for the leak. Mr. Kellett said that he deplored this action.

209. The States of Jersey Police submission confirmed this and described the circumstances as follows:

D/Supt M Gradwell left Jersey in August 2009 and retired from the police service on 2 September 2009. Prior to leaving and unbeknown to the States of Jersey authorities, Mr. Gradwell gave a number of press briefings which were critical of the investigation led by Mr. Harper. During the course of these briefings, it is evident that Mr. Gradwell made verbal references to extracts from the BDO Alto report on financial matters. This was wholly improper and less than helpful to the ongoing enquiry. [] Mr. Gradwell is on public record as

¹⁵² The Sub-Panel contacted Mr. Rose in relation to this article but did not receive a reply

¹⁵³ Note: Mr. Warcup did not in fact appoint the accountants to undertake this task. The Minister for Home Affairs commissioned the review.

*accepting that he quoted information from notes later incorporated in the report, but he vehemently denies 'leaking' a copy of the report to the media.*¹⁵⁴

Details of the article

210. Some of the wording quoted in the Mail on Sunday article is very close to the phrases in the final report; in addition specific details of financial costs are disclosed. There seems to be little doubt from the number of specific details and phrases used by the newspaper that the reporter had extensive access to Mr. Kellett's material whether or not the reporter was actually given a copy of the work.
211. The article refers three times to comments by Mr Gradwell, the retiring Senior Investigating Officer, who had described the handling of the HDLG investigation as a 'shambles'.
212. The article refers to specific details of financial costs contained in the 'leaked report' including £750 per day for the first seven days' work for the forensic dog and £650 per day for 136 days after and 49 claims on force credit cards for meals costing more than £50; more than £5,700 on Mr. Harper's card alone.¹⁵⁵
213. The article states that, in a three month investigation the reporter had spoken to a number of individuals connected with the Operation Rectangle: including the Dog Handler, the Chief Executive and the Head of Operational support of NPIA and a former Metropolitan Police Commander.
214. The article also claims to make a number of direct quotes from the 'leaked report'. These later appeared in the published BDO Alto report, albeit the wording in the published report had been somewhat amended in most cases, for example:
- (a) a comment by an employee of LGC Forensics: *We followed the dog. Where the dog barked was dug up.* This says the interim report was a fundamental error'.¹⁵⁶
 - (b) a comment that Mr. Harper had 'little idea' of how to use the HOLMES computer system. The article refers to an email where Mr. Harper asks a question about the role of an analyst. This was not found in the published report which actually says: *SOJP personnel lack depth of experience in using HOLMES - including senior personnel fulfilling key roles.*¹⁵⁷
 - (c) the conclusion to the auditors' interim report regarding use of the dog: *'It was an expensive mistake to bring in Mr. Grime. It would have been far preferable and much cheaper to have tried to obtain appropriately trained dogs and handlers from UK police forces.'* The underlined words have been

¹⁵⁴ States of Jersey Police submission

¹⁵⁵ The published BDO Alto report page 56 actually gives the figure as 45; the second figure not given

¹⁵⁶ The published BDO Alto report page 9.

¹⁵⁷ The published BDO Alto report page 21

amended in the published report which reads: *It was an expensive decision to employ Mr. Grime and to deploy him in the ways described in this Report. It may have been wiser and cheaper to have sought to obtain appropriately trained dogs and handlers from UK police forces.*¹⁵⁸

- (d) a comment on meal with a News of The World journalist: *'We do not see how this occasion can possibly be regarded as a business dinner within the terms of the policy'*. This sentence appears unamended in the BDO Alto report.¹⁵⁹

215. The article makes 10 further references to specific details contained in the 'leaked report'. The article also refers to emails from Mr. Harper to his staff (Forensics Manager) obtained by the Mail on Sunday.

216. Mr. Rose had previously written a number of other articles critical of Mr. Harper's conduct of the investigation going back to May 2008 (18.05.08; 24.05.08, 15.11.08). In May 2008 he made a reference to the 'leaked' cost of the investigation (£6.5million) but did not develop any criticism. In his article in November 2008 in which he interviewed Mr. Gradwell he stated that the police were said to be concerned at the enquiry's profligate spending (eg decision to send two officers first class to Australia and a £100,000 bill for the use of Eddie the sniffer dog). In the course of the article he stated that he had obtained confidential documents including an email from Mr. Harper and the official log book kept by the forensic science team.

217. Channel Television also appeared to have access to information from the review into the financial management of the HDLG enquiry. In their two programmes in September 2009 they interviewed Mr. Gradwell on his retirement and referred to a number of specific details from the BDO Alto report such as dinners in specific London restaurants, overnight stays for one hour meetings and the failure to appoint a finance manager.

Police response to Mr. Gradwell's action

218. Mr. Warcup stated in his submission that the disclosures made by Mr. Gradwell to the media on his departure from Jersey had not been authorised or approved by himself or any other person in the SOJ Police.

*They were made without my knowledge, were inappropriate and could have jeopardised the objectivity and fairness of the Wiltshire enquiry.*¹⁶⁰

219. He said that he had been concerned that a considerable amount of information and documents had been leaked to the media from an early stage in the HCAE investigation:

¹⁵⁸ see page 41 of published BDO Alto report.

¹⁵⁹ see page 55 of published BDO Alto report

¹⁶⁰ Mr. Warcup's submission page 7

Unfortunately there were many issues right through from 2008 until 2010 where we did look to try and establish how information had been released to the media. It is a matter of some regret in many respects that it happened and I do not condone it at all..... I have to say that I think that the release of information in such circumstances is detrimental to the good conduct of the inquiry.... I think that that matter needs to be seriously considered for the future and the release of information, however well intentioned, has to be carried out under proper regulated and approved systems and not to fulfil whatever agendas people are trying to pull through.¹⁶¹

220. The Minister told the Sub-Panel that he had discussed the matter with Mr. Warcup who had revealed to him that he (Mr. Warcup) had become aware that Mr. Gradwell intended to speak to the press on his retirement from the Police force about his views on the HCAE investigation. Mr. Warcup had sought assurances from Mr. Gradwell that he would not do anything of that nature, only to discover subsequently that Mr. Gradwell had already given his press interviews.¹⁶²
221. The Minister told the Sub-Panel that it was not possible to discipline Mr. Gradwell for the disclosures he had made because of the fact that he had been seconded from another Police force and had already left Jersey. This point is confirmed in the SOJ Police submission:

Having left Jersey and retired from the police service in England, it is not possible to take matters further outside of Jersey's jurisdiction.¹⁶³

Sub-Panel comments

222. It is accepted that the subject of the leak to the Mail on Sunday was not an interim report prepared by BDO Alto but initial drafts which Mr. Kellett had prepared and circulated to a limited group of people within the SOJ Police (Mr. Warcup and D/Superintendent Gradwell) and to BDO Alto for information and feedback on accuracy of content and style. We also fully accept that neither BDO Alto nor Mr. Kellett were in any way responsible for this leak.
223. It is clear from the evidence we have received that Mr. Gradwell was responsible for leaking information from draft sections of the work which Mr. Kellett had prepared for the BDO Alto review. The information was published in an article in the Mail on Sunday in October 2009 but it also appears to have been made available to Channel Television for a programme in September 2009. Mr. Gradwell also gave an interview to the Jersey Evening Post in which he voiced extensive negative comments on the investigation carried out by his predecessor which he labelled 'a poorly managed mess'.¹⁶⁴ The disclosure of information from the

¹⁶¹ Public hearing 16.08.11

¹⁶² Public hearing 25.08.11

¹⁶³ States of Jersey Police submission

¹⁶⁴ 29th August 2009

review of financial management was then part of a broader criticism of the investigation by Mr. Gradwell.

224. Mr. Gradwell's views on the investigation were already well known. As Senior Investigating Officer he had been a key figure in the press conference on 12th November 2008 which had called into question the previous direction of the investigation.
225. Our primary concern about the premature leaking of details of the review of financial management relates to issues of fairness in the way these leaks are reported in the media without an adequate opportunity for an alternative perspective to be considered. We give further consideration to this matter in the final section of our report.

Key Findings

- **The evidence we have received points to Mr. Gradwell as the person responsible for leaking information from draft sections of the work which Mr. Kellett had prepared for the BDO Alto review.**
- **Neither BDO Alto nor Mr. Kellett were responsible for the leak of information to the Mail on Sunday.**
- **Mr. Gradwell's action in releasing prematurely to the media draft sections of an uncompleted report would have been a serious disciplinary matter for the Police. However, no action could be taken against him by the SOJ Police as Mr. Gradwell had completed his secondment and left the Island.**
- **Mr. Gradwell's reasons for taking such an unprofessional step are not clear to us as he refused to participate in the Scrutiny review.**

6. MEDIA COVERAGE

226. The BDO Alto review was an official review commissioned by the Minister for Home Affairs dealing with matters of legitimate public interest. The media has a right and even a duty to report fully on these matters. However, it is also important that the media give a balanced and complete picture. Our review has revealed a number of concerns about the media coverage of the BDO Alto report and its conclusions. We give a brief account of our concerns in this section of the report.

Press Coverage of BDO Alto report

227. The publication of the BDO Alto and Wiltshire reports by the Minister for Home Affairs on 14th July 2010 was an occasion for highly critical attention on Mr. Harper. The Jersey Evening Post published an extensive six page report with headlines focussed on:

- Celebrity lifestyle of Lenny Harper and his officers
- Meals in top-class restaurants and first class travel at expense of tax payers
- £42,000 – the overtime paid to a single officer in the first 15 months of the historical abuse enquiry
- No dog's life for handler with luxury hotel lifestyle
- Hot on the trail of top London restaurants
- Lenny Harper and his team enjoyed £90-a-head meals and travelled first class at taxpayers' expense, an accountants' report revealed
- Off to Scotland Yard again
- First class on the Gatwick Express

228. The problem with the way the official review was reported is that it appears to take every opportunity to discredit, with the benefit of hindsight, those in charge of Operation Rectangle without any reference to the constraints and pressures under which the Police were operating during the early stages of the investigation. The emphasis on alleged misuse of taxpayers' money risks implanting the impression in the public mind that the entire expenditure on Operation Rectangle was badly managed.

229. In contrast, the BDO Alto report notes:

*In undertaking this Review and throughout the preparation of this Report we have been conscious of the fact that detailed scrutiny of any major inquiry will reveal errors, omissions and learning opportunities, particularly given the benefit of hindsight. It has not been our intention to be ultra-critical in our conclusions and we have attempted to be fair to all of those involved.*¹⁶⁵

230. Mr. Kellett as previously mentioned¹⁶⁶ made a point of qualifying the critical attention in the report with praise for the dedication and determination which police officers brought to the task of investigating child abuse:

*We have no doubt that Mr Harper was totally dedicated to the task of investigating serious crimes that had possibly occurred at Haut de la Garenne and that he was entirely sincere in his belief that child abuse there and elsewhere in Jersey was a major issue that needed to be dealt with. Throughout the period that Operation Rectangle was live, he and his staff displayed great dedication and did their utmost to bring suspected offenders to justice and we pointed out as much in our report. However, we were not asked to examine motivation and dedication but rather to look at how the resources available to the investigation were managed. We did so and made nineteen recommendations. Inevitably, because of the central role Mr Harper performed, his management of the resources formed a central part of our examination but to the extent that any of those recommendations constitute criticism of his actions, no criticism of, let alone attack on, the existence of the investigation or of the motivation for it is intended or implied.*¹⁶⁷

231. No such qualification appears in the above press report.

232. Furthermore, the newspaper did not pick up on the fact that Mr. Harper had not been interviewed or given the opportunity to respond to the criticisms in the report. Nor, as far as we are aware, did the newspaper give Mr. Harper any opportunity to state his own perspective.

Leaks to the media

233. Our primary concern about the premature leaking of details of the review of financial management relates to issues of fairness in the way these leaks are reported in the media without an adequate opportunity for an alternative perspective to be considered.

234. It is clear that the premature leaking to a national newspaper of draft sections intended for incorporation in the BDO Alto report was intended to cast a negative

¹⁶⁵ BDO Alto report page 5

¹⁶⁶ See paragraph 170 above

¹⁶⁷ Mr. Kellett's supplementary submission page 4

perspective on the police handling of Operation Rectangle. We have been unable to question Mr. Gradwell about his reasons for doing so, as he refused an invitation to attend a hearing with the Sub-Panel as a witness. Whatever his motivation, the effect of his actions was to undermine confidence in the handling of the HCA enquiry by his predecessors.

235. Two programmes broadcast by Channel Television in September 2009 had a similar impact locally. Channel Television also appears to have had access through Mr. Gradwell to significant details from the BDO Alto review prior to the publication of its report, referring to dinners in specific London restaurants, overnight stays for one hour meetings and the failure to appoint a finance manager.
236. These programmes were based on interviews with Mr. Gradwell, shortly before his departure from the States of Jersey Police, giving him the opportunity to paint a very negative picture of the way the Police investigation was led.
237. We are not aware that Channel Television made any attempt to contact Mr. Harper to gain an alternative perspective on the enquiry.

Coverage of Panel hearing on 17th August 2011

238. We were also concerned about the reporting by Channel Television of the public hearing held with Mr. Power on 17th August 2011. The programme chose once again uncritically to highlight aspects of alleged overspending by the Police and in particular Mr. Harper during the Historic Child Abuse Enquiry, referring in their introduction to the report to Michelin-starred restaurants, 4-star hotels, first class flights to London and Australia, the costs of the dog handler and police overtime.
239. The CTV commentary used the figure of £7.5 million twice, unqualified in any way, alongside statements about restaurant bills etc '*which the tax payer unwittingly had to sign for*'. It was suggested in this way that that sum was all somehow unjustified or tainted. The impression clearly left with the viewer was that the Police had wasted £7.5 million. In fact, the budget for expenditure by the States of Jersey Police was £4.5 million, the remaining £3 million was accounted for by other States Departments.
240. Furthermore, it ought to be noted that the £7.5 million figure was never all down to the decisions, right or wrong ones, by Mr. Power and Mr. Harper. Half of the spending on the enquiry was committed after their time leading the investigation.
241. In our hearing with him on 25th August 2011, the Minister was sympathetic to our concerns about the way negative messages about Mr. Power and Mr Harper had been spun in the media and he offered to make a joint statement to this effect with the Sub-Panel. We believe that this would be a positive step.

242. The programme attempted to characterise the public hearing as a 'blame game' between the Home Affairs department and the States of Jersey Police centred on who was responsible for the police spending. The programme picked up on a point made by Mr. Power in which he alleged that Home Affairs had been responsible for signing off expenses claims, linking this to the total £7.5 million cost of the enquiry.
243. The reporter approached the Home Affairs Chief Officer for a comment on this allegation and was told that the Chief Officer would be speaking to the Sub-Panel to explain the position. It was therefore perplexing to note that CTV failed to cover the subsequent hearings (on Thursday 25th August 2011) to discover the answer to their own questions.
244. No attempt was made during the course of the programme to present an accurate and balanced picture of the Scrutiny Sub-Panel's review. The reporter appeared to have undertaken very little background research into our review and resorted merely to replaying earlier versions of CTV coverage of the matter. Our concern about the programme was that, by focussing once again on the issue of expenses, it reinforced a negative stereotypical image of the Police handling of the Historical Abuse Enquiry and missed the serious points raised during the hearing with Mr. Power.
245. We sought to discuss the content of the programmes with representatives, including the reporters, from Channel Television and requested that they attend a public hearing for this purpose. Channel Television challenged whether such a request was within the terms of reference for our review and asked us to clarify the evidence we were seeking from them. We made it clear that we were not seeking to discover how they had obtained access to the BDO Alto report before it was published as that question had been clearly answered in other contexts. We also acknowledged that political examination of media issues is a sensitive and complex subject and we were not seeking to interfere with editorial judgment about programmes. However, we maintain that it is legitimate to challenge whether a proper balance of reporting has been achieved and whether information has been fairly presented. We believe that these matters are an appropriate subject of examination by Scrutiny.
246. We were unable to pursue these questions with Channel Television due to pressures of timing, in particular the forthcoming elections and the requirement to complete our report before the end of the current States Assembly.

Conclusion

247. In each of the above cases neither of the media organisations appeared to undertake any critical analysis of their own of the information they had received. This feeds into the perception by a number of observers that the media has allowed itself to focus on alleged failures in police procedures rather than their attempts to investigate instances of child abuse which had been allowed to continue without effective challenge for many years.

248. The Island has been heavily polarised in regard to the conduct of the Historical Child Abuse Enquiry. The majority of the members of the public form their views on the basis of media reporting of these issues and we believe it is of paramount importance that the media strive to deal with issues of this magnitude with the highest standards of objectivity. Broadcast media have a special responsibility to use the few words that they have carefully in order to avoid false impressions being left in the minds of the public.
249. We note that parliamentary scrutiny in the UK is also attempting to grapple with difficult issues regarding media reporting. Here in Jersey there are particular issues with regard to the provision of objective reporting due to the limited number of local media organisations. We believe that it is essential that the Chairmen's Committee give serious consideration to establishing a Scrutiny Panel which could undertake a review which will look specifically at the kind of issues we have identified in this report.

Key Findings

- **The emphasis on alleged misuse of taxpayers' money in instances of media reporting risks implanting the impression in the public mind that the entire expenditure on Operation Rectangle was badly managed.**
- **In our hearing with him on 25th August 2011, the Minister was sympathetic to our concerns about the way negative messages about Mr. Power and Mr Harper had been spun in the media and he offered to make a joint statement to this effect with the Sub-Panel. We believe that this would be a positive step.**
- **Our primary concern about the premature leaking of details of the review of financial management relates to issues of fairness in the way these leaks are reported in the media without an adequate opportunity for an alternative perspective to be considered.**
- **It is essential that a future Scrutiny Panel give serious consideration to undertaking a review which will look specifically at the kind of issues we have identified in this report.**

Recommendation

- **The Chairman's Committee should establish broadly-based Scrutiny Panel to undertake a review to examine issues relating to the media coverage which we have raised in our report.**