

SOCIAL AFFAIRS SCRUTINY PANEL

Review of the Role of the Centeniers in the Magistrates Court

WEDNESDAY, 1st NOVEMBER 2006

Panel

Deputy F.J. Hill of St. Martin (Chairman)
Deputy J.A. Martin of St. Helier
Deputy D.W. Mezbourian of St. Lawrence
Deputy S. Pitman of St. Helier
Deputy A.E. Pryke of Trinity

Scrutiny Panel Officer

Mr. C. Ahier

Witnesses

Mr. R. Morris
Mr. L. O'Donnell

Deputy F.J. Hill of St. Martin:

I welcome you both. Thank you for coming. Everyone in the room knows each other, I think, but to be formal, I will introduce myself. I am Deputy Bob Hill, who is the Chairman of the Social Affairs Scrutiny Panel, and my colleagues will introduce themselves. To my right ...

Deputy J.A. Martin of St. Helier:

I am Judy Martin, Deputy for St. Helier No. 1.

Deputy D.W. Mezbourian of St. Lawrence:

Deputy Mezbourian, from St. Lawrence.

Deputy A.E. Pryke of Trinity:

Good afternoon. Anne Pryke, Deputy of Trinity.

Deputy S. Pitman of St. Helier:

Hello. I am Deputy Shona Pitman of St. Helier No. 2.

The Deputy of St. Martin:

And Charlie Ahier, who is our administrator, our Scrutiny Officer. And for the record purposes, I will just ask you to introduce yourselves also, please.

Mr. L. O'Donnell:

I am Laurence O'Donnell, legal adviser to the police.

Mr. R. Morris:

And I am Robin Morris, legal adviser.

The Deputy of St. Martin:

Okay. Just a few housekeeping points. Could I ask everyone to keep their voices up, so that we can all hear what is going on? As always, the matter will be transcribed, and we will be able to see a copy at a later stage before it comes out on to the site. I also understand you have been served with a notice about privilege, et cetera, so you are aware of how we operate and so on.

Mr. L. O'Donnell:

Yes.

The Deputy of St. Martin:

Fine, thanks very much. Hopefully, we have got some idea of what we are doing this afternoon, so I will plough on and I will probably incorporate the first 2 questions together. I will ask; what is the role of a legal adviser and just will ask at the same time how many of you are there?

Mr. L. O'Donnell:

Presently, there are 4 of us. There are 2 full-time members of staff; that is myself and Advocate Robin Morris. We also have 2 part-time ladies. One lady works 4 days a week, and one lady works 3 days a week.

The Deputy of St. Martin:

Could I just ask, are the assistants or the part-time staff, they are fully qualified, legally trained, with the same experience as you have, are they?

Mr. L. O'Donnell:

One is a solicitor from England with considerable prosecution experience, and the other is a barrister with considerable prosecution experience from England.

The Deputy of St. Martin:

When you say they are part time, the part-time work, is that part-time work devoted completely to that

of the legal adviser?

Mr. L. O'Donnell:

Our office is discrete within the Law Officers' Department.

The Deputy of St. Martin:

So I would be correct to say you have got 2 full-time operating 2 times 5, that is 10 days, and you would have one officer doing 4 days, so you would have 17 days a week?

Mr. R. Morris:

Yes, that is right, 17 days. We also have an ability to call for assistance from assistant legal advisers from Morier House at times of holiday or sickness or absence.

The Deputy of St. Martin:

Okay. Could I ask you to expand, please, on the particular role of the adviser? Probably you could also tell us - I think it started in 1999, did it?

Mr. R. Morris:

Can I just refer to that first question, which is what is the role of a legal adviser in the judicial system? Can I just correct, I think, that it is not really the judicial system in which we work; it is the prosecutorial system. The judicial system is the administrative structure whereby justice is carried out, and it is the judgmental part of that system. We are simply in the prosecutorial system, which is the part of it bringing criminal prosecutions, but within that answer we are obviously employed by the Attorney General, and we have a number of roles. Mainly, first of all, advice, and that is advice to police, Customs, Centeniers, outside agencies, by which I mean the Housing Department, Social Security, Regulation of Undertakings and any other States' department which has a regulatory and/or prosecutorial role. We have the conduct of trials in the Magistrates Court. We have the conduct of certain bail applications. We prepare the serious crimes for committal to the Royal Court. We deal with extradition matters which start in the Magistrates Court, and I think we deal with the Centeniers on a daily basis.

The Deputy of St. Martin:

I think we will come to that, really, because obviously it is interesting to know that you have another outside role, and presumably the other 2 ladies' time would be given to that as well. That is the role of your department, basically?

Mr. L. O'Donnell:

Yes, we all undertake much the same type of work and the same quality of work, if I can put it that way.

The Deputy of St. Martin:

So how much of your time would be given to going to court? Because I understand, certainly from my experience, and I think my colleagues have been also at different times to court, I think we have seen a legal adviser in court.

Mr. L. O'Donnell:

We attend every morning at the Magistrates Court. So every remand court, which is when matters are being progressed or processed through from the initial charges through to, hopefully - and the expectation must be a conviction and/or sentence.

The Deputy of St. Martin:

When you say "we", are you referring to the department or individually, or how many of you would go in the morning?

Mr. L. O'Donnell:

Usually one, and we try and operate that on a rota basis.

The Deputy of St. Martin:

You obviously know a little bit about the CPS (Crown Prosecution Service) system in the UK. We had Tracy Easton here - you were present when she gave her evidence. The feeling was that in the UK there might not be a legal adviser there assisting that of a person who would be capable of it. In Jersey, we have a slightly different -- what is your primary role in the Magistrates Court? Is it to assist the Centeniers, or do you have particular functions yourself?

Mr. L. O'Donnell:

I think there is a division. We will have an interest in certain cases, and we will be presenting those particular cases, which may be proceeding towards the Royal Court, so they will be the slightly graver matters. We may be involved in discussing our pleas with the Centenier and/or with defence advocates, and the Centenier will then present the facts. If we are looking to adjourn the matter, then we will discuss that with the Centenier, often with the defence advocate, and quite often prior to court, usually the afternoon before; there is a great deal of liaison between the agencies - between the defence, between the Centeniers and between our office, to ensure that we all know where a matter is going the following morning. Regrettably, sometimes it is at 9.55 a.m. that we crystallise where we are going with a particular matter, so that the court operates smoothly, efficiently and as the public would want it to.

The Deputy of St. Martin:

At what stage would either one of you who were his legal adviser consider it is necessary to possibly --

maybe a Centenier is struggling with a case, or at some stage or other would you feel it would be right for you to come in and say - because I would think generally speaking the Centenier would have enough sense to feel that possibly they are getting into a bit of difficulty. They would look to you anyway, would they?

Mr. L. O'Donnell:

I think the Centeniers seem very comfortable with us on occasion simply saying: "Do you mind if I deal with this?" either during the course of remand court, or thereafter the magistrate may ask that a Centenier passes the matter to the legal adviser. We have experienced no difficulty with that process. The Centenier will often of his own volition say: "This is getting a little complicated. I would like you to either have a look at it or perhaps take it over."

The Deputy of St. Martin:

Could we go back to it? Because I understand - again, correct me if I am wrong - I understand that the legal adviser in your current role came into force about 1999.

Mr. R. Morris:

It was, and it was as a result of the working party report into Magistrates Court procedures that was in 1997, and I think you have had a copy of that working party report.

The Deputy of St. Martin:

Yes, we have been working to it.

Mr. R. Morris:

As a result of that it was decided that the law officers would employ a full-time legal adviser, and that is where I came in. The role has evolved somewhat since 1999.

Deputy J.A. Martin:

Just to expand, on those other jobs you do - the police, Customs, Housing - that has evolved, or ...? I know it is an aside.

Mr. R. Morris:

I think probably the role that we play in court has evolved more than any of the other advisory roles since 1999. Certainly when I started in 1999 it was not usual to attend court every day, but then we were finding out exactly what we were going to be doing. And very quickly, I think by probably the middle of 2000 we started to attend court more regularly, and by 2001 I think it was probably 3 or 4 times a week with our own cases, cases which had been appointed to us or which we had taken on. I certainly would stay on during the court hearing in the morning or afternoon.

The Deputy of St. Martin:

At what stage would you take over a case? We have been to the UK and seen how the system there seems to work; at what stage would you tell a Centenier, or have you got the right to tell a Centenier: “Look, I think we ought to take this case on”? How does it work?

Mr. L. O'Donnell:

It does not come to telling anybody. Every Centenier wants to fulfil his role to the best of his ability. He also, whenever he is involved in charging something, wants to ensure that the right defendant with the right charge is brought before the court, and if that means that on occasion something is passed to us, then that is the system, and it works - I am not aware at any point that any of us have asked for something to be passed to us and a Centenier has resisted.

The Deputy of St. Martin:

If indeed you felt there was a case that you were being asked to deal with which really would be a straightforward case, would you refer it back to the Centenier and say: “Look, I think, officer, this is something you ought to take rather than us spending our time”?

Mr. R. Morris:

Yes. There are some occasions when the Centenier will ask for advice, or we would be discussing a case, and we would advise on a particular aspect of it, and then say to the Centenier: “You can deal with this without us being further involved,” and the Centenier will say: “Yes, I will take it on.”

The Deputy of St. Martin:

But if they did not want to take it on, what would happen then? Has it ever happened?

Mr. L. O'Donnell:

We certainly encourage the Centeniers to stretch themselves, but within their comfort zone. So that comfort zone will vary between each individual Centenier. That is the function of the role, and those that have applied for it have been elected to it.

The Deputy of St. Martin:

Just to press on this matter, who has the overall responsibility of ensuring that a case is dealt with in the Magistrates Court, is it the Centenier or the legal adviser? Do the Centeniers work to you or do you work to them? How is the arrangement worked?

Mr. R. Morris:

We both share the same boss. The Attorney General is the titular head of the Centeniers in this Island.

The Attorney General is our departmental head. We are all trying to achieve the same end. I do not think within that there is any particular one of us that would say who is responsible for the successful conclusion and safe prosecution of any particular case.

The Deputy of St. Martin:

It is on working on a good working understanding, good arrangement, but there is nothing laid down as to who is responsible to who?

Mr. L. O'Donnell:

Not that I am aware of, and I would not wish to have that. The Centeniers and the legal advisers work very closely - almost symbiotically. Because we will often be involved at the point of charge, and we are aware of what is coming into court. The Centenier will want the matter proceeded with and prosecuted appropriately, and if he wants to hand it across to us, then there will be good reason for that.

The Deputy of St. Martin:

Would any of you - either of you or indeed your 2 colleagues - make the decision to charge? When an arrest is made and a decision to charge has to follow, there may well be a matter of weeks or so with further inquiries being made; would you be asked to make a decision to charge as well?

Mr. L. O'Donnell:

The figures that we provided this afternoon indicate that there are 3 types of figures. One is the matters that go to the Royal Court, which are the graver matters. There are matters that we deal with in the Magistrates Court, and that may be with a Centenier and the legal adviser both discussing it and the best way of dealing with the matter, or it may be something that we have dealt with from the beginning. But our role is also to advise, and very often the police will come to us with a matter at an early stage, where perhaps not all the evidence is available. They will ask us to advise as to what the appropriate charge is; what other evidence is needed. When we have advised in relation to that and the police have completed their function, then the Centenier will be called in to charge. If the Centeniers are not comfortable with charging that particular matter that we have advised in relation to, then they will phone, or the custody sergeant will phone.

Deputy D.W. Mezbourian:

We have had comment made that by having the Centenier and legal advisers in court, that it is a duplication. Would you like to comment on that?

Mr. R. Morris:

Can you say a duplication of what?

Deputy D.W. Mezbourian:

Mr. Christmas, when addressing the Panel, was asked whether he thought that having, as I said, the Centeniers and the legal adviser to present the case, whether he thought that was duplication, and he said: "The logic is undeniable, is it not? It is duplication." So maybe you might have to interpret how he sees it. Presumably, it was because there are Centeniers who can present a case, and there are legal advisers who can present a case.

Mr. L. O'Donnell:

Yes, but very often we will not have any knowledge of the cases the Centenier is going to be presenting, so will not have come through our office. So there is no duplication there. We may be present throughout the course of the morning in order to assist the court. I think it was something that Robin and I have been discussing recently. We are very pleased with the development of the new Magistrates Court, which allows us -- in fact we have a separate office. So we are able to leave court, subject to just checking with the Centeniers that they are comfortable with the rest of the list, go to our office - we have a computer in there - and do a certain amount of work, and then come back in if we are needed.

Mr. R. Morris:

Just a thought about this, Deputy, and I cannot think of a case where I have been in court where there is a Centenier who is presenting the case and I am sitting there checking him out, and I cannot think of a Centenier who is in court checking me out when I am presenting a case. If we are there, we are there because the Centeniers have got the Centeniers' cases and we have got our cases, or occasionally it might be within the cases that we have got that have brought us to court, there might be something which the Centenier is going to pass to us. I think that is probably ... I do not see any other duplication.

The Deputy of St. Martin:

Well, if I just come in. I think one of the reasons for not going ahead with Rutherford was based on cost, and we are seeing the Attorney General next week, but whether it was the cost of the fact that it would be replacing the Centeniers, or indeed just the actual cost of the running of the court, if indeed you are part of the cost at the moment, there is obviously a cost factor already. So the whole process is not, of course, free because the Centeniers do it. The Centeniers obviously are doing their work without charge; but however, there are costs in the court inasmuch as the legal advisers, there is that cost. I do not know whether that has ever been considered. Is it normal - you said earlier on that when you started out in 1999 you did not have much involvement in this. I think there was a certain amount of resistance, I think in fairness to say, by some Centeniers who felt that you were impinging upon their work. I think it has been generally accepted that it has been valued, the help and support you have given, and almost to say now that it is almost part and parcel that there will be a legal adviser there all the time. Certainly from my experience of going to court, I have seen one of either of you in court for most of the time that I have been there. I do not know about my colleagues. I think possibly that may well be where we are

looking at duplication. What are you there for? Are you there to ensure that everything goes right for the Centenier, or are you there for you to do the job you are there to do, taking your own cases? I think that is probably where a feeling of maybe duplication might come in.

Deputy J.A. Martin:

Yes, I think to clarify what you were saying, if the court runs for 3 hours in the morning and you are there for the 3 hours, but you are saying you are always there because you have at least one of those cases to present as a legal adviser? Your secondary job in there is if a Centenier needs advice, you are also there to give him that advice.

Mr. R. Morris:

Indeed, to support, yes.

Deputy J.A. Martin:

So what I understand you to be saying, there will not be a legal adviser in the court unless they are there to present a specific case on any specific day? I think I interpret what you said ...

Mr. R. Morris:

I think that is probably right.

Mr. L. O'Donnell:

We have an interest in something in the list every morning, and usually a number. That is just simply a function of the liaison the day before or that morning, and of course we are also dealing with matters that will come in overnight, so where people have been denied bail by the custody sergeant and brought into custody for bail to be considered. The Centenier will have charged the night before probably, will have a good grasp of the facts and the basis upon which bail will be opposed. We may have a discussion; we may not, depending upon which Centenier it is, and discuss the issue of liberty for that individual. Obviously from the public's point of view you will want a professional involved in that discussion.

Deputy J.A. Martin:

But if it came to a point, and it probably has, where let us say one case, there was nothing down on the rota for a legal adviser to present that day - or prosecute, whatever word you want to use - you would, as in your secondary role, still be there in case the Centenier got into -- or it turned more difficult than at first they thought?

Mr. L. O'Donnell:

On a Monday afternoon, there is a parking court; I would rather not go there. So I do not, and I do not

encourage any of my colleagues to go there.

Deputy J.A. Martin:

So they do not go when there is a parking court?

Mr. L. O'Donnell:

There is no issue of custody. That type of court we are not going to be interested in. That would be a waste of resources.

The Deputy of Trinity:

Just to press that point, go on from that one and just to clarify that. Your primary role is really to assist the Centeniers rather than assist the court per se?

Mr. R. Morris:

The 2 go hand in hand, do they not? By assisting the Centenier, we are assisting the court, and there are times when the magistrates will ask us to go down to court to assist. But we are assisting the Centeniers, which assists the court. Because by assisting the Centeniers, the case is conducted more quickly or a point is raised and sorted out. I have to say in the middle of that answer I thought that we can deal with the legal points which the Centeniers cannot deal with, and of course that working party report which you have, you will see in it that one of the main worries was that prior to qualified legal advisers appearing in court, whenever there was a legal point raised by defence counsel there was no legally qualified prosecutor to gainsay it. You had to rely on the magistrate. But having said that, the magistrates - and this is something that is important - the magistrates are all stipendiary magistrates. They have all got at least 10 years' experience as professional lawyers before they can sit in that chair.

The Deputy of Trinity:

Would the magistrate ask you to clarify any issues if a Centenier was presenting? Would he --

Mr. R. Morris:

Sometimes. Sometimes he will say: "I wonder, Centenier, if it might be helpful for the legal advisers to have a look." The Centenier will say: "Yes, Sir," and there might be a 5-minute break for us to assist.

The Deputy of Trinity:

But he would go through the Centenier - he would advise the Centenier to ask you rather than going straight to "Mr. O'Donnell, would you please ..."

Mr. R. Morris:

Yes.

Mr. L. O'Donnell:

Practice varies between the different magistrates, but there is no ego involved in the Magistrates Court. We are there to ensure that there is a proper prosecution and safe conviction, and Centeniers are also.

The Deputy of St. Martin:

I think we have almost covered number 3.

Deputy J.A. Martin:

Yes, covered number 3. I did want to expand on it. I was going to ask basically the amount of cases you prosecute, but I think you have provided it in a list. What I would ask is obviously starting off in 2000, you were involved in 97; it goes up, and now it seems to be going down. Is it just --

Mr. R. Morris:

It is impossible to say what is going to happen from one moment to the next.

Deputy J.A. Martin:

Yes, I can see why it started off low and then a peak, but I wonder now ...

Mr. R. Morris:

I think if you wanted to make something of the statistics you would need another 5 years before you could really say how the trend is going. Certainly it did build up in 2000, but it is not possible to say, I think - do you agree - you need more than 4 years.

Mr. L. O'Donnell:

The only thing I would say is that clearly we have been asked on an increasing basis to advise.

Deputy J.A. Martin:

Yes, to advise. That is always going up.

Mr. L. O'Donnell:

That may mean that we have discussed something with the Centenier, who will retain control of the file, presentation of the file of prosecution, all the way through to conviction and sentence.

The Deputy of Trinity:

Just looking at the overall cost of your service, you told us that there are 2 of you and 2 part-time. Do you have any admin staff?

Mr. L. O'Donnell:

We have 2 secretaries.

The Deputy of Trinity:

Are they both full-time?

Mr. L. O'Donnell:

Yes.

The Deputy of Trinity:

So what is the overall cost of providing?

Mr. R. Morris:

That is something that you would have to ask the Attorney General.

The Deputy of Trinity:

Right. Whose budget does it come in?

Mr. R. Morris:

You would have to ask the Attorney General. I honestly do not know which budget it comes from. He will be able to answer that question for you.

The Deputy of Trinity:

It is part of the bigger scheme of things.

Deputy S. Pitman:

What involvement have you had and do you have in training Centeniers?

The Deputy of St. Martin:

In particular with the Magistrates Court.

Mr. R. Morris:

Yes, considerable. Before Laurence came along, there was, I think, one session conducted by Ian Christmas, when he was legal adviser to the police for the Centeniers, I think. Then there was one training session in the evening which involved Centeniers, magistrates, the legal adviser and some defence counsel, and we were thinking about more training, and then Laurence joined us and from about September 2002 to date we have had about 25 sessions with the Centeniers, and each session lasts for about 2 hours in the evening at the old Magistrates Court where we were. We have concentrated on

small areas, obviously not the whole gamut of criminal law, but on bail applications; advocacy skills; presenting guilty pleas; how to deal with jurisdiction. I wrote a little book for the Centeniers in 2004 which really covered the basics of the procedures in the Magistrates Court, and that, I think, is now used by the Centeniers and it is on their website.

Deputy S. Pitman:

Is that updated?

Mr. R. Morris:

It has not been, but it needs to be, because when I wrote it PPCE (Police Procedures and Criminal Evidence) was not in, and PPCE is now in, and part 5 of PPCE is due, as you will know, to be brought in, in the next few weeks. We have had other laws brought in, so that needs to be updated, and that will be within the next 6 months.

Deputy S. Pitman:

From what you have seen of Centeniers presenting cases in the court, do you feel that the training that you give is sufficient?

Mr. L. O'Donnell:

I think it has evolved. I cannot speak prior to June 2002, but when I arrived and spoke with the Attorney General he indicated that it would be perhaps something that would fall within our remit to train the Centeniers. We undertook to do that from September 2002. I am not quite sure when Rutherford was published, but I think that was in 2002, and I think we anticipated Rutherford's recommendation on the requirement for training, so we took that on board. I think, to be quite frank, I think our training has probably developed since 2002. Initially, we had a room full of Centeniers, and I think the first training session - the Centeniers' training group would have the figures - something in the order of 40 out of the 50 or so Centeniers attended.

The Deputy of St. Martin:

When did that training start?

Mr. L. O'Donnell:

September 2002.

Deputy S. Pitman:

Has that figure been consistent?

Mr. L. O'Donnell:

What has happened now is that we have developed a programme, what we hope is going to be an improving programme for new Centeniers, so those that have been newly elected, the Centeniers' training group are asking them to come along to training. The first 2 weeks, I think, will deal with Parish Hall inquiries, and Robin and I -- certainly for myself that is a closed book. But the other sessions, 6 or so, are conducted by members of the Centeniers' training group and myself and Robin, and we will deal with basic presentational skills, guilty pleas, bail applications, jurisdiction, ancillary applications ...

Mr. R. Morris:

Code, recharge questions.

Mr. L. O'Donnell:

Yes. You are interested, of course, in the role of Centenier in the Magistrates Court, but also each Centenier will be involved in charging, and we deal with the importance of getting the evidence right and in accordance with the Code to Prosecute that is published by the Attorney General. During that training, I should say.

Deputy S. Pitman:

When does your new programme start?

Mr. L. O'Donnell:

Well, we have not pencilled in a programme at all, at the moment. This year has been quite a challenge because of the new Magistrates Court, so everybody has taken a little time to bed in. If I may say so; one of the advantages of the new Magistrates Court is that a number of Centeniers can now sit in the Magistrates Court and see what is going on. Previously there was just room for one Centenier, at a push. We were a little distant from them, across the courtroom. Now all the Centeniers, as you would expect from these committed people, they attend the Magistrates Court. They tend to sit together on the prosecution side. They listen to what is going on; they learn from what is going on, and I hope and believe that the standard is being raised all the time.

Deputy J.A. Martin:

Do you think training should be compulsory?

Mr. L. O'Donnell:

I do not think that there has been any difficulty with Centeniers attending. As I hope we have made clear, we are fans of the Centeniers. These are people who are giving of their own time for free. We feel that our role - and I think the public would expect - that we should support those Centeniers, and we do.

Deputy S. Pitman:

What feedback have you had from your training sessions?

Mr. R. Morris:

I think they think it is very good.

Mr. L. O'Donnell:

So we need to be harder.

Deputy S. Pitman:

Do you have little surveys that you do?

Mr. R. Morris:

No. We have not hitherto run it as if we were a university, with “would you give us a feedback form”. We go in there, give of our own time, and work for 2 or 3 hours of an evening and train them, and the only feedback I have had has been positive, I think. Same with you?

Mr. L. O'Donnell:

Yes.

Deputy S. Pitman:

This is not in work time?

Mr. R. Morris:

No, this is from 6.00 p.m. until about 8.00 p.m. When we first started we would do a Thursday evening every 2 or 3 weeks or every couple of months. Now the last session I think we did, we brainstormed a session of training and we had 10 one and a half hour sessions in maybe a month, something like that ...

Mr. L. O'Donnell:

Yes.

Mr. R. Morris:

That again was 2-hour sessions in the Magistrates Court.

Deputy J.A. Martin:

So would you say that every serving Centenier has had some sort of training?

Mr. R. Morris:

From us?

Deputy J.A. Martin:

Yes.

Mr. R. Morris:

I could not say that, but certainly we were getting upwards of ... well, the last session we had the new Centeniers that were all there, but the ones in 2002, 2003 and 2004 we would have a selection. This last set was specifically for new Centeniers. I think all bar the Centeniers that have been appointed in 2006.

Mr. L. O'Donnell:

So every Centenier has had training from us bar those that have been appointed in 2006, and to be fair to those Centeniers, I have been, and I am sure my colleague has been, approached regarding commencing that training. But, as I say, with the new building and settling into that new building and to be frank, myself and Robin acknowledging that we perhaps need to improve our training skills.

Deputy J.A. Martin:

Could you just confirm, the training sessions are provided by you in your own time out of no budget?

Mr. R. Morris:

In our own time, no budget. I think we get sandwiches occasionally. We do not need to pay for those.

Deputy J.A. Martin:

It is a voluntary thing that you do?

Mr. R. Morris:

Yes.

Deputy J.A. Martin:

Do you think, then, if you will not commit that you think it should be compulsory for training, this part that you are providing should come under your remit as legal advisers and in part of your job? I am turning it around.

Mr. L. O'Donnell:

I think that is a matter for the Attorney General. I can only speak for myself. I am quite comfortable providing the training that we do in our own time.

Mr. R. Morris:

Yes.

Deputy D.W. Mezbourian:

When you say in your own time, are you employed to do a set number of hours in the day, so that you would work from 9.00 a.m. to 5.30 p.m., so therefore if you give this training from 6.00 p.m. till 8.00 p.m., it is your own time; or ...

Mr. L. O'Donnell:

To be fair, I would have to look at my contract, but I would imagine, as with any States employee, there is a set number of hours.

Mr. R. Morris:

Yes. We have the standard civil service type contract, although we are not civil servants. So it is 35.3 hours a week or something, and that, I think, finishes at 5.15 p.m., and we will start again at 6.00 p.m. to do this training in our own time.

The Deputy of St. Martin:

I think the point, maybe, Deidre is trying to make is the fact that if, indeed, you are working in the evening, could you not start at 12 noon and work to 8.00 p.m. rather than starting at 9.00 a.m. and finishing at 5.00pm and doing overtime?

Mr. L. O'Donnell:

Frankly, no. Not with the resources that we have. We need to be in court.

Deputy J.A. Martin:

No, it is in your own time; it is not budgeted for, it is a voluntary thing you do for the Centeniers?

Mr. R. Morris:

Yes.

Deputy J.A. Martin:

Thanks.

The Deputy of Trinity:

So in your job description, training - is it not included?

Mr. R. Morris:

It does not appear.

The Deputy of Trinity:

Neither of your job descriptions?

Mr. L. O'Donnell:

No.

The Deputy of Trinity:

Do you feel that it should do?

Mr. L. O'Donnell:

No.

Deputy S. Pitman:

But is it compulsory for you to provide that, or it is just voluntary?

Mr. R. Morris:

No, it is not.

The Deputy of St. Martin:

If you did not do it, who would do it?

Mr. L. O'Donnell:

The Centeniers' training group obviously have a remit, and they encourage every Centenier to be trained, but certainly they ask us to become involved, and we are very happy to do so.

The Deputy of St. Martin:

Can we just go back to September 2002, when you said you got something under way? Laurence, I assume you were not here?

Mr. R. Morris:

We had something under way before Laurence came, but it was not a formalised set of training. When Laurence came here, Laurence fired the cannon for the start of --

The Deputy of St. Martin:

Could I ask what year?

Mr. R. Morris:

2002.

The Deputy of St. Martin:

2002, okay. So in 2002, late, I heard you say, I think, late 2002 ...

Mr. L. O'Donnell:

No, June.

The Deputy of St. Martin:

June 2002, so you got a little bit of training under way off your own initiative?

Mr. L. O'Donnell:

Yes.

The Deputy of St. Martin:

That is good, okay. It has never been structured since 2002, it has sort of evolved without --

Mr. R. Morris:

I would not say that. I think we spent a lot of time deciding what we are going to train, how we are going to train the Centeniers, and working out scenarios and ... yes, there are a lot of structures.

The Deputy of St. Martin:

Maybe I used the word "structure" in the wrong context. What I am saying is that -- because you mentioned earlier that this scheme has evolved.

Mr. L. O'Donnell:

Yes.

The Deputy of St. Martin:

You initially had, I assume certainly did, you had an idea of what you thought was important, what should go as part of the training. But did you work out how many officers needed to be trained, so there was some sort of structure to it; that you were going to run a certain number of courses each year? Maybe that was a fairer way of putting the question.

Mr. L. O'Donnell:

We started off by indicating to Centeniers in that large initial group - and those large numbers continued to attend for a period of time, a year comfortably, I think - what was needed, for instance, bail

applications. There was a practice with Centeniers where they were simply standing and not either giving facts or giving substantial grounds upon which somebody should be remanded into custody, the defendant should be remanded into custody. So that was something that we addressed with the existing Centeniers. Since, I suppose, 2004 we have been dealing primarily with new Centeniers. So we have been trying to help those new Centeniers with the skills that are needed in order to attend court, present a case, as I said already in relation to bail applications, guilty pleas, adjournments, jurisdiction, those types of areas. I think it would be fair to say that there is also almost on-the-job training, and the new Magistrates Court is particularly helpful for that because a number of Centeniers are sitting together; they are observing each other; we are involved and often sitting beside or with other Centeniers, and inevitably there is feedback. That will either be coming from senior Centeniers that are present in court, Centeniers from other parishes, myself and my colleagues, occasionally from the magistrate, and as I hope we have made clear, every Centenier wants to fulfil his function in court very well.

The Deputy of St. Martin:

So would it be fair to say that all this training, very commendable that you are doing, is all done on a voluntary basis and is also without cost?

Mr. L. O'Donnell:

I think it is voluntary by us.

Mr. R. Morris:

Voluntary, yes.

Deputy D.W. Mezbourian:

So in fact the training is provided on the voluntary basis by yourselves and the Centeniers' training group?

Mr. R. Morris:

Yes.

Deputy D.W. Mezbourian:

It is on a voluntary basis as to whether or not Centeniers attend that training?

Mr. R. Morris:

Yes, there is nothing to force the Centenier to come to the training session, but I do not know of any Centenier who has said: "I am not going to go to one of the Morris and O'Donnell training sessions." Mainly because the sandwiches are so good. No, because they want, as Laurence said, to be trained, and they are happy to come along. But there is no compulsion.

The Deputy of St. Martin:

At the same time, there is no compulsion for you to run the course?

Mr. R. Morris:

No.

The Deputy of St. Martin:

It is purely voluntary?

Mr. L. O'Donnell:

I think perhaps I should just clarify that. The Attorney General is very happy that we do this, and in 2002 when I first met with the Attorney General it was something that he wished to have addressed, so to that extent it is encouraged by the department. An example of that, of course, is that we recently attended the DCW (Designated Caseworker) course.

The Deputy of Trinity:

Do you make a note of who attends these sessions, these Centeniers?

Mr. L. O'Donnell:

That is kept by the Centeniers' training group.

The Deputy of Trinity:

So you come as a double act?

Mr. L. O'Donnell:

Yes.

The Deputy of St. Martin:

Do the other ladies get involved at all? You said you have got 2 part-time ladies. Do they ever come?

Mr. L. O'Donnell:

Not so far, but I am quite sure that they would be prepared to do so.

Deputy S. Pitman:

You said earlier that you think 2002 you held 25 sessions, is that correct?

Mr. R. Morris:

I cannot give you the exact figure, but it is something like that.

Deputy S. Pitman:

Okay. Can I just ask the frequency in a year? How many in a year are there?

Mr. L. O'Donnell:

Well, excluding this year, I think we generally run 2 courses a year. I am looking to the members of the Centeniers' training group. That seems to be agreed - 2 a year because there tend to be 2 influxes of new Centeniers.

Deputy S. Pitman:

The courses are ...

Mr. L. O'Donnell:

The last one was something of the order of 10 sessions.

Mr. R. Morris:

Yes. Over a very short period of time. I think it was Tuesday, Thursday, Tuesday, Thursday, something like that. Tuesday, Thursday.

Mr. L. O'Donnell:

That is right.

Deputy D.W. Mezbourian:

Would you agree that by attending training, it does not necessarily follow that anyone reaches a competency level, a good level of competency?

Mr. R. Morris:

I do not know.

Mr. L. O'Donnell:

I do not know if it is for us to assess people. I think we are there to support and encourage. That is what we try to do.

Deputy D.W. Mezbourian:

So you are not there to evaluate whether a person is competent to do the job?

Mr. R. Morris:

No, no. You see, there is no legislation; there is nothing to make a Centenier come to training session. There is no assessment like there is in the DCW course, which we are presumably going to get on to in a few minutes.

Deputy D.W. Mezbourian:

No, that was going to be my next question - the question of assessment. Because when Miss Easton came to speak to us, she was quite categoric that the training that her DCWs receive includes a continuous form of assessment, which obviously is not followed over here at all.

Mr. L. O'Donnell:

I was a little unclear what she meant by continuous assessment, because my understanding from what she was saying was the DCW effectively operates on his own in court. That, fortunately, is not the position for any Centenier in Jersey, so continuous assessment is every time a Centenier appears in court. That is not the position in England.

Deputy J.A. Martin:

Well, it is recognised assessment - it is completely different; they have to pass a test and then it is ongoing as the law. As you say, our Centeniers are assessed on the job all the time, presenting cases in court. I think what Deputy Mezbourian means that just because they have come to training that they are presenting a case and then it might need a legal adviser to take over. Because at the end of that course - and I asked this of a Centenier the other day, and he said if you are going to have training he would prefer to know at the end of it if he is okay to do the job of presenting in court. Some will and some will not.

Mr. R. Morris:

But I think this is a much wider question than we are able to answer this afternoon, because it goes into the election of Centeniers and the failure of a Parish to find a Centenier --

Deputy J.A. Martin:

I totally agree.

Mr. R. Morris:

The ability of the Royal Court to fine the Parish if they cannot find a Centenier - these are matters, I think, that with the greatest of respect, are outwith our ambit. I do not know whether you agree with that, Laurence.

Mr. L. O'Donnell:

Yes.

Deputy J.A. Martin:

No, I understand. It is probably political.

Mr. R. Morris:

I do not know, but I think that the Attorney General may be a better person to answer.

Deputy D.W. Mezbourian:

May I ask if you, as legal advisers, have any form of additional training?

Mr. L. O'Donnell:

We are able to attend various courses in England, and do. But as regards any formal training, other than updates on the law through attending on courses, then no.

Deputy D.W. Mezbourian:

Because Mr. Christmas, when he spoke to us, did say that: "I think it is necessary now for people to have training on a regular basis which brings them up to speed. That is not just the case for Centeniers." So by implication he as a magistrate is suggesting that Centeniers should indeed have regular training.

Mr. L. O'Donnell:

Well, I hope we have addressed that by saying what happens in court, and that is the regular feedback.

Deputy D.W. Mezbourian:

Do the magistrates get involved at all with the training that you deliver?

Mr. R. Morris:

They did in 2001 and 2002, the very first 2 sessions that I heard about. Apart from that, they have not done.

Deputy D.W. Mezbourian:

So why did it stop?

Mr. R. Morris:

Well, the 2 sessions to which I referred earlier, the first one was Ian Christmas when he was legal adviser, who spent an afternoon telling the Centeniers something about - I do not know quite what it was, but it was a training session for an afternoon, and then the other session to which I referred was when the 2 magistrates came to the session in the court and played as magistrate during various mock

trials. We have not, I do not think, invited the magistrates to our training sessions.

Mr. L. O'Donnell:

It is quite nerve-wracking for new Centeniers over a fairly short period of time to come to terms with the fact that they will presently be presenting cases, but I think - we were present during Magistrate Christmas' evidence to this Panel - we may well invite him towards the end of the next course.

The Deputy of St. Martin:

Would you not find there may be a danger of impinging upon the magistrate's impartiality if you were seen to be training Centeniers --

Mr. L. O'Donnell:

I think that would be a matter for a magistrate.

Mr. R. Morris:

When I was at the Bar in 1984, very regularly you would have judges coming straight from court to the Bar school to give lectures to the trainee barristers. It was quite a norm for them to do that. I do not think there is too much of a problem.

Deputy D.W. Mezbourian:

Mr. Christmas did tell us: "I do not think either I, Mr. Le Marquand or any of the relief magistrates would be at all reluctant to play their part in any training role."

Mr. R. Morris:

Good, yes.

Deputy D.W. Mezbourian:

So you may decide to approach them?

Mr. R. Morris:

Yes.

The Deputy of Trinity:

You talked about the type of training that you give the Centeniers - bail applications, et cetera. Do the Centeniers have any input in what they would like?

Mr. R. Morris:

Yes, in fact, they have had. I have had Centeniers, and you have as well, I think, saying: "We would

like you to talk to us about” some such subject. “We do not understand this.” Because we have a short wash-up at the end of each session and say: “Right, this is what we were thinking of doing for next time. Does anyone have any particular problems, anything that they want to talk about?” They will either do it in plenary or they will do it afterwards over the sandwiches and say: “Look, could you explain this?” Then Laurence and I think: “Yes, we must tell them about that, because it is an essential part.”

Mr. L. O'Donnell:

The Centeniers' training group has always provided an opportunity too for asking the same question of the delegates.

Deputy D.W. Mezbourian:

When Tracy Easton came to speak to us, she advised us that the assessment of the DCWs is undertaken by an external agency.

Mr. R. Morris:

Yes, members of the College of Law.

Deputy D.W. Mezbourian:

Yes, so that is assessment. Now, when I asked you a moment ago about regular training you said that you had already answered that, because the Centeniers receive ongoing training by doing the job and standing up in court presenting cases. Would it be a case, though, that they should be assessed in what they are doing? Because by doing something on a regular basis it does not necessarily mean that you are going to do it well or you are going to improve. Should they be assessed?

Mr. R. Morris:

Can we answer that?

Mr. L. O'Donnell:

I do not know that we can. But can I say that in relation to one particular Centenier who was struggling, this year in fact, just before Easter, Robin and I undertook to train him individually in relation to his courtroom skills. So one of us is always in court; one of the legal advisers is always in court. If there is somebody who is particularly struggling with something, then we will --

Deputy D.W. Mezbourian:

So you are in fact making assessments of their performance?

Mr. L. O'Donnell:

Assessments is too strong a word.

Mr. R. Morris:

No, it cannot be assessments, because if we are making assessments then there is a possibility that we are going to fail someone, and then we are going to have to say: “No, you can not be a Centenier in court.” “Hold on a second, I am a Centenier.” So the framework is not there for us to make assessments.

Mr. L. O'Donnell:

But we are there to support and encourage and we will train.

Mr. R. Morris:

If we see someone that has done something that perhaps we would do in a different way, we might say afterwards: “Look, I think you need to do this in a different way.” If that is assessment, then that is what we are doing.

The Deputy of St. Martin:

No formal assessment, that would be a fair way to put it?

Mr. L. O'Donnell:

To be fair, if a senior Centenier is present, I have been present when that senior Centenier will take the perhaps junior Centenier aside in order to simply say: “This is the way to do it. Do it this way, please.”

The Deputy of Trinity:

Did that initiative come from you, or did the Centenier take up the issue? Did it come from the Centenier saying: “Perhaps I need a little more support in this way or that”? Did the initiative to give him one-to-one training come from you?

Mr. L. O'Donnell:

I think that came from the Centenier, and I was very happy to do that. We were very happy to do that, I should say.

Deputy D.W. Mezbourian:

Mr. Christmas, when he spoke to us, told us that he had never been invited to comment upon the effectiveness or performance of an individual Centenier. Would a magistrate or a judge be ever asked to do that on the mainland?

Mr. L. O'Donnell:

I could not comment.

Mr. R. Morris:

I do not know. I really do not know.

Deputy D.W. Mezbourian:

That is absolutely fine. I wondered whether it was the norm.

The Deputy of St. Martin:

Okay. We will move on, then, to the Crown Prosecution Service and your visit, Mr. Morris. Could I just ask when you went?

Mr. R. Morris:

The 16th to the 20th of October.

The Deputy of St. Martin:

Okay. Now, having attended and observed what is going on, what aspects of the training do you think would be useful now to the Centeniers, indeed, legal advisers?

Mr. L. O'Donnell:

We were quite pleased that the training by the CPS trainers in many ways mirrored what we were trying to achieve. It was slightly more robust training. Each delegate was videoed for each presentation that they undertook with all the consequent horror for all the delegates. So we are introducing that, if we can find a video camera from some place.

Mr. R. Morris:

Yes. The Centeniers do not know yet. Well, 2 of them do now. But that is a very, very powerful educational tool, as you probably know, to be able to video someone. The advocacy courses I have done at Grays Inn and over here have all been videoed, and you really learn from it. So that is something that we picked up.

Mr. L. O'Donnell:

Again, I think the layout of the new Magistrates Court is going to be quite helpful. There were clear divisions between theory in relation to charging and that type of thing and the appropriateness of taking pleas, et cetera, and summary applications and the practical advocacy. So when we have been discussing that recently we were going to have plenary sessions and practical advocacy. So there will be more clear divisions, and I think that is something that perhaps we were not able to achieve, simply due to the architectural constrictions of the previous Magistrates Court.

Mr. R. Morris:

The DCW course is a 2-part course. There is the foundation course, and then there is the advocacy course. We saw the advocacy course, and I think that there is some merit in us dividing the training into 2 courses, into a foundation course, which would be, I suppose, going through my book and explaining that and helping there, and then having a practical session or practical sessions where we video them in situations and show them how to present themselves.

Deputy D.W. Mezbourian:

We know that DCWs receive a training pack.

Mr. R. Morris:

Yes.

Deputy D.W. Mezbourian:

You have referred, Mr. Morris, to the book that you wrote, and we have seen that. Is that given to all new Centeniers as a part of their training?

Mr. R. Morris:

I think it is. It is also on the Centeniers' website, to which Centeniers have private access.

Deputy D.W. Mezbourian:

How do you utilise that in your training?

Mr. R. Morris:

If we are going to deal with a matter of jurisdiction then I will just point to that particular chapter in the book, and then we will make our notes up and decide how we are going to train it. It is really a book that is designed to give a new Centenier an overview of the procedures that he is likely to face in court and certain of the more important laws that are going to impinge upon charging and presenting cases.

Mr. L. O'Donnell:

During the course of the training they will also have many handouts, always dealing with one particular topic, with scenarios, and in the same way as the DCW courses are conducted, it is live and frightening. So they get the paperwork and have to get on with it, which is a reflection of what happens in court.

The Deputy of St. Martin:

So you had 5 days. What was the purpose of going, just to get an overview, or was it to be specific with anything in mind?

Mr. L. O'Donnell:

It was to see how a civil servant in England developed from somebody who has never stood up on their feet, possibly - I am not certain about all of their backgrounds - possibly never stood up on their feet in public before. Over a 4-day period, from that position of ...

Mr. R. Morris:

Inexperience.

Mr. L. O'Donnell:

Inexperience, yes.

Mr. R. Morris:

It was quite interesting to see how these extremely dedicated workers - they are paid - but at least as dedicated as the Centeniers we have here - how on the Monday afternoon when they presented their first application in front of the video, absolutely dreadful in 9 out of the 10 cases, and then see them again on the Thursday afternoon and see how, over those 4 days, there was a transition to a very skilled presentation.

The Deputy of St. Martin:

How many were on the course?

Mr. R. Morris:

Twelve. We were speaking to the trainers - you would not be able effectively to train more or less than 12. It is just a good number, because the way they sort it out, you split them into 2.

The Deputy of Trinity:

What prompted you to go to see the training scheme?

Mr. L. O'Donnell:

The training that we have undertaken has developed, and we wanted to see what best practice was. I do not speak French; I have no idea what the French judicial system is like; I have contacts in the CPS and I was able, with some assistance from some senior States' employees, to engineer our way on to the CPS course. I wanted to see if we were doing it wrong or right, and if I may be so bold, we are doing it right.

Mr. R. Morris:

I think probably that is right, yes.

The Deputy of Trinity:

In these days of training and certificates - and we have talked about that - do you have a certificate in training? You just talked about wanting to take it one step further.

Mr. L. O'Donnell:

We are in discussions at the moment as regards going along to the CPS training for trainers' course. But I do not want to take 2 years about it. Do you?

Mr. R. Morris:

No, indeed.

The Deputy of Trinity:

But do you see that as an important part of your role?

Mr. R. Morris:

I think that is important, because however good Laurence and I are at training the Centeniers, having seen the 2 solicitors who were training the DCW candidates last week, they clearly have had some training in training. Not so much necessarily in the handouts or in the situation handouts that they would give out, but just in the way they approached it and the way they structured the particular advocacy training during the week. That was something which I learned.

The Deputy of Trinity:

Would you be able to do that during your work time, or are you looking at doing that in your holiday?

Mr. L. O'Donnell:

That is the discussion we have to have with the Attorney General, because I think we would have to be released for that. But I do not imagine it would be longer than 4 or 5 days, perhaps even less.

Deputy J.A. Martin:

Can I just be picky? You have been away and you are hoping to go on a training trainers' course. What budget would that come from, if there is nothing?

Mr. L. O'Donnell:

I have paid for it this week, but I am hoping to be reimbursed.

Deputy J.A. Martin:

So you have paid for yourself to go?

Mr. L. O'Donnell:

No, I am expecting to be reimbursed.

Deputy J.A. Martin:

But there is no training budget; we have established that. So who would reimburse you?

Mr. L. O'Donnell:

Well, I put it through my chief clerk.

Deputy D.W. Mezbourian:

That does not tell us very much.

Deputy J.A. Martin:

As you say, we will have to check with the Attorney General.

Mr. R. Morris:

I do not know what budget it comes out of. I am sure the Attorney General would be able to say.

Deputy D.W. Mezbourian:

Would you find things easier to manage for yourselves if you had a training budget?

Mr. R. Morris:

I do not know what we need a budget for.

Deputy D.W. Mezbourian:

I thought that as I asked the question. What would you need the budget for?

The Deputy of Trinity:

I think for their time.

Mr. L. O'Donnell:

I do not think so.

Mr. R. Morris:

I do not think so, no. If we were going to video 20 Centeniers, we would need 20 cassettes. Now, that would need a budget from which to pay for it. But from the point of view of our time, from the point of view of typing up the handouts and having them photocopied, that might be an expense that would be put through the photocopying machine used by the Law Officers' Department, but it would not be any

particular component, I do not think. But we are getting into fields that I really do not think that either of us can help you on, when it comes to finance.

The Deputy of St. Martin:

The Attorney General.

Mr. R. Morris:

Yes, the Attorney General would be able to assist.

The Deputy of St. Martin:

Just to get back on to the course - you went for really - was really the basic man in the street comes in on a Monday and finishes on the Friday --

Mr. R. Morris:

They have already done the foundation course, for which the handouts are a lever arch file like that absolutely full.

The Deputy of St. Martin:

Was that through a course, or was that just home study?

Mr. R. Morris:

Yes, they have to go into a residential course for that. I think it is about 2 months before they do the advocacy course. I think that is a week as well. But before they do that course, they have to have read that file, and equally, when they come to their advocacy course they have another of these files, which is full, and they have to read that before they come.

Mr. L. O'Donnell:

And I think subsequent to that there is a 3-day course on bail.

Mr. R. Morris:

Now, because they are dealing with bail, yes, they have to do, I think, a course on that.

The Deputy of St. Martin:

The reason behind the questioning, really, was that if one is hoping to train Centeniers to a level of competence, I think it is very important the Centenier feels comfortable in doing the job. I think it is totally unfair for a Centenier to be elected one day and to be expected to go to court the next. I think they need that help, and clearly from the course of our review there are a lot of shortcomings in the amount of training they have received in the past. But if you are looking at a 5-day course, you are

looking - I think Tracy Easton said it might a 3 or 5-day course - I think that was the initial foundation, plus the reading beforehand, plus the course you attended, plus another one to follow. So you are looking at maybe 15, 18 days training - I think there are 3 lots of 5 and 3 days on bail. If you are going to try to multiply that or divide it up into the amount of time that a Centenier would go - clearly they would never give a whole week up, because they would be working - how do you think this will benefit from what you have seen and how would it be done?

Mr. R. Morris:

That is something that we are thinking at the moment - that is something that needs careful thought, how do we present these training courses now, this training course, and are we going to do it during week day afternoons, are we going to do it during the evenings? Presenting a course during the evening is not so good as presenting it at 9.00 in the morning, because we are all fresher at 9.00 in the morning.

The Deputy of St. Martin:

Clearly it is not for you to come up with a solution. That will be for us to ask elsewhere, but clearly what you have seen in the last week would require a lot of time and dedication by the officers to have that time to give to even a week of full-time study.

Mr. R. Morris:

They do have that dedication already, but I see what you mean from the point of view of having to spend 4 continuous days.

The Deputy of Trinity:

How many hours would you say on average a year you spend training?

Mr. R. Morris:

Hours in a year? No idea.

The Deputy of Trinity:

Approximately?

Mr. R. Morris:

I do not know. I really do not know. If each session is 2 hours and we have done ... no, could not say.

Deputy J.A. Martin:

What worries me with not having a structure and you doing it on a voluntary basis because that is not part of your job but I would probably say part of your personality, if you suddenly were not here for some reason, sickness, we would not necessarily guarantee 2 people with the same view that they are

going to put in all these hours. So that training could disappear overnight, because there is no structure to it. You are totally voluntary.

Mr. R. Morris:

It is not so much structure; there is no compulsion.

Deputy J.A. Martin:

Compulsion; I used the wrong word.

Mr. R. Morris:

You are right. There is no compulsion.

Deputy J.A. Martin:

So obviously we need to take that up with a higher force, because it is a worry to us. It should be a worry.

The Deputy of Trinity:

Your 2 part-time advisers, do they feel the same dedication?

Deputy J.A. Martin:

They do not do any training.

The Deputy of Trinity:

No, but I mean do they feel the same, are they supporting of you, of your training?

Mr. L. O'Donnell:

I am quite sure they would volunteer in our place if we were not present.

Mr. R. Morris:

Yes.

Mr. L. O'Donnell:

As I hope I have made clear, the Attorney General has encouraged us to become involved in training the Centeniers. I am sure he would encourage any replacement.

The Deputy of St. Martin:

But really, it is fair to say that although you have some formal structure, it is very much down to the voluntary nature that you yourselves have dedicated to it, and also combine that with the Centeniers, and

the training is evolving all the time?

Mr. R. Morris:

Yes.

Deputy D.W. Mezbourian:

I think Deputy Pryke mentioned earlier about your job descriptions. It may be a while since you have looked at those, but can you recall whether any reference to Centeniers is made in your job description?

Mr. L. O'Donnell:

No, I do not think there is any reference to Centeniers in my job description.

Mr. R. Morris:

There is in mine, but mine was drafted in 1999. I cannot remember exactly the words, but it is along the lines of assisting the Centeniers.

Mr. L. O'Donnell:

Perhaps it does, then. But certainly when I arrived in 2002 it was a complete surprise, the honorary police system.

The Deputy of St. Martin:

You were not aware -- you had come from a CPS background, had you?

Mr. L. O'Donnell:

Robin had sent me a fairly large tome of various laws and whatever else. I am sure contained within that was a detailed history of honorary police.

The Deputy of St. Martin:

Could I just ask again, you had had a CPS background yourself?

Mr. L. O'Donnell:

Yes, I worked for CPS for 10 years and then I was a prosecutor for central government then I came to Jersey in 2002.

The Deputy of St. Martin:

You were not working with the present system of designated caseworkers?

Mr. L. O'Donnell:

No, when I left the CPS, I think it was around 2000, and DCWs were either just starting or had only been present in court for a matter of months at that stage, I think.

Deputy J.A. Martin:

So when accepting the job, when did it become apparent to you that you would have to give training for free or voluntarily?

Mr. L. O'Donnell:

Become apparent? It just seemed sensible, because the honorary police are volunteers attending court. In discussion with Robin and with the Centeniers who are present in the room today, it became apparent that there had not been a structured training, so I thought if these chaps are coming along and ladies coming along, we thought that they are coming along and attending Magistrates Court on a voluntary basis, then we must give them the support that we can. So we started that in September. I think we started talking about it in July or August.

Mr. R. Morris:

Yes, yes. Almost as soon as you came.

The Deputy of St. Martin:

Almost as soon as you came to the Island?

Mr. L. O'Donnell:

Well, I think prior to ...

Mr. R. Morris:

Because we had spoken about that training session when the magistrates came, and we had a full session with the advocates there as well, and we spoke about that, and it was from that that it flowed.

Mr. L. O'Donnell:

Yes. To answer the question, it was simply apparent it was needed and we began to do so. To be fair to the Centeniers, they have always been supportive of that. That can be seen either in the numbers that have attended or in the feedback or the general manner, I hope, in which the legal advisers and the Centeniers tend to work together for the public good.

Deputy D.W. Mezbourian:

What would you say are the expectations of the magistrate of the Centenier?

Mr. L. O'Donnell:

I am sorry, I do not understand that.

Deputy D.W. Mezbourian:

Well, one of our terms of remits is to assess whether the role played by Centeniers in the Magistrates Court meets the court's and consequently the public's expectations and requirements. You were saying earlier that the court is not just one section; the court is made up of the legal advisers, the Centeniers and presumably the magistrates themselves. Because you are working in the court, what are your expectations of the Centeniers?

Mr. L. O'Donnell:

The same as I would expect of any legal advisers, that we operate according to the Code to Prosecute which is issued by the Attorney General, and that has 2 fairly simple steps in relation to any prosecution: that there is a realistic prospect of conviction, and some public interest to proceed. As long as those 2 criteria are met, then that matter, that defendant, should be in front of a court. So as long as those 2 criteria are met, then I think we are satisfied.

Deputy D.W. Mezbourian:

So you would be satisfied that the correct decision to prosecute had been made?

Mr. L. O'Donnell:

We would expect a Centenier to make that decision based on those criteria, yes.

Deputy D.W. Mezbourian:

But you do not have any expectations about the ability of the Centenier to present the case?

Mr. L. O'Donnell:

I do not understand.

Deputy D.W. Mezbourian:

Well, we spoke earlier about competency, and we were told in an earlier hearing by Centenier Scaife that all the Centeniers had been interviewed earlier this year and it was surprising to find that they were unanimous in the fact that they should have the right to present in court. Having the right to present in court does not mean that you are competent to do that. What I am trying to establish from you is what expectations of competency, as you are members of the court, do you expect from Centeniers?

Mr. L. O'Donnell:

That they would present matters appropriately and fairly and make all the necessary and appropriate applications at the appropriate time.

Deputy D.W. Mezbourian:

I know that you are involved with the training, but their presentation skills would not be of any concern to you?

Mr. L. O'Donnell:

Always of concern, and that is why if a Centenier has not made a presentation appropriately, then we will feed back immediately, and/or other Centeniers in the court.

Mr. R. Morris:

We would not expect them necessarily to have the same skills as a professional lawyer, although a lot of them have, as far as presentation is concerned. But we would expect them to be able to be competent in presenting the cases. I do not think it is something we particularly think about, because we see it happening every day, and if there is something that needs a little tweaking in some particular area we will deal with that.

The Deputy of St. Martin:

Could we just move into that? I think there is not much we have got left to ask you, but we have heard about court users' groups, et cetera. I am pretty sure in any small organisation, there is generally a bit of - chitchat may be the wrong word to use - discussion about how a case went, without any formal structure to it. Someone will say: "You had a difficult case there" or "You did well there" - the sort of little discussion that goes individual. But are you part of any court user groups whereby if there are observations to make you could bring them up and say: "We think Centenier So-and-So is doing a good job" or maybe "Centenier So-and-So could be just a little ..."? So there is some form of structured feedback, rather than the little chitchat that you may have in passing.

Mr. L. O'Donnell:

We have liaison with every agency that takes --

The Deputy of St. Martin:

On a formal basis?

Mr. L. O'Donnell:

Yes.

The Deputy of St. Martin:

There is such a thing as a formal basis, then?

Mr. L. O'Donnell:

Well, we have the court users' group, which I think meets quarterly. We have the focus group, which meets monthly. We have on that representatives of probation, Centeniers, the defence, the 2 magistrates, the police and ourselves.

The Deputy of St. Martin:

They meet on a formal basis? Minutes are taken?

Mr. L. O'Donnell:

I believe so, yes.

The Deputy of St. Martin:

Would it be possible, again, if we considered it necessary to add it to our report, is there any means of us having a sight of anything?

Mr. L. O'Donnell:

Those notes are kept by the Greffier, and there is also, although we meet a little less regularly now, a prosecutors' group which involves the Centeniers, the CJU (Criminal Justice Unit) head, presently Joe Apps, and one of the legal advisers, to discuss prosecution issues. So in fact not only is there liaison within the court when the court is sitting, there is fairly regular liaison between all of the prosecuting agencies, if I can put it that way.

The Deputy of St. Martin:

I would like to formally ask if we could have identification - indication of who they are, so we can give it consideration for our report - the number of court users' groups you have different liaison with. I see it as an important part to show that there is a structured formal discussion and feedback session. Are there any other questions you would like to ask?

The Deputy of Trinity:

I just think they should be thanked for all of the work they do after hours for the Centeniers. There is obviously a lot of extra work that you put in which I think the public do not realise or appreciate.

Mr. L. O'Donnell:

We hope they appreciate the Centeniers.

The Deputy of St. Martin:

We have asked you a number of questions. Could I just ask if there are any questions that you felt you would have liked to have been asked that we have missed, that you would like us to ask?

Mr. R. Morris:

No, thank you.

The Deputy of St. Martin:

Again, I would like to endorse what Deputy Pryke has had to say. Thank you for your time. Thank you for the time you are giving generously to the Centeniers to enhance their role and make the courts work better.