

STATES OF JERSEY

Education and Home Affairs Public Meeting Annual Business Plan

MONDAY, 14th APRIL 2008

Panel:

Deputy D.W. Mezbourian of St. Lawrence (Chairman)
Connétable G.F. Butcher of St. John
Deputy S. Pitman of St. Helier

Witnesses:

Senator W. Kinnard (The Minister for Home Affairs)
Mr. B. Millar (Governor, H.M.P. La Moye)
Mr. S. Austin-Vautier (Chief Officer, Home Affairs)
Ms. E. Middleton (Finance Director, Home Affairs)

(Please note: All witnesses and Panel Members were given the opportunity to comment upon the accuracy of the transcript. Whilst the transcript remains a verbatim account of proceedings, suggested points of clarification may have been included as footnotes to the main text.)

Deputy D.W. Mezbourian of St. Lawrence (Chairman):

Well, I think we will make a start and I would like to thank you all for coming to speak to us this morning. One of our panel members is unable to be here, so apologies have been sent from Deputy Gallichan. Mr. Millar is new to the public hearing system over here, I believe, so I will just explain it very briefly. I believe you have seen a copy of the protocol that relates to attending these hearings.

Mr. B. Millar (Governor, H.M.P. La Moye):

Yes, I have.

Deputy D.W. Mezbourian:

The hearing is being recorded. It is a public hearing and members of the public may attend. It will be transcribed and a copy will be sent to everyone who has taken part so that they can ensure the accuracy of what is recorded. It will also be uploaded to the Scrutiny website. The questions of course will be addressed to the Minister and she will decide whether she wants to ask any of you to answer at all. The format is that we will ask some general questions about the spending plans for the department and then we have split the 5 areas that we wish to cover between the panel

members. I think, first of all, we better introduce ourselves. I am Deputy Mezbourian, Chairman of the panel and on my left is --

Connétable G.F. Butcher of St. John:

I am Constable Graeme Butcher from St. John.

Deputy S. Pitman of St. Helier:

Deputy Pitman of St. Helier.

Deputy D.W. Mezbourian:

We have 2 officers with us today.

Senator W. Kinnard (The Minister for Home Affairs):

I am Senator Wendy Kinnard, the Minister for Home Affairs.

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

Steven Austin-Vautier, Chief Officer for Home Affairs.

Ms. E. Middleton (Finance Director, Home Affairs):

Liz Middleton, Finance Director, Home Affairs.

Mr. B. Millar:

Bill Millar, Governor of La Moye Prison.

Deputy D.W. Mezbourian:

So thank you again for coming and we will just start, Minister, with a couple of general matters. Just to say, we hope that this will be finished by 1.00 p.m. at the latest. Minister, can you tell us what work you have undertaken on re-prioritising services within your department?

Senator W. Kinnard:

We undertook, obviously, a number of reviews in terms of re-prioritisation of our resources to meet some of our funding pressures and I think, in terms of the way in which we have already done some re-prioritisation, there were a number of factors that we had to take into account. The first and most important I think is the 2 H.M.I. (Her Majesty's Inspectorate) reports of La Moye Prison which were both critical and also set out what we needed to do to bring the prison up to modern day standards and of course the need therefore to progress the performance improvement plans. We are also aware of the need to increase the prison base budget which, historically, has been underfunded for some time and I have been making quite a lot of noise

about that. Also, you will remember that the Criminal Justice Policy was approved by the States last November with a series of action plans, and within that which was approved by the States was the need to bring forward the sex offenders' law, post-custodial supervision, prison education, vetting and barring and various other things but deliberately kept at as low a cost as we possibly could in order to keep the pressures on our budget as low as possible. We have a number of strategic objectives which you will be aware of from the States Strategic Plan and you will have seen also the Home Affairs Business Plan which sets out all of the objectives, many of which - given that we have frontline services - are keeping services in terms of business as usual. We also have Policing Plan objectives of course which are set and, in part, are developed in accordance with public participation. We have been aware of funding pressures in terms of the Customs and Immigration Service and those were predicted as far back as 2006. There is also I think, quite topical, the corporate need for the Island to respond to the introduction of the Safeguarding Vulnerable Groups Act which will come in to force in 2009. The rising costs that we have of the defence contribution is another factor that we have had to juggle and, as well as that, we have had the unacceptable burden of the Criminal Injuries Compensation Scheme awards where we have absolutely no control over the level of awards and yet it is placed within our budget. So we have had all of those issues - to set the background, if you like - that we have had to juggle in terms of our prioritisation exercises and there are a number of options that we have looked at and also, to some extent, put into place to deal with those pressures. One is looking at the remix in terms of the allocation of the Home Affairs budget in terms of whether or not it would be possible to move one budget from one service to another. I think it has certainly long been accepted by the Council of Ministers that this will just create unnecessary funding pressures elsewhere in Home Affairs. We do not have either the sufficiency of budget or, indeed, the flexibility of budget to achieve that. It is not a matter of just moving an amount of money in that you might fund one scheme one year and not fund it another because our budget is largely taken up in terms of the cost of the staff resources that are needed to deliver the frontline services. I think perhaps what will be interesting is the C.&A.G. (Comptroller and Auditor General) is undertaking a number of reviews currently and, in fact, he has undertaken one of the Home Affairs budget and I think that, although it is not yet in the public domain, I would strongly advise the panel to refer to those reviews once they are available because I think this is an issue that he himself has addressed in his review. One of the other areas we have looked at is whether we could use any unplanned savings in the Home Affairs area; whether or not some savings could be achieved and whether that could be used to be applied to these funding pressures, and the difficulty with that is that there is a great deal of uncertainty. The police, in fact, did manage to make some end-of-year savings in 2005 and 2006 owing to the number of leavers from the force but of course now, going forward, we are looking at bringing the police force up to full establishment, so that kind of saving may not be available in the future. Some one-off savings have been made certainly of £100,000 at the end of 2007 in the Jersey Field Squadron and that

was achieved purely and simply due to the operational deployment of our local soldiers because when they are on a tour of duty, the Ministry of Defence pays them as regulars, so that again is not something that we can rely on into the future. We looked also at a review of the funding allocations to some of our - what might be described as - non-core services and we have campaigned for several years that the Criminal Injuries Compensation Scheme awards should be funded from the general reserve¹ of the States which is what the law stipulates. We have been successful from 2009 onwards in getting that accepted as a way of dealing with that matter. Discrimination law funding; there was an acceptance by the Council of Ministers and by the States that owing to the ability to phase the law, funding of £500,000 could be diverted partially to meet some of the prison funding pressures but of course that then means that the money has to be re-bid for the discrimination legislation. In terms of the Building a Safer Society strategy that we have, we looked closely at that in terms of its administration costs and we have managed to save small amounts from that and reallocate it. The M.L.O. (Military Liaison Officer)² post was re-graded.

Deputy D.W. Mezbourian:

Sorry, I missed that.

Senator W. Kinnard:

The M.L.O. post. He is the Military Liaison Officer and he has been re-graded or the post has been re-graded and we have managed thereby to reduce some of the running costs of that post and saved some £20,000. We did look at the withdrawal of the grants to the uniformed youth organisations but rejected that as being somewhat a false economy in that they provide a very good outlet for young people and training for young people that otherwise, if they were less appropriately and actively engaged, might turn their minds to less appropriate behaviour, so we felt that that was really - considering the small amount of the grant - a false economy. The other issue of course we have looked at which is currently and actively under debate is obtaining any growth funding that we needed from other sources and, most notably, my other colleagues in the Council of Ministers and, in fact, using the year-end carry forwards from other departments who perhaps might not have the same pressures. This has happened in the last 2 years. For example, for our 2008 cash limit, the additional funding of monies for the prison has been given principally due to savings in Education, Sport and Culture. So we have looked at all these issues and option one has not really given us many options in terms of our ability for planning purposes and is not highly useful. That is the remix in terms of moving monies from one frontline service to another. With option 2, we have achieved some but they are too uncertain to rely upon for the kinds of funding pressures that we have put forward which need sustained funding and, again,

¹ The Panel was subsequently advised that the Act that established the Criminal Injuries Compensation Scheme refers to the 'general revenues' of the States rather than the 'general reserve'.

² The Official title is the Island Military Liaison Officer

options 3 and 4 are options that have been explored and are suggested for 2009 going forward. They are preferred because they do allow us, to some extent, to build some form of planning in but certainly the approach that we have at the moment with business planning causes us in Home Affairs a particular problem. It means that we are unlikely to be able to plan more than a year ahead without any certainty about our cash limit and yet, as you are probably aware, our commitments are very important and are enduring. It would be very nice to have the comfort of knowing that we had a cash limit that was adequate and then we would be quite happy to abide by that requirement if the budget was adequate. The difficulty we have got is that it is inadequate to meet these pressures we have identified.

Deputy D.W. Mezbourian:

Minister, what would you consider to be an adequate budget?

Senator W. Kinnard:

Well, I have not --

Deputy D.W. Mezbourian:

If you talk about inadequate, you must have an adequate figure.

Senator W. Kinnard:

Well, I would say we have done a lot of work. Of course, if you take the prison, I would say, rather than give an overall picture, probably the prison would be the easiest example.

Mr. S. Austin-Vautier:

Well, I think the funding pressures that are identified in this document are what we feel in Home Affairs are the minimum requirements to run the Department in the way it should be and they are quite specific. It is not, I do not think, in the Minister's mind, a wish list. It is what we think is needed to deliver the statutory responsibilities of the Department so that they are finite.

Deputy D.W. Mezbourian:

But you do not have an idea how many?

Senator W. Kinnard:

If we add all of the figures up.

Deputy D.W. Mezbourian:

Maybe someone could do that and come up with a figure.

Senator W. Kinnard:

Certainly, I will get somebody to do that.

Deputy D.W. Mezbourian:

Thank you.

Senator W. Kinnard:

But that is essentially it. In order to meet the basic standards of prison, and we are not talking about a regime that is much improved on prisons elsewhere, we are talking about meeting the basic standards of a prison in this century and certainly we have, for some time, done a lot of work on the requirements of that. These other issues like the vetting and barring and the sex offenders' law, we must have in place in our community because we cannot be a backdoor to people with inappropriate designs on our community, and even though the goalpost has moved in terms of what now is the expected level of supervision for sex offenders, I think it is essential that we have that in place. That, as I say, is something that has happened since we had our original bids in.

Deputy D.W. Mezbourian:

We will come on to that. The way we want to deal with the hearing today is to cover the general matters and then we will go on to the prison and follow on from there. We understand, Minister, that you gave a presentation to the Council of Ministers outlining these concerns and we would like to know what their reaction was to your presentation and what questions they asked you.

Senator W. Kinnard:

All Ministers gave a presentation about their areas and they largely focused on what the funding pressure was, had we identified other sources of funding and how essential they were. Can you remember the other list of questions when we did that presentation?

Mr. S. Austin-Vautier:

Well, I think they broadly want to know whether you have done the sort of review that the Minister has just outlined looking at your own area first and seeing if there is any slack but I think, bearing in mind the Minister was the President of the Home Affairs Committee as well, I think, for several years in a previous guise, there has been a consistent message that we do not feel there is the slack to do what was described as option one which is remixing the budget. We, each year, have a struggle to do all the tasks that the department is required to do and, each year, we have come back time and time again, unfortunately, to say: "We are not going to cope this year." In the old days, it used to be a request for a general reserve grant. That has gone of course. Now, the

Minister is constantly having to look to the other Ministers to say: "Well, how is your budget doing? Is there the opportunity at the end of the year to take some predicted carry forwards?"

Deputy D.W. Mezbourian:

So the Council of Ministers have asked Scrutiny to look particularly at these funding pressures and to submit a response to them by 8th May, after which, they will take our comments into consideration. What indication did the Council themselves give as to whether they would support these additional spending requests that you have made? I know that some options are being looked at for some of these but if they were to be taken to the House, would they all be supported by the Council of Ministers?

Senator W. Kinnard:

There are really 2 lists. There is one for which we have tried to identify some source of funding but then there are other areas where no funding has been identified. So, for instance, if I take the sex offenders' law and the vetting and barring, what I have suggested is that the costs of the Criminal Injuries Compensation Scheme should come from the Criminal Offences Confiscation Fund which is something I have been trying to get accepted for some time and that then would go some way to assisting the funding for those things. But the areas of pressures that have no alternative funding sources are things such as the discrimination legislation because of the consequences of the prison solution and the customs and immigration in terms of the staffing due to the increased activity; more boats and aircraft movements that have occurred. Those, at the moment, are the 2 issues for us that do not at this present time have any solution which would have to come to the States.

Deputy D.W. Mezbourian:

As you know, we will not be discussing the customs and immigration issue today because we are conducting a separate review into that.

Mr. S. Austin-Vautier:

Chairman, if it helps, on page 58 of the document, there is a very small table of a few items where the Council support the funding pressures for which there is no identified funding stream which is not the same as things which people want but they do not support obviously. There is recognition here that these require funding but there just is not any funding stream yet identified and 2 of the Home Affairs ones are in the shortlist.

Deputy D.W. Mezbourian:

Okay, thank you. So we know that it would be supported.

Senator W. Kinnard:

Yes.

Deputy D.W. Mezbourian:

All of these would be supported.

The Connétable of St. John:

I have a question, Minister. What work was undertaken on reviewing your department's objectives from the 2008 Business Plan when developing the 2009 plan?

Senator W. Kinnard:

What work in particular? Well, quite a lot of work. We went painstakingly through it, as far as I remember. Some have been removed. Steven, can you deal with that because I think you have the detailed paperwork there?

Mr. S. Austin-Vautier:

Of course, the 2009 objectives are not on the streets yet.

Deputy D.W. Mezbourian:

We had some draft objectives through this morning.

Mr. S. Austin-Vautier:

You have had them through? Right, okay, yes. They look remarkably like the 2008 ones except that some objectives have come out because they are either complete or they are down in a different guise. For example, the sex offenders' law has been removed from objective one because it is on the point of being lodged this year. Similarly, with the Police Force Law and the Crime and Disorderly Conduct Law. In objective 3, we have the Criminal Justice Policy but that of course has now been approved by the States and the discretionary supervised release of prisoners was down as gaining approval for but of course the principle of that has been approved within the Criminal Justice Policy so we are now into just the introduction phase. In objective 5, we had Introducing G.S.T. (Goods and Services Tax) and that of course is now into implementation and in objective 6, there were some objectives to do with the I.M.F. (International Monetary Fund) Review but that, again, is a 2008 objective. So those are the principle changes from this year to next year.

Deputy D.W. Mezbourian:

Okay, thank you. Can we move on? We are trying to keep to a time limit and I think the most important question that we should just finish with on the general matters is what public feedback

there has been on those proposals that were late to your department because we understand that not only has Scrutiny been consulted on this by the Council of Ministers but, indeed, the public are being asked to contribute. So have you had any feedback? How are you addressing the question of dealing with the public and getting their feedback on these issues?

Senator W. Kinnard:

We do not know because that will be co-ordinated by the Chief Minister's Department, so we will not yet have received that. Obviously, it will be part of the feedback we get from them but we have not had anything directly at all.

Deputy D.W. Mezbourian:

So, as a department, you will not be --

Senator W. Kinnard:

Well, I suppose we will, I suppose, once it has been collated by the Chief Minister but we are not organising that. We have had certain feedback obviously through the consultation on things like the discrimination legislation which we are dealing with but in terms of this specific Business Plan consultation with the public, that is being co-ordinated by the Chief Minister's Department rather than by individual Departments.

Deputy D.W. Mezbourian:

Okay, that is fine. Thank you. I think we would like to move on to the prison now and Connétable Butcher is going to lead the questioning on that.

The Connétable of St. John:

On the prison, the draft proposals indicate that £1.5 million of funding has been made available to you at the moment for your 2009 base budget,³ although the Council of Ministers do seem to recognise that £2.3 million may be a more appropriate figure. You have commented in your proposal that the Prison Improvement Plan is not something that we can cherry pick too much which, obviously, we are aware of. What will the additional £1.5 million to the prison base budget be used for?

Senator W. Kinnard:

Well, progressing the Performance Improvement Plan and increasing the areas of security and so on that are required. Shall we ask Bill at all?

³ It was subsequently highlighted that the £1.5 million of additional expenditure comprised a £1 million increase in the Department's cash limit and a diversion of £500,000 originally allocated for Discrimination legislation.

Mr. S. Austin-Vautier:

Yes, are you happy to or do you want me to --

Senator W. Kinnard:

Are you happy to, Bill, or do you want --

Mr. S. Austin-Vautier:

I will defer it to the Prison Governor.

Mr. B. Millar:

Primarily to increase staffing levels in particular areas. It allows further expansion of the education side in the establishment but, predominantly, it is uniformed staff and to bring the uniformed members of staff up to what will be regarded as a baseline requirement to operate a safe prison.

The Connétable of St. John:

With the £1.5 million, from the required £2.3 million, there is about an £800,000 differential there and I think the Prison Improvement Plan was about £800,000 from memory. Does this mean that the Prison Improvement Plan in general is not going to be implemented if it is an all or nothing option?

Mr. B. Millar:

No. There are significant parts of the improvement plan that have already progressed over the past year. There has already been a significant increase in the educational inputs. For example, developments in policy and procedures to manage the prisoner population, some of which are at relatively low cost but there is just a change in practice or procedure in installing better more efficient systems and processes. So much of that has happened already. There have been several new appointments on the staffing side. I think it has been a question of re-visiting parts of the improvement plan and finding more efficient ways to do things but it is not that there will not be any progress because of the deficiency in funding.

Mr. S. Austin-Vautier:

There are quite a number of posts and much of that money is to do with staff - just to add to what the Prison Governor is saying - and in the document you have read, I think there were 31 posts identified.

The Connétable of St. John:

Yes.

Mr. S. Austin-Vautier:

If we get it right this year, we have got the potential to recruit 25.

Senator W. Kinnard:

25.

Mr. S. Austin-Vautier:

Most of those are uniformed staff; prison officers and operational support grades. The £800,000 would mop up the residue. For example, there are 4 senior officer posts that we will not go through with this year and a few other prison officers and one or 2 hangers-on plus the non-staff expenditure which we are not spending and should be and that will near as damn it make up the £800,000.

The Connétable of St. John:

While we are talking about staff levels there, that will put your staffing up to about 160-ish or just over if the 25 come onboard.

Mr. B. Millar:

170-ish.

The Connétable of St. John:

All right, 170-ish. If and when the new working week comes in, that is effectively going to jump 7.5 per cent off of your man hours available before you move into overtime which, potentially, means probably 12 or 13 more staff will be required for you to stand still.

Mr. B. Millar:

On existing working practices and attendance patterns, yes, but what I am currently exploring are options to change that to make more efficient use of staff basically. So if we can improve the attendance pattern and optimise the use of staff time, then the difference for a 37-hour week will be reduced.

The Connétable of St. John:

Reduced or absorbed totally, do you think?

Mr. B. Millar:

I do not think it is possible to absorb it totally but it is certainly possible to reduce it.

Deputy S. Pitman:

On the question of staffing, I believe your colleague, when we visited last week, said that you were increasing the number of counsellors. Could you remind me of how many?

Mr. B. Millar:

An additional 2 drug and alcoholic counsellors.

Deputy S. Pitman:

How many do you have altogether?

Mr. B. Millar:

That would make 3.

Deputy S. Pitman:

What would be the ideal number for the prison?

Mr. B. Millar:

Well, that was the target at this stage, so we achieved that target.

Deputy S. Pitman:

They are all drug and alcohol counsellors, yes?

Mr. B. Millar:

Yes.

The Connétable of St. John:

Can I address a question to Mr. Millar? Obviously, you are fairly new to the post over here, although you have got a wealth of experience from elsewhere. How do you find the situation in Jersey at the moment in terms of staff absenteeism compared to other establishments that you have worked in?

Mr. B. Millar:

I would say, for a uniformed service, it is probably about what I would expect it to be. Nevertheless, it is an area that I am bringing about a fresh focus because it is higher than I would want it to be.

The Connétable of St. John:

Do you put some of that down to sort of general staff fatigue because of the overtime that they are having to do and this sort of thing?

Mr. B. Millar:

Looking at how the absence is spread and the grades that it spreads across, no, I would not say that is an obvious factor.

The Connétable of St. John:

Right, okay. One area that we moved off of at the start that I was going to ask you about was when we visited the prison the other day, obviously, one can see that there is quite a strong emphasis on education. Would there be, in your opinion, any cost savings if the Education Department were used more rather than having independent staff up at the prison if you had a smaller base of independent staff and used tutors from Highlands?

Mr. B. Millar:

I do not think that could be done much more cost effectively. It probably gives you options in terms of expanding the service provision and gives you more flexibility if the service had been contracted in from a college but, cost-wise, I do not think it would make much difference.

The Connétable of St. John:

Okay, I will go back to the Minister now. Obviously, there were 2 independent reviews in the last few years that did not come out too favourably. How would you envisage, if the prison was reviewed tomorrow, how it would fair compared to --

Senator W. Kinnard:

Well, I think there would be certainly recognition of some improvement but, clearly, we will not have met all of the recommendations of the last 2 inspections in terms of fulfilling the Performance Improvement Plan. If we had been able to receive the total funding, then, clearly, we would have been able to make even greater strides. But I think we have made great strides with what we have been allocated and, certainly, if you have recently visited the prison, you will have seen for yourselves the comparison to your previous visit. But we are not yet, by any stretch of the imagination, up to the standard that I believe is required in the modern day.

The Connétable of St. John:

Okay. Has anybody else got any questions on that one?

Deputy S. Pitman:

Well, changing the subject --

Senator W. Kinnard:

Not least of all, if I just say, we have still got the slopping out until we have the new block which is planned and will come online but, clearly, if the inspection was directly tomorrow, we would not have completed the building which would be a major significant black mark against us.

Deputy S. Pitman:

Changing the subject slightly, when we visited the prison last week, I can recall that somebody said that the tagging of prisoners was not cost-effective. Firstly, I would like to know - if you can break it down - how much it costs the prison and also community service and if community service is cost-effective as well.

Senator W. Kinnard:

Right, well, on the tagging issue, we have got to, I suppose, make the point that the whole real reason for introducing it was the means of rehabilitation to ease those prisoners that were judged not to be a risk to the community carefully back into the community through the means of having them tagged along with a curfew. So that was, in my view, a very important reason for introducing electronic tagging but because we do not have the kinds of economies of scale that you would have in a large prison with larger numbers of prisoners going out to be tagged⁴, it is therefore, per unit, quite expensive. Do you have the figures?

Mr. S. Austin-Vautier:

Yes. It used to cost £160,000 up until a year or so ago.

Deputy S. Pitman:

How many prisoners was that?

Mr. S. Austin-Vautier:

Well, it varies. It can be as low as half a dozen and it has been up, I think, beyond a dozen in the past or maybe 15.

Deputy S. Pitman:

So your £160,000, how many prisoners was that?

⁴ The Panel was subsequently advised that it would be more appropriate to state 'with an electronic tag' than to state 'to be tagged'.

Mr. S. Austin-Vautier:

Well, I should say first it was re-negotiated last year and it cost £130,000 then and it is being audited again later this year because we recognise just what you are saying so we have asked the Chief Internal Auditor to give us a view on it to see whether, just from a cost-effective best value point of view, there is a better way of doing it because it is one in a battery of temporary release initiatives available to the Prison Governor and there may be a better way to remix it. Sorry, I have forgot what your supplementary was and if I answered it.

Deputy S. Pitman:

That was it.

Senator W. Kinnard:

You asked about community service.

Mr. S. Austin-Vautier:

Community service.

Senator W. Kinnard:

Yes. We have a community service in the sense that some prisoners go out on day release to work placements and some go out to do some community service but that is distinct from Community Service which is run by the Probation Service and I just want to make it clear that we are specifically talking about, I imagine, the community service that might be done by prisoners in the community. Some of that was introduced. Bill, I do not know if you have anything you wish to add about how it works. I mean, you have not been there long.

Mr. B. Millar:

Yes, but there is in the region of 20 prisoners on a daily basis leave the establishment to work in the community; some on community placements and some of them work in paid work placements and that is ongoing. I suppose, in terms of the cost of running such schemes, I mean, the emphasis is on rehabilitation and, you know, causing the offender to develop appropriate patterns and lifestyles; up in the morning, out to work through the day and get a paid salary and so on, that does not reflect significant savings within the prison because it does not allow you to reduce your staffing levels to manage the prison unless there was, you know, huge numbers out on tagging or other initiatives. It does not really allow you to reduce your staffing within the prison.

Senator W. Kinnard:

I suppose what we are looking at is what are the longer term potential savings. If you are enabling offenders to ease themselves back into the community in an appropriate way so that they do not then go on to re-offend, then you are making savings down the line by not therefore having them back through the revolving door of the prison.

Deputy S. Pitman:

Are you able to monitor that?

Senator W. Kinnard:

That is a very difficult thing to do, partly because that would take a longitudinal study and, equally, we have got too small numbers in Jersey, I would have thought, to make such research valid.

Mr. S. Austin-Vautier:

There is an opportunity coming up though. There is a recidivism set of statistics for Probation's community service and they have got it fairly well tied down. I do not believe there is one in respect of the custodial element but when the Island brings in its form of parole - which you agreed that we should do through the States - I would think, at the same time, there is an opportunity with a baseline to check whether people who have been given the benefit of that discretion do come back. So I think we will see those statistics being slightly improved.

Senator W. Kinnard:

It will certainly give us a feel for it but, as I say, having been involved in research myself, I would have a slight anxiety about the validity of the small numbers of the statistics but certainly it will give us an opportunity to have some feeling for it.

Deputy D.W. Mezbourian:

Minister, we know that you identified initially a shortfall of £2.3 million for the prison and £1.5 million has now been allocated by the Council of Ministers. If you received the balance between the 2 of £800,000, would that guarantee that all the remaining issues at the prison could be addressed?

Senator W. Kinnard:

That is my understanding, yes.

Mr. S. Austin-Vautier:

We will take the 60 million dollars, thanks **[Laughter]** Yes, it is that, you know, guarantee, I think. I think it would be true to say, would it not, though that £2.3 million, if we got it, would be

something that, several years ago, we had no sight of and so it must mean that you can improve significantly the regime of the prison.

Deputy D.W. Mezbourian:

So bearing in mind that you are unlikely to get that £800,000, what will be the priorities at the prison with the money that you are expecting to receive? How will you prioritise?

Senator W. Kinnard:

Well, that is what we have had to do and just work around it.

Mr. S. Austin-Vautier:

Yes, well, most of it is in staff but I think now that we have got a new Prison Governor, I think it is only fair to let the professional have a look at what is now happening and re-assess that in the light of the new resources and take it from there.

Deputy S. Pitman:

May I ask would you be re-assessing resettlement of prisoners?

Senator W. Kinnard:

Well, we have done quite a lot for resettlement. We have the Resettlement Centre and quite a lot has been achieved there already. I will let Bill speak.

Mr. B. Millar:

Yes, well, I mean, I suppose I have several priorities in regard to making best use of the funding available and I might prioritise and I am going to say it has to be a safe prison, it has to be a secure prison because that is one of our primary objectives, so to look at and to ensure that there is adequate security in the establishment in the first instance and it is safe for those who live and work there. So I will make sure we have got appropriate procedures to ensure the safety of life, certainly for the prisoners and, as for some of the issues that have already been addressed in the improvement plan with revised policies for the prevention of suicide and other issues, a humane prison and a prison that can stand up to challenge and human rights. Now, while the funding helps us address the regime and some of the issues with the prisoners, it does not help the infrastructure and it does not provide the buildings in the establishment that ensure that we will be able to deliver a humane prison in the long-term. But the last priority would be that it is an effective prison and to be effective, we have to do more than keep them in secure custody. We have to address the offending behaviour and bring about a change. Some of the comments that the Minister made was it is spend to save because if we can reduce the offending, then we reduce the rate recidivism and we do not have that same person coming back into custody again and the

same costs associated with that, so it is about addressing that agenda. If there is any shortfall in the funding, then that is the area that is likely to suffer because we are not able to introduce the offending behaviour programmes, for example, that tackle the longer term and recidivism issue.

Deputy S. Pitman:

Yes, you speak of your trying to create a more humane environment within the prison. May I ask what initiatives have been -- well, because bullying has been an acknowledged problem within the prison, I would just like to know what recent initiatives have been undertaken to address that and also if it has cost the prison financially.

Mr. B. Millar:

They have developed an anti-bullying strategy but, again, that is effectively been about changing the approach and the way staff address these issues rather than put, you know, additional resource into it. So it has been educating the staff and getting them to address different procedures to reduce levels of bullying or intimidation and a threat to prisoner safety. That appears to be bedding in quite well and staff have come to terms with, you know, a different approach but, you know, I would have to commend the management team and staff for the way they have addressed that particular issue. Similarly, the Anti-Suicide Policy that they have put in place as well, I think, is a significant improvement on, you know, what was in place in the establishment prior to that. Again, it is about the approach and staff, you know, recording their observations in prisoner activities and responding to issues quickly and, hopefully, successfully and that will be dividends in the longer term.

Deputy S. Pitman:

I assume then that the infrastructure of the prison - for example, now the women have better accommodation, whereas many of them were in one, big room - has decreased bullying.

Mr. B. Millar:

Yes, there is a new house block and a refurbished house block currently in use and that has improved the living conditions significantly for, you know, sectors of the prison population. The female population are in very good accommodation and much better than what you have witnessed previously. The new house block that is also in operation has got integral sanitation facilities and it is good, bright and open and it creates a good atmosphere, you know, for the prisoners in which they have to live and the staff have to work. So there is no doubt these new buildings provide huge improvements for the quality of prison life and create a better atmosphere.

Deputy D.W. Mezbourian:

I have just a couple more questions for the Minister. What steps are you able to take to manage the prison population as regarding non-local prisoners and prisoner transfer? For instance, do you have discussions with the judiciary on sentencing policy at all?

Senator W. Kinnard:

Well, sentencing is a matter of course for the judiciary alone in individual cases but you will be aware that under the Criminal Justice Policy, there was an agreement for meetings to take place between the executive and the prosecution and the judiciary on an ad hoc basis. But, in fact, really, our ability in terms of managing prison numbers is not within our remit. It is the courts that decide who should be sent to La Moye and we have to take the prisoners that are sent to us. Clearly, there are development policies that may address some of those issues but they are more to do with rehabilitation than to do with numbers and I think now that we have had much improved funding for the capital side of the programmes and we have got the availability of more cells now at the prison - and we certainly will have when the latest block is completed - we have not had the same pressure in terms of overcrowding that we had experienced in, say, 2004, 2005 and 2006, so there has been some improvement there.

The Connétable of St. John:

Obviously, there are some prisoners that are sent back to the U.K. (United Kingdom) because of family reasons et cetera if they are not connected to Jersey. What is the differential in cost in terms of what it costs to house a prisoner here in Jersey as opposed to, presumably, we pay the British Government to house them there?

Senator W. Kinnard:

Yes, we do. We have had some success in reducing that. Do you have the comparative figures? I think we have it in one of our documents. It is true that we had a greater numbers of prisoners that we were paying for in the United Kingdom previously. When we were suffering from a period of grave overcrowding, there were occasions when we had to in fact require our prisoners⁵ to be sent to the United Kingdom if they did not have connections here in the Island in order to relieve some space. That, at one point, was costing us quite a lot of money and Steven will find the figures for you in a moment. We were able to reduce that quite significantly but now, as I say, we do not have that kind of pressure. But what we have been successful in doing is where those offenders do not have particular connections with the Island, we have been able to persuade them that they would be better off perhaps serving their sentence in their local jurisdiction so that they can have access to family and friends and so on. If they choose to go - and certainly the previous

⁵ Clarification was subsequently received to highlight that some prisoners have been sent to the United Kingdom.

Prison Governor had some success with getting other prisons to accept our prisoners - then we were not billed for their accommodation under those circumstances. Steven, do you --

Mr. S. Austin-Vautier:

Yes, when we did the report that went to the Council of Ministers, there was some comparative work done with the U.K. and, at the time, we did a comparison with Winchester and the cost per prisoner over in Winchester was £51,641 a year.

The Connétable of St. John:

As opposed to what you are saying in the report there of about £44,000 for housing them locally?

Mr. S. Austin-Vautier:

That is right, yes. We also have some comparative year-on-year figures for the increases from 2002. They are a bit difficult to understand.

Deputy D.W. Mezbourian:

Can I ask what document that is in?

Mr. S. Austin-Vautier:

This is the report that went to the Council of Ministers in November that justified the 31 extra posts and the £2.3 million.

Deputy D.W. Mezbourian:

Okay, yes, we have got that.

Mr. S. Austin-Vautier:

If you look at page 25, that will give you the annual budget year on year addition and at the end of the report, there is the comparison with Winchester.

Deputy D.W. Mezbourian:

Okay, thank you.

Senator W. Kinnard:

Of course, there, we are not comparing with prisons which have glowing H.M.I. reports either. We are comparing with prisons which are --

The Connétable of St. John:

On a like for like basis.

Senator W. Kinnard:

Well, as much as we are able to do so --

The Connétable of St. John:

Just another question and I know it does not come under your remit, Minister, but do you think there would be any financial savings if the judiciary were to change their sentencing policy for non-local people, i.e. a shorter sentence and perhaps deportation at the end?

Senator W. Kinnard:

Well, there are lots of difficulties in terms of human rights and so on. In terms of deportation --

The Connétable of St. John:

This could be a voluntary thing, presumably, for the prisoner if he would rather have a shorter sentence.

Senator W. Kinnard:

Well, what happens at the moment in terms of deportation is obviously, the court makes a recommendation and that recommendation kicks in after they have served their sentence here in Jersey but if you are thinking about whether or not we are able to change the law so that some prisoners could serve their sentence in another jurisdiction so, for instance, if we had an offender from another European country so that they could go and serve their sentence there, we have a draft piece of legislation which would enable that to happen in circumstances where it was felt appropriate to do so and it was what the offender wanted to do because there are, on occasion, offenders who would prefer to serve their sentence in another jurisdiction.

The Connétable of St. John:

That was not --

Senator W. Kinnard:

But it would be a small number. It would not affect the budget in that sense.

The Connétable of St. John:

No, right.

Senator W. Kinnard:

The numbers are too small.

Deputy D.W. Mezbourian:

I think we have probably finished on the prison there, although we were going to come back to an adequate budget.

Senator W. Kinnard:

Yes, in terms of the additional resources, the proposed cash limit that we have had, before we look at the additional resources for 2009, is £45.096 million and if we are looking at adding up all the rest, we are looking at another £1.950 million and so we are looking at a total of £47.046 million and that is with the additional discrimination legislation, the customs and immigration requirement for extra funding and the prison which are the 3 areas which are unfunded.

Mr. S. Austin-Vautier:

That is the £800,000.

Senator W. Kinnard:

Yes.

Mr. S. Austin-Vautier:

The last figure.

Deputy D.W. Mezbourian:

So £47.046 million you would consider an adequate base budget for the Home Affairs Department?

Senator W. Kinnard:

To meet the current commitments that we have, yes.

Deputy D.W. Mezbourian:

Okay, thank you. I am aware of the time and I think that we would like to move on to the supervised release of offenders which we picked up on in the document provided by the Council of Ministers but which we did not discuss with you at our hearing in January when you told us then what you considered to be your funding pressures, so the Connétable is going to just address a few questions on this funding.

The Connétable of St. John:

Yes, I have a few questions on this one. Could you clarify the history, Minister, of the draft law and what it is envisaged to do?

Senator W. Kinnard:

It was agreed of course in the Criminal Justice Policy that we would bring forward legislation to enable the early supervised release of certain offenders; those that did not pose a particular risk to the community. The idea is that the law would establish an Early Release Panel and the panel would consist of a pool of people from which sub-panels could be convened to make recommendations to the Prison Governor regarding the early release of offenders. On the panels that would make those recommendations, there would be a probation officer nominated by the Chief Probation Officer, a member of the public, a prison officer or other person employed at the prison and a Jurat and they would be able to make recommendations to the Prison Governor. Also the law empowers the Royal Court, when sentencing an offender, to order that an offender of a serious crime must serve a minimum period of imprisonment before they can be considered for early release. In the law, it also allows for a situation where the Prison Governor can recall the offender and also there is a provision for the Attorney General also to invoke a recall of an offender where the Prison Governor has decided not to do so but concern is raised perhaps by a probation officer, so the Attorney General can do with within the legislation. In the legislation, there are also powers to set out conditions which might apply to release licences so, for instance, if somebody is on early release, they may be required not to visit licensed premises or whatever. It also enables the testing of prisoners who are on early release in terms of alcohol testing and drug testing to ensure that they abide by any conditions of their licence. The idea behind it is that the release would not be automatic, as it is in the United Kingdom. It would in fact be discretionary release and it would be discretionary release for most prisoners, that is those who do not pose a particular risk to the community, at 50 per cent of the sentence but, as I say, there are strong powers for recall should an offender not abide by the conditions of the licence. What was the further question? That is what the law is about.

The Connétable of St. John:

Okay. The questions I have got here is what will the changes to the legislation be following consultation?

Senator W. Kinnard:

What will be the changes?

The Connétable of St. John:

Yes.

Senator W. Kinnard:

Well, obviously, when the law is ready for consultation, I will have to wait and see whatever comes back and amend any condition. We have already consulted, to some extent anyway, with

those who were directly involved as stakeholders in terms of the Probation Service, the police and the court and we have made a number of changes as a result of those early consultations but, clearly, there is another stage yet to go further in terms of consultation with the public and so on.

The Connétable of St. John:

But what is the current resettlement and transfer practice at the prison at the moment and is this likely to be changing in the near future? What happens now?

Mr. S. Austin-Vautier:

Do you want to comment?

Mr. B. Millar:

Well, the Governor or the establishment cannot impact on the date of release so the prisoner is automatically released at the end of sentence or the earliest date of liberation as calculated at the time of sentence.

Senator W. Kinnard:

Which is two-thirds automatically.

Mr. B. Millar:

Clearly, the introduction of this legalisation gives the option of releasing earlier and supervising in the community, so that is the significant change, I think.

Senator W. Kinnard:

The importance at the moment is, the prisoners - whatever their risk to the community - are automatically released at two-thirds of sentence without supervision. This legislation enables us to do 2 things; one is to appropriately assess the risk and also to ensure that there is supervision and the supervision is mandatory. For instance, if we take sex offenders, sex offenders can choose voluntary supervision in the community. This law would mean that they had to be supervised in the community once they are released at whatever minimum sentence the court decided they should do.

Deputy D.W. Mezbourian:

Will the draft law impose any impositions on the type of offender that can be released because you are talking about releasing sex offenders, I believe?

Senator W. Kinnard:

No, what we have done is given a power to the court in particular cases and I think that that gives, if you like, both the greatest flexibility to the court to decide whether or not there are certain offences or certain aggravating factors in a case that mean that they believe that an individual offender should not be considered for early release at 50 per cent of the sentence and that power is in the law to allow the court to do that. It is certainly felt by the court that that gives them the greatest flexibility.

Deputy D.W. Mezbourian:

So not having seen the draft legislation, the court will make a recommendation at the time of sentence.

Senator W. Kinnard:

It can do, yes.

Mr. S. Austin-Vautier:

That was one of the points from the early consultation.

Senator W. Kinnard:

From consultation with the court.

Deputy D.W. Mezbourian:

Yes, okay.

Mr. S. Austin-Vautier:

It proved the value of going to the court at an early stage.

The Connétable of St. John:

The last question I have got is what impact would there be on the prisoner if this legislation was not implemented?

Senator W. Kinnard:

Well, from our point of view, it is important for 2 things. One is that it allows for the improved and better rehabilitation of prisoners back into the community and it also enables the appropriate supervision of offenders in the community. So, again, my view is that this kind of approach will hopefully reduce recidivism and enable us to have a safer community. It does not - as perhaps I think your question might be hinting at - empty the prison of lots of prisoners because it is certainly a scheme which is discretionary and not automatic. I think in terms of the number of

prisoners - and I think I was asked this question during the Criminal Justice debate - it is quite a small number that we are talking about potentially released early or eligible for consideration in any one year.

Deputy D.W. Mezbourian:

I think there was some confusion about the posts that would be required to implement this legislation. Our understanding is that it is a pressure that options are still being explored to identify the funding, but the Council of Ministers has suggested that there could be one or 2 posts required and perhaps you will explain to us why this is so and how, depending upon the direction that the prison takes from the settlement, how this would affect the funding pressure to have one post or 2. I think it looks at between £60 or £120,000 recurring.

Senator W. Kinnard:

I think this has to do with the bid that has been put in by the Probation Service rather than ourselves for their part of delivering a scheme. But I think if I ask Steven to explain how this works.

Mr. S. Austin-Vautier:

The original funding for, bearing in mind that the genesis of this document is sort of 4 years, in the 2005 fundamental spending review the Department was successful in getting extra funding - it was about £250,000 - to bring in post custodial supervision. Of course over the progress of the last few years it has been assessed in greater detail and Probation felt they under-estimated the supervisory task. So in this round they put in an extra bid and because they are a non-executive department they have done that through the Treasury. So it has not emanated from the Minister.

Deputy D.W. Mezbourian:

So that £250,000, that was allocated after the financial spending review, went to probation?

Mr. S. Austin-Vautier:

It was split half to the prison and half to probation and they already have the funding and because they are already doing the Through-Care Policy in the prison. So, in a sense they are doing the task on a voluntary basis with the work in the prison and similarly a lot of the work is to do with sentence planning from the prison's point of view. So those posts have been funded already to do sentence planning. The bit in the jigsaw we have not got is the release panel because we do not have the law in place.

Deputy D.W. Mezbourian:

Okay and I think that explains that one unless there are any more questions? No. I think what we would like to do is move on to the sexual offenders' law and first of all, Minister, I need to ask some clarification please because I became a little confused when I was looking at the proposed legislation programme for 2008 and Home Affairs, I see, ask for 12 drafting days for the sexual offences law. The description is: "Amendments to bring a comprehensive approach to sexual offences appropriate to the 21st century redefining the offence of rape and other non-consensual sexual offences." Now, that is the sex offences law and we are talking here about a sex offenders' law. Am I getting confused here? Is that still on the table?

Senator W. Kinnard:

That is huge piece of work that would involve aspects of this. If you are aware of the U.K. 2003, I think it is, sexual offences law, it covers everything including sex offenders and it is a huge piece of legislation. But clearly, obviously, we have been concerned for some time at the lack of a specific sex offenders' law and it is that that I am taking and promoting straightaway.

Deputy D.W. Mezbourian:

Okay, so that will not in fact be part of the proposed sexual offences law?

Senator W. Kinnard:

Well, it will have been done outside of that.

Deputy D.W. Mezbourian:

Outside of it, okay. So, we are looking at eventually the implementation of 2 laws here?

Senator W. Kinnard:

Well, eventually that is what I would like to see.

Deputy D.W. Mezbourian:

Okay. So, why was the sexual offences law identified as priority above the sex offenders?

Senator W. Kinnard:

It was on the back of the abuse of trust debate. If you remember when we were having the debate on the sexual offences law to do with the lowering of the age of consent, there was also concern that we brought in at that time the abuse of trust provisions which again come from first seen really in the U.K. Act and so that is how that became a priority and we again promoted out of the context of the huge review the abuse of trust aspects that the States asked me to do. That is

how that developed as it did and this again we are developing it ahead of time, if you like, outside of the context of an overall review.

Deputy D.W. Mezbourian:

Because of the abuse of trust?

Senator W. Kinnard:

The original one was because of the abuse of trust debate because we brought forward those provisions there. That is why that is related in that way, but we are now bringing forward the sexual offenders aspects because we consider that that is important that we get on with that. Because if we were to undertake the review it is a huge piece of work and would take a huge amount of time⁶ and I think it is in the public interest, at this time, to ensure that we get a sex offenders law on to statute as quickly as possible.

Deputy D.W. Mezbourian:

When you say in the public interest, at this time, can you just elaborate.

Senator W. Kinnard:

Well, just that I think it is important that we progress this aspect as quickly as possible because we are aware that there will be, for instance, potentially a number of trials which may result in convictions and then we will have a number of other sex offenders to ensure that they are appropriately assessed and at the time, when they finish their sentence, if they move out into the community, are properly monitored. Not only have we got to monitor those new people who are perhaps coming out of prison into the community, but we have also got to look at those sex offenders that we already know are in the Island from their past convictions and the law, you know, again has to deal with monitoring those as well that are considered still to be a risk. I do not think it can be held up by a huge review, is basically what I am saying.

Deputy D.W. Mezbourian:

No, okay. My understanding was that the sex offenders or sexual offenders' legislation was first proposed in 2004?

Senator W. Kinnard:

Yes. That was because we knew we needed to have it and that was the first proposal. But things move on. Then there was the change because of human rights to the age of consent legislation. Then the States wanted the abuse of trust law. So, it was all beginning to look as if it would be a

⁶ Clarification was subsequently received that whilst the review in question had been presented as a possibility, it would in fact be undertaken.

good idea to have an overall big review of the sexual offences legislation. But equally I think that this aspect is so important that I have decided we should progress this outside of an overall review.

Deputy D.W. Mezbourian:

We understood that the draft law was going to be lodged in March. Do we have any date?

Senator W. Kinnard:

The sex offenders?

Deputy D.W. Mezbourian:

Yes.

Senator W. Kinnard:

Well, I have signed off on the last draft and it is now with the law officers for one or 2 amendments.

Mr. S. Austin-Vautier:

Small changes.

Senator W. Kinnard:

Small changes that they are making and I hope to lodge it as soon as I possibly can.

Mr. S. Austin-Vautier:

I think there is a small period of consultation and then the debate in September.

Senator W. Kinnard:

Yes, debate in September. We are looking at consultation in June and July and then debate in September.

Deputy D.W. Mezbourian:

You mentioned just now, Minister, about retrospectively registering sex offenders. Can you tell us, please, what kinds of offence would be covered by the implementation of this law; a sexual offenders' law?

Senator W. Kinnard:

Probably anything that has a sexual connotation. I mean, everything is, you know... indecent assault, rape; you name it. It is encompassed by the legislation. But it is the court who decides

the length of period of time for the registration requirements of a particular offender on the basis of the seriousness of the offence.

Deputy D.W. Mezbourian:

You do not have a copy of the draft with you?

Senator W. Kinnard:

I have not brought that particular draft with me. Steven, I think, has got it here.

Mr. S. Austin-Vautier:

This is the law, but I do not think it prescribes the offences.

Senator W. Kinnard:

No, it does not prescribe offences. It will be taken from what the existing offences are. What the law does...the law does not prescribe the sexual offences. It prescribes the registering, the risk assessment and the monitoring of offenders. The law you would need to look at is the Sexual Offences (Jersey) Law 2007, for instance, which applies⁷ to the crime of Sodomie. You would have to look at various articles in various other pieces of legislation, I think, too.

Mr. S. Austin-Vautier:

Refer to Article 2 of this draft.

Senator W. Kinnard:

Yes, if you look at Article 2 of the draft law, that gives you all of the offences including things like the Customs and Excise Law 1999, there are offences there in terms of prohibited material pornography and so. So, if you look at Article 2, that gives you, I think, a fairly comprehensive idea.

Deputy D.W. Mezbourian:

Okay, and if I can just go back to the registering retrospectively, we know that there was an option to not carry that out, but to register merely those who are sentenced after the introduction of the legislation. What implication would not registering former sex offenders have?

Senator W. Kinnard:

Well, I think it would have an implication of risk to the community because clearly a certain amount of monitoring of offenders does go on anyway without this piece of legislation. But this makes it a vigorous and appropriate form of monitoring and there are reporting requirements

⁷ Clarification was subsequently received that 'applies' should be read as 'made changes'

placed upon offenders which they must abide by. I think the learning in this area has increased so much that the analysis of the risk profile of offenders now would suggest that looking at previous offenders we would be able to say those that were likely to pose a higher risk and those that were likely to pose a lower risk. Clearly it would make sense in a retrospective sense to definitely seek to monitor and apply this law to those who are deemed to pose a high risk to the community. If we did not do that, my concern would be that we would also potentially be a back door to those who had abused children or vulnerable people in the past and they could feel that they could just reside here untouched in Jersey and that is not a state of affairs that I think is one we should tolerate.

Deputy D.W. Mezbourian:

But looking at the cost and the resource implications, if the retrospective registering was not introduced, I understand it would save the cost of one detective constable to deal with this. So what saving would be made?

Senator W. Kinnard:

In terms of the money?

Deputy D.W. Mezbourian:

In terms of the cost of a detective constable?

Mr. S. Austin-Vautier:

The funding pressures for Home Affairs now recognise the full funding of this.

Senator W. Kinnard:

We are able to fund this now.

Mr. S. Austin-Vautier:

In the spreadsheet that is in the document.

Deputy D.W. Mezbourian:

Sorry, aiming to fund it with retrospective registering?

Mr. S. Austin-Vautier:

Well, the additional 3 posts for the police are now within the cash limit that is proposed for Home Affairs, clearly as recognition by the Council of Ministers of the importance of this. So, I think that the ability to supervise would be denigrated by each £60,000 that you took off of that.

Deputy D.W. Mezbourian:

I asked the question merely because in the document that you have produced, it says the States may wish to consider reducing these costs by not opting to register sex offenders in Jersey retrospectively.

Senator W. Kinnard:

Well, it is a choice, but I think it is one that would not be well made.

Mr. S. Austin-Vautier:

But I think the important thing is at the moment, this is --

Senator W. Kinnard:

You do not have to make the choice at the moment because we have now fully funded that on the basis that we have been able to do some removing of the costs of the C.I.C.S. (Criminal Injuries Compensation Scheme) to the C.O.C.F. (Criminal Offences Confiscation Fund) and because it has now been agreed that I am able to do that, I am able to fully fund both the sex offenders and the vetting and barring.

Deputy D.W. Mezbourian:

We have just got a few questions on this, bearing in mind that it is fully funded. One of them is how is forecasting the future needs in the area of public protection dealt with?

Senator W. Kinnard:

Well, there is an interagency group that works together with representatives from prison, from health and social services, from probation, police and they work together to look at this whole area in terms of what the requirements are going to be. But clearly requirements of the specific area of sex offenders' law have also changed because the Association of Chief Police Officers recently undertook a review of the way in which sex offender management was carried out throughout the U.K. As a result of that review, they had a number of concerns, one of which was that generally it perhaps needed to be better resourced. Certainly, another area was that often there was not appropriate intrusive supervision of the officers who were undertaking this work which is obviously very stressful work and a number of recommendations came out of that review, one of which was that there should be appropriate supervision of staff to enable them to cope with the stresses of this work. Also that they should not supervise more than 50 high risk offenders because of the nature of the work and also the need to actively supervise these high risk offenders. This has been a recent recommendation from A.C.P.O. (Association of Chief Police Officers) which came into place, of course, after our initial bid for staffing. So, this is why we now have had to ask for extra staff to ensure that we do this job properly.

Deputy D.W. Mezbourian:

You have mentioned the Criminal Injuries Compensation Scheme and the Criminal Offences Confiscation Fund. What are the implications for these 2 schemes in connection with this legislation? Did you see there being any implications at all?

Senator W. Kinnard:

It is very difficult to tell.

Mr. S. Austin-Vautier:

No, I do not think there is any more than there is currently because claims to the Criminal Injuries Compensation Scheme are triggered by the prosecutions going through the court and the victims that arise. I do not think there is necessarily a direct correlation with the sexual offenders law which is managing those offenders in the community. I think the claim issue would arise anyway.

Deputy D.W. Mezbourian:

Okay, I see that. Minister, will you tell us whether the sex offenders law - one of the vetting and barring resources - have been included within the cash limits without an increase in those limits?

Senator W. Kinnard:

Yes. Liz, could you?

Ms. E. Middleton:

Yes, the proposal on the table for 2009 is, as the Minister has mentioned, transferring the awards and costs of the Criminal Injuries Compensation Scheme to the C.O.C.F. which will free up £275,000 at the end of 2009. The suggestion there is that £170,000 - £180,000 goes towards the extra posts for the police for the implementation, as you say, of the sexual offenders law. The balance will go towards funding of the vetting and barring office which is very much a new initiative at the moment. We do not have firm costs, but the proposal would be that that amount of funding would be put into the office and if it costs more to run then it might be necessary to either transfer resources from other departments or charge people if they were asking for people to have checks.

Deputy D.W. Mezbourian:

So that would be a user pays scheme?

Ms. E. Middleton:

Not necessarily.

Senator W. Kinnard:

Put it this way. It is not my first option. There are definite problems with it.

Ms. E. Middleton:

Yes, and currently the police do provide police checks for other States departments and so there are some resources in the system. So, it would just be looking at how best to use those. But this proposal for 2009 allows an initial investment in the vetting and barring office to get it set up and to see how the cost would move forward.

Senator W. Kinnard:

Yes, you see we would be doing this as a joint initiative; it is not just ourselves. It is also Education of Sport and Culture and Health and Social Services. These are the 2 bodies that require the vast majority of checks. So there is an amount in the budget for this work, but it is not just the Home Affairs initiative, obviously.

Deputy D.W. Mezbourian:

I think that brings us nicely on to the questions that we have about the vetting and barring office and I think one of the most important ones from my point of view, is what are the current arrangements that we have in place for this?

Senator W. Kinnard:

Well, I will hand over to Steven because Steven has been heading the interdepartmental group and he will have the details.

Mr. S. Austin-Vautier:

Well, vetting is carried out through individual departments at the moment and they use gateways into the system in the U.K. So, Education will use the Department for Education and Science and they will access the barring lists through that department. Similar arrangements exist for health. If I pick an example out of the public⁸ sector; churches. Churches tend to vet people at the moment - the Church of England - through the Diocese of Winchester and you have got those sorts of arrangements in place in the Island at the moment. Scouts is another one; through the Scouts Headquarters. If that sounds all rather ad hoc, it is, and that is precisely why the system in the U.K. is changing on the back of the Bichard inquiry to make it centralised, consistent and independent decision-making as to who is barred, is being lifted away from politicians and other people - professionals - it is being given to people who are specially trained to look at barring issues. They have already chosen the Chairman of the Independent Safeguarding Authority who

⁸ The witness subsequently indicated that he had intended to refer to the 'voluntary sector'.

will do that. So, what the Island has to do is obviously take note of all these changes and see how it is going to affect us. We have got a meeting with Guernsey on the 25th which is one of a series on this because they are affected too. So is the Isle of Man. So, what we have had to do - and this is why there is a slight finger in the air, we have had to look at the potential funding implications of making a change. We have had to look at the law drafting implications. So, you will find there is a law drafting bid as well that I think will go to the top of the pile as a priority, in case we have to ask the States to pass new legislation. The Safeguarding Vulnerable Groups Act is transferable to Jersey by Order in Council, but whether it is entirely appropriate as an off-the-shelf piece of legislation is something that we have to look at because it is clearly designed for the U.K. and there are lots of things in it that do not read across to Jersey or other islands.

The Connétable of St. John:

Can I just ask, if this is implemented will it remove some of the pressure from where criminal record checks go at the moment or will that be running on parallel. They are in a lot of posts at the moment?

Mr. S. Austin-Vautier:

I do not think there would be a noticeable change because at the moment with the criminal record checks, there is an interface with the Criminal Records Bureau through the police and the police national computer. So, the criminal record side of it, you probably would not notice the difference. The big difference is in the other information. If you remember the Huntley case, it was the other information that was never passed on which gave rise to that particular problem. So, it is not just about criminal record, it is about information that other people might hold on individuals. It is putting that all together in one agency.

Deputy D.W. Mezbourian:

We note that the estimate for the staffing of this is 3 people. Is that a conservative or a generous estimate?

Mr. S. Austin-Vautier:

It is a guess, quite honestly, in order that we have made some provision. It depends how this is set up. You could have a number of registered bodies in the Island like Education and Health on their own who do their own thing and you perhaps would not opt for a centralised system. What we have tried to cater for though, in looking ahead, is a centralised body that would be administering applications for the whole Island because, of course, there is all of the voluntary sector to be catered for as well.

Deputy D.W. Mezbourian:

So, that would be based within Home Affairs at the moment? I know that there are the 3 departments.

Senator W. Kinnard:

I think in some respects it would be more appropriate to be an independent agency slightly at arms length, rather than in any particular department. That would have to be set up in the legislation, but there is still work to be done on the implementation of the proposals.

Deputy D.W. Mezbourian:

Are we able to go back to the Criminal Records Bureau? We understood from our meeting in January that there was potentially an issue in expecting the Criminal Records Bureau to take account of Jersey's legislation as well as the U.K. regarding this vetting and barring. Is that still the case?

Mr. S. Austin-Vautier:

I think the Attorney General has got that.

Senator W. Kinnard:

Yes, he is dealing with that.

Mr. S. Austin-Vautier:

It is under review at the moment. He is working with the Home Office to iron out any possible deficits in our legislation here.

Deputy D.W. Mezbourian:

Right, okay. That was going to be --

Senator W. Kinnard:

But there is not such the rush that we thought that there was, although the timetable is rigorous, because it is not until 2009 that the new system in the U.K. for vetting and barring is going to come into force.

Mr. S. Austin-Vautier:

Yes, 12th October 2009, it is. It is a phased introduction, so not all of the U.K. system will. There is no big bang solution to this.

Deputy D.W. Mezbourian:

Mr. Austin-Vautier, you mentioned earlier discussions with Guernsey and you also mentioned the supplies to the Isle of Man. What sorts of discussion have taken place with Guernsey? Is there the possibility to share resources at all for this? Are they the questions that are being looked at?

Mr. S. Austin-Vautier:

It is one thing we are talking about, but I think one of the issues there will be, I mean the sea is an encumbrance, is it not? You know, if you are in voluntary organisation in Jersey or Guernsey or the Isle of Man, you want to go and walk into something and ask. You know, technology can take care of a lot of stuff, but I think there would have to be an eye on the personal service for this which might militate against going for some sort of joint facility. But what we are working together on now is not doing the same research. That is the important thing. We are not wasting resources; both trying to access the Home Office and the Ministry of Justice with the same question.

Deputy D.W. Mezbourian:

Okay, so the dealings that you are having with them are to ensure that you are not duplicating questions rather than the potential to mitigate costs by sharing anything with them?

Mr. S. Austin-Vautier:

We will come to that in due course.

Senator W. Kinnard:

That will be looked at. We are not there yet.

Deputy D.W. Mezbourian:

Okay. So, not written off?

Senator W. Kinnard:

No.

Mr. S. Austin-Vautier:

Not at all.

Deputy D.W. Mezbourian:

So, still waiting for the Attorney General to come up with some answers; is that correct?

Senator W. Kinnard:

Well, he has been in discussion, I believe with colleagues at the Ministry of Justice and we are awaiting the outcome of those.

Deputy D.W. Mezbourian:

Okay, that is fine. Mr. Austin-Vautier, you mentioned the cross departmental working group. Have you reached any firm conclusions on this at all?

Mr. S. Austin-Vautier:

No, because there is quite a bit to do and we have started early. What we are doing at the moment is assessing the weight of the likely applications that there will be and looking at what might be the best type of system to set up and we will reporting to the Council of Ministers within the next few months, I would imagine, with an early report. We have had to wait because the plans in England have been changing a lot. They underestimated the size of this task. Their own programme has slipped and so we obviously could not take a view on the things that they had not decided themselves.

Deputy D.W. Mezbourian:

Okay. Just bear with me because you have answered quite a few questions, I think, that we had already identified. Okay, just generally we spoke about retrospective registering of sex offenders and if the new system was more stringent than the systems that are in place at the moment, would there be any consideration given to retrospective vetting?

Senator W. Kinnard:

Yes. It is important it is not just new stuff⁹ that we should be vetting. I mean, I think the Soham Inquiry made that quite clear, that we should also be vetting staff that have been in post for some length of time, and if information or concerns also come to light at a later date when a person has been in place for some time, then it may well be important that they are vetted again. Again, this is recognised in the United Kingdom as part of their roll-out programme, and so the way in which they are rolling it out is new staff first, then existing staff as part of the programme, and we would certainly be wanting to do that ourselves.

Deputy D.W. Mezbourian:

So, would that be a blanket vetting of all existing staff, or ...?

⁹ The witness subsequently clarified that 'stuff' should be read as 'applications'.

Senator W. Kinnard:

It is staff, of course, who are coming into contact with children or vulnerable groups. These are the appropriate staff that should be vetted, and it seems to me that we should be aiming to ...

Deputy D.W. Mezbourian:

The intention would be that when it is introduced, retrospective vetting will take place, looking at every employee who has connections?

Senator W. Kinnard:

In the appropriate positions. Yes

Mr. S. Austin-Vautier:

Yes. The way it is going to be set up - and we can only talk about the United Kingdom, because none of this is approved by anybody here yet, but once it is completely rolled out in the U.K., you will have to be a member of the scheme - of the vetting and barring scheme. If you are not a member, and you cannot show your membership number, then you cannot say to a prospective employer: "There is my number". You can go on line. If somebody gives you the number, you can check him out on line. That is what they want to get to. So, clearly, if somebody is not a member that would raise a question straight away: why are they not a member? So, that would be the safeguard, and it is continually monitored. At the moment, if you do a check on somebody, it is a check today. You cannot be sure that, you know, in several weeks' time, something might have arisen. But under the new scheme, it is a continuous process of monitoring.

Deputy D.W. Mezbourian:

Because I do not know much about this "proposed to view" paper, it seems to me that what you are telling us is that everyone working with children and vulnerable people in the U.K. will need to be registered. They will get their number. So, the same will apply to Jersey: every teacher over here will need ...

Mr. S. Austin-Vautier:

If the States approves it.

Deputy D.W. Mezbourian:

If the States approve it, every teacher will need to be registered. So, that is your retrospective check in that case? Is that correct?

Senator W. Kinnard:

Yes.

Deputy D.W. Mezbourian:

Because obviously if they are not eligible to be registered then they should not be employed, presumably, within those areas.

Senator W. Kinnard:

Well, one would have to look very carefully at them.

Deputy S. Pitman:

Will this have cost implications for other departments - Education and ...?

Mr. S. Austin-Vautier:

Well, that is partly why we have put the bid in now, because there is clearly a cost with going through with vetting and barring, and it is how best to do that. At the moment, we have costed it on a centralised basis, but that is not to say when we look at it in more detail, compare it with the arrangements in England, that there may be a better way to do it downstream. We just do not know yet.

Deputy S. Pitman:

So, you have had discussions with other departments?

Mr. S. Austin-Vautier:

With the main ones, because the working group is Home Affairs, Health and Education - which is the huge lion's share of vetting - the Police, Social Services, and then we meet with Guernsey from time to time to compare notes.

Deputy D.W. Mezbourian:

Just one final question, because we are aiming to finish within about 20 minutes; Minister, you mentioned earlier that this would be a joint departmental initiative. If it was introduced, how would you ensure that the office would not become the sole responsibility of your department?

Senator W. Kinnard:

Difficult one, that.

Mr. S. Austin-Vautier:

Again, that is to be decided. I mean, at the moment, because I am leading this work, I am more concerned with the practicalities and what it means for the Island, but that is a question on the list that you have rightly put your finger on.

Senator W. Kinnard:

But also, as I have mentioned, there are, in my view, certain advantages to it being slightly at arm's length and being more independent. But that is a discussion to be had further down the line, I think.

Deputy S. Pitman:

Just one more question. This may be a stupid question, but I will ask it. If a teacher or youth worker or whatever is up to go to court, would that person be forced under this system if it was a sexual offence or ...?

Senator W. Kinnard:

Yes.

Deputy S. Pitman:

They would have to fill in the forms and ... would they?

Senator W. Kinnard:

Well, if they are convicted of an offence, it would all ...

Deputy S. Pitman:

If they are not convicted. If they are up to go to court.

Senator W. Kinnard:

Oh, I see. As knowledge without conviction. Well, it would be a form of contention.¹⁰

Deputy S. Pitman:

Right.

Mr. S. Austin-Vautier:

But there are other processes that would probably kick in.

¹⁰ The witness subsequently clarified that 'contention' should be read as 'intelligence'.

Deputy S. Pitman:

If the person is already registered and they are clear, but then they go on to commit a crime and they are up before the court, that is what I mean.

Senator W. Kinnard:

Well, those decisions, you know, would be made on the basis of the facts of the situation in the case.

Mr. S. Austin-Vautier:

Well, I think, before you get into barring, probably child protection policies would kick in within the Education Department, about whether, you know, what is the risk. Is it right that somebody is still working with children under the particular circumstances? That would be the focus, and then the barring issue would take its course.

Deputy D.W. Mezbourian:

Okay. Thank you. We need to move on now, to the discrimination legislation. We just have a few questions for this. Obviously we know that their funding is being identified, and I think we mentioned that earlier in the meeting, but Deputy Pitman is just going to get these questions to these.

Deputy S. Pitman:

Right. The draft proposals suggest that not to implement the law would compromise the States' commitments under the Human Rights Law. Bearing that in mind, it is absolutely imperative that we have this Law.

Senator W. Kinnard:

Yes. Well, I believe it is very important and certainly, in terms of the consultation that we have undertaken - we have undertaken 2 rounds of consultation - there has been broad support for the introduction of the Draft Discrimination (Jersey) Law, and there is a need for it. Generally, this type of legislation is found in jurisdictions worldwide. We also, in Jersey, have a presence on the international stage, and it therefore follows that we also ought to have the necessary legislation in place to command the respect that the jurisdiction that promotes modern standards should have. We have a number of obligations as well, not just in terms of human rights, but under a number of international treaties and covenants, to ensure that we protect our citizens from discriminatory behaviour. Certainly, the one that is uppermost in my mind is, of course, the International Convention on the Elimination of all Forms of Racial Discrimination, because that is the first set of regulations that we would be seeking to bring forward with the agreement of the States. But there are others, such as the International Covenant on Civil and Political Rights and the International

Covenant on Economic, Social and Cultural Rights. So, there are quite a number of obligations to which we said we would abide, and this would enable us to fulfil those obligations.

Deputy S. Pitman:

What kind of groups, and how many people, took part in the consultations?

Senator W. Kinnard:

I have not brought the actual figure with me. There was a wider number of people who took part in the first level of consultation. We made a number of changes after that - a number of large legal firms. Also, there was input from local employers, particularly the larger employers, but certainly some smaller employers. The J.A.C.S. (Jersey Advisory and Conciliation Services) and also the chairman of the Employment Tribunal. So, quite a range of people - and of course individuals - did take part in the consultation. If you wanted the details of that I could let you have that. On the back of the second round of consultation, I think we have only had about half a dozen replies from similar sorts of groups, mostly on technical aspects of the legislation. The general principle seems to have been accepted.

Deputy S. Pitman:

How far down in your lists of priorities does the implementation of this law come?

Senator W. Kinnard:

Well, it is very high on my personal list of priorities. It was, certainly, one of my commitments that I said that I wanted to promote this legislation when I stood for the States, and I have done what I can to bring it to the point where we do now have a piece of law which is drafted, which has been consulted upon, and I really want to bring it to the States. The thing that has caused the difficulty for us now, in terms of the funding for it, is because of the solution to help out with the prison's problems, and you can imagine that that caused me a number of headaches personally, in terms of how I was going to juggle those priorities. But, clearly, my most immediate priority was the prison, but because we were able to phase this legislation, it does mean that we were able to put the funding towards the prison in the short term. But now it does mean that we need to apply for further funds to bring on ...¹¹

Deputy S. Pitman:

What discussions have taken place within the Council of Ministers to gather this funding?

¹¹ The witness subsequently clarified that this sentence would have ended with 'and implement the discrimination law'.

Senator W. Kinnard:

Well, there have been, obviously, discussions about the problems with the prison and an agreement to use some of the funding for this law to put towards the prison. The first year, probably the costs would be about £250,000, we estimate, for the advance discrimination legislation.¹² But of course what the Council of Ministers has decided to do is go through this process and ask Scrutiny and ask the public what they think about what should receive funding and what should not. That is as far as the discussions have gone. At the moment it is supported, but we do not have an identified amount of funding necessary.

Deputy S. Pitman:

You are now looking at the £250,000 as the first step?

Senator W. Kinnard:

Yes. Well, because it has always been envisaged that it would cost £500,000 approximately once the whole legislation was in place, with all the phases of the legislation. We are looking, first of all, at only bringing in the first set of regulations, which would be the over-arching law and then the race discrimination regulations. Then, the way the law is organised is, once those are bedded in, we then bring into force those that relate to sex and disability and so on, partly to allow the community and the businesses to get up to speed, and to prepare to get into a state of readiness for the law. But also, it does mean that with the phasing of the law, we are able as well to ensure that the funding for it is needed in stages for all parts.¹³

Deputy S. Pitman:

So, there are no actual funds that have been found yet for the £250,000?

Senator W. Kinnard:

Not as yet. No.

Deputy S. Pitman:

Given the priorities that the department currently has, how long do you think this law will be deferred?

Senator W. Kinnard:

Well, personally, if you are going to ask me now, I would like to take it to the States and get it agreed - certainly, even if it was brought with an Appointed Day Act for when the funding is

¹² It was subsequently clarified that this funding would be for the advance phases of the discrimination legislation.

¹³ For clarification, the witness suggested that the words 'available as' should be read between 'is' and 'needed'.

available, partly because it is a political commitment which I feel very strongly about. I have been heavily involved, personally, for a long time, and I would certainly want to see it brought before the States before the end of the year even, as I say, if we have to bring in an Appointed Day Act at some point later for the funding. It may not be the most appropriate way of doing things, but I am personally committed to this piece of legislation.

Deputy D.W. Mezbourian:

So, Minister, just to put you on the spot, finally: you have identified 6 areas of funding pressure, I believe: that is the prison, the sex offenders' register, vetting and barring, discrimination, supervised police and the customs and immigration. Will you please for us now put those in order of your priority?

Senator W. Kinnard:

Well, obviously, we have been able to deal with some of those, which is the vetting and barring and the sex offenders, because they were that high priority that I managed to convince my colleagues that they would allow me ...

Deputy D.W. Mezbourian:

Of the remaining ones that need to have ...

Senator W. Kinnard:

Well, we have got, of course, the customs and immigration issue, and discrimination. These are probably the biggest issues for me.¹⁴

Deputy D.W. Mezbourian:

Would you just like to tell us, then, your order of priority that you would like to see the funding for?

Senator W. Kinnard:

I mean, it is a difficult one. You know, there is the issue which we have not gone into detail at the moment about, which is the funding pressures on the Customs and Immigration Service which, you know, at the moment is facing there a situation where, because of an increase in activity in terms of boat and aircraft movements, we do not have sufficient staffing resources. So, I am faced there with an immediate operational situation that causes me great concern. I suppose, too, bringing in the piece of legislation which is dear to my heart. But, what I would do, exactly, is deal with the Customs and Immigration situation and bring in the discrimination law with an Appointed Day Act. So, I could bring it to the States, but it would not be any cost in 2008 for me, or 2009, sorry. It is not ideal, but if I am pushed, that is what I would do.

¹⁴ The witness subsequently clarified that these would be the biggest issues at the present time.

Deputy D.W. Mezbourian:

Okay. Thank you very much. I think that is probably - unless any members have any additional questions, we have tried to be as comprehensive as we could in a relatively short space of time. If, when we go over the transcripts, we identify any further questions, obviously we will forward those to you. But we do intend to get comments on these funding issues to the Council of Ministers by the date that they have asked us to, which is 8th May.

Senator W. Kinnard:

Excellent.

Deputy D.W. Mezbourian:

So, I would like to thank you all for coming. Thank you, Mr. Millar, for coming to your first hearing with us; and also to the officers for attending, so now they know what they will face later on in the year. Well, thank you very much for a very productive meeting. Thank you.