

STATES OF JERSEY

Education and Home Affairs Issues Surrounding the Review of Financial Management of Operation Rectangle

FRIDAY, 15th July 2011

Panel:

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

Deputy D.J.A Wimberley of St Mary

Deputy R.G. Le Hérissier of St. Saviour

Witnesses:

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

Also present:

Scrutiny Officer

[14:07]

Deputy T.M. Pitman of St. Helier (Chairman):

Welcome everyone back for the third instalment of Scrutiny Sub-Panel Review, Education, Sport and Culture and Home Affairs. I welcome the Minister. He is well familiar with the oath I think, so I do not need to run through that with him anymore.

The Minister for Home Affairs:

Absolutely.

Deputy T.M. Pitman:

Okay. Thank you for coming in, Minister. Our Panel has shrunk to 3 but I am sure we will fill the gaps admirably or we will do our best, so with that I will get underway. By the way, you have said that you are happy being filmed, have you not?

The Minister for Home Affairs:

Yes, that is fine.

Deputy T.M. Pitman:

Thank you. Perhaps, to begin with, Minister, could you just outline, for the record, the purpose of the review of financial management carried out by BDO Alto Limited?

The Minister for Home Affairs:

Okay, yes. Obviously you have the Ministerial Act and you have the report; it goes with that so you have it, in a sense, more formally so I am just going to explain it in my own words. When I first became Minister for Home Affairs it was drawn to my attention very early on, I think probably in December 2008, that there were issues and concerns in relation to financial management of the Haut de la Garenne enquiry. Those issues and concerns did not just involve use of money by the States of Jersey Police but also involved the role taken by staff in the Home Affairs Department, which obviously would include my own Chief Officer at Home Affairs and his staff and so on because if

there had been serious failures in terms of financial management there were issues as to whether those failures also extended. Clearly that was going to go well beyond the remit of the disciplinary investigation which had already been begun by my predecessor in relation to the then Chief Officer. It was clearly going to go well beyond the remit of that because that investigation was going to look fundamentally at his role and any responsibilities that he had in relation to that role and this was going to go much beyond that and, as I say, would include not just police officers but also Home Affairs staff. Basically, I had been asked in principle back in, I think, as early as December in relation to that and said yes, I was in favour of there being such a report and then subsequently more formally I received papers and made the ministerial decision which started that off.

Deputy R.G. Le Hérissier:

Did you actually write the terms of reference?

The Minister for Home Affairs:

I do not think I did, no.

Deputy R.G. Le Hérissier:

Who did?

The Minister for Home Affairs:

Well, again, looking at the witness statements that I have seen, the statements of individuals, it appears that it was worked out between Home Affairs Departments and BDO Alto; that appears to be ... There was some involvement at some stage, I think, of the Acting Chief Officer of Police in relation to the details as to how it was going to happen in practice but it seems to have been dealt with entirely by them without my being involved. If my staff think otherwise then they are probably right and I am wrong but I have no recollection of dealing with it and I have not been able to come across any documentation in house which indicated that I did.

The Deputy of St. Mary:

Can I just come in there; how do you react to the fact that I am surprised when you say that you had no involvement in drawing up the terms of reference of the report which will cost a lot of money and which will come to you?

The Minister for Home Affairs:

Yes. I have to say that when I was asked the question by Mr. Harper as to whether or not I had been involved I could not recall and said to him: "I might have been" because there certainly had been instances where I have been involved with reports and had been involved with approving the terms of reference and this particular case I do not think I was. I am not sure of that but I just do not have any recollection of it.

Deputy T.M. Pitman:

Again, it surprises me that you, as the Minister, can say that it was: "I found that record that I would have agreed this or had not been involved" and it is such a big sort of commitment and obviously a lot of money would be involved, is that the way it normally works at Home Affairs?

The Minister for Home Affairs:

Yes. Remember I had in the ministerial decision defined what it was going to be. It would have been then the details of it so if you could go back to that; I have the ministerial decision somewhere among my papers.

Deputy T.M. Pitman:

It is okay, we have ...

The Minister for Home Affairs:

But if you look at the ministerial decision you will see that I have received the report and on the

basis of that report I have made a decision. There was obviously detail contained in that report which told me what was going to be done on it and that is what I approved. But I did not, I think, in any way get involved with the how it was going to be done and I have to say that there had been cases where I have been involved in ministerial decisions but again, when you see [Chief Officer]'s submission and so on, you will see that there were complexities involved in who should be appointed, who was the States approved, preferred option to do these sort of reports and the exact terms and negotiations which is why it did not come to a final, final, final agreed form until about September of that year. I was not involved in that sort of process; the staff just viewed those as an administrative organisation.

Deputy T.M. Pitman:

We have been quite surprised today to hear some quite conflicting views that we find hard to marry up but could you tell us from your point of view, as Minister, did you set any boundaries or limitations on the review, as to who they ...?

The Minister for Home Affairs:

No, no, I approved the review in accordance with the report which I received.

[14:15]

Deputy R.G. Le Hérissier:

In approving the report, Mr. Minister, were you briefed on the kind of evidence collection and the kind of witnesses that the review would be required to consult?

The Minister for Home Affairs:

I am not familiar with the details of the report; I have re-read it recently but I do not recall receiving information beyond that which is contained in the reports.

Deputy R.G. Le Hérissier:

One of the obvious things that was going to happen because obviously even at that point the whole inquiry was highly, highly contentious and people were watching it very closely and you still did not think it was worth imposing upon the terms of reference some very clear terms and ensuring that it was as independent as possible and that its reach was as great as possible.

The Minister for Home Affairs:

That is always a difficulty in relation to independent reports. My view is that the role of the Minister is to set the ambit of it and say: "Look, this is what I want you to inquire into" but not to be getting involved into the how. If there had been a specific issue, if at some stage somebody had come to me and said: "Look, there is a difficulty here; we some need guidance on it" or whatever then I would have made a decision or given direction ...

Deputy R.G. Le Hérissier:

One of the things that is perplexing the Panel or is perplexing me, maybe the others have resolved it, is - are there 2 parallel reports? There was apparently a States of Jersey [Police] internal report on matters somewhat similar and then of course there was the BDO Report and then we had the introduction of [Police Consultant] and we have been very unclear as to whether he is working for both reports, whether there was, at some point, a decision taken to merge them for conveniences sake or whatever and whether there was a decision taken on the basis of a key witness to be excluded from one report but to be apparently allowed to attend upon the other report. Were you aware that these 2 reports were running ...?

The Minister for Home Affairs:

I was aware in general terms that at some stage that the police were looking at the performance of their own officers in relation to this because there was a potential for internal disciplinary matters in relation to continuing serving officers. I was aware of that in general terms but if you ask me was I

aware that there was a specific thing taking place I am not sure that I was; I think I probably was not. I can recall the name [Police Consultant] being mentioned at different times but I have to say that until I looked in more detail in preparation for this I was very unclear as to what his role was. I was aware that somehow he was playing a role that was co-ordinating, if you like, between the Wiltshire investigation and this but I was very unclear as to precisely what role he was playing and he was ...

Deputy R.G. Le Hérissier:

Did the Chief Officer inform you that he was carrying out this review?

The Deputy of St. Mary:

The Acting Chief Officer of Police.

Deputy R.G. Le Hérissier:

Yes.

The Minister for Home Affairs:

It certainly did not lock in my mind if he did. As I say, in general terms I was aware that there were internal things going on but I am pretty sure I was not aware of the particular structure because, as I say, it was only looking at the papers in recent weeks that I realised what role [Police Consultant] was playing.

Deputy T.M. Pitman:

Taking on from that we have been quite surprised, I think it is fair to say, reading [Acting Chief Officer of Police]'s submission; he said that he had never approved the joint report between [Police Consultant] and BDO and he says, quote: "Indeed I did not feel it appropriate for [Police Consultant] to carry out any further work as my original instructions had not been complied with and the review had become inadvertently focused on Mr. Harper, lacked objectivity, had the potential to be unfair to [former Chief Police Officer] and could have seriously undermined the investigation by Wiltshire Police." As Minister, how would you react to that?

The Minister for Home Affairs:

Again, I only saw that for the first time just a couple of days ago and was quite surprised because I would assume that [Acting Chief Officer of Police] would have known exactly what arrangements were taking place in relation to things. As I say, that is not what he is talking about; the matters he is talking about there were not within my knowledge. I knew that BDO Alto were producing a report as a result of this. I knew that there was a [Police Consultant] doing something somewhere in the middle or playing some sort of intermediate role but I did not, I think, know any details at all.

Deputy T.M. Pitman:

But, with due respect, so you knew there was a [Police Consultant] doing something. This is a major ... I mean now it is run and run and the way it has been put out across the media. You say surprised but surely you must be a bit alarmed at, there you have the former Acting Chief Officer saying about a lack of objectivity; is that not a huge concern to you?

The Minister for Home Affairs:

Yes, it is a concern to me, yes, but obviously that is the first time I have seen anybody express a view. I am not sure I quite understand precisely what you are saying.

The Deputy of St. Mary:

Can I go to the nuts and bolts, if you like, updates on the progress of the review; were you getting any updates as it progressed?

The Minister for Home Affairs:

I was not getting updates in terms of draft reports or anything of that nature. There will have been

conversations between myself and [Chief Officer] about this in general terms, but my memory really jumps from setting it up to a situation where I think I saw a draft report or something of that nature, which was longer than what was eventually produced, and which had a lot of detail. I cannot remember if I read it in detail at that stage and I cannot tell you exactly when I saw it, but I have a recollection of being aware that something was in existence. Then I have a recollection that it was being transformed in terms of its format and so on, into something that would be more readable and would exclude references to individual people and other items, which should not be in the report. But again my understanding of that is in general terms because [Chief Officer] was really dealing with that.

The Deputy of St. Mary:

Can I ask a simple question: as the Minister you meet with your Chief Officer how often?

The Minister for Home Affairs:

There are 2 Chief Officers of course, but at that stage I ...

The Deputy of St. Mary:

That is Home Affairs.

The Minister for Home Affairs:

Home Affairs, we try to meet on a weekly basis relatively formally, in practice we probably meet about fortnightly, but in addition to that we meet and call into each other's office to discuss things very regularly, I mean he has an open door, I have an open door, but on a formal basis about fortnightly we will review particular matters, which are outstanding.

The Deputy of St. Mary:

That would have an agenda?

The Minister for Home Affairs:

It has an informal agenda, yes.

The Deputy of St. Mary:

An informal agenda?

The Minister for Home Affairs:

Yes.

The Deputy of St. Mary:

What is an informal agenda?

The Minister for Home Affairs:

Deputy Hilton is normally there as well when we do that.

The Deputy of St. Mary:

No, sorry, I am puzzled, I am coming to a question, but I want to test what is an informal agenda. An agenda is either: "We are going to discuss 1, 2, 3, 4, 5, 6, 7", there may even be recurring items and you say: "Number 6 is under control, Minister", and it is gone in a few seconds, but is there a list of what you are going to discuss?

The Minister for Home Affairs:

[Chief Officer] would normally prepare a list in advance and I will come with other items as well, and Deputy Hilton may come with other items.

The Deputy of St. Mary:

So on that list, would you normally have the progress of the BDO review, given that it is quite a big-

ticket item?

The Minister for Home Affairs:

No.

The Deputy of St. Mary:

No, it would not be on there?

The Minister for Home Affairs:

No, I cannot remember that appearing, not until perhaps the latter stages when there might have been some discussion in relation to changes, but no, it was not being dealt with by me in that sort of way.

The Deputy of St. Mary:

I am trying to fathom out how you did not know really much about [Police Consultant]'s role, because it was pretty important, given that he was not just the grommet in between the 2 reports, but he was doing a lot of the work on the whole information.

The Minister for Home Affairs:

Yes, I was surprised by that when I saw that, I was surprised by that, I always assumed this was a BDO Alto report, now I see that in fact it was a joint [Police Consultant] and BDO Alto report. I was slightly surprised by that; if that is in the document itself then I have missed it. But I have not spotted it in the document.

Deputy R.G. Le Hérisier:

Jumping to the report, when you received the report, Minister, what was your reaction?

The Minister for Home Affairs:

You are talking about the final form of the report?

Deputy R.G. Le Hérisier:

Yes, the final form.

The Minister for Home Affairs:

Well I read it, I noticed that obviously it contained a number of areas where opinions were being expressed in relation to areas of failure. I received the report in time ... let me just check my timescale, because we provided a timescale for this ... but I received this report I am pretty sure in time well after I had received the financial management report in relation to Wiltshire. My recollection is I think that was received in February. Yes, 10th February I had received that, so I had already read that obviously sometime before and noted the conclusions, which were reached in there, in relation to a whole lot of matters. Then, when did I receive, according to this, the final report? That seems to be in July. That was very late.

Deputy R.G. Le Hérisier:

So, having read that report, were you happy with its structure, the evidence that had been collected, the assessment of the evidence, the witnesses that had been covered, were you happy with all those aspects?

The Minister for Home Affairs:

Well fundamentally it was coming to the same conclusions as the finance report had done, except with much more detail, and in particular, if you take a particular area, which was dealt with in detail in the finance report, the expenditure of money on meals in London, that was dealt with in great detail in the Wiltshire finance report, so there was nothing new there, perhaps there was slightly more detail, but, if one looks at issues like the view in relation to whether or not it was imperative that the police operate in an efficient way, manage the thing effectively in terms of costs and so on, that is dealt with in the Wiltshire report. All those issues, which I know that Mr. Harper has been

making submissions to you on, they are all dealt with in there, so there was not anything new in relation to those kind of issues, it was merely following the same ground. The new areas I think were that much more detail was gone into, and one of the passages that I have noted, which is significant to explain that I think, is paragraph 2.1.6 of the financial management report, the last redacted version of it, the fuller version of it, because it is quite interesting because there is a cross-reference there and what they say is ... this is in relation to [former Chief Police Officer]: “He should not be held liable in misconduct terms for errors over which his governance did not directly extend such as, for example, management of the security cordon at Haut de la Garenne, employment of a specialist dog handler and the associated costs and forensic expenditure.” So it is clear that they were aware, in the Wiltshire financial report, of there being other issues, but they do not go into those issues because they do not think that [former Chief Police Officer] should be held responsible for any failures in those areas, because they do not think that was within his oversight. But they are clearly aware of that and so I viewed frankly the BDO Alto as just providing me the detail in relation to some areas where the detail was lacking in the Wiltshire financial report.

The Deputy of St. Mary:

Do you think there was anything missing from the BDO Alto report; did you read it and think ...

The Minister for Home Affairs:

Well it did say that Mr. Harper had not been interviewed, but then on the other hand it contained references to sections of things that he had apparently said, and it therefore gave me the impression that, although he had not been interviewed, that his views on different matters had been considered.

Deputy R.G. Le Hérisier:

Would you, as somebody very expert in the assessing of evidence and so forth, do you really think to take quotes of a person from another context and then use them as the basis for assessing that person's behaviour in another context is right?

The Minister for Home Affairs:

Well it would be better to speak to the person and put the issues to them, of course that is right. What seems to have happened here is that there seems to have been ... well there seems to be some sort of misunderstanding in fact, if the statements are to taken at their face value, between [Acting Chief Officer of Police] on the one hand and [Police Consultant] on the other, as to the reasons why [Acting Chief Officer of Police] did not want, at the particular time, Mr. Harper to be interviewed, and then subsequently he could have been.

[14:30]

But, as I say, this was their report. I mean it was ... they were producing this for me, it was up to them to ensure that they had sufficient grasp of the evidence, et cetera, to be able to express a clear opinion. But, as I said, because in terms of issues of the generalities, which are perhaps the most important issue, as to whether the police were under a duty to be managing public funds properly and so on and so forth, because all that had been looked at and determined by Wiltshire in terms of, yes, they had, even on their own statements and letters and assurances, given to [Chief Officer], and all that sort of stuff. Because other parts of the data were dealt with, I merely viewed it as providing me with the extra detail in relation to areas where clearly there were concerns.

Deputy R.G. Le Hérisier:

But the result was of course, Mr. Minister, maybe none of your doing, all it did in people's minds was just sort of basically reinforce this stereotype that Mr. Harper was spending money like there was no tomorrow, and that there were absolutely no controls over that investigation, no financial controls.

The Minister for Home Affairs:

That is not right; the financial controls were not adequate, there was no finance officer appointed,

because no Gold Group was set up. There is no question the financial controls were inadequate and mistakes were made, but there were some things that were done, which were good, I mean for instance I recollect that Mr. Harper and his colleagues renegotiated terms internally of some of the forces so that they received a lower rate of some of the staff. There were some good things, which happened. The trouble is that reports tend to highlight the bad things.

The Deputy of St. Mary:

Can I go back to when you said it is “their” report, you said, i.e. it is BDO’s report, with reference to the fact that Mr. Harper had not been seen. You are the person the report was written for, so in a sense it is your report, would you not agree with that?

The Minister for Home Affairs:

No, no, it is their report. They have been contracted to do the work, it is up to them to ensure that they are in a position to express a judgment. I mean, if they did not think that they could express a proper judgment on these matters, if they had thought: “Well we cannot do the job properly without seeing Mr. Harper and putting these matters to him, it is not enough that we have had access to ...” whatever they have had access to, again I am entirely dependent upon having looked at statements in relation to that, then it seems to me they should have then come back to me and said: “Look, we cannot do the job, we do not think we can do the job properly without doing this.” Then it would come back to me and I would have then no doubt have made sure there was a way of doing it. But they did not say that; they seemed to be content to reach their conclusions, they seemed to think that they had weighed things up sufficiently. That is the impression the report gives. I mean if you look at the report I think that is the impression the report gives.

The Deputy of St. Mary:

So what is your view then on whether it was thorough and objective?

The Minister for Home Affairs:

Well they felt that sufficient ...

The Deputy of St. Mary:

What is your view; not their view?

The Minister for Home Affairs:

My own view is it would have been better for the conclusions to be put to Mr. Harper; that must be right. It must be right. I mean even if they were not going to interview him, it would have been better for the conclusions to have been put to him so that he could have expressed his view and then they could have made a decision. Paradoxically, as I understand it, they have now seen his statements and have now said: “Well that does not change our view.” But you may say they would say that because they had already formulated a view. But, yes or no, it must be better as a process.

Deputy T.M. Pitman:

But, in fairness, we probably would not be here today if a simple step of Mr. Harper being interviewed, maybe it would have changed something, maybe it would have changed nothing, but you agree that a lot of this could have been avoided probably if BDO had interviewed Mr. Harper.

The Minister for Home Affairs:

Yes, I do, yes, I do, but of course the particular difficulty did arise because of [Acting Chief Officer of Police]’s view in relation to this, which again I only know of because I read his statement on that in the last couple of days.

The Deputy of St. Mary:

That is why I asked the questions about whether you ...

The Minister for Home Affairs:

But it is a pity that, if there was that sort of logjam situation, if: “We want to see him.” “No, you cannot.” It is a pity that nobody referred it back up the line to me to have said: “Well no, you do need to do this.”

The Deputy of St. Mary:

That is why I asked the questions about the measures taken to update you and you said there were no updates, and then I asked whether it was on the agenda of your meetings with your Chief Officer of Home Affairs, and it was not on the agenda. So I am struggling to see how this would have ... there did not seem to be a channel ready-made for this to come up to you.

The Minister for Home Affairs:

What could have happened is that BDO could have said: “We do not think that we have a full enough picture to be able to express a view.” But again I have seen their written submission to you and it is quite interesting, there is one area involving the question of the usage of a particular officer like as a chauffeur for Mr. Harper, which they did not feel able to express a view on, so they say in their statement, because they had not been able to speak to Mr. Harper. So, to be fair to them, in that particular situation, they clearly did not think they had sufficiently good ... One of the difficulties here, as I say, is that much of the work they were doing is forensic, looking at the figures, looking at the accounts, seeing what was spent, what the charge-out rates were for hotels, et cetera. Now, whether an excessive amount is being paid for a hotel or not, frankly is going to be a forensic type activity of what the going rates were, et cetera, it really does not matter what the view is of Mr. Harper on that. If they are paying over the odds for a room, they are paying over the odds.

Deputy T.M. Pitman:

But, with due respect, if they had been able to speak to him, for instance we look at the Wiltshire expenses, we discussed ... you said you were quite happy that those expenses were higher than normal, but you were happy it was good value because they were close to where they were working.

The Minister for Home Affairs:

Because they were closer, yes.

Deputy T.M. Pitman:

Now, if BDO had been able to speak to Mr. Harper, possibly he could have offered some kind of explanation like that.

The Minister for Home Affairs:

Yes. It is difficult to understand why people were being placed right across the Island.

Deputy T.M. Pitman:

But, to be fair, the Island is 9 by 5.

The Minister for Home Affairs:

Yes, I accept that. I am not denying it would have been better practice for it to have been bounced off Mr. Harper, I think that is pretty self-evident.

Deputy T.M. Pitman:

If I could take you back to what Deputy Wimberley asked about whether you were getting reports and feedback, when we hear that the Acting Chief Officer was already expressing concern about the methodology being used with this review, alongside BDO, if he was already concerned, did [Acting Chief Officer of Police] never express those concerns to you as Minister?

The Minister for Home Affairs:

No, I am sure he did not. I tried as far as possible, and he understood this and co-operated in this, not to discuss matters with [Acting Chief Officer of Police], which would relate in any way to the disciplinary matter of [former Chief Police Officer]. It was a difficult situation in the sense he was

my Acting Chief Officer for some time, but we tried to steer away from those areas, for the simple reason that he was going to be a key witness himself in relation to aspects of that, and it was a sort of off-limits area in terms of us discussing it, in order to maintain my objectivity. Now, whether that transferred itself over into the BDO Alto, I do not know, but that is possibly an explanation as to why those matters were not discussed with me.

The Deputy of St. Mary:

So he would not have mentioned to you either way: “I am not letting anyone see Mr. Harper as part of the finance review because that would prejudice the Wiltshire review”, which seems to be his position. But you are saying that he would not have ...

The Minister for Home Affairs:

I do not think he did. I mean it is very difficult to remember the details of all the conversations that I have had with different people over the period of time, but certainly absolutely nothing of that nature is logged in my mind.

The Deputy of St. Mary:

You also say you knew nothing of the internal States of Jersey Police review that apparently the Chief Officer commissioned?

The Minister for Home Affairs:

Except in general terms. As I say, I was aware at some stage that there was being some sort of internal review to try to assess the responsibility of other officers who continue to be serving officers. I was aware of that in general terms.

The Deputy of St. Mary:

That is interesting because that is a very different type of review from what we see in [Acting Chief Officer of Police]’s submission to us, which is a very fluffy review, if that is a quite specific review you are talking about, it is an extra review.

The Minister for Home Affairs:

In that case I have not understood the nature of the other review; I assumed it was disciplinary in nature.

The Deputy of St. Mary:

Maybe there are 2 other reviews.

Deputy R.G. Le Hérissier:

You say, Mr. Minister, that: “Look, they were fair, for example they said they would not proceed on the chauffeur issue because they had not received Mr. Harper’s view”, but ...

The Minister for Home Affairs:

Well that is what they say.

Deputy R.G. Le Hérissier:

But the fact remains, on a vast range of other issues, like his allegation that he was trying to get bed and breakfast rates and they were saying: “No, you were staying in very upmarket hotels at upmarket prices”, there are a vast range of other issues where basically ... and I have no apologies for Mr. Harper ... but basically he was castigated. So the balance of the report, there may have been one area where they said: “We must have his view”, but essentially the balance of the report was very much in the other direction.

The Minister for Home Affairs:

Yes, of course I do not know whether that is dealt with or not in his statements to Wiltshire, because I do not know if they went into those areas or not. We have this precarious situation where

apparently, again I have gleaned this from reading the opening statements, the written submissions of people, so I had no knowledge of this at all ... now I have lost my train of thought, oh dear. Where was I going? We were talking about the ...

Deputy R.G. Le Hérissier:

Well the balance of evidence and all the examples essentially, other than oddly enough the one you picked on about the chauffeur, they all sort of suggest that there was basically rampant spending going on and there was no real financial discipline.

The Minister for Home Affairs:

Yes, well of course I do not know what areas he went into in terms of his statement to Wiltshire on financial matters, because I do not know if they went into these areas, because, if they had already decided that [former Chief Police Officer] could not be held responsible for those areas, then they may not have done.

Deputy R.G. Le Hérissier:

You mention Wiltshire a lot, and sort of the trend of your comments seem to be that Wiltshire cover an awful lot of BDO Alto. Did anyone say at any point: "Look, this is a bit crazy, we have all this duplication going on, why are we sort of bothering?" Did anyone ever say that?

The Minister for Home Affairs:

Well, they were 2 separate reports, one was very strictly for disciplinary purposes and therefore had to be subject to the highest standards, if I can put it that way, and the other one was for purposes of determining whether things had gone wrong, if so, what had gone wrong, to learn lessons from that, to see in general terms who was responsible, but it was not a disciplinary report. It was always going to have a much lower level of ... I am struggling for the word ... not intensity; that is not the right word. It was not going to be done to the same sort of meticulous standard, if I can put it that way, because it was not a ...

Deputy R.G. Le Hérissier:

Yet the impact on people, although you argue an interesting argument that it was looking at the system and the procedures, but undoubtedly of course it was going to have a major impact upon individuals because we work in a society where it is all often down to personalities, and that is of course what happened, was it not?

The Minister for Home Affairs:

Yes, but ...

Deputy R.G. Le Hérissier:

It just continued the saga of: "Here is so-and-so and so-and-so is utterly ill-disciplined when it comes to finance and they are spending money like there is no tomorrow." This simple reinforced that, did it not, at the end of the day?

The Minister for Home Affairs:

Yes, but the criticism in my view is there in the Wiltshire financial report, as I say the key issues as to what the level of duty was and so on are dealt with there. This is a matter of detail.

Deputy T.M. Pitman:

How much, with the quite unique setup in Jersey with Home Affairs and your Chief Officer and his responsibilities financially, and the system in the Jersey Police Force, how much was, really Mr. Harper was irrelevant, anyone in that situation was in a position that was not ideal, is that not fair to say?

The Minister for Home Affairs:

The system is not ideal, but in fact, in my view, the person who should have been the Accounting

Officer at the time was the Chief Officer of Police. But frankly in practice, if he had been, I do not think it would have made any difference at all to the way things happened, in reality. Although, there are issues there, [former Chief Police Officer] has always contended that, to be fair to him, he has always contended that this arrangement caused difficulties, they did not have their own accounting staff and so on, but the Home Affairs accounting staff provide services to all the Home Affairs departments, it is just that the accounting function is centralised, as is the H.R. (Human Relations) function in relation to that.

[14:45]

I do not personally think that it would in practice have made any difference because of the failures of oversight on the part of [former Chief Police Officer] generally, I have to say sadly.

Deputy R.G. Le Hérisier:

This is a more general question, and I did pose it to [Police Consultant] as he sort of unfolded his story, did no one think it was very odd that, even if, for the sake of argument, you had a totally innocent police officer running an area where he had absolutely no financial knowledge, did no one think it was rather odd that you have this highly complex investigation, you have masses of money being ploughed into it, and apparently it carries on for ages with total financial ill-discipline, did nobody say: "There is something wrong here"? I mean how ... it begs the question, how was it allowed to run for so long without any intervention?

The Minister for Home Affairs:

That is an issue you need to talk to [Chief Officer] about, because he found himself in the situation where, because there was no budget set, and I think, if we look at the wider issues, and they are criticised in the finance report, I mean there was an extraordinary situation that the historical abuse inquiry, as it unfolded, it expanded in terms of Haut de la Garenne, had their budget, and had no additional financial safeguards, no Finance Officer, no Gold Command Group, et cetera, it is quite an extraordinary situation, I mean it is quite contrary to the normal controls that would happen where you would expect there to be a budget, it may have to be exceeded, but then you have to come back and explain and so on and so forth. I think you will find that what [Chief Officer] will say is ... and I cannot really speak for him ... is that he found himself, it was setup, and then it was: "Over to you now." But he had no managerial control, he was not Chief Officer of the Police Force, over the Police Force, they are a separate thing and operational freedom issues arise and so on and so forth.

Deputy T.M. Pitman:

But that is the point I come back to. That is the point I was trying to make, it is almost an impossibly flawed setup for anyone to be put in. That is not an excuse for Mr. Harper.

The Minister for Home Affairs:

The initial setup was flawed, yes, but, having said that, it is accepted ... and certainly that is the view of Wiltshire based upon the documentation and so on ... that all those, [former Chief Police Officer] and Mr. Harper, and [Chief Officer] accepted that the police had to run it efficiently, as it were. Now, I think you can differentiate on the one hand between what I might call the ambit of the investigation in terms of which cases they should pursue and so on and so forth on the one hand, and the methodology used to do that, which then gets down to the nitty-gritty of overtime rates and all these other things, and in my mind there is a clear distinction. Now I think there was a problem because of the ambit aspect, but then that was a political response to a particular crisis as it was then perceived, where the politicians decided that they should not seek to set the normal controls in relation to the ambit of the size of the thing, but that does not detract, in my opinion, at any stage, from the need to be operating efficiently, which is what the finance reports are about.

Deputy T.M. Pitman:

Can I just ask you from that, Mr. Harper claims in his evidence to the Panel that obviously that he was slapped down by [the Chief Executive] for even questioning the issue of costs and told: "You do whatever is necessary basically, cost is irrelevant." How do you respond to that as a Minister?

The Minister for Home Affairs:

I would be very surprised if [the Chief Executive] said that other than in the sense of the first aspect of it, and that is contrary frankly to the undertakings given to [Chief Officer] and all the other stuff. That is dealt with in detail; that is not for me to argue the case, please look at the financial report of Wiltshire and you will see the reasoning there.

The Deputy of St. Mary:

Yes, I can understand the tensions between saying: "Get on with it, spend what you need to" and needing the controls that you would have normally; that is not an issue. But what is an issue, and I want you to comment on it, is where ... I do not know in this mass of paperwork ... but somebody has said that: "Why did BDO focus on the police side?" which of course goes straight to Mr. Harper as the decider of basically most expenditure, and why does it focus so little on the Home Affairs side, where that is where the professional money counters are; that is where the people who are paying the bills are, so why did they not say: "We ought to put somebody in there to help you"? Why was there not that kind of joint approach that would have saved a lot of grief?

The Minister for Home Affairs:

Sorry, you have confused me now by saying: "We need to put somebody in there to help you." Because, by the time this was happening, by the time the report was produced, I mean we are into June/July 2010, and the whole system had changed.

The Deputy of St. Mary:

There is a question, why did BDO focus on, if you like, the police side, and not where the accounting power was, the professionals who do that sort of thing at Home Affairs, and there was a gap over here, so firstly why did BDO not focus on that issue ... well let us leave the question there, do you think the report is balanced in that sense, because that might be worth ...

The Minister for Home Affairs:

Well I thought they had reached conclusions in relation to that; that effectively it was very difficult for Home Affairs to control because they received the invoices in after the event, as it were.

Deputy R.G. Le Hérissier:

But when they have received ... just to pursue it, and this is getting almost to micro-management, but presumably when they received the invoices in, somebody, if indeed it was as bad as it has been portrayed, somebody would have said: "There is something seriously wrong here, we had better sit down and see if we can sort it out with the police." As far as you are aware, did that happen?

The Minister for Home Affairs:

I think that could not have happened, I think, in relation to some areas, like overtime system, because they simply would not have understood that. But in other areas, if the rates being paid for hotels were too high, yes, somebody could have picked that up. So there could be areas where staff might see repetitively things happening. Again, staff could not possibly have known how the dog was being used or how much the dog handler was being used or in what way he was being used, they could not possibly know that sort of thing. But things like hotel rates, yes, possibly someone might have said: "Well, is this a bit high?" when it carried on going on.

The Deputy of St. Mary:

I am not concerned with the detail, Minister, it is when the expenditure is up to ... what are we looking at ... £5 million a year, so how much is that per month? You are looking at £400,000 a month, something like that, then you start going: "Gosh, so where are the controls on this whole investigation?" and then you have a talk with the S.I.O. (Senior Investigating Officer) and then you

say: "All right" and then you have a discussion about that and then maybe he does what the recommendation is now, 2 years later, and we have a finance manager who scrutinises all this and runs the ship.

The Minister for Home Affairs:

That is where there should have been a Gold Command Group; that is where much of the managerial failures came down to the decision of [former Chief Police Officer] and Mr. Harper to centralise control in the 2 men alone. That is the core of the issue because, if you had a Gold Command Group you would have had finance people on it, you would have had other police officers, and you have proper checks and balances built in. The decision for 2 men, as it were, to take the total control of leadership on their own and to exclude the third and fourth ranks of the police force, led to a situation where unfortunately there were not the checks and balances built within the police. Now, within Home Affairs, the finance officers will log things, but there has to be a high degree of trust in the individual officers, whether it is Customs and Immigration or Fire Chief or whatever, that they are not wasting money, otherwise you can only pick it up subsequently.

The Deputy of St. Mary:

Sorry, the Gold Group is a known issue of, we know the reasons why Power and Harper did not go down that route, and it may be right that for 2 people to have the sort of say and without the checks and balances was wrong, but I am saying, was there not another way of Home Affairs relating to the States of Jersey Police that would have avoided this ghastly thing where there is no finance manager at the L.B.O.(?), no finance manager within M.I.R.(Major Incident Room) to look at the deal with all these things?

The Minister for Home Affairs:

That is an issue you would need to discuss with [Chief Officer] as to whether he made suggestions or not in relation to financial management.

The Deputy of St. Mary:

But the issue for you is the balance in the report between looking at the police's handling and when we are looking at Home Affairs' handling of money; that is what I am putting to you, as to whether that was satisfactory.

The Minister for Home Affairs:

Again, I cannot remember the timing of this, because there was another report of course, which also looked at the issue of responsibility of Home Affairs, and that was produced by the Comptroller and Auditor General. Again, I am not sure as to which order those reports came in, because I think I am right in saying that the view of the Comptroller and Auditor General was that Home Affairs did the best they could do out of a pretty bad job.

Deputy T.M. Pitman:

Can I take us back to the report itself. One of Mr. Harper's opinions expressed, and perhaps could have been avoided if he had been interviewed, was when he says how BDO seemed to deliberately play down the decision based on the evidence to excavate in Haut de la Garenne, which obviously is where a lot of expense really kicked off from there. What is your comment as the Minister on this?

The Minister for Home Affairs:

My comment is contained best in my press release in July where I discussed this very issue^[1]. The difficulty I think was that BDO Alto seemed to have been influenced by the terms of the Metropolitan Police report. The Metropolitan Police report's view, this is the report that even I have not seen in detail, and therefore I am going on my understanding of it. I have physically seen it, but I have not read it. I think this is what happened: the Metropolitan Police's view was that they should not have started digging at all in the first place. The Wiltshire view was that the decision to start digging in the first place was questionable, but not clearly wrong, certainly not a matter that should

be subject to a disciplinary matter. My own view, which, as I think was expressed in my press release document, was that, even if it was questionable to start, once the police had thought that they had found a piece of skull fragment, then I think it was not unreasonable for them to carry on. So I take a more positive view I think than anybody else.

Deputy T.M. Pitman:

But to try and get even further with that detail, and I am sure you will correct me if I am wrong, but I believe even you said that some of this confusion is led by perhaps the angle that [retired D/Superintendent] put on the decision to go in and dig, is it fair to say that seems to have influenced BDO? Because I mean it must ... my interpretation of natural justice, you would look at things and you would weigh up the evidence, where I think what Mr. Harper is trying to say, BDO just seem to have accepted one view as being black, black is black, and that seems to be the problem to me.

The Minister for Home Affairs:

I just simply do not know. I mean you would have to ask other people. [Police Consultant] no doubt you have asked about the influence of [retired D/Superintendent]. [retired D/Superintendent]'s view, certainly in terms of what he said to the press, was that they should not have gone in the first place. But, as I say, it is my understanding that was the view of the Met, although, as I say, I have never seen the report, it is only on the basis of hearsay I say that. Curiously enough, in a strange paradoxical sort of way, the fact that this situation ended up does to a degree support the view of [Acting Chief Officer of Police] that there were dangers in having 2 lots of people looking at similar issues in parallel. But certainly my view is well documented that, although it might have been questionable to start digging, once they thought they had found the skull fragment, it was reasonable to continue.

The Deputy of St. Mary:

On the Met issue, just quickly, can you see how it polarises the public and how it makes people suspicious if you get a report, BDO Alto's report, and they rely on the Met report, and the Met report also did not speak to either Graham Power or Lenny Harper, so they are relying ... they are not speaking to Lenny Harper, they are relying on a report that did not speak to Lenny Harper, so you are getting a kind of self-fulfilling look, and then they criticise the decision to go in, or whatever it might be, all these different aspects.

[15:00]

The Minister for Home Affairs:

Well, now I agree with what you are saying there, and that is why, in my own press release, I was very careful to deal with this matter and to use my own comment. Now of course the trouble is inevitably, no matter how careful you are in wording your press releases, I produced it in writing, insisted on reading it out in full, much to the annoyance of some of the press who wanted to hurry on and ask me questions, nevertheless they do not print what you say sometimes and end up putting their own spin; that is why I did it so carefully, and I did look, as I say, and come to my own conclusion on that one. I think it is unfortunate that BDO Alto did take that particular view, and I did not agree with it on that particular issue.

Deputy R.G. Le Hérisier:

Mr. Minister, I wonder if we could move to a new area, because time is of the essence. It is the question of leaks. You made a revelation in the States quite recently that the leaking of the document and whether it was "the" document, the content of the document, or a remarkably similar document, to a national newspaper was carried out by the former superintendent, [retired D/Superintendent]. Were you aware that there was another leaking going on, for example?

The Minister for Home Affairs:

Other leaking by [retired D/Superintendent], do you mean?

Deputy R.G. Le Hérissier:

Yes.

The Minister for Home Affairs:

No. The first I was aware of an issue in relation to [retired D/Superintendent] was when he went public just before he left the Island and that was the first time. I viewed this as merely a continuation of that, he had already gone public with his views to the local press, radio. It is my understanding from [Acting Chief Officer of Police] that [retired D/Superintendent], although he was asked very strongly not to do anything before he went, and not just by [Acting Chief Officer of Police], but I understand even by the Attorney General of the day, again this is hearsay, this is obviously what I have been told, that he had already pre-recorded interviews before he had left. So that is the first that I was aware of an issue, and then of course my staff picked up the *Mail* article and they did some excellent detective work, emailing, and then sent to me the consequences of that, which clearly pointed to [retired D/Superintendent]. I have to say, when the issue came up again, I had completely forgotten about this, I had just totally forgotten about it. I had to look back and find the emails and then say: "Oh yes, now I do recall it", because it was not that significant to me once I knew it was [retired D/Superintendent].

Deputy R.G. Le Hérissier:

Why do you say that?

The Minister for Home Affairs:

Well he had already done it in Jersey, so ... second leak, it is helpful to me because I have a question from Deputy Pitman in the States next week about a second leak, and I did not know what he meant by the second leak; what is the second leak?

Deputy T.M. Pitman:

Well it was said to us with Mr. Harper's evidence that there were previously emails that had gone and somehow made it into the hands of [a] journalist for the *Mail on Sunday*, which allegedly came from Senator [].

The Minister for Home Affairs:

Sorry, yes, I picked that up in ...

Deputy T.M. Pitman:

Which again must ring alarm bells with ...

The Minister for Home Affairs:

I picked that up from his statement I think. But I was not clear, I have to say, again I only just read that by reading the ... was that in his evidence rather than his statement? I think it was in his evidence.

Deputy T.M. Pitman:

Yes.

The Minister for Home Affairs:

I think it was in his evidence because he was diffident about giving the name of that. I have to say that I was not clear what it was that [Senator] was supposed to have leaked, I was left unclear about that from the evidence.

The Deputy of St. Mary:

Coming back ...

The Minister for Home Affairs:

But I had not heard about that before, no.

The Deputy of St. Mary:

Coming back to the, if you like, the leak, although we have not spoken to [retired D/Superintendent] yet, but we know that he has told people on the phone that it was him, the question is how you said you did not think it was that significant, and yet clearly the effect of the leak certainly in Jersey and his whole sort of farewell, was quite dramatic, so ...

The Minister for Home Affairs:

No, do not misunderstand me, I am not saying it is not significant, the fact that he went to the press and so on and so forth, what I am saying is that going to the *Mail* in addition to what he had already done in Jersey was not a significant level of things from my point of view. It was just the same thing, but ...

The Deputy of St. Mary:

Well how did you react then to the Jersey end of it, which was in the beginning of September I think, where he was on Channel TV and all the rest of it?

The Minister for Home Affairs:

I answered questions in the Assembly on that and very firmly indicated I viewed it as thoroughly unprofessional.

Deputy T.M. Pitman:

Is there not an irony in that one of the big criticisms of Mr. Harper is his handling of the media, and yet here you have the person who has replaced him investigating him and he is really inappropriately interacting with the media? I know you cannot control that now.

The Minister for Home Affairs:

There is, but I am afraid there is strong evidence that Mr. Harper was improperly interacting ...

Deputy T.M. Pitman:

But that is not the question. I am saying ...

The Minister for Home Affairs:

No, fair enough. Yes, it is ironical, if you are going to complain that somebody else is doing something improper, you should not be doing it yourself.

Deputy R.G. Le Hérissier:

Did you warn him not to do this after he had done it locally?

The Minister for Home Affairs:

No, the first time I ... I have only ever once spoken to [retired D/Superintendent], and that is when he rang me up to protest at something I had said in answer to a question, and he was very unhappy because I had basically said, in answer to a question in the Assembly, that I thought he had been annoyed by unfair treatment he had on blog sites and so on, and claims that he had ulterior motives, and so on and so forth, and he rang me up and said he was very unhappy with my having said that and that his primary motive was simply to get the truth, as he saw it, out into the public domain. That is the only conversation I have ever had with him.

Deputy T.M. Pitman:

Some people might say that is almost the actions of an incompetent maverick though to go and do that the way [retired D/Superintendent] did. **[Laughter]**

The Minister for Home Affairs:

It is improper. It is undoubtedly improper. I have said that right from the start, I mean you gentlemen are my witnesses, you have heard me in the Assembly whenever it has been raised, I have

said that is improper. The trouble is, it is a thin end of the wedge, once one officer does it for whatever reason, it creates a major difficulty.

Deputy R.G. Le Hérissier:

In the nature of a winding-up question, Mr. Minister, I wonder, without making it too much of a statement of the obvious, can you tell us what lessons you have learned from this episode and how in your view it should have been handled differently?

The Minister for Home Affairs:

I do not think I did anything wrong, but I would say that, but I do think that more consideration should have been given to finding a way to allow Mr. Harper to see what the report was likely to say and to comment on it; I think that is right. That is my view. I mean I could go into other areas of the financial management and so on, but I do not think that is what you are asking me, I think you are asking me in relation to the BDO Alto report.

Deputy R.G. Le Hérissier:

Yes.

The Minister for Home Affairs:

I think that is my view. I expect it would be your view as well.

Deputy T.M. Pitman:

When you, and obviously you have only just read [Acting Chief Officer of Police]'s submission, if I can take you back to that, without making any final conclusions, and you will probably want to mull it over, I appreciate it, does it not undermine the report slightly that you have had such conflicting views from people apparently working together very closely, we have heard Mr. Kellet and then [Acting Chief Officer of Police] has completely come from a different angle and said: "No, this was not how it was." Does that undermine the credibility of the report to you, because it perhaps was not as tight or as thorough as it should have been?

The Minister for Home Affairs:

I am puzzled as to why there appears to have been this misunderstanding between [Acting Chief Officer of Police] and Mr. Kellet in relation to why it was that [Acting Chief Officer of Police] did not want Mr. Harper to be interviewed at that time and that was not an indefinite thing. I am puzzled as to what happened there in terms of the misunderstanding. I do not really understand precisely the nature of [Acting Chief Officer of Police]'s criticism of the process. I have read his statement but I did not assimilate that. He is a very professional officer; I know that people have criticised him, but he is a very professional officer, and objective, and I think something of his objectivity comes out in the fact that he is prepared to criticise in this context.

Deputy T.M. Pitman:

I will leave Deputy Le Hérissier to try and clarify this, because we spent several minutes trying to get our own heads around it, when you hear a former senior police officer sitting there and telling us that he was not even aware of the terms of reference of a review that he was carrying out, that has to worry you?

The Minister for Home Affairs:

No, he was not ...

Deputy R.G. Le Hérissier:

But those are his words.

The Minister for Home Affairs:

He was not carrying out the review; the review was being carried out by ...

Deputy R.G. Le Hérissier:

But he did not know the terms of reference; he said that.

The Minister for Home Affairs:

All right.

Deputy R.G. Le Hérissier:

Of the other review.

The Minister for Home Affairs:

I am sorry, which review are you talking about?

Deputy R.G. Le Hérissier:

The internal States of Jersey Police review.

The Minister for Home Affairs:

[Acting Chief Officer of Police] is saying he did not know ...

Deputy R.G. Le Hérissier:

No, Mr. Kellet.

The Minister for Home Affairs:

I am sorry.

Deputy R.G. Le Hérissier:

That seems to be the problem, nobody knows what the other was doing at all.

The Minister for Home Affairs:

That confuses me even more as to what [Police Consultant]'s role was, I have to say. I thought I was just about starting to understand [Police Consultant]'s role.

Deputy T.M. Pitman:

Maybe by 5.00 p.m. we will know there is another role. We have our next witness. Is there anything else that you would like to clarify or point out for us, Minister?

The Minister for Home Affairs:

No, thank you very much. It has been a very fair hearing and thank you for that.

Deputy T.M. Pitman:

Thank you.

[15:11]

^[1] Statement in relation to Haut de la Garenne, dated 14th July 2010 - <http://www.gov.je/Government/Pages/StatesReports.aspx?ReportID=424>