

STATES OF JERSEY

Education and Home Affairs Scrutiny Panel Issues surrounding of 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 Hérisssier of St. Saviour

Witness:

Managing Director, BDO Alto Limited

Police Consultant

Also present:

Scrutiny Officer

[11.00]

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

Welcome, everyone, to this hearing of what is a Scrutiny Sub-Panel of Education, Sport and Culture and Home Affairs, and welcome to the public as well. I would just say to the public to please be quiet and respectful while the questioning is going on. In a moment we will name ourselves for the transcript, for the record, and I would ask the 2 gentlemen here to do the same. I have to explain the oath, which you should have in front of you, but hopefully you are familiar with it. The basis of it is that as long as you do not tell us anything that you know not to be true, everything is straightforward and hunky dory. The media have asked to film us, as you know, which is fine. I appreciate you 2 do not want to be filmed, and that is quite fine; that is your right. I think we can move on from there. We have an hour and a half set aside. If we finish early, that is fair enough. We do not normally, so we will see how we go from there. I believe you want to make a brief statement to start. Is that correct?

Managing Director, BDO Alto Limited:

Yes, if we could.

Deputy T.M. Pitman:

Yes.

Managing Director, BDO Alto Limited:

Really just to provide some context before we get underway. In March 2009 we were engaged by the Minister and the Accounting Officer for Home Affairs to undertake a review of the use of financial resources during Operation Rectangle, that being the code name for the States of Jersey Police's investigation into historical child abuse. It is solely the role of the States of Jersey Police and the prosecuting authorities to investigate the allegations of child abuse and to bring perpetrators to justice. Our review of the financial aspects of the States of Jersey Police's investigation is not relevant to those investigations or prosecution processes and they do not in any way inhibit the furtherance of those investigations and prosecutions. Sadly, it appears necessary to reiterate this point given allegations made on certain internet blogs that our report has somehow been used to discredit

the investigation of the historical child abuse and to instead direct attention on to management of the inquiry itself. We sincerely hope that this scrutiny review process corrects these and other misconceptions relevant to our report. In terms of the drivers behind our work, all departments of the States of Jersey are subject to ongoing audit and review. These processes are designed to ensure that taxpayer money is spent wisely and is properly accounted for. It also enables lessons to be learned to facilitate the continual improvement in the quality of public service while balancing the need to derive value and efficiency from spending. Our review commissioned in March 2009 was not about the historical child abuse investigation per se. It was not about criticising anyone as an individual and it was not in any way linked to an inquiry being undertaken by Wiltshire Police. We were very simply engaged to review and report upon the costs incurred by the States of Jersey Police in their Operation Rectangle investigation, which remained ongoing at that time, and to consider where the rules and procedures governing expenditure were effective and were being properly adhered to. While Operation Rectangle was a deeply distressing investigation for all of those concerned with it as well as for the Island community generally, it is not the first and it will not be the last complex, distressing and highly emotive investigation that the States of Jersey Police will deal with. That is their job. However, the size of Operation Rectangle was unique in Jersey, as was the level of expenditure, and I would add at this stage that the level of spending drew attention from a very early stage from both within and outside of the force. Our review sought to understand the level and nature of the costs incurred, to consider the robustness of financial governance surrounding that spend, and to make recommendations to assist in the management of the costs of future major police operations. The States of Jersey Police force is a professional police service. As a result, and irrespective of the size and nature of any particular investigation, it is necessarily conscious of the need to manage its finances in accordance with financial policies and directions in place. In this case, there was no instruction to spend outside of established policies and frameworks or to ignore financial controls. Rather, the Chief Minister made a commitment to provide all necessary resources to the investigation, and by doing that he provided an assurance to the victims, the people of Jersey and the States of Jersey Police that this investigation would not be constrained in any way by a lack of financial resources. In our opinion, the Chief Minister's statement did not remove the need for that spending to be properly planned, monitored and reported upon, nor did it provide for the usual rules governing spending to be disregarded. As a result of our detailed review, we prepared a report that contained a total of 19 recommendations. This provides a point of reference for Home Affairs and the States of Jersey Police when considering how to implement appropriate financial governance in future major police operations. That is the background to our review and report and I hope it provides some further context to this Sub-Panel prior to answering your specific questions.

Deputy T.M. Pitman:

Thank you very much for that and thank you for your written submissions as well. I should just point out that the Panel is now down to 3 Members, Deputy Tadier having resigned, nothing to do with this particular review. The 3 of us will jump in with questions as and when points arise. Could I begin? You properly(?) explained to us how you understood the task you had been set for that review, but can you enlarge for us how you set about obtaining the evidence you required for your review?

Managing Director, BDO Alto Limited:

Yes. Our review was to, as I have explained, look at the financial spend associated with Operation Rectangle. That was a live investigation; it had been ongoing since 2007. The costs of that investigation had become quite significant and the Minister and the Accounting Officers at Home Affairs wanted some assurance that that financial expenditure had been incurred with due regard for value and efficiency from spend and in accordance with the accounting policies and processes that are in place within not just the States of Jersey Police but the States as a whole. We were formally engaged in March 2009. The way that we gathered information for our review was primarily from accounting information at Home Affairs. The Home Affairs Department account for the expenditure of the police force, among other things, so they were able to provide a full data dump of all of the costs relevant to Operation Rectangle, and that was our starting point. Having categorised the various aspects of the investigation spend, we were able to then start to obtain detailed documentation and evidence to properly interpret firstly what that spend was and secondly that it had been procured in a

way that is consistent with the policies and procedures in place in the States of Jersey and in the police force.

Deputy T.M. Pitman:

Were there any limitations or boundaries set upon you in gathering that evidence?

Managing Director, BDO Alto Limited:

No, there were no limitations, sir.

Deputy T.M. Pitman:

No limitations.

The Deputy of St. Mary:

Who did you interview?

Managing Director, BDO Alto Limited:

During the course of our review, we interviewed a wide range of people. We interviewed staff within Home Affairs and we also interviewed numerous individuals within States of Jersey Police as well as at least 2 of the contractors involved in the Operation Rectangle investigation.

The Deputy of St. Mary:

All right. There is no list, is there, in the report of who you interviewed, who you spoke to?

Managing Director, BDO Alto Limited:

No, there is not.

The Deputy of St. Mary:

What other sources did you use, in terms of written sources? You have mentioned all the costs in the records of Home Affairs. What other sources did you use?

Managing Director, BDO Alto Limited:

This is probably a good time to introduce [Police Consultant] and explain [Police Consultant]'s involvement with this review in terms of evidence-gathering within States of Jersey Police.

Police Consultant:

I access the investigations database, the H.O.L.M.E.S. (Home Office Large Major Enquiry System), the States of Jersey Police's internal databases such as email and the related databases. I interviewed quite a large number of police officers and police staff and other people involved in the investigation. They provided me with documentation.

Deputy R.G. Le Hérissier:

Sorry, before [Police Consultant] continues, it might be worth for the benefit of ourselves and people observing if you could explain how you were recruited and what you were recruited to, because we have heard about other reviews going on and we have heard about relationships to Wiltshire or not to Wiltshire. It is getting quite complex, so could you explain how you were recruited and what reviews you ended up working on and how these reviews related to each other?

Police Consultant:

Yes. As you know, and I am not sure that the other people here know, I am a former Senior Police Officer. I retired from the Lancashire Constabulary at the end of 2006, and in early March 2009 I was approached by somebody working in Operation Rectangle and asked if I would be available to speak with [retired D/Superintendent], the then Senior Investigating Officer, with a view to carrying out some review of part of Operation Rectangle. I agreed to have a telephone conversation with him and as a result of that I came to Jersey and was given some draft terms of reference, as they were at the time. We discussed whether or not I would be willing to be involved, and I agreed to be.

Deputy R.G. Le Hérisier:

Sorry, this whole thing sounds slightly mysterious. You were approached by someone in Operation Rectangle.

Police Consultant:

Yes, just a member of staff whom I knew. I knew [retired D/Superintendent] before because we had worked together some years ago.

Deputy R.G. Le Hérisier:

Who did you conclude was the person with authority in these approaches? Who said: “Yes, we want you and we want you to do this”? Who said that?

Police Consultant:

Formally, it was the acting Chief Officer at the time, although of course [retired D/Superintendent] was acting on his behalf, and before I was formerly appointed, as I understand it, he went to [then Acting Police Chief]. At that stage he met [then Acting Police Chief]. He went to him and discussed it, and then I was told: “If you are willing to come and work, we are willing to have you.”

Deputy T.M. Pitman:

This was police, then, not Home Affairs at this stage?

Police Consultant:

No, this was the police.

The Deputy of St. Mary:

Can you comment on the terms of reference of that review?

Police Consultant:

The terms of reference that I was given and that I worked to are those that I set out in my written submission, and those were the only terms of reference I was ever given, which are self-explanatory.

The Deputy of St. Mary:

Sorry, can you just refer me to the right page? They do not match the other terms of reference. We are on page 2, are we, of your ...

Police Consultant:

That is right. In paragraph 4 of my written submission, on pages 2 and 3.

The Deputy of St. Mary:

Those terms of reference are in relation to, in effect, the BDO review?

Police Consultant:

Yes.

[11.15]

The Deputy of St. Mary:

So they link up? They are like a specific subset of what BDO were looking at?

Police Consultant:

I am not sure whether that is the right way exactly of describing it. BDO clearly had some terms of reference from Home Affairs Department, which are not exactly the same as mine, but clearly, from my terms of reference, the intention was for us to work together, for reasons that have been stated in the written submissions, and my reading of it is that there are some specifics that the States of Jersey

Police wished to be looked at in addition to the wider issues that I referred to in my terms of reference and in BDO's terms of reference.

The Deputy of St. Mary:

So these terms of reference on pages 2 and 3 of your written submission were set by whom?

Police Consultant:

The States of Jersey Police. I was handed them by [retired D/Superintendent], but I understood at the time that they had been approved by [then Acting Police Chief].

The Deputy of St. Mary:

And you had no input into them?

Police Consultant:

No. That was what I was given.

The Deputy of St. Mary:

That was your working document. What I am looking at now is [then Acting Police Chief]'s written submission. I do not know if you have seen that.

Police Consultant:

I have, yes.

The Deputy of St. Mary:

On page 4 of that there is a completely different review. Was that related to you?

Police Consultant:

[then Acting Police Chief] says that it was, but the first time I saw those terms of reference was yesterday when [the Scrutiny Officer] forwarded [then Acting Police Chief]'s written submission to me. The first occasion that I became aware there might be other terms of reference that [then Acting Police Chief] wanted me to work to as well as the terms of reference that are in my written submission was towards the end of July 2009 when I had a meeting with [then Acting Police Chief] and he mentioned these in passing. Apparently they had been set by the Gold Group of Operation Rectangle towards the end of 2008. I was never given them. I asked [then Acting Police Chief] at the time of the meeting if I could have a copy of them, and he had a look in a file and could not find them and did not forward them to me subsequently. As far as I was concerned at the time, before and since, the only terms of reference that I was given were the ones that are set out in my written submission.

The Deputy of St. Mary:

I can see that. These are the terms of reference you thought you were working to, and I know it is putting you in a bit of a difficult position, but who appointed you to do the other review with these terms of reference that you only knew about in July 2009?

Police Consultant:

The last time I spoke to [Then Acting Police Chief] was in July 2009. I have never seen or been given those terms of reference. Until July 2009, I did not know that there were any other terms of reference. The only terms of reference that I have been given and that I worked to were those set out in my written submission.

Deputy T.M. Pitman:

With due respect, does that not seem a bit incredible? Does it not bother you?

Police Consultant:

Yes. It is odd and I cannot really explain it.

Deputy R.G. Le Hérissier:

Just pursuing that, [Police Consultant], the situation as we find it is that you worked with BDO to their terms of reference. You then sort of stumbled upon the fact that there was another review taking place, which was an internal police review, and [then Acting Police Chief] offered to brief you but for various reasons the terms never arrived. Were you aware all the time that this review was going on with other people or was it just some ghost in the background?

Police Consultant:

No. I do not think your summary is quite correct, if I may say so. That is not my interpretation of it. This other review was not taking place. I think [then Acting Police Chief], clearly from his written submission, intended that as well as assisting BDO Alto in terms of the terms of reference that I was working to and that had been agreed by [then Acting Police Chief], he appears to have believed that I was also working on some specific issues that were internal to States of Jersey Police.

Deputy R.G. Le Hérissier:

Why do you think he believed that?

Police Consultant:

These terms of reference, as I understand it because of what he told me, had been set in the Gold Group towards the end of 2008, but I was never given them, and I cannot explain why they were set in 2008, I was appointed in March 2009 and I was never given them. I really have no idea. When he mentioned them to me in July 2009, that was the first I had ever heard of them. He was not able to provide me with a copy, did not have a copy of them, and he did not provide me with a copy subsequently. I did not form the impression at the time that it was a major issue for him. It was mentioned in passing, in effect. It did not seem important to him, although it was a great surprise to me.

The Deputy of St. Mary:

Can I ask, then, who you reported to as you were doing your work?

Police Consultant:

I was reporting on a ... I was going to say "daily basis". It is not quite true to say I was reporting on a daily basis. As and when I was completing elements of the terms of reference that I had been given and producing written documents, I was reporting in effect to [then Acting Police Chief]. I simultaneously sent copies of the work that I was producing to [retired D/Superintendent], the Wiltshire investigation and BDO Alto.

Deputy T.M. Pitman:

Can I take us back a step? I asked you if any limitations or boundaries were set and you said no, so could we get to the issue of Mr. Harper and why he was not interviewed? As I understand it, you attempted to Mr. Harper but access was denied by [then Acting Police Chief]. Could you just enlarge on that for us?

Police Consultant:

The only restriction that was placed on me was that I was not able to see Mr. Harper, and that was not made plain to me at the outset. I have explained the circumstances in my written submission, how that came to my notice, and as you see from my written submission, I took steps to try to get the decision reversed, unsuccessfully.

Deputy T.M. Pitman:

Sorry, and for BDO Alto, because you obviously have 2 reports here for BDO?

Managing Director, BDO Alto Limited:

Yes. When we were being engaged to undertake the review, there were no restrictions put on our work. As our submission states and as [Police Consultant's] also states, when it came to our request

to be allowed to take Mr. Harper's comment, we were declined access. At the time of entry into the agreement with Home Affairs to undertake the review, there were no restrictions placed on it, and we were then at a later date basically told that Mr. Harper was out of bounds.

The Deputy of St. Mary:

You said "we" were denied access. Who is "we"?

Managing Director, BDO Alto Limited:

BDO and [Police Consultant], i.e. "we".

Deputy T.M. Pitman:

This is the issue, is it not? In [then Acting Police Chief]'s submission he is saying quite clearly and quite strongly that [Police Consultant] was denied access from the police side of it but there was no reason why BDO should not speak to him.

Managing Director, BDO Alto Limited:

This is unfortunately where we have to look at where each person was sitting and what was seen by that party at the time. At the time of our appointment it was very clear that [Police Consultant] was working with us to produce this report. We are a firm of accountants; we do not have intimate knowledge of how police operations are run, and therefore it would have been very difficult to make any reasoned comment and prepare reasoned analysis without the input of an experienced police officer, hence [Police Consultant]'s involvement. We saw [Police Consultant]'s same terms of reference that he had been provided with at that point in time, and from that point in time, 2nd April, I think we first sat down with [Police Consultant] and started working together. It was on the basis that BDO were undertaking financial analysis that [Police Consultant] was assisting BDO in interpreting that numerical data, and was as part of that task interviewing officers and civilian staff within States of Jersey Police. We then requested or, rather, notified Home Affairs, and it was covered in an email on 28th May 2009 that we sent to Home Affairs saying: "It is hoped that [Police Consultant] will be able to meet with Mr. Harper as part of this process if he is permitted to do so by the Chief Officer, and also assuming that Mr. Harper agrees to be spoken to." We did at the time not know for sure whether Mr. Harper would be amenable to be spoken to, and therefore we also said: "Whether or not the Mr. Harper meeting occurs, we would intend to present a full draft of the report to you [Accounting Officer, Home Affairs] in the future."

The Deputy of St. Mary:

Who did that email go from to?

Managing Director, BDO Alto Limited:

It went from BDO to Home Affairs.

The Deputy of St. Mary:

BDO to Home Affairs?

Managing Director, BDO Alto Limited:

Yes. Sorry, just to complete, from BDO's perspective and from Home Affairs' perspective, it was very clear that the only person who was going to interview Mr. Harper was going to be [Police Consultant], and it was on that basis that [Police Consultant] then approached [then Acting Police Chief] and asked for permission to meet and make contact with Mr. Harper.

The Deputy of St. Mary:

I may be missing something here. Why did BDO think that they could not interview Lenny Harper?

Managing Director, BDO Alto Limited:

We could only interview any police officer or, for that matter, retired police officer with the permission of the Chief Officer, because this a live police investigation and Mr. Harper's

confidentiality obligations did not disappear just because he retired from the States of Jersey Police.

Deputy R.G. Le Hérissier:

I wonder if we can follow up with [Police Consultant], because we have had these exchanges of emails between yourself and [then Acting Police Chief]. What we read in [then Acting Police Chief]'s statement from as recently as yesterday is that he was talking to you simply, as my colleague said, about the States of Jersey internal report. Did you think you were doing that or did you think you were talking about the BDO report?

Police Consultant:

The BDO report, because that, as far I was concerned, was the only role I had been given. The terms of reference that I was handed when I arrived in Jersey, which are set out in full in my written submission, were quite specific about what my role was. Clearly, for whatever reason, [then Acting Police Chief] thought that I had been given in addition ... He certainly had never made any effort to give me any other terms of reference, but I assume that he thought that I had been given these other terms of reference that he mentioned in his written submission of yesterday. I cannot answer why I was not given those terms of reference. As I said, if I can repeat, the first time I saw those terms of reference was yesterday, and the first time I heard of any possibility that there may be other terms of reference was towards the end of July 2009, 4 months after I had started work with BDO.

Deputy R.G. Le Hérissier:

But surely there must have been alarm bells ringing, because it seemed unbelievable that in a major investigation, one person had been identified as (shall we call in inverted commas) the "main accused" and yet that person was not going to be interviewed. Surely both yourselves and [then Acting Police Chief] must have been incredulous that this apparently was going to happen.

Police Consultant:

First of all, if I can just respond. Nobody was identified as accused. A review of a major investigation is not about accusing anybody. As the terms of reference for the ones I was given and the ones BDO Alto were given make it very clear, the idea of the review is to learn lessons and to make recommendations for the future, and not just learn lessons about bad things that happen but identify good practice. A review is to look at an investigation in the whole, so nobody is accused. Mr. Harper was not accused of anything in the report that we submitted. Now, there was no reason for alarm bells to ring with me, because I was working to the terms of reference that I had been given. Now, I was concerned that I was being denied access to Mr. Harper, and my concerns are set down, I think in very plain terms, in my written submission. Yes, I am concerned, and I am still bemused as to why I was denied access.

[11.30]

Deputy T.M. Pitman:

Can we move that sideways slightly? In [then Acting Police Chief]'s representation, which you have obviously seen, he says that he never agreed or approved this joint report, which eventually came out. If I could just quote him directly, where he says: "Indeed, I did not feel it was appropriate for [Police Consultant] to carry out any further work as my original instructions had not been complied with and the review had become overly focused on Mr. Harper, lacked objectivity, had the potential to be unfair to [former Police Chief] and could have seriously undermined the investigation by Wiltshire Police." What is your reaction to that statement? Because it does seem a very strong one.

Police Consultant:

Yes.

Managing Director, BDO Alto Limited:

Yes. I mean, we were very surprised by that statement. I think, to put things back into context again, the only material that [then Acting Police Chief] was seeing at the time were working notes being

prepared by [Police Consultant]. That is all he was seeing. He, to my knowledge, did not see a final draft of the report that was issued. There is a huge amount of work that was done that does not feature in the final report that was issued in terms of all the conversations that were had with various people. So, if you like, sitting behind that final report is a huge amount of verification and evidence, and part of that evidence were the notes being produced by [Police Consultant], so that is the first point. In terms of [then Acting Police Chief]'s comment, I do not think that his comments are directly relevant to the financial review that was ongoing. I think, unfortunately, for whatever reason, [then Acting Police Chief] does not appear to have been aware of the terms of reference under which [Police Consultant] was working in assisting us, and therefore his views possibly relate to the work that he thought [Police Consultant] was undertaking for him.

The Deputy of St. Mary:

This is something that is really bothering me. Let us go back to the beginning, if you like. What did BDO think was the working relationship between yourselves and [Police Consultant]? Maybe you tell us first and then [Police Consultant] does. What is going on?

Managing Director, BDO Alto Limited:

From our perspective, it was the case that [Police Consultant] had been brought in by States of Jersey Police. He was sitting in his own office within the police headquarters and had access to the police investigation system and the records, and as a senior ex-policeman he was able to interpret the information and provide a means of filtering the information that was relevant to our financial review to us. He was also, given his expertise as a senior policeman, able to have conversations with serving officers as well as States of Jersey Police civilian staff. That information formed part of the total evidence and information that we used to put our review report together. We also have to remember that this was not an inquiry. It was not an investigation. It was a review. We were simply interested in whether or not financial spend on Operation Rectangle had been done in accordance with all of the usual controls and governance that surrounds any sort of spend within the States of Jersey or within States of Jersey Police, and to summarise what our conclusions were and to make some recommendations to help Home Affairs and the States of Jersey Police in managing that spend going forward. It is very, very different to an inquiry or an investigation.

The Deputy of St. Mary:

That is a separate point. I might come back to that, but sticking with the working relationship, I put it to you that one could say that BDO and [Police Consultant] are working very closely together.

Managing Director, BDO Alto Limited:

That is absolutely correct.

The Deputy of St. Mary:

That is absolutely correct, and indeed, paragraph 38 of your written submission, a week after the final engagement terms were not signed: "BDO met with [Police Consultant] and commenced working together."

Managing Director, BDO Alto Limited:

Yes.

The Deputy of St. Mary:

All right. I have one other question, which is slightly separate. This goes back to a conversation we have just had. Can I just ask whether you agree that it was unfortunate that Lenny Harper was not interviewed?

Managing Director, BDO Alto Limited:

It was unfortunate, of course, in that, as we have both indicated in our written submissions, it would have been preferable to have had an opportunity to discuss with Mr. Harper some of the findings that were emerging from our work. I think we were aware that we were not going to get any further

documentary evidence from Mr. Harper, and therefore it would be a case of asking specific questions. Again, as we have said in our written submission, by not being able to interview Mr. Harper there were certain areas that we had reviewed but were unable to report upon because the documentary evidence that we had obtained was not on its own sufficient to be able to draw a final conclusion and make a recommendation. So, if you like, the content of the report, the format of the report, was influenced by the fact that we could not speak to him. Having said that, no information has come to our attention subsequently that would need us to change any of the findings and recommendations as presented.

The Deputy of St. Mary:

You would not put it stronger than that? You said it “would have been preferable to have an opportunity” to interview Lenny Harper. You would not put it stronger than that? We will come back to that later if you maintain that position.

Managing Director, BDO Alto Limited:

Yes. “Preferable” is the word we ...

The Deputy of St. Mary:

Because there is a view that it would have been essential to absolutely try to see Lenny Harper.

Managing Director, BDO Alto Limited:

I think, as the written submissions state, we did try to see Lenny Harper, and that unfortunately was declined, and therefore, when you are undertaking a review you have to accept that and move on. There was still a job to do in reporting our conclusions.

Deputy T.M. Pitman:

But we come back to that issue of being declined, where, as a conflict to what [then Acting Police Chief] is now saying, for your side of things, you were not declined. I still cannot get my head around where this confusion has come in, that [Police Consultant] could not speak to him but you could. That is essentially what [then Acting Police Chief] is saying.

Managing Director, BDO Alto Limited:

I accept that. You have to remember that [then Acting Police Chief] and ourselves are talking about different terms of reference. We are talking about the terms of reference for [Police Consultant], that were handed to [Police Consultant] and a copy provided to ourselves, and our instruction from Home Affairs, and we were very clear from the start with Home Affairs, as evidenced by the email communication with them that is included in our submission, that it was going to be [Police Consultant] who was interviewing Mr. Harper on behalf of this review. That is the basis upon which [Police Consultant] approached [then Acting Police Chief] and permission was declined. It was not a case of we ask, it gets declined, that is the end of it. There were a number of conversations and a number of communications seeking him to reconsider that decision.

The Deputy of St. Mary:

When [Police Consultant] discussed with [then Acting Police Chief] repeatedly: “Please can I interview Mr. Harper?” was that with the full backing of BDO?

Managing Director, BDO Alto Limited:

Absolutely.

Deputy R.G. Le Hérisier:

Just coming back to this, because when one reads your submission there are not contradictions, but there are sort of counter-arguments. You say you could not get hold of Mr. Harper, you went through the procedures, and putting aside the confusion about what he was being interviewed for, you then put forward, in your submissions from about 31, reasons why you think Mr. Harper would not appear. For example, he had not appeared with day books when he had been required to appear with them in

another location and so forth. You put these reasons why he probably would not appear. Did anyone inform you of these happenings, and did they suggest that they were such as to say that Mr. Harper, no matter how much you pleaded with him, was not going to appear? That is the impression you get from having put these arguments forward.

Managing Director, BDO Alto Limited:

That is not the impression and that is not what we have sought to state in our report. What we have said is that, firstly, this was not an inquiry or an investigation, and therefore while it would be preferable to speak to Mr. Harper, we were not able to. Secondly, he was not the subject of this review and he was certainly not singled out for criticism in the report. Mr. Harper has clearly taken a number of the comments on board, and as the ex-Senior Investigating Officer, that is not surprising, but he was not the subject of this review. We were declined permission to interview Mr. Harper and we simply, for balance, say that at that point in time it was not totally clear that he would have met us anyway. It would have been nice to have had the opportunity to ask him, and therefore those points are put in for balance and not to say that he would not have seen us, because clearly we do not know that, and that would only be for Mr. Harper.

Deputy R.G. Le Hérissier:

But it is just in this heavily tendentious and polarised interpretation of events that has been in a sense the story up at Haut de la Garenne. It happens; you have got information here that is quite specific information about why you assume he would appear, and it strikes me, reading this, you would not have got this information walking down ... Who would have told you this? This is quite specific.

Managing Director, BDO Alto Limited:

If we are talking with regard to 20(a), as we say, that was an article that was posted on This is Jersey on 22nd August 2009 reporting that Mr. Harper had defied a Royal Court order to return to the Island to give evidence and to produce his day books, and secondly we were quoting from an article that was on Newsdesk International, because, as you know, there was a lot of press at that particular time.

Deputy R.G. Le Hérissier:

But do you think (and I will have to stand corrected by [Police Consultant]) given he was a leading participant, it must have left a major hole in your investigations? And do you really think the fact that he is reported as not having done that was sufficient grounds for you to assume it was necessarily true?

Managing Director, BDO Alto Limited:

No, we only put this in as balance to say that at that time he was less talkative, than he is now.

Police Consultant:

If I can come in on that, there was no assumption on our part that he would not talk to us, but there was obviously some discussion as to whether or not he would, as well as, as [the Managing Director] and I and other people from BDO are also discussing, whether he would or would not, I discussed it with the Wiltshire investigation, because as you see from my written submission, the intention initially was that Wiltshire and I would go and interview, not together as such, but at the same time, because of course we were looking at different things, but we were dealing with many of the same issues. The intention was that Wiltshire would ask Mr. Harper on my behalf whether or not he was willing to talk to me about the financial and resource issues, but we never got to that stage.

Deputy R.G. Le Hérissier:

So you never got an answer because the question was not posed?

Police Consultant:

The question was never put because [then Acting Police Chief] refused authority to go and see him.

Deputy T.M. Pitman:

If I can just push that, you state quite clearly that as far as you are concerned, Mr. Harper was not the subject of the review or singled out for criticism. Nevertheless, he was the Senior Investigating Officer responsible for the key decisions, and he was inevitably going to be the focus for media coverage, and of course he was. Now, where does that separation of understanding between you and [then Acting Police Chief] begin? I mean, again I come back to it. [then Acting Police Chief] is saying that the review had become overly focused on Mr. Harper, lacked objectivity and had the potential to be unfair to [former Police Chief], and could have undermined the Wiltshire investigation. I just cannot understand, as such, a major review, investigation, call it what you will, could have these misunderstandings.

Police Consultant:

I am just as bemused as you are. The first time I saw or heard anything along those lines was yesterday when I read [then Acting Police Chief]'s written submission, and I cannot understand why he said those things. Just to deal with one word there, "objectivity", I refute that, but in support of that I would quote the Wiltshire findings in relation to the findings of Operation Rectangle in which they say that they have had the benefit of consulting with me and they agree with my conclusions. There has clearly been a breakdown in communication somewhere within police headquarters centred on [then Acting Police Chief]. I assume [retired D/Superintendent] would have been heavily involved in it, but at the end of the day I cannot say any more other than the only terms of reference I was given were the ones set out in my written submission, and I have never seen any other terms of reference until yesterday when [then Acting Police Chief] sent his written submission. I can speculate, but there has probably been a surfeit of speculation without sufficient background knowledge and knowledge of facts in this affair already, and I do not really want to speculate on what was in [then Acting Police Chief]'s mind and what went on in his private office. I think that is probably more a question that is suitable for you to ask him rather than me.

[11.45]

Deputy T.M. Pitman:

That is fair enough, but you are obviously a very experienced police officer. In that past experience, have you ever experienced such a situation as is now unfolding, where it seems people do not ...

Police Consultant:

No. Oh, in terms of breakdowns of communication. Sorry, I thought you meant in terms of not seeing Mr. Harper. Breakdowns in communication happen in any organisation, no matter how efficiently it has gone before.

Deputy T.M. Pitman:

But in such a major review, you would not expect that, surely, with your experience.

Police Consultant:

I am surprised that [then Acting Police Chief] thought that I was working to terms of reference that had never been communicated to me. Yes.

Deputy R.G. Le Hérissier:

[Police Consultant], did you have any contact or direction from Home Affairs as distinct from the police?

Police Consultant:

I had contact with Home Affairs, absolutely, quite frequently, but no direction at all. As I have said, the terms of reference that I worked to were entirely the ones that were given to me, which of course necessitated me having regular contact with Home Affairs.

The Deputy of St. Mary:

Sticking with this question of the non-interview of Lenny Harper, I quote back to you a sentence from

your opening statement that I think is absolutely right: “Our review sought to understand the level and nature of costs incurred” and so on. That is exactly what you need to do in order to achieve what you say is the goal, which is to improve quality of public service and derive value and efficiency from spending, so you have to understand. How can you have that understanding when you are getting evidence from [Police Consultant], various police officers and interrogation of the H.O.L.M.E.S. database, but at the end you have a pile of evidence and criticism, really, and the person who authorised the expenditure is not asked? I just do not see how you can understand the level and nature of costs incurred.

Managing Director, BDO Alto Limited:

The level and nature of costs incurred was able to be analysed based on the financial data and all of the invoices and other documentary evidence that supports it. The discussions with the officers, with civilian staff, with contractors very much supported that process, but if we put our audit disciplines hat on, then the majority of our evidence is linked to documentary evidence and is also linked to compliance with procedures and financial policies in place, and that was abundantly clear in the majority of cases without recourse to anyone else, and certainly it is not right that any one individual, whoever that is, would be the one person who could answer all of the questions. That is not how organisations work. Organisations rely on financial decisions to be documented, for there to be a robust documentary audit trail supporting decisions and supporting individual aspects of spend. That is what we focused our attention on primarily and that was supported through discussions with other individuals involved in the investigation. Unfortunately we were unable to see Mr. Harper. It would have been preferable to see him. We were not allowed, and therefore we formed our opinions based on all of the other evidence that we had available to us. It is not appropriate to consider that Mr. Harper was the one person in the whole world who could answer our questions. That is not the case; he was working as part of a larger team and there were a lot of other senior people involved in this investigation aside from Mr. Harper, so while Mr. Harper as Senior Investigating Officer takes overall command, it is not the case that he is involved in every single piece of detail, much as the C.E.O. (Chief Executive Officer) of a large company is not involved in every piece of detail, so there are lots of other people that you can get that evidence from.

Deputy R.G. Le Hérissier:

As I said, we are not here to assess the correctness or otherwise of this expenditure, because we could be here for ever, obviously, if we did that, and as to whether the dog was employed correctly and whether he got better breakfast rates and so forth. But there is no doubt the political imperative, it appeared, was to get this investigation moving. Money was poured in; some people feel it was given too unconditionally, and he was the Senior Investigating Officer allowing lines of inquiry to open, thereby in the process allowing large quantities of money to be spent. Surely his decisions as to the direction of the investigation were bound to have a major impact, given that that quote I have described of “spend what you want”, which is apparently what they were told. Surely the way in which he took the investigation forward was bound to have major financial consequences, and therefore it was imperative that his thinking be examined.

Managing Director, BDO Alto Limited:

Absolutely, but that thinking should be recorded by way of contemporaneous notes in the various policy files that we reviewed as part of this exercise. For example, we spent time looking at the financial policy log. It did not take very long, and that is the point. One of the strong points that comes through this review is that there was not proper documentation of decisions that were taken from a financial governance perspective. The policies that were put in place were not routinely followed, and what the investigation lacked fundamentally was a finance manager who, among other things, would have shouldered the burden of financial management and taken that off Mr. Harper, who had enough to be dealing with, quite honestly, without having to be worrying about accounting for particular items of spend on a day to day basis. The report acknowledges that that person was missing from this investigation team.

Deputy T.M. Pitman:

To take that on from the previous point and for the record, how much do you think that was influenced by the probably quite unique setting in Jersey where you have the Home Affairs, the Chief Officer, and then you have the police who have no qualifications, et cetera, as financial managers? How much do you think that situation came about because, really, it was a fudged setup, it was a deeply flawed setup, as you have acknowledged?

Managing Director, BDO Alto Limited:

Yes. I think we make comments in that in our report. I believe that the Controller and Auditor General has made comment on this. It was a difficult set of circumstances for everyone concerned, because of course while the Accounting Officer at Home Affairs has oversight of police finances, he has no operational line of sight, so he has no control or influence over investigations being undertaken by the States of Jersey Police. On a day to day basis, that is probably manageable on the basis that the States of Jersey Police will have a budget at the beginning of the year and that will be staffing costs and other costs, and therefore it probably runs reasonably well. As soon as you have a major investigation and a lot of costs being spent very quickly, without having the right financial governance and the right people in place, of course that can become very unstructured and it makes everyone's lives far more difficult, hence one of our recommendations was that in future major inquiries, a finance manager be appointed. In fact, the manual that governs how senior investigation officers run police investigations itself says that a finance manager is an integral part of your team.

Deputy T.M. Pitman:

For you as a professional forensic accountant, would you, with the benefit of hindsight obviously, say that anyone put in this position would have struggled? There would almost certainly be problems because it was such an appropriate system, for want of a better word.

Managing Director, BDO Alto Limited:

It was inappropriate in this situation because there was not sufficient support for Mr. Harper from a financial perspective. Now, as we have briefly touched on, the rules around who is responsible for the police budget are an aspect of that, and of course Home Affairs did not have huge visibility on the costs on a day to day basis. The appointment of a finance manager would have assisted with that greatly, and as we point out in the report, it would also have removed the burden from Mr. Harper because the costs that were being incurred in this investigation were very significant and they were covering a very, very wide range of service providers and other costs. It is just not practical for him to be able to sign off all costs over £1,000, which is what the original policy decision was. It became completely unmanageable for him, so he did lack support in that area. Under the Major Incident Room Standard Administrative Procedures, the MIRSAP guidance, he would have appointed a finance manager if not immediately in that investigation then certainly when the investigation became far wider following the discovery of JAR/6, but that did not happen.

Police Consultant:

If I could come in to supplement that, as you have correctly alluded to, the structures as they existed then of financial support and budget control within the States of Jersey and the States of Jersey Police were not adequate to deal with this kind of incident. However, I think it is important not to overlook the fact that the responsibility to ensure that the spending that was carried out was done so correctly and in accordance with the existing policies was Mr. Harper's as the Senior Investigating Officer, and the standard administrative procedures that formed part of the policies of States of Jersey Police dictated that he should have appointed a finance manager for the investigation, and he did not. He appointed other specialists that States of Jersey Police lacked at that time and they still do: specialist dogs to detect bodies. He appointed somebody to carry out that role, leaving aside for the moment whether or not the person and the dogs and so on were appropriate. There was a logistics officer appointed because there was not that post in place but it was judged that that kind of support was needed. Leaving aside, for the moment, some of the issues as to whether or not the logistics officer was used correctly. There should have been a finance manager appointed and there was not, and that is one of the major reasons why expenditure on Operation Rectangle was not kept under control.

Deputy R.G. Le Hérissier:

Just following that, although not too far (which sounds contradictory) of course he adduces different evidence. He says he did press people that there should be proper structures, et cetera. As far as you were aware, [Police Consultant], did Home Affairs step in and say: "Look, this is an incredibly large investigation. We have got to put some structure. All the police side with Mr. Harper and we have got to have a finance manager." Did you ever feel ... that evidence? Did you pick up evidence that that was the case?

Police Consultant:

There was a finance manager appointed, but only after Mr. Harper had left. There was a structure put in place to liaise between the police and the States, the Home Affairs Department, only after Mr. Harper left. The proper structure that according to the procedures that form part of the States of Jersey Police policy, the Major Incident Room Standard Administrative Procedures and the Murder Investigation Manual, were only implemented after Mr. Harper had left the investigation. Prior to that, yes, this topic had been raised by people within Home Affairs and from elsewhere, and most of that I think is documented in our report.

Deputy T.M. Pitman:

We have changed tack slightly.

The Deputy of St. Mary:

I want to look at this "understanding the nature of the costs incurred" but from a different angle, because you lay quite a lot of stress in the report on the triggers, the things that led to huge costs going forward, and we know what the triggers were. I just want to look at the validity, or ask you to comment on the validity of some of your assertions. We are not now looking at the actual costs, the meals or whatever. We are looking at what triggered these major expenditures. On page 8, second column of the fourth bullet point: "However, and for whatever reason, this position changed and on 20th February 2008 we have been told that it was suggested sending Mr. Grimes' dog into the Haut de la Garenne building for a quick look." So, before you point out there was no intention to enter Haut de la Garenne and then you say: "However, and for whatever reason, this position changed." The implication of wording it like that is quite clear, that it was suggested sending the dog in for a quick look. That is the first one. The second is the piece of wood, the second bullet [point] on page 10, JAR/6, and of course this is a trigger, is it not? "It was subsequently examined on 31st March by a scientist from the University of Oxford Radiocarbon Accelerator Unit, and by a scientist from the British Museum, and was found to be a piece of wood or coconut shell." Now, that is a bold statement, and I just want you to comment on the validity of that assertion. The third one, and I pick out the most controversial or the biggest issues, is the partial remains of a child, and you call this "the significant decision": "He drafted a press release describing the item as 'the partial remains of a child'. While of course at the time this was believed to be literally true, it has been pointed out elsewhere that it was perhaps an unfortunate choice of language, and to describe a piece of material 6.3 by 4.4 cm in such a way and without any qualification might be, in our opinion, regarded as somewhat exaggerated." Can you comment on the validity of those 3 statements?

[12:00]

Managing Director, BDO Alto Limited:

I think we are slightly straying off the agenda ...

The Deputy of St. Mary:

No, I ...

Managing Director, BDO Alto Limited:

No, let me carry on. There is a huge amount of work that sits behind this report. We did not challenge the operational decision. The point of writing about the trigger events was to explain why all of a sudden the spending on Operation Rectangle went from being relatively contained to being

very, very significant, and the trigger events that caused that were: firstly, the decision to go into the building, because as we say in our report, up until that point in time, the planning for limited excavations in the ground were very well planned and thought out. There had been meetings in the U.K. (United Kingdom). They had engaged the experts. They had obtained quotes. We have no issue with any of that. There is a lot of documentation and emails and other material that then discusses whether or not the police investigation should be extended into the building. For whatever reason, it did. Once it was in the building, they obviously decided to undertake some excavation work and located items now known as Exhibit JAR/6. That was the catalyst for very significant spend, and that was raised in our report for exactly that reason, because up until then, the spend had not been very considerable. I guess what is important is because Operation Rectangle had up until then been a child abuse inquiry, at that point in time it developed and, in effect, went down 2 paths, because you had the child abuse inquiry ongoing and you also then had a homicide investigation ongoing. It was important in our report to explain why those costs had suddenly begun to be incurred.

The Deputy of St. Mary:

All right. I asked about the validity of those statements. You see, the problem I have with this report or this aspect of this report is that these are the triggers, we both agree, that going into Haut de la Garenne, JAR/6 and the statement to the media were the 3 major things that ballooned the expenditure, and I asked about the validity of these assertions. What we have in the report is what Lenny Harper and the people who take his point of view would say was a one-sided version presented as the facts, and this is the problem. I go back to the fact that there is no challenge, because Lenny Harper, who took these decisions ... All right, he did not identify JAR/6 as one thing or the other, but I know there is a huge argument around the identification and all the emails and conversations, but none of that is here, so no one can make that judgment, and that is how you have.

Managing Director, BDO Alto Limited:

They are trigger events. We are not judging the operation, and as we say, we are not saying whether or not the correct operational decisions were taken. What we are saying is that there was a sequence of events that led to the spending on Operation Rectangle becoming very significant and very outside of the norm, and it is those costs that we then go on to look at. Our report is accepting that operational decisions were made, and having made those decisions, was the money spent wisely with due regard for financial policies and procedures and with due regard for efficient and effective use of resources? That is what we are going on to say. There is a lot of information contained, for example, in the Wiltshire Report from page 310 onwards, which goes through in a lot of detail all of the different scientific analyses of those finds and the opinions that were made by various scientists and forensic experts, so we are not repeating all of that in that report. All we are trying to do is to identify why the costs of Operation Rectangle suddenly became so much more significant.

The Deputy of St. Mary:

Do you agree it is unfortunate that you say that Lenny Harper talked about the partial remains of a child “without any qualifications” when that is what he did not do?

Managing Director, BDO Alto Limited:

I am not here to talk about that today. All I would say is that on that same day within the policy logs it was being referred to as a “bone fragment”, so it was very emotive language. The reason it is important in terms of our introduction is that of course the term “partial remains of a child” is very emotive, and in our opinion certainly would have influenced the wording of a subsequent statement by the Chief Minister that all resources, all necessary financial resources, would be available to the investigation.

Deputy T.M. Pitman:

I am conscious of the time, and obviously we want to avoid having you back but we may have to kindly offer that opportunity. But if I could just move backwards, the issues around the Haut de la Garenne inquiry obviously received huge media coverage. We have had your submission about how

you go through your staff and you check that no one is conflicted. What steps, for the record, did you take to ensure that all of those BDO staff involved were completely objective? How were any conflicts monitored?

Managing Director, BDO Alto Limited:

Firstly, there were only 2 staff involved from BDO in the compilation of this report for any extended period of time, and much as we deal with any piece of work, at the outset and before we accept an appointment, we understand whether or not any conflict exists, and to the extent that there is even a potential conflict then we will discuss that with our client. We were very comfortable here that there were no conflicts.

Deputy T.M. Pitman:

Only 2 staff; that is interesting. A big report and only 2 of your staff involved in this.

Managing Director, BDO Alto Limited:

On a day to day basis, yes.

Deputy R.G. Le Hérisier:

I wonder I can just, again, ask more a wrap-up question, [Police Consultant], but before I do that I would like revisit this issue about the fact that this inquiry grew very quickly. All of these specialists were appointed and yet there was not a finance manager. Would you not accept that it seems incredibly remarkable that there was not? Because people on the Island obviously were starting to talk of things about the cost of the call: "Look at all that lavish overtime" et cetera. There are very quick feedback loops in a small community. People notice things very quickly and jump, as you well know, to all sorts of conclusions. Did you not think it was incredible that a senior police officer working in a hierarchical organisation allegedly could just sort of run away and spend money in a totally indiscriminate fashion, according to the allegations?

Managing Director, BDO Alto Limited:

Yes.

Deputy R.G. Le Hérisier:

Yes. I am always conscious I must not lead you into the specific allegations, but there is no doubt that underlies a lot of the criticism made, and there is a lot of stuff (and I have for apologies for Mr. Harper) that he has not been allowed to publicly answer to. As an experienced officer, you must have observed a lot of organisations. Why was that situation allowed to happen in such a small, apparently tight-knit organisation?

Police Consultant:

I have some views on it, but I am not so sure that it would be appropriate for me to state them, because I would be doing so without full knowledge of the facts, i.e. in this case, his take on it. As I mentioned before, I think probably there has been too much speculation without full knowledge of the facts in this affair already that has not been helpful to the core issue that Rectangle was set up to establish. But yes, I was astonished at the lack of financial control during this major investigation.

Deputy T.M. Pitman:

I accept what you are saying there, that obviously you do not know his take, but as an experienced officer, you must be able to make some sort of assessment how it might be that this case came about, which would be useful to us, I think.

Police Consultant:

I think I would rather not do that in public, because I think I would say some things that probably would be confidential and I would want to consider more carefully as to whether it was appropriate to say them in public.

The Deputy of St. Mary:

They might be splashed in a meeting in a way that is inappropriate.

Police Consultant:

Yes.

The Deputy of St. Mary:

Can I move on, perhaps, to the Wiltshire Police statement and my surprise that you had access to, as I understand it from, [Police Consultant], your report to us, your submission to us. You had access to a draft statement ... Sorry, the statement was drawn up as a result of the interview that Lenny Harper had with Wiltshire, quite a long interview, I think, and you had access to that draft statement. Can you elaborate on that?

Police Consultant:

That is not a surprising thing in this kind of review process. Clearly, Wiltshire were doing an investigation with very different terms of reference to what I had been employed to do, but as I point out in my written submission, many of the issues that we were dealing with were the same and it made sense to talk to each other, because, as I pointed out, I, during the process of my investigations, uncovered evidence that was relevant to their inquiry that they had not already found, and it was proper that we talked to each other because, as [then Acting Police Chief] rightly points out in his written submission, the primacy in this affair was the criminal investigation that Wiltshire were carrying out, and nothing that I was doing and nothing that BDO Alto were doing should interfere with that process. So, in the course of one of my meetings with them, I learned that they had already seen Mr. Harper, that they had this draft statement (because as you say, it was quite a lengthy statement) and that again is not an unusual investigative process that a draft statement is taken before the typed up version is taken back to the witness. I asked if I could see that statement. They took legal advice before they allowed me access to that statement, quite properly, and I was told that I could see it, that I could not have a copy but that I could take notes of it, and in due course, in the written work that I was producing, I quoted from that statement or referred to that statement. Wiltshire were given copies, as I have already pointed out, contemporaneously with everybody else who was getting copies of my work. These very restricted people were getting copies of my work, and in due course they had a copy of the final report in draft form before it was published.

The Deputy of St. Mary:

Two questions. Firstly, just for the record, I think Wiltshire was not a criminal investigation but a disciplinary investigation.

Police Consultant:

Sorry, disciplinary investigation, but the same principles applied.

The Deputy of St. Mary:

The same principles applied.

Police Consultant:

That takes primacy.

The Deputy of St. Mary:

I just wanted to make sure.

Police Consultant:

Sorry, that was a slip of the tongue.

The Deputy of St. Mary:

The other thing is that I am still surprised. Maybe you suggest we should not be surprised, but my

understanding is that if it is a disciplinary investigation, then the whole lot comes under quite a cloud of privilege and/or confidentiality, and you are given access by Wiltshire, after Wiltshire have taken legal advice, to a draft statement by a witness to a disciplinary inquiry. There are no issues there for you?

Police Consultant:

I understand why you might be surprised, but I was not surprised, because it is not common that the disciplinary investigation is going on at the same time as a review of this nature in the circumstances that applied to Rectangle. Clearly, the fact that it was slightly unusual is evidenced by Wiltshire taking legal advice, but the legal advice they received was that I was able to do what I did. I am not able really to say anything more about it than that, and as I pointed out in my written submission, I was not there and I was not told about any assurances that Mr. Harper was given, so that is something that you may have to ask Wiltshire.

Deputy T.M. Pitman:

Is not "slightly unusual" an understatement, surely, if it was made and it was meant to be confidential? Did they then take that legal advice at your request because you felt you needed to see it?

Police Consultant:

No. They took legal advice because they thought that was the right thing to do. The fact that the statement is confidential does not mean that it cannot be used in circumstances other than purely for the reasons that it was given. As an example, if I give a witness statement in connection with a discipline inquiry, it does not matter what stipulations I put on it or what assurances I am given.

[12:15]

If there is something in there that is relevant to a criminal investigation, for example, those assurances do not count for anything if there is evidence of a criminal offence there. That was not the case in these circumstances, but I do not know exactly what the detail of the legal advice they were given was. I was just told subsequently that I could read the statement, take notes from it and in due course make reference to it.

Deputy R.G. Le Hérisier:

Just jumping, [Police Consultant], an issue has been raised that you rebut very strongly in your submission. It is basically about the alleged relationship between yourself and [retired D/Superintendent] and that this would have compromised your independence. You have mentioned it, obviously, in your submission, but would you for the purposes of the record like to repeat what you have said?

Police Consultant:

Yes, absolutely. As I indicated at the very beginning of this session, I used to work with [retired D/Superintendent]. I have known him for about 25 years. A period about 20 years ago, we were quite colleagues, but in the last 10 years, certainly in the decade or so roughly of me coming to Jersey to carry out this review, I have had little contact with him. I had been seconded overseas for a while, and then on my return to the U.K. I had been involved in work outside our force area, or I was based outside our force area, and had not had any contact with him. The fact that I knew [retired D/Superintendent] is not a reason to question my independence in my view. Reviews of major investigations have been a feature of criminal investigation in the U.K. for 2 decades and it is quite usual for senior officers to review each other's investigations in an objective, professional and independent manner. That is how we are trained. Now, I am not saying that somebody may pull some punches if they are reviewing somebody, but to say that that happens regularly or in any serious level is absolutely false. That, I do not think, is what Mr. Harper is saying here. He is saying that I was influenced in the way that I worked by [retired D/Superintendent]. That is absolutely not true. I was given terms of reference to which I worked, and we had a professional working relationship, the

same way that Mr. Harper was mentored or reviewed (he uses the terms interchangeably) by a senior officer from the Metropolitan Police whom he knew. I do not think he would concede that his previous relationship with that senior officer interfered with any independent work that was being done by that senior officer.

Deputy R.G. Le Hérisier:

As you know, in the end, [retired D/Superintendent] was to leave under what might be described as a “blaze of publicity” and it was very uncomfortable for various people because he took a very strong position, as we know. When you were carrying out this review, were you in close touch with him over various matters? Were you in contact with him on a regular basis?

Police Consultant:

Yes, and yes, I was giving him copies of the work I was producing and I was asking him questions that he was able to answer about aspects of the investigation, but I understand what you are saying in terms of the views that he expressed.

Deputy R.G. Le Hérisier:

Had he at that point formed very strong views about how the investigation had been handled?

Police Consultant:

I think probably he had, yes, but I do not accept that that influenced the way that I worked, because I was carrying out a review objectively based on evidence. The only things that influenced the way I worked were the terms of reference that I was given, which are quite plain. I examined the issues that I was asked to examine. Now, whether people accept my independence or not is a matter for them, but the fact that I heard views from [retired D/Superintendent], it did not influence me. I heard contrary views from other people in the investigation. I spoke to a lot of people who had worked very closely with Mr. Harper, some of whom had negative views about him, some of whom had positive views about him. Finally, I came to conclusions about certain aspects, which I discussed with the Managing Director and colleagues from BDO before we completed our joint report.

Deputy T.M. Pitman:

Just one point on that, because we need to get on to the media issue: on reflection, do you think it is fair to judge the 2 together, because to me in my past career, if someone is mentoring you, that is fine, they are a mentor. But that is a different situation surely virtually having someone reviewing and analysing? It is a much more stringent process, I suppose, what you were doing. Is that really a fair conclusion?

Police Consultant:

Absolutely, absolutely. I mean, you are referring to Mr. Harper and the mentoring. Absolutely. I mean the roles were not compatible. A mentor is one thing. A review is something totally different. Both will hopefully result in useful suggestions about how you can achieve the objectives that you set out to achieve in your investigation, but the processes and the relationship between the person being mentored and reviewed are different with each person carrying it out. I think that is another area where Mr. Harper confused policies and procedures set out in the Murder Investigation Manual and the Major Incident Room Standard Administrative Procedures. The 2 roles were not compatible.

Deputy T.M. Pitman:

Okay, do you have anything?

The Deputy of St Mary:

Yes, I do. Sources. We were talking about Wiltshire and the fact you had access to a statement made to Wiltshire. I want to ask perhaps the Managing Director about the references. First of all, why is there no list of what documentation? There is no bibliography here and it is difficult to see ... some of these reports, I am not quite sure which report is being referred to. Would you say maybe there should have been a list to make our job easier?

Managing Director, BDO Alto Limited:

The report that the Minister ultimately published is a summary report. It does not list every information source and it does not list the people who were interviewed. That was done for a purpose, because this was an ongoing investigation, and the persons who were spoken to by and large were still employed within States of Jersey Police et cetera, so that report was depersonalised for the purposes of reporting to the Minister.

The Deputy of St Mary:

Okay, all right, now following on from that, what concerned me was to see a reference to the Met interim report on your page 9, bullet 2. You have quoted the conclusion expressed by the Metropolitan Police review team in their report dated December 2008. Based on that review, they concluded that, at the time the searchers conducted it, Haut de la Garenne and Victoria Towers could not be justified by the available facts. How did you have access to the Metropolitan interim report or the Metropolitan report? I am not sure whether it is the interim or the final.

Managing Director, BDO Alto Limited:

It was one of the documents that was filed in the major incident room, which [Police Consultant] reviewed as part of our review.

The Deputy of St Mary:

My understanding is the Metropolitan review was highly confidential and was only to be used as what you were saying, as a review to improved performance. It is like a performance appraisal. You go through the way it was done to improve matters. That is what Wiltshire says the Met review was. Now we find it is sitting on a database. Sorry, I am not clear of the status of the Met review, then, in terms of confidentiality.

Police Consultant:

Well, it was not sitting on a database. The copy that I had was a hard copy. The report was not seen. I read the whole report. Parts that I considered to be relevant and that could be shared with BDO Alto staff, I shared with them. As you point out, the purpose of the Metropolitan Police review was as you have stated. It was to improve performance, but that was also the purpose of our review and the conclusions, some of the conclusions of the Metropolitan Police review, were directly relevant to what we were doing and it would have been foolish to have ignored what they had said. It was entirely relevant to what our role was and what we were producing.

The Deputy of St Mary:

Okay, perhaps we see that their purpose and your purpose was the same - to improve performance - and that there were relevant things in there for your work. What puzzles me is that we, as States Members, get told by the Minister that this is absolutely confidential: "No one has seen it and I have not seen it." Now I find that you have seen it. I do not follow with the fact that maybe it is a good thing that you have seen it. What I am sort of questioning is what this word "confidential" actually means.

Police Consultant:

Well, there are elements of that report that it would not be appropriate for anybody outside the police service to see.

The Deputy of St Mary:

Elements of it.

Police Consultant:

Yes, and there are some elements of it that were referred to in our report that were relevant and which I took the view could be quoted or referred to. Bear in mind that this was not done in isolation. I did not do this just on my own initiative. The drafts in which I referred to the report was seen by [then

Acting Police Chief] and by the Wiltshire team and by [retired D/Superintendent] before they appeared in our joint report.

The Deputy of St Mary:

One last point on this: I have just remembered what the problem with the Met review is; it is the same problem as with the BDO report. From the point of view of people who are looking at this as a process issue, which I am, again the protagonists were not interviewed by the Met review team. I do not think Graham Power or Lenny Harper were interviewed as part of that review. It is the same issue. What I am saying is it is the same issue. What we are doing is referring to a report in a report that suffers from the same problem. **[Laughter]**

Police Consultant:

Well, no, I disagree with you there because, as the Managing Director has pointed out, the process is not about individuals. Yes, I cannot honestly recall. I take your word for it that [former Police Chief] and Mr. Harper were not seen by the Met team, but the Met were not investigating [former Police Chief] or Mr. Harper. They were looking at the entirety of the investigation. The information that they obtained was from the H.O.L.M.E.S database, which contained literally thousands of documents and details of exhibits and policy logs. They interviewed key players. Yes, I am sure ... I am not speaking on their behalf, but I am sure they would feel the same that I do in relation to our report that they would far rather have been able to interview Mr. Harper and [former Police Chief] if, indeed, they did not, but they were given a task to do, to carry out a review and to make recommendations. That is what they did.

Deputy T.M. Pitman:

With due respect, you use the term “key players” and there is not a more key player in the whole scenario. What I wanted to build on from Deputy Wimberley is: with hindsight, had you been able to interview Mr. Harper, we would probably not all be sitting here now, because he could have put his counter-view to you. You could say: “Actually, we have got the evidence to dismiss that.” With hindsight, would that not have been the way to go and so we would not be here now.

Police Consultant:

Deputy Pitman, it is not with hindsight. It was with foresight. **[Laughter]** You have seen the documents that I put forward.

Deputy T.M. Pitman:

Yes, thank you.

Police Consultant:

I wanted to interview Mr. Harper.

Deputy T.M. Pitman:

Yes, we also ...

Police Consultant:

I made the request quite forcefully as you see from my written evidence.

Deputy T.M. Pitman:

Yet, [then Acting Police Chief] has a different angle on it. That is how difficult you mean.

Police Consultant:

As I have said ...

Deputy T.M. Pitman:

Where have you tried to find out what ...?

Police Consultant:

Absolutely. I have been bemused by [then Acting Police Chief]'s written submission, because ...

Deputy T.M. Pitman:

Could you explain it, do you think? Have you got any idea how it could come about?

Police Consultant:

Well, once again, I could speculate, but I do not think it would be appropriate for me to do that in this forum, because it is ...

Deputy T.M. Pitman:

No, but it is a surprise to you. It is fair to say it is a surprise to you where you get that difference.

[12:30]

Police Consultant:

Yes.

Deputy T.M. Pitman:

Okay, sorry.

Deputy R.G Le Hérrisier:

Okay, I wondered if we could move to possibly our final topic, the leak. I wondered, Managing Director, as you know, your report appeared in the ... either the report or words that were remarkably similar to your report appeared in a national newspaper. What is your explanation of this if, indeed, you do have one?

Managing Director, BDO Alto Limited:

Yes, just to clarify, and it is in our written submission, the material that was leaked to the newspaper was not a BDO work product. I cannot comment on what was leaked to the media. As again we say in our written submission, we provide you with copies of the correspondence with Home Affairs on 5th October 2009. This matter was clearly brought to our attention. We were concerned that anything that was related to our review was finding its way into the national media. As I say, it was not a BDO report. There was not an interim report at that point in time. What appears to have been leaked were, again, some of the early drafts of some of [Police Consultant]'s work. He might want to say something about that.

Deputy R.G Le Hérrisier:

As a result of your subsequent inquiries and your contact with Home Affairs, did you come to a considered judgment as to how it had occurred and who had done it?

Managing Director, BDO Alto Limited:

I think, when we had an opportunity to have a look at the article that had been published on the *Mail on Sunday*, it became clear to us what material was being quoted from. Therefore, from our perspective, we were able to narrow down where that material had gone, but as I say it was not a BDO interim report. It was not an interim report at all, in fact.

Deputy R.G Le Hérrisier:

But it was material that came from your office, so to speak.

Managing Director, BDO Alto Limited:

No, it did not come from our office.

Deputy R.G Le Hérrisier:

You do not think so.

Managing Director, BDO Alto Limited:

No.

Police Consultant:

The circumstances of the source are as set down in my written submission. The source was [retired D/Superintendent]. He has admitted that to me in telephone conversations. He first telephoned me about a week or so after the article appeared. I had already worked out that it was probably him.

Deputy R.G Le Hérrisier:

Yes.

Police Consultant:

I deplore what he did. I have told him I deplore what he did. In terms of why he did it, you would have to ask him. He says - so what he told me - and he has repeated that in recent telephone conversations that he has made to me arising out of the establishment of this Panel that he did not give copies of my written work, but he disclosed the contents of some of them to a reporter. It was not BDO at all. It is not me. It was not Wiltshire or [then Acting Police Chief]. It was [retired D/Superintendent].

Deputy T.M. Pitman:

Out of interest, did he seek to justify what he had done to you?

Police Consultant:

He gave a reason, but I think ...

Deputy T.M. Pitman:

Well, we do hope to speak to him. We do not know whether he will.

Police Consultant:

I do not think it is appropriate for me to ...

Deputy T.M. Pitman:

Just for the record, you are saying he said he did not actually show documents to a journalist. He verbally, because you said he had not shown. That is what you have just said.

Police Consultant:

I cannot remember at this distance to say his exact words. What he says is content. Whether he handed documents or whether he had no idea, I am not sure.

The Deputy of St Mary:

If we cannot talk to [retired D/Superintendent], we will be able to fire you off a letter to ask for a bit more detail on the contents of that particular conversation.

Police Consultant:

I would be happy. I would be content to do that if he ...

Deputy T.M. Pitman:

Obviously, if we can get to have him in front of us.

Deputy R.G Le Hérrisier:

He will be able to tell us that, yes.

Deputy T.M. Pitman:

As we are drawing to the end, can we just touch on the letter, the engagement letter, because that has

obviously drawn some fair comment. Can you, just for the record, explain how that process came about? I think you said in your submission that the date there was a leak to the media is completely coincidence, you are saying. Could you just explain that some more.

Managing Director, BDO Alto Limited:

Yes, I will. We sent our first draft engagement letter to Home Affairs on 18th March 2009 and on 25th March 2009 Home Affairs confirmed that they were happy with the draft engagement terms. They also confirmed that the relevant BDO employees had been security vetted by States of Jersey Police and, therefore, later that day on 25th March 2009, the initial financial information pertaining to Operation Rectangle was sent to us and our work commenced on that date. It was not until 29th September that we confirmed the terms of engagement in a final signed letter of engagement. There was no adverse reason for that other than we had not at that point in time determined how we were finally going to report. When we started the process, we were not entirely sure what information we would be receiving. The investigation was clearly an ongoing investigation and, therefore, the format of the final report had to be determined. We sent out our final letter on 25th September 2009. In that interim period between March and September, clearly, we had confirmation from Home Affairs that we were engaged on the draft terms as previously provided and our engagement letter does confirm that our continuing instructions amount to acceptance of it, so from a contractual standpoint we were happy. It appears to be a coincidence that 5 days later the *Mail on Sunday* ran an article, but it is no more than that.

The Deputy of St Mary:

Does your engagement letter ... Forgive me. I have it somewhere in this pile. Does your engagement letter refer to [Police Consultant] and your working with [Police Consultant]?

Managing Director, BDO Alto Limited:

No, I do not believe it does.

The Deputy of St Mary:

It does not. I just want to take up the other side of this story from [Police Consultant]'s submission. Yes, paragraph 5: "Whilst it was not explicitly stated, it was my understanding from the outset that BDO Alto and I would prepare a joint report of our findings." So [Police Consultant], you are saying that, having been given these terms of reference to look at all these financial things, you assumed that you would be working with ... I do not know. Can you enlarge on that? What went through your mind when you get the terms of reference and then you said: "It was my understanding that BDO and I would prepare a joint report"?

Police Consultant:

It is implicit in the terms of reference I was given. I'll just quote from one or 2 points.

The Deputy of St Mary:

Paragraph 3: "The accountants had no knowledge ..."

Police Consultant:

In paragraph 4: "The Home Affairs accounting officers employed accountants to carry out a review. They have not got any knowledge of management of police operations or police regulations. The review will benefit from the involvement of an experienced police manager. As a former senior investigating officer, [Police Consultant] is ideally experienced to work with the accountants."

The Deputy of St Mary:

Fine.

Police Consultant:

"Where able, he will comment on the expenditure and potentially identify future best practice for States of Jersey Police." This finance review, i.e. the review that BDO also have been engaged to

carry out, is related to a particular item in the terms of reference for Operation Rectangle. So the way that we were working together dictated a joint report. I did not think it needed to be stated explicitly. It was clear that I was going to carry out the role that the Managing Director has already explained.

The Deputy of St Mary:

Okay, I can understand that. Now, I have it absolutely clear. You were engaged by the States of Jersey Police Chief Officer with those terms of reference and you automatically assumed because you talk about the firm accountants that you were working with them, but in BDO's terms of engagement letter there is no mention of yourself or someone who ... Is there a mention that someone would be helping you with better knowledge of the way the police operate than you have?

Police Consultant:

I am puzzled by this. There is this gap.

Deputy T.M. Pitman:

This gap between the chairs.

Managing Director, BDO Alto Limited:

Yes, I understand your question entirely. It was completely implicit that from day one we would be working with [Police Consultant]. We were approved to start work on 25th March 2009. [Police Consultant] arrived in the Island a week later. We met in our office on 2nd April 2009 and that is when we commenced the work. We met Home Affairs together on a number of occasions. We clearly were updating them and asking questions and requesting information on a regular basis. Both [Police Consultant] and ourselves were involved in all of that communication. In fact, going back to our ability initially to undertake this review, it was very much on the basis that we would have some support from a senior policeman with experience of policing ... large policing investigations.

Deputy T.M. Pitman:

We have overrun, so could I just end with 2 questions and then I will ask if there are any final points you want to make. First of all, obviously, you have said that only 2 of your employees were involved in this report. Can I ask if those 2 individuals are still with you should we need more information. Are they still employed for BDO?

Managing Director, BDO Alto Limited:

No.

Deputy T.M. Pitman:

They are not.

Managing Director, BDO Alto Limited:

No.

Deputy T.M. Pitman:

The other point is, and I suppose it is a key one: if you did all this again, how could it be done differently. You can have 2 minutes.

Managing Director, BDO Alto Limited:

To be honest, the review itself was conducted very, very thoroughly. In fact, the only thing that would have been preferable would have been to have met Mr. Harper. Otherwise, the interaction with both Home Affairs and States of Jersey Police and provision of information by them to us was very effective. We felt that they were supporting and engaged in the process. We had no real complaints. As I say, the only disappointment was not being able to take Mr. Harper's comments, but as a result of that we ensured that our reporting was diluted or did not cover matters that would have required his comment to be able to report on.

Deputy T.M. Pitman:

Are there any final points that you wish to add to that, either of you?

Police Consultant:

No.

Deputy T.M. Pitman:

Can I thank you for your evidence. There is a lot for us to sift through and we appreciate you coming in. Hopefully, we will not need to see you again, which I am sure you will look forward to. With that, I think we will have a 10-minute break because we have overrun slightly. Thank you.

[12.42]