

## **Submission - Mr. A. Bellows, dated 29th June 2011**

Rico Sorda, on his blog, has been reviewing the BDO Alto report in some detail. It seems to me that there are two questions relating to the report which he raises.

The first is that of privileged communication. It appears that BDO Alto had access to the Wiltshire team's investigation, including privileged information supplied to them by Lenny Harper, which was for the sole purpose of their investigation, and was not to be divulged to third parties; it was supplied, it appears, under the belief that the Wiltshire reports would be used as part of a disciplinary hearing relating to Graham Power.

**How was it supplied, and did this break any Data Protection or confidentiality rules, and did BDO, in obtaining it, breach any accountants code of conduct? These are questions which should be considered.**

The second relates to anomalies in the dating of the BDO Alto report, and relate in part to Mr Mick Gradwell, then Senior Investigating Officer in the States Police.

This was prompted by an investigation about a leak of the BDO Alto report to Mr David Rose, a reporter for the Mail on Sunday:

*Deputy Pitman: 'Will the Minister clarify what was the conclusion into the brief investigation into who within the Police Force leaked the interim BDO Alto report to a UK child abuse denier journalist and has anyone been suspended over the action?'*

*Senator Le Marquand: 'The person most likely was the former SIO (Senior Investigating Officer) who took on the Historic Abuse Inquiry and who left in August 2009 with very noisy publicity for his predecessors.'*

However, this is contradicted in two ways:

Firstly, Mr Gradwell, denied this. While he did make comments about expenses, very loudly and publically, he denied making a leak from the report, and as far as I can see, he did NOT quote verbatim from it:

*Mr Gradwell said he had not leaked the report to the media but had made legitimate public criticisms of how the Haut de la Garenne investigation was carried out.*

**So if he did not leak it, who did? He is the easy "fall guy" because he had been outspoken, but was it someone else who may have seen the report? Who had access to it? Why did Senator Le Marquand's investigation present him as the most likely source? What evidence was there for that - this was not just criticism of expenses, but verbatim extracts?**

Secondly, if he did leave in August 2009, how would he have had access to the report?

In the introduction to the report, it mentions an "engagement letter of BDO Alto date 29 September 2009" giving instructions to undertake the investigation from the Home Affairs Minister. Now this is almost a month after Senator Le Marquand says that Mr Gradwell left, so at first sight, it appears difficult to understand how he somehow retained access to a police investigation after he had left.

Then there is a further problem also mentioned by Rico. This is mentioned by Senator Le Marquand in his

reply:

*An 'interim report by financial auditors' was leaked to the Mail on Sunday in October 2009, eight months before the report was submitted to the Minister and was used in a highly critical report on the conduct of the Haut de la Garenne inquiry. It appears that a Senior Police Officer was responsible for this leak.*

Now the Mail on Sunday has several quotes from the report, and this is the one concluding the section on dog handling:

*The auditors' interim report concludes: 'It was an expensive mistake to bring in Mr Grime. It would have been far preferable and much cheaper to have tried to obtain appropriately trained dogs and handlers from UK police forces.'*

Since the engagement letter was dated 29th September 2009, and the Mail on Sunday quotes went out on 4th October 2009, there appears to have been a remarkable amount of ground covered in a short space of time. What is especially significant about the quotations is that they relate for the most part to conclusions, and that they are word for word the same - not a paraphrase.

Nobody who has looked at source criticism, the study of ancient sources, could come to any conclusion but this: before BDO Alto had an engagement letter in place, they had already carried out the bulk of their work. As the final report was not published until May 2010, the question is why was there an apparent delay of 8 months, when the leak shows good evidence - based on exact wording between leak and final source - that the bulk of the report was complete by October 2009.

Indeed, Senator Le Marquand is most perplexed by this mention of an engagement letter:

*I have a ministerial decision which was signed on 26th February 2009 endorsing the undertaking of an external review of the efficient and effective use of resources incurred by the States of Jersey Police Historical Child Abuse Enquiry by BDO Alto. I do not know why BDO Alto made reference to an engagement letter dated 29th September 2009 because they were instructed and started work months before then. That Ministerial decision indicates that I was endorsing the review because the decision to have the review was made first by my predecessor Deputy Andrew Lewis.*

Reading between the lines of what BDO Alto actually said, I think one can present a likely hypothesis for what may have occurred:

*In accordance with your instructions, confirmed in our engagement letter dated 29th September 2009, we have prepared a Report considering the efficient and effective use of resources during the Operation Rectangle Investigation.*

Either BDO Alto were being extremely sloppy and inaccurate in their reference to an engagement letter, or they were given instructions, presumably beginning with Deputy Lewis term of office, and which was, as he said, endorsed by Senator Le Marquand. Somewhere down the line, it emerged that Deputy Lewis had not actually signed a formal engagement letter, and this was issued on 29 September 2009, to clear up the anomaly.

Thus we have "instructions" which may well have been specific from originally Deputy Lewis, endorsed by Senator Le Marquand - but not a formal "engagement letter" (as mentioned) - that would have come from BDO Alto - it is the firm of accountants that issues the engagement letter to the client to sign, not the other way round - that is why it is "our" engagement letter.

Usually, when a firm of accountants takes on a job, it issues an engagement letter almost immediately, because that is their legal contract with the client (for the client to sign). For some reason, in this case BDO Alto seem to have omitted to do this for around ten months! Perhaps, and this is just a suggestion, it was issued in September 2009 because it was needed for a report which was, to all intents and purposes, in nearly its final form.

**Why the delay? Was it to check their conclusions with those of Wiltshire on expenses, and make sure there was nothing omitted or contradictory? Were any changes or additions made as a result? How much of the BDO report was complete at that time (and remember the verbatim quotes are often on "conclusions" from the report)?**

Finally - the review itself. As I see it, the BDO Alto report takes raw data from Operation Rectangle and presents it as a "review", in other words, assembles it into a coherent picture. In other words, it gives significance to the evidence in the way it obtains, handles and finally interprets it. It is, after all, a "review".

*Report to the Home Affairs Minister and Accounting Officer, Home Affairs Department. Operation Rectangle (Historical Child Abuse Enquiry) review of the efficient and effective use of resources.*

Questions to ask:

**Was the BDO review adequate for presenting "the whole picture", or are there omissions which would give rise to a different interpretation?**

**If there is an alternative explanatory narrative for the raw data (as given, for instance by Lenny Harper), how can we decide which best fits, or whether this is special pleading?**

N.T. Wright suggests that a good hypothesis needs to do various things:

*A hypothesis essentially a construct, thought up by a human mind, which offers itself as a story about a particular set of phenomena, in which the story, which is bound to be an interpretation of those phenomena, also offers an explanation of them.*

In the case of the scrutiny review, this rule is certainly worth considering:

*It must include the data. The bits and pieces of evidence must be incorporated, without being squeezed out of shape any more than is inevitable, granted that I am looking at them through my own eyes, not from a god's-eye view. (5)*

For the BDO Alto Review, and an examination of it, any exclusion of significant data must be looked at carefully, because this could squeeze the review out of shape.

**Is the review straightforward, or does it ignore a good deal of the evidence, and does BDO supply the addition of all kinds of speculations, which are inferred but not present in the raw data, and which have not been tested significantly. Are alternative explanations as good, or do they also distort evidence? Are matters of dispute significant to the overall BDO presentation, or would it stand even if they were left out?**

It would be most unlikely that the BDO Alto review got everything right - I think this may be taken as "common

ground" - the question really is whether they presented an accurate general picture that interpreted the facts well enough (albeit with some items being questionable), or whether they distorted significant elements in their presentation and selection of the data, so that the general picture is inaccurate.

**EDUCATION & HOME AFFAIRS SCRUTINY PANEL**  
**(a Sub-Panel Chaired by Deputy Trevor Pitman)**

**ISSUES SURROUNDING THE REVIEW OF FINANCIAL MANAGEMENT OF OPERATION  
RECTANGLE**

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**WRITTEN SUBMISSION OF MR MICHAEL KELLETT**

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1. Michael KELLETT has prepared this written submission for a Sub-Panel of the Education & Home Affairs Scrutiny Panel (the “Sub Panel”) in respect of their Review entitled *“Issues surrounding the review of financial management of Operation Rectangle”*.
2. I understand that the Sub Panel has agreed the following terms of reference:
  - To examine the instructions under which BDO Alto was engaged to review the financial management of Operation Rectangle and their methods for gathering evidence for this review;
  - To clarify the connection between the BDO Alto review and the review on the same matter separately commissioned by the Acting Chief Officer of Police;
  - To identify the reasons why the Senior Investigating Officer for Operation Rectangle was not interviewed and was not given the opportunity to respond to the report’s findings;
  - To clarify the liaison between BDO Alto and the Wiltshire Police, in particular the references in the BDO Alto report to the Senior Investigating Officer’s statements to Wiltshire Police;
  - To investigate how details of the review into the financial management of Operation Rectangle came to be published in a national newspaper in October 2009; and
  - To consider the implications of the Sub Panel’s findings.
3. I have read the written submission made by BDO Alto and I associate myself with it in its entirety; it also represents my views on the matters being examined. However, there are certain additional facts that are within my personal knowledge and with which I may be able to assist the Sub Panel.

**MY APPOINTMENT AND TERMS OF REFERENCE**

4. In March 2009 I was engaged by the Acting Chief Officer of the States of Jersey Police to carry out a review of certain aspects of Operation Rectangle. The full terms of reference, which I was handed when I began my work, read as follows:

**'Operation Rectangle – Review of the Efficient and Effective Use of Resources**

Employment of Mr Michael Kellett:-

The Home Affairs Accounting Officer, [Accounting Officer], has employed accountants to conduct the above review.

The accountants have no knowledge relating to the 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, who also set up the North West Regional Asset Recovery Agency, Mr Kellett is ideally experienced to work with the accountants.

Additionally, Operation Rectangle has identified certain areas of expenditure that require scrutiny. Mr Kellett is being employed to liaise with and assist where possible the accountants and to identify expenditure on specific areas.

Where able he will comment on the expenditure and potentially identify future best practice for the States of Jersey Police. This finance review is related to item 7 of the Terms of Reference for Operation Rectangle.

The initial areas of expenditure that require scrutiny are:-

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

Other areas may become relevant as the review progresses.’

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.
6. Whilst carrying out the review, I was mindful of the importance of the principle of independence, as stated in Section 4 of the ACPO Murder Investigation Manual<sup>[1]</sup>. With the exception of the issue I discuss in paragraphs 12 to 18 below, the only way in which the manner or substance of my work was constrained by anyone or anything was by the parameters of my terms of reference which, as is evident from their final sentence, were quite wide and flexible.
7. However, in his written submission to the Sub Panel and subsequently when giving oral evidence, the former Senior Investigating Officer, Mr Leonard Harper, has alleged that, due to the nature of my relationship with his successor, (now retired) Detective Superintendent Michael Gradwell, I was not independent. He has also asserted that he finds it difficult to believe that the then Acting Chief Officer would have appointed someone who was truly independent. I absolutely reject this allegation, which is totally unfounded. This slur on my professional integrity can only serve to deflect attention from, or devalue, the conclusions contained in the report and Mr Harper should be asked to provide evidence to support it.
8. In relation to the then Acting Chief Officer, Mr David Warcup, prior to arriving in Jersey in March 2009 I had never met him, nor indeed, had I ever heard of him.
9. In relation to Mr Gradwell, we were members of the same police force in the UK, the Lancashire Constabulary and have known each other for approximately twenty-five years. For a time, about twenty years ago, we were close colleagues. However, in 2001 I commenced an overseas secondment and on my return to the UK in 2003, I headed a Home Office funded regional unit, not based in Lancashire, until I retired from the police service at the end of 2006. Throughout that period, from 2001 until March 2009, I had little or no personal or professional contact with him. Since leaving Jersey at the end of July 2009 I have spoken with him on only four or five occasions, by telephone, mainly in relation to matters pertaining to Operation Rectangle.
10. Even if that had not been the case, it does not follow that I was not independent. Reviews have been a feature of major criminal investigations in the UK for the best part of two decades. Senior investigating officers are used to their investigations being reviewed by colleagues and to carrying out reviews of colleagues’ investigations objectively, independently and in a professional manner. It may be that Mr Harper, who I understand prior to him deciding to take command of Operation Rectangle had not been involved in major crime investigation for some time, is unfamiliar with this common best practice.
11. Furthermore, there appears to be some inconsistency in Mr Harper’s approach to this

issue. I understand that shortly after police operations commenced at Haut de la Garenne, at the suggestion of Chief Officer Graham Power, he made contact with a former senior officer in the Metropolitan Police Service (MPS) who was then a member of the Serious Organised Crime Agency and a member of the ACPO Homicide Working Group. He asked this officer to come to Jersey to act as his mentor during the investigation. Subsequently, on a number of occasions, he described this officer as carrying out a review and in evidence to the Sub Panel said that he was both mentor and review officer. Whether he was one or the other, both or something in between the two, at the very least the role(s) clearly demanded a sense of objectivity and independence on the part of both men. Yet I believe that Mr Harper and the officer had served together for a number of years in the MPS and had remained in contact after Mr Harper had transferred from MPS. I do not know if Mr Harper has ever met Mr Gradwell but he has certainly never met me. I therefore find it odd that he would so publicly deny Mr Gradwell and I the ability to have a professional working relationship at the same time that he so readily grants that ability to himself and his former colleague.

## **THE FAILURE TO INTERVIEW MR HARPER**

12. I entirely understand Mr Harper's anger that he was not interviewed as part of the Review and I agree that the failure to interview him was undesirable.
13. It had always been my intention from the outset to interview him, as this would have been a natural and essential part of the process, should he have been willing to be interviewed in the first place. I had discussed this at an early stage with members of the Wiltshire investigation team<sup>[2]</sup> and we had agreed that, in order to save time and to interfere with Mr Harper's domestic life as little as possible, it would be appropriate for us to do so at the same time. They had already interviewed him once and were due to reinterview him shortly, so I began to draw up a list of the issues I wished to discuss with him. Some days after this agreement, I mentioned it in passing during a conversation with Mr Gradwell. To my great surprise he suggested that Mr Warcup may have some views about this and that it would be a good idea if I mentioned my intention to him before acting. I did so and Mr Warcup told me that he did not think it was advisable at the moment but that it might be possible at a later stage. During the next two or three months I raised the matter with him on several occasions and part of our dialogue has been recounted in the written submission of BDO Alto.
14. Ultimately, on 2nd September 2009, I sent him an e-mail, the relevant part of which reads as follows:-

'I spoke with Mick Gradwell last week, before he left Jersey, and I understand from him that you have not changed your mind concerning my request to seek an interview with ex-DCO Harper [ ... ]. I think it is therefore appropriate that I set out my position.

You have previously given me reasons why you do not think it proper for me to interview Mr Harper, even



though this is a course of action that in any other review would be unremarkable, standard and indeed essential. However, I still feel that my understanding of your reasons is insufficient for me to be able to be entirely sure that you have arrived at the correct decision. You have said that it is because an interview could affect other matters being investigated and at our meeting on 21st July you specifically mentioned Operation Blast as being one of these. Given what I understand to be the substance of Operation Blast I cannot understand how it could be possible for any interview I were to have with Mr Harper concerning the matters I am reviewing to prejudice that investigation.

[...]

I think it is important to point out that, until recently, it had been the intention of the Wiltshire team and I to interview Mr Harper together, something they would not have agreed to if they had considered that my questions might have prejudiced their investigation. Whilst events have overtaken this intention, having spoken to members of the team in recent weeks and since you and I met on 21st July, I have no reason to believe that their opinion has changed about the impact on their work of any interview carried out by me.

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

15. Mr Warcup replied to me in a letter dated 7th September 2009. In relation to the points I had made concerning the interview with Mr Harper he said:-

'Let me be absolutely clear that in our meetings I was explicit in my reasons for pursuing the course of action which I have, which were to ensure that the enquiry being conducted by Wiltshire was not prejudiced. I also felt it appropriate to have available to me the information from your review and that of the Wiltshire enquiry before making any further decisions.'

16. The matter was left there and so Mr Harper was, unfortunately, not interviewed by me.

17. Having said that, I feel that it is my duty to stress that I do not believe that anything Mr Harper would have said in interview would have altered in any substantial way the findings that the personnel from BDO Alto and I arrived at. I have read Mr Harper's written submission to this Sub Panel and the transcript of the oral evidence he gave, together with some other written contributions to internet blogs, in which he attacks our conclusions. However, nothing has persuaded me to change my position in relation to the manner in which the financial and human resources were managed during Operation Rectangle.

18. As is pointed out in the written submission of BDO Alto, the Review was not an investigation of any individual but was designed to ascertain what had occurred and to make recommendations for the future. Indeed, that much is clear from my terms of reference. We acknowledge the dedication of many individuals in the States of Jersey Police who were working under great pressure and for lengthy periods without time off,

including Mr Harper himself. The manner in which some of our conclusions were expressed was diluted precisely because we had not been able to speak to Mr Harper. Nevertheless, as he himself pointed out in his oral evidence, he made the bulk of the financial decisions and he therefore cannot absolve himself of the extremely serious and costly errors that were made.

## **THE RELATIONSHIP WITH THE WILTSHIRE INVESTIGATION TEAM**

19. Shortly after I began work on the review, I had a meeting with members of the team from Wiltshire Constabulary who were investigating matters arising from the suspension of Chief Officer Graham Power. The initiative for the meeting came from them but in any case, it made complete sense to me. Whilst our roles and objectives were different, there were many overlaps in our work. We were interested in interviewing some of the same people and in accessing many of the same documents and IT systems. During the following months we had further meetings, on an *ad hoc* basis, to exchange information and on several occasions I drew their attention to evidence I had obtained that was pertinent to their investigation. This was done openly and with the knowledge of the Acting Chief Officer, of Mr Gradwell and of BDO Alto, although BDO Alto did not participate in any of these meetings<sup>[3]</sup>.
20. A central focus of both the Wiltshire investigation and of the work being carried out by BDO Alto and I were the actions of Mr Harper. I was aware that Wiltshire had already interviewed him and that a written record existed of the interview in the form of a draft statement. I therefore asked if I could see it. I was not allowed to do so immediately, as Wiltshire decided to seek legal advice as to whether this was permissible. In due course they were told that it was and I was given access to it; I was not given a copy but was able to take notes of its content.
21. In due course I incorporated several points from Mr Harper's statement into drafts of sections of my report which I sent to the Wiltshire team. I am aware that these drafts were passed on to the Wiltshire lawyer. Subsequently, the drafts were incorporated into the joint report of BDO Alto and I. I understand that the consolidated draft was also sent to Wiltshire, although I am not able to say if it too was examined by their lawyer, as by this time I had left Jersey.
22. I am not aware whether Mr Harper was, as he claims, given any assurances as to how his statement would be used. At no time was I told that I was not able to include references to his statement in any documents I drafted. In fact, only three references to his statement were included in the consolidated report.

## **PUBLICATION OF DETAILS OF THE REVIEW IN A NATIONAL NEWSPAPER**

23. The first I knew of the article published in the Mail on Sunday on 4th October 2009 was the following day, when I received a telephone call from the Managing Director of BDO

Alto to inform me of the fact. During my time in Jersey and since, I have had absolutely no contact, formal or informal, with any journalist.

24. For the reasons set out in the written submission of BDO Alto, it is clear that it was not an 'interim report' or the consolidated report that was leaked to the newspaper but rather content of the drafts of sections of my contribution to the report.

25. My practice during the review was to forward the first drafts of sections of my report to the Acting Chief Officer, to Mr Gradwell, to the Wiltshire team and to BDO Alto. Only BDO Alto were sent updated drafts, as and when amendments were subsequently made to the originals.

26. Some days after the article had appeared, I received a telephone call from Mr Gradwell in which he admitted that he had been responsible for the leak.

27. I received two further telephone calls from Mr Gradwell on 26th June 2011 and 1st July 2011, concerning the establishment of this Sub Panel and he again acknowledged that he had been responsible.

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<sup>[1]</sup> Major Crime Reviews, ACPO Murder Investigation Manual, pp88, 2006 edition.

<sup>[2]</sup> I outline the nature of my relationship and dealings with the Wiltshire Constabulary investigation team belc in paragraph 19 onwards.

<sup>[3]</sup> I should also point out that neither did the Acting Chief Officer, Mr Gradwell or indeed, anyone else.

18<sup>th</sup> July, 2011

Dear Deputy Pitman,

**SCRUTINY SUB-PANEL HEARING 15<sup>TH</sup> JULY 2011**

I am writing in connection with the hearing of the Scrutiny Sub-Panel last week, during which I gave evidence alongside [Managing Director] of BDO Alto. As you know, the day before the hearing we were supplied with a copy of the written submission prepared by the former Acting Chief Officer of the States of Jersey Police, Mr David Warcup. Having now had more time to consider Mr Warcup's remarks, both [Managing Director] and I thought that it would be appropriate to provide you with a supplementary written submission in response to them, in addition to our more or less immediate reactions provided during the hearing on Friday.

On pages 3 and 4 of his submission, Mr Warcup refers to an internal review of Operation Rectangle commissioned by the States of Jersey Police as a result of a decision taken by the 'Gold' Group in December 2008. As far as I am concerned, this is not the review that I was commissioned to carry out. As I informed you at the hearing last week, the first time that I saw the terms of reference for that review was on Thursday last when I received a copy of Mr Warcup's submission. On 21<sup>st</sup> July 2009 Mr Warcup did, to my great surprise, mention to me in a meeting we had together that there were other terms of reference that he had thought I was working to, in addition to those issued to me at the end of March 2009 (and which I reproduced in full in my original written submission); but despite me asking to see them he was unable to find them at the time and in the following weeks chose not to share them with me. However, this appeared to be a minor concern for him and his main worry at the meeting was not my terms of reference but whether or not BDO Alto and I would produce a joint report, a topic to which I shall return below.

I appreciate that this situation must be a matter for some embarrassment for Mr Warcup and SOJP but I am unable to explain why I was never told of the intended existence of this 'December 2008' review until four months after I had begun my work. I can only assume that there was a breakdown of communication or some misunderstanding within Mr Warcup's office or between him and Mr Gradwell. However, it may be worth noting that not only was I unaware of it but neither was it mentioned to BDO Alto, despite Home Affairs Department being represented at a senior level on the Gold Group and there being numerous meetings – including a number at which I was present – and correspondence between Home Affairs and BDO Alto during the relevant period.

Furthermore, whilst he does not say so in his written submission, in the letter to me dated 7<sup>th</sup> September 2009 to which I referred in my original written submission, Mr Warcup acknowledged that something had gone wrong and said, *'This was clearly not your responsibility and no blame is attached to you, however the original intention was to broaden the scope of your work'*.

On page 5 of his submission Mr Warcup goes on to state that *'during the course of the internal SOJP review [he] became aware that either Mr Gradwell or Mr Kellett had apparently agreed with BDO Alto Ltd. that there should be a joint report'*. I reiterate that there was no 'internal SOJP review' taking place, at least certainly not one with the terms of reference which he set out in his submission. The only review I was carrying out was the joint review with BDO Alto that I understood I had been commissioned to do. It was not a case of me agreeing anything with BDO Alto, the fact of a joint report was absolutely implicit in my terms of reference. Indeed, it would have been almost impossible for BDO Alto to have produced a report that was of any use to either SOJP or to the Home Affairs Department

without input from me, which is the very reason I was employed.

For the same reason, we are puzzled that Mr Warcup states on page 6 of his submission that his refusal to countenance me interviewing Mr Harper related only to the SOJP internal review. He appears to imply that he does not understand why BDO Alto did not themselves seek to interview Mr Harper. It was always intended that I would interview Mr Harper in respect of the joint review being undertaken with BDO Alto, this of course being the only review that we were aware of. This intention was communicated by BDO Alto to the Home Affairs Department from as early as 28 May 2009 (see page 32 of BDO Alto's written submission). BDO Alto would not have been in a position to carry out an effective interview of Mr Harper without my presence and by forbidding me from interviewing him he in fact also prevented BDO Alto from doing so.

On pages 5 and 6 of his submission Mr Warcup raises several other issues that, whilst perhaps not directly relevant to the Sub-Panel's deliberations, I feel I ought to respond to briefly:

- Firstly, I agree with him entirely that nothing should have been done by BDO Alto or me that could have undermined the investigation being carried out by the team from Wiltshire Constabulary. That is one of the main reasons that Wiltshire and I maintained such a close liaison throughout the time I was in Jersey and indeed, afterwards when we were both finalising our reports.
- He states that he was concerned about the methodology we had adopted, specifically *'that key witnesses had not been deposed in writing'*. That is to misunderstand the methodology of a review. We were not carrying out a criminal or disciplinary investigation where statements needed to be taken from witnesses. I made contemporaneous and comprehensive written records of conversations I had with every member of SOJP and Home Affairs Department who I interviewed and these are quoted from in our report, together with documents to which we had access. All of our conclusions are based on sound, verifiable evidence.
- He goes on to state that the review *'lacked objectivity, had the potential to be unfair to Mr Power and could have seriously undermined the investigation by Wiltshire Police'*. I do not wish to appear over-sensitive to comments that may seem harsher to me than they do to others and which were perhaps not meant to sound harsh. However, I would point out that Wiltshire Constabulary clearly do not agree, as in paragraph 1.10 of their 'Finance Report' they refer specifically to having had sight of my initial drafts and of the draft joint report with BDO Alto and state that they *'concur with many of the draft report's findings'*.
- He also goes on to state that he had received legal advice via Wiltshire Police that raised concern at some of the content of my drafts. On 23<sup>rd</sup> September 2009 I had a telephone conversation with a member of the Wiltshire investigation team who had been instructed to contact me concerning that legal advice. The only concern their lawyers had relating to anything I had written was a reference, not to Mr Harper or to Mr Power, but rather to a remark made by a member of SOJP about a reporter from a national tabloid Sunday newspaper, present at one of the dinners hosted by Mr Harper in London and which I had quoted in the original draft discussing the circumstances of and expenditure on that meal. I was happy to delete the remark from the draft and it did not appear in the final version.
- I would also point out that the first time he raised any of the concerns set out in his written submission was in his letter to me of 7<sup>th</sup> September. Indeed, some of his concerns I have learned of for the first time only in his submission. By the time of our meeting on 21<sup>st</sup> July 2009 he had received all but one of the drafts of sections of my contribution to the joint report. At that meeting he expressed complete satisfaction with what I had produced. Furthermore, I was subsequently informed by two people present

at the meeting of the Gold Group that had taken place on 20<sup>th</sup> July 2009 that at that meeting he quoted approvingly from sections of my drafts and allowed [Chief Executive of States of Jersey] and [Home Affairs Accounting Officer], who were also present, to read extracts from them, something he is unlikely to have done if he had any serious concern about the content.

- Mr Warcup also states that I was unhappy with his decision that I should not carry out any further work on the review and that as a result I expressed concern that some of my findings were likely to be suppressed. That statement is inaccurate; whilst at some stage he may have made such a decision, it was only after I had already effectively resigned and my expression of concern about the possibility of my findings being suppressed predated both my resignation and his decision. In my e-mail to him of 2<sup>nd</sup> September 2009 I had set out my views not only about his refusal to allow me to interview Mr Harper but also about his wish not to have a joint report with BDO Alto. The reasons he gave to me in his letter of 7<sup>th</sup> September and that he has set out in his written submission to you for his desire for two reports bear no relation to the reason he gave to me on 21<sup>st</sup> July. In my e-mail I said to him, *'If you cannot change your position on this then I do not see how I can continue to contribute anything useful and I would have no alternative other than to terminate my involvement in the review of Operation Rectangle immediately. [...] I am sorry to have to write in such terms and sorry that our dealings with each other may have to end in this fashion'*.

Finally, I think that we would like to reiterate the point we made on Friday that our review was not an investigation of Mr Harper's conduct, nor was he accused of anything. The aim of the exercise was solely to identify learning points for the future and to make recommendations for both the States of Jersey and the States of Jersey Police to consider relating to improvements in the management of finance and other resources during major enquiries. We have no doubt that Mr Harper was totally dedicated to the task of investigating serious crimes that had possibly occurred at Haut de la Garenne and that he was entirely sincere in his belief that child abuse there and elsewhere in Jersey was a major issue that needed to be dealt with. Throughout the period that Operation Rectangle was live, he and his staff displayed great dedication and did their utmost to bring suspected offenders to justice and we pointed out as much in our report. However, we were not asked to examine motivation and dedication but rather to look at how the resources available to the investigation were managed. We did so and made nineteen recommendations. Inevitably, because of the central role Mr Harper performed, his management of the resources formed a central part of our examination but to the extent that any of those recommendations constitute criticism of his actions, no criticism of, let alone attack on, the existence of the investigation or of the motivation for it is intended or implied.

I hope that these remarks will be of some assistance to you and to your colleagues on the Sub-Panel and if I can be of any further assistance please do not hesitate to let me know.

Yours sincerely,

Michael Kellett

Deputy Trevor Pitman,  
c/o Scrutiny Office,

States Greffe,  
Morier House,  
Halkett Place,  
St Helier,  
JE1 1DD

Quakers would welcome the introduction of a civil partnerships act in Jersey and if possible we would wish to be able to allow such partnership ceremonies to take place in our Meeting House in the manner of Quakers.

Quakers support a balance of equal rights with equal responsibility. For 9 years prior to the UK Civil Partnerships Act of 2005, Quakers were celebrating same sex relationships in their Meeting Houses through official Meetings for Commitment. Following upon the 2005 Act same sex couples in Scotland, England and Wales, who share Quaker beliefs, have been able to opt for a blessing or commitment ceremony after entering a civil partnership. If a Civil Partnerships Act is passed in Jersey we would like to be able to allow civil partnership ceremonies to actually take place in our Meeting House as it seems to us to be a natural progression from the commitment ceremony, after the event, which is practiced currently in the UK.

Quakers take marriage and civil partnership very seriously. To us it is not merely a civil contract but a religious act. As with marriage, only Members of the Meeting, or those who while not in formal membership are in unity with its nature and witness can be joined in a Quaker Meeting. This would also apply to Civil Partnerships.

For Quaker marriage services there has to be a registering officer within the Area Meeting (in Jersey's case this is the Southampton and Portsmouth Area Meeting) who is authorized to carry out the ceremony. If the Law on Civil Partnerships is enacted and ceremonies are permitted in places of worship, then we would wish the authority of the Quaker registering officer to be extended to include civil partnerships.



## LEONARD HARPER

### SCRUTINY COMMITTEE – WRITTEN SUBMISSION

1. I have been asked to submit a written response in respect of the BDO report into the use of financial resources during the Historical Abuse Investigation. This is to be a pre-cursor to my evidence to the Sub Committee at a later stage.
2. In its letter to me of 23<sup>rd</sup> June 2011, the Sub Committee lays out the three concerns which have instigated the Scrutiny Review. These are,
  - “The fact that as Senior Investigating Officer you were not interviewed by BDO Alto nor given the opportunity to respond to the findings in the report despite the fact that you were subject of significant criticism in the report;
  - The BDO Alto report refers to confidential statements made by yourself to the Wiltshire enquiry;
  - Critical sections of a ‘leaked report by financial auditors’ were quoted by a report of the Mail on Sunday (4th October 2009) only a few days after the BDO Alto report states that they were engaged to undertake the review (reference to their engagement letter dated 29 September 2009). It appears that a Senior Police Officer was responsible for this leak.”
3. The Sub Committee quite understandably comments that it is not the intention to “stray into broader issues relating to the Haut de la Garenne enquiry nor to the substance of the findings in the BDO report.” However, it does state that it intends to “undertake a review of the issues arising from these (above) concerns.” In order for me to illustrate the issues that I see as arising from the concerns outlined at paragraph 2, it will be necessary for me show the effect on the report, of BDO failing to even contact me. I will do this by addressing each of the three concerns of the Sub Committee in the order they appear at paragraph 2. Consequently it will be necessary to show the effect, on the report and its accuracy, of the failure to seek the knowledge of the person responsible for most of the decision making in respect of the use of financial resources. I would emphasise that, in the light of the Sub Committee not wanting to re-assess the conclusions of the BDO report, I am not seeking in any way to have them do that. I am illustrating that there was a substantial body of evidence easily available, and verifiable, from the person who actually took the decisions that BDO were commissioned to review. The failure to even seek this evidence out, never mind to evaluate it, fatally damages the claims of BDO to have presented a report which was in any shape or fashion fair, objective, or independent.
4. There are a number of issues which arise from the failure of BDO to even attempt to interview me as part of their review, nor to give me the opportunity to respond to criticisms contained within the report. Firstly, it is a well established point of lawful procedure that in certain types of investigations and inquiries certain points of procedure must be followed to ensure fairness and accuracy. These points were further emphasised in the case of *Maxwell v. DTI 1974* and the following excerpts from an article in ‘Practical Law Company’ in December 2008 explain these procedures.
  - **Investigations and inquiries in context**
  - Investigations and inquiries are an increasing feature of public life. They come in a variety of forms. Some have formal powers while others are carried out on an ad hoc, informal basis. Some are triggered by government policy while others are commissioned at the discretion of the

government and/or public bodies.

- Certain procedural and legal issues arise in all investigations and inquiries. It is important to get these right so that the investigative process runs smoothly, individuals are treated fairly & lawfully and the budget/timetable is maintained.
- This note sets out what these issues are. Organisations intending to commission an investigation or inquiry should seek professional advice and assistance at the outset.

An aspect of principle 2 above was that following the Salmon Report, letters were commonly issued to those who were participants in an inquiry where there was potential criticism that might be made of their conduct. These letters came to be known as "Salmon letters".

In his subsequent report in to matters arising from the Matrix-Churchill affair, Lord Scott criticised aspects of the Salmon Principles as being more relevant to adversarial processes than an inquisitorial procedure. However, he took the process of warning those concerned of possible criticism (so they would have an opportunity to comment) further than the Salmon letter; rather, he copied adverse passages from his draft report to those concerned, so they had an opportunity to respond and seek to change his mind. This process is known as "Maxwellisation" and derives from practice in investigations under the Companies Act.

Both processes represent aspects of fairness and may be necessary, depending on the circumstances, for an inquiry conducted today.

For inquiries conducted under the Inquiries Act 2005, the Salmon letter procedure has been codified in to a process of "warning letters" (see section 13 of the Act). This provides that the chairman may not include any explicit or significant criticism of a person in a report unless he has sent a warning letter to a person who:

- (a) He considers may be, or who has been, subject to criticism in the inquiry proceedings; or
- (b) About whom criticism may be inferred from evidence that has been given during the inquiry proceedings; or
- (c) Who may be subject to criticism in any report or interim report.

Section 14 of the Act creates a statutory duty of confidence between the recipient of such a letter, the inquiry team and the recipient's legal representative. The duty persists until such time as the inquiry's report is published or the chairman waives the duty.

The contents of warning letters under the Act are set out in section 15. They must:

- (a) state what the criticism or proposed criticism is
- (b) contain a statement of the facts that the chairman considers substantiate the criticism or proposed criticism
- (c) refer to any evidence which supports those facts.

It has yet to be seen whether the statutory process of warning letters will help speed up inquiries that would previously have followed a Maxwellisation process by dispensing with it, or whether a chairman will

5. This is what I see as the first issue arising from the concerns and in particular the first concern. The completion of a review of my decisions relating to the use of financial resources without even seeking an explanation from me as to why I made those decisions, makes it inevitable that the review will be unfair, slanted, un-objective, and lacking in credibility. Such a review is unlikely to provide a true picture of the situation, and indeed, I would argue that there are so many factual inaccuracies and wrongful assumptions included in the report, that this is exactly what happened. If I had been spoken to it is unlikely that the report would have come to the same conclusions as it did. Whilst I fully appreciate the reluctance of the Sub Committee to re-examine the conclusions of the report, it is necessary for me to show how those conclusions would have been affected by the simple process of asking me why I took the decisions I did. What I will submit is that there are so many of these conclusions which I can contradict with solid evidence, that I cannot possibly include them all. Accordingly I will simply illustrate my point with a selected few of them, but I would emphasise there are many, many, more.
6. Firstly, I would have pointed to the close links between Mr Kellett and Mr Gradwell, which BDO seem to have conveniently overlooked. Both officers worked in the same region of the North West of England and know each other well. This use of Mr Kellet can hardly be said to be an independent appointment.
7. One fundamental effect of the failure to even interview me appears at the very outset of the report and is crucial in the BDO conclusion that much of the spending was unnecessary. This is in relation to the search operation at HDLG. BDO quote a Met interim report as saying that the entry into HDLG was "unjustified" and the report makes light of the process which led to the search of HDLG. However, BDO make no mention of the fact that a later report by Wiltshire Police endorsed the entry into HDLG and the important fact that it was the National Policing Improvement Agency who actually recommended the operation and who formulated the Search Strategy. (A copy of their Strategy is attached.) BDO have completely missed this but would not have been allowed to if they had spoken to me.
8. The report rightly states that there was no initial intention to excavate the building, but then states "for some reason this changed." The reasons have been well documented, although again, BDO have ignored them and seem to infer that they could not see any reason. I would have pointed them towards the reasons. The BDO report states that where the dog barked, we dug. It deliberately ignores the evidence of the Operation Rectangle Summary Report, (available on the SOJP website before Mr Warcup removed it and attached to this document) which describes all the technical and scientific aids and methods which were used to corroborate the reactions of the dogs. Again, I would have insisted they read this document. The report also ignores the evidence available to us from builders who found bones they believed to be human and who were told to "let bygones be bygones." It follows also, that BDO make no mention of the inconsistencies in the handling of the bones by the local Pathologist. All in all, BDO seem to deliberately play down or ignore the evidence for the operation, something which I would have rectified if I had been spoken to. Whilst not inviting the Sub Committee to rule on the merits of my arguments, the BDO conclusion that considerable elements of the investigation costs were therefore questionable seems highly debatable to say the least, and would have had to be at least re-assessed if they had been forced to rely on evidence other than a Met interim report which at best was one page of e mail and contained false dates.
9. In talking about the initial fragment, JAR/6, BDO state that the item had not been lab tested or subjected to peer review. This ignores the fact that the identification was made by a renowned and respected anthropologist. It goes on to peddle the myth that a scientist from

the Carbon Dating Lab in Oxford identified the item as wood or coconut. This, as we know, is rubbish. Firstly nobody at that lab was qualified to say what it was- their expertise is in dating, and they made a hash of that, and secondly, no one ever said what it was. I have e mail evidence which shows them saying clearly that to be sure as to what it was, it would need to be examined by experts. I also have e mail evidence which shows that collagen was found by them in the fragment. We all know that this substance is found only in mammals and not in wood or coconut. It is likely then, that if I had been given the opportunity to present such evidence to BDO, that their conclusions could not have been the same. One has to ask how BDO missed such important evidence. Could it be because they never spoke to me and no one else was interested in giving them the information? Again, the Sub Committee does not have to reach a conclusion on which version is the truth. It is surely obvious that the report could not have been fair, objective, or independent without the availability of the alternative explanations.

10. The BDO report totally misunderstands and misrepresents the situation of the SOJP as it was then in relation to the management of its budget. The report compares the management of the police budget unfavourably with UK forces and rather misleadingly equates (supposed) operational independence with the financial decision making ability of UK forces. In reality, unlike UK forces, we did not have the ability to track our budgets as they do in the UK. Where the UK forces had in house finance departments which reported to the Chief Officer, we had an ever diminishing number of Treasury personnel who nominally worked with us but reported to the Treasury. We had to rely on them for monthly bulletins as to how we were doing. These bulletins became a joke, so inaccurate were they, and we came to realise eventually that the inaccuracies were deliberate. We monitored our own expenditure and towards the end of one year we knew we were well under-spent, with a surplus that we had been promised we could carry over to the next year. However, the Treasury insisted we were slightly overspent. We later found that we had been correct but our surplus had been passed on to other States departments which were heavily over-spent. Wiser the following years we ignored the Centre's protestations that we were over spent and indeed they were wrong and we came within budget. This was the context that we found ourselves in at the beginning of the Abuse enquiry. Graham Power continually pleaded for us to be given a budget to work to but was refused. The instruction by [the Chief Minister] to use whatever resources we needed was not misunderstood. It was a clear direction. BDO seem to infer that it was not really an instruction to use whatever we needed. However, they have ignored the fact that when I did speak publicly about the need to be mindful of the costs of the enquiry, I received a stinging rebuke from [the Chief Executive] on behalf of [the Chief Minister] in which he said "costs are irrelevant. I have a copy of that e mail and if BDO had bothered to try to contact me I would have let them have it. Far from being reckless with finance as BDO have reported, I was rebuked by [the Chief Executive] for even considering the need to be careful with money. I have a copy of his e mail which I will happily supply to the Sub Committee which shows him admonishing me and telling me that "cost is irrelevant."
11. The report criticises the use of Mr Grimes and his dogs. It claims that there were other dog handlers who could have carried out the work. This is not so. At that time these were the only dogs trained in this particular line of work available to us, and they were recommended to us by the National Policing Improvement Agency. The NPIA were also comfortable with, and approved of, my decision to retain Mr Grimes as the link between ourselves and them to advise us on search matters when they could not be there. It is interesting to note, that whilst employed with us, Mr Grimes was also given time to go and assist two other UK forces. I should also point out that he is now employed full time by the FBI and that previous to coming to Jersey he had been used frequently by them. BDO claim they were unable to discover who had recommended Mr Grime. If they had tried hard enough they would have found that the NPIA brought him to that first meeting in Oxford where the strategy was discussed and approved by all there.
12. BDO are also critical of the fact that the L'Horizon hotel was used for Mr Grimes and the

archaeologists and anthropologists whilst they were in Jersey. What BDO do not mention was that the cost of the rooms was the equivalent of a B&B establishment because of the favourable rates. These were professional people who were being asked to work long hours away from home. My PA who did most of the hunting for accommodation did a superb job in obtaining these rooms at the rate she did. Staff could not have been accommodated any less expensively. Indeed, although I can find no mention of it in any comment by politicians, Gradwell, Warcup, or SAV, the report does say that the use of all other hotels and accommodation was appropriate. What it seems to miss is the fact that L'Horizon cost no more than the other hotels mentioned.

13. The BDO report criticises visits to London by me and staff, and the use of hospitality whilst on these visits. It states it can find no good reason for the visits, and goes on to criticise the restaurants which were used, and the way bills were split between officers which it claims, were an attempt to hide the cost. Here again, BDO would have benefited from even a conversation with me over the telephone. Instead it saw fit to criticise my actions without even the first idea of why we did what we did. In the following paragraphs I lay out the details which I would have given them if they had bothered to ask. As before, it is not necessary for the Sub Committee to comment on the veracity of the evidence, although I emphasise it is all verifiable, but merely to note that alternative evidence was available but not even sought by BDO.
14. Firstly, not only myself, but ACPO were worried about the security of our offices at the Police HQ. ACPO were also concerned about the security of our electronic systems. It was decided that we would seek the advice of the team dealing with such matters at New Scotland Yard. We made our first visit there and discussed the arrangements which we had in place and which we should be thinking of enhancing. Much useful information was obtained, and indeed, several members of that unit visited Jersey and carried out an inspection of our offices and made useful recommendations, all at NO COST to the Jersey taxpayer. There are a number of other points to be made which BDO failed to recognise but which I would have enlightened them on if they had bothered to contact me. It is true, as they claim, that these meetings rarely lasted longer than an hour or ninety minutes. However, I was not usually in London for these meetings alone. I combined them with other meetings and tasks to be carried out, some of them directly connected to Rectangle and some either indirectly or not connected. Furthermore, even in the short duration of the meetings valuable information was gleaned and later acted on. From this meeting also arose the possibility of us borrowing a brand new sifting machine for use at HDLG which considerably speeded up and made more effective the process of searching for evidence in the debris from the home. We had this machine for several months and paid nothing for it but the cost of transporting it. Using it saved many tens of thousands of pounds in manpower hours. BDO do get it correct when they say that my preference would have been to alternate the meetings between London and Jersey but as the Met would have had to charge for their services if they went to Jersey, it was decided to hold the meetings in London to reduce our costs.
15. BDO seek in this report to infer some wrongdoing in respect of the hospitality afforded to UK officers. It should be pointed out right away, that in a written communication, [the Chief Officer Home Affairs] laid out the amount of money allocated to this investigation **for hospitality**. I was not using money diverted from operational costs, this was money allocated by the States for the use in supplying hospitality. BDO seem to infer that it was unusual. This is not so. Every States department has hospitality budgets and in many restaurants and bars in Jersey this facility is used regularly. One local taxi driver commented to me that if it wasn't for the hospitality budgets of politicians and their departments several restaurants would have long closed. It is necessary when operating in an isolated environment like Jersey that networking and hospitality facilities are used. I am quite happy to have my hospitality expenses measured against the services and other benefits that I brought in compared with a similar exercise for any other states department. As a result of contacts made I was able to save the SOJP many thousands of pounds. This included but did

not stop at secondments, such as the months long secondment to the Met Homicide Teams for a senior detective, a lengthy secondment to a busy West End of London Division for a senior uniform officer during which he gained valuable experience, short notice training for a number of Tactical Firearms Officers when due to accidents we had none, from another UK force, training in Northern Ireland, free of charge, for our probationer officers, as well as validation for our own training procedures, as well as many, many more initiatives.

16. BDO criticise the restaurants which we used and name two of them. One of them, the “Bombay Brassiere”, is I think, a restaurant in Kensington which was near to a hotel we used. I think we went there once. I am not sure what they were trying to infer. The second restaurant they name is “Shepherds” in London. The report goes to great lengths to mention that it was owned by Sir Michael Caine. I think it is correct that it was at one time part owned by him. This is obviously an attempt to give the impression of five star luxury. However, as the Scotland Yard team pointed out, this is a restaurant used mainly by journalists, MPs, and senior police officers, (including members of HMIC) many of whom are on business dinners. Scotland Yard provided a menu to Wiltshire Police, although it never seems to have got a mention in that report and I notice that BDO did not mention it either. The menu shows good reasonably priced meals at the cost, when we used it, of £32 for three courses and coffee. Hardly Hollywood style living. Frequently when using it we would encounter other police officers from various forces and HMIC. This is a far cry from the movie star lifestyle painted by BDO and the JEP. When the truth was available one has to ask why they chose to go down this road, and why no attempt was made to speak to me, nor indeed, to even use the evidence that Scotland Yard had given them.
17. BDO also sought to infer some form of malpractice in the way in which bills were split. Bills were split to begin with, because invariably officers who were being met with, paid for some drinks for those present, themselves. As for why the bill was sometimes split between two Jersey officers, the truth is rather less exciting and easily verifiable. Indeed, once again, if BDO had bothered to check with me I would have enlightened them.
18. On a number of occasions myself and other colleagues had the embarrassment of having our Jersey Purchase cards refused because the States had been, for whatever reason, late in paying the account, leaving cards near their limit. I remember one occasion in London having to use my own card on arrival at a hotel and then having to ring Jersey to sort the matter out. Subsequently, when three or four of us were meeting with a number of other UK officers and having to pay the resulting bill, we split the cost to try and avoid the situation as described happening again. BDO didn’t bother to ask for a reason. They have simply tried to paint a black picture. The report quotes a £4,860 bill on my purchase card for eight months of the investigation. This works out at about £608 per month, well below what my hospitality budget actually was. BDO compare my cost with a small force in Yorkshire and seem to suggest that the approx. £2,000 difference is sinister. What the basis for comparing an island force off France having to obtain services and assistance in the middle of a huge investigation with a small force in rural England is, I have absolutely no idea. However, according to BDO even the Deputy chief constable there spent over £3,000 and he had no Operation Rectangle and presumably did not need to leave GB or cross the Channel to meet with contacts.
19. There are of course, two other concerns of the Sub Committee. The first of these is the matter of my confidential witness statement made to Wiltshire Police. This statement was made as part of the discipline investigation into Graham Power QPM. It was made under condition that it was used for no other purpose. It contained sensitive details as well as names of victims and suspects. I was assured by Wiltshire Police that no one would be given a copy of it, and indeed, that it was even exempt from Freedom of Information Laws in the UK. It formed part of a report by Wiltshire Police that was in itself so confidential that Wiltshire issued the following warning.

20.
  1. Paragraph 1.2 of the discipline code (for Chief Officers of the States of Jersey Police) requires that all parties involved in the operation of this code will maintain confidentiality while proceedings are being progressed. The outcome of any particular case arising under the code will not, as a general rule, be publicised, but it is accepted that following the outcome of a particular case, the Home Affairs Minister and/or the States Employment Board and /or the Chief Officer, might decide that public disclosure is appropriate.
  2. This Report contains personal data within the meaning of the Data Protection Act 1998, and Wiltshire Police would breach the first data protection principle if it were to disclose that information. Hence, the information is exempt under s.40(2) Freedom of Information Act 2000
  3. This Report contains information that has been, and continues to be, held by Wiltshire Police for the purposes of an investigation which it has a duty to conduct and which ought not to be disclosed (under s.30 Freedom of Information Act 2000).
  4. An obligation of confidence upon Wiltshire Police arises from the duty outlined at 1. Above, and disclosure of information would be likely to prejudice relations between the United Kingdom and Jersey. Information, therefore, ought not to be disclosed (under s.27 Freedom of Information Act
21. There is absolutely no condition under which my statement should have been made available to a firm of accountants who are not security vetted in any fashion in relation to such documents, and who had no connection with the discipline investigation for which it was provided. I gave no such authority for it to be used, and Wiltshire Police have denied ever providing the statement to BDO. If BDO had bothered to interview me I would have pointed all of this out to them.
22. The final concern was the leaking of the BDO report shortly after it was commissioned. There is not much I can add to what is known. [ ] is a journalist with a public track record of supporting convicted paedophiles and trashing police investigations of historical child abuse. He is the author and co-author of several books and documents in which it is claimed that allegations of historic abuse are either as a result of conspiracies between greedy victims fabricating stories and police willingly acquiescing, or as a result of 'false recall syndrome.' He has given evidence to Parliamentary Select Committees on behalf of [ ], the Leicestershire Care Home Rapist, and the North Wales Care Home abusers, all of whom he claims were victims of miscarriages of justice. This is despite a three year public inquiry in North Wales which cost millions and totally vindicated police and victims. This was not the first time of course that [ ] featured in the Jersey investigation. He was leaked material previously, and in a tape recorded conversation told Graham Power that he had been leaked confidential material by Senator [ ]. [ ] denied the conversation despite the recording, and [the Senator] denied leaking to him. It seems to me, to reflect rather badly on the so called objective and independent nature of this report that a journalist with a publicly proven record of supporting convicted child abusers should have more access to the report and through his police contacts, to be able to influence it more than the people making the decisions which were being reviewed.

23. In making this submission I have had to contradict a number of the findings of the report. I do this in the full recognition that it is not the Sub Committee's task to in any way re-assess the findings of the report. I do it in order to show that a substantial body of alternative evidence was easily and readily available which may have given a totally different perspective on events. This evidence was ignored and not even sought, despite the fact that much of it came from the person making the decisions which were being reviewed and subsequently criticised. Such criticism without even an attempt to seek an alternative view cannot be seen as being fair, objective or independent.

Leonard Harper

25<sup>th</sup> June 2011



**Community Relations Trust**

**Submission to the Education and Home Affairs Scrutiny Panel**

**15th June 2011**

In an ideal world homosexual couples would have the option of marriage in a place of worship subject to the religious institutions being willing to conduct the ceremonies as this would put them in an equal position with heterosexual couples. However, as long as the legal rights afforded to heterosexual and homosexual couples are the same it is a difference of title rather than a difference of substance. It is perhaps a change to be brought forward in the future after more consultation with the religious institutions.

## **Submission to Education and Home Affairs Scrutiny Panel**

We would strongly wish to tell your panel that the proposed changes to the law are not welcome in Jersey by the vast majority of ordinary people.

The proposed changes to the law are being promoted by a minority who have a specific viewpoint and do not reflect the wishes of the majority of the people.

Politicians should not legislate what has to happen in places of worship, we live in pluralistic society that values diversity, to legislate to force Christian places of worship to hold marriage ceremonies between single sex couples runs in direct opposition to both pluralistic values and Christian values. There are a plethora of places that single sex couples can have civil ceremonies in, to insist by legislation that this should include Christian places of worship is not a balanced view of recognising the sincerely held views by the Christian population of Jersey. Heterosexual marriages in Christian places of worship are an important bedrock of society and they have sustained our societies for thousands of years. Although not perfect, to weaken this is folly.

Civil Partnerships should most certainly not be legislated for in a place of Christian worship. It goes against what Christian values stand for, irrespective of whether a minority of the population would like to change that. These values have been in existence for thousands of years and to force opposite values onto the Christian population because a cultural whim is not wise government. These values are based on Biblical principles that have not changed during thousands of years of change, many cultural norms have changed during that period but the Biblical principles have not.

We, and many of the Christian population will use our vote at election time and are taking a very keen interest in what may become a dictatorial government if this legislation is approved. The interference by government into Christian practices is something that should be avoided, take note on how the UK government have recognised this sensitivity. We live in a time when the reputation of the Island's politicians is not as high as it should be, please ponder long and hard as to the effect of passing this legislation on both society as a whole and the reputation of the States.

We hope that as representatives of the people of Jersey, you will not allow personal agendas to lead your actions and that you will reflect on the folly of allowing minority views to bludgeon the peaceful acts of assembly and Christian witness. The States legislature is not a place where minority views should take precedence over the majority.

We live in a time when to speak against minority views of all types is easily and mistakenly dismissed as phobic, we wish to stress that this is not the case, there is a place for healthy debate on these matters whilst respecting sincerely held views by all parties, this communication is part of the debate and should not be mistaken as to its purpose.

Brian & Ruth Livesey

22nd June 2011

# Les Vaux Housing Trust

## An Overview

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**Chairman :** Ken Hewitt  
**Treasurer :** Denis Therezien  
**Secretary :** John A. N. Le Fondré

**Member :** Dan Hartigan  
**Member :** Ian Bravery  
**Member :** David Burton  
**Member :** Malcolm Le Boutillier

**Managing Agent :** Chris Marsh, Voisin Hunter Ltd.

## 1.0 Summary

- Les Vaux Housing Trust was constituted with the full approval of the States of Jersey and has operated successfully for 21 years under the provisions of the 'Loi (1862) sur les teneurs en fidéicommiss et l'incorporation d'associations'. It operates 327 rental units of accommodation, and is thus the second largest Trust in existence at present.
- It was created as a solution to the Troy Court debacle, (it should be noted that a number of the original Troy Court tenants would not have been eligible for housing by the Committee) and as such its primary concern has always been to provide security of tenure. It has consistently applied a fair rents policy to all of its properties.
- Its objective according to its Constitution is to provide social housing, and its underlying operating principle is to act as a private landlord, but one with a social conscience. It is a half way house between the private and the public sector, and has provided a model for the other trusts subsequently established.
- This policy has to date been accepted by former Housing Committees, former Finance and Economics ("F&E") Committees, and implicitly by the States when the financing of acquisitions of properties was approved.
- The Trust considers that its rents are set at a level consistent with being a social landlord, but which are, at the same time, realistic.
- The Trust was created to offer security of tenure at a reasonable rent. It endeavours to operate in a flexible manner in the spirit of co-operation with the Housing Committee, rather than one of subservience. There are already a number of safeguards in existence which govern its operations.
- The members of the Trust act in an honorary capacity with the long term aim of 'making a difference' to the way in which housing is provided within the Island. The Trust also presently accepts certain deserving cases which are not given priority by the Committee.
- It is flexible in its dealings with new tenants from the public sector, for example, if such tenants are unable to immediately meet the financial requirements of the Trust – i.e. deposit, and rent in advance. The Trust has in the past allowed small payments over a longer period (of say 6 months) in order to make the transition.
- It uses the best practices of the private sector and assists tenants to make the transfer from the public sector to the private sector should they wish to do so.

## 2.0 A Brief History of The Trust

- 2.1 In 1989 a number of significant problems arose regarding the housing sector in Jersey. The property of Troy Court, having been offered to the States of Jersey, was eventually sold to a Guernsey businessman, the States (including the Housing Committee) having voted by 40 to 8 not to approve the purchase. Shortly thereafter, Troy Court tenants were presented with a potential increase in their rents of 70%. Some five months later (in June 1989) the tenants of the 96 flats at Troy Court were given notice of their forthcoming evictions.
- 2.2 The Housing Committee were quoted as saying that it did not want the properties at Troy Court, "...because they would have to spend too much money on refurbishment, because no new units of accommodation for local people would be created, and because many of the tenants of the flats would not normally qualify to be their tenants..." [JEP 13/1/89].
- 2.3 In September 1989 the tenants of Landscape Grove (40 flats) were presented with rent increases of 150%, their property also having recently been sold to a new owner. Also in September 1989 the tenants of Valley Court were advised of imminent rent increases of approximately 80%.
- 2.4 Thus the States of Jersey were faced with a politically embarrassing problem which they were unable to solve, principally that a large number of residents were suddenly facing large rent increases, which they would probably be unable to afford, and thus were facing imminent evictions, with no alternative accommodation apparently being forthcoming.
- 2.5 The solution to the Troy Court dilemma was proposed by the late Deputy John N. Le Fondré, who suggested that a Housing Association be created, that would borrow money (at a fixed rate of interest of 4%) from the States of Jersey to purchase the property, and the rents of which would be used to fund loan repayments, and maintenance. The Association would consist of a number of honorary members, with an agent to manage the day-to-day administration of the property. The idea was presented as a States loan, but one that was being made to an organisation to fund the acquisition of a large number of properties, rather than just to an individual.
- 2.6 On 12 December 1989 the States of Jersey unanimously backed a recommendation by the Finance and Economics Committee to lend the newly created Les Vaux Housing Association £5,600,000 to purchase the properties of Troy Court and Vale Court and thus the Les Vaux Housing Association was created.
- 2.8 During subsequent years, the association acquired additional properties, being Valley Court, Landscape Grove, Berry House, Leonard Norman Close and 6-7 St. Saviour's Crescent.
- 2.9 In October 1993 it was decided to change the name of "Les Vaux" from that incorporating 'Association' to one incorporating the word 'Trust'. The principal reason behind this change was because it was considered that the term 'Association' was a misnomer and wrongly implied a direct comparability to the activity of housing associations in the United Kingdom.
- 2.10 In July 2000, the Trust acquired Perquage Court, Sandybrook, St. Lawrence, principally in order to avoid similar potential problems as arose at Troy Court and more recently La Folie Estate and to maintain the security of tenure that tenants had previously enjoyed at the estate.
- 2.11 The Trust now owns 327 units of accommodation with some 780 occupants. These cost a total of £27.1 million (acquisition cost plus refurbishments), funded by borrowings of £13.1 million (as at 31 December 2010). 'The rental income of £2.6 million as at 31 December 2010 pays for loan interest, loan capital, regular as well as unforeseen maintenance and also to fund future capital projects, such as refurbishments, restorations and redevelopments.

### 3.0 Objectives and Operating Ethos of The Trust

3.1 *“The Objects of the Trust shall be to provide residential accommodation primarily though not necessarily or exclusively by way of rented accommodation, to persons in the Island in need of such accommodation and to assist, financially or otherwise, such persons.” [Extract from Constitution of the Trust]*

3.2 The principal aim of Les Vaux Housing Trust is the provision of housing to meet housing need, as detailed above. In pursuing its primary goal the Trust has in mind of the following objectives applicable to its actions, and also to its dealings with specific tenants :

- 1) Security of tenure.
- 2) To encourage the individual responsibility of the tenant:
  - Payment of rent one month in advance;
  - Payment of refundable deposits;
  - Adherence to tenancy agreements (by both the tenant and the landlord).
- 3) To encourage community spirit, and improve tenant morale.
- 4) To provide the role of ‘half-way house’ between the private sector landlord, and housing in the public sector, thereby offering a choice to the private tenant.
- 5) The actions of the Trust will always be as a responsible, socially minded private landlord, rather than as a public sector landlord.
- 6) The Trust is independent of the States of Jersey, and should be seen to be so, whilst at the same time endeavouring to operate in a spirit of co-operation with the States of Jersey.
- 7) The development of future housing projects, funded by surpluses generated by the Trust, or by other prudent means.

*“...The Housing Committee published a business plan in which they would ‘subsidise association bank borrowings in return for the right to allocate the majority of the units purchased.’*

*‘Our properties are let to people on middle income, leaving Housing to concentrate on the real needy’ explained Les Vaux Chairman Deputy John Le Fondré...partnerships between the committee and housing associations are the way forward in the provision of rental units, providing a flexible system.*

*‘We can accommodate people who are not highly placed on Housing’s waiting rental list - for instance a mature single person whose income is unlikely to increase.’ It had only been possible to take on more ‘upmarket’ buildings and charge realistic rents through Housing’s private Rent Rebate scheme. He believes that the harmonisation of public and private sector Rent Rebate schemes will revolutionise the provision of housing. ‘People won’t have such a great urge to get into States housing and the extra choice should help to push private sector rents down.’ He believes that in 15 to 20 years the Les Vaux Housing Trust will be entirely independent of the States, owning sufficient property to be able to borrow additional funds if necessary....” [JEP 1/12/93]*

3.3 The 7 objects of the Trust as detailed in 3.2 above are expanded below for greater clarification:

#### 1. **Security of tenure**

As can be seen from the origins of the Trust, its main principle, first and foremost, is to offer security of tenure to its tenants.

Historically, the most anger and distress caused to tenants have been when their landlord has changed and the new landlord has bought the property for investment purposes, intending either to demolish the property, or to sell it at a profit. Tenants have generally been unable to afford the prices offered, and have thus been threatened with eviction.

Whilst Les Vaux Housing Trust acts as a private landlord, it does not speculate or otherwise act for short term investment gain. Properties are held for the long term, and all surpluses are used to pay off loans and will eventually be used to accumulate funds for refurbishment, redevelopment and future development purposes.

#### 2. **To encourage the individual responsibility of the tenant**

The Trust aims to encourage its tenants to take care of, and have an interest in, the properties they lease. This arises from two reasons.

1. The Trust cannot afford significant repairs caused by tenant neglect / mistreatment of the property
2. Because by having an interest in the property tenants come to regard the property as their home, rather than somewhere they lodge. This results in a degree of community spirit, a general improvement in living conditions, and maintenance of the immediate surroundings.

Mechanisms used to achieve this include the improvement and maintenance of Trust properties, the use of refundable deposits (to allow recourse by the Trust in the event of damages over and above fair wear and tear) and payment of rent in advance. This allows the Trust to monitor payment of rent, and gives early warning of any potential problems, (which can then be resolved sooner rather than later), and also places the Trust on the same footing as the private sector.

A further mechanism is that of the tenancy agreement, which is obviously binding upon both the tenant and the Trust.

#### 3. **To encourage community spirit, and improve tenant morale**

The Trust is a non-profit making organisation. Thus all moneys are directed back into the properties and the repayment of the loans. By thus giving tenants an interest in their property (and by requiring deposits to be taken), tenant morale should, over time, improve, as conditions are maintained / improved, and relationships developed.

Stability is provided by the Trust even more than by the Housing Committee, as the Trust only requires rent to be paid. Any change in family circumstances (a child leaving home, or the death of a spouse) does not automatically result in a tenant being required to leave his or her home. This is not the case in the public sector.

#### 4. **To provide the role of 'half-way house' between the private sector landlord, and housing in the public sector, thereby offering a choice to the private tenant.**

The private sector landlord charges 'market' rents, requires rent to be paid in advance and requires a refundable deposit (normally a minimum of one month's rent). The public sector charges subsidised rents (on housing that has been built on a subsidised basis), collects rent in arrears, and requires no deposit. The Trust requires a refundable deposit (presently £300 for flats and £500 for houses), charges rent in advance, and sets its rents at a level which takes account of the condition of the property. Thus, in general, most rents are below, or at, the Rent Rebate ceiling, but some are above, simply because the rental units in question were deemed to be of a quality whereby a higher rent should be charged. In all cases, all Trust rents are considerably below the open market rate for a similar unit.

If a new tenant of the Trust has difficulty in meeting the cash necessary to (a) switch from paying in arrears to paying in advance (i.e. one month) and (b) to provide a deposit, the Trust has, in the past, dealt with this matter in a flexible manner. For example, the tenant has been allowed to make a number of small payments (over (say) a period of 6 months) to achieve this change.

Once tenants have made this change it has been the experience of the Trust that tenants are reluctant to switch back to the public sector way of doing things.

Once a tenant is housed by the public sector there are certain economic barriers to that tenant leaving that sector, namely having to fund an additional month's rental and provide a deposit. Trust tenants, once established, have no such difficulty, as they are already treated as private sector tenants although their rents are cheaper. Thus the Trust acts as a 'bridge' (or half way house) between the public sector and the private sector.

If tenants wish to leave the Trust, they have the opportunity to do so, and the choice is available to them. Public sector tenants are in a far more inflexible position.

5. **The actions of the Trust will always be as a responsible, socially minded private landlord, rather than as a public sector landlord.**

The Trust is aware of its obligations to contribute towards the need for housing in the Island of Jersey. However, as previously identified, it operates under similar rules to the private sector. Thus it should be considered as a private sector landlord, but one with a social conscience (thus charging lower rents, and being a non-profit organisation), rather than a public sector landlord.

Because of its financing the Trust is obliged to maintain its rents at an economic level, through the annual revision of such rents (generally with regard to the cost of living index). However, it cannot be too greatly emphasised that such rents are still considered by the members of the Trust to be set at a level that is considerably below the 'market' rent for such properties and where possible we keep within the Housing Dept. Fair Rent ceiling.

6. **The Trust is independent of the States of Jersey, and should be seen to be so, whilst at the same time, endeavouring to operate in a spirit of co-operation with the States of Jersey**

As a rule, the Trust does not currently have any sitting politicians amongst its members, unless they became members before becoming politicians. The founder was not a member of the States of Jersey when he established the Trust, and subsequently returned to the States following the creation of the Trust. Similarly his son has been a member since 1996 long before he became a States Member in 2005.

The members of the Trust are selected for the practical and professional skills they can bring to the functions of the Trust. This allows the Trust to function in an atmosphere independent from that of the States of Jersey.

7. **Future development of housing projects, funded by surpluses generated by the Trust, or by other prudent means.**

Ultimately any surpluses arising once loans have been repaid will be used to fund refurbishments and redevelopments of existing housing, and also to go towards the cost of new developments. Thus all moneys would be recycled into housing within the Island. This will commence within the next 4/5 years when the initial States Loans have been repaid and research is on going into re-developing two of our older sites.

Of course there is no reason for Housing Trusts to be restricted solely to rental property. Activities could be expanded to the development of property for the 'first time buyer' or for long term lease. This may allow greater contractual control than is presently exerted, and may thus avoid the 'easy profits' reputedly being made by certain first time buyers who sell their subsidised property at a market rate to the detriment of other 'first time buyers' trying to enter the housing market.



## **4.0 Achievements**

- 4.1 Provided housing for the tenants of 96 rental units who were under threat of eviction or .
- 4.2 Offered a solution to the issue of security of tenure.
- 4.3 Established a model (for both financing and administration) which has been successfully used by other Trusts.
- 4.4 Met all financial requirements without requiring additional subsidies from the States of Jersey.
- 4.5 At the same time, has spent £ 2.1m on refurbishment and maintenance to properties, and has thus greatly improved the quality of accommodation on its estates (in comparison to their former condition).
- 4.6 Has provided a model for 'The States of Jersey Housing Standard Form of Written Contract For Exemption From Rent Control' (i.e. the approved standard tenancy agreement), acceptance of which provides exemption from the proceedings of the rent control tribunal.
- 4.7 The Trust has developed strong links with certain charitable (e.g. Les Amis) and States bodies geared towards helping the needy and disadvantaged, and works with them whenever possible, within the limitations of the Trust.
- 4.8 Housing Trusts offer a stable, cost-effective, flexible and relatively apolitical solution to some of the problems surrounding housing within the Island. Trusts have demonstrated their ability to move quickly to resolve situations such as Troy Court, Landscape Grove, Valley Court and Perquage Court as they have arisen.

## 5.0 Financing and Current Financial Position

### How the Trust is funded

- 5.1 The properties owned by the Trust, are financed in one of two ways :
- a) Amounts borrowed directly from the States of Jersey (originally totalling £ 9,359,890), which incur interest at 4%. These were used to purchase Troy Court, Vale Court, Valley Court and Landscape Grove (164 flats in total). The current amount outstanding is £3,342,000 and will be reduced to £2,590 by December this year and repaid in full by Dec 2015
  - b) Subsequent purchases were by way of Bank Loans at market rates and initially the Trust received a subsidy from the States of Jersey on the bank interest charged on these loans reducing it to a maximum of 4% (ie as per the original flat rate agreement). A development in 2006 received no subsidy, however in 2007 for 2 properties purchased from Property Services and occupied by Les Amis a subsidy was granted but the maximum level was raised to 6%.
  - c) The Bank Loans were supported by a letter of comfort which covered the subsidy and also assured the Bank that should the Trust fail to meet its obligations the properties should be offered to the States of Jersey and should they not wish to purchase the debt then the social housing covenant would be lifted and the Bank be allowed to sell the properties on the open market. In the absence of the interest rate subsidy this assurance is now included in the planning obligation.
- 5.2 Since the fall in interest rates the Interest paid on the bank loans was such that no subsidy was required or received from the States of Jersey since the end of 2008.
- 5.3 The States of Jersey have been receiving an above market return of 4% on the original loans since the end of 2008
- 5.4 During the period of low interest rates we have maintained the original capital and interest repayment amounts thus resulting in a rapid reduction in the capital outstanding. It is therefore anticipated that our bank loans will be repaid much earlier than originally scheduled.
- 5.5 It is worth mentioning that at the time of the acquisition of Perquage Court, the Trust undertook (and financed) an exercise which resulted in all of its loans with the private sector being amalgamated into one package, and being added to the borrowings required for Perquage Court. This allowed a significant reduction in the rate of interest at which the loans were advanced to the Trust. At the time, given that the Trust effectively borrowed at a fixed rate of 4% (due to the States subsidy) this saved the States between £30,000 - £40,000 per year on the existing loans, and approximately £70,000 if one included the financing for Perquage Court.
- 5.6 At the same time, the managing agent of the trust (Messrs Voisin-Hunter & Co.) reduced their annual charge from 5% to 4.4% due to the increased number of units being managed.
- 5.7 These saving demonstrate the 'economies of scale' that can be achieved as the Trust grows in size.
- 5.8 When funding was first provided it originated from the Finance and Economics Committee, but now the interest subsidy is paid out of the Housing Committee capital budget.

*"...Despite the enormous relief from Troy Court, Mr Le Fondré wanted to emphasise that the money was a loan, and that the trust was a private sector landlord... 'We will still be private landlords. The money is a loan that has to be paid back to the States, although it is being given at four percent over 20 years.'..." [JEP 9/12/89]*

## **6.0 Safeguards Over The Trust and Its Actions**

6.1 Concern has been expressed that the States has no direct control over the members of the Trust, and yet is funding it substantial amounts of money.

6.2 In practice there are a number of safeguards which control the activities of the Trust, as follows :

### **6.3 Legal**

6.3.1 The Trust's Constitution governs its activities, and defines the sole objective of the Trust. Only the Royal Court can amend the Constitution. If it is felt that the members of the Trust are not acting in a manner consistent with the Constitution, application can be made to the Royal Court to regulate the matter in question.

6.3.2 The Trust has fiduciary obligations and duties which it must discharge in compliance with the 'Loi (1862) sur les teneures en fidéicommis et l'incorporation d'associations' under which it is constituted, and whilst not bound by, must have regard to the concepts enshrined in the Trusts (Jersey) Law 1984.

6.3.3 Article 17 of that latter law stipulates that trustees should act with due diligence as would a prudent person to the best of his ability and skill and observe the utmost good faith and so far as is reasonable, preserve and enhance the value of the trust's property.

### **6.4 Regulatory**

6.4.1 Certain of the rents of the Trust are already subject to control and supervision by the Rent Control Tribunal. Any rent increases on those properties must be referred to the Tribunal for approval. Application can always be made to the Tribunal (or to any body which replaces the Tribunal), to regularise any rents set by the Trust, if it is felt that such rents are not appropriate.

### **6.5 Constitutional**

6.5.1 The objectives of the Trust as laid down in its constitution require the Trust to act as a landlord with a social conscience.

### **6.6 Governmental**

6.6.1 The Trust has signed a joint agreement with the Housing Committee and with the Finance and Economics Committee of the States of Jersey which governs such matters as financing arrangements, rental levels, nomination rights and other associated matters.

### **6.7 Independent Auditors**

6.7.1 The financial accounts of the Trust are audited by Alex Picot (Chartered Accountants) on an annual basis.

### **6.8 Summary**

6.8.1 Thus there a number of safeguards already in place which serve to regulate the Trust in its activities. In short, there is the Constitution of the Trust, regulation by the Rent Control Tribunal, legal recourse to the Royal Court, and an annual independent audit.

## 7.0 Allocation Policies and Procedures

### 7.1 Allocation Procedure In Respect of Housing Department Nominees

#### Allocation Criteria:

**FIFTY PER CENT OF ALLOCATIONS TO EXISTING PROPERTY AND EIGHTY PERCENT OF ALLOCATIONS TO ANY NEW PROPERTY ARE MADE FROM NOMINATIONS RECEIVED FROM THE HOUSING DEPARTMENT.**

#### Policy Guidelines:

1. The Trust accepts all Nominations made by the Housing Department regardless of race, colour, religion, marital status, sexual orientation, employment or occupation as suitable prospective tenants.
2. The Trust has a responsibility to exercise proper judgement in the selection of tenants.

#### Policy Implementation:

1. Each nominee is required to complete an application form providing information concerning all family members, their age, employment, financial background and other information required to assist the Trust in making informed and sympathetic allocations.
2. The Trust will carefully assess all information at its disposal and will make routine checks of Petty Debts Court and Royal Court judgements. The Trust reserves the right to decline to offer accommodation to any nominee if it has good reason to conclude:
  - (a) that the nominee would be unable to meet the financial commitments arising from a Trust tenancy, or
  - (b) that such nominee would be likely to create serious social problems in the estate for which he or she is nominated, or
  - (c) that having regard to all the information available, it would not be in the interests of the Trust and/or the nominee to accommodate him/her, or
  - (d) that there are good reasons not to offer particular unit types to such nominee on the grounds of under or over-occupation, unsuitable pets, medical problems and the like.

The Trust will always be willing to re-consider any rejection made on any of the above grounds at the request of the Housing Department or of the nominee concerned and will operate an internal appeals procedure to consider any such request.

3. The Trust will exercise its judgement on the type of accommodation it considers suitable for nominees being offered accommodation.

It is inevitable that such decisions will appear subjective. The Trust's Managers are expected to use their experience and professionalism in this process.

4. Nominees are required to complete the standard form of Lease offered by the Trust to prospective tenants.
5. It is normally the case that the Trust has more Nominations than units available to rent. The Trust is therefore required to select some nominees and to exclude others.

Such selection shall be based upon a comparison of the acuteness of the need of the respective nominees provided that the Trust will give due consideration to any priority requests attached by the Housing Department to Nominations documents.

All nominees will be informed as follows:

- (a) that they are being offered a home, or
- (b) that they are not being offered a home immediately but will remain on the Trust's priority list, or
- (c) that they are not being offered a home for reasons specified under one of the sub-clauses of clause 2 (above). Such nominees will be provided in writing with such reasons by reference to the sub-clause or clauses concerned and invited, if they should so wish, to contact the Managers to discuss the matter or to make an appeal against the decision.

Nominees will be advised as soon as possible after decisions have been made. Decisions will be made as soon as sufficient information has been compiled to make the necessary judgements. The Trust is mindful that nominees will be extremely anxious during this waiting period and there is a necessity to expedite all procedures associated with the allocations process Les Vaux Housing Trust ("The Trust")

## **7.2 ALLOCATION PROCEDURE IN RESPECT OF APPLICANTS NOT NOMINATED BY HOUSING DEPARTMENT**

### **Allocation Criteria:**

**TWENTY PER CENT OF ALLOCATIONS TO NEW PROPERTY AND FIFTY PERCENT OF EXISTING PROPERTY ARE MADE FROM THE TRUST'S WAITING LIST FOR ACCOMMODATION.**

### **Policy Guideline:**

1. The Trust accepts applications made by residentially qualified persons regardless of race, colour, religion, marital status, sexual orientation, employment or occupation as suitable prospective tenants.
2. The Trust has a responsibility to exercise proper judgement in the selection of tenants.

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### **Policy Implementation**

1. Each applicant is required to complete an application form providing information concerning all family members, their age, employment, financial background and other information required to assist the Trust in making informed and sympathetic allocations.
2. An assessment of the housing need of each applicant will be made and the applicant will be advised if he/she has been placed on the Trust's waiting list for accommodation.

In considering applications, Les Vaux Housing Trust will be guided by the Allocation Policy adopted by the Housing Department. All applicants meeting the criteria of the Department will be regarded as satisfying the criteria of housing need for the purposes of the Trust.

The Trust is mindful that it is expected to show flexibility and to offer accommodation to persons in serious need who may nevertheless fall outside the strict criteria of the Housing Department. Some such cases are, in fact, referred by the Housing Department to the Trust.

The Trust is also mindful that there is a growing need to consider cases of hardship for single people and childless couples.

The Trust will consider all applications falling outside the Department's criteria, carefully and considerately on a case by case basis.

3. The Trust will carefully assess all information at its disposal and will make routine checks of Petty Debts Court and Royal Court judgements. The Trust reserves the right to decline to offer accommodation to any applicant if it has good reason to conclude:
  - (a) that such applicant would be unable to meet the financial commitments arising from a Trust tenancy, or
  - (b) that such applicant would be likely to create serious social problems, or
  - (c) that, having regard to all the information available, it would not be in the interest of the Trust and/or the applicant to accommodate him/her, or
  - (d) that there are good reasons not to offer particular unit types to such applicant on the grounds of under or over-

occupation, unsuitable pets, medical problems and the like.

- (e) that the applicant has failed to satisfy the Trust of a sufficient level of personal need to justify being assisted by the Trust.

If the Trust decides not to include any person on its waiting list for accommodation for reasons specified under the above sub-clauses, it shall inform such person of the reasons of such refusal by reference to the sub-clause or clauses concerned. He/she will be invited, if he/she should so desire, to contact the Managers to discuss the matter or to appeal against the decision. If an appeal is made the Trust will operate an internal appeals procedure to consider the matter.

- 4. The Trust has more applications than units available to rent. The Trust is therefore required to select some applicants and to exclude others. Such selection will be based primarily upon a comparison of the acuteness of the need of the respective applicants but also with regard to the time that applicants have been waiting to be housed by the Trust.

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## 8.0 Tenant Consultation

Tenant Consultation at present consists of the following :

- 1) Day to day contact with the tenants is through the Managing Agents.
- 2) Encourage and manage individual estate tenant associations with the involvement of our managing agents and appointment of tenant representatives to foster short lines of communication.
- 3) A periodic (approximately twice a year) news sheet is produced (by the Managing Agent in conjunction with the Members) which is circulated to all tenants and lodged on the website. This includes emergency contact details, names of members, forthcoming repairs (and events) relevant to each estate etc
- 4) Visit to all properties once a year by Members of the Trust (this has been occurring since the Trust was created 21 years ago).
- 5) Informal meeting by the members with representatives of the estates during the course of the annual visit (twelfth year of instigation).
- 6) More formal meeting between estate representatives and members to discuss estate issues (twelfth meeting held last January).
- 7) The Trust also has a Tenants Handbook which can be sent to new tenants explaining the background to the Trust and how it operates. (This was, for example, sent to all tenants at Perquage Court when it was acquired by the Trust). This is also lodged on the website [www.lesvauaxhousingtrust.org.je](http://www.lesvauaxhousingtrust.org.je)

### Trust Members (Past and Present)

1989 - 1996	*Deputy John N. Le Fondré	Businessman and Politician	Chairman (and Founder)
1989 - 2000	David O. Moon	Solicitor	Chairman and former Secretary

1989 - 2006	Ian C. N. Toole	Chartered Accountant	Treasurer
1989 - 2000	John Clennett	Former Treasurer of The States of Jersey	Member
1989 - 1992	Ralph Vibert OBE	Former President Finance & Economics	Member
1992 - 1999	Jurat Max G. Lucas	Former Guiton Group Chairman	Member
1992 - 2002	George Thain	Banker	Member
1992 - 2004	Eric Baker	Architect	Member
1996 -	*Deputy John A. N. Le Fondré	Chartered Accountant	Secretary
1999 -	Ken Hewitt	Banker	Chairman and former Member
2000 -	Malcolm Le Boutillier	Solicitor	Member
2001 -	Ian Bravery	Architect	Member
2002 -	David Burton	Chartered Quantity Surveyor	Member
2004 -	Daniel J Hartigan	Chartered Engineer	Member
2006 -	Denis J P Thérézien	Chartered Accountant	Member

- As a rule, the Trust does not currently have any sitting politicians amongst its members, unless they became members before becoming politicians. The founder was not a member of the States of Jersey when he established the Trust, and subsequently returned to the States following the creation of the Trust. Similarly his son has been a member since 1996 long before he became a States Member in 2005.
- The members of the Trust are selected for the practical and professional skills they can bring to the functions of the Trust. This allows the Trust to function in an atmosphere independent from that of the States of Jersey.

*“...One of the bigger strengths the trust has is that there are no sitting States members involved. It has been said to me, and I concur with the view, that it is better not to have sitting politicians involved. This is basically because no one can be accused of trying to score political points and is certainly no slur on States Members.*

*We will be able to say what we want to, when we want to, and co-operate with the States as a separate body. However that will not detract from the tremendously important role the Members will be asked to play. But the most gratifying aspect of all this, is the effect that the trust will be able to have on the attitude of property speculators toward residential property.*

*Without being disrespectful to anyone, I believe that this effectively will end the incursion of speculators into the residential marketplace to a large degree. This can only be a good thing for the tenants of private sector accommodation...” [JEP 9/12/89].*