

STATES OF JERSEY

Health, Social Services and Housing Scrutiny Panel The Co-ordination of Services for Vulnerable Children Sub-Panel

WEDNESDAY, 6th MAY 2009

Panel:

Senator A. Breckon (Chairman)
Deputy T.M. Pitman of St. Helier (Vice-Chairman)
Deputy R.G. Le Hérissier of St. Saviour
Deputy G.P. Southern of St. Helier

Witness:

Mr. B. Heath (Chief Probation Officer, (Probation and After-Care Service)

In attendance:

Mrs. C. Le Quesne (Scrutiny Officer)

Senator A. Breckon (Chairman):

Good morning, everybody. What I will do, I will do the background and the introduction and then if you could introduce yourself for the benefit of the recording. We do record this more for our benefit but also to get things on the public record as well and, when we get it transcribed, you will get a copy of that. So the idea is that if there are any factual inaccuracies in there you want to correct that is the opportunity to do that and then it becomes a matter of public record. Anyway, my name is Alan Breckon and I am chairman of this sub-panel which is looking at the co-ordination of services for vulnerable children, and it is a sub-panel under the main panel. The vice-chairman is Deputy Trevor Pitman. The other Members are Deputy Roy Le Hérissier and Deputy Geoff Southern, who will be with us shortly. I assume that you have seen the terms of reference that we have, and what we will be doing in a moment or 2, we will be asking you a few questions, really, about the level of service provided by Probation. But first of all, if you could introduce yourself, Brian, just for the benefit of the tape?

Mr. B. Heath (Chief Probation Officer, Probation and After-Care Service):

Of course. I am Brian Heath, I am the Chief Probation Officer of the Jersey Probation and After-Care Service. I have been in my present position for 10 years now and employed by the service for 26 years, which seems an awfully long time now; starting as a trainee in 1983.

Senator A. Breckon:

All right. Thanks for that. I wonder, to start with, if you can tell us about the services provided by Probation and After-Care Services in respect of young people?

Mr. B. Heath:

Yes, of course. There are 2 main divisions, really. The first is the Family Court Welfare side for non criminal work involving children. That is the area that people are perhaps least familiar with their involvement in. In that area, when parents are divorcing, separating, unable to come to agreements about what should happen to their children, the court can appoint a welfare officer who is either an officer from the Probation and After-Care Service or an officer at the Children's Service to provide them with a report. We also, as a service, act as guardians when the Children's Service have placed children for adoption and, again, we report to the court on that. Most recently we have been asked to act as guardians in public law matters. Now, that is a huge piece of work which we are not resourced to do. We agree that it is probably right that, in the longer term, we do that work but in the short-term - I should say probably the next 3 to 5 years, I suspect - it is being contracted out to the N.S.P.C.C (National Society for the Prevention of Cruelty to Children). So that is the non criminal work. In terms of the criminal work in Jersey, as you know, the age of criminal responsibility is 10. We provide reports to the courts, to the Youth Court, and we supervise probation orders, again, from the Youth Court. We support the Parish Board Inquiry system, having an officer there and, again, we provide the Centeniers with a number of options and encourage them to divert wherever appropriate. These days, we operate as part of Y.A.T. (Youth Action Team) when working with young offenders in the criminal area although we have the statutory responsibility in terms of reports and probation orders.

Senator A. Breckon:

Can I just go back, first of all, to the Family Courts and the Welfare. Do you have any idea of the number of cases that you deal with and is it on the increase or the decrease or ...?

Mr. B. Heath:

It is increasing substantially in recent years and not only the numbers but the complexity and the way in which the courts are dealing with those matters is changing. In the past, typically, we prepared a report and that was that. Increasingly, the courts are prepared to review arrangements which, again, is probably good practice but that means that then there has to be a further report, and so on. But there has been a steady change in the number of reports ordered. As of the beginning of this year, we were given an extra post to cope with that. As you are aware, there is also a bidding; the Williamson Implementation Plan, to further bolster that resource.

Senator A. Breckon:

Do you work with the legal profession on this as well, like the Family Law Department of the Law Society and things like that?

Mr. B. Heath:

Yes. I think we have got a good relationship with the 2 Family Court registrars and the Royal Court as a whole. Obviously, when it comes to court, it still tends to be quite an adversarial system and probation officers, as court welfare officers, are in the middle of that, you know, so it is a bit of a truism but if they are both having a go at you, you have probably got it about right.

Senator A. Breckon:

What about agencies like Family Mediation and Millies(?)? You work with agencies as well, do you?

Mr. B. Heath:

Yes, of course, yes. We work with them and in terms of the Family Mediation Service my deputy, Mike

Cutland, is on the management committee of that organisation.

Senator A. Breckon:

You also mentioned the guardian in a number of respects and now a sort of court referral, which is like an agency now, with the N.S.P.C.C. Could you describe a little bit about the background to that work to us in a bit more detail?

Mr. B. Heath:

Yes. I think it is quite interesting. As you know, there was a new Children's Law introduced in 2003 I think it was, which is largely based on the England and Wales Children Act of 1989. One area of that legislation was not adopted locally which was around the representation of children in public law proceedings so, for example, when a child is being taken into care, where a secure accommodation order is being pursued, and so on. Now, that did not form part of our law. However, once the law was in force and a court started working with it they found that in order to satisfy the principles of the law, in fact, something very similar to that Article was needed in practice and so began courting guardians. In fact, there is now a court judgment to say that in these matters, a guardian should be appointed. Do you want me to stop for a minute?

Senator A. Breckon:

Okay, carry on, thanks.

Mr. B. Heath:

Okay. Now, as I understand it at the moment, there are around 39 cases before the court in public law matters - a sort of guesstimate if you like, an average, and there is no such thing as an average case but in terms of social work guardians - if you average it out, it works out at around 120 hours' work per case. So that is a significant resource implication. Children's Service obviously cannot do that because they are not independent. They are the ones who are saying the children should or should not be taken into care, admitted into secure accommodation; whatever the matter is. So you do need that

independence which, you know, as the court social workers, we are probably best placed to provide but we cannot do that at the present time, obviously.

Senator A. Breckon:

It is seen, sometimes, that you have got 2 hats on, bearing in mind you have got a sort of criminal element as well as the family responsibilities; so have you got a foot in 2 camps there? Would you say perhaps you even compromised on occasions where, you know, people look to you to provide a service but there is also a degree of trust in other relationships?

Mr. B. Heath:

Yes, I think certainly the work load in the Family Court has, in 2008, impacted on our criminal work to some extent but for the first time we had a number of reports which were late because of commitments in the Family Court; people having to give evidence for a couple of days meant that they were not able to get on with their criminal work and so on. Fundamentally, I do not think there is a problem with the training we have equipping us for both roles. What we have done is, as of the beginning of the year, started to produce, together with the Children's Service, an independent court advisory service. It is a virtual service at the moment; it does not exist in law but that is the way we are going. There will be a Jersey court advisory service which will look after guardian work and the other existing family court welfare service that we provide. Now, that will report through the Probation Board rather than through the Minister for Health for exactly the reasons you mention. There always will be cases where we are compromised; in a small place like Jersey someone will have a conflict and, in those cases, the plan is that it will go outside the Island, first looking to our counterparts in Guernsey with whom we have a very good working relationship or, failing that, out to an independent agency such as N.S.P.C.C.

Senator A. Breckon:

When these cases arise, do you have a sort of case plan of how it will be progressed and there is a nominated person; is that generally how it works?

Mr. B. Heath:

Yes, an officer is appointed, yes.

Senator A. Breckon:

Yes. Just sort of a case manager and they would work with Children's Services or anybody else?

Mr. B. Heath:

The guardian has quite wide-reaching powers, particularly in public law matters, in terms of access to material and so on and disclosure and, particularly, being on the receiving end of that is quite difficult because the system was not set up with a guardian role in mind. So, for example, you might find that files are in a number of different places and so on and so forth.

Senator A. Breckon:

What about a guardian appointed by the court? You are saying at the moment that is sort of franchised to N.S.P.C.C.; is that the genuine aim, to do that all the time, really?

Mr. B. Heath:

I think at the moment, until we have our own sufficient resources locally and we have developed sufficient training and expertise, as you know, part of the problem in a small community is getting hold of the bodies and training them. We have already started a training process with existing staff. I think it is a sensible move to use an outside area with known expertise and the N.S.P.C.C. performed a similar role in Guernsey while their new Safeguarder service was established and that took a period of around 3 to 5 years, hence my estimate.

Deputy R.G. Le Hérissier of St. Saviour:

Given what you have said about the Children's Service being necessarily partial because of the role they are playing, what is your co-operation then with them, with the Children's Service?

Mr. B. Heath:

Do I find they co-operate or ...

Deputy R.G. Le Hérissier:

No, I mean, are there instances in which you work directly with them and how do you work with them?

Mr. B. Heath:

Certainly in the Youth Action Team on the criminal side we work with them quite closely. Essentially, they are providing some of the resource we need in order to have order supervised, and so on. If we are doing a guardian *ad litem* role in an adoption then what we are doing is reviewing their records and making sure that the placement is an appropriate one, that the natural parent has given their consent freely. Sometimes, there is friction in those; professional tension and, you know, they obviously think it is a very good placement. We do not do a rubber-stamp job, we investigate and report to the board and say it as we see it. The majority of the time it is very straightforward in those cases because they put a great deal of time and effort into ensuring the placements are right in the first place. But, occasionally, things are not as they should be or you have concerns and you want to know more. I mean, those cases where ...

Deputy R.G. Le Hérissier:

In doing that job, Brian, can you second-guess their professional judgment or is your emphasis on procedural aspects?

Mr. B. Heath:

That is an interesting question. I think it is a mixture of both. Certainly, the procedural stuff all has to be there and the law requires us to satisfy ourselves that, you know, the necessary forms have been filled in, that the entitlement to property is sorted out; all those things. But also, I think, if we see there has been a difficulty - you know, for argument's sake, a parent has been leant on to put their child up for adoption inappropriately - we would say that. I mean, we would comment on that and, you know, we

would want something to be done about that. We would not then be recommending that the adoption went ahead.

Deputy R.G. Le Hérissier:

There is this feeling, which I heard Professor Thoburn, I think, articulated that Jersey maybe putting, for example, too many children into care; particularly at the older age group. Now, is this something you would monitor or would you just look on it as a case-by-case matter?

Mr. B. Heath:

That is an area we really have not had much involvement with thus far. I think we would under the new guardianship arrangements because every care application would have our involvement as guardians and we would start keeping those sorts of statistics. I think that is one of the reasons, as well as a case-by-case basis, that it is a good idea that there is a local agency doing that work and then you can unpick - it seems to be a feeling, as it were - and provide some evidence either way.

Senator A. Breckon:

You mention the criminal justice system as well and your involvement with that. I wonder if you could go further. I know there was some comment about the Parish Hall Inquiry; perhaps you would like to start there with, you know, young people at Parish Hall Inquiries?

Mr. B. Heath:

It is probably a good place to start because our work, or one of the thrusts of our work, is trying to keep people out of the criminal justice system and I hope, you know, later on if you ask me to comment on the Howard League report, for example, I will be able to help you some more with that. But in terms of our work with the Parish Hall Inquiry system, wherever a child is warned for a Parish Hall Inquiry, where the offence is, you know, something like parking on a yellow line, we do not get involved. But if it is relatively serious - prosecution might be an option - then we provide an officer at that Parish Hall Inquiry; you know, whichever Parish it is. We are not there to take the Centeniers' decision powers

away from them. Sometimes we can provide information that the Centenier does not have because we know the family or the Centenier would ask us to go and find something out and we will do that. As I say, our emphasis is on children not going to court wherever possible. I think that is something which Centeniers have worked quite hard at over the years and instinctively understand and see from the work they do in their communities in the majority of cases.

Deputy T.M. Pitman of St. Helier:

Would you say, in your experience, that there is enough emphasis in Jersey on restorative justice?

Mr. B. Heath:

We have a very strong restorative justice system. I think within the criminal justice system it runs right the way through, and I know that because we have got an officer who is dedicated to doing that from the Parish Hall level we were just talking about right through to sentenced prisoners. It runs parallel, for good reason I think, to the conventional system. Where I think Jersey is missing a trick is outside the criminal justice system: in housing disputes, in school disputes, neighbourhood disputes; that sort of thing. I think some Centeniers are very good at getting engaged there but I think the shortages in the Honorary Police; I suspect they are probably not doing as much of that as they used to, perhaps. That is where I think there is scope for more restorative justice work in Jersey. But within the criminal justice system, it is alive and very well. Recently, as I have been invited to speak at a number of conferences internationally, and one of the things that people are particularly interested in is our Parish Hall Inquiry system and the restorative element that is there in our system.

Deputy R.G. Le Hérissier:

One of the interesting comments which we are going to test out with the senior N.S.P.C.C. Manager is the statement from their director of late, their new director, that in fact the British do not use residential care as much as they should and because it has become such a sacred canon: "Thou shall keep the child, at almost all costs, in the family." There are often perhaps children sometimes, he suggests, left in the family far too long while great damage is occurring. What is your view on that statement?

Mr. B. Heath:

It is one I am not professionally qualified to judge.

Deputy R.G. Le Hérissier:

But yet in a way your Parish Hall work might constitute a ...

Mr. B. Heath:

That is right and I think, you know, certainly - and this is purely at an anecdotal level - I think there are areas or times where probation officers feels that, you know, more should have been done. Yes. I think it is important, though. I think when you unpick what the Director of the N.S.P.C.C. was saying, that he is talking about the sorts of residential units which Jersey is thinking of moving to rather than our existing. So we are talking about very small numbers; you know, units of 3 to 4, rather than, you know, 9 or 10. But, as I say, I am a bit reluctant because I am not professionally qualified in that and, being a manager, typically what you hear from my guys is when they are unhappy with something rather than when something has gone particularly well. So I would not really want that as ...

Deputy R.G. Le Hérissier:

But just assume, when you have got this person in front of you or you are dealing with a person at a Parish Hall Inquiry and you have got the report of their family circumstances and so forth and, yet, you have got this policy imperative that, not at all costs but at most costs, they must be kept out of the criminal justice system. Are there times when you say: "We have dealt with this differently" or: "We have taken a harder line. We might have had a different outcome in later life for this person"?

Mr. B. Heath:

Yes, I think the problems are that sometimes our society looks for the criminal justice system to solve social problems rather than our child care legislation to solve them and I think that is the problem or, you know, not the problem because there are never any simple answers to these things, but I think it

would be better if we had one system which was looking after everything rather than a number of different systems.

Deputy R.G. Le Hérissier:

Would you like to see something like the Scottish system here?

Mr. B. Heath:

I think, from what I have seen thus far, yes; I think that would be a better sort of model where everything is coming to the same panel. I mean, there are a number of different ways of doing it. I think they do it slightly differently in Scandinavia, again, where they have very low custody figures for children. But, nonetheless, I think there are significant numbers in care, as it were; partly because of their criminal behaviour but also their means. Certainly, it is rare in the criminal justice system to see persistent difficult young offenders who do not have substantial social problems. You know, their needs rather deeds are generally the bigger problem and yet we are expecting to deal with them primarily through the deeds; and that is the wrong emphasis, I think.

Senator A. Breckon:

On that, I think we say we visited Greenfields and the Young Offenders' Centre at La Moye and La Preference and Brig-y-Don. I wonder if you would like to comment; you touched on there the age of criminality, 10, and the Howard League are recommending 14. We spoke to young people in the system and there seems to us to be some tension, if that is the right word, between 15, 16, 17, 18 and 21 and how people are treated at a certain age. I wonder if you would like to comment about whether you think we have drawn the lines in the right places or there should be some flexibility within that for treating people as individuals rather than how old you are?

Mr. B. Heath:

I think that is right on a number of levels. I think the age of criminal responsibility is probably too low; having said that, certainly, Scotland has managed with a lower age of criminal responsibility and

manages quite well. But they are in the process of raising theirs to be compliant with the U.N. (United Nations) convention. The U.N. report on England and Wales' compliance with the convention was concerned at the low age of criminal responsibility. When you look around Europe, it seems very low. As I say, I think in some ways it confuses the issue. I think the difficulty is you cannot just raise it; you have to have the mechanisms in place to deal with the behaviour by other routes. So, again, it is not a simple thing; you cannot just say: "Right, we are going to raise the age of criminal responsibility." I think you have to take a whole-system approach and look at the resource you are putting into young people and how you are going to respond to the problems they pose. I think when it comes to something like the Greenfields/Y.O.I. (Young Offenders' Institution) split, I think there is a consensus among senior managers that there needs to be some flexibility around age. On the one hand, you can have a very sophisticated 15 year-old and you can have a very naive and immature 17 year-old; both, you know, wrapped up in the system and placement should take account, I think, of individuals' needs.

Senator A. Breckon:

How would you professionally, then, decide about splitting age groups? Because then if you put, let us say, people who are more hardened to a criminal justice system into Greenfields with perhaps welfare and referrals and other things, do we need another place? Do we need ...

Mr. B. Heath:

I think that is when it starts getting tricky, is it not? What we are talking about is very, very small numbers, typically. Then you can be faced with the difficulty, particularly with girls, of having solitary confinement or an off-Island placement, both of which are, again, harmful. So it is quite difficult to make sensible conclusions. Again, my own view, the one I have come to, is that part of the difficulty comes with this sort of almost artificial distinction between the criminal and the civil. If we have the one mechanism for dealing with all, we certainly would not be in contravention of U.N. conventions because we would be dealing with everything according to the welfare of the child: that paramountcy principle which is, I think, hugely important and almost everything else stems from that.

Senator A. Breckon:

I will just refer to some of the work on this. There is *Looked After Children*, I do not know if you have seen it; it is a report from the Select Committee of the House of Commons, which came out just a couple of weeks ago, 9th March. But in there is a suggestion that perhaps we should not stop at 21 and where young people are perhaps vulnerable and not best able to cope, then support would continue - perhaps training and housing and things like that - up to the age of 25, even. I wonder if you could tell us what part you would play supposing somebody was coming out of the criminal justice system and perhaps needs support in the community? Are you getting involved with that sort of thing or what else are you doing?

Mr. B. Heath:

Yes, we will see anyone at any time on a voluntary basis; that is the first thing to say. We have a statutory responsibility for some people released from the Young Offenders' Institution. If they have got a sentence of 4 months or more, they come out on a statutory licence. Obviously, where someone is on a probation, we have got statutory responsibility. But, nonetheless, we also see a number of people who are voluntary contacts, if you like, and in those cases we are obviously working very closely with Housing, with Social Security, with Health and Social Services.

Senator A. Breckon:

Does that work? I mean are you able to help people get income support and assistance with housing or hostel? It was something put to us, that a young person said: "We just got sent to the shelter and, you know, now we are back in here"; you know, that is how it worked.

Mr. B. Heath:

It is very rarely that simple. I think the income support system is settling? Bedding? down. It is certainly getting to be simpler, I think. We have some good relationships with the Parishes and I think what we have lost with income support is it is very rigid; you are either entitled or you are not. What the Parish system gave you was: "Okay, I can understand. Yes, we will do this, we will do that." The down

side of the Parish system was, of course, they could say no, whereas under the income support system, if you are entitled, you can have it. So, you know, there are swings and roundabouts there. Housing are very helpful, I have to say. They do not always do what we want but Sue Le Mercier there, particularly, is someone we work with very closely and who is prepared to listen if we make a case. Only this week I have heard of someone who, understandably, had been turned down for housing where they have reconsidered as a result of some of the evidence we presented and they believe they have found him somewhere to go. Now, he is not the age range you are interested in but, nonetheless, it is you know sort of a principle. Yes.

Deputy R.G. Le Hérissier:

We have alluded several times - and I am going to broaden it out, Brian - to the Williamson Report. I wonder if we could put you on the spot and ask you what do you think of the Williamson Report? Can you tell us where you disagree with it, where you agree with it; what impact it has on your service?

Mr. B. Heath:

I would be going beyond, probably, my area of competence to comment in the majority of areas. Certainly, I was pleased that the point about the Family Court welfare was in there and he was saying that there should be a separate service and recognised the importance of that in terms of child welfare and child protection. So as far as that area was concerned, yes. I think it was the Howard League; did Williamson comment on Y.A.T.? I am trying to remember. Yes.

Deputy G.P. Southern of St. Helier:

Yes, recommendation 8, talking about reconfiguring and aligning management structure, including those sorts of services.

Mr. B. Heath:

Yes, and certainly, I think, the League also made the comment about the lack of one accountable person in terms of delivering and I think that is something which had concerned the Probation Service for some

time.

Deputy R.G. Le Hérissier:

What, to you, would have been a better structure; what would give accountability?

Mr. B. Heath:

At the time, I know why it was done following Bull and I think what it did do, to be fair, was to bring initially the committee president and latterly the Ministers together and require them to talk and co-operate. So it probably did its job but I think it is right; it needs to lie with one. I think the logical one is the Minister for Health.

Senator A. Breckon:

Something has been expressed to us on the sort of Children's Executive, at the political and the officer level, following the Kathie Bull report, is perhaps it was not all-embracing for vulnerable children. It was more E.B.D. (Educational and Behavioural Difficulties) and things like that. I wonder if you would like to comment on that?

Deputy R.G. Le Hérissier:

Kathie Bull's report was about children with severe educational and behavioural disorders so, unsurprisingly, that is the area. I think the disappointment for me was that particularly it tended to concentrate on criminal justice which was one area that Kathie Bull did not really look at in any detail and was not qualified to look at; she was an educationalist. But that is the obvious bit, as it were, rather than concentrate on the prevention. It is so much easier to do sticking plasters than to invest in prevention. I know Deputy Pitman comes from a Youth Service background and, no doubt, he is aware. But Youth Service do a tremendous job on the prevention side. Perhaps one of the things we could have done, arguing against Y.A.T. coming under Health, would be to attach it to the Youth Service and in some ways it fits almost better there because Youth Service reports to Education rather than Health. So, you know, whichever model you have the other Ministers are not going to be able to

escape an involvement, and somehow we need to have a structure which makes it clear who is accountable but nonetheless requires other people to co-operate because otherwise that accountability is unfair, is it not?

Senator A. Breckon:

Could you describe some of the work that your department is involved with with the Youth Action Team?

Mr. B. Heath:

I think Youth Action Team are providing a presence in court; they are doing some good bail support work. Having said that, I think far too many children are still being remanded into custody by the court and I think that is as a result of either poor - not poor legislation - the legislation being inadequate in terms of being able to go for secure accommodation orders, which would be the advice that the Children's Services, as I understand it, have had; that there is a very high bar there with being able to go to the Royal Court for a secure accommodation order or, alternatively, that the interpretation is wrong. I do not think it is any secret that the court are sometimes frustrated and feel they have to remand someone in custody for their own protection. Now, they should not have to do that in criminal court; that should be something which has been addressed previously by Welfare. We should not have children who are at serious risk to themselves or to others.

Senator A. Breckon:

On your sort of welfare side working with, say, the police what would be the referral if there was children who were, say, vulnerable in a situation where the family may be known and perhaps the parents were being arrested and the children would be left or the children themselves had done something or other? What would be the role of Probation in that at an early stage?

Mr. B. Heath:

The Probation Service, I mean, obviously if we know that there are children at risk, we have a duty to

report that and we have robust, I think, reporting protocols in terms of child protection but we are not the Child Protection Agency and our role is limited to reporting to Children's Service and, under the protocol, they are obliged to act within 24 hours and tell us what they have done.

Senator A. Breckon:

Generally, at officer level, does that work, say, with Education, so everybody is sort of using processes that you feel are robust where perhaps there may be vulnerable children?

Mr. B. Heath:

I can only speak for our own processes.

Senator A. Breckon:

But you do work with others.

Mr. B. Heath:

We do, yes. In terms of our own processes, I am satisfied that my staff are well briefed and follow those processes. I think you probably need to speak to the schools and others to see if they feel they are getting ...

Senator A. Breckon:

Yes. I am thinking about sharing information; there are no barriers, say, from data protection; there are protocols there that allow you to access what you need to access.

Mr. B. Heath:

Child Protection overrides; we are allowed to disclose information for child protection purposes and the prevention of crime, it is sort of covered within the legislation. So we do not have any problem in being able to report to Children's Service if we have concerns and to share why we have those concerns.

Senator A. Breckon:

I was just thinking, I wonder if there are any statistics - not necessarily now but in the next week or so - you could provide us about the work you have done with young people - you know, say over the last 4 or 5 years - and how that is changing or if there are any trends there. Do you think, off the top of your head, there is anything that is sort of becoming an issue that was not, say, 4 or 5 years ago?

Mr. B. Heath:

Yes, off the top of my head, I think there are a number of things. Firstly, as I say, the non criminal work is increasing sort of almost exponentially and we need a solution to that and we are at the present time sort of scoping the resource needs and preparing to put in a bid but that will take a number of years to work out. On the criminal side, when we last looked - and we were looking following newspaper reports of youth disorder recently to see what is happening - our figures are remarkably consistent in terms of what we are doing and what we are involved with. We are not seeing any increase in reports, for example, for the Youth Court and attendance at Parish Hall Inquiries. It is more than last year but it is within the bounds of what you see. I think 2001 and 2003 were much worse years, for example.

Deputy T.M. Pitman:

What kind of figures are we seeing overall for vulnerable children that you work with? Is that possible to ...

Mr. B. Heath:

I can give you those figures. I have not got them off the top of my head. No, I would not want to risk those verbally. I think I would probably need to provide you with those, if that is okay. I think in one of the papers I sent through to you, I did provide some figures in terms of the number of children that have been worked with by Y.A.T. and the Probation Service but I will double check that and, if not, I will send it through to you. I can give you some effectiveness stats as well. Off the top of my head, I know what those are because they are dear to my heart and around two-thirds of young people that we work with on probation orders have not committed a further offence after 2 years. Only half of those have

done anything like a more serious offence; the other half would have done something more minor than that which they were originally on an order for.

Deputy R.G. Le Hérissier:

Just to go back to your earlier point, Brian. You are saying that if we had more of these systems that somehow merged the welfare of the criminal justice and such, like the Scottish system, when these people were being dealt with they would not be dealt with in solo, so to speak; they would be dealt with by a combination of yourselves and Child Protection officers.

Mr. B. Heath:

Exactly. Absolutely.

Deputy R.G. Le Hérissier:

The panel looking at them, as with the panel in Scotland, they would make a decision on the broader needs of the child in question.

Mr. B. Heath:

That is right. I think there are sometimes some misconceptions; you know, I have read letters in the paper from quite normally well-informed people who feel that that makes young people untouchable. Of course, it does not; what it means is we can respond more quickly. It does not mean if a 14 year-old takes a car they are going to be able to keep on doing that with impunity; no, they could still be detained and they will still appear before a panel. In fact, the Scottish hearing system now has a supervision order with a residential requirement which can be secure. It has to be reviewed; and reviewed I think every 60 days or 6 weeks. I cannot remember which, but it is the maximum period they can go without reviewing that. But it provides a measure of flexibility which is not there in a criminal justice system.

Deputy R.G. Le Hérissier:

Do you think in a way - because I asked you just now about the Williamson report - had Williamson not

been looking at a crisis and been focusing on that, it might have been better, if I may put a leading question to you, which you are very skilled at answering. **[Laughter]** It might have been better had Williamson stood back and said: “Look, you need more fundamental reform. I can recommend a lot more resource be put in” and so forth and so on: “but it is the whole way in which you are looking at these issues that is perhaps wrong.”

Mr. B. Heath:

I think if he had been asked to do that, I do not know what he would have said but I suspect, having seen a number of other reports which he has prepared - for example he was involved in the report on the use of physical restraint in England and Wales in young offender institutions in secure accommodation - I think he would probably have taken quite a holistic view. Now, I would not have been surprised if he had suggested something similar. Interestingly, in a conversation with a judge from West London last week, the judge was asked by someone else if there was one thing they would change about the system over there and he said: “There are far too many children with criminal records and I would civilianise the process.” So I think people in the system get frustrated and I think you hear from our court sometimes that they are frustrated. I can quite understand that because of the job they are being asked to do and I think the Island, really, has a fundamental choice about whether it wants to give the criminal justice system more teeth, which will fly in the face of the U.N. convention I have to say, and probably the Human Rights legislation, but is an option. Or we sign up for the U.N. convention, which is what the previous Health Minister indicated the Island was going to do, in which case we need some pretty fundamental reform, I think, in terms of our child care legislation and criminal justice system with regard to young people. I think that was probably the good part of the Howard League report when it was looking at the highest level strategically. I think that was one of the helpful things. We said it in 2004 as well I think, as you know from some of the material that I provided.

Deputy R.G. Le Hérisier:

When you said earlier that the Royal Court was put in a difficult position and had to sort of, for a child’s own security, remand them in custody.

Mr. B. Heath:

Youth Court. Yes.

Deputy R.G. Le Hérissier:

Yes, the Youth Court. Does that mean that major presenting problems which those children had exhibited had, for some reason, been overlooked or been dealt with in different ways and not as profoundly as perhaps they should have been done in?

Mr. B. Heath:

Yes, certainly and certainly in the view of the panel members, yes, that is absolutely right that they had no option but to remand in custody for the child's own protection and in my view, you know, for things to come to pass like that there is something wrong with our child welfare legislation because a child should not be in that position when they only come to that sort of attention. Either the court are completely wrong and those children are not at risk; if they are at risk, it should have been dealt with by an alternative mechanism.

Senator A. Breckon:

Something you mentioned earlier, Brian, was our Children's Law and the Children's Act in the U.K. and perhaps a deficiency there. Could you explain that in a bit more detail?

Mr. B. Heath:

Yes. I am trying to remember the relevant section; I think it is either 42 or 47 of the U.K. 1989 Act, provided for the appointment of guardians in public law proceedings. Now, as I understand it, when the law was drafted in Jersey, it was decided not to include that.

Senator A. Breckon:

It was taken out because of expense, do you think?

Mr. B. Heath:

I do not know the reason but I suspect that was probably it, yes.

Senator A. Breckon:

Do you think that is a chicken that has come home to roost, is it?

Mr. B. Heath:

It is, because what has happened is, since the law has been enacted, the court have been governing themselves according to the principles of the Act and they find that even though there is not the relevant section the principles, in terms of the welfare of the child, require the appointment of a guardian.

Senator A. Breckon:

Can you just remind us, is that the Master of the Court that says that this must be done from public funds? Is that how that is working?

Mr. B. Heath:

Currently, yes, it is being paid for by the Judicial Greffe as I understand; it is coming out of court and case costs which, as those people who are involved in finance might know, is a thorny issue.

Senator A. Breckon:

Yes, it is a tea chest, that one, where people just dip into; court and case costs is a nice place to park things when you want some money. Okay.

Mr. B. Heath:

But I am very pleased that a solution has been found, I have to say, because otherwise we would not have the guardians in place.

Deputy R.G. Le Hérissier:

I was just going to ask, Brian, you mentioned your involvement with the court system as Family Welfare officers. That is an adversarial system.

Mr. B. Heath:

Apparently it is, yes.

Deputy R.G. Le Hérissier:

Yes. Is there any way, maybe by further development of the Family Mediation Service we can, shall we say, push that back so that we go through all other alternatives before we go for all-out battle within in a courtroom situation?

Mr. B. Heath:

I think there is a lot already done, as you say: there is mediation, Relate are also available; slightly differently. There are also initial hearings now where mediation, essentially, is offered the first time around. The Law Society in Jersey have a family section and they are developing, I think, training for lawyers and so on. The 2 judges in the majority of family matters, Judy O'Sullivan and Vincent Obbard are both very solution-focused and do their best to mediate a solution rather than impose one; simply because a mediated solution is more likely to stick. In our own work we also try to do that. Sadly, on some occasions, parties are just so entrenched that you have to come down on, well, it always the side of the child but, you know, one or either of the parties will not see reason or will not see sense or, for all the other understandable things which have happened in the relationship, cannot see where the vested interests of the child lie. But in our work as Family Court welfare officers it is important to emphasise that, you know, we are always working for the best interests of the child. It is not who did what in the relationship to cause the break-up and I think that is where the parties find it difficult.

Senator A. Breckon:

You have just reminded me of a question now; I thought of it before and then it went out my mind and it

has come back again, and that is the review of the work that is done by others as an independent review. What is your opinion about that, that perhaps is lacking at the moment?

Mr. B. Heath:

In terms of inspection?

Senator A. Breckon:

Yes.

Mr. B. Heath:

Yes, absolutely. I hope you know that our service is subject to regular inspection and review and is thought of as a leader, certainly in Europe if not the world, in terms of the quality of the service it provides, and that is at least partly down to regular inspection and review. The other arm is research, local research and information, but inspection has a crucial role to play. Every time we have an inspection, something comes up which we thought we were doing well and we are not, for whatever reason.

Senator A. Breckon:

Does that drill down as far as individual case and case management?

Mr. B. Heath:

Absolutely, and we are currently looking at our own inspection arrangements as a service to incorporate live supervision or observed practice. In the past, all our inspections have been paper inspections and seeing what happens in the education field where there is much more direct observation in practice, we thought that was a good idea. Certainly, you know, I recommend that. I suspect, as Ofsted are now responsible for inspections in the childcare area, I suspect we will see more of that.

Deputy G.P. Southern:

I am not sure many teachers will agree with you. **[Laughter]**

Senator A. Breckon:

Ofsted, yes, you are right. But the other thing I think Scotland provide a sort of agency service for inspection of other people's work, as well, I think.

Mr. B. Heath:

I have been quite impressed by what I have seen from the social work inspection agency which also covers criminal justice in Scotland, of course, so I have seen some of their inspections into the criminal side of social work; what we call probation in Jersey. I have been quite impressed by their approach. The approach in England and Wales is quite a rigid meet the bar, do not meet the bar and what they will not do is provide any consultancy or help towards changing things; they provide a report. The social work agency in Scotland is much more active and although it does highlight poor practice, it is a much more positive and helpful process and it is one I quite like.

Senator A. Breckon:

In general terms, I mean, are the professionals involved in children's welfare working together or is there still only barriers or silos do you think?

Mr. B. Heath:

Silos? I am not sure there are silos; there are certainly frustrations at times and I think, you know, it is well known that currently Children's Service are under-resourced, understaffed, people do not want to come and work here. I think morale has taken a real battering over the past 18 months. I would be very surprised if they were working at 100 per cent, given the history of the last couple of years. We see very good practice, I have to say; sometimes we see examples of excellent practice. Other times we are really quite frustrated at seeing some poor practice. I think the difficulty we have is knowing where the overall standard lies and what the procedures are. I think within the social work profession, probation officers are seen as being quite - I am not saying anal **[Laughter]** - we have procedures and we have standards

and: “You will do this by then” and there is a very sort of rigid structure within which people have their professional freedom. I do not think that is always the case in other areas of social work. I like that and it suits my style of working and those of my officers, clearly. Whether or not it is right for something like the Children’s Service, I do not know but I think that is where sometimes that tension lies.

Deputy T.M. Pitman:

Could you just enlarge a bit on the frustrations you said with some of the support work you get? Could we just draw you out a bit on that?

Mr. B. Heath:

Yes, as I say, we see some very good work where everything works. I think sometimes you are looking for an answer to something and, you know, you do not get a response so you then telephone or email and then, you know, time goes on. What you need is something quickly, not 3 weeks’ time, and as I say I think they have got very real resource problems. I think, you know, they are understaffed; I think people are doing their best and it is difficult to unpick what is due to lack of resource and whether any of it is due to, you know, individuals being idle or whatever. So I think it is perhaps unfair that we criticise them for that but, certainly, there is a level of unhappiness among my officers from time to time when they are dealing with problems ...

Deputy T.M. Pitman:

Is that a regular frustration, then?

Mr. B. Heath:

Yes, it is not always and, as I say, there are some very good relationships and some very able. I think my officers, if you asked them, would have a league table; they would say: “If it is so-and-so, no problem; if so-and-so is the officer, there is more of a problem.” I was going to say, what we do about that is that, through our own line management structures, you know, the team leader will have a conversation with their team leader. We do not let it pass and I think that is important. You know, we

do highlight it where we see it. It is understood we are not perfect either and, you know, occasionally we get complaints that we have not done X, Y or Z and sometimes those are justified.

Senator A. Breckon:

Trevor, do you have anything else?

Deputy T.M. Pitman:

No.

Senator A. Breckon:

Brian, is there anything you would like to say to us that perhaps we have not covered there?

Mr. B. Heath:

I think the one thing that people have talked about that seems to have dived under the radar is perhaps the Children's Commissioner and I think I would like to raise that as a, you know, possibility.

Senator A. Breckon:

And the specific role of the ...

Mr. B. Heath:

The Children's Commissioner would be to act as a public advocate for children and children's rights.

Deputy R.G. Le Hérissier:

Do you think a commissioner could operate without having a very clear political direction to Children's Services?

Mr. B. Heath:

I think they cannot have any. In a sense they need to be clear of political control and I think that is

probably the difficulty. But because we do not have the large national charities - and, you know, again, economies of scale - I think it is more important for us to have someone with that brief to comment, to dig, to hold us all to account and I think that is one area. The other area of concern I have is that the corporate parents still? exists, as far as I know. But it has not met since prior to the election and there are a number of issues which require decisions at ministerial level which have not yet been made.

Senator A. Breckon:

That is the Children's Executive.

Mr. B. Heath:

That is the political strand of it.

Senator A. Breckon:

We understand, although we have not been told officially, that it was disbanded by the Council of Ministers at the end of January.

Mr. B. Heath:

That has not filtered down to me.

Deputy G. P. Southern

So you are saying decisions are not being made?

Mr. B. Heath:

There are a number of decisions which need to be made where I believe there is a consensus among senior officers; for example, around ages at Greenfields and so on, to progress work which needs to be done? but they need those 3 Ministers to get together and obviously, you have only just now got a Health Minister again.

Senator A. Breckon:

Anything else?

Mr. B. Heath:

I think that is ...

Senator A. Breckon:

There might be some follow-up we require from statistics and things like that so somebody will be in touch with that but I think this session has been very useful to us, anyway, and thank you for your attendance and your time and effort.

Mr. B. Heath:

Thank you very much for asking me and if you need me again, give me a call.

Senator A. Breckon:

Thank you.