

STATES OF JERSEY

Education and Home Affairs Panel

FRIDAY, 22nd JUNE 2012

Panel:

Deputy J.M. Maçon of St. Saviour (Chairman)
Connétable S.W. Pallett of St. Brelade
Connétable M.P.S. Le Troquer of St. Martin

Witnesses:

The Minister for Home Affairs
Chief Officer, Home Affairs
Prison Governor

Also Present:

Mr. M. Haden (Scrutiny Officer)

[15:31]

Deputy J.M. Maçon of St. Saviour (Chairman):

Good afternoon gentlemen and thank you for coming to talk to us today. If I can launch in, please, with a question regarding the impact of the C.S.R. (Comprehensive Spending Review) savings on the prison and the prison service and how that has impacted upon the services that the prison provides?

The Minister for Home Affairs:

I will pass over to Bill on that because it is a lot of detail.

Prison Governor:

The impact so far on the prison has been a positive one in some respects because it has forced us to revisit how we are structured and how we manage the various parts of the prison regime. There have been some very positive developments over the past few years on the prison regime side. But the savings made from 2011 and moving into 2012 have really been generated by restructuring of the prison officer grades and removal of the operational support grade. That allowed us to reduce the number of uniform staff that we employ and that generates the savings, but on the operational side we benefit from having a more flexible operational workforce to manage the operational aspects of the prison. So, last year and this year we have

managed to make savings without having a major impact on the prison regime, particularly the regime the prisoners benefit from, and still allowed for the development work to happen in these areas. That becomes more difficult obviously as time goes on and you start to still reduce the funding available in future years, but to date we have managed that without major impact on the regime.

Deputy J.M. Maçon:

Minister, similar to the previous question that I posed, given the shortfall that will occur in Home Affairs not being able to meet all their targets is there any vision that any of those savings will come out further from the prison service?

The Minister for Home Affairs:

No. I am trying to recall there may be some items which have not yet been completed which will be completed, but nothing is coming to mind on that, but no, we are not going to have a further round of savings if that is what your question means within the 3 year cycle. Although you will recall my comments from the last hearing that if there were no changes we would have a shortfall by 2016 of about £400,000 across Home Affairs unless there were further changes. But I think all the savings proposals are in place and if there is one that simply could not be achieved which had to do with whether we could close the Y.O.I. (Young Offenders Institution) altogether and transfer people across to Greenfields, that does not work. I am looking at Bill.

Prison Governor:

It does not impact on the 2012 savings; the 2012 savings have been achieved, but the closure of the young offenders would have impacted on 2013 savings. If that does not happen and it is not going to happen then there is a shortfall in the return from the prison service portion of the saving. We are getting compensated by over-delivery on some of the other proposals, but at this stage it does not look as though we will make the full savings that would have been made if we closed down the young offenders' wing.

Deputy J.M. Maçon:

Can you just elaborate by what you mean of the over-delivering on the other aspects?

Prison Governor:

Well, again savings are on the staffing side and as soon as you create a new attendance pattern for staff and that determines how many staff you are required to run the regime, the savings that come out at the other end of that are what they are. While the target may have been 5 per cent, your savings might end up being 10 per cent because you are reduced by 6 staff and you have the saving of 6 staff. So, that initiative, the initiatives we have planned, on the staff reduction side would or will deliver more than they were intended to deliver as a consequence, but not enough to cover the figure of £100,000 that was in with the closure of the young offenders wing.

The Minister for Home Affairs:

Sorry, I may have misunderstood your question. I thought your question was whether we were going to be seeking additional savings over and above the amounts proposed in the C.S.R. process because of the anticipated shortfall of £600,000. In fact what is happening is that the prison is going to deliver a different package of savings to the initially proposed one where things do not quite work. I am sorry, we may be at cross-purposes?

Deputy J.M. Maçon:

No, you are right, that is what I was asking.

The Minister for Home Affairs:

I was right. This is going to be a second squeeze, as it were. This is just the first squeeze, but it is delivered in a slightly different way. That is what I am trying to say.

The Minister for Home Affairs:

Thank you.

Connétable of St. Martin:

Are staffing numbers proportionate to the number of prisoners in La Moye? I know it is difficult to say we have got 50 less prisoners at the moment; we cannot suddenly not have so many members of staff because they are employed. How does that work? We know there are obviously less prisoners in La Moye than the highest points you have had.

Prison Governor:

Yes. Basically the attendance pattern is designed to assure there are a certain number of uniformed prison officers present in any residential area within the prison

and they manage the various levels. I think you visited the wings in La Moye - you know they are on either 2 or 3 storeys - and the staff are spread across the wings. Now, you can reduce obviously the number of prisoners in these areas and effectively close the level off or reduce the number of prisoners and put them all into single cell occupancy rather than 2 prisoners in a cell. Around 25 per cent of our cells are designed for 2 prisoners. But overall as you start to reduce the number of prisoners, clearly you can look at reducing the number of staff as a consequence. There is a trigger point where you would say: "Well, I can remove an officer now" and that trigger point is something we agree with the trade union side about whether it is safe then to reduce the number of staff in the area from one figure to another. So, we have got trigger points, in other words, where if the population falls below a certain number we can remove a member of staff. We do that on an ongoing basis. I mean for example young offender numbers are exceptionally low. We have removed one of the officers from the young offender area that would normally be there on a daily basis because instead of working with up to around 20 young offenders, right now they are working with 3. So we do not require 2 officers throughout the time that the prison cells are open to manage 3 young offenders, particularly given that the young offenders go off to education, the gymnasium and other areas where there are other staff anyway, so that is how the numbers reduce. The number of staff to prisoner ratio will fluctuate, but obviously if it fluctuates beyond a certain number then management will either want to increase or reduce or the trade union side will want to increase or reduce the number of staff that are available.

Connétable of St. Martin:

How would you reduce the staff; just redundancy or would they be redeployed?

Prison Governor:

Reductions so far have been planned reductions. So, we have had a target figure to reach; a staff complement figure to reach and we have done that by natural wastage and allowing the numbers to reduce without having to make anybody redundant. The operational support grades, there are 21 operational support grades, and that grade no longer exists. Not all of them were suitable for moving to the new officer grade, so we had to use the States redeployment policy to redeploy some to other departments. Some went through the training and selection process to become prison officers and were successful. The others who failed or did not want to become prison officers were redeployed and we managed to achieve that without any loss of

jobs or redundancies. But we planned by running under complement for a period so that we were already at the new staff figure without having to offload staff.

Deputy J.M. Maçon:

Can I just ask, I note on page 8 of the report looking at the prisoner population over the past 5 years, it averages between say 170 and 180 roughly on a daily basis, although that is expected, I believe, to decrease with the repatriation of prisoners laws which might complement the new structure. Can I just ask though at what level of inmates would start posing concerns to you, given your current staffing arrangement, what is your ceiling?

Prison Governor:

If numbers were to increase?

Deputy J.M. Maçon:

Yes.

Prison Governor:

Well, again it is difficult to give a specific figure because it depends which prisoner population expands. I mean in La Moye we have young offenders, we have females, we have males, we have remands, we have vulnerables. They are all located in different areas and these areas have got the capacity depending on design and staffing levels. Some of these populations could expand significantly before staffing levels will become a concern and in other areas we might hit that concern much quicker. So, I could not just specifically state well, if it gets to 180 we would be concerned because it depends on the breakdown of that population and whether there is a significant increase in females or young offenders or any other prisoner grouping. But again it is a process of negotiation with the trade union side about what is safe and when would we have to trigger another member of staff, and it is not the same for women as it is for young offenders as it is for mainstream male adult prisoners.

Deputy J.M. Maçon:

Thank you. Minister, I note the C.S.R. proposal HA-3. Now, that does relate to some of the medical terms and conditions, I believe. My question is, some of the terms and conditions that affect the prison officers are tied up into some of the CSR savings - while I appreciate that that comes from the States Employment Board, because they

appear to be very difficult to meet and we are not entirely confident that the States Employment Board will be able to meet those C.S.R. savings, my question is where do those savings sit within the Home Affairs structure? For example, if they are not met would they impact on the prison or is the prison element kept separately?

The Minister for Home Affairs:

Essentially from a Home Affairs point of view they impact on the total system although within Home Affairs obviously each department has an allocated budget, but essentially they impact as a whole.

[15:45]

At the moment we are treating the terms and conditions issues which apply to the prison, the fire service and the police as being a 100 per cent failure. So, within the figure of £600,000 I gave you before, you can assume all of those are entirely in that. That is the assumption. That is upon the basis that it is very difficult to negotiate down a terms and conditions thing when you are offering 0 per cent for 2 years. Having said that, I may be being unnecessarily pessimistic because there is an alternative possibility of a buyout that is separate from the negotiation and if that were to be successful i.e. pay a lump sum of money to buy out the rights to that, that could still accrue to us as a saving, but being treated as a restructuring provision. But at the moment we are assuming that is a complete failure.

Deputy J.M. Maçon:

Just for my own clarity then, in that case that will not affect the prison budget directly?

The Minister for Home Affairs:

We are back into the same question as we had before. It is still expected to deliver a certain amount of savings and the calculations I have made in relation to the shortfall of £600,000 assume that they would deliver those savings. But if you are talking about the “second bite of the cherry” then the answer is no, there is no second bite of the cherry.

Deputy J.M. Maçon:

Thank you. Do you have any questions?

The Connétable of St. Brelade:

Yes, just regarding the change in the pay spine. Could you just explain what the changes have been and can you see any long term savings within those changes within those pay spines?

Prison Governor:

Yes, I mean the prison officers had an 11 point pay spine where they had increments that spanned over a service range until they were serving over 10 years and they have already served over 10 years and we created a pay spine that has only got 5 points, so they start at point 0 and then have 4 increments. So, they are on the maximum after 5 years, but that pay spine capped the ceiling at an identified figure and that ceiling was a figure that would have been significantly below where the prison officers would have reached. What we used as a benchmark were 2 per cent pay increases, so we identified where they would get if there were 2 per cent pay increases year on year and produced a cap that was well below that. To put the figure on that we capped it at £46,000 where over the period of the pay spine it would have been up to something like £52,800 based on 2 per cent pay rises. So, whether it delivers savings or not is really dependent on what pay rises are given over the next 4 to 5 years. Certainly our proposal or suggestion is it we will deliver savings long term because of this cap there; a capping, a ceiling of prison officer earnings. But that also was part of a pay deal, so the pay rise was built into these same increments. But the Employment Board accepted that that was a reasonable offer for the employer to manage and as did the trade union side and it does deliver savings. We projected the cost until 2020 under the new pay spine if nothing had changed over that time period. Assuming on average 2 per cent pay rises - and you can have your own view of whether that is a realistic figure or not, it will be based on 2 per cent - on that timescale it saves well over £1 million in the payroll.

The Connétable of St. Brelade:

Very quickly, have you had a positive response from staff and especially the unions themselves to the changes in the restructuring and changes that have been made within the prison itself?

Prison Governor:

There was some resistance initially because staff do not like change and obviously it depended where they were at on the current pay spine as to whether they benefited or not. Anybody 7 years service or more, then the pay spine was not a good deal for

them, but anybody that was serving 6 years or less, then the pay deal was a reasonable offer because of where they were at and where the new pay spine would take them. What allowed us to swing it and get it through the trade union side is that roughly 40 per cent of the prison officers were at that lower end of the service range and had our makeup been different we probably would not have managed to achieve agreement with the trade union side on the pay spine. But it was an offer the prison officers saw benefit to vote to accept on the proposal. It was marginal, I think, by one or 2 votes at the end, but nevertheless there was a balance and obviously we designed the structure to take it as close as we could to tip the balance and it was voted in.

The Connétable of St. Brelade:

Has there been any resentfulness from the point of view of those that were on the wrong side of it?

Prison Governor:

No, I think because of what is now happening since the pay spine was put in place and the fact that the employer's offer was then 0 per cent, 1 per cent non consolidated and then 2 per cent in year 3, they realised that the pay spine was not a bad offer. Had that been different or significantly different then I may have had a very unhappy staff. So, any significant change in that offer from the employer may well generate some ill feelings among the existing staff, but the majority, I think, realise it is not a terrific deal for them but it is a reasonable and fair deal, and from the employer's side the benefits are in the longer term.

Connétable of St. Martin:

Having come from a whole rank structure, is there a rank structure where there would obviously be increases if people get promoted within the service itself or are all the prison officers on a standard scale?

Prison Governor:

We have 2 grades of prison officer - the Operations Officer and the Residential Officer - and it is a promotion from Operations Officer to move to Residential Officer and has a higher pay scale.

Connétable of St. Martin:

With the 5 increments as well?

Prison Governor:

Yes, the same increments.

The Minister for Home Affairs:

There is a whole rank structure above that which Bill ...

Prison Governor:

Yes, Senior Officer, Unit Manager, Senior Unit Manager above that again.

Connétable of St. Martin:

So, there is opportunity for the officers who want to progress?

Prison Governor:

Yes. Because of C.S.R. requirements we are reducing, not so much this year but next year when we anticipate a reduction in the prisoner population through the repatriation law, we have proposals to remove senior management positions. So, you are removing promoted positions and obviously that reduces the promotional opportunities for certain members of staff. But at the lower end, the new operations staff have got this promotional opportunity to residential officer and the senior officer and unit manager will grades still exist. But we will remove a senior officer position and we will potentially remove a senior unit manager position, so any promotional opportunity post that is removed will create some angst of people stagnating below.

Connétable of St. Martin:

Just one I have got for the Minister. We spoke about Greenfields. What is required in law change to make more use of Greenfields because we have had visits both to La Moye and to Greenfields and you see a nearly empty building?

The Minister for Home Affairs:

Well, it is a change to the Criminal Justice (Young Offenders) Law so that Greenfields can be used for people to serve their sentences at. At the moment Greenfields is only available for people who are in remand in relation to criminal charges and for youngsters who are under a care order who keep on running away from the children's home or putting themselves otherwise at risk and they get a secure placement order which is a civil order made by the Royal Court, so it would expand the category to include. At the moment our numbers are so low, it is going to

have virtually no effect at all. But to change the law, the difficulty - which I think I explained at a recent hearing - was that at the moment we have got a mixture of civil and criminal, remand with criminal, secure placement order for the civil and then we are adding a third category of criminal but already sentenced, and that is where advice has been: "Well, we are not sure we can get around this." It is not just the European Convention of Human Rights, but it is also the terms of the United Nations Convention on the rights of the child. One of the frustrations with these conventions, if I may say so, which are there to provide a base level and that is what they are there to do, is that in small jurisdictions like us, if they apply too strictly they perpetuate a worse situation than you can achieve. So, that is the difficulty. Legally it is simple, but whether we could get Royal assent to it is a fundamental problem and whether I would be able to sign a certificate saying this is human rights compliant is another matter.

Deputy J.M. Maçon:

If I can jump then to some of the key performance indicators, we note that the number of prisoners attending core education programmes has increased. I was just wondering if you could explain those figures, please?

Prison Governor:

Well, the increase is really that most of the investment in La Moye over recent years has been to expand the prisoner regime, so expand opportunities and education and in vocational training, so that is where the increases predominantly lie because there are more opportunities available to prisoners now to attend a variety of education skills development courses and we have taken on basically more education or vocational training staff to deliver a wider regime.

Deputy J.M. Maçon:

You said that that required investment. Is there any threats to that investment or the impact that could have for the prisoners?

Prison Governor:

There has not been up until this point, but again as we move into 2013 and we are again making a contribution towards the overall Home Affairs savings - well, the savings come out from every part of the prison regime - so a proportion of that saving comes out of the education and vocational skills training area. That said, it is a relatively small percentage. So, there may be a reduction but not a hugely significant

reduction in the variety of the regime the prisoners can access. Effectively what it might mean is that we have some evening type class events or some ad hoc events that happen dependent on the identified needs of a particular prisoner group and we will have less flexibility to be able to do that, so we will restrict ourselves to the standard education curriculum and vocational skills training that exists. We will have less flexibility to introduce some ad hoc training where we have used Zero Hours Contracts, so it is that Zero Hours Contract provision that is likely to fall off the agenda.

Deputy J.M. Maçon:

Thank you. Minister, would you like to comment on that situation?

The Minister for Home Affairs:

Yes, obviously we are planning in anticipation a reduction in prison numbers and clearly as you would be reducing prison numbers you would expect to be reducing the costs of the educational programmes and so on. Inevitably as you do that you may find yourself having to narrow the ambit of what is available. But we have made additional improvements in recent years to those which were initially planned because of the computer link system into the new cells. I mean I do not know if you recall my being asked questions by the now Connétable of St. John who thought that there was internet access from the cells, but every cell now has a television screen with behind it a computer and that computer provides a link into the educational programmes so that the facilities in terms of education are not just now by virtue of people going out and attending classes or whatever. They are in their own cells and so on.

[16:00]

What is happening, which is interesting, and I will come on to the current figures, is that obviously some of our savings were dependent upon a level of reduction of staffing resultant upon a level of reduction of numbers, which was dependent upon the success of the repatriation of prisoners law and the change proposed in terms of restrictive transfers becoming unrestricted transfers which should lead to more people voluntarily returning to the U.K. (United Kingdom) to serve their sentence. But in fact what seems to be starting to happen, although it could be a “false dawn”, is that our numbers have been starting to drop anyway and this year certainly for the first 2 quarters we have had the lowest 2 quarters for a very, very long time and the

Governor is of the opinion that something structural may be starting to happen; is that fair?

Prison Governor:

Particularly given the fact that the biggest reduction is in the number of young offenders. When we speak to our colleagues in the police and so on and in the courts there is a significant reduction in the number of youngsters or teenagers passing through the court system. Now, there may be a number of explanations for that, but the outcome is such that we have seen a vast reduction in the number of young offenders coming into La Moye and if that is to be maintained in the longer term then clearly I have an obligation to look at how we resource that area.

The Minister for Home Affairs:

But at the moment I think, on the figures given to me, we have currently got 3 in the Y.O.I. and one female?

Prison Governor:

Yes.

The Minister for Home Affairs:

That means 3 offenders aged under 20, whereas traditionally the numbers would have been 15 or 20?

Prison Governor:

Yes, virtually between 15 and 24.

The Minister for Home Affairs:

So, that is quite an interesting structural change. You will see in the figures I put out recently about the drop of offences being committed right across the board in terms of young offenders, both in terms of number of cases, numbers of cases going to the youth court, but most striking is the falling away of the Y.O.I. because that is not just under 18s; that includes the 18s, the 19s and the 20s and of course if it is maintained it is very good news because the persistent offenders who start as youth offenders tend to remain prolific offenders into their 20s. So, if you have got a dropping away of your under 20s, you know in 5 years' time you will have less under 25s and so on. The other structural change that has happened is the reduction in the number of female prisoners which is currently 14 from the figures I have - if you count an under

18 year-old - whereas again the numbers there would, I think, have been normally 20 to 25; is that right?

Prison Governor:

Yes, again I mean I think the interesting aspect there is that the female population in previous years has been predominantly drug traffickers. What we are recognising over the past year is a significant reduction on admissions, but also a marginal increase in local women being incarcerated for crimes other than drug crimes which suggest, although it is over a relatively short time span, that drug trafficking has reduced coming into Jersey in the first instance. We know from the prison side that illicit drugs have reduced significantly and are very difficult to get hold of so that is obviously a good, wider signal and implication for Jersey as a whole. But if drug trafficking is reduced then obviously that female population is likely to reduce as well and has done because they are predominantly used as drug carriers and traffickers to bring drugs into Jersey.

The Connétable of St. Brelade:

In terms of drugs within the prison obviously 2 or 3 years ago there were several cases where inmates got caught in possession of drugs. How have you changed your approach to that or have you changed your approach to that and has that brought the possibility of possession in the prison down?

Prison Governor:

We certainly have a very proactive approach to preventing drug trafficking into the prison in the first instance and there are some additional security measures that we have put in place, some of which would probably be inappropriate to discuss in a public forum, but they nevertheless have had an impact. Part of that is a very close liaison with customs and immigration and the police, quite apart from the hard security measures that you would traditionally expect to find in a prison system in any case. But there are other internal changes that we have made and it would be reasonable to say that we have a much more robust selection process of staff to ensure that we recruit good quality and high calibre staff. I think we have probably been helped by the economic climate where we have got a very high calibre of officer coming into the prison as well over the last 3 years really. So, we have got high calibre staff who are ambitious young men and women who are very diligent and I think we have benefitted from that in terms of the actions that they take to report incidents and to take steps to stop drugs being trafficked into the prison.

The Minister for Home Affairs:

There is one other factor which Bill has overlooked - I feel rather pleased to be able to say that - and that is of course that the outworkers have been moved from being as part of within the security perimeter to being outside the security perimeter because they now live, when they come back in at the end of the working day, in the old Y.O.I. The result of that is you have not got outworkers going out being put under pressure by other people to bring stuff back in because they are not coming back in. I think that is true, Bill, is it not?

Prison Governor:

Yes, that was a deliberate policy decision that we took. The young offenders does not have integral sanitation facilities - the building that was used for young offenders - so that is why it is why it was not occupied and why we took the young offenders out. But because these are outworkers and trusted prisoners who work in the community, they have keys to the doors so they can access toilet facilities, communal facilities throughout the night. They are isolated from the rest of the prisoner population and have no reason to enter any other part of the prison, so there is no benefit to them to try and bring illicit items back into the prison. It takes the pressure off the prisoner and obviously we no longer have the problem to manage.

The Connétable of St. Brelade:

You touched on the early release scheme. Obviously it is an alternative to tagging. How does that scheme work and have you made it a success over the period it has been working?

Prison Governor:

I mean it operates very successfully in that there are very few breaches of licence or licence terms and it assists the prisoner to reintegrate back into the community by helping them to re-establish relationships with family and friends, getting employment, hopefully, and ensure that they have got accommodation to be released to and also instil the work ethic because they are back out to work every day and doing a full day's work. We obviously opted to give up the tagging scheme as a savings option, savings proposal, in earlier years and rely on the Honoraries to monitor prisoners who are out in the community and check that they are in the approved address during the curfew times. Again very, very few failures since we introduced that and very good support from the Honoraries, so it has been incredibly

successful. To use tagging in that way where we were putting out prisoners that we had risk assessed as not being a threat to the general public or to the community, we were spending £135,000 a year on tagging for prisoners that we did not expect to be a risk, so it was a sensible saving to make and the gap has been filled very well with a good, reliable service from the Honoraries.

Deputy J.M. Maçon:

Thank you. Minister, we note the comments of the Prison Board of Governors; in particular their reference to offenders suffering from emotional and health issues despite commenting how they work very hard with the Prison Chaplain and the Governor. Nevertheless they have considerable concerns in this area. What has been communicated to you?

The Minister for Home Affairs:

Well, I think you asked me the same question at the recent hearing and hopefully you will get the same answer. The situation is not satisfactory, but the reason for the problem is the difficulty of Health and Social Services having an appropriate level of secure accommodation. That is the problem. In the U.K. you have a whole range of levels of secure accommodation for mentally ill prisoners, right from Broadmoor or Rampton down to almost an open place. There have been times they have tried to have this, but the numbers are not very great and the costs of running are quite substantial and so this creates a difficulty. I mean again I think at the last hearing I mentioned the difficulties that we get in terms of the local psychiatrists finding that people are sufficiently mentally ill and in a category for treatment. Now, whether or not that is linked to the lack of secure accommodation and to the disruptive effect of having difficult people within general wards, I leave to your conjecture. But Bill could bear me out and say that he has had a number of prisoners historically who have not been viewed as being psychiatrically ill and have got psychiatrists in from off the Island who said they were; is that a fair comment?

Prison Governor:

That is a very accurate comment, Minister.

The Minister for Home Affairs:

But these things may be interlinked, but that is the core issue. Now, from our point of view we are left with a problem. I have considerable concern, however, for Health and Social Services in terms of the sort of costs that will be involved. But the other

thing they have always said, as I have said before, is how would they provide the range; are they to provide a Rampton or a Broadmoor? Now, what does happen when people are temporarily ill, like I said on the previous occasion, is that they will be taken from the prison to go to a psychiatric hospital, but very often though they have been accompanied by just one member of staff who are working shifts, so it is very, very expensive from our point of view, but we have to do that. That is not so much the problem, but the problem is more so with the people who are just ill over a lengthy period of time or who are ill, recover for short periods and then are ill again and it is not just a question of just temporary mental illness; it is ongoing. Again, is that fair, Bill?

Prison Governor:

That is fair, Minister, and the prison environment can often exacerbate the mental state. If it is a vulnerable individual in the first instance who may well have been stabilised in the community or even in the hospital, but then they are placed in a prison environment, that environment in itself places additional pressures on that person. Their response to other prisoners or to the very secure and claustrophobic nature of a prison, is often enough to then exacerbate their mental health condition. It is not conducive to somebody who has got these kind of problems.

The Minister for Home Affairs:

I mean we would like Health and Social Services to have an appropriate, secure unit so that we did not have the problem, but it is very expensive.

Deputy J.M. Maçon:

Yes. Can I pose the question though, you commented how off Island independent assessment seems to fill a gap which is not being met by Health and Social Services in that situation. If you have noticed this pattern, what is being done? What discussions have been had with Health and Social Services if their officers are not picking up things which off Island practitioners are?

The Minister for Home Affairs:

Well, it is probably embarrassing from our point of view because obviously we are finding ourselves ... I mean I do not get involved in these cases, but Bill, I am sure, has found himself having to effectively challenge the professional opinion of the on Island psychiatrists.

Prison Governor:

Yes, I mean again in fairness to the on Island personnel, just on the comments that were made earlier, we will have to accept as well in that when the initial assessment is done by our own psychiatrist, the condition may not be as bad as it ends up being because of the prison environment. So, they have to be reassessed at various stages and monitored as to whether the condition deteriorates. They often also of course are people that they have a history of coming in and out of Orchard House, so they are known to the healthcare personnel and sometimes that is unhelpful because they believe they already know what the condition is and are perhaps reluctant to accept that that condition has deteriorated somewhat because they are now in a prison environment.

[16:15]

As the Minister says, we have had, over the last 3 years, 5 individuals who initially were assessed as not being mentally unwell, but who then end up in a medium or secure psychiatric facility in England after they have been reassessed and often by an off Island psychiatrist. That is what provoked the comment from the Board of Visitors. The Board of Visitors see these individuals and visit these individuals and to the lay person they clearly present as being really unwell and the Board of Visitor members are very uncomfortable with that, so obviously they have commented on that in their annual report.

The Minister for Home Affairs:

Can I say that what they are commenting on was replicated in my experience as a Magistrate, I am afraid. I would sometimes come across people who were palpably unwell and yet there had been an assessment that they were not psychiatrically ill and yet they were displaying all the symptoms, which even a layman professional like myself could pick up as Magistrate. So, I was seeing the same thing and it is a difficult area. Hopefully as part of the growth bids there is going to be improved psychiatric services, but whether it will make an impact in this area, I know not.

Connétable of St. Martin:

So, all the funding for that psychiatric work is funded by the prison or Health?

Prison Governor:

If the individual is transferred to a health facility for health reasons, then Health pay for that placement and not the prison, because the person has been transferred as a patient rather than a prisoner, albeit they are both.

Connétable of St. Martin:

While at La Moye you totally fund it?

Prison Governor:

They are our responsibility.

Connétable of St. Martin:

With the extra security and everything else that goes with it?

Prison Governor:

Yes, or as the Minister described it, on occasions we will have them located in Orchard House, but under prison officer supervision in addition to the healthcare supervision and obviously effectively we are providing security in the building because it is not a secure facility. So, the security is provided by prison officers to ensure that the individual obviously does not leave the facility, but the healthcare staff are responsible for the health management of the patient.

The Connétable of St. Brelade:

Just regarding repatriation of prisoners, in terms of other countries when this begins to kick in will there be other European Conventions that we may have to abide by or part of laws that we might have to abide by? More particular, a thing that came up the other day, was would we have to provide, for example, a parole system that may work in conjunction with other countries?

The Minister for Home Affairs:

Well, at the moment, as far as we are aware, I mean one of my concerns has been that we might find on making an application to the Convention Authority that we were put under pressure to have a similar parole system rather than the systems we have in lieu of a parole system. But we do not at the moment think that is going to happen because there is no harmonisation of systems across the E.U. (European Union); each country has its own system. But that has been one of the risks - I may flag it up - for a potential delay in the process if we found that, but we are not expecting that.

Chief Officer, Home Affairs:

No, and each jurisdiction has to agree to the transfer, so if they were miles apart I cannot see the respective Ministers agreeing.

The Minister for Home Affairs:

But our system allows people to come out - it has just been tweaked - on work experience up to the last 11 months - it was 12, now it is 11 - of their sentence. It is on a scale depending on how long their sentence is, but it is a maximum of 11 months before and then the last 4 they go on to the system of being out, but with curfew checks. So, there is a 7 month period and a 4. In terms of a difference arithmetically between a system which would allow parole after half and our system by which people serve up until two-thirds, I mean now with an 11 year system the balancing point is 5 and a half years, so it would only be people who had sentences of more than 5 and a half years whereby the potential was different. Having said that of course under parole systems in many cases they just tip out after a half and in the U.K. with their prison population, apart from violent offences and certain other offences, has got to a stage where it is just letting everybody out; is that fair, Bill, or am I being unfair?

Prison Governor:

Yes, for short-term prisoners I think under 4 years they put them out at half the sentence.

The Minister for Home Affairs:

So, it is pretty well automatic?

Prison Governor:

Yes.

The Minister for Home Affairs:

Then of course it is under the probation aftercare service. Now, as I think I said at the last hearing, I think our system which has a structured return to the community, whereby effectively we are almost providing hostel accommodation for them at night-time and weekends, but there is still a check on what is happening. I prefer that system. I think it is a better system for getting people back into the community effectively. I do not know what Bill's view is having experience of the 2 systems.

Prison Governor:

I mean effectively we replicate what you would find in the U.K., but they would call our outworkers unit, a training for freedom hostel, but most training for freedom hostels would be located on the outside perimeter of the establishment, so it a slight difference; ours is on the inside. But the way in which we operate where prisoners really just sleep there at night but they are out in the community through the day, that is what England and Scotland would call a training for freedom hostel and so effectively that is how we manage it and how we operate it. So, they are getting access to the community at that earlier stage of sentence. We allow them progressively to go from community visits, to home leave, to community work and then to paid work if they can secure paid employment. Then there will be a last stage home detention curfew for the last 4 months of the sentence where they are under monitoring arrangements by the Honoraries and that is effectively almost the equivalent of training for freedom in the U.K. systems.

Deputy J.M. Maçon:

Can you just explain to us how the success of that particular scheme is measured?

Prison Governor:

Well, I think there are a number of measures really. Do we successfully get them into accommodation before release because there are certain things that it is almost inevitable somebody is going to quickly come back into custody if they do not have a place to stay, if they do not have a job. There are various things that you can impact on that before release then there is a good chance they will stay out for a reasonable period of time. So, I would measure certainly success in terms of lack of breaches of licence while they are on the scheme, and we have a tiny percentage of breaches of licence, but typically anybody who appears back in the court system for having committed a criminal offence ... well, I think in the last 4 years that has only happened with 2 prisoners in one incident.

Deputy J.M. Maçon:

Out of roughly how many, just so we can put it in context?

Prison Governor:

Yes, I mean to put it in context 40 or 50 is probably the figures that we report to the Minister on a monthly basis, but to try to say what we have had over the last 4 years it would be certainly ... well, it depends if you want to measure that as prisoners who

are on home detention curfew and out in the community all of time or those who are accessing temporary release. If you talk about community visits, home leave, work, you are into thousands in any given year. If you are only going to talk about those on home detention curfew and living outside in that last period then we are probably talking a couple of hundred - under that probably. But obviously we would say it is a success if they successfully go out on a day and come back, you know, whether that is community visit, work, community work or paid work and not just that, they are in the last stage of the temporary release scheme. So on that basis you know to have a handful of failures over that protracted period of time I think probably shows a fairly good robust assessment process in the first instance and that prisoners respect the scheme and do not abuse it. But the issue is do they then stay out and do they stay and work and do they fail to commit crimes. We do not have a database available to us at this stage. This is something we are monitoring on an ongoing basis and the probation service do something similar, but we have not been doing it over a long enough period of time to provide good evidence that it is successful.

Connétable of St. Martin:

Success at H.M.P. (Her Majesty's Prison) now ... you have got an inspection coming up in 2013?

Prison Governor:

Next year, yes.

Connétable of St. Martin:

What areas do you think you have improved on since the last report or what areas have improved, sorry?

The Minister for Home Affairs:

I would say everything.

Prison Governor:

Yes, I mean the structural buildings in the first instance, when the last 2 inspections were here they were looking at the old buildings where there was no integral sanitation, the design was very poor even from the day it was built, very poor supervision lines with staff in terms of prisoner safety and staff safety and so on; it was not a good design. But it was well past its sell-by date even by the time these previous 2 inspections in 2002 and 2005 took place. The new model accommodation

buildings that we have stand in comparison with new builds anywhere else right around Europe. They are built to European standards; they are good quality buildings that provide good living accommodation for prisoners and good working facilities for staff. So, there is no comparison in regard to what the inspector will look at physically and what they examined on the last 2 occasions. But also the regime available to prisoners both in terms of the development on the education side, the development on the skill development side of education and training and programmes to address offending behaviour, there is a huge amount happening in the prison now that was not present in the last 2 inspections and I am sure they will report positively on that. They will also report positively on the staff/prisoner relationships, but they have done that consistently over previous inspections as well. That has not deteriorated any and there are still very good relationships there. They will find things that they will still find fault with and that they will not like. We have still got parts of the prison that still need to be replaced; the old buildings that are not really designed or fit for purpose that need to change at some point and they will not like just the mere fact that young offenders are still in the prison. No matter how good the accommodation is and how good the regime for the young offender is they will still be critical of the fact they are in the prison and unfortunately because of the restrictions on our accommodation they have to be located within an area where there are adult prisoners and they are going to report negatively on that. Similarly they will comment on how we manage female youngsters in the prison as well. I suppose there is no point in rehearsing all the debates now. We have to do what we have to do and they will be critical of that, but as I say there will be no comparison between the report we are likely to get, I would anticipate, and the previous 2.

Deputy J.M. Maçon:

Steve, any questions there?

The Connétable of St. Brelade:

Yes, just ones that came up from the Prison Board of Visitors, I know for some time there has been issues about the amount of time some prisoners are held on remand. How does the Minister feel about that and is there anything that we can do to improve that situation? How do the prison deal with that because obviously there must be issues from prisoners that are held for remand for what they consider to be too long?

The Minister for Home Affairs:

It is a problem because from the prison point of view, again, if there are failures then we are having to carry it. My own personal view from a background as a Magistrate is that we will never totally satisfactorily solve this problem unless we move to a system of custody limits of some sort. In the U.K. unless a case reaches a certain stage by a certain time, unless there is a satisfactory explanation as to why it has not, the prisoner is released on bail and that is the only way ultimately you force the prosecution authorities to deal with the cases sufficiently expeditiously. Forgive me if I have said this to you before, but I may not have done because I may have said it to the previous panel, when I was Magistrate the judges carved up responsibility in terms of who would be responsible for what area. My areas as Magistrate was to ensure that the gap between the first presentation to the court and committal at the Royal Court was sufficiently fast and we did things to improve that.

[16:30]

The Attorney General's responsibility was to ensure that there was an indictment at an early date. Part of the problem, in my view, is that there is a gap between the 2, because under our system when a person is committed to the Royal Court they are not committed to the Royal Court for a date and they therefore fall into a black hole where neither the Magistrates Court is overseeing the process, nor is the Royal Court. I am quite clear that as part of any changes to a civil or criminal procedure thing that the Magistrate should be adjourning to a date so that then the Royal Court picks up the issue and ensures it is being driven forward appropriately.

The Connétable of St. Brelade:

Sorry, when you say it "falls into a black hole" whose responsibility is it? Does it fall into the Law Officers Department?

The Minister for Home Affairs:

It does and that is not satisfactory. I am not criticising the Law Officers. I am just saying from a theoretical point of view it is not satisfactory. It should be the job of judges to ensure that the cases are being brought forward, but theoretically, and we have had cases of this nature, there could be years of gap between committal and indictment. There was one particular case - I will not mention the name, but you may recall it because the person was an employee of the hospital - and it was a very, very long gap in the indictment process, and they remained suspended for a very long period.

The Connétable of St. Brelade:

Could I just ask how that impacts on the prison?

Prison Governor:

I think the first thing to say is to be fair on this issue, the Board of Visitors monitor this on a monthly basis because we report how long people have been held every month. So they are very conscious of which prisoners have been held for lengthy periods of time and still have not come through the court process and it is fair to say that it is far less of an issue than it was maybe 2 years ago, 3 years ago. So, there has been a reduction although there are still some cases where that period on remand is probably much greater than it should be. It is usually restricted to the very complex cases and in the main they are cases where the sentence is at the end of any process in any case. Part of the reason I say that is I think that is the reason why we do not get much of a prisoner reaction. The prisoners themselves know that they are heading for fairly lengthy periods in custody so they do not make a fuss about the length that they are on remand. Part of the reason for that as well though is that we are different in La Moye in terms of how we manage remand prisoners than they would be in the U.K because we allow the remand prisoners to access all of the regime whereas in the U.K. remand prisoners would be very restricted in terms of what they could access. So, they do not suffer regime-wise in La Moye. If they did, then we may well generate far more complaints about having been held in remand for lengthy periods. For example, we allow remand prisoners to attend work and be paid for work. The law does not require them to work and in the U.K. most remand prisoners would not get the opportunity, but we give them the opportunity so they do not lose out. They lose out to a degree because the convicted prisoner will always get priority in terms of getting the work place because they are required to work, but in the main because they are held in remand for fairly significant periods we ensure that they access all aspects of the regime so we do not get complaints.

Deputy J.M. Maçon:

Final questions? No. As always your opportunity is granted if there is anything which you feel we have missed, misunderstood or any other further point you would like to make, now is your opportunity.

The Minister for Home Affairs:

Well, if anything I am a cracked record, but again this is an extremely good, well-run department and Bill has proved personally to be - I am embarrassing him now - an excellent Governor. We just hope he will stay in the Island and continue so. He has come up with significant improvements in a whole variety of areas, not just the pay scales and has implemented significant change over the period of his office. But he also has a very good team; he has a very good team of officers right across the board and as a result it functions extremely well and I am very grateful for that. I am a very fortunate Minister that I seem to have a situation where all of my main organisations fall into the same category. So, I am afraid you will hear me say this about the police when I talk about the police and you will hear me say it about the fire service.

Deputy J.M. Maçon:

Final comments from me then; again may the panel join with the Minister in thanking you and we hope that you will feed back to your staff we would like to thank them and praise them for the hard work that they do on behalf of the Island.

Prison Governor:

Thank you.

Deputy J.M. Maçon:

Thank you. In that case I would like to call this hearing to an end. Thank you very much. Thank you.

[16:35]