

Michael Kellett

18th July, 2011

Dear Deputy Pitman,

SCRUTINY SUB-PANEL HEARING 15TH JULY 2011

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

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

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

Furthermore, whilst he does not say so in his written submission, in the letter to me dated 7th September 2009 to which I referred in my original written submission, Mr Warcup acknowledged that something had gone wrong and

said, *'This was clearly not your responsibility and no blame is attached to you, however the original intention was to broaden the scope of your work'*.

On page 5 of his submission Mr Warcup goes on to state that *'during the course of the internal SOJP review [he] became aware that either Mr Gradwell or Mr Kellett had apparently agreed with BDO Alto Ltd. that there should be a joint report'*. I reiterate that there was no 'internal SOJP review' taking place, at least certainly not one with the terms of reference which he set out in his submission. The only review I was carrying out was the joint review with BDO Alto that I understood I had been commissioned to do. It was not a case of me agreeing anything with BDO Alto, the fact of a joint report was absolutely implicit in my terms of reference. Indeed, it would have been almost impossible for BDO Alto to have produced a report that was of any use to either SOJP or to the Home Affairs Department without input from me, which is the very reason I was employed.

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

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

- Firstly, I agree with him entirely that nothing should have been done by BDO Alto or me that could have undermined the investigation being carried out by the team from Wiltshire Constabulary. That is one of the main reasons that Wiltshire and I maintained such a close liaison throughout the time I was in Jersey and indeed, afterwards when we were both finalising our reports.
- He states that he was concerned about the methodology we had adopted, specifically *'that key witnesses had not been deposed in writing'*. That is to misunderstand the methodology of a review. We were not carrying out a criminal or disciplinary investigation where statements needed to be taken from witnesses. I made contemporaneous and comprehensive written records of conversations I had with every member of SOJP and Home Affairs Department who I interviewed and these are quoted from in our report, together with documents to which we had access. All of our conclusions are based on sound, verifiable evidence.
- He goes on to state that the review *'lacked objectivity, had the potential to be unfair to Mr Power and could have seriously undermined the*

investigation by Wiltshire Police'. I do not wish to appear over-sensitive to comments that may seem harsher to me than they do to others and which were perhaps not meant to sound harsh. However, I would point out that Wiltshire Constabulary clearly do not agree, as in paragraph 1.10 of their 'Finance Report' they refer specifically to having had sight of my initial drafts and of the draft joint report with BDO Alto and state that they *'concur with many of the draft report's findings'*.

- He also goes on to state that he had received legal advice via Wiltshire Police that raised concern at some of the content of my drafts. On 23rd September 2009 I had a telephone conversation with a member of the Wiltshire investigation team who had been instructed to contact me concerning that legal advice. The only concern their lawyers had relating to anything I had written was a reference, not to Mr Harper or to Mr Power, but rather to a remark made by a member of SOJP about a reporter from a national tabloid Sunday newspaper, present at one of the dinners hosted by Mr Harper in London and which I had quoted in the original draft discussing the circumstances of and expenditure on that meal. I was happy to delete the remark from the draft and it did not appear in the final version.
- I would also point out that the first time he raised any of the concerns set out in his written submission was in his letter to me of 7th September. Indeed, some of his concerns I have learned of for the first time only in his submission. By the time of our meeting on 21st July 2009 he had received all but one of the drafts of sections of my contribution to the joint report. At that meeting he expressed complete satisfaction with what I had produced. Furthermore, I was subsequently informed by two people present at the meeting of the Gold Group that had taken place on 20th July 2009 that at that meeting he quoted approvingly from sections of my drafts and allowed Mr Bill Ogle and Mr Steven Austin-Vautier, who were also present, to read extracts from them, something he is unlikely to have done if he had any serious concern about the content.
- Mr Warcup also states that I was unhappy with his decision that I should not carry out any further work on the review and that as a result I expressed concern that some of my findings were likely to be suppressed. That statement is inaccurate; whilst at some stage he may have made such a decision, it was only after I had already effectively resigned and my expression of concern about the possibility of my findings being suppressed predated both my resignation and his decision. In my e-mail to him of 2nd September 2009 I had set out my views not only about his refusal to allow me to interview Mr Harper but also about his wish not to have a joint report with BDO Alto. The reasons he gave to me in his letter of 7th September and that he has set out in his written submission to you for his desire for two reports bear no relation to the reason he gave to me on 21st July. In my e-mail I said to him, *'If you cannot change your position on this then I do not see how I can continue to contribute anything useful and I would have no alternative other than to terminate my involvement in the review of Operation Rectangle immediately. [...] I am sorry to have to write in such terms and sorry that our dealings with each other may have to end in this fashion'*.

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

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

Yours sincerely,

Michael Kellett

Deputy Trevor Pitman,
c/o Scrutiny Office,
States Greffe,
Morier House,
Halkett Place,
St Helier,
JE1 1DD