



Education and Home Affairs Scrutiny Panel

MONDAY, 20th APRIL 2015

Panel:

Deputy J.M. Maçon of St. Saviour (Vice-Chairman)

Deputy S.Y. Mézec of St. Helier

Witnesses:

The Minister for Home Affairs

Assistant Minister for Home Affairs

Chief Officer, Home Affairs

Prison Governor

[13:32]

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

Good afternoon, everyone. Welcome to this hearing of the Education and Home Affairs Scrutiny Panel. The Chairman sends her apologies. She is currently off the Island so therefore, I will gratefully assume the role of Chair for today. So for the record, if I could just ask everyone to introduce themselves? So good afternoon. I am Deputy Jeremy Maçon of St. Saviour and I am Vice-Chairman of the panel.

Deputy S.Y. Mézec of St. Helier:

Deputy Sam Mézec of St. Helier, member of the panel.

Scrutiny Officer:

Mick Robbins, Scrutiny Officer.

The Minister for Home Affairs:

Deputy Kristina Moore, Minister for Home Affairs.

Assistant Minister for Home Affairs:

Constable Deidre Mezbourian, Assistant Minister for Home Affairs.

Prison Governor:

Bill Millar, the Prison Governor.

Chief Officer:

Steven Austin-Vautier, Chief Officer for Home Affairs.

Deputy J.M. Maçon:

Good afternoon and welcome. Thank you very much for all coming to talk to us today and welcome to the member of the media. Just before we begin of course I will just remind everyone of the protocols which are around Scrutiny. I am sure the team before us have seen the Scrutiny health warning which basically says that you are protected under parliamentary privilege provided you do not tell us things which you know to be untrue. So I wonder if we can begin by passing to Deputy Mézec.

Deputy S.Y. Mézec:

Okay, thank you, Chairman. As a result of this review, you will presumably be aware of the previous review on this subject that has gone on in relation to the recommendations and the change of the law to allow lay people to serve on the Prison Board of Visitors last time. Could I ask you to outline what your current position is on that bearing in mind everything that has gone on since then?

The Minister for Home Affairs:

Well, the previous report and the subsequent proposition and debate I think show that it is quite a subjective point given that the States saw a tied vote following the debate of P.84/2011 and it is a point that can be subjective which we also saw in the differing legal opinions that were received.

Deputy S.Y. Mézec:

Do you have a position one way or the other? I think you were not in the States last time, no.

The Minister for Home Affairs:

I was not. This was before I entered the States. I think at this moment, it is probably precipitous for me to me to share my personal views with you because if you wish to carry out another review, I would not want to guide you in one way or another, not that that would necessarily have any bearings on your work and decision-making. I think it would be really useful to see a slightly

broader perspective brought to any possible review. I think that one of the issues with the last one was that it only included really 2 points of view from one member of the public who had a very strident opinion and another from the legal opinion that was sought. So when reading, although it was a good read, it was quite narrow and it sort of lacked a bit of perspective. I kind of wished I could hear from the voices of more people and perhaps more perspective from the prisoners themselves.

Deputy S.Y. Mézec:

Since you have been Minister, most of that time, it had not been decided that we were going to be carrying out this review. Has that been anything that you thought about within the department since October about whether revisiting those recommendations would be worth looking at?

The Minister for Home Affairs:

I have to say that it has not really been something that we have discussed in any great detail. It has perhaps been touched upon very briefly but we have got quite a broad list of work to carry on with so it has not been high on our list of priorities.

Deputy S.Y. Mézec:

Sure. I was going to move on to the second one.

Deputy J.M. Maçon:

Yes. No, fine.

Deputy S.Y. Mézec:

With the current situation there is, what do you regard as being the main strengths and weaknesses of it?

The Minister for Home Affairs:

Well, shall we talk about the strengths first?

Deputy S.Y. Mézec:

Sure.

The Minister for Home Affairs:

There is free access for prisoners who wish to raise issues with the Board of Visitors. They regularly attend the prison and there appears to be a number of prisoners who take up the opportunity to speak to them. There is feedback to ourselves but the current visitors are independent and because of the nature of the Jurats and their role, there is a feeling that prisoners

benefit from that contact. There is the knowledge that Jurats carry with them and also the gravitas that their role provides. Weaknesses would be the perception that there is a conflict of interest and I think the word "perception" in this case is very strong and bears great significance in this discussion. There is a lack of clarity as to the role itself. There are some guidelines in place but they are considered to be quite narrow and then a lack of training also provided to the members of the board.

Deputy S.Y. Mézec:

That was going to be one of the next points I brought up which was what training, if any, do the current board members get?

The Minister for Home Affairs:

I think there is a little induction process. Perhaps the Prison Governor would be better placed to describe that.

Prison Governor:

The induction is primarily focussed on incorporating safety in the prison so we would give them guidance on how to basically self manage as they move around the prison, albeit they generally are under escort but they could choose not to if they so wish. So it is basically about the prison environment and the environment they are going to operate in and how prisoners can raise a request and the process for referral to the Board of Visitors. So the induction is primarily about the prison side of the role. There is a brief guidance document that was produced by the board members themselves which is passed on to new members, so that is the role or the prospective role of serving members produced by the previous Chairman and another member of the board and that is about it really.

Deputy S.Y. Mézec:

In the U.K. (United Kingdom), they have obviously got lots of monitoring boards up and down the country and there will be training and inductions for those people. Do the Jersey members of the Board of Visitors ever have an opportunity to go and take part in a training scheme there just taking part because presumably there will be groups of people that will get put on a standard training process?

Prison Governor:

There would be facilitated visits but not training because their role is different.

Deputy S.Y. Mézec:

Yes.

Prison Governor:

They are not a monitoring board. Obviously in the U.K., they benefit from the associations themselves preparing guidance and training. Mostly that is not an option here in Jersey but as the role is different, they have never sought to seek the training that is given to independent monitoring boards.

Deputy S.Y. Mézec:

Sure. In terms of addressing some of the weaknesses you have just identified, what improvements do you think can be made within the current framework and composition?

The Minister for Home Affairs:

Well, the issue of perception is obviously quite a difficult one to tackle and perhaps your review might enable us to perhaps combat that perception or make it clearer. Then the lack of guidance, I think perhaps some work could be done to revisit the guidance notes that were prepared for the Jurats already and ask them to perhaps elaborate on those with a view to helping any future Jurats or members of the Board of Visitors. Training, as Mr Millar has described, it is difficult to provide training when they do not belong to an independent monitoring board as they would in the U.K. but we could perhaps look at training opportunities and learn from other jurisdictions. Perhaps not just the U.K. I think there is a different system in place in Guernsey so we could do some joint work with Guernsey or the Isle of Man where there is also a prison that is well-regarded.

Deputy S.Y. Mézec:

In Guernsey and the Isle of Man, their Board of Visitors is not made up of Jurats. It is ordinary members of the public in that sense. On a matter of principle, do you think it is right that a group of people who are involved in sentencing should also be on the Prison Board of Visitors? As a point of principle, you talked about the perception of conflicts of interests. Do you think that that is acceptable?

The Minister for Home Affairs:

Well, I think the Solicitor-General argued it quite distinctly during the debate that was held in 2011. He argued very clearly that there was not really any conflict of interest. We have discussed this ourselves and the role of a Jurat is akin to that of a Magistrate and also in their roles as Jurats, they are quite used to seeing the same people appearing before them because if people reoffend, they will reappear perhaps in front of the same Jurats and they are expected to deliberate the facts of that case in an independent way without referring to their previous experiences of that person. So they are a trusted person within our community who has been selected as we are going to go

and vote in the Electoral College later this week. They already have that trust and respect of the community.

Deputy S.Y. Mézec:

Do you think there is a case for saying that as well as Jurats serving on the Board of Visitors that other people should be able to serve on it? For example, people who have been involved in charities or people who have been involved in another sector outside of serving in the Royal Courts. Do you think there is a case to be made for that?

The Minister for Home Affairs:

Well, you are trying to ask me to give you my personal view and I think I said at the beginning that I was going to try not to share with you my personal views so that I did not direct you in any particular way.

Deputy S.Y. Mézec:

Sure.

Deputy J.M. Maçon:

I wonder if you could just tell us just because there are some parallels with how the Police Station Jail Board of Visitors is going to be because, again, that is an independent body of lay people who go and visit. I wonder how the experience of that has been in the department.

The Minister for Home Affairs:

Well, we have touched upon that issue during our visits to the police station custody suite and I think it seems to work. I have had no criticism of the current system. It seems to work quite well. Perhaps our Chief Officer might have information to perhaps give you.

Chief Officer:

Yes, they have been running for several years and it has been very successful but of course it is an entirely different role because it is an observational role and in fact the contact they have with the people in custody is always within the sight of police officers and they will only engage with someone in custody if they really want to, otherwise they will not do that at all. Whereas the role of the Jurat in the context of prison visiting is a much more different one but, yes, from the point of view of a scheme involving only lay people, it has been successful but the context is different.

Deputy J.M. Maçon:

Thank you. It is noted.

Deputy S.Y. Mézec:

Just briefly on the point we spoke about a bit on perceptions of conflicts of interests, are you or the Governor aware of prisoners' views themselves on that perception of conflicts of interests? Has any prisoner ever brought it up as something they were concerned about?

The Minister for Home Affairs:

Well, I will leave the Governor to give that answer himself but one thing I do know is that at the beginning of every hearing, the first question that is asked is whether the prisoner has an issue with any of the people who are hearing their case and so they are offered an opportunity to ask for different people to hear their case but the Governor himself will be able to tell you whether he has received any complaints.

Prison Governor:

In the 7 years I have now been Governor in charge of La Moye, I do not think I have received a single complaint from a prisoner about the fact that the board was made up of Jurats and that is possibly because, as the Minister has outlined, the Jurats themselves always give the prisoner the opportunity to state that they would prefer to see someone else. The Jurats will also withdraw if they feel they have had significant involvement in any particular case as it may influence their judgment. They see remand prisoners obviously and the Jurats are always very cautious and careful that they do not take any involvement in a case if they are going to be dealing with that same individual in the court.

[13:45]

Deputy J.M. Maçon:

Has there ever been an occasion whereby a prisoner has asked that a Jurat would leave in that situation?

Prison Governor:

I am not aware of any situation. It could have happened because usually, as I say, there is a panel of Jurats and a prisoner can request that they leave but it has not been brought to my attention that that has ever happened.

Deputy J.M. Maçon:

Thank you.

Deputy S.Y. Mézec:

I will just move on to some of the next ones.

Deputy J.M. Maçon:

Yes.

Deputy S.Y. Mézec:

How frequently does the board or members of the Board of Visitors visit the prison?

The Minister for Home Affairs:

Well, they visit more than they are requested to in the guidelines and I have got here the report from 2013 which says that there were 10 monthly meetings, 38 requests to see the board during its monthly meetings and 10 such meetings in that year. Then there were 44 requests to see members of the board who visited La Moye either individually or as a pair because they visit as the board but also they make visits in-between. There were 13 of those visits during the year so you can see that, on average, they visit the prison about twice every month.

Deputy S.Y. Mézec:

Are they required to draw up a report from each of those visits?

The Minister for Home Affairs:

Those visits are noted, yes.

Deputy S.Y. Mézec:

Do they provide an annual report that looks at everything over the past year?

The Minister for Home Affairs:

They do, yes, which is presented to the States by the Minister, yes. We are due to receive the next one quite shortly.

Deputy S.Y. Mézec:

Does the board have any specific responsibilities when there is a particular disturbance event or a suicide, something like that, in the prison?

The Minister for Home Affairs:

I think they would be one of the first people to be alerted to this, yes. Perhaps the Governor can give more details.

Prison Governor:

Yes, they are obviously very rare events but as a matter of procedure, we would inform the Chairman of the board. There is no requirement on them to attend the prison but I believe, in the past, they have. Fortunately, there have been no suicides or major riots in my term in La Moye but I believe, in the past, they have attended shortly after any significant event.

Chief Officer:

Prior to that, there have in my time. Yes, unfortunately, if there is something like a suicide, the U.K. Prison Ombudsman has been invited in certainly on the last 2 occasions and he or she writes an independent report.

Deputy J.M. Maçon:

Yes, on that situation if there is something going on, how much access does the Jurat then have?

Prison Governor:

The Jurats have free access at any time. Obviously, if we are managing a major occurrence, then that is where the resources will be so our ability to accommodate visits might be restricted. Again, that has not happened in my time but they have complete free access so if they did attend and asked to observe or attend an area, then they would be permitted to do so.

The Minister for Home Affairs:

But they would be accompanied by an officer for their safety. Is that true?

Prison Governor:

Yes, there may well be occasions, as the operational Governor, where I may impose restrictions if I felt then there was going to be a risk but, again, it is maybe fruitless to speculate on that.

Deputy J.M. Maçon:

Thank you.

Deputy S.Y. Mézec:

The next one. Should the visiting board be required to visit without notice?

The Minister for Home Affairs:

Well, it is an interesting question and one that was raised previously I think. We have had some discussion about this; whether there is any benefit to unannounced visits. The general feeling is that there really is not much benefit and in fact the Governor just described to us an occurrence last week when sometimes when the Jurats visit individually or in pairs in-between their meetings,

they usually give about 24 hours notice just so that the prison can make available a member of staff to go around the prison with them. On this one occasion, the Governor did not see an email that was sent to him and so, in effect, the Jurat did turn up unannounced because they were unexpected as the email had not been seen. I do not feel that there was any great difference in that visit to any other. It is purely to assist the prison in preparing for the visit in terms of staffing but it is not to say that they make any changes to their regime in preparation for that visit. Once the Jurats get to the prison, we know from our own experience of visiting the prison that it can take some time to get around all of the buildings and so what tends to happen is that once the Jurats arrive for their visit, they then dictate exactly which areas they wish to see. So they will not go around the whole prison. They will just choose at random and so the prison staff have no way of guiding the Jurats in those decisions.

Assistant Minister:

My understanding is that the Board of Visitors can visit unannounced at any time and that the Governor obviously does not have a problem with that but he might want to just comment. They are able to do that, are they not?

Prison Governor:

Yes, they are able to do so and, as you say, the visit we had last week was completely unannounced other than an email which came in at 6.50 a.m. so I did not see it but we never know where they are going to go. What they tend to do is see the prisoners who have requested to see them in the first instance and then decide thereafter which parts of the prison they want to go and visit. They do not tell me in advance. They do not even tell me on the day. I do not know until they have concluded their visit where they have chosen to go. Coming in unannounced operationally from the prison perspective, the only problem would be we generally try to make sure that we know which prisoners want to see them to make sure that they are accessible and provide an escort. So if they come unannounced, they may have to wait until such times as an escort can be provided and then we would not be able to tell them which prisoners have requested to see them. Obviously, we can have the boxes emptied where they put their request but it is all time from the Jurat in that regard. It is probably not a huge issue for the prison but probably an inconvenience to the Jurat a bit more.

Deputy S.Y. Mézec:

In the past when concerns have been raised by members of the board or when they have seen a perceived inadequacy, how has that been handled if it is happened before?

Prison Governor:

It depends on the matters raised. Most of the matters raised by prisoners tend to be relatively minor issues that can be managed very quickly.

Deputy S.Y. Mézec:

Such as what sort of thing?

Prison Governor:

Well, a recent example would be the waiting list for time to see the dentist. Now there is a limited control over that but they would nevertheless still raise it as a complaint or a grievance that they felt that the waiting list was too long and they were having to wait too long. It can be access to a work placement in the prison. There is another recent example where a prisoner felt aggrieved that he felt he should be allocated a particular workplace ahead of another prisoner. So they are really matters related to the regime in the main that are wholly within the management of the prison and not heavily influenced by the Board of Visitors at the end of the day. They will raise other matters and issues themselves as they go around and they observe or see things and they have done and they will raise matters with the Minister when the board meets with the Minister but, operationally, most of the things a prisoner will raise will fall to prison management. We will not always accept that the request is valid and they will not always get a positive response to that.

Deputy S.Y. Mézec:

You said before that there are differences between a Prison Board of Visitors in Jersey and what an independent monitoring board in the U.K. would do and one thing that has been suggested by one person to us is that you could theoretically have both a prison Board of Visitors and an independent monitoring board if there are people in the Island who would want to serve on something performing that sort of function. Is that an idea that has been raised before?

The Minister for Home Affairs:

It is not one that I am aware of. It would seem, on first hearing that, that it would be a little bit cumbersome but what that could be directed towards achieving is splitting the role between the adjudicatory role of the Board of Visitors and the visiting role. You could do that. You could have one of those groups being the visitors and one of those being the adjudicators.

Deputy S.Y. Mézec:

The last question to ask that we have got written down here is about how open you are to change if we do hear evidence from other groups or other organisations that say: "There are very specific changes we would like to see" and if we think they have got merit and want to propose that as a

recommendation, how open are you to that change? Do you think the current system is working so well that you would take a lot of convincing or are you open to change?

The Minister for Home Affairs:

Well, there is no evidence that we are aware of that the current system does not work well. I think we have already touched upon the subjective nature of the question and it being really a matter of perception which is why the States themselves ended up in a tied position when they were asked to decide last time. I think, as I said, I would welcome a report and a review that was thorough and broad and balanced in its perspective. It would be interesting ...

Deputy J.M. Maçon:

As of course all Scrutiny Reports are.

The Minister for Home Affairs:

As of course they are, yes, and I think from then on, we would take it from there. If of course the States were to decide that they wanted to change the current composition of the Board of Visitors or indeed create another route, then it would be my duty to follow that up.

Assistant Minister:

I think the Minister and I have both chaired Scrutiny Panels. We know that if evidence is produced which merits potential change, then that must be considered but I think it is all about recommendations from a panel that are based on evidence and not hearsay. So we all know that so we would expect your recommendations to be based upon evidence that you can produce to us.

Deputy S.Y. Mézec:

Are there any particular points you wanted to use this hearing to bring up that would be of benefit to us?

Deputy J.M. Maçon:

If I could just address the Governor, just looking at the scheme operationally, is there any way in which it functions which, from your perspective, the process could be improved?

Prison Governor:

Again, it is about why it is setup in the first place and what you wanted to achieve. The independent monitoring boards were created for particular reasons, none of which apply to Jersey and I think it is worth bearing that in mind. Provided prisoners have complete free access to people who are not under the control of prison management, the system has to be able to deliver

that so that the prisoner feels confident that they can raise any matter they wish with the person who will then address that on their behalf. I think the current Board of Visitors performs that role quite well. The weaknesses from where I sit as an operational Governor are not on how the board is constructed or indeed in their role. It probably is in the training provided to the members so that they can better address their role in the first instance. Whether the role is right is not a matter for the Prisoner Governor really to comment on as such but the way we could improve, as the Minister already commented on, is more around the induction and training given to members to better perform the function they have been asked to perform. But other than that, I think they really do a good job on behalf of all the prisoners and indeed providing assurance to the Minister.

Deputy J.M. Maçon:

Thank you. You have jogged my memory as well. You mentioned the guidance document. I wonder if you could just tell me when that was produced.

Prison Governor:

It was in Jurat Tibbo's time in the Chair so it probably goes back about 4 years, 3 to 4 years.

Deputy J.M. Maçon:

Thank you.

Deputy S.Y. Mézec:

That is it really.

Deputy J.M. Maçon:

That is it? All right, well, okay. Deputy Mézec has offered you the opportunity. If there is anything which you would like to say on the record now, please, I offer you that opportunity.

The Minister for Home Affairs:

I think it would just be useful to see a good challenge to the deficiencies in the system and anything that could be better placed to operate a good function for the prisoners.

Deputy J.M. Maçon:

Okay.

Assistant Minister:

From my point of view, I do not really remember seeing in the last report comparisons between the I.M.B.s (Independent Monitoring Boards) in the U.K. and the Board of Visitors here.

Deputy J.M. Maçon:

Thank you. In that case, I will close this hearing. Thank you, everyone, very much for submitting their evidence today for us to consider and I will end the hearing there. If I could ask the media and members of the public to clear the room in line with our protocols.

[14:00]