

STATES OF JERSEY



JERSEY POLICE AUTHORITY: ESTABLISHMENT

Lodged au Greffe on 21st December 2010
by the Minister for Home Affairs

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

to refer to their Act dated 19th May 1998 in which they approved the establishment by law of a Police Authority, and

- (a) to agree that the following principles should apply to the establishment of a Police Authority in Jersey and to the roles to be played thereafter by the Minister for Home Affairs, the Police Authority and the Chief Officer of Police –
 - (1) The Minister shall have overall responsibility for the functioning of the States of Jersey Police Force and the responsibility of ensuring that the Police Authority exercises proper oversight over the States of Jersey Police Force.
 - (2) The Minister, with the advice of the Police Authority –
 - (i) shall set the key aims and objectives of the States of Jersey Police Force; and
 - (ii) may set management policies of the States of Jersey Police Force in areas which may impact on the reputation or image of the States of Jersey Police Force or the Island of Jersey.
 - (3) The Minister shall, with the advice of the Chief Officer of Police, determine –
 - (i) the ranks in the States of Jersey Police Force; and
 - (ii) the number of police officers that may be appointed to each rank.
 - (4) The Police Authority shall have the duty of ensuring that the States of Jersey Police Force –
 - (i) is an efficient and effective police force;
 - (ii) delivers the key aims and objectives set by the Minister within the available resources; and
 - (iii) acts in accordance with any management policies set by the Minister under (2) above.

- (5) The Police Authority shall have a duty to refer back to the Minister any need for additional resources.
- (6) In exercising their functions the Minister and the Police Authority shall respect the operational independence of the States of Jersey Police Force although this shall not prevent the Minister or the Police Authority from making enquiries as to the manner in which any operation is being conducted, so that the States of Jersey Police Force can be made accountable for the manner in which the operation is being conducted.
- (7) The Minister may –
 - (i) require the Police Authority to enquire into and provide a report to the Minister on any matter relating to the States of Jersey Police Force;
 - (ii) direct the Police Authority to submit the States of Jersey Police Force to an inspection by a suitably qualified person determined by the Minister; and
 - (iii) if a report or inspection identifies an area for improvement, a training need or any inadequacy in the States of Jersey Police Force, the Minister may direct the Police Authority to ensure that the States of Jersey Police Force takes appropriate remedial action.
- (8) The Chief Officer shall have the command, direction and control of the States of Jersey Police Force and each of its police officers and shall be the Accounting Officer in relation thereto.
- (9) The Chief Officer in carrying out his or her function shall give effect in so far as circumstances permit to –
 - (i) the key aims and objectives set by the Minister;
 - (ii) the Annual Policing Plan;
 - (iii) any management policies set by the Minister under (2) above.
- (10) The Chief Officer shall be accountable to the Minister for carrying out his or her function in accordance with the key aims and objectives and any management policies set by the Minister under (2)

above and shall be accountable to the Police Authority for –

- (i) the general administration, governance and business of the States of Jersey Police Force; and
 - (ii) the discipline and organisation of his or her officers and their appropriate training to ensure effective succession planning.
- (11) The Chief Officer, if required to do so by the Police Authority or the Minister, must advise or provide a report on any policing matter and may in particular be required to advise or provide –
- (i) a report on an event arising out of a matter specified in the Annual Policing Plan;
 - (ii) a report on an event arising out of the direction, governance or control of the States of Jersey Police Force;
 - (iii) a report on any deployment of police officers;
 - (iv) a factual assessment of any policing matter.
- (12) The Police Authority with the advice of the Chief Officer shall, before 1st December in each year –
- (i) prepare a draft Annual Policing Plan for the next year; and
 - (ii) present it to the Minister.
- (13) The Minister with the advice of the Police Authority may, having consulted with the Chief Officer of Police, amend the Annual Policing Plan and must lay the approved plan before the States Assembly at the first reasonable opportunity.
- (14) The Police Authority shall consist of 7 people made up as follows –
- (i) the Chairman shall be appointed by the Minister following an appropriate selection process;
 - (ii) 2 States Members shall be appointed by the States; and

- (iii) 4 other members shall be appointed by the Minister and the Chairman following an appropriate selection process:

Provided that the Minister and Assistant Minister (or the equivalent thereof) and the Connétables shall not be eligible to be members of the Police Authority.

- (b) to request the Minister for Home Affairs to bring forward for approval the necessary draft legislation to include the foregoing provisions.

MINISTER FOR HOME AFFAIRS

REPORT

Introduction

Following a proposition of Senator Breckon (P.23/2010 – Independent Jersey Police Authority: Establishment), the States approved the following on the 23rd March 2010 –

“to request the Minister for Home Affairs to present to the States for approval no later than December 2010 detailed proposals for the establishment of an Independent Jersey Police Authority to oversee the work of the States of Jersey Police.”

The Minister for Home Affairs welcomed the Senator’s Proposition and, in his comments thereon (P.23/2010 Com.(2)), set out his initial views on the need to strike a fine balance in terms of the strength of the Police Authority.

Background

Following a recommendation made in Clothier One (Police Services in Jersey, July 1996), the States approved the establishment of a Police Authority on the 19th May 1998 (“Policing of the Island” P.49/1998). Subsequently, the Home Affairs Committee set up a ‘Shadow’ Jersey Police Authority, which operated between 2001 and 2003, to commence the process of establishing a Police Authority in law. The Honorary Police were an integral part of the ‘Shadow’ Jersey Police Authority, as it had been intended that the Authority would have oversight of the States of Jersey Police and the Honorary Police.

The Shadow Jersey Police Authority had operated initially under the chairmanship of Mr. Robin Rumboll, and the late, former Senator Christopher Lakeman whilst a member of the Home Affairs Committee. However, by 2003 it was becoming clear that the shadow authority was foundering. The Home Affairs Committee analysed the reasons for this in a report which it published as R.C.35/2003. The principal reasons for the problems being experienced at the time were as follows -

- Insufficient application of resources to carry out the task.
- Insufficient focus on the establishment by law of a police authority.
- Taking on the mantle of a police authority without any legal foundation.
- Lack of interest in the post of JPA Chairman.
- The uncertainty in the future role of Connétables.

Clothier One had recommended that the Connétables should cease to be the heads of the Honorary Police in their parishes. In 1999 the Connétables agreed to separate the policing side of their role from the administrative side, and handed responsibility for all policing issues to the Chefs de Police. However, whilst the Honorary Police (Jersey) Regulations 2005 made certain provisions for the Chefs de Police, it remains the case that the policing powers of the Connétables have never been formally removed.

In an effort to move this matter forward, the previous 2 Ministers decided to follow the template provided by the Gibraltar Ordinance for the establishment of a police

authority in a small jurisdiction and that, for the time being, the provisions would not include the Honorary Police. They had been attracted to this model following discussions at an Offshore Policing Forum in Gibraltar with Her Majesty's Inspector of Constabulary. Consequently, similar provisions to that ordinance were included at Articles 3 to 6 and 17 and 18 in the draft Police Force (States) (Jersey) Law 200-. However, the Chief Officer, Home Affairs, then carried out a detailed review of the provisions and advised the then Minister that the Gibraltar provisions could not be read across directly to Jersey given the lack of a Home Department in Gibraltar and the enhanced powers of their Governor.

When the draft Police Force (States) (Jersey) Law 200- was consulted upon in mid-2008, the Police Authority provisions again came in for much criticism including that arising from a Scrutiny Panel Hearing. The consensus was that the provisions, as drafted, still did not make it clear what the Police Authority was exactly responsible for and where the division of responsibility would lie between the Authority and the Minister for Home Affairs. It was also felt that the Police Authority proposed would not be sufficiently strong.

In late December 2009 the Minister for Home Affairs requested the Chief Officer for Home Affairs, to prepare a report in relation to the creation of an Independent Jersey Police Authority. He worked in consultation with the Acting Chief Officer, States of Jersey Police and the report was produced in March 2010.

Consultative Group

In January 2010 the Minister for Home Affairs spoke to 6 members of the Assembly, who have a particular interest in matters relating to policing and asked them if they would be prepared to be involved in a Consultative Group on this issue. The Group comprises:

- Senator B.I. Le Marquand, Minister for Home Affairs, Chairman;
- Deputy J.A. Hilton of St. Helier, the Assistant Minister for Home Affairs;
- Connétable of St. Ouen;
- Deputy of St. Martin;
- Deputy J.B. Fox of St. Helier;
- Deputy of St. Peter; and
- Deputy T.M. Pitman of St. Helier.

The Consultative Group has met on a number of occasions, and has made great progress in agreeing the principles which would underlie the establishment of an independent Police Authority for Jersey. The Minister for Home Affairs would like to formally express his gratitude to the members of the Consultative Group for their valuable input.

Principles

The principles that the Consultative Group agree would underlie the establishment of an independent Police Authority are as follows –

1. *That the Minister for Home Affairs would retain the responsibility for setting policy in respect of key aims and objectives, on advice from the Police Authority. That the role of the Police Authority would be to oversee the implementation of that policy.*

The Police Authority would produce a draft policy for consideration by the Minister and would have responsibility for ensuring that the policy was carried out in an efficient and effective way. This differs from the situation in the UK where central policy is set by the Government, and local police authorities deal with specific local policy. The role of the Minister for Home Affairs would be to set policy in respect of key aims and objectives on advice from the Police Authority. The Police Authority would take responsibility for overseeing the implementation of the policy. There would need to be a continual dialogue between the Minister and the Police Authority, and the Police Authority and the Chief Officer of the States of Jersey Police.

2. *That there was a need to safeguard the operational freedom of the States of Jersey Police, but with the Minister or the Police Authority having the right to make enquiries and to seek a report from the Chief Officer of Police in relation to the manner in which any operation is being conducted.*

Safeguarding operational freedom is a core, yet problematic issue, particularly when operations are ongoing, and it is acknowledged that getting the balance right may prove difficult. It is acknowledged that there is a grey area, which is not always clearly defined, between what are strictly operational and what are policy matters. The Police Authority will be able to act as a 'buffer' between the Minister for Home Affairs and the States of Jersey Police; it will be in a position to receive information, delve into detail and make decisions without accusations of interference, whilst allowing the Minister to retain a clear political role.

3. *That the Minister for Home Affairs may set management policies of the States of Jersey Police Force in areas which may impact on the reputation or image of the States of Jersey Police Force or the Island of Jersey.*

The ability to set management policies in these limited areas provides a proper safeguard in terms of proper oversight of the States of Jersey Police in areas of legitimate political concern. This ability is circumscribed by principle (2) above, which safeguards the operational freedom of the police in order to preserve the integrity of any investigation. The limitation on the areas involved also safeguards the ability of the Chief Officer of Police to properly manage and lead the States of Jersey Police Force.

4. *That the Police Authority would consist of 7 people with a Chairperson, 2 States Members and 4 lay members.*

The Chairperson, who would be a lay person, would be appointed by the Minister for Home Affairs, following an appropriate selection process. The 4 lay members would be appointed from the local community following an appropriate selection process, and by agreement between the Chairperson and the Minister. The 2 States Members would be appointed by the States, but the Minister and Assistant Ministers for Home Affairs (or their equivalent) would be ineligible to be members, as would the Connétables in light of their perceived policing function.

5. *The budget for the Police Authority would come from within the Home Affairs Department budget, but would need to be far more moderate than that which was normal in the UK.*

In the UK a Police Authority costs, on average, circa £1 million per annum to run, employs staff and sets the budget for the Police. It is funded through Central Government grants and council tax, whereby an annual, per capita, charge is levied on each member of the public. The Police Authorities consult with local people before setting the policing precept element of the council tax to ensure that they give value for money.

This model would not be workable in Jersey. It is doubtful whether a Police Authority could hold the Police budget under the current legal framework and accounting structures and, were it to be a completely autonomous body, it would require its own staff and finance manager, thus incurring substantial cost overheads. It is, therefore, preferable for the Police budget to continue to be set by the States, and to sit within the Home Affairs Department budget. However, the Police Authority could have oversight of the way in which the Police budget is spent. The Chief Officer, States of Jersey Police, would become the Accounting Officer for the Police element of the Home Affairs budget.

In light of the current financial climate, and whilst we are undertaking the Comprehensive Spending Review, it is clear that any operating costs for the Police Authority would need to be kept to a minimum, particularly as the budget for the Police Authority would have to come from a growth bid from the Home Affairs Department. Provision has been made in the Home Affairs Department's growth bids for 2012 in the sum of £100,000.

Police Authority and the Honorary Police

When the States adopted P.49/1998, they decided that the Police Authority would have oversight of both the States of Jersey Police and the Honorary Police; and moreover, that two of the seven members of the Police Authority should be Connétables appointed by the Comité des Connétables.

At the first meeting of the Consultative Group it was decided that a dialogue should be entered into with the Comité des Chefs de Police in respect of the role, if any, that the Police Authority would play vis-à-vis the Honorary Police. Members of the Consultative Group met with the Comité des Chefs to discuss the issue and subsequently received a letter from them setting out their view that they did not feel that the remit of the Honorary Police would function properly within the legal responsibility of a Police Authority. Although the Chefs de Police have indicated that they do not believe that the Police Authority should oversee the Honorary Police, the Consultative Group believes that there is the need for oversight of the Honorary Police; and that this role should be fulfilled by the Connétables, who should act in relation to the Policing Role of the Honorary Police in their Parish in the same way as the Minister for Home Affairs now acts in relation to the States of Jersey Police. The charging and court presentation role of Centeniers is separate because they are accountable in that role to the Attorney General.

When the then Minister for Home Affairs met with the Comité des Connétables in October 2008, the Comité concluded that information was limited as to the role of the Authority and how the Honorary Police would operate in conjunction with it, its

accountability, responsibilities and funding. Therefore, they were content for this to be reviewed at a later date once the Police Authority had been functioning for a period of time. Therefore, in broad terms, the view of the Connétables concurs with that of the Chefs de Police.

Changes to the draft Police Force (States) Law 201-

In 2008 the former Minister for Home Affairs carried out a limited consultation on this draft Law. The feedback received was generally that the draft Law was too weak in relation to oversight of the States of Jersey Police and that greater clarity was required in relation to the boundary between the responsibilities of the Minister and those of the Police Authority.

In order to tighten up these perceived weaknesses, the Consultative Group has considered a number of proposed changes to the draft Law, and has agreed that the draft Law should contain the following provisions:

Functions of the Minister:

- That the Minister for Home Affairs shall have overall responsibility for the functioning of the States of Jersey Police Force.
- That the Minister for Home Affairs shall have responsibility for ensuring that the Jersey Police Authority exercises proper oversight of the States of Jersey Police Force.
- That the Minister may require the Police Authority to enquire into and provide a report to the Minister on any matter relating to the States of Jersey Police Force; direct the Police Authority to submit the States of Jersey Police Force to an inspection by a suitably qualified person determined by the Minister; and if a report or inspection identifies an area for improvement, a training need or any inadequacy in the States of Jersey Police Force, the Minister may direct the Police Authority to ensure that the Force takes appropriate remedial action.
- That the Minister, having taken advice from the Police Authority, shall set policies in relation to the key aims and objectives, and may set management policies of the States of Jersey Police Force in areas which may impact on the reputation or image of the States of Jersey Police Force or the Island of Jersey.
- That the Minister (with the advice of the Chief Officer, States of Jersey Police Force) shall determine the ranks of the States of Jersey Police Force and the number of police officers that may be appointed to each rank.

Role of the Jersey Police Authority:

- That the Police Authority shall have the duty of ensuring that the States of Jersey Police Force is an efficient and effective police force.

- That the Police Authority shall have the duty of ensuring that the States of Jersey Police Force delivers the key aims and objectives set by the Minister within the available resources.
- That the Police Authority shall refer back to the Minister any need for additional resources.
- That the Police Authority shall have the duty of ensuring that the States of Jersey Police Force acts in accordance with any management policies set by the Minister.

Operational independence:

- That in exercising their functions, the Minister and the Police Authority shall respect the operational independence of the States of Jersey Police Force.
- That the operational independence of the States of Jersey Police Force shall not prevent the Minister or the Police Authority from making enquiries as to the manner in which any operation is being conducted, so that the States of Jersey Police Force can be made accountable for the manner in which the operation is being conducted.

Functions of the Chief Officer, States of Jersey Police Force:

- That the Chief Officer, States of Jersey Police Force shall have the command, control and direction of the States of Jersey Police Force and each of its police officers.
- That the Chief Officer, States of Jersey Police Force, shall assume an Accounting Officer role, in accordance with the Public Finances (Jersey) Law 2005, and be personally accountable for the proper financial management of the resources of the States of Jersey Police Force.
- That the Chief Officer, States of Jersey Police Force, shall give effect, in so far as circumstances permit, to the key aims and objectives set by the Minister, the Annual Policing Plan and any management policies set by the Minister.
- That the Chief Officer, States of Jersey Police Force shall, if required to do so by the Police Authority or the Minister, advise or provide a report on any policing matter and may, in particular, be required to advise or provide a report on an event arising out of a matter specified in the Annual Policing Plan; a report on an event arising out of the direction, governance or control of the States of Jersey Police Force; a report on any deployment of police officers; a factual assessment on any policing matter.

Accountability of the Chief Officer, States of Jersey Police Force:

- The Chief Officer, States of Jersey Police Force, is accountable to the Minister for carrying out his / her functions in accordance with the key aims and objectives and any policies set by the Minister.
- The Chief Officer, States of Jersey Police Force, is accountable to the Police Authority for the general administration, governance and business of the States of Jersey Police Force and also for the discipline and organisation of his / her officers and their appropriate training to ensure effective succession planning.

Annual Policing Plan:

- The Minister may amend the annual Policing Plan, with the advice of the Police Authority and having consulted with the Chief Officer, States of Jersey Police Force, and must lay the approved plan before the States Assembly at the first reasonable opportunity.

Resources

Further consideration will need to be given as to whether members of the Authority should receive an honorarium. An executive officer or secretary may need to be provided to the Authority. Any changes to the draft Law will require law drafting time. Provision has been made in the Home Affairs Department's growth bids for 2012 in the sum of £100,000.