

Education and Home Affairs Scrutiny Panel

States of Jersey Police Force (Amendment No 2) (Jersey) Law 201-

The States of Jersey Police supplied the following answers to the questions asked by the Panel in relation to the draft legislation.

Pre-Hearing Questions

1. Is there a list of core Police activities?

Answer

In answering this question reference should be drawn from the Oath of Office which all Police Officers take upon being sworn-in by the Royal Court. The Oath is set out in Police Force (Jersey) Law 2012, as follows –

“You swear and promise before God that well and faithfully you will exercise the office of a Member of the States of Jersey Police Force, that you will faithfully serve Her Majesty Queen Elizabeth the Second, her heirs and successors according to law, and that you will carry out your duties with courage, fairness and integrity, protecting human rights and according equal respect to all people. You will to the best of your ability uphold the laws and usages of Jersey, cause the peace to be kept, prevent offences against people and property and seek to bring offenders to justice according to law.”

Police Force (Jersey) Law also identifies the Duties and Powers of Police Officers at Article 16(1), which states –

A police officer must, to the best of his or her ability –

- (a) Cause the peace to be kept and preserved
- (b) Prevent offences, whether under customary or statutory law, against persons and property; and
- (c) Take such lawful measures as are appropriate to bring offenders to justice with due speed.

More broadly, the core responsibilities of the Police are therefore –

- The protection of life and property;
- The prevention and detection of crime;
- To prevent or stop breaches of the peace;
- The regulation of traffic within the powers provided; and

- To co-ordinate the response to and manage the effects of any major incident.

In addition, the Police have roles and powers that are prescribed under specific legislation and common law, such as powers to arrest, power to use force, power to enter, search and seize property etc.

In short, therefore, there is not a defined list of core police activities.

It may also be helpful in this context to identify what is considered not to be core police activity. In referring to the Education and Home Affairs Scrutiny Panel report of March 2008 entitled 'Policing of Events: User Pays?' it was found, as a key finding at 3.2.2 of that document, that '*The policing of events in itself is not a core service of the States of Jersey Police*'. In the eyes of the States of Jersey Police this position still remains. Core police activity relates to '*business as usual*' matters – the responding to emergencies and public calls for service, protecting life and property, preventing and detecting crime.

2. Other Forces have a list of chargeables (e.g. Sussex Income Generation and Charging Policy). Will there be such a list for the States of Jersey Police?

Answer

Yes. Article 24(1) of the revised law states that The Chief Officer may charge for the provision of police goods and services where such provision is reasonably incidental to normal police activity and the amount charged is in accordance with guidance issued by the Minister. As identified at Article 24(2), the local guidance document is based on that issued by the National Police Chiefs Council (NPCC).

In the local context, the Ministers charging for police service guidance will form two parts –

- **Part A** – Provision of Goods and Services to Third Parties (excluding policing of events); and
- **Part B** – Special Policing Services (Cost recovery for the Policing of Events) – to follow later in 2017 due to a need for wider public and cross government consultation.

Part A – Provision of Goods and Services to Third Parties

At present the States of Jersey Police apply charges under Regulations for the provision of Goods and Services in the form of administration and documentation provided to third parties, and the provision of Training services, as follows -

Training

Training is delivered to a number of public and private sector organisations including the Honorary Police and local Insurance Companies. The Types of courses available include –

- Foundation Training for the Honorary Police
- Statement Writing Course
- Speed Detection Training
- Officer Safety Training
- Radio Procedures Course
- Pocket Notebook Writing Course
- Interviewing Training
- Conflict Management Training
- Witness Skills
- Training and awareness of the Licensing Law
- Suicide Awareness Training
- Child and Adult Safeguarding

Administration

A full list of administrative goods and products is available but consists mostly of reports and copies of documentation held or created by the States of Jersey Police through the course of duties (Accident reports for insurance etc), Temporary Firearms Certificates for visitors to the Island and Subject Access Requests. The States of Jersey Police also charge for the provision of Police escorts to oversized vehicles and seek to recover costs incurred through the removal of vehicles by towing where the need arises.

Part B – Special Policing Services (Cost recovery for the Policing of Events)

Work on this area continues and wider public and cross government consultation is required which will take place over the coming months.

Any new charging framework with regard to the cost recovery for the Policing of Events will not be enacted until 1st January 2018 or until the Minister is content with the Part B guidance document.

Changes to Part A matters will be enacted shortly after the law change.

a) Will the States be informed of the charges?

Answer

Yes, the charges will be publically available on the States of Jersey Police website or upon request.

3. What consistency will there be in charges? For example, if music concerts are being charged, will the Battle of Flowers be charged?

Answer

Both the NPCC and local guidelines rest on a number of key principles –

- charging policy should have regard to overall policing objectives;
- charging policy should reflect proper accountability;
- private persons/bodies should not be able to profit at the expense of the police service;
- charges should be based on a robust and sound costing methodology;
- the policy and all charging decision-making should be clear and transparent to both providers and receivers of the service.

Consistency of application is central to the fairness and transparency of this cost recovery process. It is helpful to note that the NPCC guidance document creates a matrix for police to follow when considering cost recovery options and therefore helps determine which events should be subject to cost-recovery and which should not on the basis of a scoring system. This matrix will be replicated in the local guidance document. In this case, a music event may be subject to a charge for policing services if it a commercial venture, but the Battle of Flowers (in its current format) would not.

It is also helpful also to note that the NPCC document, and therefore the local version, provides a definition of an event. An event therefore, for the purpose of cost recovery, is defined as -

'An occurrence, out of the normal activity that takes place to provide an experience or defined activity to commercial or non-commercial reasons. Special Police Services are police services provided over and above core policing at the request of a person or organisation. It can be provided to a place or a defined locality by agreement with the organiser'

The matrix and associated method for charging will be more clearly set out in the Part B document of the Ministers guidance. Full economic cost recovery will only be sought for full commercial events. Most charitable and community events, where a policing service is needed, will not be charged.

a) What will the definition be for Commercial Events, Non-Commercial events and Statutory Events?

Answer

Different types and categories of event exist and are set into three categories in the national and local guidance document –

- **Commercial Events** – defined as events which are intended to generate private profit and where there is a financial gain or profit to the organiser/company/organisation without specific community benefit – usually but not exclusively through members of the public having to pay an entrance fee to gain access to the event.
- **Non-commercial events** – This category can be split into three further categories -
 - **Charitable Events** - Events where, although there is a financial gain, the surplus is for charitable distribution. These may be local charities but in some circumstances reflect a wider charitable status.
 - **Community Events** - Those events not for personal or corporate gain but are for community or local interest purposes, or to raise funds for local community institutions.
 - **Not for Profit Community Events** - Events where, although a minimal fee for participation is charged, it is generated only to cover organisational costs and not to raise a profit. Those

organising events do so on a voluntary basis for the benefit of participants and spectators.

- **Statutory events** – Events where there is no financial gain to the organiser and which reflect constitutional rights, or a cause of Royal, National, Local or defined public interest.

4. Will charges be placed in public domain?

Answer

Yes – both the guidance document and the associated charges will be released for public view and be accessible via the States of Jersey Website. It will be a public document and will also be subject to Freedom of Information requests once complete.

5. What safeguards will be in place to ensure the Police Force does not behave like a profit making company?

Answer

It is not immediately clear what *'behaving like a profit making company means'* but it is important to state that the States of Jersey Police is not seeking to make profit from this law change. The States of Jersey Police are funded entirely by the States of Jersey and is a public service. The demands upon policing are many and varied and this process is about cost-recovery, not profit making.

In terms of safeguards, neither the Minister or the Police Authority wish to see the Police make a profit through this process. All income is reviewed regularly via the Police Finance Board as part of regular reporting and Police Income has and will continue to be published in the Police Authority's Annual Report. There are however some areas of activity where the States of Jersey has particular expertise or carries out activity which is of commercial value to third parties. This is particularly the case in respect of training and the distribution of administration and documentation as will feature in the Part A guidance.

Financial Direction 4.1 includes a 'user pays' principle which, for example, includes a direction that charges cannot exceed the cost of service provision, except where imposed by States trading operations.

a) How does there only being one Police Force sit with monopoly and competition Laws?

Answer

Monopolies and Competition in Jersey appear to be regulated by the Competition (Jersey) Law 2005. The States of Jersey Police are a public body and do not, as such, operate in a competitive market. The sale and provision of training by the police does however allow the organisation to compete in certain circumstances but the product available is rarely something that only the police can offer, particularly in the field of training. It is accepted that the brand of the Police may offer a competitive advantage in certain cases.

6. In Sussex, it is a criminal offence to not pay for the service in advance and on time. How will payment be managed in Jersey?

Answer

Invoicing and accounts are handled by the States of Jersey Police Finance Department, which sits under the Finance Director for CCA. Invoicing for goods and services operate under States of Jersey Policy and Financial Directions. Invoices from the States of Jersey Police are distributed on a monthly basis with inward payments being monitored accordingly. If payments are not made then legal recourse is available through the Civil Court process.

The development of the Part B guidance document regarding Special Police Service (Cost recovery for the Policing of Events) remains in development and a policy decision will be made around payment being made either before or after any event.

With regard to the sale of goods (administration and documentation), no items are released by the States of Jersey Police until payment is made. It is however more normal to deliver training services first with an invoice to follow, post-delivery, and the States of Jersey Police have not experienced any issues with this approach thus far.

The new local law revision does not make it a criminal offence to fail to pay for goods and services offered by the Police.

7. Article 24(2) states there shall be consistency with guidance on charging for Police Services from ACPO in the UK. As the UK costs are not in line with Jersey costs, how will charges be consistent and suitable/Consistency controls.

Answer

The Ministers Charging for Service guidance is broadly consistent with the National Police Chiefs Council guidance (formerly ACPO) as required at Article 24(2). The NPCC document sets out a costing methodology regarding the calculations to be used and a matrix to help in the assessment of what sort of event should be charged. The States of Jersey Police and Minister's Department have studied that document and will mirror the charging methodology throughout because it is both relevant and applicable in Jersey. This means that whilst the costs themselves are not the same as those found in different parts of the UK due to differences in local overheads, cost of living and other environmental factors, the logic and transparency of the calculation is.

Charges for administration and documents, namely those held by the Criminal Justice Department, have been reviewed recently as part of this law change process. Historically, the Criminal Justice Department has followed the ACPO (now NPCC) guidance document which sets out a list of charges for certain items and products. The most recent version of the NPCC document dates from 2015 and so the local charges will, upon point of law change, reflect a small uplift for local cost of living increases. They will be reviewed on an annual basis moving forward.

Equally, because of the subtle differences between UK police administration and local police administration some of those items listed as available in the UK in the NPCC document do not apply or exist in Jersey – rather there is a local alternative. In these circumstances, the measure of time needed to prepare the item for distribution has been used to calculate the fee to be charged. This is done on the basis of hourly or half hourly units.

Costs for training courses were established a couple of years ago and were based on salary and overhead costs. Those figures will be reviewed towards the end of 2017 in preparation for 2018.

8. How are costs of services determined?

Answer

Further to the answer at question 7, the NPCC document sets out a costing methodology in the form of a table. That table will be included in the Part A document with local costs applied. The costing method for Police Officers is as follows –

	Key Data	Calculation
A	Direct Costs	
1	Basic Salary	Average salary per rank
2	Social Security	Average Social Security cost per rank
3	Pensions cost	Net in year service cost reflecting force contribution
=	Total employable cost	
4	Overtime premium	Rest day on-cost at 50% of basic pay
=	Total Direct Cost	
B	Direct Overheads	
5	Uniforms / equipment	Total budget / no. of officers
6	Fleet	Total budget / no. of officers
7	Training	Total budget / no. of staff
8	Call Handling	Call answering, crime recording, incident handling - (Communications centre CSOs) / no of officers
9	Communications infrastructure	IT infrastructure, voice servers & operational applications / no. of officers
=	Total Operational Resource Cost	
C	Indirect Overheads	
	General overhead recovery	Average indirect overhead recovery @ 30% (estimated national average) applied to Employable Cost + Direct Overheads
=	Full Economic Cost	

The costing method for Police staff is as follows –

	Key Data	Calculation
A	Direct Costs	Average salary per
1	Basic Salary	Average salary per group of bandings
2	Social Security	Average Social Security cost per group of bandings
3	Pensions cost	Net in year service cost reflecting force contribution
=	Total employable cost	
4	Overtime premium	Where applicable – at appropriate rate
=	Total Direct Cost	

9. Is ‘guidance of the Minister’ appropriate as s/he determines savings to be made?

a) Should be JPA?

Answer

We understand that the Comptroller and Auditor General is intending to undertake a review of the governance structure of the States of Jersey Police and will likely make recommendations regarding the respective roles of the Minister, JPA and States of Jersey Police.

10. What is the training model for companies or individuals?

Answer

This question, following clarification, relates to Article 27(4)(c) of the revised law and refers to the training required to carry out the functions conferred through designation from the Chief Officer when carrying out police functions as a non-police officer.

Article 27 specifically relates to the use of contractors to carry out the functions of a detention officer or an escort officer. A detention officer is a post which is located in the Police Custody suite at Police Headquarters, and is commonly referred to as a gaoler. Training is already given to Police Constables who currently fulfil this role in the national Detention and Custody Authorised Professional Practice course (formerly known as the Safer Detention and Handling of Persons in Police Custody). This is a week long course and teaches custody staff how to assess and manage risk in a custody environment.

There is no reason why this training could not be given to contractors or other civilian employees although a training package for these circumstances is yet to be developed.

An escort officer is a term used to refer to police employed staff working at the Island's Courts and is involved in the transport of prisoners or detainees from the Prison or Police Custody to the Court. Both Police Officers and some civilian police employees currently resource this area of work and they will have received the same training package as those working in the Police Custody suite.

There are currently no plans to use this section of the law upon it being enacted, although it may be considered in the coming years as part of broader efficiency opportunities and is common practice across the UK. If and when the Chief Officer decides to progress in these areas a full training needs analysis will take place before any agreements are made with individuals or third parties to provide such a service.

11. How will conflict of interest be safeguarded against?

Answer

The provision of goods and services will be subject to safeguards in a number of ways so to not unduly interfere with core police business.

Firstly, the amended Police Force (Jersey) Law allows the Chief Officer of Police to charge for goods and services but only in accordance with the guidance document issued by the Minister.

Secondly, activity of the States of Jersey Police is monitored on a quarterly basis through reports to the Jersey Police Authority, both in terms of activity but also finances.

In respect of Special Police Services, which is subject to Part B of the Ministers guidance document (to follow later in 2017), the supply of policing services will only take place where there is an agreement between the Chief Officer and the event organiser. The event organiser and the Police will discuss any policing requirement and agree a position which must be formalised via a service delivery agreement. No public entertainment event can take place in Jersey unless a permit has been issued by the Bailiff following a recommendation from the Bailiffs Entertainment Panel.

With regard to the delivery of goods and services, training will only be delivered to individuals, recognised groups or organisations who have been approved by the Chief Officer.

All Police Officers, including the Chief Officer and Deputy Chief Officer, adhere to the States of Jersey Police Business Interest Policy where any business interest must be declared and reviewed on a 12 monthly basis.

12. The Police Discipline code is instrumental in safeguarding Police standards and accountability. What rigour will there be to ensure that contractors have a code which is as stringent as the Police discipline code?

a. If staff breach codes, how will disciplinary action be assured?

Answer

This amendment sets out the circumstances in which the Chief Officer of the States of Jersey Police can designate a civilian employee as an officer carrying out the specified police functions of an investigating officer, a detention officer or an escort officer only. The powers and duties for each designated officer are set out in the new Schedule 2 of the revised law. The procedures for dealing with complaints against civilian employees carrying out these designated police functions are set out in a new Schedule 3. The procedures relating to the investigation of complaints which apply to police officers will also apply to such designated civilian employees.

The revised Law also specifies the circumstances in which the Chief Officer of the States of Jersey Police can designate the employee of a contractor as an officer carrying out the specified police functions of detention officer or escort officer. The Chief Officer can designate such an employee only if they have entered into an agreement with the contractor for the provision of police detention or escort services, following consultation with the Minister for Home Affairs and the Police Authority. The powers and duties for each designated detention officer or escort officer would be the same as those for civilian employees as set out in the new Schedule 2.

The provisions made by the new Schedule 3 concerning complaints, would apply in a similar way to a contractor's designated employee, culminating in the Chief Officer taking a view as to whether the conduct investigated justifies further action under the contractor's own disciplinary and performance policies.

13. Is there an appeals process ref action of a designated officer?

Answer

Given that a designated officer operates under the authority of the Chief Officer and that the Police discipline code will apply, there is no appeal process to any decision to carry out a disciplinary investigation. Once complete the Chief Officer must decide if any conduct should be considered by the contractors own employer under their own discipline code. That process is outside of the control of the States of Jersey Police and may well include an appeals process.

14. Under 24(1), what is the definition of 'reasonably incidental to normal police activity'?

Answer

There is no such definition of 'reasonably incidental to normal police activity' but it is a phrase commonly used in legislation without specific definition. It relates to activity which to a lay person, is reasonably beyond the normal activity of the police. This could be referenced back to question 1 which relates to 'core activity' and therefore it could be argued that the delivery of training, the production of documentation for third parties (beyond the needs of the Court) and provision of policing to public events is by-and-large reasonably incidental to normal police activity.