



Education and Home Affairs Scrutiny Panel



Policing of Events: User Pays?

Presented to the States on 11th March 2008

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1. TERMS OF REFERENCE

- 1. To assess the rationale behind the proposition to introduce a 'user pays' charge for the policing of commercial and profit-making events**
- 2. To explore how the charge would function and impact upon the planning and organisation of events**
- 3. To examine any further issues relating to the topic that may arise in the course of the Scrutiny Review and which the Panel considers relevant**

2. PANEL MEMBERSHIP

2.1 Education and Home Affairs Scrutiny Panel

- 2.1.1 DEPUTY DEIDRE MEZBOURIAN, CHAIRMAN
DEPUTY JULIETTE GALLICHAN, VICE-CHAIRMAN
CONNETABLE GRAEME BUTCHER OF ST JOHN
DEPUTY SHONA PITMAN

Officer Support during the review: Mr W J C Millow and Mr T A Oldham.

- 2.1.2 Connétable Butcher was appointed to the Panel on 29th January 2008 prior to this report's presentation. However, the Panel's investigations had finished by the time of his appointment and the report was nearing completion. He was not therefore directly involved in the review.

3. EXECUTIVE SUMMARY

3.1 Summary

- 3.1.1 The Minister for Home Affairs has proposed to introduce a ‘user pays’ charge to be levied in certain instances on the policing of commercial or profit-making events. We understand that effectively only new events would be covered by the charge.
- 3.1.2 The rationale for the charge is that the States of Jersey Police has become unable to cope with the increased demands being made of it, including the greater scale of events now taking place. We found that this argument could be justified and concluded that it would not be inappropriate for a ‘user pays’ charge to be introduced, given that the policing of events is not a core service of the States of Jersey Police. A similar ‘user pays’ charge has been introduced in other jurisdictions and we were not made aware of any viable alternatives available to the Minister. However, introducing the charge would not provide event organisers with a guarantee that their event would definitely take place.
- 3.1.3 Whilst the general rationale underlying the charge can be justified, there are concerns regarding the specific arrangements of which we have been made aware to date. Using criteria of fairness, accountability and transparency, distinguishing between ‘old’ and ‘new’ events would not be fair. Furthermore, we understand the reasoning behind the principle that only ‘commercial or profit-making’ events would be covered. However, we have found that it would be fairer to begin with the underlying principle that all events be considered for the charge, but that there be exemption criteria. Lessons in this regard could be learnt from what has been done elsewhere. We have also recommended that the Minister consult the Jersey Competition Regulatory Authority.
- 3.1.4 Many details on the specific arrangements were lacking during our review. It was not possible therefore to establish exactly how the charge would be administered and what would be included. However, the administration has to be sufficiently accountable and event organisers should be given a clear idea of what it is they would be paying for.
- 3.1.5 The States Assembly should be provided with more detail on the proposed ‘user pays’ charge before it is asked to approve it. Without such detail, it is difficult to predict the precise impact that would be had on the planning and organisation of events. As it is, we have concluded that the separation of the administration of the ‘user pays’ charge from the work of the Bailiff’s Public Entertainment Panel should be made clear.

3.2 Key Findings

Please note: Each key finding (and recommendation) is accompanied by a reference to that part of the report where further explanation may be found.

- 3.2.1 Greater demands, including from the policing of events, are being placed upon the resources of the States of Jersey Police. Such demands are likely to grow given current States strategic objectives relating to event-led tourism. (7.3.10)
- 3.2.2 The policing of events in itself is not a core service of the States of Jersey Police. (7.4.5)
- 3.2.3 Given that resources for policing events are 'demand-led', the Panel was not made aware of any potentially viable alternatives to a 'user pays' charge. (7.4.15)
- 3.2.4 Evidence from other jurisdictions suggests that a 'user pays' charge for the policing of events would not be inappropriate. (7.4.20)
- 3.2.5 Taking into account all four factors listed above, the introduction of a 'user pays' charge for the policing of events would not be inappropriate. (7.4.21)
- 3.2.6 Insufficient consideration was given during the development of the States Strategic Plan to the impact that Ministers' objectives might have on other Departments. (7.5.4)
- 3.2.7 The Panel welcomes the intention that all parties have for greater co-operation and co-ordination when planning for events and hopes that such co-operation will lead to a reduction in the demands made on the States of Jersey Police. (7.5.11)
- 3.2.8 Existing legislation effectively allowed a 'user pays' charge to be levied for Mutual Aid policing at Jersey Live 2007. (7.6.12)
- 3.2.9 The situation that arose in relation to Jersey Live in 2007 highlighted the need for a formalised process and administrative system in which all parties could place their trust. (7.6.14)
- 3.2.10 If a 'user pays' charge is not introduced for the policing of events, it is likely that some events will not take place. (7.6.18)
- 3.2.11 Distinguishing events on the criteria of 'tradition' alone or on how long they have been in existence would not treat events on an equal basis. (8.3.8)
- 3.2.12 The underlying principle of the current draft proposition is that only some events would automatically come under initial consideration for a 'user pays' charge. (8.4.13)

- 3.2.13 The States Assembly needs to be provided with more information on how the proposed 'user pays' charge would operate before the proposition is debated. (8.4.24)
- 3.2.14 The proposal that the Chief Officers of Economic Development; Education, Sport and Culture; and Home Affairs decide on whether a charge should be levied appears to be appropriate, provided that sufficiently clear guidelines and an appeals process are in place. (8.6.6)
- 3.2.15 An understanding has developed that the proposed 'user pays' charge would only apply to Mutual Aid; however, the current proposals indicate the charge would apply both to Mutual Aid and local policing costs. (8.7.4)
- 3.2.16 A balance needs to be struck between the security interests of the States of Jersey Police and the level of information that is provided to event organisers in support of any proposed charge. Whilst there may be a need for sensitive information to remain confidential, it would not appear sufficiently transparent or fair for an event organiser not to know the basis on which it is being charged. (8.7.14)
- 3.2.17 The introduction of a 'user pays' charge for the policing of events would not establish a means by which event organisers could guarantee that their proposed event would take place. (9.3.12)
- 3.2.18 During initial development of the proposed 'user pays' charge, there was a lack of consultation undertaken by the Minister for Home Affairs with the Honorary Police. (9.4.2)
- 3.2.19 The Bailiff will retain authority over the decision of whether a permit will be granted for an event to take place. (9.6.7)
- 3.2.20 The Panel supports the principle that the administration of the 'user pays' charge should remain separate from the remit of the Bailiff's Public Entertainment Panel. (9.6.8)

3.3 Recommendations

- 3.3.1 In future, greater consideration should be given by the Council of Ministers to the cross-cutting implications of Ministers' policies and objectives for other Departments. (7.5.5)
- 3.3.2 The Council of Ministers should ensure that Ministers seek States approval for all new 'user pays' charges, even if existing legislation would allow a charge to be levied without such approval. (7.6.13)
- 3.3.3 The Minister for Home Affairs should continue work and bring a proposition for a 'user pays'

charge to the States Assembly for debate. (7.6.15)

- 3.3.4 If the Minister for Home Affairs pursues the introduction of a 'user pays' charge for the policing of events, it should be based upon the principle that all events will be considered, albeit with exemption criteria. (8.4.14)
- 3.3.5 Events should not be exempt from any 'user pays' charge introduced for the policing of events solely on the basis of being 'traditional'. (8.3.9)
- 3.3.6 The Minister for Home Affairs should provide more detail on the assessment criteria for the proposed 'user pays' charge before the States Assembly is asked to approve the proposition. (8.4.24)
- 3.3.7 Under the proposed 'user pays' system, event organisers should not be expected to pay for services upon which they cannot receive information. (8.7.15)
- 3.3.8 Prior to bringing the proposed new 'user pays' charge to the States Assembly, the Minister for Home Affairs should consult the JCRA. (8.7.17)
- 3.3.9 The Minister for Home Affairs should ensure that the distinct separation of the proposed 'user pays' system from the work of the Bailiff's Public Entertainment Panel is made clear. (9.6.9)

4. CHAIRMAN'S INTRODUCTION

- 4.1 The Education and Home Affairs Panel began its review of the proposal to introduce a 'user pays' charge for the policing of certain commercial or profit-making events in September 2007. We chose the topic due to the concerns that had been expressed when the Minister for Home Affairs, Senator Wendy Kinnard, first lodged a proposition to that effect in 2006 and also due to the situation that arose in 2007 regarding the provision of policing at one particular event.
- 4.2 It became apparent during our review that this issue, perhaps straightforward at first glance, becomes more complex upon detailed examination. When we came to identify our findings and recommendations, the direction of our thinking was often diverted by questions of 'what if...?' This problem arose partly from considering the proposed charge in connection to specific events which already take place in Jersey. Such consideration led to questions of why one particular event should be charged whilst another would effectively be policed for free. Our deliberations also led to questions of how terms such as 'traditional', 'commercial' or 'profit-making' could be defined. However, it was not our rôle to provide answers to such questions but to consider the issues surrounding them.
- 4.3 Anyone with an interest in this topic will be aware that much of the debate has indeed centred on one event. During work on the proposed charge, the Minister for Home Affairs has stated that issues surrounding the charge need to be separated from any one event. We agree with this principle and have endeavoured to respect it whilst undertaking our review and drafting our report. That is not to say that we will not refer to this one event in our report; rather we will endeavour to step back from specifics and attempt to address the underlying issues in general terms.
- 4.4 To do this, we have identified three criteria (fairness, accountability and transparency) against which we have assessed the proposals as they currently stand. We anticipate that questions of why one event should be charged and not another will never go away; each individual (including States Members) will have their own reasons for thinking why a particular event should or should not be charged. As a Scrutiny Panel, we believe that an objective approach needs to be made and that the three general criteria described above allow an objective view to be taken. In other words, will the proposed 'user pays' system be sufficiently fair, accountable and transparent that every person (regardless of their opinion on the merits of charging this or that event) will be able to place their trust in that system?
- 4.5 It should be noted that the Panel has undertaken a review of a policy that is still in

development. When we began, the Minister and her Department effectively stopped work on the proposals in order that we might complete our review. We are grateful for this. However, it does mean that when our findings and recommendations are read, consideration should be given to the fact that the Minister has not yet taken the current proposition to the States Assembly, nor to the Council of Ministers.

- 4.6 We shall begin our report by setting out the current situation with regard to how events are planned and policed (Section 5). We shall then briefly set out the history of the proposals (Section 6). Both of these sections are provided for background in order that our subsequent examination of the Minister's proposals may be set in context. Neither Section 5 nor Section 6 contain findings or recommendations; if the reader wishes to move straight to our analysis of the proposition, we suggest that they begin with Section 7, where we examine the rationale behind the proposals and the general principles underlying them. In Sections 8 and 9, we then turn our attention to the detailed arrangements that have been suggested and the impact that such arrangements may have on the planning and organisation of events.
- 4.7 In presenting this report, the Panel would like to thank all those who contributed to the review and, as Chairman, my thanks go particularly to Deputy Gallichan, Deputy Pitman and the Scrutiny Officers.



Deputy Deidre Mezbourian

Chairman, Education and Home Affairs Scrutiny Panel

5. THE CURRENT SITUATION

5.1 Introduction

5.1.1 There are a number of parties involved with the organisation of events including States Departments; the Honorary Police; and event organisers themselves. In this section, we shall explain the rôle that each party currently plays in the planning and organisation of events. This section shall also include other information that may be pertinent, including a brief consideration of the ‘user pays’ principle.

5.2 Events Calendar

5.2.1 Each year, approximately sixty events on average take place in Jersey.¹ A glance at the list of events maintained by Jersey Tourism would indicate that these events cover a wide spectrum including sports competitions; food festivals; country fayres; concerts; and music festivals. The events may be large; small; last for a few hours; or even for a few days. Further information on the individual events that take place in Jersey may be found on the Jersey Tourism website.² The question may be asked of what in fact constitutes an ‘event’. This is not a matter which, in itself, the Panel has considered and it is not for the Panel to determine a precise definition. For the purposes of our review, we have taken ‘events’ to mean those covered by the remit of the Bailiff’s Public Entertainment Panel.

5.3 Public Entertainment Panel

5.3.1 Permission for an event to take place in Jersey, if required, is granted by the Bailiff. The Bailiff exercises control over licencing public entertainment under Common Law powers. The definition of public entertainment used as a guide in this context is “*any entertainment to which members of the public may gain access with or without payment.*”³ Before deciding whether or not to grant a permit, however, the Bailiff consults the relevant authorities that sit on an advisory body known as the Public Entertainment Panel. The purpose of the Panel is to consider matters of public safety at events.⁴

5.3.2 The Public Entertainment Panel consists of representatives of the States of Jersey Police; the States Fire and Rescue Service; the States Ambulance Service; the Health and Safety Inspectorate; and the Health Protection Department. Meetings are held each month under

¹ Information provided by the Bailiff’s Chambers

² www.jersey.com

³ Information provided on www.gov.je/BailiffsChambers/Licensing+Public+Entertainment.htm

⁴ *Working Party on Public Entertainment: Final Report* (R.C.26/2002)

the chairmanship of the Chief Officer of the Bailiff's Chambers. The Connétable of the Parish in which an event is proposed to take place is generally invited to the relevant meeting.⁵

5.3.3 Two kinds of permit may in fact be granted: an annual permit for venues where events take place throughout the year; and a 'one off' permit for specific events. It is the latter of these which is most pertinent to our review.⁶ Once an application is received, the Public Entertainment Panel considers the event from the perspective of public safety and looks at the plans made by the event organiser in this regard. Further work by event organisers may be required following this initial consideration and event organisers are therefore advised to submit an application at least three months before the proposed event is due to be held. Once the Public Entertainment Panel has completed its deliberations, a recommendation is made to the Bailiff on whether a permit should be granted. The Bailiff subsequently makes his decision. Permission for an event to occur may be granted with conditions attached.⁷ We understand that the Bailiff is generally unlikely not to follow a recommendation made by the Public Entertainment Panel.

5.3.4 The work of the Bailiff and the Public Entertainment Panel is covered by the *Unlawful Public Entertainments (Jersey) Regulations* which are renewed and updated every three years; they were first enacted in the 1980s⁸ and last renewed by the States in July 2007. The articles of the current Regulations state that it is an offence to hold an event without the Bailiff's permission and that it is also an offence to contravene a condition which has been set when permission is granted.⁹

5.4 Event Organisers

5.4.1 Behind each event is the event organiser whether it be, for example, an individual; a charitable association; or a private commercial company. The individual requirements for organising an event depend somewhat on the nature of that event, but the following provides a general idea of the process that event organisers may follow.

5.4.2 Perhaps the most significant requirement is gaining the Bailiff's permission for the event to take place. To this end, the organisers complete an application form and submit this alongside an event plan and risk assessment for consideration by the Public Entertainment

⁵ Information provided on www.gov.je/BailiffsChambers/Licensing+Public+Entertainment.htm

⁶ Organisers of one-off events do not in fact need to apply for a one-off permit if the event conforms to the terms of the venue's existing annual permit.

⁷ Information provided on www.gov.je/BailiffsChambers/Licensing+Public+Entertainment.htm

⁸ *Working Party on Public Entertainment: Final Report* (R.C.26/2002)

⁹ *Unlawful Public Entertainment (Regulations) 2007*

Panel. The event plan provides information on the nature of the proposed event and on how any foreseen risks will be addressed. The organisers are invited to a meeting of the Public Entertainment Panel to discuss the proposed event. As already indicated, the Public Entertainment Panel may ask for further work to be undertaken on the event plan before a recommendation is made to the Bailiff.¹⁰ A 'one-off' permit costs £30.00.

5.4.3. Whilst working on meeting the Public Entertainment Panel's requirements and expectations, event organisers may hold meetings with those organisations represented on the Panel on an individual basis. This allows them to address areas of specific relevance to those organisations' responsibilities.¹¹

5.4.4 Work with the Public Entertainment Panel on obtaining a permit might not however be undertaken by those behind the event in question (described in this report as the event organiser). Event organisers may employ an event manager to plan the event, including any dealings with the Public Entertainment Panel.¹²

5.4.5 Other matters for consideration by event organisers (or, on their behalf, the event manager) depend upon the nature of the event. For example, it may be necessary to organise toilet facilities or to arrange for lighting equipment to be erected. In such circumstances, third parties may be sub-contracted to provide a particular service. Event organisers may also need to engage security personnel and stewards at their event. Third parties sub-contracted to provide a particular service (including stewarding and security) may be engaged from outside the Island.¹³

5.5 States of Jersey Police

5.5.1 According to the 2008 Policing Plan, the States of Jersey Police has seven key service areas: managing intelligence; response and reassurance policing; serious and series crime investigation; financial crime investigation; anti-terrorism and national security policing; managing offenders through custody; and supporting the criminal justice system.¹⁴ In previous annual policing plans, these functions have been described as a 'business as usual' service.¹⁵ The Panel understands that funding and resources are sufficient to cover this day-to-day service but that extraordinary pulls on resources can be difficult to

¹⁰ Information provided on www.gov.je/BailiffsChambers/Licensing+Public+Entertainment.htm

¹¹ Mr M Corbin, Director of Jersey Live, Public Hearing 3, 12th November 2007, page 7

¹² Ibid

¹³ Ibid

¹⁴ *Policing Jersey 2008 – States of Jersey Police Policing Plan 2008*, page 5

¹⁵ *Policing Jersey 2006 – States of Jersey Police Policing Plan 2006*, page 7

accommodate.¹⁶

- 5.5.2 The States of Jersey Police takes into account the public's priorities. These are established through surveys and can influence service delivery. The 2008 Police Plan, for instance, indicated that in recent years more Officers had been placed on the street between 11:00pm and 3:00am as a result of growing public concern.¹⁷
- 5.5.3 The Minister for Home Affairs has political responsibility for the States of Jersey Police whilst the Chief Officer of the States of Jersey Police has operational responsibility. The current legal framework for this position is the *Police Force (Jersey) Law 1974* although we understand this law is currently under revision. The distinction in responsibilities has at times led to questions in the States Assembly.
- 5.5.4 As the States of Jersey Police falls within the Department of Home Affairs, its budget comes from the overall Home Affairs budget. The *Public Finances (Jersey) Law 2005* states that the Accounting Officer of a States-funded body, such as a department, is "*personally accountable for the proper financial management of the resources of the body in accordance with this Law.*"¹⁸ The Accounting Officer for the States of Jersey Police is the Chief Officer of the Department of Home Affairs.
- 5.5.5 When it adopted the 2008 Annual Business Plan, the States approved a budget for 2008 of £42,901,100 for the Department of Home Affairs. The Business Plan indicated that £22,432,100 of this sum would be allocated to the States of Jersey Police.¹⁹ As with other operational services within the Department, the States of Jersey Police has delegated authority to manage part of the overall Home Affairs budget; however, the Accounting Officer remains personally accountable. As such, the States of Jersey Police can therefore "*move resources around year on year depending on the operational priorities.*"²⁰ In essence, the service priorities, as described in the annual policing plan, impact upon the allocation of the police budget. Payment for the policing of events currently comes from this budget.
- 5.5.6 The States of Jersey Police has a representative on the Public Entertainment Panel and, as a result, advises event organisers on planning their event. From its own perspective, the States of Jersey Police also plans for events in order to decide, firstly, whether its presence

¹⁶ *States of Jersey Police response to issues raised by the Scrutiny Panel* (12th October 2007)

¹⁷ *Ibid*, page 2

¹⁸ *Public Finances (Jersey) Law 2005*, Article 38

¹⁹ Annex to Annual Business Plan 2008, page 68

²⁰ Ms E Middleton, Finance Director – Home Affairs, Public Hearing 5, 26th November 2007, page 7

is required and, if so, what level of policing should be deployed.

- 5.5.7 At the time of our review, there existed two posts within the States of Jersey Police dedicated to planning for events: a part-time inspector acting as the event planning officer and, alongside, a constable. These posts appear to have been in existence for some three years.²¹
- 5.5.8 When considering what level of policing, if any, is required at an event, several factors are taken into account. These include the time of year²²; the time of the event; the attendees; past experience of the event; the anticipated efficacy of the stewarding and security arrangements put in place by the event organisers; the level of policing provided by the Honorary Police²³; and the current capacity of the States of Jersey Police.²⁴
- 5.5.9 We were also told that communication with the event organisers is essential and (as indicated earlier) that meetings occur with event organisers (outside of those undertaken through the Public Entertainment Panel) to discuss relevant matters.²⁵
- 5.5.10 Once all factors have been considered, a draft plan is produced for the operations management team (comprising three Chief Inspectors and a Superintendent) that looks at the resources and financing required. An operational order is produced that indicates the plan of the States of Jersey Police for the event; the Police's intentions; and how these will be achieved.²⁶
- 5.5.11 As part of its planning, the States of Jersey Police undertakes a risk assessment for the event in question. This risk assessment records potential hazards; assesses the risk of these hazards occurring; and makes provisions for how they would be controlled.²⁷
- 5.5.12 The responsibilities of the States of Jersey Police when policing events were explained to us as follows:

- *Preservation of Life*
- *Protection of Property*
- *Prevention and detection of crime*

²¹ Superintendent S du Val, Head of Operations – States of Jersey Police, Public Hearing 5, 26th November 2007 page 7

²² Superintendent S du Val, Public Hearing 5, page 6

²³ Superintendent S du Val, Public Hearing 5, page 4

²⁴ *States of Jersey Police response to issues raised by the Scrutiny Panel* (12th October 2007)

²⁵ Superintendent S du Val, Public Hearing 5, page 8

²⁶ Superintendent S du Val, Public Hearing 5, pages 2 – 3

²⁷ States of Jersey Police Operational Risk Assessment Form

- *Preventing or stopping breaches of the peace*
- *Traffic regulation*
- *Activation of a contingency plan when there is an immediate threat to life and co-ordination of resultant emergency service activities²⁸*

These reflect the States of Jersey Police 'core responsibilities' when undertaking any of its duties.

5.5.13 The rôle played by the States of Jersey Police Officers at events themselves can take a variety of forms, including the following:

- Command and control team
- Event organisers liaison officer
- Arena team
- Optical evidence gatherers
- Dog handlers
- Covert officers
- Prisoner handling officers
- Mutual aid liaison officer
- Traffic duty officers
- Reserve team
- Gaolers / Custody liaison
- Intelligence²⁹

The States of Jersey Police maintains a presence inside the 'arena' at events, meaning there are not any 'no go' areas.³⁰ For command and control, the States of Jersey Police operates a system of 'gold, silver and bronze' command levels: gold commanders "*set the strategic direction for the operation*"; silver commanders put the plan together; and bronze commanders deliver the plan on the ground.³¹

5.5.14 If the States of Jersey Police felt it were unable to deal with a particular event within its own resources, assistance could be requested from other Police forces in the United Kingdom or Crown Dependencies (i.e. Guernsey and the Isle of Man). For one event in 2007, for example, officers were provided by police forces from Devon and Cornwall, the Isle of Man and Guernsey.³² This assistance is known as Mutual Aid and may be sought by the Minister for Home Affairs under the provisions of the *Police Force (Jersey) Law 1974*.³³ The current Minister has delegated this responsibility to the Chief Officer of the States of

²⁸ *States of Jersey Police response to issues raised by the Scrutiny Panel*

²⁹ *Response to Request from Scrutiny Panel Enquiring into Policing of Events* (22nd November 2007)

³⁰ Superintendent S du Val, Public Hearing 5, page 28

³¹ Superintendent S du Val, Public Hearing 5, page 20

³² Official Record of the States Assembly, 11th September 2007

³³ *Police Force (Jersey) Law 1974*, Article 3(5)

Jersey Police.³⁴ There is no obligation for forces to provide Mutual Aid; when required, a request is made and an agreement reached with the other force that includes arrangements for the payment of Mutual Aid Officers.³⁵ We understand that there is no set notice period for requests for Mutual Aid.³⁶

5.5.15 Training also assists the States of Jersey Police to prepare for events and to manage the policing required of Officers. Each year, every Officer takes an ‘Officer Safety Programme’ in order to remain fit for operational duty.³⁷ Officers receive general training (e.g. on self-defence) whilst particular teams or units receive specialist training. For some events, we were advised that such teams might be kept as a contingency unit.³⁸

5.5.16 Officers have also increased their understanding of how large events may be policed by visiting events held in other jurisdictions. For instance, two States of Jersey Police Officers observed the policing at the 2007 Rock Ness Festival in Inverness.³⁹

5.6 Honorary Police

5.6.1 Whilst legislatively speaking Honorary Police officers have similar powers to their States colleagues, the rôles played by the two forces differ in practice. It is often said that there are in fact thirteen forces as each Parish’s Honorary force remains under the oversight of the Parish’s Connétable (although operational responsibility falls to the relevant Chef de Police). For the purposes of our report, however, we refer generally to the Honorary Police as a whole as one ‘force’. The Honorary Police does not fall under the operational control of the States of Jersey Police.⁴⁰ The Comité des Chefs de Police has an overseeing and co-ordinating rôle for the management of Honorary Police resources. The Chairman of the Comité, Centenier John Le Masurier, explained to us the principal difference between the rôles of the Honorary Police and States of Jersey Police:

“The Honorary Police are not frontline in public disorder situations. I think that is almost where you could make the demarcation. The States Police have the training, the resources and the experience and are paid a salary to undertake those rôles.”⁴¹

³⁴ *Delegation of Functions to Chief Officers and Heads of Department* (MD-HA-2005-0003)

³⁵ *States of Jersey Police response to issues raised by the Scrutiny Panel*

³⁶ Superintendent S du Val, Public Hearing 5, page 18

³⁷ *Ibid*, page 21

³⁸ *Ibid*, page 20

³⁹ *Ibid*

⁴⁰ *Ibid*, page 5

⁴¹ Centenier J Le Masurier, Chairman – Comité des Chefs de Police, Public Hearing 4, 13th November 2007,

5.6.2 This situation is reflected in the deployment of officers at events: Honorary Police officers are not deployed in front-line positions but tend to take primary responsibility in matters such as traffic management⁴² or lost children and property.⁴³ If it is felt that an event is of such a nature that a States of Jersey Police presence is not required, the event may only be attended by the Honorary Police. As an example of the demands that might be made on the Honorary Police, we were advised that St Helier's Honorary Police had carried out 257 'special duties' in 2006 (including policing events). This had amounted to 6,078 man-hours.⁴⁴

5.6.3 Given the voluntary nature of the Honorary Police, the planning process it follows is somewhat different to that followed by the States of Jersey Police. From the Honorary Police's perspective:

"One looks at the event, decides how many officers would be ideal then asks for volunteers. We are a voluntary force and there is no compulsion on anybody to do anything, especially when it is major events like this. We rely on people volunteering their services."

Each Parish has its own Honorary Police force. However, if an event is of such a scale that it will place too great a demand on the Honorary Police of the Parish in which the event is being held, a request may be made to other Parishes for assistance.⁴⁵

5.6.4 Despite this planning process, however, it would appear that the Honorary Police is not able to guarantee the number of officers that will be present at an event, particularly if the event is large. This can have a knock-on effect on the planning undertaken by the States of Jersey Police as the number of Honorary Police officers at the event is taken into account by the States of Jersey Police.⁴⁶ This situation arose for one large event in 2007 when the Honorary Police was unable to guarantee attendance of its officers at the event sufficiently far in advance for the requirements of the States of Jersey Police planning process.

5.6.5 Funding for the Honorary Police comes from the relevant Parish's budget (i.e. from the rates collected). As a voluntary force, Honorary Police officers are not paid although out-of-pocket costs may be reimbursed; each Parish has its own arrangements in this regard. Funding from the Parish therefore tends to go towards equipment. Parishes receive no

⁴² Written Submission from Vingtenier M Couriard MBE, 25th November 2007

⁴³ Written Submission from The West Show Association, 26th November 2007

⁴⁴ Written Submission from Vingtenier M Couriard MBE, 25th November 2007

⁴⁵ Centenier J Le Masurier, Public Hearing 4, page 2

⁴⁶ Superintendent S du Val, Public Hearing 5, page 5

payment for the services provided at events although event organisers sometimes make donations towards costs.⁴⁷

- 5.6.6 Beyond the services of the Honorary Police, other demands may at times be placed on a particular Parish by the staging of an event. The Chairman of the Comité des Connétables, Connétable Ken Vibert, advised us that these may not be 'direct' costs and gave the example that for one event, a group of ladies from the Parish in question had provided refreshments for the Honorary and States of Jersey Police Officers on duty.⁴⁸ We were also advised by a St Helier Vingtenier that expenditure had been incurred by his Parish from events through "*ensuring that various signs were made and in advertising the road closures.*"⁴⁹

5.7 Department of Economic Development

- 5.7.1 According to its website, the Department of Economic Development "*helps the States achieve its aim of enhancing the performance of the Island's economy.*"⁵⁰ One part of the Island's economy is the tourism industry for which the Department has the current objective that Jersey should have "*a vibrant visitor economy which adds value to Island life.*"⁵¹ Encouraging and assisting 'event-led tourism' is one way of achieving this objective and is therefore one tool in diversifying Jersey's tourism product and helping the Island compete with other destinations.⁵² At a Public Hearing, the Minister for Economic Development, Senator Philip Ozouf, highlighted the significance of event-led tourism:

*"Economic Development regards events, and an events calendar - and a vibrant events calendar - as absolutely fundamental to encouraging, maintaining and enhancing the tourist and visitor economy. I say the visitor economy but of course many of the events that Economic Development do get involved in and do fund are also Island events and could be regarded as very much almost as part of the Island's culture."*⁵³

- 5.7.2 The Department's 2008 Business Plan indicated that estimated expenditure in relation to 'events' in 2008 would be £814,165.⁵⁴ Its direct involvement with the organisation of

⁴⁷ Written Submission from the Comité des Connétables, 12th November 2007

⁴⁸ Connétable K P Vibert, Chairman – Comité des Connétables, Public Hearing 4, page 7

⁴⁹ Written Submission from Vingtenier M Couriard MBE, 25th November 2007

⁵⁰ Information provided on www.gov.je/EconomicDevelopment/

⁵¹ *Economic Development Business Plan 2008*, page 14

⁵² Notes of Briefing on Event-Led Tourism, 29th October 2007

⁵³ Senator P F C Ozouf, Minister for Economic Development, Public Hearing 1, 12th November 2007, page 2

⁵⁴ *Economic Development Business Plan 2008*, page 56

events, through Jersey Tourism, can take a variety of forms. For example, the Department organises its own events such as the Liberation Day celebrations and La Fête de Noué. In such circumstances, a professional event manager may be employed to oversee the arrangements (see Paragraph 5.4.4).

5.7.3 The Department is also on hand to provide assistance to other event organisers. This assistance can take the form of advice on risk assessments or how to liaise with the Public Entertainment Panel. An Events Manual has been developed by the Department for the use of event organisers. Alternatively, the Department may promote the event or, indeed, provide funding.⁵⁵ In terms of funding, there is a set procedure whereby event organisers can apply to the Department. Events are judged under overall headings of 'attractiveness' and 'ease'. For each heading there are a number of more detailed criteria against which an event is rated. If the event scores highly enough, it will be eligible to receive funding.⁵⁶ This process is carried out in accordance with Financial Directions. As part of that process, evaluations occur after the event in question has taken place.

5.8 Department of Education, Sport and Culture

5.8.1 The Department of Education, Sport and Culture also plays a rôle in the organisation of events due to its responsibility in relation to the Island's culture. Its general aims and objectives in this regard were set out in *Development of a Cultural Strategy for the Island* (P.154/2005) that was approved by the States on 20th September 2005. Some of these objectives referred directly to the importance of events, indicating that the Department would "*support programmes of activity which increase cultural tourism to the Island*" and "*develop/co-ordinate with all major cultural providers a three to five year programme of major festivals, conferences and events on cultural themes to attract and sustain tourism to the Island.*"⁵⁷ In this regard, the Department can be considered as a partner of the Department of Economic Development.

5.8.2 In terms of the involvement that the Department has in the organisation of events, this was described to the Panel at a Public Hearing by the Assistant Minister for Education, Sport and Culture with responsibility for culture, Deputy Carolyn Labey. She advised us that the Department did not organise events directly but provided annual grants to cultural providers that would themselves then organise events. These cultural providers are the Jersey Heritage Trust; the Jersey Arts Centre; the Jersey Arts Trust; and the Opera House. As

⁵⁵ Notes of Briefing on Event-Led Tourism, 29th October 2007

⁵⁶ Jersey Tourism - Event Evaluation

⁵⁷ *Development of a Cultural Strategy for the Island* (P.154/2005), Objectives 3.1 and 3.2

described by the Assistant Minister, the Department's rôle is therefore one of a co-ordinator.⁵⁸

5.9 The 'User Pays' Principle

5.9.1 Broadly speaking, the 'user pays' principle may be easily understood – those individuals who benefit from, or use, a given service pay for that service. It is a principle which has been applied both in Jersey and in other jurisdictions in a variety of contexts.

5.9.2 The Panel's research indicates that ideas regarding 'user pays' charges in Jersey go back to at least the *Anti-Inflation Strategy* (P.125/2000) that was adopted (with amendments) by the States Assembly on 13th September 2000.⁵⁹ As its name would suggest, the proposition set out a number of actions to be taken to reduce the rate of inflation. One such action was to limit increases in charges levied by the States to 2.5% unless there were compelling reasons to do so (and only with the approval of the former Finance and Economics Committee). There was no reference to 'user pays' charges in the proposition itself but the accompanying report included the following statement that provided a definition of 'user pays':

*"It is recognised that there may be legitimate and compelling instances where an increase above 2.5 per cent is desirable. These may be, for example, for 'user pays' reasons (i.e. if one particular group receiving a valuable service from the States is charged below cost, then that group is simply being subsidised by taxpayers generally) or in pursuit of health or environmental objectives, where the purpose of raising a charge may be to signal the relative undesirability of a given activity."*⁶⁰

5.9.3 As part of the 2004 Fundamental Spending Review, former Committees were asked to find 10% savings in their budgets. To help achieve this end, Committees were asked to identify at least one 'user pays' charge for implementation.⁶¹ We have viewed the advice that was provided to Committees on this matter. Reference was made therein to P.125/2000 and it was stated that the "*range of services provided by the States can be broadly split into three main areas:*"

- "*Services which the States should provide and pay for;*

⁵⁸ Deputy C F Labey, Assistant Minister for Education, Sport and Culture, Public Hearing 2, 12th November 2007, page 4

⁵⁹ Minutes of the States Assembly, 13th September 2000

⁶⁰ *Anti-Inflation Strategy* (P.125/2000), page 8

⁶¹ Guidance provided to former Committees as part of 2004 Fundamental Spending Review

- *Services which should be provided by the States but which should be paid for by either the user or by some-one else (User Pays);*
- *Services which should not be provided by the States.*⁶²

5.9.4 The administration of charges, including ‘user pays’ charges, is now covered by Financial Direction 4.1, *Increases in States Fees and Charges*. Financial Directions are set down in accordance with Article 34 of *Public Finances (Jersey) Law 2005* and specify how the provisions of the Law should be addressed and how the proper administration of public finances is to be achieved.⁶³ In each Department, the Accounting Officer is personally responsible for ensuring compliance with the Financial Directions.

5.9.5 Financial Direction 4.1 follows the same definition of ‘user pays’ charges that was set out in P.125/2003 (see Paragraph 5.9.2). The purpose of Financial Direction 4.1 is to “*set the parameters within which Departments review their fees and charges*” whilst at the same time respecting the provisions of the Anti-Inflation Strategy. It refers back to P.125/2000 and states that “*the previous Finance and Economic Committee was determined that States funds are allocated to high priority “core” areas, which may mean that if lower priority or non-core services are to continue the full cost of service provision will have to be met by the user.*”⁶⁴

5.9.6 Prior to proposing any new ‘user pays’ charge, Departments “*should be able to demonstrate that:*

-they have actively reviewed all costs relating to a service; and

-every effort is being made to control or reduce costs and improve productivity.”⁶⁵

The same process should be followed if a Department wished to increase a charge. Financial Direction 4.1 states that “*charges cannot exceed the cost of service provision, except where imposed by States trading operations.*”⁶⁶ It also indicates that the introduction of any new charge “*should be noted in the Annual Business Plan for the year in which it is proposed to introduce or raise the charge.*”⁶⁷

5.9.7 However, new ‘user pays’ charges also require the prior approval of the States Assembly. The reason for this stems from the adoption by the States on 24th June 2003 of *States*

⁶² Ibid

⁶³ *Public Finances (Jersey) Law 2005*

⁶⁴ *Financial Direction 4.1 – Increases in States Fees and Charges*, page 5

⁶⁵ Ibid, page 6

⁶⁶ Ibid, page 7

⁶⁷ Ibid, page 8

Approval for New “User Pays” Charges (P.63/2003). By adopting this proposition of Senator Stuart Syvret, the States agreed:

*“that no new “user pays” charges be introduced by Committees of the States without any such charge receiving prior in principle approval by the States Assembly.”*⁶⁸

- 5.9.8 Senator Syvret advised us that he was prompted to bring P.63/2003 due to the intention of the former Environment and Public Services Committee to introduce a sewerage charge. His proposition was not intended to be ‘anti-user pays’ but was motivated by the belief that it would not be right for States Departments to be able to introduce such “*a form of taxation*” without States approval. The proposition was “*designed to make sure that proper accountability and democratic control remain[ed] in place.*”⁶⁹
- 5.9.9 ‘User Pays’ charges which already existed at the time were unaffected by the proposition. We understand that since the adoption of P.63/2003, the proposed charge relating to the policing of commercial or profit-making events will represent only the second occasion on which a proposition asking for approval of a new ‘user pays’ charge has been lodged. The previous occasion was when approval was sought for *Jersey Legal Information Board: Introduction of ‘User Pays’ Charges (P.139/2003)*. That proposition was adopted on 11th November 2003.

⁶⁸ *States Approval for New ‘User Pays’ Charges (P.63/2003)*

⁶⁹ Written Submission from Senator S Syvret, 31st October 2007

6. THE PROPOSITION

6.1 Introduction

6.1.1 The current draft of the Minister's proposition that we have reviewed has not yet been placed before the States Assembly. Neither has it gone before the Council of Ministers for consideration. However, previous drafts have been seen by both the Assembly and the Council. A timeline outlining the development of the proposition has been included as an appendix to this report. At this juncture, we will briefly describe the history of the proposition and how it developed into the format that we reviewed.

6.2 Initial Development

6.2.1 From Section 5.9, it can be seen that 'user pays' charges have been 'on the tables' of States Departments since at least 2000 and were considered by Committees in 2003. However, it would not appear that a specific 'user pays' charge relating to the policing of events was considered before the advent of Ministerial Government in December 2005: at least, there do not appear to be any minutes of the former Home Affairs Committee to suggest that the matter was ever considered on a political level. The earliest information which the Panel received dated from 2nd May 2006 and comprised minutes of an Executive Strategy Group meeting held in the office of the Chief Officer of the States of Jersey Police.

6.2.2 The fourth item discussed at the meeting was the possibility of charging event organisers for policing events. By the time of the meeting, a draft policy had been developed and this was considered and amended at the meeting.⁷⁰ Work on the proposal at this stage appears to have been undertaken 'internally' by the States of Jersey Police although the Finance Director from the Department of Home Affairs was present at the meeting.

6.2.3 The draft policy, entitled *Event Protocol for Police Assistance at Commercial Events*, set out the rationale for the 'user pays' charge and described how the policy would work. Definitions of events were given in the policy (in order that it could be seen which events might be covered) and a table established the duty rates for officers that would be used to establish the charges levied on event organisers.⁷¹

6.3 P.94/2006

6.3.1 It is evident that further work took place on the policy in preparation for its consideration by

⁷⁰ Minutes of Executive Strategy Group Meeting, 2nd May 2006

⁷¹ *States of Jersey Police Event Protocol for Police Assistance at Commercial Events*

the States (a requirement given that a new 'user pays' charge was being proposed). We understand that the Department of Home Affairs would have been involved in providing executive support at this stage of the process.

- 6.3.2 The subsequent work resulted in *Policing Commercial and Profit-Making Events: New 'User Pays' Charge* (P.94/2006) that was lodged *au Greffe* on 21st July 2006. The proposition mirrored the policy from May 2006 in several respects: the rationale for the new 'user pays' charge, essentially the same, was set out; definitions were provided of events that were likely to be covered; and the duty rates that would be used to establish costs were shown. P.94/2006 was somewhat less descriptive on the respective responsibilities of event organisers and the States of Jersey Police; and provided for a less active rôle for the Public Entertainment Panel than had been intimated in the document from May 2006.⁷²
- 6.3.3 P.94/2006 was initially due to be debated on 10th October 2006. However, it became apparent that the proposition caused concern amongst some States Members. Questions were put to the Minister in the Assembly and it was subsequently decided to put the debate back in order that the proposition might be considered by the Council of Ministers.
- 6.3.4 The Council considered the proposition at its meeting on 21st September 2006. Concerns were expressed regarding the potential implications of the proposition. The Council agreed that the Department of Home Affairs should work with the Departments of Economic Development and Education, Sport and Culture on a way forward. Meetings were held at both officer and ministerial level and it was subsequently decided that P.94/2006 would be withdrawn and a revised proposition brought back to the States Assembly in due course.

6.4 Revising the Proposition

- 6.4.1 The three Departments and Ministers subsequently continued work on redrafting the proposition. In May 2007, the Minister for Home Affairs approved the draft proposition as it stood at that time and it went for further consideration by the Council of Ministers at its meeting on 14th June 2007. We understand that, at this meeting, it was agreed that consultation should be undertaken with the Honorary Police before a revised draft would be brought back to the Council for endorsement. This revised draft would need to provide more detail and set out the position of the Honorary Police in relation to the proposition.
- 6.4.2 A meeting between the Minister for Home Affairs and the Comités des Connétables and des Chefs de Police occurred on 23rd July 2007. We understand that this was in fact the

⁷² *Policing Commercial or Profit-Making Events: New 'User Pays' Charge* (P.94/2006)

first occasion on which the views of the Honorary Police had been actively sought.⁷³ As a result of the meeting, further work was undertaken on revising the draft proposition. It was this draft that was passed to the Panel in September 2007 for review.

- 6.4.3 Broadly speaking, the proposition (if approved in its current draft) would allow a ‘user pays’ charge to be levied, if deemed appropriate, on new events classified as commercial or profit-making. If it were decided to levy a charge, the organisers would sign a Special Services Agreement with the Department of Home Affairs that would set out the particulars of the charge and the responsibilities of each party. Overarching this new ‘user pays’ system would be a Working Agreement between those involved: the States of Jersey Police; the Department of Home Affairs; the Department of Economic Development; the Department of Education, Sport and Culture; and the Honorary Police. Through this Working Agreement, there would be increased co-ordination and communication between the parties to assist preparation for events by better planning.
- 6.4.4 At our Public Hearing with the Minister for Home Affairs, she explained how P.94/2006 had developed into this draft proposition that we had been reviewing:

“[...] the original proposition was quite prescriptive and that is no longer going to be the case. Now the new proposition is about looking at the event, looking at what resources, and it is a group of people who decide how the combination of resources should come together and how they should be funded. So it is quite a different proposition.”⁷⁴

It is this ‘different proposition’ which we shall now examine.

⁷³ Connétable K P Vibert, Public Hearing 4, page 8

⁷⁴ Senator W Kinnard, Public Hearing 5, page 29

7. THE RATIONALE BEHIND THE PROPOSITION

7.1 Introduction

7.1.1 In our first Term of Reference, we set out to assess the rationale behind the proposed 'user pays' charge. To do this, we shall look at the reasons given for bringing the proposition and examine whether these reasons can be justified.

7.1.2 We received several submissions that expressed concern at the proposed charge. For instance, some questioned whether the proposition had been targeted unfairly at particular events or at a specific section of the population. These concerns were more relevant to the specific arrangements that have been proposed for the charge rather than the general principle of whether this 'user pays' charge should be introduced. We shall therefore cover those concerns in Section 8. In this section, we shall essentially look at the question of whether there is a 'problem' to be resolved and whether the proposed 'user pays' charge would be an appropriate solution to that problem. However, we shall not examine the generic principles of 'user pays' charges as these have already been accepted by the States (albeit perhaps implicitly) through the adoption of *Anti-Inflation Strategy* (P.125/2000) and of *States Approval for New "User Pays" Charges* (P.63/2003).

7.2 The Minister's Rationale

7.2.1 The initial reason given for proposing to introduce a 'user pays' charge for policing commercial or profit-making events appears to have remained the underlying rationale of the proposition throughout its development. This reason was set out in the draft policy considered by the States of Jersey Police in May 2006 and appeared in every subsequent version of the proposition which we have seen. In P.94/2006, it was stated as follows:

*"The rationale for such a protocol must be set in the context of diminishing police resources and the greater demand placed upon the Police Force by the community it serves and the need to support the "user pays" ethos of the States policy."*⁷⁵

Further advice was provided during our review that the proposal had been driven "*by the impact of additional policing requirements for 'new' events rather than charging for existing services.*"⁷⁶ The argument was that the States of Jersey Police did not have the resources to cope with the demands of policing events that had recently come to be made of it (and which were expected to increase still further) without affecting other parts of its service.

⁷⁵ *Policing Commercial or Profit-Making Events: New 'User Pays' Charge* (P.94/2006)

⁷⁶ Written Submission from the Department of Home Affairs, 22nd November 2007

- 7.2.2 In the first instance, we endeavoured to ascertain whether the rationale could be justified. The advice we were given suggested that the totality of States of Jersey Police resources needed to be borne in mind and that consideration would also need to be given to whether Jersey's geographical and constitutional position placed unique demands upon these resources.
- 7.2.3 The States of Jersey Police advised us that between the years 1996 and 2007, the authorised strength of the force had gone from 247 to 245 Police Officers (i.e. not including civilian staff). This represented a slight decrease whilst the Island's population had increased during that period from 85,150 to 89,300 people. It was pointed out that this establishment of 245 Police Officers was in fact rarely reached due to various reasons such as pregnancy, illness or suspension. This establishment (together with the civilian and manual staff) meant that Jersey had a lower police to population ratio than England and Wales as a whole (3.73 police staff per 1,000 people compared to a ratio of 4.33 in England and Wales).⁷⁷
- 7.2.4 The totality of States of Jersey Police resources needs to be borne in mind as there is not one part of the force that deals solely with policing events, notwithstanding the two officers dedicated to event-planning. Dependent on the policing levels judged necessary for an event, the entire force could be affected:
- “Everyone in our force who is physically capable (and that is 99 per cent) has a uniform in their locker and can be and are deployed regularly in support of these [events], but there is a knock-on effect.”⁷⁸*
- 7.2.5 The question of States of Jersey Police resources has been raised in recent times in the media. It is also apparent in the 2008 Policing Plan. For instance, the decision to increase police presence on the streets between 11:00pm and 3:00am (see Paragraph 5.5.2) has made it more difficult to maintain a visible police presence during daylight hours. It has therefore been intimated to the Panel that the 'business as usual' service has become more difficult to provide given the extraordinary pulls on resources that had arisen.
- 7.2.6 The situation is compounded by the nature of Jersey's police force: we understand that the States of Jersey Police has to provide services that would not normally be expected of a Basic Command Unit in England and Wales despite the fact that it serves a population of comparable or smaller size to such Units. For example, forces in the United Kingdom of a

⁷⁷ States of Jersey Police response to issues raised by the Scrutiny Panel

⁷⁸ Superintendent S du Val, Public Hearing 5, page 18

similar size would not be expected to have their own drugs squad, firearms unit or criminal justice unit. This 'problem' arises from the geographical position of Jersey. Geography poses a problem, we were told, in that the States of Jersey Police could not rely on support to be provided rapidly from other forces, whereas in the United Kingdom, forces could rely with more certainty on neighbouring forces to assist rapidly if required.

7.2.7 In terms of the 'greater demands' that had been placed upon these resources, we were told that there had been the introduction of new legislation such as the Regulation of Investigatory Powers Law, as well as new standards "*in relation to crime recording and evidential disclosure practices.*"⁷⁹ With regard to events, we were advised that the increasing demands of policing greater numbers of larger events had already had an impact on the organisation of the States of Jersey Police. Indeed, the two specialist posts referred to in Paragraph 5.5.7 were seemingly created due to the increasing number of events.⁸⁰

7.2.8 The Head of Operations explained the impact that policing one large event had had on the States of Jersey Police's resources:

*"to police [an extraordinary event] even without mutual aid it means that a number of our detectives from our Financial Crimes Unit are working 2 to 3 days at [the event] and, therefore, are not available for 2 to 3 days the following week to deal with all our international obligations under anti-money laundering, et cetera. It means that the people at First Tower and at St. Brelade are not seeing their community officer for a few days. It means that one or two people from our public protection team, who are pretty busy at the moment, are not available. It means that C.I.D. (Criminal Investigation Department) detectives are not available because we do not have the number of people we need to police an event such as this just available to us in uniform and operational shifts."*⁸¹

7.2.9 It was also put to us that States of Jersey Police resources would become more stretched in the future:

"At the moment, fortunately or unfortunately, depending on the way you look at it, but we are funding the States of Jersey police officers policing all these sort of events from unfilled vacancies. We hope to be up to strength, to a point, next year,

⁷⁹ States of Jersey Police response to issues raised by the Scrutiny Panel

⁸⁰ Superintendent du Val, Public Hearing 5, page 7

⁸¹ Ibid, page 18

*which means that the things we have absorbed this year, last year, the year before, we will not have that money.*⁸²

The argument is that unfilled posts have allowed the States of Jersey Police the flexibility of moving resources from one area to another and thereby to cope with extraordinary pulls on resources. In response to a written question on 15th January 2008, the Minister for Treasury and Resources confirmed to the States Assembly that Departments were able to do this. Once these posts are filled, however, the resources will be ‘tied’ and there will be reduced flexibility (notwithstanding the earlier statement that all Officers may at times be required to ‘put on their uniform’).

7.2.10 Another potential problem facing the States of Jersey Police for the future might be the proposed change to Mutual Aid arrangements that was described to us by the Head of Operations. It has been proposed to establish in the United Kingdom a ‘Police National Co-Ordination Centre’ that would oversee requests from Police forces for assistance from other forces. To date, requests for Mutual Aid have been made directly to individual forces. It was suggested that Jersey’s requests might therefore not be given high priority and that Mutual Aid would become harder to obtain.⁸³

7.3 Can the rationale be justified?

7.3.1 There were two questions that we asked of the information with which we were provided. Firstly, is it fair to say that Jersey’s geographical position places the States of Jersey Police in a disadvantaged position compared to police forces elsewhere? Furthermore, is it correct that the demands on States of Jersey Police resources, in particular from policing events, have recently increased (or are likely to increase)?

7.3.2 In terms of Jersey’s policing situation, we looked to see whether an idea could be gleaned on how the Island fares compared to other jurisdictions of a similar size. We had been advised that the ratio of police staff per 1,000 people in England and Wales was 4.33, compared to a figure of 3.73 for Jersey. We endeavoured to ascertain what such figures might be for the Isle of Man; the Isle of Wight; and Guernsey. From our research, we made the calculations presented below. These provide a general indication without consideration of crime rates and other potentially mitigating factors; for example, allowance has not been made for the fact that services for the Isle of Wight relating to Major Crime, Special Branch, Professional Standards and Training are dealt with by the Hampshire Constabulary from

⁸² Ibid, page 45

⁸³ Ibid, page 14

Winchester and Southampton (and not 'on-island' as for Jersey). The Isle of Man and Isle of Wight both administer a 'user pays' charge for the policing of events.

Jurisdiction	Number of Police Officers	Number of Police Staff	Population	Policing Ratio (staff per 1,000 population)	Policing Ratio (officers per 1,000 population)
Jersey	245	333.5	89,300	3.73	2.74
Guernsey	177	214	61,029	3.51	2.90
Isle of Man	236	303.18	79,805	3.80	2.96
Isle of Wight	208	285	134,900	2.11	1.54

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The States of Jersey Police included comparative figures of its own in its 2008 Policing Plan, indicating that Guernsey had 2.95 officers and the Isle of Man 2.99 officer per 1,000 population.⁸⁵

7.3.3 The written submission from the Comités des Connétables and Chefs de Police appeared to support the view that the States of Jersey Police occupies a unique position:

“Unlike UK forces, SOJP cannot rely on neighbouring police forces to provide back-up at short notice and must therefore plan in advance.”⁸⁶

7.3.4 The Honorary Police had also felt an increase in the number of events being held and the resultant demand on resources. This matter was touched upon by the Chairman of the Comité des Chefs de Police when he appeared at a Public Hearing:

“The frequency of events has increased. I think everybody will know that Victoria Avenue is getting closed more frequently and each time Victoria Avenue is closed it puts pressure on the Honorary Police involved in it.”⁸⁷

7.3.5 We endeavoured to gather statistical information on this point and therefore approached the Bailiff’s Chambers with a view to establishing the number of events that had been held

⁸⁴ The following sources were used to compile this table:
www.gov.gg/ccm/navigation/home-department/police-service/modern-day-policing/
 2007 Guernsey Facts and Figures, page 68
Baseline Assessment – Isle of Man Constabulary (October 2006), Her Majesty’s Inspectorate of Constabulary, pages 6 – 7
www.hampshire.police.uk/Internet/localpolicing/isleofwight/
www.iwight.com/living_here/stats/images/PopulationEstimatesforMid-2002.pdf
⁸⁵ *Policing Jersey 2008 – States of Jersey Police Policing Plan 2008*, page 32
⁸⁶ Written Submission from the Comité des Connétables, 12th November 2007
⁸⁷ Centenier J Le Masurier, Public Hearing 4, page 9

over the last five years. We were advised that “*there has been no significant change over the last five years or so.*” On average, there had been 60 to 65 events each year although this had varied between 78 events in one year and 54 in another.⁸⁸

7.3.6 However, the proposed ‘user pays’ charge is in part a measure in anticipation of the demands that will occur and is therefore aimed at new events or, at least, new demands on resources. In this regard, we were advised that the number of events was likely to increase and that, indeed, this was the aim in some respects of the Departments of Economic Development and Education, Sport and Culture. For instance, the Minister for Economic Development stated:

*“I think that I would predict that there is likely to be more events in Jersey going forward and a greater level of investment in events. So the issue of user pays charges and profit or not for profit events is something which, I think, is going to need to be well understood and well able to be dealt with as far as policing matters are concerned.”*⁸⁹

7.3.7 The 2008 Business Plan for the Department of Education, Sport and Culture indicates that one of its objectives would be to “*raise [the] profile of [the] Island through support and facilitation of major sport and leisure events.*” The stated target for this objective is that at least twenty major events are held.⁹⁰

7.3.8 Beyond the number of events being held, there is also a question of the scale of events being held. The Chairman of the Comité des Connétables suggested that events were getting larger and attracting larger audiences,⁹¹ views reflecting comments made on 16th July 2007 by the Connétable of Trinity during a States debate. The Connétable advised the Assembly that demands were increasing to the extent that assistance had to be sought more frequently from other Parishes (i.e. events could not be managed solely by the Honorary Police of the Parish in which the event was held).⁹² These concerns of the Honorary Police were also expressed to the Minister for Home Affairs when she met the two Comités on 23rd July 2007.

7.3.9 Much of the debate on the proposed ‘user pays’ charge has revolved around one event: the Jersey Live music festival. Our review focused on the proposition rather than the particular

⁸⁸ Written Submission from the Bailiff’s Chambers, 17th December 2007

⁸⁹ Senator P F C Ozouf, Public Hearing 1, page 3

⁹⁰ 2008 Education, Sport and Culture Business Plan, page 16

⁹¹ Connétable K P Vibert, Public Hearing 4, page 8

⁹² Official Record of the States Assembly, 16th July 2007

issues relating to any one event. However, Jersey Live does provide an example of how events are getting larger. In its lifetime, the event has moved from a one-day event held on a Saturday to a two-day event covering both Saturday and Sunday. Attendance has risen from approximately 5,000 people at the one-day event to 20,000 people over the course of the two-day event.⁹³

KEY FINDING

7.3.10 Greater demands, including from the policing of events, are being placed upon the resources of the States of Jersey Police. Such demands are likely to grow given current States strategic objectives relating to event-led tourism.

7.4 Is a ‘user pays’ charge an appropriate solution?

- 7.4.1 The question remains of whether a ‘user pays’ charge for the policing of commercial or profit-making events would be an appropriate means of addressing the issue. During our review, the States of Jersey Police has always made it clear to us that, from its perspective, it is not necessarily a question of ‘user pays’ but that ‘someone pays’. In other words, a demand is being made on the States of Jersey Police’s resources and the funding has to be found somewhere, whether it be from the taxpayer or the event organiser.⁹⁴
- 7.4.2 The Panel did not review the general principle of whether it was appropriate for the States to levy ‘user pays’ charges. This has already been accepted, for instance through the adoption of the anti-inflation strategy and the establishment of Financial Direction 4.1. We shall not therefore examine whether such charges equate to ‘double taxation’ and should therefore be rejected, a supposition made to us in some submissions we received. Legitimate as such questions may be, they lie beyond the confines of this review. However, we can examine whether a ‘user pays’ charge for policing commercial or profit-making events would be appropriate.
- 7.4.3 The first question that may be asked is whether the proposed charge would meet the definitions that have already been established. Financial Direction 4.1 suggests that ‘user pays’ charges could be considered where *“one particular group receiving a valuable service from the States is charged below cost [...or] where the purpose of raising a charge may be to signal the relative undesirability of a given activity.”* It also indicated that *“if lower priority or non-core services are to continue the full cost of service provision will have to be met by*

⁹³ Response to Request from Scrutiny Panel Enquiring into Policing of Events

⁹⁴ States of Jersey Police response to issues raised by the Scrutiny Panel

*the user.*⁹⁵

7.4.4 The second definition would not appear to be relevant. However, it would be pertinent to consider whether, in policing events, the States of Jersey Police are providing a service to ‘a particular group’ (i.e. the organisers and attendees). The Panel accepts that this is the case and that policing events does not equate to a ‘core service’ of the States of Jersey Police.

KEY FINDING:

7.4.5 The policing of events in itself is not a core service of the States of Jersey Police.

7.4.6 Financial Direction 4.1 also indicates that Departments should be able to show that they have made attempts to address a ‘problem’ by other means before endeavouring to solve it with a ‘user pays’ charge. They have to show that:

“-they have actively reviewed all costs relating to a service; and

*-every effort is being made to control or reduce costs and improve productivity.*⁹⁶

7.4.7 We asked the Department of Home Affairs how these provisions had been met before it was decided to pursue the idea of a ‘user pays’ charge. We were advised to the following effect:

“The proposal to consider ‘User Pays’ charges was driven by the impact of additional policing requirements for ‘new’ events rather than charging for existing services. Before any charge is levied on an event organiser, every effort will be made to keep costs to a minimum through early planning.”⁹⁷

In essence, the argument was that the proposed charge would address a new problem for which costs had yet to be expended. There would therefore be no costs that could be reviewed.

7.4.8 However, we had been advised that the States of Jersey Police was already finding it difficult to manage the policing requirements of the calendar of events. We therefore examined how the situation had been managed to date without the possibility of a ‘user pays’ charge being levied. We were advised that:

“Another thing we have done recently for [the policing of one event] particularly is

⁹⁵ Financial Direction 4.1 – Increases in States Fees and Charges

⁹⁶ Ibid, page 6

⁹⁷ Written Submission from the Department of Home Affairs, 22nd November 2007

*that we have had a leave embargo on all our operational staff for the 2 to 3 day period that we know it is likely to take place on. There is a considerable impact on the leave embargo.*⁹⁸

7.4.9 The issues surrounding such measures were explained to us by the States of Jersey Police Head of Operations:

*“There are Regulations about changing people’s rest days in terms of working at short notice. For example, our constables get double hourly rate if it is what we call a second rest day; they get time and a half if it is a first rest day, so it is cheaper for us to do something on people’s first rest day. There are penalties for management imposing changes to that at short notice.”*⁹⁹

We also understand that there are limits on the number of times that such measures could be taken within one year. It might not therefore be a solution that could be used in every circumstance, were the number of resource-demanding events to increase to too great an extent.

7.4.10 Other measures available to the States of Jersey Police to fund ‘extraordinary’ expenditure were explained to us although it was stated that these measures might not be appropriate for funding the policing of events. For extraordinary pulls on resources, such as a murder or serious drugs inquiry, the States of Jersey Police is able to reclaim some funding through Court and Case costs. However, for this to be feasible there would need to be a prosecution. In the case of a large event, we were advised that whilst prosecutions might arise from small crimes, costs recouped from these prosecutions would not cover the total cost of having policed the event.¹⁰⁰

7.4.11 As stated in Paragraph 7.2.9, the States of Jersey Police has also been able to locate funding for policing large events through the funding for posts that have been unfilled. This situation is likely to change however with further recruitment and this ‘solution’ used by the States of Jersey Police in the past will seemingly become unavailable.¹⁰¹

7.4.12 We were therefore told that other measures that had been previously taken would not be viable alternatives to introducing a ‘user pays’ charge in order to address the increasing demands of events.

⁹⁸ Superintendent S du Val, Public Hearing 5, page 23

⁹⁹ Ibid, page 16

¹⁰⁰ Ibid, page 12

¹⁰¹ Ibid, page 12

- 7.4.13 One question arising is whether there is in fact room at present for savings to be identified within the current States of Jersey Police budget which could be used rather than introducing a 'user pays' charge. This would require an examination of the overall budget, a task that lies within the remit of the Comptroller and Auditor General and Public Accounts Committee rather than a Scrutiny Panel. The Panel is aware that the Comptroller and Auditor General is due to undertake a review of States expenditure and that this is likely to involve examining in detail the expenditure of Departments such as Home Affairs.
- 7.4.14 Were any savings to be identified, however, two issues would need to be addressed. Firstly, would policing events be a priority to receive any funding that could be redirected? Consideration would also need to be given to the argument that the 'user pays' charge is intended to address the 'additional' demands of new events. It is possible that any funds identified for potential redirection might cover the policing costs of demands that have arisen in recent years. However, would they be sufficient to cover future demands, were the events calendar to increase still further?

KEY FINDING:

7.4.15 Given that resources for policing events are 'demand-led', the Panel was not made aware of any potentially viable alternatives to a 'user pays' charge.

- 7.4.16 If adopted, the proposed 'user pays' charge would be the first such charge for 'operational policing.' However, the States of Jersey Police already charge for such matters as providing information to insurance companies, Data Protection Police Checks, a fingerprinting service and Police Escorts.¹⁰² It may be pertinent, however, to consider what happens in other jurisdictions. Whilst it may not provide an argument in itself, one way or the other, for whether the States should approve a 'user pays' charge for the policing of commercial or profit-making events in Jersey, it may throw light on whether such a charge has been considered appropriate for such an operational service elsewhere.
- 7.4.17 Charges for policing services are permissible in the United Kingdom under the *Police Act 1996*. Guidelines on this matter have been developed and published by the Association of Chief Police Officers of England, Wales and Northern Ireland (ACPO). These guidelines, *Guidance on Charging for Police Services*, set out criteria that may be used by forces to determine whether a charge should be levied for a service and, if so, how the level of charge should be set. The guidelines cover the policing of events. We understand that police forces are not obliged to follow the guidelines strictly and may operate within them as

¹⁰² Written Submission from the Department of Home Affairs, 22nd November 2007

they see fit.

7.4.18 We believed it would be useful to see how the guidelines were applied in places of a similar size to Jersey and therefore looked at the situation in the Isle of Wight. We also considered the Isle of Man and Guernsey. As an island, the Isle of Wight can be compared with Jersey although its Basic Command Unit forms part of a larger force, the Hampshire Constabulary. Similar to Jersey, the Island has an annual calendar of events that includes a number of large music festivals. A ‘user pays’ charge is passed on to the organisers for policing provided. Indeed, we understand that essentially all events are liable to be charged.

7.4.19 In Guernsey, no charge is currently levied for the policing provided at events. However, we were advised that the Home Minister and Home Department would be interested to see how the situation developed in Jersey.¹⁰³ In the Isle of Man, however, a charge is normally levied for the policing of events.

KEY FINDING:

7.4.20 Evidence from other jurisdictions suggests that a ‘user pays’ charge for the policing of events would not be inappropriate.

7.4.21 Taking into account all four factors listed above, the introduction of a ‘user pays’ charge for the policing of events would not be inappropriate.

7.5 A Wider Issue to Address?

7.5.1 During our review, we considered what would happen if the Minister decided not to bring a proposition for a new ‘user pays’ charge (or indeed, if the States were to reject the proposition). It was suggested to us that without the establishment of this ‘user pays’ charge, it might not be feasible for the States of Jersey Police to continue policing events.

7.5.2 An enforced reduction in the number and scale of events taking place in Jersey would seemingly run counter to States objectives. As was seen in Section 5, one of the Department of Economic Development’s aims is for a vibrant tourism economy. Its aims can be seen to lie within overall objectives agreed within the States Strategic Plan 2006 – 2011: objective 1.5.2 of the Plan was for the Department to “*develop a revised Tourism Strategy that places greater emphasis on matching the Jersey offering to current market requirements whilst retaining characteristics that preserve our existing tourism base.*”¹⁰⁴

¹⁰³ Written Submission from Deputy G Mahy of Guernsey, Home Minister, 31st October 2007

¹⁰⁴ *Strategic Plan 2006 – 2011*, page 16

The significance of event-led tourism to this strategy was set out in a report entitled *Jersey Destination Audit – Towards a Jersey Tourism Development Strategy*. Produced by Locumconsulting for the Minister for Economic Development, the report indicated that the current programme of events is “reasonable, but needs more local spice and greater focus on events that last for a longer period and are designed with impact on the tourism sector as a primary consideration as opposed to an after thought.”¹⁰⁵

7.5.3 This raises the issues of co-ordination and co-operation. The Minister is not obliged to bring a proposition for the intention to work more closely with other parties on the planning and organisation of events. In a sense, however, this is very much what the proposition aims to do and is worth noting. The Minister explained that there was perhaps a need for more ‘joined-up’ thinking when it came to planning for events, suggesting that a policy of ‘event-led tourism’ may have been encouraged without giving full consideration to the implications of the policy for public safety and police resources:

“Well, I mean, that is the situation we find ourselves in. It did not make much sense either to us for perhaps one department to encourage all sorts of things to happen without perhaps checking whether or not we had the resources to deal with that further down the line. I do not say that as a criticism; it is just that, you know, in the past I think people have worked very much in silos.”¹⁰⁶

KEY FINDING:

7.5.4 Insufficient consideration was given during the development of the States Strategic Plan to the impact that Ministers’ objectives might have on other Departments.

RECOMMENDATION:

7.5.5 In future, greater consideration should be given by the Council of Ministers to the cross-cutting implications of Ministers’ policies and objectives for other Departments.

7.5.6 The Minister for Economic Development also touched upon a desire for greater co-ordination and co-operation at his Public Hearing with us:

“[O]ne thing that we are trying to do, and it might have been picked up by you, is that we are trying to build a much more close relationship with culture in Education,

¹⁰⁵ *Jersey Destination Audit – Towards a Jersey Tourism Development Strategy* (November 2006), Locumconsulting, page 32

¹⁰⁶ Senator W Kinnard, Public Hearing 5, page 32

Sport and Culture."

The Minister for Economic Development even indicated that he would be willing to adopt another Assistant Minister with responsibility for events and culture, if this were feasible.¹⁰⁷

7.5.7 We are aware that these attempts to develop communication and co-ordination between parties are mirrored in work being undertaken in relation to the Public Entertainment Panel. During our review, we were advised that work was ongoing on identifying measures to take to ensure that events were sufficiently well organised (from the Panel's perspective on safety). The Chairman of the Comité des Connétables advised us that consideration was being given to whether event organisers should be obliged to submit plans to the Panel six months in advance of the proposed event.¹⁰⁸ The Minister's proposition for a 'user pays' charge could therefore be seen in the context of an attempt to address wider issues relating to the organisation of events.

7.5.8 The closer co-ordination and co-operation envisaged in the draft proposition has already begun. This can be seen in the joint meetings held during the development of the proposition (see Section 6). A meeting has also already been held in connection to the 2008 calendar of events.¹⁰⁹ It is also apparent that work will continue on this area regardless of whether the 'user pays' charge is adopted and implemented:

*"I think in terms of moving things forward, regardless of whether the States do approve the report and proposition, although we do not have a formal working agreement, we have met already the officers within the departments just earlier this month to look at the calendar of events for next year to start early planning and already there has been a lot of liaison between the officers mentioned already and event organisers. So, that is happening anyway."*¹¹⁰

7.5.9 It would appear that the hope is that by improving communication and co-ordination between the various parties, this will allow the States of Jersey Police to be better informed and better able to judge the policing levels required:

"That is the whole reason why we have had our officers in training; that is the whole reason why we try to get as full an event plan from the organisers as early as possible to try and avoid that kind of situation. Because, as I say, we are positively

¹⁰⁷ Senator P F C Ozouf, Public Hearing 1, page 9

¹⁰⁸ Connétable K P Vibert, Public Hearing 4, page 5

¹⁰⁹ Mr K Lemasney, Public Hearing 1, page 10

¹¹⁰ Ms E Middleton, Public Hearing 5, page 36

trying to support these events, but it is essential that they are supported in such a way that they can be policed safely.”¹¹¹

7.5.10 It is intended that greater co-operation would impact directly on the administration of the ‘user pays’ charge. Through better co-ordination, it is hoped that events would be better planned and thereby reduce or ease the demands made on the States of Jersey Police.

KEY FINDING:

7.5.11 The Panel welcomes the intention that all parties have for greater co-operation and co-ordination when planning for events and hopes that such co-operation will lead to a reduction in the demands made on the States of Jersey Police.

7.6 Is a formal ‘user pays’ policy required?

7.6.1 It is worth noting that, in 2007, the organisers of one event paid towards policing costs for their event despite the absence of a States-approved proposition. The question may be asked of whether there is a need for a proposition to be brought if such arrangements can be made.

7.6.2 The arrangement made in 2007 regarded the Mutual Aid costs of policing the event in question and not local policing costs. However, the content of the draft proposition includes provisions for the payment of both local policing costs and Mutual Aid costs under the proposed ‘user pays’ arrangements. In other words, the proposition does not distinguish between the two.

7.6.3 The arrangement caused concern amongst some States Members. For example, we understand that the event organisers offered to contribute towards the Mutual Aid costs for the event; some Members asked whether, realistically speaking, the organisers had had any alternative.¹¹² Questions were also asked as to how it had been feasible to make such an arrangement given that no ‘user pays’ proposition had come before the Assembly. The Minister provided an explanation to the Assembly on 25th September 2007:

“Article 26(1)(c)(1) of the States of (Jersey) Law 2005 empowers a Minister to enter into agreements for any purpose of his or her office. Article 3(5) of the Police Force (Jersey) Law 1974 provides that the Minister may make an agreement with the police force in any other part of the British Islands whereby they will, on request,

¹¹¹ Superintendent S du Val, Public Hearing 5, page 23

¹¹² Official Record of the States Assembly, 11th September 2007

place at the Minister's disposal members of that force for the purpose of enabling the force to meet any special demand on its resources; and in any such case those members shall, during their period of duty in Jersey, carry out the duties and possess the powers and privileges of a police officer. Article 8(1) of the Police Force (Jersey) Law 1974 provides that it shall be the duty of the Minister to secure the maintenance of an adequate and efficient Force in Jersey. For the purpose the Minister may; (a) provide and maintain such buildings, structures and premises and make such alterations to any building, structures or premises already provided as may be required; (b) provide and maintain such vehicles, apparatus, clothing equipment and other articles as need may be required. So, given the above Articles and in the absence of a statutory regime for the recovery of charges a voluntary agreement was made with the organisers of Jersey Live and that the costs incurred by a police force from another part of the British Islands could be recovered.”¹¹³

The Minister repeated this advice to us when the matter was raised at the Public Hearing.

7.6.4 Given that an arrangement was made with the Directors of Jersey Live without taking a proposition to the States, it may be asked as to why the Minister needs to bring a proposition at all for a new ‘user pays’ charge (notwithstanding the provisions of P.63/2003). In other words, would the laws and articles to which the Minister referred have allowed her to make similar arrangements for the payment of local policing costs? If this were indeed possible, there might exist a situation whereby the authority and duty invested by legislation in the Minister for Home Affairs (regardless of the incumbent) would effectively ‘trump’ any need to gain the authority of the Assembly for a new ‘user pays’ charge (that ultimately would not be framed within legislation but within a policy). This is an issue we explored with the Minister at the Public Hearing and were advised to the following effect:

“We only looked at it [the agreement with Jersey Live] in terms of the allowing for Mutual Aid. I would have to take -- I do not have a lawyer sitting here. I would have to have specific legal advice, but my hunch is and my understanding is that it would not cover local policing costs, but I would need legal advice on that. We did not have any intention of using it for that.”¹¹⁴

7.6.5 To some, the arrangement made with regard to Mutual Aid costs was not in line with the

¹¹³ Official Record of the States Assembly, 25th September 2007

¹¹⁴ Senator W Kinnard, Public Hearing 5, page 10

provisions of P.63/2003. For instance, Senator Syvret told us:

"I remain strongly of that view [that no new 'user pays' charges be introduced without prior States approval] and I do not consider the actions of the Home Affairs Department to have been compatible with that States policy when charging the organisers of Jersey Live."¹¹⁵

The event organisers themselves also felt that they had been subject to a 'user pays' charge.¹¹⁶ It might be said, however, that the arrangements did not constitute a new 'user pays' charge as they were made under existing legislation. In other words, as the Minister had the power to make arrangements for the payment of Mutual Aid prior to the adoption of P.63/2003, she would not need States approval to make such arrangements.

7.6.6 It would appear that the Minister for Home Affairs was aware of the issues involved in making such an arrangement. When the Council of Ministers considered the revised draft proposition on 14th June 2007, we understand that reference was made to the need for the issues arising from the event in question to be addressed.

7.6.7 Regardless of whether such an arrangement would be in line with P.63/2003, however, the question of trust might also be considered. During our review, we were advised that trust is an important factor in event organisation and that those parties involved in this organisation need to be able to trust each other.¹¹⁷ The process surrounding the arrangements for payments of Mutual Aid for Jersey Live 2007 appear to suggest that trust was eroded during the process.

7.6.8 The Panel received information about the arrangements that were made for Mutual Aid at Jersey Live 2007. Much of this information was confidential for commercial reasons or for reasons of security. However, from this information, it could be seen that at times the relationship between the parties involved became somewhat strained. This was confirmed by the Directors of Jersey Live at their Public Hearing with us:

"I think what the user-pays brought to this year's application process was it started to lead to some more strained relationships between us, and particularly the States of Jersey Police and the Parish of Trinity, both of whom we had worked with very hard over 4 years to establish a good and robust working relationship, and I think it

¹¹⁵ Written Submission from Senator S Syvret, 31st October 2007

¹¹⁶ Written Submission from the Directors of Jersey Live, 7th November 2007, page 9

¹¹⁷ Written Submission from the Directors of Jersey Live, 7th November 2007, page 8

*did at times put our relationship under severe strain.*¹¹⁸

7.6.9 This idea was also confirmed in statements made to us at our Public Hearing with the Minister for Home Affairs. There had evidently been concerns and disappointment regarding media reports of what had happened in relation to Jersey Live 2007.¹¹⁹

7.6.10 The question may therefore be asked of whether this situation would have been helped by the existence of a formalised process and administrative structure for a ‘user pays’ charge such as would be introduced were the current Minister to pursue the ‘user pays’ charge and were the Assembly to approve the proposition. In other words, would a formal process as set out by the Minister for Home Affairs in her proposition assist in ensuring that trust between parties was not eroded? The view of the Directors of Jersey Live on this matter was made clear in their written submission:

“The current process whereby an event such as Jersey Live has to negotiate its own User Pays terms with the Minister for Home Affairs needs to be replaced with a standardised process and proforma agreement [...].”¹²⁰

7.6.11 The position remains that a Minister for Home Affairs is seemingly able to make arrangements for event organisers to pay towards Mutual Aid costs without prior States approval for this charge. Following this thought further along, the question may be asked of what would happen if the current Minister decided not to bring the ‘user pays’ charge proposition to the Assembly, or if the Assembly rejected it. The possibility of making arrangements for the payment of Mutual Aid costs would presumably remain.

KEY FINDING:

7.6.12 Existing legislation effectively allowed a ‘user pays’ charge to be levied for Mutual Aid policing at Jersey Live 2007.

RECOMMENDATION:

7.6.13 The Council of Ministers should ensure that Ministers seek States approval for all new ‘user pays’ charges, even if existing legislation would allow a charge to be levied without such approval.

¹¹⁸ Mr M Corbin, Director of Jersey Live, Public Hearing 3, page 9

¹¹⁹ Superintendent S du Val, Public Hearing 5, page 8

¹²⁰ Written Submission from the Directors of Jersey Live, 7th November 2007, page 9

KEY FINDING:

7.6.14 The situation that arose in relation to Jersey Live in 2007 highlighted the need for a formalised process and administrative system in which all parties could place their trust.

RECOMMENDATION:

7.6.15 The Minister should continue work and bring a proposition for a ‘user pays’ charge to the States Assembly for debate.

7.6.16 As indicated in Paragraph 7.5.1, during our review we considered what would happen if the proposed ‘user pays’ charge were not introduced. Our initial consideration of this matter was prompted by the inclusion in P.94/2006 of the following statement:

“It [the establishment of a ‘user pays’ policy] will create an environment where, through consultation and partnership, public events will continue to take place.”¹²¹

7.6.17 The statement suggested to the Panel that without the introduction of the proposed ‘user pays’ charge, events would not take place. This was a matter we covered with the Minister for Home Affairs. We were advised that without a ‘user pays’ charge, it might indeed not be feasible for the States of Jersey Police to continue policing events. The introduction of the charge would allow the States of Jersey Police to address the funding issues raised by policing events.

KEY FINDING:

7.6.18 If a ‘user pays’ charge is not introduced for the policing of events, it is likely that some events will not take place.

¹²¹ Policing Commercial or Profit-Making Events: New ‘User Pays’ Charge (P.94/2006)

8. THE PROPOSED ARRANGEMENTS

8.1 Introduction

8.1.1 We agreed to explore the specific arrangements of the proposed 'user pays' charge with our second Term of Reference. The views we received from many people indeed appeared to depend on the way in which the charge would be administered. Some people who raised specific concerns or questions had no objection *per se* to the general principle of a 'user pays' charge for the policing of commercial or profit-making events. The Minister for Economic Development; the Assistant Minister for Education, Sport and Culture; the Directors of Jersey Live: all had some comments and questions regarding detailed arrangements but no overall objection.

8.1.2 As we shall later explore, detailed arrangements were not readily available during our review. From what we did receive, however, we shall endeavour to assess the proposed system against three criteria: equality (or fairness); accountability; and transparency. These three issues were raised in many of the comments made to us, regardless of whether the person making the comment was for or against the proposed 'user pays' charge. All three concepts also relate to the issue of trust that we have already raised in this report. We were advised that trust between the various parties involved in the organisation of events was paramount. Would the proposed 'user pays' system be sufficiently fair, accountable and transparent to allow each party to place its trust in that system?

8.2 How to decide which events should be covered?

8.2.1 Concern has been expressed during the development of the proposed 'user pays' charge that it would not treat events on an equal basis. The wording of P.94/2006, for instance, led some people to believe that the proposed 'user pays' policy unfairly targeted a particular event. The Assistant Minister for Education, Sport and Culture explained to us her concerns in this regard:

*"This particular proposition that is being brought forward by Home Affairs seems to be targeting new events and if I am to be perfectly honest the way it is written it seems to be targeting Jersey Live in particular."*¹²²

The Assistant Minister's concern was reflected in similar opinions expressed in written

¹²² Deputy C F Labey, Public Hearing 2, page 2

submissions we received from the public. These submissions conveyed the impression received that the proposal for a 'user pays' charge was directed at Jersey Live. To these people, it therefore unfairly targeted an event that was perceived to cater for a different kind of audience (i.e. youthful) from that which would attend other events in the Island.

- 8.2.2 Such concerns relate to the criteria used to decide which events would be covered by the proposed 'user pays' system. At present, the criteria used in the draft proposition are that only new commercial or profit-making events would be liable to be charged. We recognise that the question of which criteria to use is not easy to address. Whilst it is not our rôle to establish a definitive list of criteria to use, we can highlight the issues that have arisen during our review and how it can become difficult to decide upon 'fair' criteria to use within a 'user pays' system.
- 8.2.3 The problems of identifying criteria may be seen when considering the Jersey Live issue. Much of the discussion surrounding the proposed 'user pays' charge has centred on this one event. There may be various reasons for this. The Directors of Jersey Live contributed towards the Mutual Aid costs of policing the 2007 event which was construed by some as an example of a 'user pays' charge. Furthermore, it would appear that it remains the only event in the current calendar that would be likely to be subject to a 'user pays' charge, if the proposition remained as it currently stands.
- 8.2.4 Jersey Live is a music festival that in 2007 took place on a Saturday and Sunday in September. The perception of the event is that it is aimed at a younger audience than other Island events although we were advised by the organisers that, in their view, it is a 'family event'. However, we were advised by the Department of Economic Development that it would not promote Jersey Live as a 'family event'. In 2007, the permit granted for the festival allowed for an attendance of 10,000 on each day. The festival is run for profit although the organisers make contributions to charity. Attendees are charged for entry.
- 8.2.5 It has been suggested that it would be entirely appropriate for Jersey Live to be subject to a 'user pays' charge for the policing provided, given that it is run on a commercial basis. Indeed, the Directors of Jersey Live stated that they would not oppose a 'user pays' charge *per se* provided it was fairly and consistently applied. 'Fairness' depends upon the assessment criteria used and, to some extent, the interpretation of these criteria.
- 8.2.6 In their written submission, the Directors of Jersey Live compared their event to the Battle of Flowers. This was done merely to highlight the potential difficulties in distinguishing one event in Jersey from another (and thus the potential difficulties in establishing whether one

should be subjected to the 'user pays' charge). For instance, it was highlighted that the Battle of Flowers provided commercial opportunities for local companies and that people were charged for admission. The question was essentially how could one event be distinguished from the other. A similar question regarding The West Show was put during one Public Hearing. It too is a two-day event that attracts a similar number of attendees to Jersey Live. In terms of administering a 'user pays' charge, how would one event be distinguished from another?

8.2.7 We raise this issue, not to consider the merits or otherwise of a particular event being charged but to show how the issue can become blurred. The current proposal is that only new commercial or profit-making events would be covered. We shall now explore whether these would be fair criteria to use.

8.3 Only New Events?

8.3.1 P.94/2006 indicated that the proposed 'user pays' charge would not apply to 'traditional' events and contained the following definition:

*"Traditional Events – where an event is part of a long established Island tradition which by custom and practice has been policed free of charge, payment should not be sought, for example the Battle of Flowers."*¹²³

We understand that this remains the intention and that only new events (or new demands on States of Jersey Police resources) would be covered. The events that have been described as 'traditional' are not only the Battle of Flowers but also the Jersey International Air Display. We would not imagine many people would be surprised to see such events classed as 'traditional' (and by referring to them here, we in no way suggest one way or another whether these two particular events should be covered by the 'user pays' charge).

8.3.2 We understand that the revised proposition contains no specific definition for 'traditional' events. Beyond specific examples, the question therefore remains of what constitutes a 'traditional' event and whether it would be appropriate to exempt an event from the charge on that basis. We were advised by one witness that events could perhaps be described as traditional after being in existence for seven years.

8.3.3 The need for greater clarification was identified in comments we received from the Jersey Competition Regulatory Authority (JCRA). We approached the JCRA during our review as we were uncertain whether the articles of the *Competition (Jersey) Law 2005* would apply

¹²³ *Policing Commercial or Profit-Making Events: New 'User Pays' Charge (P.94/2006)*

to the administration of the proposed 'user pays' charge. In particular, we asked about the applicability of Article 16(1). This Article prohibits undertakings from abusing a dominant position in trade for goods or services in Jersey.

- 8.3.4 For the Law to apply to the proposed 'user pays' charge, it would need to be clear that the States of Jersey Police was acting as an 'undertaking' within the terms of the Law. For this to be the case, the States of Jersey Police would need to be found as offering services in a market with respect to providing security for special events. The JCRA indicated that it was not clear whether this was so. It therefore highlighted that, whilst it could be argued that the States of Jersey Police could be seen as acting as an undertaking, this issue would need much greater analysis before a formal view was reached, and hence the JCRA's comments to us did not constitute 'formal guidance' under the Competition Law. Regardless of the applicability of the Law, however, it may be pertinent to note the JCRA's preliminary views.
- 8.3.5 The JCRA stated that concerns could be raised under the Competition Law based primarily upon the different treatment that would be accorded to events depending on whether or not they were 'traditional'. It stated:

"The Proposition contains little guidance on how the Police would go about determining when an event could be considered to be 'traditional'. For example, how long must an event be established and receive free police services to be considered as a 'traditional' event?"¹²⁴

The JCRA examined P.94/2006 in which a very vague definition of 'traditional' was given. Their comments would appear even more pertinent for revised drafts that we have viewed where no definition is provided.

- 8.3.6 The Minister for Home Affairs advised that 'traditional' events were excluded as the charge was intended to cover the 'additional' policing costs provoked by 'new' events. This refers back to the rationale (see Paragraph 7.4.7).¹²⁵ The Minister for Economic Development also alluded to this argument:

"First of all you have to get a policy through the States and I am not sure whether or not a policy of charging the Battle of Flowers or the international air display would get through the States because the argument would go: "Well, you have obviously

¹²⁴ Written Submission from the Jersey Competition Regulatory Authority, 16th November 2007

¹²⁵ Senator W Kinnard, Public Hearing 5, page 17

had sufficient existing resources in your budget to cover this.”¹²⁶

8.3.7 The implication of this argument is that two events could be treated differently on the basis of age (i.e. how long they had been in existence) even if they were identical in all other respects. It might also be asked whether an event for which a ‘user pays’ charge had been levied would become exempt from such a charge after a certain period of time.

KEY FINDING:

8.3.8 Distinguishing events on the criteria of ‘tradition’ alone or on how long they have been in existence would not treat events on an equal basis.

RECOMMENDATION:

8.3.9 Events should not be exempt from any ‘user pays’ charge introduced for the policing of events solely on the basis of being ‘traditional’.

8.4 Commercial or Profit-Making Events

8.4.1 The proposed ‘user pays’ charge, if adopted in its current format, would only apply to events classified as ‘commercial or profit-making’. P.94/2006 attempted to provide an answer to this question and defined such events as follows:

“where a commercial organisation seeks to sell/advertise or otherwise promote or hold a particular product/merchandise/event for financial gain and where this event falls within core policing responsibilities, for example a music event which will involve the deployment of crowd control barriers, press pens and special access arrangements for vehicles and/or pedestrians.”

8.4.2 The report also provided definitions of events that would not be covered by the charge. As well as ‘traditional’ events (see Paragraph 8.3.1), the following would also be exempted:

“Public, non-profit-making event – where an organisation holds a public event but does not benefit financially. While the event still falls within core policing responsibilities, revenue would not be sought from the organisers of such an event.”¹²⁷

¹²⁶ Senator P F C Ozouf, Public Hearing 1, page 24

¹²⁷ Policing Commercial or Profit-Making Events: New ‘User Pays’ Charge (P.94/2006)

8.4.3 During the development of the revised proposition, consideration was given to the problems that arise from attempting, as P.94/2006 did, to provide specific definitions. It was therefore agreed at a meeting held on 13th November 2006:

“that a general approach to the issue of charging was needed which moved away from the original ‘commercial versus non-commercial’ and ‘charitable versus non-charitable’ events as these were in practice difficult to define and identify.”¹²⁸

8.4.4 During our review, the Minister added further explanation of why this had happened:

“We are trying to get away from a purely legalistic approach to allow some sort of flexibility and [...] influence to be had by the organisers.”¹²⁹

It was therefore a question of balancing a desire not to be too prescriptive with a need to provide sufficient information for people to understand the proposals.

8.4.5 However, the proposition would still ask for a ‘user pays’ charge that could be levied for the policing of ‘commercial or profit-making’ events. The question remains of what these terms mean and whether it would be beneficial to have greater clarity. It is not for us to provide definitions for the Minister for Home Affairs. However, the evidence would appear to suggest that this is an issue that needs to be addressed in order to ensure that the system can be seen as fair and transparent. Greater clarity would seemingly be desirable. The comments of the Chairman of the Comité des Chefs de Police may be pertinent in this regard:

“I think it would be interesting to know what their definition of it is or what is the procedure, definition of, for profit because these events may be ... if there is no profit in it they would not be held. But also they are held for a reason, for the community. I think the question is where do you draw the line?”¹³⁰

8.4.6 As already stated, we asked the JCRA whether it would have a view on the proposed ‘user pays’ charge. The JCRA’s preliminary comments indicated that the proposed charge may raise concerns. These comments, based upon P.94/2006 in which a specific definition of events was provided, highlighted the confusion that might arise:

“Must the event in question provide free admission to qualify? What if charitable booths exist at commercial or profit-making events? How does one actually define the term ‘benefit financially’ used in P.94/2006? The point is that while, in principle,

¹²⁸ Briefing Note – Police: New User Pays Charge, Department of Home Affairs

¹²⁹ Senator W Kinnard, Public Hearing 5, page 14

¹³⁰ Centenier J Le Masurier, Public Hearing 4, page 23

providing no-cost security services at public interest events would not appear problematic under the Law, objective, transparent criteria should exist to delineate when an event is considered to be in the public interest. The determination should not rely solely on discretion.”¹³¹

The comments would remain pertinent were no specific definitions set out (as in P.94/2006) but if the underlying principle continued to specify that the charge would apply to ‘commercial or profit-making’ events.

- 8.4.7 It is possible that work on defining what constitutes a ‘commercial or profit-making’ event will be undertaken when detailed guidelines are developed for the administration of the ‘user pays’ charge. It must be recalled that the Panel has reviewed a proposition that is still in development.
- 8.4.8 The underlying principle of the proposal differs to that found in other jurisdictions. The principle of the Minister’s proposal is that a ‘user pays’ charge could be levied for the policing of commercial or profit-making events. Our research indicated that the principle applied elsewhere is that all events may be liable to a charge for the policing provided. However, exemption criteria tend to be established which means that, in reality, some events are not charged or are charged at a reduced rate.
- 8.4.9 For instance, the *Guidance on Charging for Police Services* in the United Kingdom does not suggest that charges should only apply to ‘commercial’ events but indicates that “*abatements*” be granted in certain instances. This is the case in the Isle of Wight where all events are potentially subject to a ‘user pays’ charge but where, in practice, charitable events are charged fifty per cent of the policing cost.¹³²
- 8.4.10 A similar system appears to operate further afield in New South Wales, Australia. Again, the principle underlying the ‘user pays’ charge is that it may be levied on any event. However, events may be classed as exempt if they meet certain criteria:

“Organisation Criteria

- *The body organising the event is authorised to collect donations under the Charitable Collections Act 1991 or it is an incorporated non profit community organisation: **and***
- *Has insufficient reserves or resources to meet the costs.*

¹³¹ Written Submission from the Jersey Competition Regulatory Authority, 16th November 2007

¹³² *Policing events on the Isle of Wight...an introduction*

Event Criteria

- *The event is free of charge to spectators; and*
- *The event is conducted solely for the benefit of a charitable or community organisation and not conducted in whole or in part for the commercial gain of the organiser or commercial sponsor.”*

If an event meets both the organisation and event criteria, a 100% exemption is granted. If it meets either the organisation criteria or the event criteria, it is granted a 50% exemption. Similarly, a 50% exemption is granted if the event is sponsored by a government agency and would not be economically viable if a full charge were levied.¹³³

8.4.11 Some written submissions we received suggested that the underlying principle for the ‘user pays’ charge in Jersey should indeed be that all events held in Jersey could be considered. This was the view, for instance, of Deputy Guy de Faye:

“The current proposals for a charging system, should one be introduced, are inequitable in the light of proposed exemptions. A fair charging system will have to be based on a formula that is applied to any individual event. There is no evidence to suggest that event goers behave differently at fund raising events as opposed to so-called commercial events. Therefore, event charging for policing should apply “across the board”, without any exceptions, or not at all.”¹³⁴

8.4.12 Many such submissions were received in connection to the Jersey Live festival, it must be recognised. However, within the comments of such submissions, the Panel recognised a desire for the system to be fair and to be seen to be fair. The question is whether it would be fairer for the proposition to be based upon a principle of potential applicability to all.

KEY FINDING:

8.4.13 The underlying principle of the current draft proposition is that only some events would automatically come under initial consideration for a ‘user pays’ charge.

RECOMMENDATION:

8.4.14 If the Minister for Home Affairs pursues the introduction of a ‘user pays’ charge for the policing of events, it should be based upon the principle that all events will be considered, albeit with exemption criteria.

8.4.15 We have suggested that the underlying principle of the proposed charge should be that it

¹³³ NSW Police Cost Recovery and User Charges Policy (December 2004)

¹³⁴ Written Submission from Deputy G W J de Faye, 31st October 2007

potentially apply to any event. As indicated in Paragraph 5.2.1, in this context, the term 'event' would refer to those events covered by the remit of the Bailiff's Public Entertainment Panel. However, that is not to say that commerciality and profit-making should not be considered as exemption criteria. This may appear a contradictory statement to our recommendation. Consideration needs to be given to the underlying principle of the current proposition. In other jurisdictions, all events start 'on the table', as it were, when deliberations begin on whether to levy a charge; some events are then taken off the table as they are seen to meet exemption criteria. The Minister's current proposition for Jersey is that only some events would even start 'on the table'. We have concluded that it would be fairer to begin with all events 'on the table'.

- 8.4.16 However, were it decided to exempt events that were charitable or non-profit-making, questions of interpretation could arise. For instance, in relation to the term 'non-profit-making', a decision might have to be made on whether to levy the 'user pays' charge for events which intended to make a profit or for events which actually made a profit. Consideration would also need to be given to whether an entry fee was charged. An event may be run by a commercial organisation but at no cost to the attendees; however, the organisation may benefit from the publicity and advertising. Alternatively, an event may be run by a charity but with a charge for entry. From whose perspective should one assess the event for its 'commerciality' – the organiser's perspective or that of the attendees?
- 8.4.17 Another factor to take into consideration, when considering perspective, is that a number of parties hold an interest in the organisation of events in Jersey. From the point of view of safety, the States of Jersey Police hold an interest. However, as we indicated in Section 5, the Departments of Economic Development and Education, Sport and Culture also hold an interest in the economic and cultural benefits of events. How much consideration should be given to such benefits when the decision is made on whether an event should be charged for the policing? If a 'commercial' event, for instance, encouraged a certain number of visitors to come to the Island, an argument could be made that the economic benefits of the event outweigh the policing demands and that the event should not be discouraged by being charged for that policing.
- 8.4.18 It can be seen that a number of questions can be asked of the proposed 'user pays' arrangements. These questions may well have been previously considered in other jurisdictions before a 'user pays' charge for policing events was introduced. In some jurisdictions, a set of criteria have been established on which to assess events. These criteria are often assessed by use of a 'matrix'. In the United Kingdom, for example, the

Guidance on Charging for Police Services suggests to forces that the following criteria might be used:

- Is there a promoter?
- Nature of the event (i.e. commercial, charitable etc)?
- Do the proceeds go to charity?
- Community impact?
- Payment at event?
- Stewards used?
- Performers paid?
- Need for additional policing?
- Normal police deployment?

8.4.19 Similar criteria are used in the Isle of Wight. For each event, a score is placed against each criterion. Dependent on the size of the score, a charge will be levied (potentially with an abatement if the event meets certain criteria). In some respects, this arrangement of using a matrix is similar to that currently used within the Department of Economic Development when assessing whether or not an event merits receiving financial assistance.

8.4.20 It was suggested to us that one way to address this issue in Jersey would be to include an appendix to the report and proposition that would indicate which types of events would or would not be affected.¹³⁵ In some respects, this would be to repeat the provisions of P.94/2006 in which definitions were provided. This idea was accepted as a possibility by the Minister for Home Affairs.

8.4.21 It is possible that the work we have suggested should be undertaken on the criteria would have been done in any case. We have reviewed a proposition that is still in draft form. The Panel considered whether such detail on the administration of the charge should be available before the proposition is debated by the States Assembly.

8.4.22 The Minister advised us that detailed arrangements would be established in due course in 'guidelines'.¹³⁶ When asked why the States Assembly would be asked to approve the principle of a 'user pays' charge before such guidelines had been established, the Minister advised us:

¹³⁵ Mr K Lemasney, Public Hearing 1, page 25

¹³⁶ Senator W Kinnard, Public Hearing 5, page 34

"I suppose the reason is in terms of resourcing. I have very limited resources and to send off officers to work up complicated guidelines, which may or may not be accepted anyway when I am pretty stretched as it is, it did not seem to me to be the appropriate way of proceeding."¹³⁷

8.4.23 This is an argument that we have heard during other reviews that we have undertaken: preliminary work is undertaken on the general principle of a policy; once the principle has been approved, subsequent work focuses on the detail. However, in this instance it may be beneficial for the States Assembly to be provided with further detail to address the questions and concerns that have been expressed by Members during the proposals' development. We heard from various parties who remained uncertain as to how the proposed system would work.

KEY FINDING:

8.4.24 The States Assembly needs to be provided with more information on how the proposed 'user pays' charge would operate before the proposition is debated.

RECOMMENDATION:

8.4.25 The Minister for Home Affairs should provide more detail on the assessment criteria for the proposed 'user pays' charge before the States Assembly is asked to approve the proposition.

8.5 Who would decide on the level of policing?

8.5.1 It became apparent during our review that there would in fact be two separate decision-making processes involved in the administration of the 'user pays' charge: the decision on the level of policing required; and the decision on whether a charge should be levied on an event organiser for the provision of that policing.

8.5.2 In Section 5, we described how the States of Jersey Police decides upon the level of policing required at any given event. Ultimately, operational responsibility for this decision lies with the Chief Officer of the States of Jersey Police. This fact was accepted unequivocally by witnesses to whom we spoke, including the Minister for Economic Development and the Assistant Minister for Education, Sport and Culture.

8.5.3 We understand that it has not been suggested in the Minister's proposition that responsibility for deciding upon the policing levels at an event would move from the States

¹³⁷ Ibid, page 35

of Jersey Police. The proposition relates to whether a charge would be levied on that policing although it is hoped that the Working Agreement would lead to greater co-ordination between the parties and therefore assist the States of Jersey Police when planning for an event.

- 8.5.4 In some respects, the decision-making process for the level of policing at an event lay without our review. However, the decision on the level of policing would impact upon the administration of the ‘user pays’ charge in that the level of policing would potentially affect the size of any charge levied.
- 8.5.5 Some submissions we received from members of the public expressed concern at the policing levels that had appeared at recent events. Submissions received in relation to Jersey Live 2007, for instance, suggested that the policing had been ‘overzealous’ although others did indicate that the policing had been appropriate from their perspective.
- 8.5.6 In the context of the proposed ‘user pays’ charge, it was suggested to us that a decision on the level of policing should be able to be reviewed. The Directors of Jersey Live stated that:

“the level of police deployment must, ultimately, be able to be scrutinised and appealed against (utilising the experience of a qualified, independent third-party arbitrator) where it is felt by the organisers that the police deployment level, and cost, is disproportionate to either the size or profile of the event and / or the written risk assessment.”¹³⁸

At their Public Hearing with us, the Directors indicated that they did not have a specific individual or post in mind as this arbitrator. They also highlighted that with good working relationships, such an appeals process would not be frequently called upon.

- 8.5.7 We considered this matter with the Minister and the States of Jersey Police Head of Operations and were advised that there would be issues with such an arrangement. There would be a problem in that any third-party would not take responsibility for operational policing decisions: this responsibility would remain with the Chief Officer of the States of Jersey Police. It might also be problematic to use a person from outside the Island to assess policing decisions made for Jersey, given the Island’s apparent peculiarities (see Paragraph 7.2.6).
- 8.5.8 This issue relates to matters much wider in scope than that which formed the basis of our

¹³⁸ Written Submission from the Directors of Jersey Live, 7th November 2007, page 9

review. It relates to the question of police accountability and police independence and touches upon the distinction of responsibilities we referred to earlier: the Minister has political responsibility but the Chief Officer of the States of Jersey Police has operational responsibility. This matter was touched upon by Deputy Guy de Faye:

*“Whilst it is right in principle that politicians should not interfere in or have any DIRECT control over what are deemed to be “operational matters”, for that is a key ingredient of an authoritarian political regime, the police force cannot, nevertheless, expect to operate without constraint of some sort.”*¹³⁹

8.5.9 In terms of the focus of our review and how trust in the administration of the ‘user pays’ charge can be engendered we raised with the Minister the possibility of a rôle for the proposed Police Authority. Establishing the Authority is, we understand, one aspect of the revised Police Force Law that is currently being prepared. The rôle of the Authority would, in part, be to oversee the standards of integrity of the States of Jersey Police. The Minister indicated that this idea had not previously been considered and that under normal circumstances, the Authority might not take an interest in such operational matters.

8.6 Who would decide whether to levy a charge?

8.6.1 The second decision-making process would be that of whether to levy a charge or not for policing an event. P.94/2006 suggested that this process would be overseen by the States of Jersey Police, albeit with assistance from other interested parties.¹⁴⁰

8.6.2 This situation would appear to have changed. At a Council of Ministers meeting on 21st September 2006, it was agreed that *“further discussions should take place between the Home Affairs, Economic Development and Education Sport and Culture Ministers to develop a proposed way forward.”*¹⁴¹ This is indeed what appears to have happened.

8.6.3 Discussions also eventually occurred with the Honorary Police. The results have led to arrangements which are intended to reflect the desired collaborative approach.

8.6.4 The Panel understands that the decision on whether to charge an event for policing will therefore be made by the Chief Officers of the three Departments involved (or their designates): Home Affairs; Education, Sport and Culture; and Economic Development. However, advice will be sought from the Chief Officer of the States of Jersey Police on

¹³⁹ Written Submission from Deputy G W J de Faye, 31st October 2007

¹⁴⁰ *Policing Commercial or Profit-Making Events: New ‘User Pays’ Charge* (P.94/2006)

¹⁴¹ Act A5 of the Council of Ministers, 21st September 2006

policing matters. This relationship will be covered by the Working Agreement to be established between these four parties and the Honorary Police. It is intended that the Working Agreement would be reviewed each year.

- 8.6.5 Provision has now been made for an appeals process, on which P.94/2006 was effectively silent. We understand that the Department of Economic Development suggested the Minister for Treasury and Resources as an appropriate appeals body and that this suggestion has been taken up. We explored this matter with various witnesses. Not all had a formulated idea of who would be a good appellate body although there was a view that this level of accountability was required, at least in theory. Other parties stressed, however, that whilst an appellate body was required, it should not be used in administering the 'user pays' charge unless as a last resort.

KEY FINDING:

- 8.6.6 The proposal that the Chief Officers of Economic Development; Education, Sport and Culture; and Home Affairs decide on whether a charge should be levied appears to be appropriate, provided that sufficiently clear guidelines and an appeals process are in place.**

8.7 Administration of the Charge

- 8.7.1 The only event organisers to have been charged to date for any policing provided at their event were so charged for Mutual Aid costs incurred. It would appear that some have taken this fact to mean that the 'user pays' charge would only be applied where an event had required the use of Mutual Aid officers and that payment would therefore only be asked for Mutual Aid costs. Some, such as the Comité des Connétables, have indicated they would only support the proposed 'user pays' charge if it were merely to be applied for Mutual Aid costs.
- 8.7.2 This understanding of the proposition would be incorrect. P.94/2006 made it clear that local policing costs could also potentially be recouped under the proposed arrangements. To that end, hourly rates were included in the proposition to indicate the prices that event organisers would be expected to pay for local officers, if subjected to the 'user pays' charge:

Rank	Special Duty (£)	Normal Hourly Rate (£)
Superintendent	55.59	37.06
Chief Inspector	55.12	36.75
Inspector	41.95	27.96
Police Sergeant	35.54	23.69
Police Constable	29.79	19.86

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8.7.3 The Panel understands that it is not currently proposed to include such a table of exact figures within the revised proposition. However, it is clear that a charge could be levied on both Mutual Aid costs and local policing costs. It should be noted that the cost of engaging a Mutual Aid officer can be up to three times as expensive as using a local officer.¹⁴³

KEY FINDING:

8.7.4 An understanding has developed that the proposed ‘user pays’ charge would only apply to Mutual Aid; however, the current proposals indicate the charge would apply both to Mutual Aid and local policing costs.

8.7.5 We are not currently aware of the exact matters that would be factored into any ‘user pays’ charge levied on an event although we understand the costs would be covered by a Special Services Agreement between the Department of Home Affairs and the event organisers. The Agreement would state the costs to be paid and the contractual terms. From the States of Jersey Police’s perspective, funding received could essentially be put towards the use of Mutual Aid, if required, or (if only local resources were used) towards the use of officers at an event who would otherwise be off duty. In the latter case, funding would need to be sufficient to cover any special duty rates that might apply.

8.7.6 The administration of the charge would be subject to the provisions of Financial Direction 4.1 in that the charge “cannot exceed the cost of service provision, except where imposed by States trading operations.”¹⁴⁴ In terms of the costs levied for policing of events, we were advised that these would equate to ‘additional’ policing costs:

“[W]e are talking about not charging for the current service but charging for additional resource. This would be anything over and above the normal resources.

¹⁴² Policing Commercial or Profit-Making Events: New ‘User Pays’ Charge (P.94/2006)

¹⁴³ Written Submission from the States of Jersey Police, 18th February 2008

¹⁴⁴ Financial Direction 4.1 – Increases in States Fees and Charges

*So as we have mentioned already, in terms of planning purposes, having shift patterns correct in time and rest days worked, et cetera, it would only be when there was an additional cost on top of the day-to-day policing costs. So this was not looked at as a way of reducing the police's costs by charging for what they already do, but just to recover additional costs of a service rather than to generate income for the service.*¹⁴⁵

The Minister for Economic Development also spoke of his understanding that the charge would be for 'additional' costs when he appeared before us at a Public Hearing.

8.7.7 The Directors of Jersey Live also indicated that this is what they would expect from an event organisers point of view:

"Whilst the Organisers support any reduction in crime [...] there was a feeling that the Organisers should not be effectively paying for [...] policing to the extent that it was over and above the 'standard' policing required for an event of this nature."

8.7.8 The Directors entered a contract for their payment towards Mutual Aid costs at the 2007 event. In their written submission and at their Public Hearing, they outlined their concerns regarding the transparency of the process. They explained that sufficient detail had to be provided to event organisers in order to engender a trusting relationship between them and the States of Jersey Police. Such detail had, in their view, been absent during arrangements for the payments of Mutual Aid costs and the Directors had therefore felt that they could not understand the basis on which they had been charged the amount they had paid. For instance, the Directors indicated they were uncertain as to how much account had been made for the security and stewarding arrangements that they had put in place.

8.7.9 The Assistant Minister for Education, Sport and Culture made a similar point in her written submission to us. She asked what consideration was given to security arrangements and suggested that openness and transparency were required.¹⁴⁶ Such concerns and comments relate to the questions of trust that were highlighted in Section 8.4.

8.7.10 We understand that there may be times where operational reasons mean the States of Jersey Police would not wish to release information on its services. Such a situation arose in relation to Jersey Live 2007 when the Minister was asked by States Members to reveal the number of local officers that had attended the event. For operational reasons, the figures could not be divulged although the Panel received a confidential briefing on this

¹⁴⁵ Ms E Middleton, Public Hearing 5, page 17

¹⁴⁶ Written Submission from Deputy C F Labey, 30th October 2007

matter.

8.7.11 This would perhaps not be an issue were there no 'user pays' charge. However, if the charge were adopted and negotiations took place, there might be two potentially conflicting sets of needs and responsibilities: the needs and responsibilities of the States of Jersey Police with regard to public safety and security; and those of event organisers with regard to the viability of their event

8.7.12 In its advice, the JCRA stated that it was not certain whether, under the provisions of the proposed 'user pays' charge, the States of Jersey Police would be acting as an 'undertaking' within the terms of the *Competition (Jersey) Law 2005*. It stated that an argument could be made, in which case, the States of Jersey Police would be required to act accordingly. Amongst the JCRA's comments in relation to pricing, it was stated that there should be "*cost justification*" although it was unclear whether such justification would normally be given by undertakings to those receiving their service.

8.7.13 Given that a 'user pays' charge is levied in other jurisdictions, we gave some consideration to the level of information that is provided to event organisers subjected to such a charge. We were advised to the following effect of the procedure followed in the Isle of Wight:

*"We are very 'open' with the event organisers regarding the level of resources. We tell them how many officers we have deployed in which locations and at what times. We include them in the discussions regarding resource allocation because sometimes they are best placed to advise where they get most problems with complaints from local residents or people trying to gain access to the site."*¹⁴⁷

KEY FINDING:

8.7.14 A balance needs to be struck between the security interests of the States of Jersey Police and the level of information that is provided to event organisers in support of any proposed charge. Whilst there may be a need for sensitive information to remain confidential, it would not appear sufficiently transparent or fair for an event organiser not to know the basis on which it is being charged.

RECOMMENDATION:

8.7.15 Under the proposed 'user pays' system, event organisers should not be expected to pay for services upon which they cannot receive information.

¹⁴⁷ Written Submission from the Isle of Wight, 15th November 2007

8.7.16 We have made several references in this section to the advice we received from the JCRA. The JCRA's comments did not constitute 'formal guidance' under the *Competition (Jersey) Law 2005*, but only provided its preliminary, initial views. However, given that the matter is currently unclear, it would be of potential benefit for the Minister to consult the JCRA during subsequent work on the proposed 'user pays' charge.

RECOMMENDATION:

8.7.17 Prior to bringing the proposed new 'user pays' charge to the States Assembly, the Minister for Home Affairs should consult the JCRA.

9. THE POTENTIAL IMPACT OF THE PROPOSITION

9.1 Introduction

9.1.1 Within our second Term of Reference, we also set out to explore the impact that the proposed 'user pays' charge might have on the planning and organisation of events. Without detailed guidelines, it would be somewhat difficult to assess this matter in full. However, we shall highlight some of the views and information we have received. Our consideration is based upon the proposals as set out by the Minister and not on any ideas for change that we may have suggested in earlier sections.

9.1.2 P.94/2006 explained the intended impact as follows:

*"This policy is aimed at standardising the Police approach to all organised events. It will create an environment where, through consultation and partnership, public events will continue to take place. A greater awareness of the individual responsibility of the organisers and those of the other agencies involved should emerge, which will ensure a more focused approach by all concerned resulting in better planned, safer and more resilient events."*¹⁴⁸

9.1.3 It appears that much of this would be achieved through the greater communication and co-ordination that would occur under the Working Agreement set out in the proposition. Regular meetings and communication would occur between the States of Jersey Police; the Departments of Home Affairs, Economic Development and Education, Sport and Culture; and the Honorary Police. Indeed, we understand that this impact has already been felt and that meetings have been held to discuss events in 2008 in order to consider the arrangements for public safety.¹⁴⁹

9.2 Event Organisers

9.2.1 The breadth of the impact on event organisers would depend upon the scope of the proposed system. If the underlying principle remained that only 'commercial or profit-making' events would be considered, some events would seemingly be unaffected.

9.2.2 It is apparent that the 'user pays' proposal in itself does not intend to alter fundamentally the overall planning process followed by event organisers and which we touched on in Section 5.3. The same arrangements would still need to be made to meet the Public Entertainment

¹⁴⁸ *Policing Commercial or Profit-Making Events: New 'User Pays' Charge (P.94/2006)*

¹⁴⁹ Mr K Lemasney, Corporate Strategy Manager – Economic Development, Public Hearing 1, page 10

Panel's requirements for a positive recommendation to be made to the Bailiff. However, if subjected to the 'user pays' charge, the event organiser in question would be required to undertake a further stage of planning by signing a Special Services Agreement.

9.2.3 From the organiser's point of view, this could be said to increase the amount of 'red tape' with which they have to contend. We were advised that some event organisers feel there is already too much 'red tape' in Jersey when planning an event. One organiser advised us that increasing this amount would inevitably lead to fewer events taking place.¹⁵⁰ Indeed, it was also suggested to us that the number of prospective events had already been affected and that the number was down on previous years. When questioned on this point, the Directors of Jersey Live advised us:

“Obviously this [discussion of a proposed 'user pays' charge] is raising quite a profile. There are people waiting to see the outcome, the results, but it certainly sends shockwaves throughout.”¹⁵¹

9.2.4 The Directors of Jersey Live advised us that, in their view, they had encountered too much 'red tape' when planning their event. However, they also indicated that whilst this may have been difficult to begin with, they had come to the view that dealing with the 'red tape' ultimately contributed towards ensuring safety at their event.¹⁵² The question may therefore be asked of whether apparent current signs of caution would dissipate as event organisers grew accustomed to the charge and the administrative structure in which it operated. Answers to the issues of fairness, accountability and transparency of the system (that we addressed in Section 8) might impact upon the ultimate palatability of the proposed system for event organisers.

9.2.5 Evidently, the proposition would have cost implications for those event organisers who were charged. It is not feasible to indicate precisely the potential financial impact as this would depend upon the nature of the event and the way in which the charge was constructed. The only example available is that of Jersey Live 2007. The Directors advised us their payment towards Mutual Aid costs had represented their single largest expense for the 2007 event.¹⁵³

9.2.6 Indications have been given to us of how much it has cost to police other events. However, it is not apparent what proportion of these costs would be passed on under the proposed 'user pays' system. The States of Jersey Police advised us, for instance, that it had cost

¹⁵⁰ Written Submission from Delta Conference Systems, 23rd October 2007

¹⁵¹ Mr W Cunningham, Director of Jersey Live, Public Hearing 3, page 24

¹⁵² Mr W Holt, Director of Jersey Live, Public Hearing 3, page 6

¹⁵³ Mr W Cunningham, Public Hearing 3, page 39

£2,500 to police an event at Elizabeth Castle in July 2007.¹⁵⁴ Furthermore, in answer to an oral question on 26th September 2006, the Minister advised the States Assembly that the costs of policing the 'Sure Mobile Service' launch event had been £13,851.¹⁵⁵

9.2.7 How could the impact on event organisers be monitored? The organisers themselves would be aware of the impact. Under present arrangements, any impact on the number of events being held or planned might also be seen by the Bailiff's Chambers (in the number of applications received) and Jersey Tourism (in the number of events on the calendar). Any change in the figures, however, might not indicate why there had been a change (i.e. whether it was the 'user pays' charge that had an effect or whether it were some other factor).

9.3 Home Affairs and the States of Jersey Police

9.3.1 The establishment of a Working Agreement between the various parties would, to an extent, impact upon the current planning process followed by the States of Jersey Police. At least, it would formalise a requirement for the Police to liaise on a regular basis with the Honorary Police and the Departments of Economic Development and Education, Sport and Culture.

9.3.2 Similarly to event organisers, the Department of Home Affairs and States of Jersey Police would be required to sign the Special Services Agreement regarding the payment of any charge administered. In this sense, a further stage would be added to its own planning procedures.

9.3.3 We asked whether there would be any administrative implications of the proposed 'user pays' charge. The States of Jersey Police advised us that it was felt there would be no significant cost of implementing and administering the charge.¹⁵⁶

9.3.4 Deputy Guy de Faye suggested to us one impact of the proposed system on the planning process:

*"A system of charging for uniformed police supervision of events removes the need for many of the existing checks and balances that form the current basis for risk assessment calculations that are used to evaluate the uniformed police deployment at public functions."*¹⁵⁷

¹⁵⁴ States of Jersey Police response to issues raised by the Scrutiny Panel

¹⁵⁵ Official Record of the States Assembly, 26th September 2006

¹⁵⁶ Written Submission from the Department of Home Affairs, 22nd November 2007

¹⁵⁷ Written Submission from Deputy G W J de Faye, 31st October 2007

- 9.3.5 Deputy Celia Scott-Warren shared similar concerns and suggested that the introduction of a ‘user pays’ charge would impact upon the discipline of the financial administration within the Department. We asked the Minister for Treasury and Resources what requirements there were for Departments to monitor the administration of ‘user pays’ charges. We were advised that there were no “*specific requirements*” but that it was clearly the Accounting Officer’s responsibility to monitor the administration of any charges and any funds collected.¹⁵⁸ As previously stated, the Accounting Officer in relation to the States of Jersey Police is the Chief Officer of the Department of Home Affairs.
- 9.3.6 The comments of Deputies de Faye and Scott-Warren hark back to the questions of fairness, accountability and transparency covered in Section 8. The proposal to introduce a ‘user pays’ charge has led to questions being asked of the planning process followed by the States of Jersey Police and of its openness with information. The question may be asked of whether the actual implementation of the ‘user pays’ charge would lead to further questioning and therefore damage trust held in the States of Jersey Police.
- 9.3.7 Some of our research on ‘user pays’ charges in Australia suggests that expectations of the public are indeed that the introduction of such charges lead to greater accountability. There is also an expectation that there be a corresponding reduction in taxation.¹⁵⁹ If this were the case here, one would therefore expect to see a reduction in the States of Jersey Police budget. However, we understand that introducing the proposed charge would not lead to such a reduction:
- “What we are talking about here, as I say, although it would increase the income of the States of Jersey Police, it would not change their bottom line because this is not an income generating scheme to redistribute resources within the police.”¹⁶⁰*
- 9.3.8 This fact comes from the current underlying principle that effectively only new events would be covered by the proposed charge and that existing events are already covered by the current budget. It is these new, additional costs that would be recouped from the proposed charge and there would therefore be a ‘cost neutral’ impact upon the States of Jersey Police budget.
- 9.3.9 For a specific event, considered in isolation, the introduction of a ‘user pays’ charge could increase the resources available to the States of Jersey Police for that event. If ‘off-duty’

¹⁵⁸ Written Submission from Senator T A Le Sueur, Minister for Treasury and Resources, 21st November 2007

¹⁵⁹ *NSW Police Cost Recovery and User Charges Policy*

¹⁶⁰ Ms E Middleton, Public Hearing 5, page 44

local officers could be used, there would be a means of obtaining sufficient funding to cover the (special duty) payment of these officers. Furthermore, if Mutual Aid were warranted, there would be a means of obtaining sufficient payment for this Mutual Aid. As a result, the introduction of the proposed charge could increase the resources upon which the States of Jersey Police could call for a particular event.

9.3.10 However, there would be no increase in the total number of local resources available to the States of Jersey Police (i.e. the overall complement would remain the same). This may be pertinent given that there are apparent limits on the number of times that 'off-duty' officers could be used: consideration would need to be given to whether it would lead to officers working excessive hours or not having sufficient rest periods. Furthermore, there would not be a guarantee that Mutual Aid could be 'bought in' for in any given event: forces are not obliged to provide Mutual Aid and, as indicated in Paragraph 7.2.10, it may become more difficult for the States of Jersey Police to procure Mutual Aid under proposed new arrangements in the United Kingdom. The proposed charge, if introduced, might therefore increase the resources available for a given event. However, event organisers would not be able to guarantee that their event would take place merely by agreeing to pay a charge as there could still be limits on available resources. It should be remembered that the Bailiff, and not the States of Jersey Police, ultimately decides whether an event will be granted a permit. However, we understand that, practically speaking, it would be unlikely for an event to be given a permit if the States of Jersey Police had insufficient resources to police that event.

9.3.11 Consideration of the effect that the proposed charge might have on the resources available to the States of Jersey Police led to a number of deliberations when the Panel came to consider its findings. It led to questions of what would happen when States of Jersey Police resources reached a level where they could cope with the demand – would any 'user pays' charge that had been introduced be discontinued? We concluded that it might not be feasible to discontinue it because it would be impossible to predict the demands of policing events and it would therefore not be feasible to say that resources had reached an 'adequate' level. As has been said earlier, the policing of events is a 'demand-led' resource.

KEY FINDING:

9.3.12 The introduction of a 'user pays' charge for the policing of events would not establish a means by which event organisers could guarantee that their proposed event would take place.

9.4 Honorary Police

9.4.1 We understand that a meeting on 23rd July 2007 between the Minister for Home Affairs and the Comités des Connétables and des Chefs de Police represented the first occasion on which the views of the Honorary Police were actively sought in relation to the proposed ‘user pays’ charge.¹⁶¹ Further work on revising the proposition was undertaken as a result. This consultation occurred following agreements of the Council of Ministers in June 2007; prior to that time (for example, before P.94/2006 was lodged *au Greffe*) consultation with the Honorary Police had not been undertaken.

KEY FINDING:

9.4.2 During initial development of the proposed ‘user pays’ charge, there was a lack of consultation by the Minister for Home Affairs with the Honorary Police.

9.4.3 It is unclear what further consideration may be given by the Minister to the impact of the proposition on the Honorary Police. The Working Agreement is intended to cover the Honorary Police and it will therefore be subject to the same expectations of liaison and co-ordination as the States of Jersey Police.

9.4.4 Concerns regarding the possible impact of the ‘user pays’ charge were laid out by the Comité des Connétables in its written submission. One potential impact identified by the Comité was that event organisers would attempt to have their events policed by the Honorary Police rather than the States of Jersey Police: event organisers would endeavour to access an essentially ‘free’ service rather than have to pay a ‘user pays’ charge for the services of the States of Jersey Police. This had already been seen, we were told, in requests to escort the movement of wide loads. The States of Jersey Police charge for this service and requests are now received by the Honorary Police to provide this service.¹⁶²

9.4.5 The Assistant Minister for Education, Sport and Culture shared concerns that the proposition would impact upon the Honorary Police:

“It [the ‘user pays’ charge] could be seen to be divisive with other organisations such as the Honorary Police that are giving their time up for the full 2 days for nothing.”¹⁶³

9.4.6 The Comité des Connétables was also concerned that it might ultimately be pushed out of policing events as the States of Jersey Police might “*determine that only their officers can*

¹⁶¹ Connétable K P Vibert, Public Hearing 4, page 8

¹⁶² Written Submission from the Comité des Connétables, 12th November 2007

¹⁶³ Deputy C F Labey, Public Hearing 2, page 4

be involved." The Comité advised that such a move would potentially affect the entire future of the Honorary Police.

9.5 Departments of Economic Development and Education, Sport and Culture

9.5.1 As with the States of Jersey Police and Honorary Police, the Working Agreement established within the proposition would require the Departments of Economic Development and Education, Sport and Culture to liaise with the other parties involved. Otherwise, the impact upon both Departments would seemingly depend upon the impact on events themselves. The economic and cultural objectives of the two Departments rely to an extent on events actually taking place. If the number of events being held were indeed adversely affected by the introduction of a 'user pays' charge, this would have a knock-on effect.

9.5.2 Beyond the raw number of events, we considered how the economic and cultural impact could be measured. The cultural effects would possibly be difficult to measure; the Assistant Minister for Education, Sport and Culture advised us that 'culture' is not easy to define or quantify. The economic effects would perhaps be easier to quantify. A reduced number of events, or range of events, would provide fewer opportunities for tourists; locals; and local businesses. This would weaken the string of 'event-led tourism' that the Department has attached to its bow of strategic objectives.

9.5.3 There could also be a direct budgetary impact of the 'user pays' charge on the Department of Economic Development. When work was undertaken on revising P.94/2006, we understand that an offer was made by the Department to make funding available for training States of Jersey Police officers for policing events.¹⁶⁴ The idea of funding from Economic Development does not appear to have been discounted:

*"If Economic Development wanted to encourage the event to take place to bring visitors to the Island, then obviously there is a question there about looking at sharing resources. It might be that in terms of a new event there would be financial support to cover policing costs in order to let an event happen and develop, et cetera."*¹⁶⁵

9.5.4 The idea of one Department providing funding that would ultimately be used by another Department was raised as a potential cause for concern by the Assistant Minister for Education, Sport and Culture. We therefore raised the matter with the Minister for Home Affairs and were advised:

¹⁶⁴ Mr K Lemasney, Public Hearing 1, page 19

¹⁶⁵ Ms E Middleton, Public Hearing 5, page 24

“That is the situation we find ourselves in. It did not make much sense either to us for perhaps one department to encourage all sorts of things to happen without perhaps checking whether or not we had the resources to deal with that further down the line. I do not say that as a criticism; it is just that, you know, in the past I think people have worked very much in silos.”¹⁶⁶

9.6 Bailiff’s Public Entertainment Panel

- 9.6.1 The work of the Bailiff’s Public Entertainment Panel essentially lay outside the remit of our review. However, we received advice and evidence on its work from a variety of sources; it seemed that for some people, issues surrounding the possible introduction of a ‘user pays’ charge for the policing of commercial events were linked to issues surrounding the process by which event organisers apply for a permit. As we have already indicated, the processes followed by the Public Entertainment Panel are, we understand, currently under review and it is possible that this work may lead to changes in procedure.
- 9.6.2 Questions have been put in the past on how separate the two processes would remain. When the States Assembly debated the most recent *Unlawful Public Entertainment (Jersey) Regulations* on 16th July 2007, Deputy Judy Martin asked whether one of the conditions that would be applied in the instance of the Bailiff granting permission was that the organisers pay for the policing of their event. Deputy Martin wanted assurance that that would not happen and was advised by the Minister that the question of charging for policing events was a separate issue.¹⁶⁷
- 9.6.3 Concerns regarding this matter stem from the involvement that the States of Jersey Police would have in both the decision to levy a ‘user pays’ charge and in the decision of whether an entertainment permit should be granted.
- 9.6.4 The intention behind the proposed ‘user pays’ charge is that the Public Entertainment Panel would not be involved in the administration of the charge. Rather, any decision on whether to levy a charge would be passed to the Bailiff ‘for information’. This arrangement was confirmed at a Public Hearing by the States of Jersey Police Head of Operations.¹⁶⁸ Evidently, this would mean that negotiations regarding any possible ‘user pays’ charge for an event would need to have been completed before the Public Entertainment Panel began its own deliberations.

¹⁶⁶ Senator W Kinnard, Public Hearing 5, page 32

¹⁶⁷ Official Record of the States Assembly, 16th July 2007

¹⁶⁸ Superintendent S du Val, Public Hearing 5, page 47

9.6.5 We wrote to the Bailiff to ask what impact it was felt the proposed ‘user pays’ charge might have on the Public Entertainment Panel’s work and were advised by his Chief Officer that “*it is not anticipated that there would be any impact on the work of the Panel, or its procedures, arising from the potential implementation of the user pays charge as this is an entirely political matter in relation to which neither the Bailiff nor the Panel would wish to express any view.*”¹⁶⁹

9.6.6 From an event organiser’s perspective, the Directors of Jersey Live concurred that the decision on whether to levy a ‘user pays’ charge for policing should remain separate from the work of the Public Entertainment Panel. Indeed, they proposed that two separate panels should be constituted for different purposes:

*“JLMF consider that “Dealing with the ‘Not a Tax’ and ‘Fairly and Consistently Applied’ points may require the event license application process to be divided between: (i) a Bailiffs Advisory Panel, which advises the Bailiff on the event itself, having satisfied itself on the content of the ESMP [Event Safety Management Plan]; and (ii) an Economic Development Panel – considering the benefit of the event to the Island using a standard and transparent process, and in turn whether a User Pays charge will apply to the event or not?”*¹⁷⁰

In the Directors’ view, the arrangements for them to contribute towards the Mutual Aid costs of policing Jersey Live 2007 had become “*entwined*” with the process of applying for a permit from the Bailiff. From their perspective, this had not been satisfactory.

KEY FINDING:

9.6.7 The Bailiff will retain the authority over the decision of whether a permit will be granted for an event to take place.

9.6.8 The Panel supports the principle that the administration of the ‘user pays’ charge should remain separate from the remit of the Bailiff’s Public Entertainment Panel.

RECOMMENDATION:

¹⁶⁹ Written Submission from the Bailiff’s Chambers, 17th October 2007

¹⁷⁰ Written Submission from the Directors of Jersey Live, 7th November 2007, page 13

9.6.9 The Minister for Home Affairs should ensure that the distinct separation of the proposed 'user pays' system from the work of the Bailiff's Public Entertainment Panel is made clear.

10. CONCLUSION

- 10.1 During its development, the proposed 'user pays' charge has raised a number of questions and evoked strong feelings on the part of some. Our own experience from discussing the Minister's proposal was that the topic could indeed prompt a number of hypothetical questions, not all of which were easy to answer.
- 10.2 The provision of further detail on the proposed charge would assist in addressing some of these issues and, perhaps, alleviate the feelings of some. We have found that it would not be inappropriate for a 'user pays' charge to be levied for the policing of events. Our finding results from consideration of existing States policy; submissions received; policy followed elsewhere in this area; and the increased demands made of the States of Jersey Police.
- 10.3 In some respects, the intention of the proposals do not appear unjust: the Panel can see the logic in proposing a 'user pays' charge for the policing of commercial or profit-making events. However, we have found that using this as a 'first principle' causes some concern. We suggest that a more preferable 'first principle' would be that the charge apply to 'all events or none, but with exemption criteria.' The upshot of this might not in fact make any difference to which events are ultimately affected. However, we believe this difference in 'first principles', albeit subtle, are significant and may have contributed to some of the uneasiness in the past.
- 10.4 The Panel has concluded that the system as currently proposed would not be sufficiently fair, accountable and transparent. We believe these are appropriate criteria to use when assessing the system and trust that the Minister will take on board our findings and recommendations in this regard during subsequent work on the proposals.
- 10.5 We anticipate that our finding of 'all or nothing' may raise further concerns about the impact the 'user pays' charge would have on specific events. As indicated in the Chairman's introduction, there may be various reasons why people would support a charge that applies (or does not apply) to any given event. We agree with the Minister, however, that the debate should be distanced from discussions about any one event and have endeavoured to achieve this in our report.
- 10.6 It has been encouraging to see the moves towards greater co-operation and co-ordination contained within the Minister's proposals. In a time when the phrase 'joined-up government' is often quoted, the Panel can only support moves in this regard and trusts that such efforts towards greater engagement are successful.

11. METHODOLOGY AND EVIDENCE CONSIDERED

11.1 Methodology

11.1.1 The Panel used the following methods to gather evidence during our review.

- Research of written sources including relevant legislation and departmental papers and policies
- Requesting advice and information from the Departments of Home Affairs; Economic Development; Education, Sport and Culture; and the Comité des Connétables
- Call for Evidence from the Public (placed in the *JEP*)
- Written requests for information from stakeholders
- Meetings with interested parties
- Public Hearings

11.2 Evidence Considered

11.2.1 Those documents listed below, to the extent that they are relevant to the Terms of Reference, that were not received on a confidential basis are available to read at www.scrutiny.gov.je. Those unable to access the Internet are requested to contact the Scrutiny Office (telephone: 441080) about accessing hard copies of documents.

11.2.2 Legislation:

Isle of Wight Act 1990

Police Force (Jersey) Law 1974

Unlawful Public Entertainments (Jersey) Regulations 2007

11.2.3 Minutes and Official Record of the States Assembly:

24th June 2003

12th September 2006

14th September 2006

26th September 2006

26th October 2006

16th July 2007

25th September 2007

11.2.4 **Acts:**

Act A5 of the Council of Ministers – 21st September 2006

Act B4 of the Council of Ministers – 2nd November 2006

Act B5 of the Council of Ministers – 14th June 2007

11.2.5 **Other Written Material:**

Anti-Inflation Strategy (P.125/2000)

States Approval of New 'User Pays' Charges (P.63/2003)

States Approval of New 'User Pays' Charges: Amendment (P.63Amd/2003)

Policing Commercial and Profit-Making Events: New 'User Pays' Charge (P.94/2006)

Financial Direction 4.1 – Increases in States Fees and Charges

States of Jersey Police – New User Pays Charges, Report for the Council of Ministers (12th June 2007)

Calendar of Events 2008

Briefing Note – Police: New User Pays Charge, Report prepared for the Education and Home Affairs Scrutiny Panel by the Department of Home Affairs (25th September 2007)

Guidance on Charging for Police Services, The Association of Chief Police Officers of England, Wales and Northern Ireland

States of Jersey Police – New User Pays Charges, Draft Proposition (28th September 2007)

Information on the event evaluation process followed by Jersey Tourism

Procedures followed in the Isle of Wight for event recharging

2007 Guernsey Facts and Figures, States of Guernsey Policy Council – Policy and Research Unit

Baseline Assessment – Isle of Man Constabulary (October 2006) Her Majesty's Inspectorate of Constabulary

Jersey Destination Audit – Towards a Jersey Tourism Development Strategy (November 2006), Locumconsulting

11.2.6 **Written Submissions:**

Mr R Kisch 24th September 2007

Mr P Turner 25th September 2007

Mr D Emmerson 3rd October 2007

Mr T M Avery,

Company Secretary – The Jersey Battle of Flowers (Events) Ltd 3rd October 2007

The Very Reverend R F Key BA, Dean of Jersey	3rd October 2007
Mr L Pallot	3rd October 2007
Mr K Jenkins	3rd October 2007
Ms C Sweeney	3rd October 2007
Mr J Ashton	3rd October 2007
Mrs S Chipperfield	3rd October 2007
Mr D Hare	3rd October 2007
Ms H Perchard	3rd October 2007
Ms T Hotton	3rd October 2007
Mr J Nasey	3rd October 2007
Mrs D Midgley	3rd October 2007
Mr S Ruff	3rd October 2007
Ms I Nicol	3rd October 2007
Mrs J Bougourd	3rd October 2007
Ms B Cummins	3rd October 2007
Ms S Gleeson	4th October 2007
Ms C Campbell	4th October 2007
Mrs J Le Couillard	4th October 2007
Ms S Le Vallee	4th October 2007
J Hill	4th October 2007
Dr C Meachin	4th October 2007
Mr H Lillis	4th October 2007
Mrs A Campbell	4th October 2007
Ms A Ball	4th October 2007
Ms P Le Gresley	4th October 2007
Ms C Williams	4th October 2007
Ms P Bromley	4th October 2007
Mr P Rogers	4th October 2007
Mr J Burrow	4th October 2007
Mr J McDonald	4th October 2007
Ms S Bellamy	4th October 2007
Mr J Brizell	4th October 2007

Ms K Bourgoise	4th October 2007
Mr A Dugler	4th October 2007
Mr P Stone	4th October 2007
Ms A McFayden	4th October 2007
Ms J Luce	4th October 2007
Ms G Walsh	4th October 2007
Mr M Fiott	4th October 2007
Mr M White	4th October 2007
D Lutes	4th October 2007
Mr P Taylor	4th October 2007
Ms A Crolla	4th October 2007
Mr D Rotherham	4th October 2007
Mr M Morgan	4th October 2007
Ms G Hallows	4th October 2007
Mr B Muldoon	4th October 2007
Mr J Goncalves	4th October 2007
Mr A Asbury	4th October 2007
Mr M Bardsley	4th October 2007
Mr M Le Gresley	4th October 2007
Mr D Minty	4th October 2007
Mr A Naesmyth	4th October 2007
Mr T Bale	4th October 2007
Mr A Fortune	4th October 2007
Mr M Conway	4th October 2007
Mr M Wears	4th October 2007
Ms S Stuchfield	4th October 2007
Ms U O'Donoghue	4th October 2007
Ms T Bewhay	5th October 2007
Mr D Highfield	5th October 2007
Ms L Minier	5th October 2007
Ms M Fielding	5th October 2007
Ms J Bowey	5th October 2007

Mr K Brace	5th October 2007
Ms S de la Haye	5th October 2007
Mr W Doyle	5th October 2007
Mr R Bisson	5th October 2007
Ms M Miller	5th October 2007
Ms C Connor	5th October 2007
Ms K Manning	5th October 2007
Mr M Charlton	5th October 2007
Ms S Moxey	5th October 2007
Ms S Wild	5th October 2007
Mr J K Shield	5th October 2007
Ms S Huish	5th October 2007
Mr S Kelly	6th October 2007
Mr A Lawson	6th October 2007
Mr G Richardson	6th October 2007
Mr S Kenny	7th October 2007
Mr M Michel	8th October 2007
Ms A Jackson	8th October 2007
Mr D Vibert	9th October 2007
M Morris	9th October 2007
Mr C Derrien	10th October 2007
Mr S Mullaney	16th October 2007
Mr D Filippini, Chief Officer – Bailiff's Chambers [CONFIDENTIAL]	17th October 2007
Vingtenier M Couriard MBE, Chairman – Honorary Police Association	23rd October 2007
Mr C Bouchet, Director – Delta Conference Systems	23rd October 2007
Deputy C J Scott Warren	25th October 2007
Ms M Holt	27th October 2007
Deputy C F Labey, Assistant Minister for Education, Sport and Culture	30th October 2007
Senator S Syvret	31st October 2007

Deputy G W J de Faye	31st October 2007
Deputy G H Mahy, Home Minister – Guernsey	31st October 2007
Directors of Jersey Live	7th November 2007
Comité des Connétables	12th November 2007
Mr C Webb, Executive Director – Jersey Competition Regulatory Authority	16th November 2007
Senator T A Le Sueur, Minister for Treasury and Resources	21st November 2007
Mr W Greenhow, Chief Executive – Department of Home Affairs, Isle of Man	
[CONFIDENTIAL]	23rd November 2007
Vingtenier M Couriard MBE [in a private capacity]	25th November 2007
Mr D Quenault, President – The West Show Association	26th November 2007

In addition, the Panel received 5 submissions from those who wished their names to remain out of the public domain. The Panel also received 6 submissions where it was not possible to identify the name of the person who had made the submission.

11.2.7 **Meetings with Interested Parties:**

The Panel met a number of individuals at its regular Panel Meetings. Transcripts of these meetings were not made as they were not audio recorded. However, they were formally minuted and the records may be found at www.scrutiny.gov.je.

Briefing on Event-led Tourism from Mrs. D. Le Marrec, Tourism Development Manager	29th October 2007
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In addition, the Panel received a confidential briefing from the Minister for Home Affairs and Chief Officer – States of Jersey Police on 29th October 2007. The Panel also met on 30th October 2007 an individual who wished to speak to the Panel in a private capacity.

11.2.8 **Public Hearings:**

12th November 2007:

1. Senator P F C Ozouf, Minister for Economic Development, and Mr K Lemasney, Corporate Strategy Manager – Economic Development
2. Deputy C F Labey, Assistant Minister for Education, Sport and Culture, and Mr D

Greenwood, Assistant Director – Education, Sport and Culture

3. Mr W Holt, Mr W Cunningham and Mr M Corbin, Directors of Jersey Live Music Festival

13th November 2007:

4. Connétable K P Vibert, Chairman – Comité des Connétables, and Centenier J Le Masurier, Chairman – Comité des Chefs de Police

26th November 2007 :

5. Senator W Kinnard, Minister for Home Affairs, Superintendent S du Val, Head of Operations – States of Jersey Police, and Ms L Middleton, Finance Director – Home Affairs

11.2.9 **Media Articles:**

Jersey Evening Post:

<i>Major events to pay for policing</i>	22nd July 2006
<i>Is this the end of Jersey Live?</i>	13th September 2006
<i>Deputy steps in to support music festival</i>	14th September 2006
<i>Jersey Live ‘will stay in Jersey’</i>	16th September 2006
<i>Why we policed Jersey Live in the way we did</i> (Letter from Superintendent J Pearson)	23rd September 2006
<i>Festival Safety Pledge</i>	25th September 2006
<i>30 UK police officers for Jersey Live</i>	30th August 2007
<i>Police top the bill at Jersey Live</i>	1st September 2007
<i>All their world’s a stage</i>	1st September 2007
<i>Footing the bill for the festival</i>	3rd September 2007
<i>Why should Jersey Live have to pay for their UK police officers?</i> (Letter from L Kenny)	4th September 2007
<i>Jersey Live should be treated the same as any other private business venture</i> (Letter from J Simmons)	5th September 2007
<i>Deputy backs festival organisers over fees</i>	8th September 2007
<i>Jersey Live: Residents’ concerns about anti-social behaviour were borne out</i> (Letter from D Minty)	8th September 2007
<i>No use of excessive force</i> (Letter from Superintendent S du Val)	13th September 2007

Policing: We're being singled out, claim festival organisers 13th November 2007

Stop whingeing, Warren (Letter from J Simmons) 19th November 2007

BBC Jersey:

Festival to pay for more policing (Web-story) 21st August 2007

11.2.10 **Websites:**

<http://www.gov.je/BailiffsChambers/Licensing+Public+Entertainment.htm>

www.jersey.com

www.gov.je/EconomicDevelopment/

www.gov.gg/ccm/navigation/home-department/police-service/modern-day-policing/

www.hampshire.police.uk/Internet/localpolicing/isleofwight/

www.iwight.com/living_here/stats/images/PopulationEstimatesforMid-2002.pdf

12. TIMELINE

13th September 2000	States adopted <i>Anti-Inflation Strategy</i> (P.125/2000) with amendments
24th June 2003	States adopted <i>States Approval for New 'User Pays' Charges</i> (P.63/2003)
2nd May 2006	Executive Strategy Group meeting considered draft policy for charging to police commercial events
21st July 2006	<i>Policing Commercial and Profit-Making Events: New 'User Pays' Charge</i> (P.94/2006) lodged au Greffe by the Minister for Home Affairs
14th September 2006	States postponed discussion of P.94/2006
21st September 2006	Council of Ministers discussed P.94/2006
10th October 2006	Officer Meeting – Departments of Home Affairs, Economic Development & Education, Sport & Culture
26th October 2006	Meeting of Ministers for Home Affairs, Economic Development and Education, Sport and Culture. The withdrawal of P.94/2006 was agreed

Policing of Events: User Pays?

2nd November 2006	The Council of Ministers noted withdrawal of P.94/2006 and that a new Proposition would be drafted
13th November 2006	Officer Meeting to discuss revised report & proposition
May 2007	Revised draft report & proposition circulated to officers for comment
22nd May 2007	Minister for Home Affairs approved draft report and proposition
14th June 2007	Council of Ministers considered new draft report and proposition
23rd July 2007	Meeting between Minister for Home Affairs and Comité des Connétables and Comité des Chefs de Police
4th September 2007	Education and Home Affairs Panel agreed to review the proposal for a new 'user pays' charge
28th September 2007	<i>States of Jersey Police – New User Pays Charges - Draft Report and Proposition prepared for Minister for Home Affairs and passed to Panel</i>