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Dear Deputy Ward

## Police Governance Law Review

Thank you for your letter dated 26 February 2021 regarding the review of police governance law by the Children, Education and Home Affairs Panel.

You have asked for comments on your terms of reference together with a number of specific points.

### **Terms of reference**

On point 4 of your terms of reference I would note that it is difficult to comment on how future changes will impact on the operation of the various stakeholders and inter-relationships at this stage. Whilst the Panel can make a judgment on principles, it could be too premature to comment on impact.

LYNN PAMMENT

Comptroller and Auditor General

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## Specific matters

The Scrutiny Panel has requested my views on the following specific matters:

- The changes that this would have in relation to the operation of the Jersey Police Authority, its relationship with the States of Jersey Police Force, Minister for Home Affairs and Directorate of Justice and Home Affairs
- The changes that this would have in relation to the Minister for Home Affairs and their responsibility in relation to the States of Jersey Police Force and its operation
- The changes that this would have in relation to the relationship between the Justice and Home Affairs Directorate and the Chief Officer of the States of Jersey Police Force
- Whether the recommendations made in your report have been adequately incorporated, and, where other changes outside of the report have been made, whether these are proportionate and in keeping with the spirit of your recommendations
- Whether the changes being suggested outside of your recommendations are in keeping with best practice arrangements for governance and accountability.

My observations are as follows:

The recommendations from the C&AG report of March 2018 were accepted in full at the time by the Government of Jersey. The recommendations focused on enhancing the accountability and operational independence of the States of Jersey Police by a number of changes in the governance and responsibilities of the Jersey Police Authority.

The proposed changes outlined in the Draft States of Jersey Police Force (Amendment No.3) Law address the C&AG recommendations made in respect of:

- amending the principal duties to oversight and promoting continuous improvement, rather than ensuring delivery
- establishing an independent inspection regime
- independent membership through removal of two members elected by the States Assembly; and
- certain human resources responsibilities to be allocated to the Chief Officer rather than the Minister.

Most of the changes proposed flow from the earlier recommendations and are, in my view, in keeping with the overall emphasis of the previous report. The changes are designed to enhance independence and revise the role of the Police Authority as recommended. I do have a number of specific observations on the proposals:

- Whilst the covering paper refers to the earlier recommendation for the Police Authority to routinely advise on the budget, an explicit reference to this is not seen in the draft legislation
- The frequency of the inspection regime is not indicated in the draft legislation. There may be merit in specifying a maximum interval that is proportionate
- At this stage, the opportunity to include other services within the role of the Police Authority is not reflected in the proposal. It is noted that this was to be considered as part of the development of the Target Operating Model.

It is difficult to make a judgement on the impact of the proposed changes at this stage. Delivering improvement will be dependent on the successful implementation of necessary revisions to the operational framework of the Police Authority once the legislation is enacted. Key issues will include:

- ensuring an appropriate level of resources for the Police Authority
- how will the Police Authority deliver its objectives in respect of oversight and continuous improvement
- achieving the right balance of skills and experience on the Police Authority, supporting this with training, and agreeing how effectiveness will be evaluated
- establishing an effective routine process for advising the Minister on the budget; and
- establishing an effective inspection regime that provides scrutiny, challenge and monitoring of recommendations.

The following table summarises my observations on the specific C&AG recommendations in the 2018 report:

<b>Ref</b>	<b>Recommendation</b>	<b>Coverage in legislation</b>	<b>Observations</b>
R1	Enhance the resources available to the Police Authority to discharge its functions, including by establishing and implementing a routine frequency for independent inspections of the States of Jersey Police.	<p>Article 3 of the draft Law inserts new Article 4 that includes a duty on the Authority to seek from the Minister additional resources to enable it to perform its duties.</p> <p>Article 10 of the draft Law inserts Article 28AA that obliges independent inspection that must be undertaken at regular intervals subject to availability of resources to the Police Authority.</p>	<p>No duty on the Minister or States to provide adequate resources for the Authority to perform its functions.</p> <p>No specification of the minimum frequency or requirement for the provision of sufficient resources to undertake an inspection.</p>
R2	Enhance the training and support available to members of the Police Authority to enhance their ability to discharge their responsibilities.	<p>Not directly addressed.</p> <p>Article 3 of the draft Law inserts new Article 4 that includes a duty on the Authority to seek from the Minister additional resources to enable it to perform its duties.</p>	No duty on the Minister or States to provide adequate resources for the Authority to perform its functions.
R3	Review whether it remains appropriate for the States Assembly to elect two members of the Police Authority.	Article 4 of the draft Law amends Article 3 to replace States Assembly members with independent members.	Addressed.
R4	Develop proposals to amend the statutory duties of the Police Authority to ensure that they are focussed on oversight and improvement.	Article 3 of the draft Law amends Article 4 to promote and support continuous improvement and oversee performance of policing services.	Addressed.

<b>Ref</b>	<b>Recommendation</b>	<b>Coverage in legislation</b>	<b>Observations</b>
R5	In light of experience of the operation of the States of Jersey Police Force Law 2012 and the practice in other jurisdictions, develop proposals to amend legislation relating to the allocation of powers and duties to reinforce further the operational independence of the States of Jersey Police.	Article 7 of the draft Law amends Article 17 to: <ul style="list-style-type: none"> <li>- Impose duty of efficiency and effectiveness on Chief Officer;</li> <li>- remove power of the Minister to determine establishment.</li> </ul>	Partially addressed. Requirement for Ministerial approval for service with another police force still required.
R6	Establish and document revised non-statutory arrangements relating to the governance of the States of Jersey Police, including: <ul style="list-style-type: none"> <li>- ending the current arrangement of the Chief Executive serving as line manager for the Chief of Police; and</li> <li>- enhancing the role of the Police Authority.</li> </ul>	Article 3 substitutes Article 4 redefining the role of the Authority.  Article 10 of the draft Law inserts Article 28AA that obliges independent inspection that must be undertaken at regular intervals subject to availability of resources to the Police Authority.	Role of Police Authority strengthened. However, recommendation relates to non-statutory arrangements and I would not envisage coverage of this in legislation.
R7	Evaluate whether the role of the Police Authority could be extended to cover other services where operational independence is important.	Not addressed.	I understand that this remains under active consideration for the future.
R8	Ensure that internal operating procedures clearly document the respective roles of different parties for police human resources issues.	Not addressed.	I would not expect this recommendation to be addressed in legislation.

<b>Ref</b>	<b>Recommendation</b>	<b>Coverage in legislation</b>	<b>Observations</b>
R9	Routinely review and update the Police Terms and Conditions of Service in response to changes in legislation.	Not addressed.	I would not expect this recommendation to be addressed in legislation.
R10	Where another department advises a Minister, involve the lead department for a ministerial portfolio to ensure that: <ul style="list-style-type: none"> <li>- where Ministers are asked to exercise statutory powers, civil servants prepare written advice weighing the advantages and disadvantages of different options; and</li> <li>- all Ministerial Decisions are properly recorded using the standard template and are centrally held.</li> </ul>	Not addressed.	I would not expect this recommendation to be addressed in legislation.
R11	To reinforce the operational independence of the States of Jersey Police, bring forward proposals to amend legislation to reassign human resources responsibilities from the Minister for Home Affairs to the Chief of Police and Police Authority.	Article 12 of the draft Law amends the States of Jersey Police Force (General Provisions) (Jersey) Order 2016 to transfer various powers in respect of promotion and probation to the Chief Officer.  Article 11 of the draft Law amends the States of Jersey Police Force (Chief Officer and Deputy Chief Officer) (Jersey) Regulations 2017 requires the Minister to consult where	Partially addressed.

Ref	Recommendation	Coverage in legislation	Observations
		practicable with the Chief Officer before appointment of a Deputy Chief Officer.	
R12	Separately identify the resources allocated to the States of Jersey Police in the Medium-Term Financial Plan.	Not addressed.	The Government Plan now shows this separately but the Public Finances (Jersey) Law 2019 does not require such identification.
R13	Give the Police Authority a routine role in advising Ministers in respect of the budget for the States of Jersey Police.	Article 3 of the draft Law amends Article 4 to require the Police Authority to seek from the Minister such additional resources as required for the States of Jersey Police to perform its functions.	Partially addressed. This does not provide for the routine, active role for the Authority envisaged in the recommendation.
R14	Align service and financial planning for the States of Jersey Police by moving to a multi-year Policing Plan.	Article 8 of the draft Law amends Article 19 to align the Policing Plan with the Government Plan (one plus three years).	Fully addressed.

My 2021 audit plan includes a specific follow up review of the implementations of the 2018 C&AG report. I anticipate that I will commence work on this review later in 2021.

I trust that you will find my response to be of some assistance to you.

Yours sincerely

**Lynn Pamment**  
**Comptroller and Auditor General**