

States Greffe

Deputy Kirsten Morel
Minister for Sustainable Economic Development

BY EMAIL

24th October 2025

Dear Minister,

Economic and International Affairs Scrutiny Panel

Draft Harbours (Inshore Safety) (Jersey) Amendment Regulations 202-
Review

Firstly, the Panel wishes to thank you for considering and accepting its recommendation outlined in its comments paper ([P.3/2025 Com.2](#)) requesting that the Memorandum of Understanding (MoU) between the States of Jersey Police and Ports of Jersey be published prior to the debate. Furthermore, the Panel welcomes your agreement to defer the debate on the draft Regulations, thereby allowing time for the Panel to submit its comments and proposed updates to the MoU.

Upon reviewing the published MoU within your [P.3/2025: addendum](#), the Panel remains concerned that the key findings presented within its Comments have not been reflected in the updates. Furthermore, the recent additions to the MoU appear to introduce new ambiguities that have given rise to further questions and concerns for the Panel. Rather than providing the anticipated clarity, these changes seem to have compounded existing uncertainties.

Accordingly, the Panel requests that detailed rationale and clarification around the additions and changes be provided based on the Panel's queries below:

Memorandum of Understanding

Ports of Jersey Responsibilities

1. Under '*Ports of Jersey Responsibilities*' it appears that the Draft Harbours (Inshore Safety) (Jersey) Amendment Regulations 202- has been removed from the list of legislation that the POJ have responsibility for. Can you confirm whether this is simply an administrative error or if this is an intentional change, why has it been removed?

Ports of Jersey Responsibilities

As outlined in the Harbour Authority Enforcement Policy, POJ have responsibility for safety, security and enforcement of shipping legislation in territorial waters under the following legislation:

- The Harbours (Administration) (Jersey) Law 1961
- The Pilotage (Jersey) Law 2009
- The Shipping (Jersey) Law 2002
- Subordinate legislation made under any of those laws

States of Jersey Police Responsibilities

2. The Panel note the new title of 'States of Jersey Police Responsibilities' and that this is defined as being "to investigate a serious crime that has occurred or is occurring".
 - a) Can you provide clarification as to the intention behind this addition?
 - b) What is the definition of 'serious crime' and where is this defined?
 - c) If it is the case that States of Jersey Police are responsible for investigating a serious crime that has occurred or is occurring, in what instances do Ports of Jersey investigate the draft Regulations?

States of Jersey Police Responsibilities

To investigate a serious crime that has occurred or is occurring.

Referral to States of Jersey Police

3. Within the MoU the following injuries are listed under *Referral to States of Jersey Police* as 'serious injury (as defined by Article 165 (3) of the shipping (Jersey) Law 2002)':
 - "Fracture of the skull, spine, pelvis
 - Fracture of a bone in the arm other than wrist or hand
 - Fracture of a bone in the leg other than ankle or foot
 - Amputation of a limb"
 - a) Can you please confirm that the Article referred to is correct, as this does not appear to be the Article within the Shipping Law that refers to serious injury?
 - b) 'Serious injury' is defined within the Shipping (Jersey) Law 2002 as the following:

"serious injury" means –

 - (a) a fracture of the skull, spine or pelvis;
 - (b) a fracture of a bone in the arm or leg other than in the wrist, hand, ankle or foot;
 - (c) the amputation of a hand or foot;
 - (d) a physical injury that –
 - (i) results in the person being admitted to hospital as an in-patient for more than 24 hours; or
 - (ii) would have resulted in that if the ship (at sea) had been in port; or
 - (e) an injury that results in the person becoming incapacitated, by not being able to function normally, starting within 7 days after the injury and lasting at least 72 hours¹

Can you clarify why not all the definitions of 'serious injury' from the Shipping (Jersey) Law 2002 have been inserted into the MoU?

Referral to States of Jersey Police

4. Within the Memorandum of understanding, it states that;

"Ports of Jersey may refer incidents of this nature to the States of Jersey Police. The ultimate decision will be made by the States of Jersey Police as to which organisation will take primacy and who will be lead agency for the investigation".

¹ [Shipping \(Jersey\) Law 2002](#)

- a) Can you please clarify under what circumstances Ports of Jersey **“may refer incidents”** to the States of Jersey Police?
- b) If Ports of Jersey may refer incidents to the States of Jersey Police, can you clarify how the ultimate decision on who will take primacy can sit with the States of Jersey Police? If for example the Ports of Jersey does not refer the incident to the States of Jersey Police, it would not be possible for the States of Jersey Police to decide on who takes primacy?

Statement of Intent

5. The Panel notes that the two references to *“suspected manslaughter”* have been replaced with *“serious criminality”*.
 - a) Can you explain the choice of words used and what this means?
 - b) Can you provide detail as to why this has been changed?
 - The police may reassume primacy in investigations where new evidence of suspected serious criminality has come to light, or as the result of the Viscount’s inquest conclusion of unlawful killing.
 - Relevant enforcing authorities, e.g. HSI may be consulted about pursuing other offences in addition to serious criminality offences.
6. The Panel notes that under the section *“Statement of Intent”* the following sentence has been updated to include *“may have been caused”*:
 - *“Where there is a suspicion that death may have been caused by suspected criminality, the police will assume primacy for an investigation and work jointly with other relevant authorities”*.
 - a) What is the definition of *“suspected criminality”* and where is this detailed?
 - b) Could you provide the Panel with the rationale as to why the wording here has been updated to include *“may have been caused by..”*? Is it not the case that death will have always been caused by suspected criminality?
7. The published MoU has been updated to state that the investigation into rape and serious sexual offences will be investigated by the police. In the draft MoU the Panel had examined, the agency handling the investigation of these type of offences was not prescribed.
 - a) Can you explain why it has been necessary to specify that these type of offences would be investigated by the police?
 - b) Could there perceivably be any other scenario were these type of offences could be investigated under other laws by the Ports of Jersey?
 - c) Have there been any scenarios where these have been investigated by Ports of Jersey?
8. The published MoU states that the *“police will keep the Viscount informed on the progress of an investigation”*. Is it envisaged that the Viscount would be informed of the progress of all investigations or only ones where there has been a death?
9. In the draft MoU that the Panel had sight of, there was inclusion of how bereaved families would be supported. This has now been removed from the published version, could you explain the reasoning for this?

Cost implications

10. Under the heading of “cost implications” detail around the use of States of Jersey Police facilities has been removed. Can you provide detail as to why this has been removed?

Review and Amendments

11. The published MoU states that it will be reviewed every 2 years, however in the Minister for Sustainable Economic Development’s response to the Panel’s recommendations it is stated that the MoU will be reviewed every 3 years. Can you please confirm the accurate time frame and update the documents accordingly?

Panel’s Comment paper findings

The following matters regarding the MoU were noted in the Panel’s comment paper and should be incorporated to ensure that the MoU is fit for purpose:

1. One key finding made by the Panel’s adviser is that an MoU normally includes the following: *“details of financial arrangements, reporting requirements, references to any relevant regulatory requirements including safeguarding and codes of conduct or practice, provisions about property and equipment, timelines, dispute resolution, confidentiality.”*² These elements identified by the adviser as standard for an MoU are not all present in the draft version that was shared with the Panel.

The Panel reiterates the need for the above elements to feature in an MoU, will the MoU be updated to include these elements prior to the debate due to now take place on 11th November 2025?

2. The Panel also highlighted the absence of reference of mechanisms that will be in place to resolve any disputes arising around jurisdiction, costs, seriousness of an offence and primacy. Will the MoU be updated to include these elements prior to the debate?
3. The Panel continues to consider there to be a lack of clarity as to which agency assumes primacy in investigations. The Panel’s expert advisor highlighted the recommendation for clarity on primacy through the inclusion within the MoU of worked example scenarios of how agencies will work together would add clarity and assurance and reduce risk. Will the MoU be updated to include worked example scenarios prior to the debate?

We would like to receive a response to this no later than Friday **31st October** in line with the 5 working days approved for responses between Scrutiny Panels and Ministers.

Yours sincerely,



Deputy Montfort Tadier
Chair
Economic and International Affairs Scrutiny Panel

² [Expert Advisor Report - Draft Harbours \(Inshore Safety\) Review - Page 5](#)