

STATES OF JERSEY

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CRIMINAL JUSTICE POLICY (P.118/2007): AMENDMENT

Lodged au Greffe on 23rd October 2007
by the Deputy for St. Martin

STATES GREFFE

CRIMINAL JUSTICE POLICY (P.118/2007): AMENDMENT

In paragraph (a)(iv) after the words “Joint working on page 47” insert the words –

*“except that in the action plan on page 47, for the words “Establish a forum” substitute the words
“Establish a formal Criminal Justice Policy Oversight Council”.*

DEPUTY OF ST. MARTIN

REPORT

Home Affairs is of the view that within the criminal justice system, effective communication is a prerequisite for successful joint working. It proposes to promote effective joint working, not only between the criminal justice agencies reporting to it, but also the partner agencies in the public, private and voluntary sectors. To meet that objective it is proposing to establish a forum for criminal justice policy and planning involving the executive, the judiciary and the prosecution. This proposal is partly in line with Professor Rutherford's first recommendation.

Professor Rutherford suggested that steps should be taken to establish a body with oversight responsibility for criminal justice policy. This recommendation has been partly accepted by Home Affairs in the form of Pillar 4, Joint Working on pages 45 to 47 of its Proposition.

Professor Rutherford was of the opinion that the body might be called the Criminal Justice Policy Oversight Council. Without wishing to be unduly prescriptive about the membership of the Oversight Council, Professor Rutherford envisaged that the Council would include the Attorney General, the Home Affairs Minister and one or more senior representatives from courts as well as department heads from across the criminal justice process.

The Rutherford Report suggests that there are clear boundaries of responsibility, which must be preserved. Sentencing policy is the preserve of the Court, whilst legislation, resourcing and the direction of operational departments belong to the executive. However the criminal justice process implies a synergy between the executive and the judiciary which would benefit from a policy and planning forum.

The Rutherford Report suggests that the Council's task would be to keep under review and co-ordinate all legislative and other initiatives relating to criminal justice. It was of the view that at present much legislation is put forward on an *ad hoc* basis with little consideration to initiatives emanating from other quarters. The Council would provide a co-ordinating role but its remit would not end there. It would give shape and direction in terms of keeping a light touch on the policy tiller across a wide range of policy-making activities. The establishment of an Oversight Council would encourage a joined-up approach that fully respects the independence appropriate to the essential separation. What is proposed is a co-ordination and shared awareness of the issues but not a streamlined and top-down direction of criminal justice.

On page 46 paragraph 7.9. of the Criminal Justice Policy, it states, "*Whilst it is clear that effective joint working has become commonplace at officer level, both in the conduct of operations and the development of strategy, the same cannot be said for liaison between the executive and judiciary at the highest level. Meetings do take place but they tend to be ad hoc in nature to discuss specific issues.*"

I agree with the principle that there should be closer working between the executive (including Ministers and the Attorney General) and the judiciary on appropriate matters relating to criminal justice policy and the administration of justice. However I am concerned that what Home Affairs is proposing will not be as envisaged by Rutherford.

Home Affairs has not indicated how the proposed forum will conduct itself so unless the Home Affairs is given a steer in the direction the States wishes the Criminal Justice Policy Oversight Council to operate, there is a real danger that what Home Affairs is proposing will not function in a formal, democratic and transparent way. This is evident by its comments on page 46 in the same paragraph 7.9 where it states "*Rather than establish a formal body with oversight responsibility, there is a willingness amongst both parties to interact on a more regular basis*".

Home Affairs by its own admission has stated that the present arrangement between the executive and the judiciary at the highest level is not as effective as at officer level. If Home Affairs is proposing an informal forum it may be insufficiently transparent in its working methods which will hamper effective scrutiny of its work. Therefore I am proposing that a formal body be established called a Criminal Justice Policy Oversight Council along the lines set out in the Rutherford report; that this Council adopt an open and accountable approach to its work. I believe the Council should set up a website to explain its role and keep interested parties informed about its work like publishing Agendas, Minutes and an Annual Report.

Financial and manpower implications

I believe the resource implications of the proposed Council should be no greater for those for the Forum proposed by the Minister.