
STATES OF JERSEY



REVIEW OF THE FIREARMS (JERSEY) LAW 2000, AND RELEVANT PROCESSES

Presented to the States on 6th December 2006
by the Minister for Home Affairs

STATES GREFFE

REPORT

Review of the Firearms (Jersey) Law 2000, and relevant processes

Introduction

Following the publicity in the media in March surrounding the number and type of firearms in the Island, the Minister for Home Affairs undertook to review the current legislation, and procedures, in place relating to firearms, and to report back to the States on any areas where improvements could be made.

It may be helpful in the first instance to set out the background to the introduction of the Firearms (Jersey) Law 2000.

The former Defence Committee was urged by the Connétables back in the early 1970s to review the legislation relating to firearms that was in place at that time; this being the Firearms (Jersey) Law 1956, and the Loi (1879) sur le Port d'Armes. Under the licensing system in force at that time, and up until the introduction of the 2000 Law, there were 3 types of gunholder in the Island:

The first was the holder of a shotgun, who kept and used the gun solely on his/her own property. There was no requirement in legislation for that person to inform anyone about the shotgun, and there was no registration process. There were, therefore, any number of shotguns held, quite lawfully, in the Island without the authorities having any idea of the figures involved.

The second was the holder of a shotgun, who wished to use it on land that did not belong to him/her. In order to do so, he/she had to obtain a 'Port d'Arme' from his/her Parish Hall. The issue of the Port d'Arme was subject to varying degrees of checks and, alarmingly, the Connétable had no power to revoke the Port d'Arme.

The third was the holder of a firearm that was not a shotgun (or an airgun declared to be not unduly dangerous to life). He/she had to apply for a firearms certificate under the 1956 Law, which was updated when firearms were disposed of, or added to that person's collection.

A working party was established, comprising representatives from the former Defence Committee, the shooting clubs and the police. The party's recommendation was for all firearms, including shotguns, to be included in the same Law.

The draft Law was initially debated in the States in May 1995, but was rejected at the preamble stage. It was the tragic incident at Dunblane in October 1996 that caused the Defence Committee to review the Law. In the U.K. there was public outcry following the Dunblane massacre, and the British Government responded by deciding to ban the possession of all handguns except .22 calibre. Once elected the following year, the Labour Government took this ban further, and prohibited the private possession of .22 calibre handguns. The recommendations of Lord Cullen, who investigated the shootings at Dunblane, at the behest of the British Government, were not fully implemented in the U.K.

The Defence Committee, however, was impressed by the findings of Lord Cullen's report, and sought to incorporate many of the recommendations into the draft Law. It

decided against following the U.K.'s total ban on handguns, as it felt that to do so would mean the end of a sport at which Jersey excels.

This led to period of consultation that removed many contentious proposals from the States of Jersey Police recommendations, and resulted in the Firearms (Jersey) Law 2000 being adopted by the States in 1999. As part of this consultative process the Firearms Law Liaison Group¹ was formed to ensure that there was an independent review of the law and relevant processes, in order that the introduction of the new law could be smoothly implemented, and any amendments lodged with the States.

The overarching aim of the 2000 Law was to establish a modern regulatory framework for the control of the manufacture, acquisition, transfer, possession and use of firearms, imitation firearms and other weapons and ammunition which, whilst seeking to reassure the general public, was not intended to cause undue difficulties to those people who wished to possess and use firearms lawfully. It introduced the requirement for the holders of shotguns, irrespective of where they were used, to obtain a firearms certificate; and it created the new offences of carrying a firearm in a public place without lawful authority or reasonable excuse, discharging a firearm or imitation firearm in a reckless, dangerous or careless manner, and trespassing with a firearm, or imitation firearm without reasonable excuse. It also introduced substantial penalties for offences under the Law.

As can be seen, therefore, the Firearms (Jersey) Law 2000 introduced a much more stringent control over firearms than had previously been in place. It is acknowledged that the system was not working as effectively as it may have done, and to that end the Assistant Minister for Home Affairs carried out a review of the current legislation and procedures in place in relation to firearms, together with representatives from the Connétables, the States of Jersey Police, the Customs and Immigration Department, and the Home Affairs Department.

Within Lord Cullen's report he stated that he was unhappy that Hamilton had been allowed to possess a number of firearms of the same calibre. It must be borne in mind, however, that Hamilton was not a target shooter with pistols, and therefore his possession of firearms was purely because he wanted a number of firearms of the same calibre. He had no good reason for those, and his local constabulary recommended that his firearms certificate should be withdrawn. The fact that Hamilton had no good reason for having the firearms was brought to the attention of the divisional police, but appeared not to be acted on – communication broke down with tragic consequences.

The purpose of the review of administrative practice was to take all reasonable precautions that such a breakdown of administrative practice does not occur.

The report of the Customs and Immigration Department is attached to this report at Appendix A, and the report of the States of Jersey Police at Appendix B. Attached at

¹ *The Home Affairs Firearms Law Liaison Group consists of Chairman, currently the Deputy of St. John (previous Chairmen were the Connétable of St. Ouen and the former Deputy of St. John); the Chief Officer of the Home Affairs Department; a States of Jersey Police Representative; a representative of the Comité des Connétables, currently the Connétable of St. Brelade; two lay members, who were elected following a public notice; and two members of the Jersey Firearms Council. The Executive Officer, Home Affairs, is the secretary to the Group.*

Appendix C is the Memorandum of Understanding (MOU) between the States of Jersey Police, the Parish Connétables and the Minister for Home Affairs in respect of their respective responsibilities under the 2000 Law.

Detailed below are those areas where it was felt that an audit was necessary, together with the findings. It is now intended that these areas will be reviewed on an annual basis.

1. The registration of shooting clubs under the 2000 Law

Article 15 of the Firearms (Jersey) Law 2000 requires shooting clubs to apply to the Minister for Home Affairs for approval. Sub-paragraph (a) of Article 15(2) allows the Minister to attach such conditions to the approval as she sees fit, whilst sub-paragraph (b) provides that the approval may be withdrawn or varied by the Minister at any time. Article 15(3) requires the Minister to consult with the Comité des Connétables before granting or refusing to grant an approval, or varying or withdrawing an approval.

There are in excess of 30 shooting clubs in the Island. The airgun and rifle clubs were granted approval by the former Defence Committee under the previous legislation which related to firearms, the Firearms (Jersey) Law 1956. This approval was granted for an unspecified period of time. Under the previous law, shotgun clubs were not required to register. There is one shotgun club in the Island, and it has already received approval under the 2000 Law.

All those shooting clubs that were approved under the 1956 Law have now been requested, under Article 15 of the 2000 Law, to seek approval from the Minister as either a pistol club; a shotgun club; a rifle club; a miniature rifle club; or any combination of the foregoing.

To assist in the consideration of the applications, guidelines were agreed by the Firearms Law Liaison Group in order to ensure a consistency in approach (see item 9).

All the shooting clubs were asked to confirm that they could comply with these guidelines at the same time as submitting their application forms. The cut-off for these returns was 30th June 2006. By the beginning of July, 20 of the 29 clubs had responded, and those that had not responded have been sent reminder letters, and all but one have now responded (November 2006)

2. Club ownership of firearms

The States of Jersey Police are carrying out checks on the club ownership of firearms as part of their compliance investigation. Members of shooting clubs who have club firearms in their possession must have these firearms detailed on their firearms certificate, as 'borrowed'. If not, they are unlawfully in possession of the firearms. The club certificate will detail the club firearms. Other firearms should not be stored at the shooting clubs unless they appear on the club firearms certificate.

This subject has attracted various responses, as indicated below:

JFC Comment: This is incorrect, it has long been the practice for Club Certificates to have a Connétables Condition authorising named club officials to be in possession of the Club Firearms and Ammunition. It will be noted that all the Officials will also be FAC holders and are police checked when ever the FAC is amended, which could be annually if the Officers listed should change.

Attorney General's comment: There does not appear to be a provision in the Law which would make the possession of a club firearm unlawful unless the firearm certificate stated 'borrowed' on it.

Article 27 provides that where a transfer takes place the transferee must produce to the transferor the certificate or permit entitling the transferee to purchase or acquire the firearm and the transferor must comply with the instructions contained in the certificate or permit produced to the transferee.

Failure by the transferor or transferee to comply with Article 27(1) is an offence. Article 27(1) does not apply where a shot gun is lent for a period of not more than 24 hours.

ESC Comment: If the firearm is to be taken from the range area then it is preferable that the firearm is on a certificate. However ESC regard this requirement as unnecessarily restrictive and administratively difficult if:

- a. *the club member is only using the firearm on the club range, and/or*
- b. *the club member does not have a firearms certificate (FAC).*

How is a new member supposed to even try out the sport if he is required by law to have a FAC before he can even pick up a firearm in the club on his first visit?

i.e. In the event of a weekend rifle championship where visitors are coming to compete, why cannot their firearms be stored overnight in the club armoury, properly recorded in an official "Temporary Firearms Register" on receipt and final issue, both certificated by signatures. The proposal that these firearms must "appear on the club FAC" would take weeks, if not months, of prior paperwork and variation of certificates, and would be completely unworkable.

As a consequence of the above comments, this aspect of the current procedure is now under review.

3. Import/Export procedural review

The Customs controls upon the importation and exportation of firearms have been reviewed, and are found to be effective. No changes to the procedure are required. A copy of the relevant brief by the Customs and Immigration Service is attached at Appendix A.

4. List of prohibited firearms to be reviewed

There is a wide variation in the listed prohibited firearms between Jersey and the U.K.. For example, handguns, except those manufactured before 1919, self-loading rifles are prohibited in the U.K. but not in Jersey. This discrepancy is due to differences in Jersey Law. HO guidelines were forwarded to the Connétables initially, but have since been replaced by locally developed guidelines which are now in use. There needs to be further discussion regarding the extending of the current list of firearms prohibited in Jersey. In the interim, however, each Connétable is responsible for ensuring that each applicant and licence holder has a justified and evidenced need for each and every firearms and that they are suitable people to be entrusted with such a firearms. Also, the premises where they intend to store the firearms and ammunition needs to be secure and in accord with security guidelines issued by the Connétables, and no-one else should have access to these where they may be unsuitable themselves. The venue for the proposed use and intended use are also relevant considerations when granting authority.

It should, however, be noted that there is no mandatory inspection regime of domestic premises; the onus is on the applicant to ensure that the/she complies with the licensing conditions.

5. Review whether authority for the issue of firearms certificates should be centralised as opposed to vested in the Connétables

Discussion has taken place with the Connétables as to whether authority for the issue of firearms certificates should be centralised as opposed to vested in them. (See the report by the States of Jersey Police at Appendix B.)

If this authority were centralised, it would ensure that all applications were dealt with in the same way; it would also ensure that the decision as to whether or not an applicant for a firearms certificate is 'fit' to be entrusted with a firearm is taken by an independent body. On the other hand, the Connétables have a good feel, at ground level, for what is going on in their own parishes, and are accustomed to dealing with their own parishioners.

On balance, therefore, it has been agreed that the status quo (whereby the Connétables issue firearms certificates) should be maintained for the time being, provided that a consistent approach is adopted across the Parishes.

However, it should be understood that there have in the past been difficulties linked to the issuing of certificates by the Connétables, and it is intended that the present system should be closely monitored over the coming year. If after the first year's review the licensing system still proves problematic, consideration could be given to a central licensing authority, but a full cost benefit analysis would need to be undertaken.

Guidelines governing the issue of firearms certificates have been sent to the Parishes, which should assist in establishing a consistent approach. Changes have also been made, in that the Central Firearms Index, based at Police Headquarters will not issue a certificate until all paperwork has been received from the relevant Parish. Home Office guidelines have also been forwarded to the Connétables. They are now in the process of using these guidelines as the basis for reforming existing application forms.

It is not intended to adopt such guidelines in respect of application forms in full as the Connétables believe that they are unnecessarily complex, and are in agreement with the States of Jersey Police that steps should be taken to simplify procedures in order to minimise the risk of any maladministration.

Those Parishes that were previously identified as not complying with the Law are now complying, and all paperwork is now held by the Central Firearms Index.

6. Developing a process of de-activation

Article 51 of the Firearms (Jersey) Law 2000 relates to the deactivation of weapons, and provides that it shall be presumed, unless the contrary is shown, that a firearm has been rendered incapable of discharging any shot, bullet or other missile, and has consequently ceased to be a firearm if it bears a mark which has been approved by the Minister, made by a person approved by the Minister, and that person has certified the deactivation work.

There are only 2 proof houses in the U.K. – located in Birmingham and London – and the only firearms that are acknowledged as being deactivated, are those that bear the proof mark from one of these proof houses, together with the relevant certification. They will only proof a firearm if it meets the standards set out in the U.K. Home Office Regulations 1995. The cost of the certification is £21.30. It costs approximately £60 to have a firearm deactivated by a gunsmith prior to proofing.

Jersey does not have a proof house, and in addition to the deactivation and proofing costs there are postage costs associated with sending a firearm to the U.K.. However, firearms holders from Jersey are not unique in this, as there are also costs involved for someone from Cornwall, or Durham for example, sending firearms to Birmingham or London to have them proofed.

An approach has been made to the Forensic Science Service in the U.K. seeking guidance on whether or not Jersey should have its own proof mark, and the best way to progress this matter.

It is also intended for tenders to be invited from local gunsmiths to establish whether deactivation services could be provided locally at an acceptable level.

It should also be considered whether a local firearms dealer be granted a temporary permit to hold prohibited weapons for the purpose of deactivation or onward transmission to an approved dealer in the U.K. for deactivation should the value or historic interest merit it.

Consideration could also be given to asking the Minister to approve the French National proof house at St. Etienne as an ‘approved person’, and their mark as an ‘approved mark’. It is believed that French deactivation is on a par with U.K. deactivation, and a certificate and mark are provided.

7. Possible amnesty

In December 1999, prior to the introduction of the Firearms (Jersey) Law 2000, the Attorney General of the time granted an amnesty in respect of firearms. This was largely due to the significant changes introduced by the 2000 Law in respect of

shotguns – the 1956 Law did not apply to smooth bore shotguns with a barrel in excess of 20 inches in length, but the 2000 Law introduced the requirement for anyone owning or using such a firearm to be a firearms certificate holder. The amnesty was extended until the end of September 2001.

It is now some 4½ years since this amnesty, and given the recent interest in, and concern about, the numbers and types of firearms in the Island, it has been decided to request the Attorney General to grant a short amnesty to afford the public of the Island the opportunity to dispose of any unwanted or unlicensed firearms that they may have in their possession, without fear of prosecution.

The Home Affairs Department wrote to the Attorney General on 7th July 2006. He replied to the letter on 4th August, to the effect that he would be prepared to consider an amnesty upon receipt of further information from the licensing authorities.

Should the Attorney General agree an amnesty, for the purpose of historic interest or from the point of intrinsic value, the owner of an unwanted or unlicensed firearms should be given the opportunity to surrender or sell the item to a licensed firearms dealer, or in the case of items of family interest be allowed to apply for a certificate. Due to the complexity of antiques being handed in, a firearms dealer would be more readily able to identify whether a firearm falls within the definition of antique or certificated firearm. This would also produce the benefit of reducing staff time within the States of Jersey Police managing enquiries.

8. Review transmission of component parts and weapons through the postal system

The Customs controls upon the transmission of component parts and weapons through the postal system have been reviewed, and are found to be effective. No changes to the procedure are required. A copy of the relevant brief by the Customs and Immigration Service is attached at Appendix A.

9. All shooting clubs to be inspected once registered

Once all applications for approval as a shooting club have been received and processed, the States of Jersey Police will liaise with the clubs and organise inspections. These will be carried out by members of staff in whom authority has been vested by the Chief Officer.

The purpose of this is to identify defaulting members and perhaps safety and security but in the main we must ensure that applicants that apply for a firearms certificate stating that the reason for the application is to shoot a weapon at an approved club, must be able to demonstrate that after issue of the certificate that he/she actually is accepted as a member and attends the club on a regular basis. Currently, the JFC appear to be reluctant to recommend to their members that they make a full disclosure on a regular basis of their membership lists. The FLLG are still discussing this issue.

The guidelines against which the clubs are to be measured are as follows:

1. The club is a genuine shooting club and has a written constitution, and appropriate written range rules for the type of range(s) being used.

2. The club has a member appointed to liaise with the police pursuant to Article 15, sub-paragraphs (4) and (5) of the Law, and when no-one has been appointed, the contact shall be through the club's Honorary Secretary in all matters relating to the club's approval.
 3. The club has an appropriate number of range safety officers at its disposal and has a minimum of one officer on duty at any time that the range is in use.
 4. The club maintains a register of the attendance of all members, prospective members and guests who shoot with the club, and makes the register available for inspection by the States of Jersey Police with reasonable notice.
 5. The club informs the police at the earliest opportunity, of any shooting members who are expelled from the shooting club.
 6. Applicants for shooting membership will inform the club if they have ever had an application for a firearm or shotgun certificate refused or had a certificate revoked; and all prospective members and guests, who do not hold a firearms certificate, will sign a declaration that they are not prohibited from possessing a firearm or ammunition.
 7. The club has appropriate insurance cover for its membership.
10. Procedures and guidelines for the issuing of licences by Connétables to be compared with UK Home Office guidelines

See point 5 above. The necessary checklists have been circulated to all the Parishes, which will aid in establishing a consistent approach when dealing with applications. The U.K. Home Office guidelines have also been sent to each Parish, and the Connétables have agreed in principle to apply the U.K. Home Office guidance as best practice. U.K. Home Office guidance on the issue of firearms certificates concentrates on the need for the applicant to prove that there is justification and need for the weapons being applied for, and the licensing authority needs to satisfy themselves on that point, also as to the suitability of the applicant themselves.

Applicants will be given copies of the section of these guidelines that deal with security in respect of firearms – this will be helpful for them, as the onus is on the applicant to provide suitable storage. Applicants can also acquire appropriate security advice from the States of Jersey Police.

Proposed changes to the Law

The following findings of the review will require an amendment to the Law –

- Proposed amendment to permit a Procureur to sign firearms licences in the absence of the Connétable.
- Proposed amendment whereby the decision on whether or not to grant a licence to a Connétable, or a relative or close friend of the Connétable, would lie with the Minister for Home Affairs, rather than the Connétable.

- Proposed amendment so that any revocation or partial revocation of a firearms certificate should be notified to the Chief Officer, States of Jersey Police, immediately, rather than within the 21 days currently allowed.
- Proposed amendment to the application form for a firearms certificate, and the firearms certificate itself, notifying applicants of the requirement to notify the Connétable who issued the Certificate, and the States of Jersey Police, of any change of address.
- Proposed amendment to address the anomaly that exists concerning working component parts when they are part of a deactivated firearm. These parts (which would need special permission) could be classified as “pressure bearing” parts. These would include barrels and chambers, bolts, any parts of the gas recoil assembly etc. Such things as nuts, bolts, screws, springs and other inert parts could be considered exempt.

The suggestion has been made that the existing Firearms Law needs to be amended further. The view of the States of Jersey Police is that the Law needs to be fully implemented as it currently exists, in conjunction with the application of best practice. Effort should be concentrated on achieving this prior to considering any major changes to legislation.

There are already a number of proposed amendments in draft form, which have not yet been implemented. Other amendments will be listed here when the report is published.

Consideration could also be given to amending Article 37 of the Law to the effect that ‘imprisonment or detention’ would also include any sentence imposed in Jersey which is an alternative to a prison sentence, for example, community service or probation.

N.B. It should also be noted that currently a Firearms Certificate is valid for a period of 5 years. In order to enable greater scrutiny of possible changes in circumstances of license holders, such a long period between applications should be reviewed; if any changes are recommended, a full cost benefit analysis would first be undertaken. It has already been agreed that this should be an agenda item for a FLLG meeting for 2007.

Appendices:

- A** – Customs controls upon the importation and exportation of firearms
- B** – States of Jersey Police Force review of compliance of the Firearms Registration procedure in Jersey
- C** – Memorandum of Understanding between the States of Jersey Police, the Parish Connétables and the Minister for Home Affairs for their respective responsibility under the Firearms (Jersey) Law 2000
- D** – Position paper prepared by the Comité des Connétables

APPENDIX A

CUSTOMS CONTROLS UPON THE IMPORTATION AND EXPORTATION OF
FIREARMS

1) IMPORTATION – LEGAL BASIS

- 1.1) The Firearms (Jersey) Law 2000, as amended, is the principal law controlling the possession and handling of firearms and ammunition within the Island.
- 1.2) The import of firearms and ammunition is controlled by the following –
- Import & Export (Control) (Jersey) Law 1946
 - Import and Export (Control) (Jersey) Order 1992
 - The Open General Import Licence (OGIL)

The Open General Import Licence essentially permits the importation of those firearms which individuals are lawfully permitted to possess under Article 3, Article 50 and Article 20 of the Firearms (Jersey) Law 2000.

2) PROCEDURES FOR THE IMPORT OF FIREARMS/AMMUNITION2.1) **Harbours/Airport security**

All firearms and ammunition, including airguns, must be declared to a customs officer on arrival in the Island. It is a requirement of the security policy of both Jersey Harbours and the States of Jersey Airport that shipping companies and airlines present firearms carried as passenger luggage directly to Customs at the controls. Any breaches of that policy, such as the unloading of firearms/ammunition directly onto luggage carousels are drawn to the attention of the duty Senior Officer who will take up the breach of the security policy with the appropriate authority. In the event of Customs not being in attendance, the Jersey Harbours/Jersey Airport authorities will use agreed arrangements to contact the duty Senior Officer or Stand-by Manager.

2.2) **Visitors with firearms**

Visitors importing firearms or ammunition must be in possession of a Visitor's Permit issued by the States of Jersey Police. They are also requested to carry their overseas Firearms Certificate. No further documentation is required.

2.3) **Permanent imports of firearms, component parts and ammunition new to the Island, from the British Isles, by persons other than Registered Firearms Dealers**

A Jersey import licence would normally be required; however, any export of firearms or ammunition from the U.K. to the Channel Isles has to be licensed by the Department of Trade & Industry (DTI). A U.K. Export Licence will not be issued unless the consignee can produce a relevant Import Certificate proving that he holds appropriate authority to possess the firearms/ammunition in Jersey. In order to obtain such an Import Certificate local importers make application to Jersey Customs. The applicant must produce his Firearms Certificate which must contain the details of the

firearm or ammunition to be imported. Without exception, every application for an Import Certificate is referred to the States of Jersey Police Central Firearms Index; Import Certificates are not issued without specific approval being obtained from the Central Firearms Index. Once an Import Certificate has been issued, therefore, an Import Licence will not be required. Whilst shotgun cartridges are outside of the requirement for a Jersey import licence the above procedures are still applied; the importer will require an Import Certificate for the DTI and this additionally allows officers at the Central Firearms Index to keep a track on the volumes of shotgun ammunition imported from the U.K..

To date in 2006 Jersey Customs has issued 48 Import Certificates facilitating the import of either firearms or ammunition into the Island from the British Isles.

2.4) Permanent imports of firearms, component parts and ammunition (excluding shotgun cartridges) new to the Island, from outside the British Isles, by persons other than Registered Firearms Dealers

An Import Licence is required. Applications for an Import Licence must be supported by a copy of the applicant's Jersey Firearms Certificate which must contain details of the firearm and/or ammunition to be imported. Without exception, every application for an Import Licence is referred to the States of Jersey Police Central Firearms Index; Import Licences are not issued without specific approval being obtained from the Central Firearms Index. Additionally such Import Licences must be referred to the Senior Officer/Manager Revenue and Goods Control (RGC) for approval before the licence is issued. If the firearm/ammunition is brought in personally by the importer as part of passenger accompanied luggage, a copy of the Import Licence and the Firearms Certificate should be presented for inspection at the time of importation. Importations of shotgun cartridges do not require a Jersey import licence.

To date in 2006 Jersey Customs has issued 3 licences permitting the import of firearms and a further 3 licences permitting the import of ammunition.

2.5) Register of Firearms Dealers

Under Article 20 of the Firearms (Jersey) Law 2000 the Minister is required to maintain a Register of those persons carrying on a business as a firearms dealer. This responsibility has been delegated to the Chief Officer of the Home Affairs Department. Registered persons may trade in firearms and ammunition. Importations by Registered Firearms Dealers from both inside and from outside the British Isles do not require Import Licences. Firearms Dealers are, nonetheless, required to obtain an Import Certificate from the Department, as mentioned above, before any importations can be arranged from the U.K.

3) PROCEDURES FOR ITEMS THAT MAY FALL OUTSIDE IMPORT CONTROLS

3.1) Air weapons

The Import and Export (Control) (Jersey) Order 1992 (and Open General Import Licence) permits the importation of the following air weapons – air guns, air rifles or air pistols incapable of discharging a missile so that the missile has, on being discharged from the muzzle of the weapons, kinetic energy in excess, in the case of an

air pistol, of 6ft. lb. (8.14 joules) or, in the case of an air weapon other than an air pistol of 12 ft. lb. (16.27 joules) and air weapons designed for use only under water. If any air weapons are encountered, however, Officers always make reference to the States of Jersey Police in order to determine whether a Firearms Certificate is required or not. See 8) footnote.

3.2) **Ammunition**

The Import and Export (Control) (Jersey) Order 1992 (and Open General Import Licence) permits the importation of the following ammunition: cartridges for smooth bore guns being cartridges containing 5 or more shots none of which exceeds 0.36in. (9mm.) in diameter as well as ammunition for air guns, air rifles or air pistols. These items are not therefore restricted on importation. See 8) footnote.

3.3) **Antique weapons**

The Import and Export (Control) (Jersey) Order 1992 (and Open General Import Licence) excludes articles more than 100 years old from import control. Article 52 of the Firearms (Jersey) Law 2000 does provide exemption for antique firearms to be purchased, acquired or possessed as a curiosity or ornament. If any such articles are encountered by Customs Officers in the course of their duties including copies of antiques or replicas, Service procedures require that the States of Jersey Police should be advised on all occasions in order to confirm whether a Firearms Certificate is required or not. In those cases where a Firearms Certificate is not required, there are no restrictions on importation.

3.4) **Blank ammunition**

The Import and Export (Control) (Jersey) Order 1992 (and Open General Import Licence) defines blank ammunition as being not more than 1in. (25mm.) in diameter for use in smooth bore weapons and specifically excludes it from import control.

3.5) **De-activated weapons**

Article 51 of the Firearms (Jersey) Law 2000 sets out the criteria for proving de-activation. When a weapon purporting to be de-activated is imported, Service procedures require that the States of Jersey Police be advised on all occasions in order to confirm whether a Firearms Certificate is required or not. In those cases where a Firearms Certificate is not required, there are no restrictions on importation.

3.6) **Firearms parts and components**

The Import and Export (Control) (Jersey) Order 1992 (and Open General Import Licence) imposes an import control on all component parts of firearms (other than wooden gun stocks) including accessories designed or adapted to diminish the noise or flash caused by firing the weapon.

3.7) **Service of the Crown**

Article 13 of the Firearms (Jersey) Law 2000 permits persons in the service of the Crown, police officers or customs officers to possess firearms and ammunition whilst acting in the course of their duties or training activities. 'Service of the Crown'

therefore includes those employed by the Ministry of Defence and the Jersey Territorial Army as well as serving members of pre-service uniformed cadet forces approved by the Minister for Home Affairs; Jersey Marine Cadets, Victoria College CCF and Air Training Corps.

3.8) **Starting pistols**

When starting pistols are imported (sometimes for theatrical productions) Service procedures require that the States of Jersey Police be advised on all occasions in order to confirm whether a Firearms Certificate is required or not. In those cases where a Jersey Firearm Certificate is not required, there are no restrictions on importation.

3.9) **Visiting vessels and aircraft with firearms aboard**

Article 12 of the Firearms (Jersey) Law 2000 states that any person may, without holding a Firearms Certificate have in his possession a firearm or ammunition on board a ship, or signalling apparatus or ammunition on board an aircraft or at an aerodrome, as part of the equipment of the ship, aircraft or aerodrome. If such weapons are encountered by Customs Officers in the course of their duties Service procedures require that the States of Jersey Police should be advised on all occasions. Relevant factors taken into consideration in such cases are, for example, the number and type of weapons involved, the duration of the stay, the security of the stowage, etc. In cases of doubt the weapons concerned may be transferred into the care of the States of Jersey Police for safe, temporary storage.

4) METHODOLOGY OF CUSTOMS CONTROLS UPON THE IMPORTATION OF FIREARMS

4.1) As in all areas of Customs work Jersey Customs applies an intelligence led/risk assessment approach to the threat of illegal firearms importations into the Island. The highest priority is attached to any matters concerned with such illegal importations. Any intelligence concerning such matters is referred to and assessed by the Joint Intelligence Bureau (JIB), manned by Officers of the States of Jersey Police and Jersey Customs. There has been no specific recent intelligence received by JIB concerning the illegal importation of firearms. Jersey Customs periodically risk tests all passenger/freight routes into the Island. Recently, for example, Officers have been deployed to examine incoming postal parcels with the remit of specifically looking for firearms and ammunition – no such items have been found in the course of this risk testing operation.

4.2) Post 9/11, port security measures designed to detect firearms carried by sea and air passengers have been greatly increased. Whilst it may be judged that the likelihood of an illegal importation into the Island via these routes has therefore diminished, there should be no disillusionment that the thousands of mail and courier items as well as the hundreds of tonnes of freight that arrive in the Island daily, could offer possible avenues to a determined smuggler. In response to this possible risk, Jersey Customs regularly risk tests all passenger, mail and freight routes. Passengers chosen for Customs examination are selected by intelligence-based profiling techniques. Similar methods are used upon incoming freight and at the Post Office this approach is supplemented by modern x-ray equipment which enables a greater number of parcels to undergo a preliminary ‘sift’ without unduly delaying mail flows.

5) SUSPECTED INFRACTIONS RELATING TO THE IMPORTATION OF FIREARMS/EXPLOSIVES DETECTED BY JERSEY CUSTOMS IN 2006

5.1) Following the detection by Customs Officers at the ports of a pistol capable of firing noxious pepper and 7 rounds of pepper ammo carried by a local resident amongst his hand luggage, Officers executed a search warrant at the subject's home address in conjunction with the States of Jersey Police. This led to the additional seizure of a hand held electric stun gun. The matter has been referred to the Law Officers' Department and as a consequence the following charges have been preferred –

- Illegal import of a prohibited firearm
- Illegal import of prohibited ammunition
- Illegal possession of a prohibited weapon

The matter is currently sub-judice and a Court date is due to be set shortly.

5.2) A commercial quantity of electric firework igniters were seized at the Post Office amongst incoming parcels from Poland. The igniters had been imported at variance with conditions attached to their Import Licence (which precluded movement of the igniters other than between the Harbour and the storage point). After investigation it was apparent that the importer had done everything in his power to ensure the correct carriage of the goods in accordance with the Import Licence but had been let down by his supplier in Poland. The goods were restored to the importer after consideration of his formal appeal against seizure.

5.3) Officers conducting a control upon incoming postal parcels detected a suspected semi-automatic weapon from Hong Kong. This was immediately referred to the States of Jersey Police for official identification and was established to be a 'BB gun' which is not subject to Licence control.

6) EXPORTATION – LEGAL BASIS

The export of firearms and ammunition is controlled by the following –

- Import & Export (Control) (Jersey) Law 1946
- Import and Export (Control) (Jersey) Order 1992
- The Open General Export Licence (OGEL) with reference to the U.K. Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003 as amended.

The OGEL does not impose an individual licensing requirement on firearms exported to the U.K. and allows other exports which would be permissible if exported from the U.K..

7) PROCEDURES FOR THE EXPORT OF FIREARMS/AMMUNITION

7.1) **Permanent exports to final destinations within the British Isles**

No licence is required.

7.2) Temporary export and re-import to/from the British Isles by local residents

Local residents are required to obtain a U.K. Temporary Permit from the Police Constabulary covering the area to be visited. Jersey Customs are not required to take any action outwards. On re-importation the Jersey Firearms Certificate must be produced with the firearms in question. Customs officers confirm – i) the identity of the importer; ii) the validity of the Certificate; and iii) that the serial numbers on the weapons match those shown on the Certificate. If all is in order, no Import Licence is required.

7.3) Permanent exports outside the British Isles

All firearms and ammunition taken or sent to a place outside the British Isles require an Export Licence. This includes firearms and ammunition exported by a Registered Firearms Dealer. It is the policy of the Home Affairs Department for Jersey's controls upon the export of strategic and military goods to remain strictly in line with those of the United Kingdom. This is put into effect by reference to Schedule 1 to the U.K.'s Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003 in Jersey's own Open General Import Licence. It is the practice of Jersey Customs to refer, without exception, all such proposed exports of military and strategic goods to the DTI for a considered opinion. In this way the Island's position is absolutely aligned with that of the U.K.

To date in 2006 one export licence has been approved for a firearm to New Zealand and another application for a firearm to be exported to Eire is pending.

7.4) Temporary export and re-import outside the British Isles by local residents

Any exports of firearms outside the British Isles require an Export Licence as at 7.3 above. Temporary exports therefore require the issue of an Export, Re-Import Licence. Service procedures require that the issue of Export, Re-Import Licences be approved at Manager level.

In 2006 to date, Jersey Customs Service has issued 25 Export, Re-Import Licences permitting local holders of firearms to travel outside the British Isles with their firearms and return to the Island with the same at a later date.

8) FOOTNOTE – Discrepancies in law

At present there are differences in law between paragraph 10 of the second Schedule of the Import and Export (Control) (Jersey) Law 1992 (and therefore the Open General Import Licence) as regards which weapons and ammunition may be freely imported into the Island without the need for an individual import licence and those weapons and ammunition deemed to be outside the control of the Firearms (Jersey) Law 2000 which controls weapons within the Island. These discrepancies will be dealt with when the current Import and Export (Control) Order 1992 is repealed and replaced with another Order made under Article 19 of the Customs and Excise (Jersey) Law 1999. The new Order, which is currently with the Law Draftsman, will align the import requirements with the Firearms (Jersey) Law 2000.

APPENDIX B**STATES OF JERSEY POLICE FORCE REVIEW OF COMPLIANCE OF THE
FIREARMS REGISTRATION PROCEDURE IN JERSEY****Background to the Review****Introduction**

Within 3 or 4 minutes on March 13th 1996 Thomas Hamilton entered a primary school in Dunblane, Scotland, shot and killed 16 primary school children and their teacher, and shot and injured a further 10 children and 3 staff. He was carrying 4 guns and 743 rounds of ammunition. The guns and ammunition were legally held by Hamilton. In the weeks before the incident he had been target shooting at approved shooting clubs.

Lord Cullen's report that followed the enquiry into that event made 28 recommendations for change relating to the registration of firearms.

This is a report of a review undertaken to establish which of those recommendations were adopted into the Firearms (Jersey) Law 2000, and to establish how compliant the firearms registration system is in Jersey with that Law.

Compliance documentation

The documents against which this compliance audit has been made are –

- The Firearms (Jersey) Law 2000 [hereinafter referred to as “the 2000 Law”];
- The Firearms (General Provisions) (Jersey) Order 2001;
- The Firearms (Excepted Air Weapons) (Jersey) Order 2001;
- The Memorandum of Understanding signed by the Chief Officer, the President of the Home Affairs Committee, and the Chairman of the Comité des Connétables as to how the law would be applied; and
- The recommendations of Lord Cullen relating to the Public Enquiry into the shootings at Dunblane Primary School on 13th March 1996

Stakeholders

The key stakeholders in the administration of firearms registration in Jersey and their respective remits are –

The Minister for Home Affairs – responsible for the security and safety of the Island. The Minister's portfolio includes responsibility for firearms regulation and related matters, including the approval of documentation and procedures and consulting with interested parties about the administration and implementation of the Firearms law.

The Home Affairs Department – have been delegated responsibility for the registration and control of RFDs (Registered Firearms Dealers) and shooting clubs. The department acts as executive and administrative officers for the Home Affairs Minister. The Chief Officer Home Affairs has been delegated the authority to grant permits to registered firearms dealers in Jersey and approve shooting clubs in the Island on behalf of the Minister.

The 12 Parish Connétables – each is a licensing authority in their own right, responsible for the determination as to whether an individual living in their parish is fit to be entrusted with a firearm and ammunition, and any conditions that should be applied to the certificate. If a certificate holder can no longer be considered suitable to be entrusted with a firearm it is for the Connétable to revoke the licence. The Connétable must also supply all documentation to the CFI (Central Firearms Index) at Police Headquarters. Their role requires that they risk assess any danger that may arise from granting a firearms certificate to an individual.

The Chief Officer, States of Jersey Police – responsible for maintaining a CFI. The CFI carry out conviction checks on behalf of the Connétables in respect of applicants and referees and it maintains a database of information supplied by the Connétables regarding the registration of firearms and certificate holders on the Island. The Chief Officer has the power to issue firearms permits to visitors travelling to the Island who wish to use a firearm during their stay.

Firearms Law Liaison Group – whilst this group has no direct administrative responsibility, it was formed prior to the introduction of the 2000 Law to ensure that there was an independent review of the law and relevant processes, and in order that the introduction of the new law could be smoothly implemented, and any amendments lodged with the States. The Home Affairs Firearms Law Liaison Group consists of a Chairman, currently the Deputy of St. John; the Chief Officer of the Home Affairs Department; a States of Jersey Police Representative; a representative of the Comité des Connétables; 2 lay members, who were elected following a public notice; and 2 members of the Jersey Firearms Council. The Executive Officer, Home Affairs, is the secretary to the Group. In recent discussions it has been agreed to draw up a schedule of regular meetings of this group in order to ensure ongoing consultation on a regular basis with firearms users, representatives of the general public, and regulatory bodies.

Structure of the report

The specific requirements and recommendations of the comparative documentation for this review have been appropriately allocated to the latter 3 of these parties, as they deal with the administration of the firearms registration regime. Following the executive summary, the methodology used for the review is explained. For ease of reference those requirements and recommendations have been grouped under 5 subject headings.

- Administration and Infrastructure.
- Granting of firearms certificates.
- Revocation of firearms certificates.
- Shooting Clubs.
- Registered Firearms Dealers.

Each individual requirement under these headings has been assessed against the parties to establish levels of compliance.

Executive Summary

Why have a review of current practice?

This review was commissioned following concern being expressed as to the extent of compliance with the Firearms (Jersey) Law 2000. That concern was based on the belief that if there was not a strong and compliant registration regime in place, then there was an increased risk of a tragedy occurring in Jersey, along the lines experienced in Hungerford, Dunblane and elsewhere around the world. As recently as January 2006, a number of children were taken hostage by a man armed with a firearm in western France.

Public concern over the importation of legal high velocity firearms, and being licensed to individuals prompted the States of Jersey Police to review the types of firearms that were in private ownership and to review their own internal procedures.

The scope of the review

This internal review was carried out by the States of Jersey Police Internal Inspectorate over a 2 month period in 2006. The review considered the activities of the 3 key parties involved in the registration process, namely the individual parish Connétables, The Department of Home Affairs and the States of Jersey Police. Comment is made about the role of the Home Affairs Minister in this process who has overall responsibility for firearms registration in the Island. The focus of the review was the CFI.

Key findings

A number of comparative documents were used to enable a compliance audit to be carried out. In addition to this assessment of specific requirements the narrative of the report provides more general comment about the significant findings, which included –

- Jersey has a disproportionately high firearms possession rate compared to other jurisdictions (1260 firearms per 10,000 people, compared to the U.K. rate of 58)
- There is a lack of cohesive working between the 3 parties involved, but particularly between the individual Connétables and the Central Firearms Index (CFI), resulting in poor governance issues being identified. **(This has now been resolved – see section 5 of the main report.)**
- There is a lack of adequate risk assessment provision within the application process for individual, shooting clubs and firearms dealers. **(This has now been resolved – see section 10 of the main report.)**
- There are inconsistent procedures and inadequate checks carried out in respect of the suitability of individual applicants to be entrusted with a firearm. **(This has now been resolved – see section 10 of the main report.)**
- Only one of the 29 active shooting clubs in Jersey had been approved by the Minister/Committee since the Law was introduced 5 years ago. However,

virtually all of them had been in existence before the 2000 Law came into force, so were covered by the 1956 Law. **(This has now been resolved – see section 1 of the main report.)**

- Lord Cullen’s remarks regarding Senior Officers having taken an unduly narrow view of “unfitness” as a ground for revoking a licence appears to be reflected in the current practice of Connétables’ decision making process. **(New guidelines are now being used.)**
- The comment of Lord Cullen that the reasons accepted for Hamilton to hold more than one firearm of a particular calibre as being “unsatisfactory” do not appear to have been applied in Jersey. **(The number of firearms permitted to be held by any one individual will be reviewed.)** The onus should be on the applicant to prove “good reason” for their possession of each and every firearm but, “good reason” having been proved, the firearms in their possession should not necessarily be limited by numbers although consideration should be given to limiting the amount of ammunition held. This approach has the support of the Connétables.
- Up to the end of 2005, 6 of the 12 parishes had declined to supply firearms documentation and applications to the CFI, breaching the Law. **(This has now been resolved.)**

The most significant issue to emerge from this review is the apparent disparity between what is perceived to be happening and what is actually happening. This can be illustrated in the comments voiced by several Connétables during Question Time in the States sitting on 29th March 2006, when several Connétables stated that the States of Jersey Police made recommendations about every individual application, which they (the Connétables) always followed and that all papers were kept in the CFI at Police Headquarters. Such assertions were factually incorrect.

The Home Affairs Department was recording registration of dealers, but not in the prescribed form. **(This has now been resolved.)**

The States of Jersey Police are not beyond criticism as there is presently no mechanism for information to be passed to a Connétable when a certificate holder comes to their attention in circumstances that indicate that the certificate holder may no longer be suitable to be entrusted with a firearm. The States of Jersey Police is currently rebuilding its IT system, and part of the user specifications will be an alert whereby Firearms certificate holders that come to notice for whatever reason will be flagged to the Central Firearms Index for a review of the circumstances, and consideration of notifying the relevant Connétable. However, since this matter has been highlighted a number of instances have come to light, and some certificate holders have been flagged to their Connétable for a review of their suitability to possess a firearm. The Honorary police are in a similar position in that they do not have any formal mechanism for reporting matters of concern.

With 14 independent firearms licensing authorities in the Island there is an inherent danger of inconsistency and bureaucracy. The review found strong evidence of this being the case. The review also found a lack of cohesive and informed decision making, and a lack of cooperation between the parties. **(Steps have been taken to**

improve this, but a further review may be necessary – see section 5 of the main report).

Conclusion

The events of Hungerford and Dunblane led to a shift in U.K. government and public attitudes towards firearms, resulting in restrictions being imposed on many, including the sports shooting community in the U.K. Jersey spent many years drafting a Firearms Law which was eventually passed in 2000. That law was heavily amended from its original form and the majority of amendments removed sections perceived to be “restricting” of legitimate shooters. Most of Lord Cullen’s recommendations in this respect did not appear in the Jersey statute that was enacted. **(This was seen at the time as acceptable on the basis that Jersey has a long and successful history of sport shooting. Also there is thankfully no significant gun crime in Jersey.)**

Steps have been taken since this review commenced to improve some of the issues identified. The evidence of this compliance audit tends to support the concern that there is an increased risk to the public caused by a lack of compliance with existing legislation and not following best practice. The report invites those with responsibility for such matters to consider the findings and to take the matter forward as they see fit.

Methodology

Research undertaken

The review was conducted over a 2 month period between January and March 2006 utilising the following methodology.

- During the scoping stage of the review the relevant legislation, Memorandum of Understanding between the Chief Officer of the States of Jersey Police, the Home Affairs Committee (Minister) and the Comité des Connétables, and report of Lord Cullen were reviewed.
- Papers relating to the introduction of the firearms law in 2000 were reviewed.
- A number of firearms registration folders in the CFI were examined in detail to understand standard content of the files.
- Interviews took place with all staff working in the CFI.
- A structured interview took place with the member of the Home Affairs Department responsible for firearms issues.
- Enquiries have been made with governing bodies of the sport of shooting.
- Individual files of certificate holders have been reviewed.
- Discussion has taken place with auctioneers in Jersey.
- Samples of data, including applications, revocations and registrations, have been analysed.
- Consultation has taken place with Officers at the Department of Education Sport and Culture.(ESC)
- Registered Firearms Dealers applications and licences have been reviewed.
- The files relating to shooting clubs has been reviewed.
- Consultation has taken place with firearms licensing authorities outside of Jersey, including the Home Office and the International Shooting Sports Federation which is based in Munich, Germany.
- Consultation and comparisons have been drawn with other jurisdictions. Two visits were made to other jurisdictions and several other licensing authorities were contacted as part of the research for the audit. A visit to Central Scotland Police which operates a different law to England and Wales was undertaken. This included examination of documentation and procedures at the central Licensing office, interviewing administrative and inspection staff and accompanying staff on an inspection of a shooting club. A visit was also made to one of the Licensing offices that cover London. Staff were interviewed, documentation and procedures examined and discussion took place with operational firearms officers. At least 6 other licensing authorities in the U.K. were contacted and detailed telephone consultation took place. Copy documentation was ascertained from 2 licensing authorities and several websites were visited.
- Analysis was undertaken relating to the data so far made available from the parishes.
- The recently published views of the Connétables have been taken into account.
- Consultation has also been conducted with the Jersey Firearms Council, via the Firearms Law Liaison Group.

Notes

The terms of reference of the review were explicit in that this is a compliance audit to determine if what was expected, or legally required, to be happening was happening in reality. Gaps between that expectation, or legal requirement, and reality have been identified.

The overall objective of this report is that it should be used as a vehicle to improve existing practice with the ultimate aim of enhancing the firearms registration regime and making Jersey safer by reducing the risk of unsuitable persons lawfully coming into possession of firearms and ammunition.

Consequent upon this review being initiated it is fair to say that the issue of firearms registration has attracted public and political attention. The emerging findings of this review have informed those with responsibility in this area and in parallel to this compliance audit a number of initiatives have been commenced to address short term fixes on several of the failings identified. That work, whilst admirable, will not address many of the longer term, and more symptomatic issues identified in this review.

General comment and significant issues arising from the review

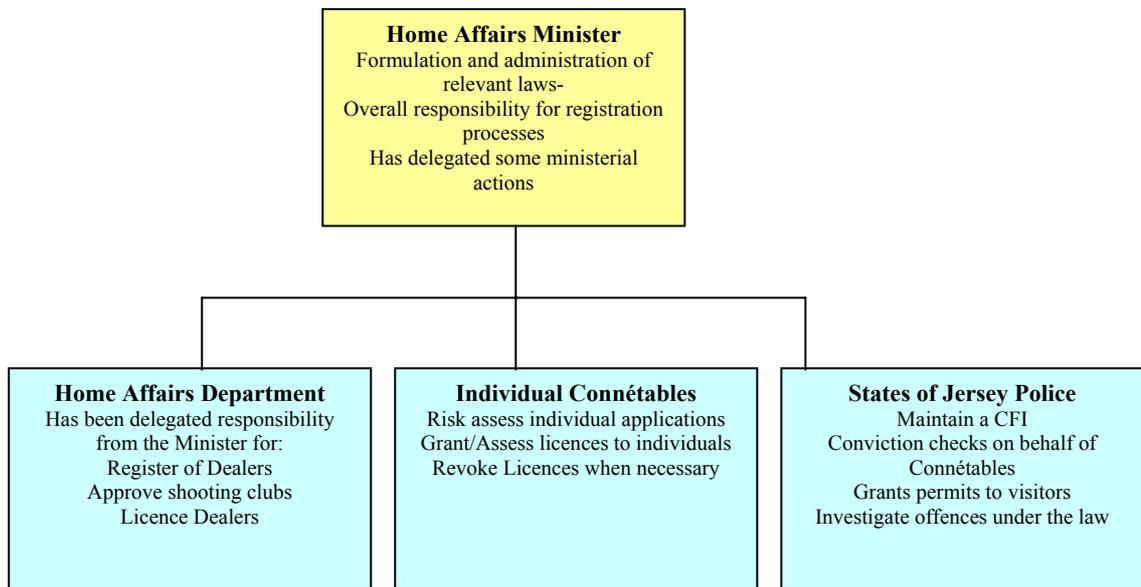
Introduction

This part of the report highlights the significant issues arising from the review. They are divided into the 5 topics. The text below summaries the key findings of the review.

Administrative Matters and issues relating to infrastructure

Clarity of responsibility

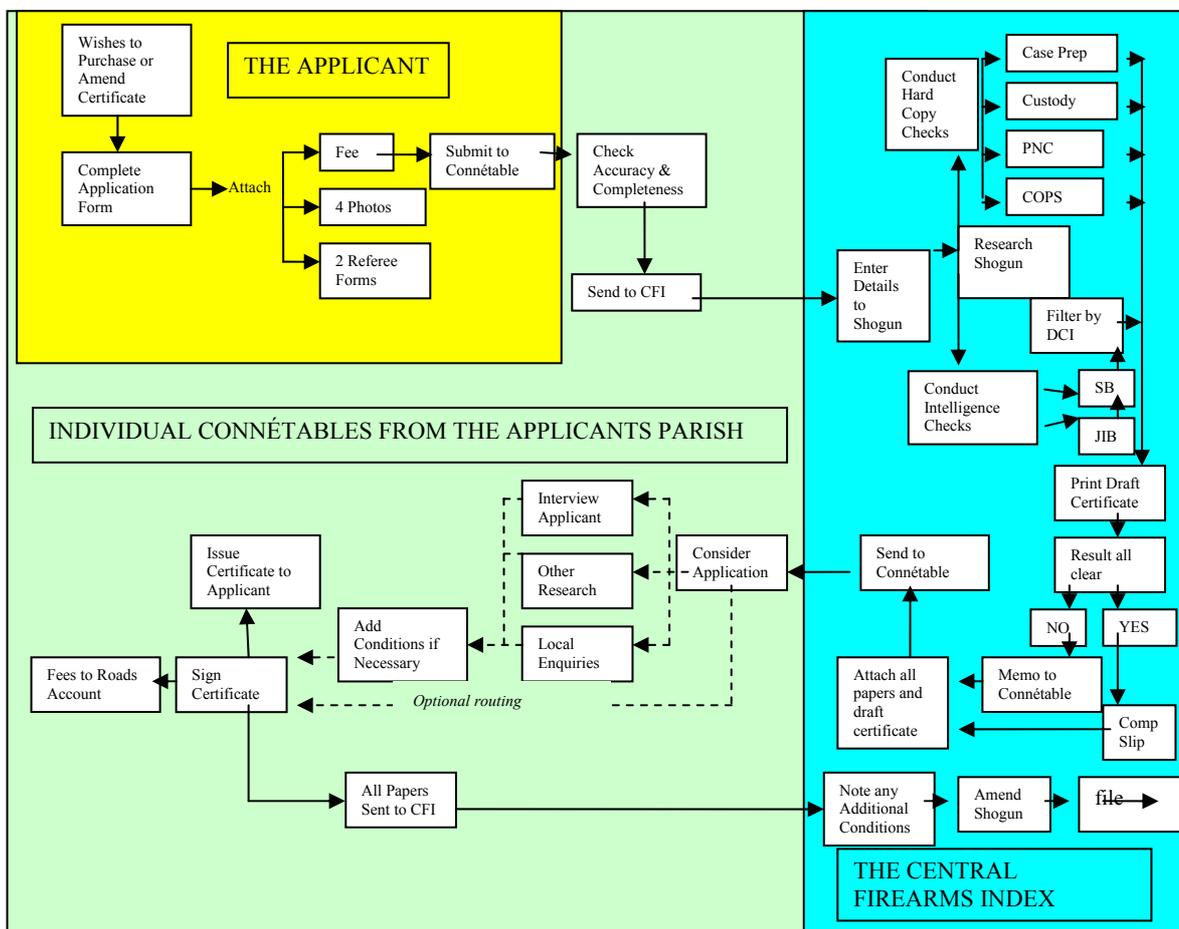
Following the introduction of the Firearms Law in 2000 (the Law) the Chief Officer of the States of Jersey Police, the President of the Home Affairs Committee and the Chairman of the Comité des Connétables signed an agreement setting out their respective roles and responsibilities in respect of firearms registration. This document is referred to as the Memorandum of Understanding, or MOU, and is attached at Appendix C. The Law and the MOU give clear direction as to who is expected to do what in respect of firearms registration matters. It soon became clear from the review that the 3 parties had built expectations about each others roles into that regime and created an implied restriction upon their own role. This blurring and misunderstanding of roles has developed over the years and with the steady rotation of Connétables, the change to ministerial government and the rotation of staff within the CFI those difficulties have compounded themselves. The figure below illustrates the key lines of responsibilities.



Lines of responsibility

The following diagram illustrates the existing administrative process requirement for any new firearm certificate or a variation to any existing certificate by an individual. What may seem to a straightforward process at a conceptual level actually becomes quite bureaucratic and cumbersome in the practical application. Each of the colour backgrounds represents an area of responsibility with the applicant shaded yellow, the

Connétables' area is shaded green and the CFI shaded blue. The present system is complex and it only takes one of the links in the chain to fail and a complete system failure will follow. In the case of firearms registration, this could result in an unsuitable individual being granted a firearms licence. This chart relates to the most simplistic and straight forward of applications.



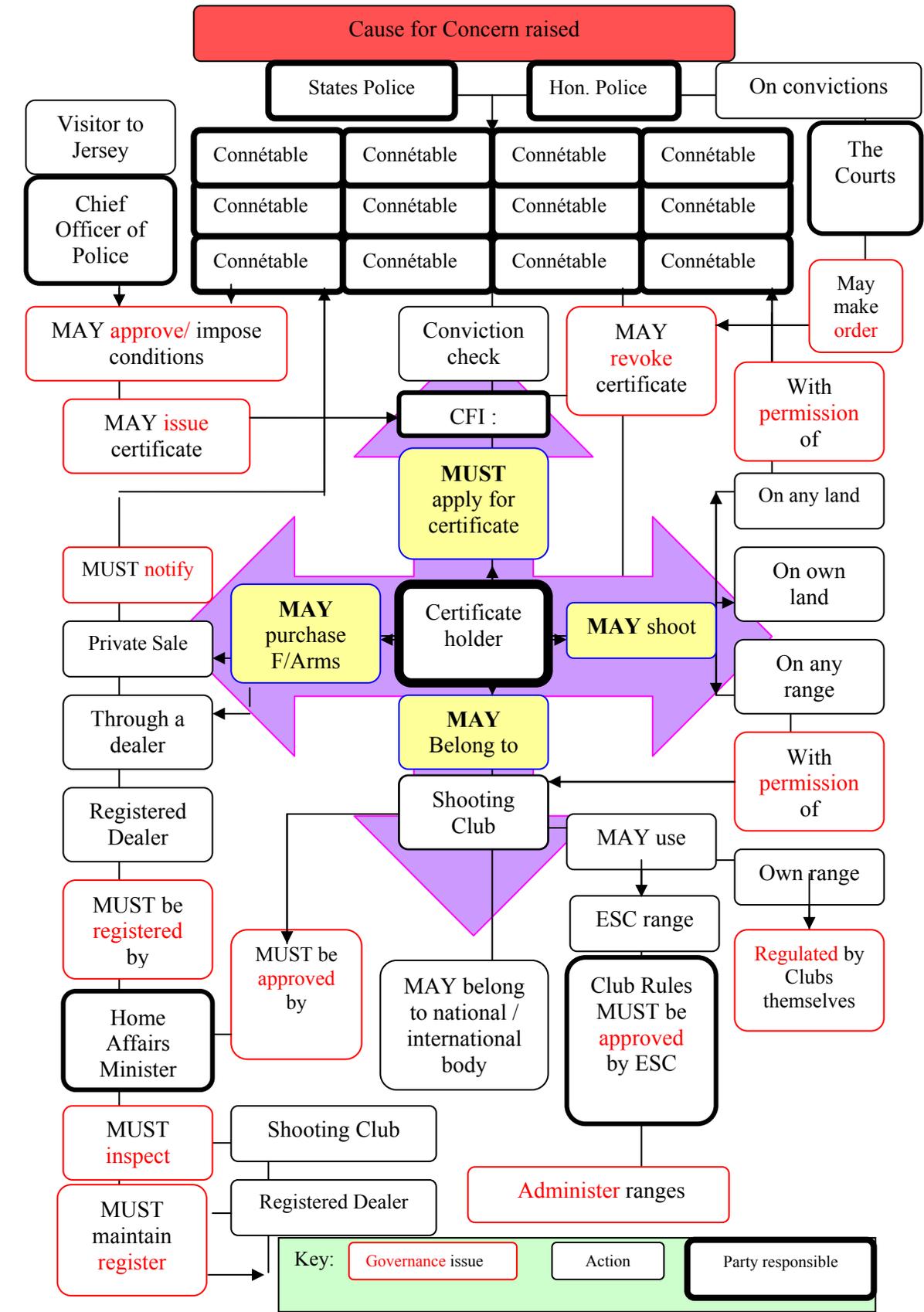
Application paper flow for individual firearms application

One of the changes that has been implemented to this process resulting from this review is that the CFI now withhold the draft certificate until the Connétable notifies the CFI in writing of their decision in respect of the application, and any conditions imposed. Previously draft certificates were sent to the Connétables regardless of the results of the checks carried out.

When all these functions and responsibilities are linked together and the practicalities related to firearms registration layered over the top the picture becomes even more clouded. It is remarkable that within a small community that such a complex and bureaucratic system has been developed. **(Most of the administrative issues that had occurred have now been resolved. However, the system remains complex and consequently could break down again. It is therefore recommended that a further review is conducted in 12 months time to ensure that the system is working adequately. See Item 5 of the main report.)**

A regrettable but possible event similar to that which occurred in Dunblane or Hungerford cannot be ruled out in Jersey. The high ratio of firearms per head of population circulating in this community may indeed increase the risk of such an event occurring. It is incumbent upon government and those with statutory responsibilities to minimise the risk of that event and 2 ways of achieving that are to ensure clear lines of accountability in issuing firearm certificates and then appropriately regulating the use of firearms.

Corporate Governance issues relating to Firearms Registration. How does it work?



In the aftermath of a tragic event occurring it is likely that there would be an enquiry and public outcry as to why such event occurred. Regardless of the motives of any individual to breach the law or harm others the present administrative system is far from ideal in the level of protection it offers the public. There are many opportunities within the current system for errors to occur or important decisions to slip through the net. This weakness is evidenced throughout this compliance report. Evidence has been found where a number of critical governance issues have gone unchecked and safety tasks not completed year after year. **(By virtue of this review, some of these issues have been resolved.)**

The conflicting responsibilities of the parishes and departments do not always serve the public well. It is also true to state that the disjointed registration procedures have been a source of irritation for many years to the shooting community. Without clear accountability and single effective control, it may compromise the ability of the current system to prevent firearms, registered or otherwise, from ending up in the hands of persons unsuited to possess a firearm.

Central Firearms Index (CFI)

The CFI was established under the terms of the 2000 Law and is maintained at the expense of the States of Jersey Police. In December 2005 the States of Jersey Police wrote to the Connétables reminding them of their legal responsibility to forward all documentation to the CFI. For 5 years the CFI has held records of certificate holders in only 6 parishes, thus failing in its responsibility to provide a single firearms registry for the Island. Other parishes had declined to provide firearms registration documentation to the CFI.

In recent times all 12 parishes have now submitted documentation relating to firearms registration to the CFI where it is now held. Although this is an improvement on the previous situation, the papers from some parishes were incomplete, with critical documents missing from files, such as copies of the certificates issued by the Connétables. This is vitally important as it is the only document that may record if the Connétable has amended or added conditions to the draft certificate printed by the CFI. **(These matters are now being resolved and it is hoped that compliance with new guidelines will prevent such administrative errors occurring in the future.)**

It is highly probable that the parishes have failed to maintain adequate records. For example most have not kept copies of the firearms certificates that they have issued, or they have not recorded those incidents where the Connétable has added conditions to a certificate. The effect of this is that there appear to be a significant number of certificate holders in respect of whom the only person who knows precisely what the certificate says is the certificate holder themselves. It could therefore be suggested that the parishes have now supplied all the documentation that they have, albeit that such documentation is incomplete.

The manner in which the recently supplied data has been kept and delivered means that it will take some time for the CFI to benefit fully from this data and record it appropriately.

Resourcing the CFI

Resourcing the CFI has been adversely affected in the last 2 years due to personnel issues within the CFI itself. Adequate numbers of staff have been maintained in the CFI but a lack of available training and suitable skills has hampered its operation. A new CFI Registrar was appointed at the start of 2006 and it is hoped that, with stability in the role, consistency and enhancement in service will follow. The accommodation provided was adequate for documentation supplied by the 6 parishes. Now that all parishes are submitting their documentation the current accommodation is inadequate. Alternative space or practices need to be considered, such as scanning and electronic storage of documentation.

Research is also underway to establish a successor to the current, somewhat dated, software, SHOGUN, a web based solution is also being looked into, which would give possible secure access to the system by all Parish Halls, and also enable on-line applications to take place.

The CFI staff resource is funded from the States of Jersey Police budget and no additional funding was provided by the States when the Law tasked the organisation with establishing and maintaining a CFI. All funds raised by individual firearms registrations are retained by the parishes for the maintenance of their by-roads. Fees from shooting club and dealer registrations are received as income to the general reserve of the States. As the Minister for Home Affairs (previously Committee) has declared that all temporary (visitor) permits will be provided without a charge being levied, the States of Jersey Police cannot currently collect or retain any income from the administration of these visitors' permits or any of the other work of the CFI to offset their expenditure. Consequently, it is proposed to lay a proposition before the States for consideration which, if agreed, will allow the States of Jersey Police to charge for visitor permits.

Accurate recording of "deactivated" Firearms

Research of the electronic database in the CFI, known as Shogun, reveals that in excess of 500 firearms are classified as being allegedly "deactivated". The term is defined in the law and for a firearm to be "deactivated" it must have an approved "mark" stamped on the firearm and a certificate of deactivation is supplied by approved "proof houses". These are highly specialist requirements and in the U.K. only 2 such proof houses have been approved by the U.K. Government. The proof houses are approved by the Home Office to 'mark' firearms as being in a state of deactivation. They issue a certificate of the firearm's status to the firearm owner. **(See section 6 of the main report.)**

Legally deactivated firearms do not fall within the definition of a firearm and do not therefore require a firearm certificate to be acquired or possessed, even though it may still consist of a number of working components of a working firearm, such as a trigger or barrel. In contrast, to acquire or possess these component parts separately from a deactivated or live firing firearm does require a firearms certificate (Article 2(1)(a) of the Law makes it an offence for a person to have in his possession, or to purchase or acquire a firearm without holding a valid firearm certificate. The definition of firearm in Article 1 includes 'any component part of a lethal barrelled or prohibited weapon'). There is an anomaly in the Law, which will be referred to the Law Draftsman's Office.

A requirement of the law is that the Minister for Home Affairs must approve “a person” and “approved mark” (Article 51 of the Firearms (Jersey) Law 2000) that relate to deactivated firearms. The Minister for Home Affairs, and previously the Home Affairs Committee, has not made such an approval since the law was introduced in 2000. This means that no firearms can have been declared deactivated since 2000. Firearms approved under the old (1956) law are accepted as deactivated if they are certificated with either of the 2 U.K. proof house marks and certification.

Attempts were made to identify suitable approved marks in Jersey in 2003 but following objections from the Firearms Law Liaison Group (FLLG), chaired by a member of the Home Affairs Committee, use of the 2 U.K. proof houses was rejected as it was argued that it would cost local owners of firearms too much money to have their firearms deactivated in the U.K. In 2003 the Group recommended to the Home Affairs Committee that a local “proof house be created. This has not been progressed by the Minister although a local “proof house” would bring its own challenges. One such challenge would be to ensure that any local gunsmith appointed was able to meet the stringent technical requirements of permanently deactivating a firearm. Also any local independent proof house if established would clearly have to have the technical expertise to verify that the deactivation provided is adequate. The fact that only 2 such companies are authorised for the whole of the U.K. indicates the specialist demands of the process. **(See section 6 of the main report.)**

Without a certificate of deactivation and an approved mark stamped on the firearm it is impossible to authenticate the deactivation process. At present the authorities are totally reliant upon the word of a certificate holder that their firearm has been deactivated. Only a few examples have been found where a deactivation certificate is held on file, and these usually relate to extremely old firearms. Without physical inspection of each of the 500 plus firearms by a proof house, the validity of the status of such firearms remains uncertain.

The review is advised that some forms of deactivation are relatively easy to reverse. The National Crime Intelligence Service (NCIS) has also warned that with component parts for firearms now becoming more readily accessible through the internet, it is easier to replace certain deactivated parts of firearms to restore them to a useable state. Earlier in 2006 a local certificate holder attempted to import a component part of a firearm with the express intention of forwarding it to a friend in another jurisdiction, in an attempt to thwart tight gun regulation in that jurisdiction. **(See section 3 of the main report, and Appendix A.)**

It is worthy of noting that some of the non-pressure bearing components such as screws, nuts, bolts, sights triggers, etc. can be obtained. But as long as the pressure bearing components, the bits that actually contribute to the safe initiation of the cartridge and the firing of the bullet of the barrel have been deactivated either by drilling, cutting holes in, chamfering off at 45 degrees in face of the breach block etc, so long as those have been done properly the firearm will be impossible to restore to working condition.

In a case in the U.K., a father and son were convicted of restoring a number of deactivated firearms to full use and those firearms then found their way into the hands of career criminals. A lesson from that case is that even when rigorous standards are applied to deactivating firearms it is still possible to restore them to use. Because in

Jersey there is no agreed standard for deactivation, the risk of it occurring is therefore higher. **(Consequently, the development of a robust deactivation programme/policy is a high priority. See section 6 of the main report.)**

The JFC agree with the States of Jersey Police that the U.K. deactivation process is complex, and would wish to discuss the concept that if a weapon was deactivated locally in such a way that it could not be fired or made to fire, as the majority of weapons previously deactivated locally have been World War 1 or World 2 war souvenirs, then it would be accepted by the CFI as incapable of discharging a missile /projectile and a local certificate and mark provided. More modern weapons are normally purchased deactivated through the U.K. with U.K. deactivation certificates.

Are there machine guns in Jersey?

During a recent States Question to the Minister for Home Affairs concern was expressed by some politicians that machine guns may be in circulation in Jersey. The review has researched this category of firearm and concludes that, as at 3rd April 2006, there were 99 items classified as machine guns on the CFI database. This figure includes the allegedly 'deactivated' firearms. Machine guns are firearms that permit the continuous firing of bullets without the release of the trigger and they fall into the classification of "prohibited weapons" under Article 33 of the Law. All prohibited weapons require Ministerial approval to be manufactured, sold, transferred, purchased, acquired or possessed, except when purchased, acquired or possessed by a person in the service of the Crown, a police officer or customs officer who is acting in the course of their duties. In addition a standard firearms Certificate should be obtained from the relevant Connétable.

The States of Jersey Police are taking steps to contact everyone on record as holding a machine gun to ascertain what, if any, deactivation documents they have in their possession, and to request them to forward the documents to the Central Firearms Index.

Eight of these machine guns are shown as 'live' with 6 of the 8 in private ownership. According to information from the Home Affairs Department, since the introduction of the Law in 2000 no permits for machine guns have been issued by the Minister for Home Affairs or the Home Affairs Committee previously.

Three other machine guns are recorded as being exempt from deactivation requirements due to the moratorium introduced in the late 1980s by the Defence Committee of the day and documentation is held by the CFI to that effect for these 3 machine guns. These 3 firearms do not need a certificate as they are legally 'deactivated', although not proof marked.

Data is held electronically and in paper form on the CFI computer that indicates that certificates of 'deactivation' from U.K. Government approved proof houses exist for 9 more machine guns. These firearms were certificated and proofed using U.K. proof marks authorised as being deactivated under the now obsolete 1956 Jersey Firearms legislation. That deactivation certification is still valid and negates the need for any form of certification under the 2000 Law.

A further 4 machine guns appear to fall into this category but the certificate of deactivation could not be found on file. This could possibly be due to incomplete

records being sent to the CFI by the parishes. If such certificates can be produced and the firearms are proof marked in accordance with the requirements of the 1956 Law then they could be held legally without a firearms certificate.

This leaves 75 machine guns as being reported by the owners and recorded in the CFI as being deactivated, but for which no documentation is held and no inspection of the firearms recorded. Some of these may be held lawfully if they fall into the moratorium or proof house marked categories described above. To confirm this fact will require detailed examination of the full file and the firearm.

This sample audit of one classification of firearm, examining machine guns only, indicates that of 99 machine guns listed on the CFI system only 12 have reliable data and certification available to the CFI that allows the review to report with any confidence that the weapon is legally deactivated under the terms of the 2000 Law. As previously stated, steps are now being taken to contact everyone on record as holding a machine gun to ascertain what, if any, deactivation documents they have in their possession, and to request them to forward the documents to the Central Firearms Index.

The machine guns were mostly held at Jersey War Tunnels, Jersey Heritage, and the memorabilia site at St. Ouen. The States of Jersey Police sent approximately 20 letters to registered owners, and are currently working through the responses. Nothing apparently untoward has so far been identified.

To evaluate the actual status of all of the deactivated firearms in Jersey, including the machine guns, will require a considerable investment in time and money, using highly specialist technicians and the cooperation of hundreds of firearms holders who may subsequently be required to pay for the deactivation stamping process. This matter however, cannot be progressed or fully assessed until approval is granted by the Minister for a deactivation mark, as required by Article 51 of the Law.

Granting of Certificates to Individuals

Volume of firearms in Jersey.

Jersey has the highest ration of firearms per head of population than any other area of the British Isles by far. This is illustrated in the table below. This is partly influenced by the greater restrictions imposed on possession of firearms in the U.K., but even allowing for this variation, the difference is startling.

	Number of firearms	Population	Firearms per 10,000 people
Jersey	11,072	87,700	1262.4
U.K.	342,213	58,789,000	58.2
Central Scotland (Dunblane)	947	273,078	34.7

Ratio of registered firearms per 10,000 population

Some concern has been expressed that the number of firearms per capita would seem to indicate a lack of control. There is, however, an argument to support the fact that as there is a greater number of firearms under certificate in Jersey, by comparison with the U.K., this could illustrate a higher degree of control than the U.K. for the following reasons –

1. Air weapons are not held on a Firearms Certificate in the U.K. Of the 11,260 firearms on the SHOGUN system on 17th November 2006, 2,515 were air weapons.
2. Shotguns are not held on a Firearms Certificate in the U.K. Of the 11,260 firearms on the SHOGUN system on 17th November 2006, 4,132 were shotguns.
3. Handguns, self-loading rifles, are now prohibited in the U.K., but not in Jersey.
4. There are strong cultural differences - each Parish has more than one shooting club, based on a long tradition going back to the 19th Century and based on the Parish Militia companies with Parish arsenals. It is common in Jersey to see a tradition of target shooting going back over many generations. This is unlikely to be found in the U.K.
5. Jersey unlike the U.K., was invaded by enemy forces in 1940, and in common with the rest of Europe was left with the detritus of war. The resulting number of small arms left in the Island was considerable, rather than leaving them unlicensed, there has been the accepted status for them to be licensed and form the basis for personal collections. A view expressed some years ago by the States of Jersey Police being ‘that this was a preferred route as they knew where they were’. The recent change in U.K. firearms legislation following Dunblane allowed for historic handguns, pre 1919 or for the reason of proven historic, sporting or design to remain on certificate for the purpose of collecting. Home Office guidelines now require a U.K. certificate holder to prove that they are collectors.
6. U.K. statistics do not show the number of weapons held by registered firearms dealers, for some years in the U.K., it was common practice for owners of

sizeable collections to become registered firearms dealers. Thus the per capita ownership would not appear on U.K. FAC certificate statistics, in Jersey, firearms collecting has for many decades been a legitimate reason for holding a firearms certificate, therefore within the scope of a collection, many firearms of the same calibre will be found to be held. In addition this tradition of collecting has led to Clubs being formed with the specific purpose of shooting antique, historic and classic firearms. Some with national or international affiliations, some not

Due to shooting being virtually Jersey's national sport, the number of shooting clubs and facilities are far higher than the U.K., for a number of the reasons above. Many shooters will be multi disciplined, and hold a higher number of firearms than their U.K. counterparts.

As at 17th November 2006 SHOGUN shows 11,260 firearms on the system. They are broken down as follows: 2,515 air weapons; 4,132 shotguns; 4,613 other firearms, i.e. small bore and full bore pistols and rifles.

One factor suggested to the review team for the high firearm possession rate in Jersey is the proportion of applications made to Connétables that are successful. In the last 5 years the States of Jersey Police only has a record of 9 occasions when an application for a certificate has been refused by a Connétable, out of the 1,800 applications made. On each of those occasions the refusal to grant the certificate was made after the CFI staff had highlighted issues to the Connétable relating to the application that gave rise for public safety issues or legally precluded the individual from possessing a firearm.

Concern has been expressed at the volume of firearms which individuals are permitted to possess in Jersey. Many persons have been permitted to build up large collections of firearms, stored at their home, over many years. No evidence was found of any guidance being declared by Connétables as to what was an acceptable number of firearms. Of particular concern is the fact that many certificate holders now possess multiples of firearms of the same calibre.

In his report (paragraph 1.6) Lord Cullen stated "*I find that the reasons which were given and accepted for his (Hamilton's) being authorised to hold more than one handgun of the same calibre were unsatisfactory*". At the time of the shootings, Hamilton possessed two .357 revolvers, two 9mm pistols, a .22 rifle and was authorised to purchase another .22 rifle and a 7.62 rifle. He was permitted to purchase up to 6000 rounds of ammunition for these weapons.

The collection that Hamilton had been permitted to build up over nearly 20 years was small compared to many collections held in Jersey today. One local individual is permitted to have 241 firearms.

Risk Assessment regime for applications

It has been reported that the Chairman of the Comité des Connétables in the States Chamber 22nd March 2006 stated that it is *the right* of an individual to possess what ever firearms and ammunition the individual desires, and it is only if grounds to refuse to grant permission are identified that a certificate can be refused. Although this may seem to be a clear cut decision making process, the reality is different.

An argument has been put forward that the Connétables have always followed the recommendation of the CFI in granting applications. This assertion contradicts Article 3(4) of the 2000 law that places full and ultimate accountability for the granting of firearms licences to individuals upon the Connétables. The CFI has no role other than to maintain a record of all notices and certificates issued by the Connétable (Article 8(2) of the Law). Under the terms of the MOU the CFI also conducts searches of databases which are not directly accessible by Connétables and it may provide specialist advice if asked to do so.

The decision making function for individual applications rests with the Connétables and no-one else. The process requires a strong “risk assessment regime”. The review has found no recorded evidence from any parish to suggest such a regime exists. Central to the decision making process are the 3 points of Article 3(4) of the law (paraphrased) –

- That the applicant can be entrusted with a firearm
- That the applicant has good reason to possess a firearm
- That no danger will be caused to the public

(As a result of this Compliance Report it is has been recommended to the Connétables that they should follow Home Office guidance with regard to assessing suitability of applicants, which they have agreed to do.)

These 3 points are central to the safe granting of permission to an individual to possess firearms. The good reason to possess a firearm is of prime importance because the other 2 would only follow if that first criterion is fulfilled.

The current Jersey law, in this respect, is not dissimilar to the Scottish legislation in force at the time of the Dunblane tragedy. In his report into that incident, Lord Cullen referred to the critical decisions required when considering ‘fitness of the applicant’ –

“8.63 However, there is at this point a consideration which is of greater moment in regard to the protection and safety of the public which lies at the heart of the legislation. The circumstances of the present case seem to me to demonstrate the need for a positive requirement that the applicant should be a person who is fit to be entrusted with the relevant firearm and ammunition, so that where the information on this is not seen as persuasive the certificate should be withheld. ...”

Once this issue had been raised by the review 2 Connétables sought clarification from the States of Jersey Police as to what was an appropriate risk assessment regime. In response to those requests all Connétables have been provided with a draft checklist that will assist in recording what data contributed to their decision. The document is based on a generic form approved by the Association of Chief Police Officers of England and Wales.

Deputy Chief Constable Douglas McMurdo was the individual who had responsibility for such decisions in Central Scotland. He based his decision to allow Hamilton to possess firearms largely upon the fact that Hamilton did not have any convictions. Lord Cullen reached the conclusion, at paragraph 1.6 of his report, that –

“...an unduly narrow view was taken of “unfitness” as a ground for the revocation of a firearm certificate; and that in view of various considerations Deputy Chief Constable McMurdo should have made further enquiries. On balance there was a case for revocation which should have been acted upon. The same considerations should have led in any event to the refusal of Thomas Hamilton’s subsequent applications for renewal of his firearm certificate.”

Deputy Chief Constable McMurdo resigned the day Lord Cullen’s report was published.

The evidence of this local review tends to suggest that the present system focuses on the conviction history of an applicant, as it did in Central Scotland, and that the result of that conviction check forms the basis of whether a person is granted a firearm certificate. This could result in Connétables taking a similar “narrow view” and granting certificates to persons who may not be suited to be entrusted with a firearm.

In the U.K. all firearms licensing decisions rely heavily upon guidance published by the Home Office. These comprehensive guidelines were drawn up and totally agreed and supported by the Home Office, the Police and representatives of the shooting community. They provide clear and unequivocal guidance and as such assist in providing a fair and consistent licensing regime. There is no corresponding guidance for the Jersey authorities to rely upon and it is therefore not surprising that inconsistencies appeared between the 14 licensing authorities locally. **(This has now been resolved – see section 10 of the main report).**

In the absence of local guidance in an area of law or best practice it is usual to adopt U.K. guidelines as best practice. This has occurred over many issues in Jersey and there are many precedents for this, for instance the Codes of Practice of the Police and Criminal Evidence Act and the rules relating to the Regulation of Investigatory Powers Act. This practice of using U.K. guidelines has in the past been supported by the Royal Court of Jersey, who look at such guidelines when considering issues of law in Jersey. It would make good sense for the licensing authorities to pay greater regard to the Home Office guidelines relating to the licensing of firearms when considering applications for firearms licences than they currently do.

Who conducts checks and accuracy in respect of the application?

It has been reported that several Connétables have publicly stated that *all the checks* are carried out at Police Headquarters by the CFI and that the CFI makes a recommendation to the Connétable. This is completely contrary to the spirit and word of the law, the content of the MOU, and not in line with the sentiments of the States Assembly when they debated the law in 2000. Responsibility for the decision about granting an application for a resident rests with the Connétable and no-one else. Part of that role is to ensure that the necessary checks are carried out to ensure public safety. The States of Jersey Police position remains in that the person who signs the certificate is the person who carries the responsibility for the consequences.

The States of Jersey Police assist in this process by checking against conviction and intelligence databases that they hold and that information is passed to the Connétable. All other checks are, and always have been, the responsibility of the Connétable. The States of Jersey Police have never made recommendations to the Connétables on the

suitability of an applicant since the law was introduced in 2000, other than in 2 recent cases where specific advice was requested.

It might be argued, and there is an expectation by many, that the CFI on behalf of the Chief Officer has a duty to make a recommendation about the suitability of an applicant, but that duty does not exist in law, and has hitherto not been welcomed by the Connétables. This point has forcibly been made to the States of Jersey Police on a number of occasions.

There have been cases, however, where the States of Jersey Police have not objected to the approval of an applicant, but the Connétable's local knowledge has led to a licence not being issued.

Training and technical expertise

The Connétables are not trained in the technical detail about firearm calibres, velocity and usage. They may be assisted in that part of any risk assessment process by referral to relevant documentation and knowledgeable staff at Police Headquarters, or other sources if available to them. Advice from Police Headquarters has only been sought on rare occasions in the past.

Consideration could be given to the employment by the Connétables of a firearms enquiry officer, who would be the expert in firearms and their usage. The post could be funded through a 'user pays' system. This would require further discussion with the Connétables, and would be subject to a full cost benefit analysis.

An example where a lack of technical expertise could create a weakness in the application process is evidenced in that of 500 firearm applications examined in detail, almost every certificate was granted by the Connétable with the following condition attached –

*“The firearm (s) and ammunition to which this certificate relates shall be used solely during the course of the holder's activities as a member of an approved shooting club”.*²

Two issues that immediately arise from this analysis are –

- There is no requirement on the part of the applicant when applying for a licence to prove that they belong to a shooting club, and if they do indicate that they are a member of a shooting club, there may be no means of assessing the accuracy of that statement as not all clubs keep a register of members.
- That since the law was enacted, only one of the 29 active shooting clubs listed in the CFI, virtually all of which were in existence prior to the 2000 Law coming into force, has been approved under the 2000 Law, so unless the applicant was a member of that particular club, the firearm could not be used in compliance with this condition on the licence. **(This has now been resolved – see Section 1 of the main report).**

² This is the most commonly used reason for possession of a firearm. However, it should be noted that it is not mandatory within Jersey Law to be a member of a shooting club.

A difficulty of the audit review was that there is no single shooting governing body in Jersey. There would appear to be several governing bodies for the different disciplines within the sport shooting community and several associations or affiliations for other elements of the shooting fraternity, for instance commercial organisations, agricultural etc. The Inspectorate was advised that the ISSF provided the broadest sport shooting membership. In the absence of a single Jersey body the ISSF was used as a benchmark. For more information about associations and affiliations, see under the paragraph relating to shooting clubs.

Independence of Judgement

A final and sensitive observation has been made to the reviewers regarding the Connétables in respect of the perceived independence of their judgement in granting certificates to their own parishioners. The Connétables have argued that this is a strength in the current system as they are the ones who best know the applicants, although this view is not held by all Connétables.

Critics of the present system state that the law places the Connétable in a comprising situation, and argue that the real reason almost every application is approved by the parish Connétable is that every application refused is potentially a lost vote for the elected Connétable. Furthermore every time the application is granted, £25 is generated as parish income. It is stressed that the review has found no evidence of inappropriate conduct by any Connétable, but rather the review reports that this perception exists.

The perception of their independence is further jeopardised as the firearms law specifically precludes Police Officers, including the Honorary Police, from acting as referees of applicants for fear that their role as an officer of the law may be vulnerable to suggestions that they have not shown the appropriate degree of independence of judgement (Article 3(3) Firearms (General Provisions) (Jersey) Order 2001). It was therefore extremely surprising for the review to discover that, in 2 recent cases, the Chef de Police in different parishes and not the Connétable had actually granted firearms certificates to parishioners.

To further illustrate the perceived independence issue for Connétables when deciding whether to grant a firearm certificate, one of those Chefs de Police who issued a firearms certificate is himself a registered firearms dealer. There is no provision within the Firearms law for a Connétable to delegate his authority to any other person. **(It has been recommended that there should be an amendment to the Law to permit a Procureur to sign licences where necessary.)**

In accordance with the law, only Connétables may issue certificates, although it could be said that they are placed in a difficult position in that they are the head of the Honorary Police in their parish.

The independence of Connétables is further open to interpretation regarding the necessity for Connétables to grant licences to their own parishioners, many of whom may be family members or close friends. The review has found a case where a sitting Connétable has granted a firearm certificate to a close member of his family living at the same address. The very nature of the social structure of parish life means that such decisions will need to be faced by Connétables from time to time.

Four of the current Connétables hold firearms certificates. Without any other option under the law, the only authority for issuing the certificate is the Connétable themselves, and this is what has happened. The current legislation and system requires any Connétable who wishes to possess a firearm to complete an application form, send it to himself, carry out a risk assessment on himself, objectively decide whether he is suitable to be entrusted with a firearm, and if he decides that his is fit, sign a certificate and issue it to himself. **(An amendment to the Law has been suggested whereby in such situations the decision on whether or not to grant a licence would lie with the Minister for Home Affairs.)**

Those Connétables who have followed this procedure have complied with the law and the report merely seeks to highlight a situation that this process may not be seen as sufficiently independent. It is, however, acknowledged that by virtue of the very position they hold, the Connétable is unlikely to be unable to comply with the conditions of holding a firearms certificate. The report simply seeks to expose the lack of modern compliance thinking that currently pervades.

Any variations in the certificate or changes in circumstances also require the Connétable to notify himself and consider approving those changes himself, taking into account the full risk assessment requirements. Such changes must also be notified to the CFI.

The Connétables are usually in a position to approve most of the applications they receive, because many of the applicants have come through the Club process and in most cases have Club Officials as referees, this acts as a filter, with the Clubs weeding out the unsuitable individuals long before they get to the application stage. Some would say this is the “Jersey way” and old fashioned, others that it works well and would not be bettered by any centralisation of the application process.

Ongoing monitoring of Certificate holders

As the licensing authority for parishioners, Connétables have a duty to ensure the law is administered correctly and applied fairly. There is an onerous responsibility in the granting of licences and also in the continuing monitoring and regulation of a licence. The review has not identified a monitoring programme regarding the activities of individual certificate holders.

One parish has recently initiated a check of the firearm storage facilities of certificate holders in their parish. This particular parish has the benefit of having a knowledgeable firearms dealer within their police ranks to assist in this process. It is uncertain whether other parishes would be able to facilitate an informed monitoring procedure. It is recommended by the Education Sport and Culture Department that consideration be given for the appointment of a firearms enquiry officer funding for which would require further discussion and a cost benefit analysis undertaken.

N.B. The opinion has been expressed by some Honorary Officers that home visits should be mandatory, as often a visit exposes applicants to a form of scrutiny that would be impossible to achieve from the current desk-top analysis alone.

A review of existing files held by the CFI suggested that there is little, if any, assessment of the accuracy of the data held or whether that data remains current. A number of certificates appear to show an out of date address. This can result in

weapons becoming lost in the system and authorities are unable to confidently assess where firearms are held in the Island. The fact that the licence renewal period is only every 5 years exacerbates this problem, making it difficult to identify and reconcile any errors quickly.

Article 9(1)(b) of the Law states –

“A firearm certificate shall be held on condition that the certificate holder shall ... without undue delay, inform the Connétable who issued the certificate, and the States of Jersey Police Force of any change in his place of residence.”

(It is suggested that the application form for a firearms certificate, and the certificate itself should be amended to notify applicants of this requirement.)

More than 50% of application forms for new certificates or variations to certificates examined during the review period sent to the CFI by the Parishes for processing were found to be so incomplete or inaccurate that they had to be returned to the parishes before they could be processed. Examples of problems included referees details not included, amounts of ammunition omitted, location of use omitted and calibre of firearm omitted. The MOU requires that no forms should be sent to the CFI until the Connétable has checked them for accuracy and completeness. Returning these files creates administrative delays and is ineffective use of CFI resources. **(This has now been largely resolved with any incomplete forms submitted being immediately returned to the Connétable; and the Comité des Connétables have now agreed to use a checklist to assess suitability of applicants to hold a firearms certificate. It is hoped that this will be universal across all 14 licensing authorities. Consideration could be given to making use of this checklist a mandatory requirement when assessing suitability of individuals.)**

Revocation of Licences

Frequency of revocations

The responsibility for revoking individual certificates rests with the Connétable who issued the certificate. Jersey currently has over 11,000 firearms registered on over 1,800 certificates. Of all those certificates, only 4 have been revoked in the last 5 years. In each of the 4 incidents the revocation resulted from a request being made to the relevant Connétable by the States of Jersey Police. Three resulted from the individual certificate holder being convicted of a prescribed offence in local courts that made them ineligible to lawfully possess a firearm. The fourth followed the certificate holder attempting suicide by gassing himself with car fumes – although he does remain a shooting club official. In a fifth case where revocation was suggested to the Connétable the individual voluntarily agreed to surrender his certificate and his firearms.

Notification procedures

The States of Jersey Police are well placed to identify certificate holders in the community who may no longer be suitable to be entrusted with a firearm. The review identified that the organisation did not have any recognised process where that information could be communicated in a timely and efficient manner to the

Connétable. Honorary officers also have a role to play in the identification of such cases. Like their States' colleagues, they appear to have no formal mechanism to instigate the revocation process, particularly when the individual was not a resident in the parish where the officer policed. However, under Article 8(1) of the 2000 Law, the Connétable has a duty to forward to the Chief Officer of the States of Jersey Police, within 21 days, particulars of any issue, revocation, partial revocation, renewal or variation of a firearms certificate. **(It is suggested that the Law should be amended so that any revocations or partial revocations should be notified *immediately* to the Chief Officer, States of Jersey Police, rather than within 21 days.)**

In contrast, good practice exists in respect of persons convicted before a local court of a prescribed offence with monthly reports being generated by the Criminal Justice Unit (CJU) at Police Headquarters to the CFI of persons who had been convicted and given a sentence of 3 months imprisonment or longer.

Shooting Clubs

Registration of shooting clubs

Currently there are 35 shooting clubs registered on the CFI database and it is believed that 29 of them are active. The review has identified another club whose existence has not been notified or recorded by any authorities. The 2000 law requires all shooting clubs to be approved by the Home Affairs Committee/Minister. To date only one club has been so approved under the 2000 Law. In Jersey there is no single representative body of sports shooting clubs, although the Jersey Firearms Council represents the vast majority of them. Many clubs affiliate or join U.K. national bodies, such as the NRA (National Rifle Association). There are a number of Jersey National Governing Bodies which are in turn affiliated to National and International Governing Bodies. The opportunities for affiliation and membership of various governing bodies are complex owing to the numbers of shooting disciplines which exist. By way of illustration and with the help of the JFC 6 examples of local associations are listed below –

Jersey Shooting Federation: Affiliates, JRA, JPA, JSSA and JCTA.

Commonwealth Games Target Shooting Federation: Affiliates, JRA, JPA, JSSA and JCTA. Affiliated to the Commonwealth Games Association of Jersey.

Jersey Pistol Association: has 5 local Pistol Clubs Affiliated and is in turn affiliated to the NRA, NSRA, MLAGB, W1500, JSF, CGTSF, JFC, IGAJ.

Jersey Small-Bore Shooting Association: has 11 local small-bore rifle and airgun Clubs affiliated and is in turn affiliated to the NSRA, JSF, CGTSF, JFC, IGAJ.

Jersey Clay Target Association: has 2 Clay Target Clubs affiliated and is in turn affiliated to the CPSA, JSF, CGTSF, IGAJ.

Jersey Rifle Association: has most of the Parish Rifle Clubs affiliated and in turn is affiliated to the NRA, JSF, CGTSF, IGAJ and JFC.

Jersey is not a member of the International sports shooting federation as only countries can affiliate to the ISSF, Jersey is represented by the Great Britain Target Shooting

Federation and has links to that body through several of the U.K. National Bodies. Jersey also has links direct to the ISSF/GBTSF through locally qualified ISSF and GBTSF Judges. The reason for Jersey being part of G.B. where the ISSF is concerned is that Jersey does not compete in the Olympics in its own right.

Currently there is no obligation for any club to be affiliated to any particular local national or international body, therefore codes of practise are dictated by each individual club all the members of which are obligated to conform to local firearms legislation.

This means that under existing arrangements individual certificate holders could get together and call themselves a club. The only restriction or regulation placed on such groups would be that under the 2000 Law they must be approved by the Minister for Home Affairs. There is, however, no statutory legislation that identifies any criteria as to what should constitute a club, i.e. number of members, frequency of meetings etc. The review identified apart from the one approved club, no groups, clubs or associations have made application to be approved by the Minister and the Minister/Committee has not invited applications for approval.

It has been observed that within the U.K. there are 2 types of Firearms Club – Home Office approved or not Home Office approved. Home Office approved clubs must have a minimum of 10 members, a chairman, a secretary, a treasurer, a formal constitution and a police liaison officer. There is no objection however to groups of people who already have their own firearms certificate through membership of another target shooting club which is Home Office approved getting together and calling themselves for example the Thursday Club. Not being Home Office approved they are not entitled to enlist probationary members (although they can of course have new members joining them who already have their own firearms certificates), but that they can compete under the name of the Thursday Club in various competitions. However membership of such a non approved club may not be used as a valid or legitimate reason for applying for a firearms certificate. This approach could be considered for Jersey once all the existing clubs have been approved by the Minister.

During the course of the review this information was brought to the attention of the Minister for Home Affairs. **(Steps have now been taken and all clubs have been asked to register. To date 29 have replied.)**

Accountability of shooting club activity

Thomas Hamilton, the Dunblane killer, had been a member of several shooting clubs and lawfully practiced target shooting with shooting clubs until a few weeks before he carried out his atrocity. It should however be noted that Hamilton had had a 7 year break from shooting up until 2 weeks before the atrocity at Dunblane. It was recorded by the shooting club that he attended that he suddenly started shooting rapid fire during this period which struck the members of his club as being very peculiar, this was reported but no action was taken. This is why emphasis has been placed within this report and within the 2000 Jersey Firearms Law that there must be an efficient exchange of information between the clubs and the authorities to prevent such an incident ever occurring in Jersey. Lord Cullen's report into the incident made a number of recommendations regarding the registration and administration of shooting clubs. Many of these were incorporated into the draft Firearms (Jersey) Law. However

when the law was debated the legal requirements for criteria to be fulfilled that would meet many of those recommendations were removed through amendments to the law.

When the first shooting club in Jersey tried to register under the 2000 Law, the Home Affairs Committee sought to impose a number of Lord Cullen's recommendations by way of conditions on the clubs licence, such as a register of members, records of attendance and notification to the police of certain events, etc. The draft conditions were referred by the Home Affairs Department to the Firearms Law Liaison Group which was chaired by a member of the Home Affairs Committee. Through protracted meetings drawn out over 2 years, the Group rejected almost all of the conditions. That first club application was approved by the Home Affairs Committee in 2005 with 7 conditions attached, and an indication from the Firearms Law Liaison Group that should any additional conditions be attached to any other club approval, then the group would resist again. **(The Firearms Law Liaison Group has now agreed to make available membership records under notice from the States of Jersey Police for regular inspection.)** The 7 conditions are now considered as guidelines by the Home Affairs Department and are summarised as –

- The club has a constitution.
- The Club appoints a police liaison officer.
- The club appoints safety officers.
- The club maintains a register of attendance of members.
- The club notifies the police of any expulsions.
- Prospective members will declare if they have had a firearm application refused.
- The club has appropriate insurance.

There is no evidence to suggest that any clubs operating are being run in an improper way. However, there is currently no inspection regime of club activity or regulation of any type. In the absence of reviews of club activity it may equally be argued that clubs may be acting inappropriately particularly in respect of safety matters. **(The States of Jersey Police have now agreed to a programme of inspection once all the clubs have registered under the 2000 Law).**

Shooting ranges

There are at least 20 shooting ranges in Jersey but in the absence of any single control or register of ranges this figure cannot be confirmed. The ranges have not been inspected for many years and no formal risk assessment has been carried out of their practices so it is not possible to provide assurance that the public are not at risk from club activities, or the activity of individuals on the ranges. Hundreds of certificates have been issued with a condition that the firearm may be used for target practice at the certificate holder's home address. Each place where target shooting is practiced could be classed as a shooting range.

Responsibility for the administration of firearms ranges has been challenged as part of this review and it would appear that to answer this matter with any certainty will require considerable research. It is known that Education Sport and Culture (ESC) Department administers at least 7 ranges in the Island. The other ranges are in private, club or association ownership.

Concerns have been expressed by the States of Jersey Police about the way in which the ESC Department administers its ranges. The ESC Department has now commissioned an inspection of the ranges, and the report is awaited.

ESC states that its role in sports shooting is to provide funding, promote the sport, and to regulate the use of ranges administered by them. It is not known if that Department has prepared any risk assessments for the ranges it controls under the Island's Health and Safety Laws.

Private land

Many individuals and some shooting clubs in Jersey do not actually use a shooting range. Instead they shoot at their home address or on land with the owner's permission where the Connétable has deemed the land suitable for shooting. The CFI currently has records of 817 areas of land in Jersey for which Connétables have granted permission for firearms to be used. Unfortunately, these areas are ill-defined and ambiguous. There are no records as to what risk assessment, if any, has been carried out in respect of that land, any safety considerations given and any limitations on what calibre of firearms may be used, or by whom. **(This situation is now under review with the Connétables.)**

Many of these areas are quite large, for instance farm complexes that include fields, covering many acres of land. The area of land approved is usually a premises name, but no field numbers or which parts of the premises are approved. Many of these named premises are spread over several parishes and some certificate holders report that they believe that the permission of one Connétable extends to the whole of the property approved, across parish boundaries. Certificate holders spoken to have advised that where land has been approved, they were not aware of an inspection being carried out.

It is almost impossible to determine if any area of land in Jersey has been approved for shooting. If it has been approved it is equally difficult to determine by whom, when, what criteria were used to determine the risk assessment and, if it is approved, what type of firearm is approved, and who may shoot on it. The vague description of land and approval currently provided by the Connétable is inadequate. It is believed that many areas of land adjacent to public spaces and roads fall into this type of shooting area.

It would seem appropriate for those responsible for regulation and usage of firearms to have access to such information. The Department of Planning and Environment now maintains electronic maps of the Island, known as Jersey Mapping, available on the States Intranet site. Enquiries with that Department reveal that, providing the data is made available from the Connétables, it is technically possible to enter such information to the map and then identify areas of land approved for shooting and add notes as to what conditions, if any, apply. Jersey Mapping could also include data relating to the home addresses of certificate holders, shooting ranges and dealers premises. Resourcing such a facility would need further consideration.

This firearms information would then be available to other States departments, such as Environmental Health, when considering noise levels from firearms; Planning and Environment when considering building applications; and Transport and Technical Services when considering public rights of way. Jersey Mapping could also be used in

the risk assessment of new applications as it includes such information as the contours of land, all buildings and public access routes.

Transportation of firearms

Jersey has a strong tradition in producing high class sports shooters in several shooting disciplines. The Island has a well-attended indoor winter shooting league and several other competitive events during the year. Competitors for these competitions transport their firearms and ammunition in private vehicles to venues all over the Island. The genuine and responsible shooter will take good care of their equipment and keep it secured at all times. However, when taking public safety into account the risks cannot be ignored. No evidence has been found of a risk assessment process or inspection of firearms transportation within the Island.

Definition of a shooting club

Many of the shooting clubs in Jersey are of a specialist nature and have formed after a number of like-minded persons, in possession of a particular firearm type, have got together. These clubs are under no legal requirement to belong or affiliate to any international or local governing body and apart from seeking approval of the Minister for Home Affairs to form a club – **which they are in the process of doing** – they do not need to conform to any standards, either in terms of their procedures or firearms.

If they use an ESC shooting range permission must be sought from that department. It has been identified that those ranges are not formally inspected. Without a proper assessment of the conduct of clubs this cannot be criticised but it serves to illustrate the range of shooting clubs in existence.

Although many certificate holders are legitimate sportsmen and woman, often competing on a national or international stage, it should be remembered that Jersey has developed a number of shooting clubs who may be better described as special interest groups. When referring to “the legitimate shooting community” some people may have the former regulated target shooters and sportsmen in mind, and not the latter informal and possibly unregulated clubs.

Registered Firearms Dealers

Registered firearms dealers

There are currently 9 registered dealers in the Island, although the review identified that the 9 names recorded by Home Affairs Department did not match the 10 names on the list at the CFI. This has now been resolved. **The Home Affairs Department has now created a register of dealers as required in law.**

Risk assessment of registered dealers

All 9 dealers were re-registered by the Chief Officer Home Affairs earlier this year. The authority for him to sign the permits was delegated to him by the Minister for Home Affairs. At the time, no risk assessments were carried out on the applicants, their premises, procedures or stock as all these dealers were existing dealers, and nothing untoward had been reported to Home Affairs. Conviction checks on the proprietors were asked for and provided by the CFI.

Home Affairs staff were unaware that 3 of the licences they had renewed related to business addresses which were private houses and where the registered dealer can now sell, repair and test any firearm. Another 3 dealers who were granted a licence all conduct their business from a single business address.

Inspections of registered dealers

Although there is provision in the law for the Minister to authorise named persons to conduct inspections of dealers' premises, books and stock, no such authorisation had been made by the Minister or the Committee previously. As a result, there is presently no inspection regime operating in respect of dealers' activities. It should be stressed that the review has not identified any evidence to suggest that dealers are acting improperly. Without formal inspections there is no way of knowing whether they are acting lawfully or otherwise. **The Minister for Home Affairs will authorise the States of Jersey Police to carry out inspections of dealers' premises.**

Conclusions

Introduction

This report sets out the findings of an audit as to how the existing practices in Jersey meet the requirements of the registration of firearms and ammunition under the Firearms (Jersey) Law 2000 and related documentation. Following the introduction of the Law, the 3 key parties to the registration process signed up to a Memorandum of Understanding, which was largely based on the law.

Roles of parties to the licensing process

The provision of firearms registration is a complex matter in Jersey, with 14 separate licensing authorities. The 12 independent parish Connétables are responsible for deciding if an individual can be entrusted with a firearm and for issuing firearms certificates. The Connétable must also consider the suitability and necessity for every individual firearm that the certificate holder wishes to possess. The Home Affairs Department has a delegated responsibility for the licensing of shooting clubs and the licensing and regulation of Firearms Dealers on behalf of the Minister for Home Affairs. The Chief Officer of Police must maintain a Central Firearms Index where records are stored and he may also issue temporary licences to visitors to the Island.

Overseeing the work of these 3 bodies, and being responsible for the administration of the Firearms Law generally is the Minister for Home Affairs, previously the Home Affairs Committee.

Overall findings

The findings of this review indicate that there are some areas of current practice which justify the cause for concern that led to the commissioning of this review. The Island has a disproportionately high ratio of firearm ownership per head of population. The activity and suitability of those certificate holders at the time of commissioning this report was not adequately assessed. The dealerships appear to have had no more than a paper assessment carried out on them and there does not appear to be adequate co-ordination of administrative processes between the 3 key parties.

The review has found evidence of inconsistent and systematic casual and inadequate level of consideration and accountability that could lead to the inappropriate granting of firearms to individuals.

Scope of the review

This review has assessed current practice with current legislation. The report seeks to identify whether the current system is achieving its apparent objectives or not. Based on the evidence found, many areas for improvement have been identified.

Conclusion

If improvements are made to these areas it should in turn lead to a better service being provided to certificate holders and give the legitimate sports shooters some confidence that their sport is better regulated, and as a consequence, its very existence not under threat. For the non-shooters in the Island, better compliance with existing laws and best practice will lead to an improvement in public safety by a reduction in the risk of firearms coming into the hands of persons unsuited to their possession.

APPENDIX C

Memorandum of Understanding between the States of Jersey Police, the Parish Connétables and the Minister for Home Affairs for their respective responsibility under the Firearms (Jersey) Law 2000

1. Status

- 1.1 This paper establishes the terms of agreement between the Chief Officer of Police and the Parish Connétables on the division of responsibility under the Firearms (Jersey) Law 2000.

2. Introduction

- 2.1 The introduction of the new Firearms Law provides for increased responsibility for both the States of Jersey Police (SOJP) and Parish Connétables. This paper identifies the respective responsibilities under the law.

3. Connétables' Responsibilities

- 3.1 The grant, renewal and variation of all Firearms Certificates within the terms of the Firearms (Jersey) Law 2000, and in particular determining whether any applicant is 1) fit to be entrusted with a firearm and 2) that he/she has good reason for having in his/her possession or for purchasing or acquiring the firearm/ammunition for which the application is made.
- 3.2 To undertake such local enquiries as may be necessary to establish the accuracy of the details set out in the application.
- 3.3 The revocation, partial revocation of Firearms Certificates if a holder becomes unsuitable or if there is significant change in circumstances which makes revocation appropriate.
- 3.4 Authorise Firearms Certificates for Article 33 weapons (prohibited weapons and ammunition) if a permit has been granted by the Minister for Home Affairs.
- 3.5 Check the completeness of applications before forwarding them to the States Police.
- 3.6 Impose conditions on Firearms Certificates as the Connétable thinks fit.
- 3.7 Where the Connétable has revoked a Firearms Certificate under Article 3, he/she may require in writing the holder of Certificate to surrender the Certificate and any firearms or ammunition pertaining to said Certificate.
- 3.8 Notify Certificate holders when Certificates are due to expire in sufficient time for a re-application to be processed (refer to 4.11). Notify the States Police of any cases of non-renewal where offences may be committed.

- 3.9 Establish arrangements for the transfer of records between Parishes following a change of address and notify the States Police of the new particulars. Arrange for the issue of a new certificate when any change of address occurs.

4. States of Jersey Police Responsibilities

- 4.1 Maintain a Central Firearms Index as a point of contact for all Parishes.
- 4.2 Inspect Shooting Clubs at the time of approval/renewal by the Minister for Home Affairs.
- 4.3 Compile reports on Shooting Club applications.
- 4.4 Maintain a Register of Registered Firearms Dealers on behalf of the Minister for Home Affairs.
- 4.5 Chief Officer to issue Visitors Permits and impose conditions as he sees fit.
- 4.6 Investigate offences under the Firearms (Jersey) Law 2000.
- 4.7 Compile reports on Registered Firearms Dealers applications.
- 4.8 Inspect Registered Firearms Dealers register of transactions.
- 4.9 Compile reports on Article 33 (prohibited weapons and ammunition) applications.
- 4.10 Carry out police record checks on an applicant using databases directly accessible by the States Police and communicate to the Connétable any information arising from those checks relevant to the application in order to assist the Connétable's decision. This task to be completed as soon as possible and in any case within 14 days of the receipt of a fully completed application form.
- 4.11 Shall on a monthly basis, provide the Connétables with at least 2 months' notice of Certificates due to expire in their Parish.
- 4.12 Shall draw to the attention of the Connétables any material facts relating to an existing certificate holder's suitability to continue to hold a firearms certificate.
- 4.13 At the request of a Connétable to provide specialist advice on the range and capabilities of weapons and the suitability of a venue for shooting purposes.

5. Responsibilities of the Minister for Home Affairs

- 5.1 Notify the relevant parish and the States Police of the grant of any certificate under Article 33 (Prohibited weapons and ammunition).

6. Amendments to this agreement

6.1 This agreement comes into force when agreed by both the Comité des Connétables and the Home Affairs Committee (now Minister).

6.2 Any amendments to matters of detail may subsequently be agreed by the Comité des Connétables, the Chief Officer, and the member of Home Affairs with responsibility for firearms.

APPENDIX D**FIREARMS (JERSEY) LAW 2000****Position paper prepared by Comité des Connétables at the request of the Assistant Minister for Home Affairs**

The Assistant Minister for Home Affairs requested the Comité des Connétables to provide –

- A) a positioning paper covering all aspects of the policing of firearms;
- B) recommendations for any changes to current legislation and the reasons for those amendments;
- C) a proposal for regular inspection of gun clubs and evaluation of their membership;
- D) recommendations as to how to improve the current process of exchange of information between the parishes and States Police;
- E) a draft checklist for ascertaining the suitability of applicants to be issued with a licence for use by both the States Police and the Connétables; and
- F) recommendations for the type of training that could be offered to the current issuing officers in the parishes.

The Assistant Minister welcomed the Comité's assistance in order to complete a review of policy, procedure and legislation relating to the issue of firearms licences and the policing of such weapons once licences had been granted.

EXECUTIVE SUMMARY

- No case has been made to support the centralisation of the firearms licensing process and the Connétables consider this should remain with the Parishes
- The Connétables have asked the Law Officers to prepare guidelines concerning medical conditions and criminal convictions to assist in the determination of applications for a firearm certificate
- The States Police should provide specialist firearms advice and details of criminal convictions worldwide to enable the Connétables to determine applications for a firearm certificate in accordance with the law
- The application form should be amended as a matter of urgency to ask more robust questions of the applicant and of the referees, and provide a checklist for the Connétable's consideration of the application
- A more efficient system for the issue of a firearm certificate should be introduced and application forms must be retained by the Connétable who is the licensing authority
- The firearm certificate should be amended as a matter of urgency to include in full the Article 9 conditions and other standard conditions should be agreed
- Changes to the law which have previously been agreed should be enacted

A. POSITIONING PAPER COVERING ALL ASPECTS OF THE POLICING OF FIREARMS

Background

Prior to the Firearms (Jersey) Law 2000, the control of shotguns (other than those kept and used solely on the shotgun holder's property) was covered by the Loi (1879) sur le Port d'Armes and of other firearms and ammunition by the Firearms (Jersey) Law 1956. Certificates under both laws were issued by the Connétable of the Parish in which the applicant resided.

The Connétables, mindful of the safety issues associated with firearms, recognised the inadequacy of the legislation relating to shotguns and, in pressing for this to be addressed, progress was eventually made in reviewing and replacing the Firearms legislation generally. The report of the Defence Committee to the draft legislation (P.96/1999) records –

“It was the parish Connétables who first urged the Committee to review existing legislation, in the early 1970s.”

The Connétables were consulted on and involved in drafting the new legislation which was intended to provide a better regulatory framework whilst not causing undue difficulties to those persons wishing to possess and use firearms lawfully. Shooting – in its many disciplines – is a sport at which many Islanders excel at both national and international level.

Requirements of the law

The Firearms (Jersey) Law 2000 makes provision for the control of the manufacture, acquisition, transfer, possession and use of firearms, imitation firearms and other weapons and ammunition. Article 2 of the law specifies the firearms and ammunition to which the law applies and the offences (see Appendix 1).

For persons resident in Jersey, it is the responsibility of the Connétable of the Parish in which the person is resident to issue a firearms certificate. A Connétable is required to grant a certificate if satisfied that the applicant meets the 3 criteria in Article 3(4) of the law (see Appendix 2). The only grounds for refusing a firearm certificate are if the Connétable is not satisfied as to any of the criteria.

Fit to be entrusted: the Law Officers are preparing guidelines, at the Connétables' request, to address issues relating to medical conditions and criminal convictions and whether these would suggest that a person is not fit to be entrusted with a firearm and ammunition.

Good reason to possess: views will vary as to the number and type of firearms or ammunition that it is appropriate to possess and the Connétables have to consider the merits of each application. A decision to refuse to issue, vary or renew a firearm certificate may be appealed to the Royal Court. It is interesting to note that the Home Office guidance to the Police refers to U.K. case law and that each application should be considered firstly “*from the standpoint of the applicant rather than from that of a possible objector*”, that the collecting of firearms by a genuinely interested collector should be

accepted as “good reason” and there should be no arbitrary limits imposed on the number or type of firearms.

The Connétables are concerned that the number of firearms and the amount of ammunition which may be possessed should not be more than is reasonably required for the shooter’s purposes. The Connétables will continue to have regard to the merits of each application but recognise that certain individuals will have good reason to possess a large amount of ammunition for club or personal purposes.

No danger to public safety or peace: there has been criticism of some types of firearms which are in private possession in the Island. The Connétables consider each application carefully but if the criteria are met then a certificate must be granted. The Connétable, or an officer acting on his behalf, may therefore interview the applicant and referees and may visit the premises where the firearms are to be stored to ascertain that the arrangements are as described on the application form. However, the Connétables have been informed that the firearm certificate holder is responsible for the security of the firearms/ammunition and there is no requirement for the Connétable to undertake any check on the premises prior to issuing the certificate.

Administration

In proposing the 2000 Law, the Defence Committee received the assurance of the Chief Officer, States Police, that there would be no manpower or financial implications arising from the addition of new certificate holders to the Central Firearms Index, which was computerised. Nevertheless, with increasing pressure on the budgets of States departments, there are frequent proposals for work currently undertaken by the parishes to be centralised to the States. The income would then be received by the States and the arguments used include a perceived difference in handling applications by the different Connétables. However, this overlooks the fact that each case has to be treated on its merits and no 2 applications are exactly the same.

No case has been made to support the centralisation of the firearms licensing process and indeed the Connétables consider the Parishes have a vital part to play in the governing of the Island and providing a service to parishioners in many areas including licensing.

Application process

On receipt of a completed application form for a firearm certificate, the Connétable forwards the application to the States Police for preparation of a criminal record check of both the applicant and the 2 referees. Prior to the 2000 law, the States Police would include comments or recommendations when providing the criminal record check in relation to firearm applications.

In recent correspondence to the Connétables about the introduction of the new law, the Chief Officer, States Police, said “*at that time your Comité made it clear that no other opinions or views were in any way required or indeed welcomed*”. In fact it was the States Police who, recognising that the responsibility for issuing or renewing firearm certificates rested with the Connétables, decided to remove “*any form of*

recommendation by the States Police as to the suitability of the candidate, the firearm or its use". Despite extensive research of Comité files there is no reference to the Comité having stated that it did not wish to receive or did not welcome an opinion or advice. In fact there are several minutes recording the Connétables concern that the States Police had decided not to offer advice following the introduction of the 2000 law.

Further, at paragraph 4.12 of the Memorandum of Understanding there is a responsibility placed on the States of Jersey Police Force to "*draw to the attention of the Connétable any material facts relating to an existing certificate holders suitability to continue to hold a firearms certificate*". Also under paragraph 4.13 the States of Jersey Police are responsible for answering a request by a Connétable for specialist advice.

The Connétables require certain information from the States Police to enable the application to be properly determined (see section D below).

Review of application

In exercising their duty under the law, the Connétables are concerned to ensure public safety. In January 2006 (before the recent publicity), having reviewed the situation with regard to the issuing of firearm certificates, the Connétables wrote to the Law Officers asking that they prepare guidelines to assist in the determination of firearm applications with particular reference to an applicant's medical conditions and criminal offences. Whilst the Home Office has issued guidelines to the U.K. Police, it must be remembered that the Jersey law differs from that in the U.K. and it is important that the Connétables receive guidelines based upon the Jersey law. The Law Officers are preparing these guidelines.

Prohibited weapons

Certain weapons and ammunition are prohibited under the law and may only be possessed with the authorisation of the Minister for Home Affairs. Article 33 describes the types of weapons and ammunition that are prohibited but, given the range of makes, cannot be more specific.

In addition, the import and export control legislation restricts the types of weapons and ammunition that may be brought into Jersey.

The Connétables require specialist firearms advice from the States Police to be able to ascertain whether a firearm or ammunition for which a person seeks a firearm certificate may be legally possessed under the law.

Persons who may not possess firearms/ammunition

Under the law, certain persons previously convicted of crime may not possess a firearm or ammunition. In certain circumstances this ban may be lifted by the Court. The ban relates to criminal convictions in Jersey, the British Isles and outside the British Isles and it is therefore essential that the results of a criminal record check reported to the Connétable by the States Police cover all convictions worldwide.

Central Firearms Index

By law the Connétable has, within 21 days of the issue, revocation, partial revocation, renewal or variation of a firearm certificate to forward particulars to the Chief Officer, States Police, whose duty it is to maintain an index known as the Central Firearms Index (CFI). This Index is to include all particulars of a firearm certificate.

In January 2006, the States Police decided that the requirement to maintain a CFI meant that all documentation should be returned to the Firearms Registry at Police Headquarters following completion of the licensing process. The Connétables provided the documents but consider that as the Connétable is responsible, by law, for determining each application he should retain the application form. The firearms certificate is actually produced from the CFI and therefore the States Police have a record available and details on the application form may be captured when the application is sent for the criminal record check.

Issue of certificates

On the introduction of the 2000 Law, the States Police implemented a procedure whereby once the application form had been received and checks undertaken, the papers were returned to the Connétable with an unsigned certificate so that the Connétable could determine the application. This procedure worked well and was specifically introduced to reduce the time taken to process applications.

Despite this being the agreed procedure, in March 2006 the States Police wrote to all Connétables advising that they would no longer send the completed firearms certificate but instead would require the Connétable to notify of the suitability or otherwise of the applicant/application and “*we will then take steps, if appropriate, to forward the certificate to you for signature*”. The paperwork is now passing several times between the Parish and Police Headquarters and it would be a more efficient procedure for the States Police to retain a copy of the documents when returning the original, with certificate, to the Connétable to determine whether or not to issue the certificate (this would reduce the unnecessary circulation, and risk of loss, of the original application).

The Connétable must also grant or renew a certificate in respect of prohibited weapons or prohibited ammunition if the applicant is authorised by the Minister for Home Affairs to possess, purchase or acquire such weapons or ammunition.

Once a firearm certificate is issued, the holder and the person selling/lending/giving the firearm to the holder must complete an additional paper record of the arrangement and notify the Connétable and States Police within a specified time period.

Conditions imposed on firearm certificates

All firearm certificates are issued subject to the conditions outlined in Article 9 of the law (see Appendix 3) and subject to other conditions that the Connétable may impose – these generally relate to where the firearm may be used, e.g. firearms for target shooting may only be used on approved ranges. In relation to pest control the Connétables suggest it should be a condition that the firearm certificate holder has written permission from the owner of the land on which the firearm is to be used.

The Article 9 conditions are not printed in full on a firearm certificate and the Connétables consider this should be remedied. This would ensure that firearm certificate holders are made fully aware of their responsibilities under the law particularly with respect to safe custody. Advice received from H.M. Attorney General confirms that it is the responsibility of the firearm certificate holder to ensure the security of the firearms and ammunition.

The Connétables have prepared a list of standard conditions to be applied to firearm certificates but are awaiting the comments of Home Affairs/the States Police on these (the comments of the Jersey Firearms Council have been received).

Other issues

The law also covers the approval of shooting clubs (see below), registration of firearms dealers, public safety, prevention of crime and law enforcement etc. All these duties are the responsibility of Home Affairs or the Chief Police Officer (e.g. issue of visitor's permits).

B. RECOMMENDATIONS FOR ANY CHANGES TO CURRENT LEGISLATION AND THE REASONS FOR THOSE AMENDMENTS

1. In 2002 the Home Affairs Committee approved an amendment to provide that, under the direction of the States Veterinary Officer and the Parish Connétables, the restriction on hunting any animal or bird after the hours of sunset and before sunrise should be removed, to enable pest control activities to take place (Act A19 of 24th October 2002 of Home Affairs Committee) – Article 45 says that any person who hunts any animal or bird with any firearm on Sunday, Good Friday or Christmas Day or between sunset and sunrise on any other day, shall be guilty of an offence and liable to a fine not exceeding level 2 on the standard scale. This change has not yet been drafted or enacted.
2. The Attorney General proposed, in 2004, that where the applicant for a firearm certificate is the Connétable of the Parish then the certificate should be issued by the Minister for Home Affairs – this amendment has not yet been made to the law. The provision would also extend to an application which a Connétable wished to refer e.g. if the applicant was a close relation or family member of the Connétable.
3. Advice should be obtained from the Law Officers as to whether the Connétables power to issue a firearm certificate, and indeed to revoke the certificate, can be exercised by the Chef de Police in the absence of the Connétable, e.g. through illness, holiday etc. Historically, the Chef de Police has deputised for the Connétable in his absence and dealt with many issues in connection with the running of the Parish. If this is not possible then provision should be made in the law for such an exceptional circumstance.
4. There appears to be no specific provision in law to cover when a person is inadvertently left in possession of a firearm/ammunition such as the executor of an estate. In such circumstances the firearm/ammunition would be surrendered to the Connétable/Honorary Police or States Police for safe keeping until disposal can be arranged. The Connétables have been advised by the Law Officers that Article 13 of the Law permits a police officer, including

an Honorary Police officer, to possess firearms and ammunition without holding a firearm certificate whilst acting in the course of his or her duties or training activities. However, a person such as an executor of an estate should not be liable for prosecution in the event that he or she discovers firearms and ammunition which are then surrendered to the police for safe keeping.

C. PROVIDE A PROPOSAL FOR REGULAR INSPECTION OF GUN CLUBS AND EVALUATION OF THEIR MEMBERSHIP

The Minister for Home Affairs is responsible for the approval and inspection of shooting clubs and the onus must rest with Home Affairs to inform the Connétable of changes to a shooting club.

Article 15(3) requires the Minister for Home Affairs to consult the Comité des Connétables before granting or refusing to grant an approval or varying or withdrawing an approval for a shooting club. In May 2002 the Comité was consulted in relation to the approval of one shooting club. The Connétables are aware that the Home Affairs Department requested all shooting clubs to apply for registration under the 2000 law by 30th June 2006 but, to date, the Comité has not yet been consulted by the Minister in relation to granting approval to any of these clubs.

D. PROVIDE RECOMMENDATIONS AS TO HOW TO IMPROVE THE CURRENT PROCESS OF EXCHANGE OF INFORMATION BETWEEN THE PARISHES AND STATES POLICE

It is the duty and responsibility of the Connétable to determine an application for a firearm certificate. However, the Connétable requires certain information from the States Police to enable the application to be determined. This includes full details of –

1. Criminal record checks in Jersey, in and outside the British Islands on –
 - i. The applicant including details of sentence if applicable and whether this prohibits a person from possessing a firearm/ammunition in accordance with Article 37 of the Law; and whether any prohibition has been lifted by the Court.
 - ii. Both referees.
2. Where the application is for a renewal of a firearm certificate advise if either of the referees is different to the previous application and give names, and contact details, of previous referees.
3. Advise if the firearm and/or ammunition is not covered by law under Article 2 and/or is exempt under an Order made under Article 57.
4. Advise if the firearm and/or ammunition is prohibited by law under Article 33 and, if so, if permission to possess has been granted by Home Affairs.
5. Advise if the firearm and/or ammunition is prohibited from import by Customs restrictions.
6. Advise whether or not the firearm/ammunition is suitable for the proposed use (e.g. pest control, target shooting, shooting on open land).
7. Advise whether a shooting club is approved by Home Affairs.

A number of these would be addressed by an improved application form designed specifically for the Jersey law (see section E below for proposals made by the Comité des Connétables to amend the form).

In addition, Home Affairs must inform the Connétable of changes to approved shooting clubs.

The Connétables will –

1. determine all applications received;
2. provide the application and supporting documents to the States Police so that the necessary checks may be made and the firearm certificate printed. Original documents must be returned to the Connétable so that the certificate may be checked before issue;
3. advise the Central Firearms Index within 21 days (in accordance with the law) of the outcome of the decision on the application;
4. as the Central Firearms Index scans all documents and therefore retains full information, the Connétables will retain the original application for the validity of the firearm certificate so that full details are available to the parish and any necessary checks may be made at subsequent times. The documents will be forwarded to the Central Firearms Index when the certificate is revoked or when the certificate expires and is renewed, whichever is earlier.

E. PROVIDE A DRAFT CHECKLIST FOR ASCERTAINING THE SUITABILITY OF APPLICANTS TO BE ISSUED WITH A LICENCE FOR USE BY BOTH THE STATES POLICE AND THE CONNÉTABLES

Earlier in 2006, the States Police sent all Connétables a copy of the Home Office checklist, which is based on United Kingdom law, for use when considering an application for a firearm certificate. The Connétables considered the document to be unnecessarily complex and have produced a simplified checklist which covers the criteria for issue of a certificate under the 2000 Jersey Law. This is being trialled in parishes and has proved useful.

It was the intention of the Connétables that this checklist should be retained by the Parish once a decision had been reached on an application. However, States Police officers expressed a wish to have this document and, as there is a significant duplication with the questions asked on the application form, the Connétables proposed that a simpler and more cost effective solution – given the States commitment to reducing red tape – would be to amend the application form to cover the specific issues which have to be addressed by the Connétable. A draft has been prepared and the Connétables have received a prompt response from the Jersey Firearms Council with helpful comments. Regrettably, a reply is still awaited from Home Affairs/the States Police and thus no further progress has been made on this issue. It is disappointing to note that despite the Firearms Law Liaison Group, in March 2005, requesting the States Police and Jersey Firearms Council to undertake a review of the application form this never happened.

The Connétables consider that the current application form, which appears to have been copied from the U.K., should be amended as a matter of urgency to better reflect the requirements of the 2000 Jersey law and to draw to the attention of applicants their responsibility under the law. The co-operation of the States Police and Firearms Law Liaison Group is required to achieve this aim.

F. RECOMMENDATIONS FOR THE TYPE OF TRAINING THAT COULD BE OFFERED TO THE CURRENT ISSUING OFFICERS IN THE PARISHES.

The 'issuing officer' is the Parish Connétable. However, other officers (including the Honorary Police) with suitable experience and knowledge may assist with this process prior to the Connétable reaching a decision on the grant/renewal of a firearm certificate.

The Connétable is not required to undertake any check on the premises where the firearms/ammunition are to be stored and determination of an application therefore requires a judgement of the individual's suitability (guidelines being prepared by the Law Officers will assist with this) and the reasons for possessing (this requires advice from the firearms specialists on the suitability of certain firearms/ammunition for specific uses).

Training should be available, should it be required by the Connétable or other nominated officer, but no specific training needs have been identified at present.

Comité des Connétables

23rd November 2006.

APPENDIX 1Requirements of the law

The Firearms (Jersey) Law 2000 makes provision for the control of the manufacture, acquisition, transfer, possession and use of firearms, imitation firearms and other weapons and ammunition.

Article 2 of the Law covers –

- (a) all firearms, except an air weapon of a type declared by Order of the Committee under Article 57 not to be specially dangerous;
- (b) ammunition for a firearm except –
 - (i) cartridges containing 5 or more shot, none of which exceeds .23 of an inch in diameter,
 - (ii) ammunition for an air weapon, and
 - (iii) blank cartridges not exceeding one inch in diameter measured immediately in front of the rim or cannellure of the base of the cartridge.

And makes it an offence if a person –

- (a) has in the person's possession, or purchases or acquires, a firearm to which this Article applies without holding a valid firearm certificate, or otherwise than in accordance with that certificate;
- (b) has in the person's possession, or purchases or acquires any ammunition to which this Article applies without holding a valid firearm certificate, or otherwise than in accordance with that certificate; or
- (c) contravenes or fails to comply with any condition subject to which a firearm certificate is held by the person.

APPENDIX 2Criteria to be satisfied for the grant of a firearm certificate

Article 3(4) of the Law says a Connétable shall grant a firearm certificate if satisfied –

- (a) that the applicant is fit to be entrusted with a firearm and is not prohibited by this Law from possessing a firearm to which Article 2, applies;
- (b) that the applicant has a good reason for having in his or her possession, or for purchasing or acquiring, the firearm or ammunition in respect of which the application is made; and

- (c) that in all the circumstances the applicant can be permitted to have the firearm or ammunition in his or her possession without danger to the public safety or to the peace.

APPENDIX 3

Conditions imposed on firearm certificates

All firearm certificates are issued subject to the following conditions outlined in Article 9 of the Law:

- (a) on receipt of the certificate, sign it in ink with the holder's usual signature;
- (b) without undue delay, inform the Connétable who issued the certificate and the States of Jersey Police Force of any change in the holder's place of residence;
- (c)
 - (i) at all times (except in the circumstances mentioned in clause (ii)) store the firearm and ammunition to which the certificate relates in a secure manner so as to prevent, so far as reasonably practicable, access to the firearm or ammunition by an unauthorized person,
 - (ii) take reasonable precautions for the safe custody of the firearm and ammunition to which the certificate relates where the firearm or ammunition is in use, or the holder of the certificate has the firearm with the holder for the purpose of cleaning, repairing or testing it, or for some other purpose connected with its use, transfer or sale, or the firearm or ammunition is in transit to or from a place in connection with its use or any such purpose.