

Police Governance Law Review – Written Questions

1. In the context of the draft Law, how is operational independence defined?

Operational independence is understood to mean that the Government (in particular the Minister) will articulate the high-level goals for the police force, but not interfere in the process of achieving the objectives set. This is distinct from complete independence from government.

2. Who is the direct line manager for the Chief Officer of the States of Jersey Police?

‘Line manager’ is taken to mean someone who manages employees and resources to achieve organizational goals. By extension, this will be someone who can appoint, dismiss, discipline, suspend or take other employment related actions in relation to the holder of a post.

The Chief Officer is a corporation sole, who is accountable to the Minister for carrying out his or her functions under the States of Jersey Police Force Law 2012 (PFL 2012) and to the Jersey Police Authority for the general administration of the SoJP. [PFL 2012, Art 18].

The Chief Officer is appointed by the Minister after consultation with the Police Authority. This is subject to parliamentary scrutiny. [States of Jersey Police Force (Chief Officer and Deputy Chief Officer) (Jersey) Regulations 2017, Reg 6 (CO& DCO Regs 2017), and PFL Art 9].

The Chief Officer can be suspended by the Minister in accordance with Arts 7 and 8 of the CO& DCO Regs 2017, with the protections therein. He or she can be dismissed by the Minister in accordance with Art 9 of the CO& DCO Regs 2017.

Complaints against the Chief Officer are handled by the Minister in minor cases and by the Police Complaints Authority in serious cases. [Arts 12 and 13 of the CO& DCO Regs 2017]

The Panel will see that the ‘line management’ role is thereby distributed, but mostly rests on the Minister.

3. Through the enactment of the draft Law, what outcomes are we looking to achieve and why are we looking to achieve them?

Primarily to enact those recommendation of the C&AG made in the report ‘Governance of the States of Jersey Police’ that can be addressed by legislative change. Minor variations (such as instituting an inspection regime for the JPA as well as the SoJP) are based on international best practice and were discussed with the former C&AG.

4. How and why will the draft Law, if enacted, provide a position that would be superior to the current position provided by the existing legislation?

The legislative elements of the Governance arrangements will be in line with the recommendations of the C&AG.

5. Why is the requirement for the Police Authority to routinely advise on the budget not explicitly referenced in the draft Law?

The proposed amendment will insert a new Article 19 (1A) that will require that “in preparing an Annual Policing Plan, the Police Authority must consider ... the resources available to the States Police Force”. This report must be passed to the Minister for consideration.

The Annual Policing Plan thus acts as a statutory requirement that the Minister receives advice from the JPA as to the resources required by the SoJP to meet its functions.

6. Will an effective routine process for the Police Authority to advise the Minister for Home Affairs on the budget be established?
 - a) What would this process encompass?
 - b) How will it be implemented?

The statutory routine for advice is detailed above.

7. Why is the frequency of the inspection regime of the States of Jersey Police not indicated in the draft Law?
8. Would specifying a proportionate maximum interval in the draft Law regarding the inspection regime of the States of Jersey Police provide merit?

The JPA, SoJP and Minister did not consider that it was wise to bind the discretion of the JPA as to then frequency of inspections. Currently, the outline plan is for a rolling inspection plan to align with the Government Plan cycle.

9. As part of the development of the Target Operating Model, the inclusion of other services to be covered by the role of the Police Authority was to be considered.
 - a) Is this being considered and, if so, what services have been considered for inclusion under the role of the Police Authority?
 - b) Why has the opportunity to include other services under the role of the Police Authority not been reflected in the proposed changes in the draft Law?

Discussions in this area concerned the principles of expanding the remit of the JPA rather than the detail of services to be included. The JPA was concerned that expansion of its role could dilute its capacity to focus on the specifics of policing, and no compelling case was made by any party that the remit should be expanded. Such expansion has not been dismissed, but is not deemed necessary at this stage.

10. If the draft Law is enacted, how will the successful implementation of the proposed changes to the operational framework of the Police Authority be ensured?

The JPA is preparing a business case to indicate how it will meet its enhanced role for the Minister’s consideration.

11. How will the appropriate level of resources required by the Police Authority be ensured?

The JPA will continue its ongoing dialogue with the Minister in respect of the resources required to conduct its functions.

12. How will the Police Authority deliver its objectives in respect of oversight and continuous improvement and what measures will be put in place to implement this?

The JPA is independent by design, and it will be in a better position to respond to this point than the Minister. It should be noted that the Minister has gone beyond the recommendations of the C&AG by requiring that the JPA itself be inspected.

13. Will an effective inspection regime which provides scrutiny, challenge and monitoring of the C&AG's recommendations that have been addressed in the draft Law be implemented and what measures will be put in place to ensure this is realised?

The amending Law provides for an inspection regime which will consider not only the operation of the SoJP but also the JPA itself. This will serve to identify whether the recommendations have been met. In addition, the Jersey Audit Office's Audit Plan indicates that it will be considering this area again as a 'follow up of previous audit' in due course.

R1: Enhance the resources available to the Police Authority to discharge its functions, including by establishing and implementing a routine frequency for independent inspections of the States of Jersey Police.

14. (Recommendation:1) Although, the draft Law inserts new Article 4 that includes a duty on the Police Authority to seek from the Minister additional resources to enable it to perform its duties, the draft Law does not include a duty on the Minister for Home Affairs or otherwise to provide adequate resources for the Police Authority to perform its functions.
- a) Why has the duty to provide adequate resources to the Police Authority by the Minister for Home Affairs not been explicitly included in the draft Law?
 - b) What measures will be in place to ensure the provision of adequate resources required for the Police Authority to perform its duty are provided?

See 11 above.

15. (Recommendation:1) Article 10 of the draft Law inserts Article 28AA that obliges independent inspection that must be undertaken at regular intervals subject to availability of resources to the Police Authority.
- a) Why is the minimum frequency or requirement for the provision of sufficient resources to undertake an inspection not specified within the draft Law?

The JPA, SoJP and Minister did not consider that it was wise to bind the discretion of the JPA as to then frequency of inspections. Currently, the outline plan is for a rolling inspection plan to align with the Government Plan cycle.

R2: Enhance the training and support available to members of the Police Authority to enhance their ability to discharge their responsibilities.

16. (Recommendation:2) It is the view of the C&AG that this recommendation has not been directly addressed within the draft Law. A duty is placed on the Police Authority to seek from the Minister for Home Affairs additional resources to enable it to perform its duties,

however, the draft Law does not place a duty on the Minister or otherwise to provide the adequate resources for the Police Authority to perform its functions.

- a) Why has the duty to provide adequate resources to the Police Authority by the Minister for Home Affairs not been directly addressed in the draft Law?
- b) What measures will be in place to ensure the provision of adequate resources required for the Police Authority to perform its functions are provided?

The duty to provide adequate resources to the Police Authority is a function of the relationship between the SoJP, the JPA, The Minister and the Assembly. The policing plan must establish what resources are necessary for the functioning of the police, and this is approved by the Minister with the resource requirements as a core element. If the Assembly considers that the Minister is at risk of providing insufficient resources to the JPA then any member has the right to address this.

R3: Review whether it remains appropriate for the States Assembly to elect two members of the Police Authority.

17. (Recommendation:3) Article 4 of the draft Law amends Article 3 to replace States Assembly members with independent members. It is the view of the C&AG that this recommendation has been addressed within the draft Law by replacing the elected States Assembly Members with independent members.
 - a) Was a review of the current position undertaken to evidence that it was no longer appropriate for the States Assembly to elect two members for the Police Authority and, if so, what evidence was established to propose this change in the draft Law?
 - b) If a review was undertaken, could the documentation be provided to the Panel?
 - c) Were any selected members consulted regarding the proposed changes to the Police Authority membership structure to obtain their views regarding the suitability of the proposed change or the impact of the current structure on the independence of the States of Jersey Police Force?
 - d) Why has no reference been made to reflect how Scotland and Ireland's approach (which prohibits serving members) is superior to Jersey's current approach (which allows two elected serving members) which reflects Gibraltar's model?
 - e) Has this change been proposed as a result of a review, and, if not, on what foundation has the proposed change been established?
 - f) What evidence is there to suggest that the current membership structure of the Police Authority is not appropriate or is impacting upon the independence of the States of Jersey Police Force.

The Minister made a decision on the constitution of the JPA following discussions with the JPA and SoJP.

R6: Establish and document revised non-statutory arrangements relating to the governance of the States of Jersey Police, including: - ending the current arrangement of the Chief Executive serving as line manager for the Chief of Police; and - enhancing the role of the Police Authority.

18. (Recommendation:5) Article 3 substitutes Article 4 redefining the role of the Authority. Article 10 of the draft Law inserts Article 28AA that obliges independent inspection that

must be undertaken at regular intervals subject to availability of resources to the Police Authority.

- a) Although in the C&AG's view, the role of the Police Authority is strengthened by the proposed changes, how will the non-statutory arrangements be reflected in the recommendation be established and documented, considering these would not be addressed within the legislation?
- b) Have these non-statutory arrangements been established and documented and, if so, can the Panel have sight of this?

It is intended that this will be produced following the adoption of the law.

R7: Evaluate whether the role of the Police Authority could be extended to cover other services where operational independence is important.

19. (Recommendation:7) It is the view of the C&AG that this recommendation has not been addressed in the legislation. Are other services where operational independence is important being considered for coverage by the role of the Police Authority and, if so, what services are being looked at?

See 9 above.

R8: Ensure that internal operating procedures clearly document the respective roles of different parties for police human resources issues.

20. (Recommendation:8) It is the view of the C&AG that this recommendation has not been addressed in the legislation. Although it is expected that this recommendation would not be addressed within the legislation, has the recommendation been addressed elsewhere and, if so, how has it been addressed?
21. Where would these documents be kept, how will they be managed and who would have site of them?

The SoJP may be able to advise on this point.

R9: Routinely review and update the Police Terms and Conditions of Service in response to changes in legislation.

22. (Recommendation:8) It is the view of the C&AG that this has not been addressed in the legislation. Although it is expected that this recommendation would not be addressed within the legislation, has this recommendation been addressed elsewhere and, if so, how has this been addressed?
23. How will the routine review and update of changes be implemented and ensured?

This is the subject of an ongoing review by GoJ HR.

R10: Where another department advises a Minister, involve the lead department for a ministerial portfolio to ensure that: - where Ministers are asked to exercise statutory powers, civil servants prepare written advice weighing the advantages and disadvantages of different options; and - all Ministerial Decisions are properly recorded using the standard template and are centrally held.

24. (Recommendation:10) It is the view of the C&AG that this has not been addressed in the legislation. Although it is expected that this recommendation would not be addressed within the legislation, has this recommendation been addressed elsewhere or is it intended for it to be addressed?
25. If this recommendation is addressed elsewhere, what measures are in place to ensure the recommendation is realised as outlined?

After the production of the report, MSU produced further guidance on the recording of Ministerial Decisions.

R13: Give the Police Authority a routine role in advising Ministers in respect of the budget for the States of Jersey Police

26. (Recommendation:13) Article 3 of the draft Law amends Article 4 to require the Police Authority to seek from the Minister such additional resources as required for the States of Jersey Police to perform its functions.
- a) Although it is the view of the C&AG that this recommendation has been partially addressed, the draft law does not provide for the routine active role for the Police Authority envisaged in the recommendation. Why is this the case?
 - b) How will the routine active role be implemented and ensured?

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The Annual Policing Plan thus acts as a statutory requirement that the Minister receives advice from the JPA as to the resources required by the SoJP to meet its functions.