

# **Protocol concerning the relationship between the Committee for Home Affairs and the Head of Law Enforcement and implementing Recommendation 6 of the HMICFRS Report 2018**

## **PART 1**

### **Introduction**

1. This Protocol is agreed jointly between the Committee for Home Affairs (CfHA) and the Head of Law Enforcement (HoLE) (the Parties).
2. The Protocol sets out how it is expected that the respective functions of the Parties and Officers responsible to the Parties will be carried out. In the discharge of their functions further to this Protocol, it is recognised that the Parties and others subject to its provisions will abide by relevant legislation, States of Guernsey codes, the Civil Service Code and directives which prescribe principles of public life, and align themselves in particular to the 7 principles of public life set by the Nolan Committee and any relevant codes of conduct and professional standards. They will also commit to upholding the highest standards of governance.

### **The purposes of this Protocol are:**

3. To implement Recommendation 6 of the HMICFRS report of the inspection of the capability and capacity of Guernsey Police and Guernsey Border Agency, September 2018.

*The Committee for Home Affairs, in consultation with the Head of Law Enforcement, should design, publish and subsequently operate in accordance with, a document that clarifies each party's responsibilities in relation to:*

- (1) Objective and priority setting;*
- (2) Strategic governance and oversight;*
- (3) Operational direction and control;*
- (4) Independence, and;*
- (5) Provision of performance information for governance purposes.*

4. To enable effective and constructive working relationships between the CfHA and the services of Bailiwick Law Enforcement within the context of their respective mandates.
5. Effective working relationships are built on mutual trust and confidence and supported by good communication and shared understanding of the CfHA's overarching strategic priorities for these services.

## **PART 2:**

### **Limitations on the application of the Protocol**

6. This Protocol is not a contract or legal agreement and not part of any employment process. It defines the primary roles of the CfHA to set strategic direction and seek to secure from the States of Guernsey sufficient resources and the HoLE to provide an efficient and effective law enforcement function for the Bailiwick within the resources provided.

7. Expectations and understandings under this Protocol do not, replace, supersede or vary the legal duties and requirement of the Chief Officer of Police or the Chief Customs Officer, which roles are combined into that of Head of Law Enforcement (HoLE). The operational independence and the decisions made by the operational leadership of Bailiwick of Guernsey Law Enforcement (BLE) will include delegated authority to other senior members of BLE staff.

8. All police officers, Guernsey Border Agency (GBA) officers, support staff and civil servants deployed to BLE are expected to have regard to the principles and spirit of this Protocol. However the expectations and understandings under the Protocol do not replace, supersede or vary the legal duties and requirements of such officers, staff and civil servants. In particular they are not intended to fetter the independent and proper discharge of the duties of any officer under any warrant and/or further to their oath of office.

9. Paragraph 33 of the UK Policing Protocol sets out the operational responsibilities of Chief Constables and the boundaries between their roles and that of the Police and Crime Commissioners. Whilst there are some constitutional differences, for example in the Bailiwick of Guernsey, officers are sworn in by the Royal Court rather than having warrants issued by the Chief Constable, the overarching principles apply equally to the Head of Law Enforcement in Guernsey and the role of the CfHA:

*The direction and control of a Chief Constable will include— (a) the ability to issue a warrant to an attested officer with which that officer may exercise their police powers; (b) decisions in relation to the appointment and dismissal of officers and staff; (c) decisions concerning the configuration and organisation of policing resources (or) the decision whether, or whether not, to deploy police officers and staff; (d) total discretion to investigate or require an investigation into crimes and individuals as he or she sees fit; (e) decisions taken with the purpose of balancing competing operational needs within the framework of priorities and objectives set by the Police and Crime Commissioners; (f) operational decisions to reallocate resource to meet immediate demand; and (g) the allocation of officers' specific duties and responsibilities within the force area to meet the strategic objectives set by the Police and Crime Commissioners.*

10. The complexities of the role of HoLE and any warranted powers held, may impact on the terms and conditions of the role of HoLE in the future, as set out in SoG v. Le Huray. The role of the HoLE in the context of the Police and GBA functions are similar but there are important legal differences.

## **11. Responsibilities of the CfHA in relation to the Head of Law Enforcement**

- **Objective and priority setting**
  - Set the strategic direction and objectives and in consultation with the HoLE performance targets for BLE through the CfHA Delivery Plan and Home Affairs priorities matrix. BLE will then be required to prepare the BLE Service Delivery Plan (the Plan) to show how BLE plan to organise and operate to meet those Committee priorities.
  - Provide the budget, allocating assets and funds to enable the HoLE to deliver the Plan.
- **Strategic governance and oversight**
  - Be accessible to the HoLE, if required, in response to issues of national security;
  - Hold the HoLE to account for the strategic performance of BLE and the exercise of the functions of the Office of HoLE;
  - Develop a consistent approach to responding to complaints against officers and staff in accordance with the Police Complaints Law and civil service complaints procedures, as appropriate, and;
  - Provide strategic oversight to ensure the continued delivery of an efficient and effective Police Force and Border Agency for the Bailiwick.
- **Operational Direction and Control**
  - Take great care to avoid involving themselves in operational direction and control.
- **Independence**
  - Not restrict or inhibit the operational independence of the HoLE and the services he/she leads.
- **Provision of performance information for governance purposes**
  - Monitor the overall performance of BLE against the priorities and actions agreed in the Plan, and;

- Following consultation with HoLE, publish such information to the public as it deems appropriate, to enable the public to judge the performance of CfHA and BLE in achieving positive outcomes for the people of the Bailiwick.

## **12. Responsibilities of the HoLE**

- **Objective and priority setting**

- Assist the Office of the CfHA to plan BLE's budget, and;
- Support the CfHA in the delivery of the strategy and objectives set out in the Plan.

- **Strategic governance and oversight**

- Provide professional advice to the Committee;
- Maximise collaborative working opportunities within BLE by bringing together activity in respect of both agencies' local, national and international responsibilities;
- With the consent of the CfHA, work collaboratively with other law enforcement agencies to deliver benefits for the Bailiwick including increased value for money and policing capabilities, and;
- Take day-to-day responsibility for the financial management of BLE, within the framework of the agreed budget allocation and levels of authorisation specified by the CfHA.

- **Operational direction and control**

- Lead BLE agencies in a way which is consistent with the attestation made by all constables on appointment and ensuring impartiality;
- Appoint the BLE's Senior Officers and staff;
- Be the operational voice of BLE and, where appropriate, justify operational activity;
- Deliver Policing and Border Agency functions in a way to achieve best value within the constraints of the budget provided by CfHA, and;
- Respond to complaints against BLE's constables, officers and staff, under the Police Complaints Law 2011 and Civil Service policy respectively and reporting to the Police Complaints Commission or CfHA, as appropriate and necessary and in a timely manner.

- Engage with the CfHA on service delivery concerns where these are being raised by a significant proportion of the community or a recognised representative body.
- **Independence**
  - Maintain operational independence from the CfHA;
- **Provision of performance information for governance purposes**
  - Report to the Committee, at agreed intervals, in an agreed format on;
    - the performance of services.
    - use of resources;
  - Identify, quantify and specify action to mitigate risks to the good performance of services:
  - Identify and implement required changes and improvements and report back to the Committee, and:
  - Exercise the power of direction and control in such a way as is reasonable to enable the CfHA to have access to BLE staff, as appropriate and necessary.

### **PART 3**

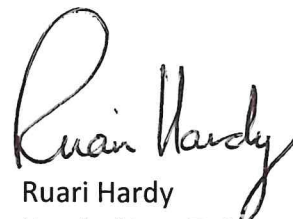
#### **Review**

13. This Protocol is to be reviewed by the parties on an annual basis with the first review in July 2020.



Mary Lowe  
President  
Committee for Home Affairs

Date: 25<sup>th</sup> July 2019



Ruari Hardy  
Head of Law Enforcement

Date: 25<sup>th</sup> July, 2019

