

# States of Guernsey

## Meeting the challenge: towards better governance

### The Committee *for* Home Affairs: Governance Review

## Report

### 1 Introduction

This Governance Review was commissioned by the States of Guernsey to support its programme of public service reform and transformation<sup>1</sup>. The Review of the Committee *for* Home Affairs (the Committee) is part of a series of Governance Reviews, designed to provide the underpinning knowledge and evidence for a governance development programme, with supporting guidance, for Deputies. This Review has been undertaken by Professor Catherine Staite. A brief biography is attached at Appendix I

The first Review in the series was undertaken in 2018, with the Committee *for* Health & Social Care (CfHSC). The CfHSC was chosen because a previous CfHSC had experienced serious problems with governance and the States of Guernsey wished to understand how the new CfHSC had achieved significant improvements and the critical success factors which had helped support those changes.

Briefly, the findings of the Governance Review of CfHSC in 2018, were that the Committee had an excellent understanding of good governance and where there was room for improvement, as well as exemplary leadership on the part of the President. Most of the recommendations of that report related to ways in which cross-organisational systems could be strengthened to support all principal Committees, e.g. improved approaches to external engagement. The report of that review was submitted in November 2018 and published in May 2019.

The Committee *for* Home Affairs was chosen as the second Committee to be reviewed because of the serious concerns about its governance, particularly in relation to its strategic leadership and the way in which it managed the boundaries between its responsibilities and those of the Head of Law Enforcement (HoLE), that were raised by Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) in its report of 2018<sup>2</sup>.

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<sup>1</sup> A Framework for Public Service Reform 2015 – 2025 [www.gov.gg/change](http://www.gov.gg/change)

<sup>2</sup> HMICFRS Report 2018: Bailiwick of Guernsey Law Enforcement: an inspection of the capability and capacity of Guernsey Police and Guernsey Border Agency

The third Committee to be reviewed will be the Policy & Resources Committee (P&RC), at its request. A fourth Committee, to be confirmed, will be reviewed later in the year.

## **2 About the Committee for Home Affairs**

The Committee is made up of a President, Deputy Mary Lowe; a Vice President, Deputy Rob Prow; and three other members, Deputy Richard Graham (who served as Vice President from 2016 to early 2018); Deputy Marc Leadbeater; and Deputy Victoria Oliver. Deputy Lowe is a very experienced politician, having been a Deputy for 25 years. The other Committee members are in their first term as Deputies. Although each of the Deputies brings a valuable range of individual experiences and expertise to the role, there is a significant asymmetry in terms of political experience between the President and the other Committee members.

## **3 Aims of the Governance Review**

The aims of this review are to:

- Explore the extent to which the Committee demonstrates good governance in the ways in which it develops and implements strategy and policy and oversees the delivery of key services; law enforcement, the Probation Service, the Prison Service and the Fire and Rescue Service.
- Recommend and support the early implementation of changes in the way in which the Committee operates, to strengthen governance.
- Provide evidence to support the creation of a suite of development materials and activities on good governance for new and returning Deputies, following the election in 2020.

## **4 Background and context**

The key reason for undertaking this Review of the CfHA at this time was the publication of the HMICFRS Report 2018, which raised significant concerns about the way in which the Committee fulfils its strategic leadership responsibilities and manages the boundaries between its role and that of the HoLE. The HoLE is operationally independent.

The HMICFRS Report did not suggest that the Committee members were behaving unlawfully when they crossed the boundaries between their strategic roles and the operational role of the HoLE. This view was reinforced by HMI Matt Parr, at the

Scrutiny Panel hearing, held in December 2018<sup>3</sup>. The key problem generated by the Committee crossing the boundaries into operational matters were the consequent need for the HoLE to defend his operational independence as well as the waste of his time caused by the need to respond to the Committee on minor matters.

This Governance Review had a different remit than that of the HMICFRS review. In addition to the Bailiwick of Guernsey Law Enforcement, this Review has explored the extent to which good governance is evidenced in the way in which the Committee works with the Probation Service, the Fire and Rescue Service and the Prison Service.

Concerns about how best to manage contested boundaries are not unique to Guernsey. Managing the political and managerial interface provides challenges for all governments. In the UK, the role of Police and Crime Commissioner (PCC) replaced that of Police Authorities in 2012, following the enactment of Police Reform and Social Responsibility Act 2011. That legislation set out how the PCCs are responsible for strategic issues but operational issues remain within the control of the Chief Constable. This provides a useful template for the relationship between the HoLE and the Committee.

The way in which issues arising at the, sometimes blurred, boundaries between strategic and operational matters, are resolved will depend on organisational culture and behaviour. If politicians respect the professional independence of all heads of service it will be much easier to develop and implement agreed ground rules and avoid unnecessary conflict.

## **5 Understanding governance**

Good governance is a crucial element of organisational success but good governance is not a simple concept and establishing and maintaining good governance in government is not a simple process. Good governance is enabled and supported by systems, structures and behaviours. This Review focuses on the ways in which the Committee operates within existing systems and structures, rather than on the advantages and disadvantages of systems and structures themselves.

The individualistic, non-party political nature of Guernsey politics provides both opportunities and challenges. It enables Deputies to follow their passions and express their own views without the constraints of party discipline. However, it also means that Deputies do not have the political support structures or development opportunities enjoyed by elected representatives in other parliamentary democracies and UK local authorities. Neither are they easily able to access knowledge and evidence about new approaches to developing strategy and improving efficiency, available to local authorities through networks, national and regional conferences, organisations like the Local Government Association (LGA) and sources of evidence like the Local Government Information Unit (LGIU). This may be

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<sup>3</sup> Official Report of the States of Guernsey Scrutiny Management Committee: HMIC Report Scrutiny Panel Hearing, 5<sup>th</sup> December 2018. Hansard

particularly disadvantageous to less experienced Deputies and Committee members but even very experienced Committee members can always benefit from exposure to new ways of thinking.

The States of Guernsey operates as both a national and a local government, meeting a wide range of complex needs within significant constraints, including population and geography. A 'one-size-fits-all' governance model will not be a good fit for a government operating in such an unusual context. However, there are a number of underpinning principles of good governance that can be applied universally because, without them, it can be argued, no government can operate successfully.

Challenges arise when a lack of shared understanding of roles, responsibilities and accountabilities leads to confusion, misunderstanding and conflict. A study by the Wales Audit Office in 2009 highlighted a number of problems in the States of Guernsey, not only with systems and structures (which are beyond the scope of this review) but also with standards of governance and understanding of roles and responsibilities<sup>4</sup>. It is clear, therefore, that these problems are not new, or limited to this Committee.

This Governance Review has highlighted a very significant divergence of views and understanding between Committee members and staff, about what constitutes good governance. This divergence of understanding lies at the heart of most of the problems arising with the governance of Home Affairs. This problem may not be unique to this Committee but the evidence of good governance, set out in the report of the Review of the Committee *for Health & Social Care*, 2018, suggests it is neither universal nor inevitable.

Good governance is developed, achieved and maintained by the continual application of effort, self-awareness, mutual trust and mutual challenge. Good governance cannot be imposed by the introduction of standards, rules or protocols. Rather, it is continually co-produced by members of the organisation, in all their diverse roles, by the way in which they learn how to blend rules, processes and controls with strong values and positive behaviours, to achieve a model of good governance that works for their particular purposes and context. For example, the boundaries between the Committee's strategic responsibilities and heads of services' operational responsibilities will always be contested, quite rightly. The way in which that interface is managed, indicates the extent to which governance is strong and effective.

## Principles of good governance

- Independence
- Openness and transparency
- Accountability
- Integrity

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<sup>4</sup> Review of Governance – The States of Guernsey: Wales Audit Office 2009

- Clarity of purpose
- Effectiveness

These principles of good governance are drawn from a number of models and reflect the importance of both underpinning ethical values and organisational effectiveness. Problems arise when these principles are interpreted and applied differently by politicians and staff.

## 6 Governance Review methodology

This methodology is designed to support participants, both Committee members and staff, to strengthen their shared understanding of good governance. It seeks to identify good practice, as well as areas of concern, in order to support improvement. To be successful, it does require participants to be open to criticism of current ways of working, as well as to adopt recommendations for future improvements. During this Review, staff participants demonstrated both an understanding of the nature and extent of problems with governance, as well as a positive focus on improvement. Those ideas have informed the Recommendations of this report.

This Review is not a formal inspection and it does not include a detailed analysis of all aspects of the Committee's performance over the last three years. It focuses on the extent to which good governance is in evidence now and has been in the recent past.

The Review methodology takes a positive, 'Appreciative Enquiry'<sup>5</sup> approach, asking interviewees and seeking documentary evidence about what currently works well and what could be improved. The Review drew on a selection of documents, including reports to the Committee, agendas and minutes of recent Committee meetings, background documentary evidence provided by interviewees, as well as evidence gathered through confidential structured interviews. It also references relevant academic and practical literature on the theories and good practice that underpin good governance.

- **Document review**

The purpose of the document review is to identify issues and themes in relation to the governance of the Committee. The document review is not exhaustive, as it was not practicable, within the scope of the Review, to examine every document produced by, or on behalf of the Committee, or presented to it, over the last three years. Documents were selected which provided background information or which interviewees highlighted as sources of evidence about matters raised in the interviews. Where evidence from the documents reviewed has been drawn on to

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<sup>5</sup> Cooperrider, D.L. & Srivasta, S. (1987) Appreciative Enquiry in organizational life. In R. Woodman & W. Passmore (eds.) *Research in Organizational Change and Development: Volume 1* (pp. 129-169). Greenwich, CT: JAI Press.

inform this report, this is referenced in the text. For a full list of documents reviewed, see Appendix II

- **Confidential structured interviews**

Confidential structured interviews were completed during January and February 2019, with 12 interviewees: five Committee members and seven staff, including from the Office of the Committee, the operational heads of the criminal justice agencies and Fire and Rescue Service. The reason for confidentiality is to enable interviewees to provide full and accurate answers. A list of interviewees is included in Appendix II.

Interviewees were asked to reflect on their own understanding of good governance (question 1), and to assess the Committee's current performance across six principles of good governance (question 2). They were also asked to comment on support from the Office of the Committee (question 3), how well the Committee engages with residents, other parts of the States and partners (questions 4, 5, 6 & 7) and how well Codes of Conduct for members and staff contribute to good governance (questions 8 & 9). Finally, they were asked to identify those aspects of governance of which they were particularly proud and those which gave them the greatest cause for concern (questions 10 & 11).

- **Workshops**

Initial feedback was provided to Committee members and staff interviewees during two workshops, one for the Committee and one for staff, held on 18<sup>th</sup> and 19<sup>th</sup> March, respectively. This feedback included a draft of the Executive Summary of this report (produced as a separate document), setting out the initial findings and recommendations and a PowerPoint presentation including an anonymised summary of the views of both Committee members and staff, which were gathered through the confidential interviews.

The final workshop for all interviewees, was held on 29<sup>th</sup> April, with the aim of bringing together both sides of the relationship to develop a new and better approach to working together collaboratively, in order to build mutual trust and respect and increase effectiveness. During the workshop, both staff and Committee members expressed a wish to improve the current situation in relation to governance. They explored the possibilities of having more informal discussions of key strategic issues and of combining visits by the Committee to each service with more creative and strategic discussions about new ways of working. The idea was also discussed that individual Committee members might take a special interest in each service, to help build stronger, more well informed and supportive, working relationships but no specific plans for improvement of governance were agreed.

## **7 Analysis of evidence gained through the document review and interview responses.**

A number of key issues were identified by both the document review and by interviewees' responses. An analysis of the evidence gathered in relation to these issues is set out below. Each item of evidence in this report is 'triangulated', i.e. supported by at least three separate sources, e.g. interview responses from three individuals, or two interview responses and a piece of documentary evidence.

It should be noted that some of the evidence gleaned from the document review and the interviews applies to more than one of the principles of good governance but this is not covered, to avoid repetition.

### **1 What does the term 'good governance' mean to you?**

The responses to this question indicated a reasonable level of understanding of good governance among both staff and Committee members. However, Committee members' responses tended to be more transactional, for example, a focus on '*getting things done*' whereas staff tended to emphasise underpinning values, for example, mutual trust and respectful behaviour. The divergence between these different descriptions of good governance provides scope for conflicting expectations about how governance should operate and can impede the Committee's ability to take action<sup>6</sup>.

The Committee members have attempted to overcome these conflicts by taking a predominantly 'rules based' approach, i.e. that they have the right to become involved in operational matters, therefore they will, rather than a 'values based' one i.e. seeking a common understanding with staff about where the boundaries should lie<sup>7</sup>. It was clear from the interview responses of staff that they felt that this approach has created a hostile atmosphere between themselves and the Committee. One Committee member interviewee expressed some discomfort about the way in which staff had been spoken to by Committee members. Staff interviewees reported that this hostile behaviour has disempowered them and undermined trust between themselves and the Committee. Organisational culture, individual values and trust are as important in good governance as formal rules. The evidence from staff demonstrates the need to rebuild trust and to reinforce underpinning values, as well as agreeing acceptable standards of behaviour.

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<sup>6</sup> Grindle, M. (2007) Good Enough Governance Revisited. *Development Policy Review*, 25(1): 533-574

<sup>7</sup> Gill, A. (2008) Corporate Governance as Social Responsibility: A Research Agenda. *Berkley Journal of International Law* 26 (2) 5

## **2a To what extent do you think the Committee acts independently of external influences?**

There was much more divergence, than was the case for question 1, in views on the extent to which the Committee acts independently. The explanation of those staff who did think the Committee acts independently was, broadly, *'yes – but not in a good way'*. The consistent view from staff interviewees was that the Committee interpreted its independence to justify some instances of taking decisions without paying due attention to the relevant evidence available to support that decision.

The Committee members, on the other hand, rated themselves highly on independence. Their comments about the limits on their independence focused mainly on the constraints placed on them by a lack of resources or by decisions taken by the P&RC.

These very different understandings of what constitutes independence, demonstrate the need to develop a shared understanding, through discussion, about how the Committee can underpin its independence with robust data and expert knowledge.

## **2b To what extent do you think the Committee acts in an open and transparent way?**

This question also elicited two very different sets of responses, with the majority of staff thinking that the Committee does not perform well in terms of openness and transparency and Committee members responding that they do. One commented that *'we're as good as any other Committee'*.

One head of service reported that *'we are only allowed to attend Committee meetings as an individual service and for a particular item, so we don't get the bigger picture'*. Another example of the perceived lack of transparency was the issue of access to the Committee minutes. For example, *'I used to get Committee minutes but now I don't even get minutes of discussions relating to my service'*.

## **2c To what extent do you think the Committee acts in an accountable way?**

The responses given in answer to this question indicate very mixed levels of confidence. Some staff interviewees thought the Committee does hold itself accountable, in theory. However, they added caveats that the Committee does not actually discharge its accountabilities adequately because it pays insufficient attention to strategic issues, thereby creating a strategic leadership vacuum.

Committee members clearly consider themselves accountable for operational matters but staff interviewees thought that the Committee placed less emphasis on its responsibility to provide strategic leadership and evidence-based decision-making.

## **2d To what extent do you think the Committee acts with integrity?**

### **As a Committee?**

Integrity is difficult to define objectively, as different people will place different value and emphasis on the various elements of integrity in leadership. Those elements may be summed up as; behaviour which demonstrates consistency of moral and social values, sustained over time, in different contexts and clearly communicated to others. Leaders who act with integrity are not merely passively virtuous but are actively willing to speak up when things go wrong and take action about a lack of integrity on the part of others<sup>8</sup>.

The reasons given by staff for negative judgments on the Committee's integrity include what they perceived as the President's dominance, which some staff interviewees considered makes it harder for the other Committee members to apply their own values and use their own judgement, thereby undermining the integrity of the Committee as a whole. Committee members strongly contest this view. Reasons given by staff for negative responses included, the perceived focus on raising individuals' political profiles, rather than acting in the best interests of service users and residents. Some staff interviewees expressed the view that the Committee sought to lay the blame for problems at the doors of heads of service but to claim the credit for successes. The Committee did dispute this view at its workshop.

### **As individuals?**

Although staff had low levels of confidence in the Committee's current ability to act with integrity, they did recognise that individual Committee members actually do wish to act with integrity. However, they felt that the way in which the Committee operated made it harder for them to do so. Committee members all felt that they do have integrity and do want to '*do our best*'.

## **2e To what extent do you think the Committee demonstrates clarity of purpose?**

There was a significant divergence of views on this question between staff and Committee members, with the Committee members considering themselves to be very good in terms of Clarity of Purpose whilst the majority of staff felt that Clarity of Purpose was lacking to a very significant degree. The reasons and examples given by staff included; the lack of leadership and strategic direction on priorities and policy,

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<sup>8</sup> Yukl, G.A. and Van Fleet, D.D. (1992) Theory and research on leadership in organizations, in: M.D. Dunnette and L.M. Hough (eds) Handbook of Industrial and Organizational Psychology, 2nd edn, vol. 3, pp. 147–197 (Palo Alto, CA: Consulting Psychologists Press).

as a result of which heads of service were obliged to work in a strategic vacuum or to devise their own strategies, for example, in Law Enforcement<sup>9</sup>.

Both staff and Committee members recognised that the scope of the Committee's responsibilities sometimes makes it difficult to achieve Clarity of Purpose because they *'don't have the time or space to drive the agenda in the way we'd like to'*. It is certainly evident that the Committee has a great deal of business to deal with. However, staff interviewees also reported that Committee members exacerbate this problem by wasting time by paying too much attention to operational issues, including those delegated to heads of service, as part of their statutory responsibilities. This view was supported by the contents of the minutes and agendas reviewed as part of the Document Review.

## **2f To what extent do you think the Committee is effective?**

Leadership is crucial to all aspects of good governance but particularly to the Committee's effectiveness. Essential elements of successful political leadership include the ability to continually seek knowledge, to develop trusting relationships and to empower others to fulfil their roles, to the best of their ability, for the benefit of the organisation and the people it serves<sup>10</sup>. The consistent evidence of staff interviewees suggests that the Committee often fails to demonstrate those essential elements of political leadership.

The majority of interviewees considered that the Committee is dysfunctional and not effective. Reasons given included; the combination of a lack of strategic direction with, what staff interviewees considered to be, an excessive interest in and even interference in, operational issues. This issue was raised in response to the question about 'Effectiveness' (in addition to Clarity of Purpose) because of the amount of time that most of the staff considered was wasted by the focus of the Committee's attention on operational matters. This was also evident from the reviewer's observation of the Committee meeting held 6<sup>th</sup> January 2019, at which the Committee discussed the HMICFRS report. During the meeting the Committee spent longer discussing twenty two operational 'areas for improvement', of relatively minor significance, which are, in any event, the responsibility of the HoLE, than it did discussing the key strategic recommendations of the Report, which should have been the main focus of Committee's attention.

The Committee minutes do not help to support the Committee's effectiveness. They do not conform with 'Cabinet' style, for example, 'after discussion it was agreed that action X would be taken forward because of reasons Y and Z' - specified in the Common Administration of Committee Meetings Guidelines 2016. The comments of individual, named, Committee members are reported in the minutes, which is not good practice. It is evident that discussions frequently stray both from the agenda,

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<sup>9</sup> HMICFRS Report 2018: Law Enforcement Delivery Plan 2017 – 2020

<sup>10</sup> Binney, G., Wilke, G. and Williams, C. (2005) *Loving Leadership: A practical Guide for Ordinary Heroes*. Financial Times/Prentice Hall; 2<sup>nd</sup> Edition 2009

to minor issues which could have been dealt with in other ways, such as the concerns of individual residents, and from the strategic to the operational.

Staff also commented that the Committee do not always make good use of the evidence that is presented to it. One example, was the commissioning of PwC in 2016, at a cost of over £100k, to explore opportunities to save money. The report highlighted the potential savings of £600k per annum that could be made by bringing together the Fire and Rescue Service with the Ambulance Service<sup>11</sup>. However, staff interviewees reported that this recommendation was not followed.

### **3 To what extent do you think the Committee receives effective support from the Office of the Committee for Home Affairs?**

All interviewees expressed strong personal goodwill and respect towards the Office but many felt that the support the Office was able to give sometimes fell short of what was needed. Reasons given by staff interviewees included; that civil servants in the Office had too much to do because the Committee did not focus on strategic issues or manage the demands it makes on the team. One example given of ways in which the Office's time is wasted was that the Head of Operations was obliged to '*interpret*' the Committee's discussions and minutes for heads of service because they are not allowed to see the minutes of meetings.

It is not clear when, why or by whom the decision was made to deny heads of service access to the full Committee minutes. However it happened, the fact that heads of service felt unable to challenge this situation reflects very low levels of trust. Some reported that their previous experience of attempting to improve working practices led them to believe that their concerns would not be listened to and that the decision to deny them access to the minutes would not be rescinded if they requested it. The President has now agreed that heads of service may see copies of the Committee minutes.

Interviewees also expressed the view that the oppressive manner and behaviour of the President towards heads of service also acted as a barrier to open discussions about change.

### **3 To what extent do you think external engagement with individual stakeholders is effective, e.g. does feedback from citizens, victims and other organisations, shape priorities?**

Staff reported that Committee members each take a very different approach to responding to queries from members of the public and that there is no coherent approach to engagement. This means that Committee members may be inappropriately influenced by a small number of members of the public who express

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<sup>11</sup> Committee for Home Affairs: Costing, benchmarking and prioritization – detailed findings PwC September 2017

minority opinions vociferously, while missing important evidence of the needs or concerns of individual stakeholders or groups who do not find it easy to engage directly with Committee members. It also means that Committee members may inadvertently become inappropriately involved in matters which should properly be addressed through the relevant complaints process.

## **5 To what extent is engagement and information sharing with the wider community effective?**

Almost all interviewees identified concerns about the lack of a coherent, strategic, systematic and co-ordinated approach to engagement and the reliance on a relatively narrow range of engagement methods, for example, the Crime Survey. This failure was attributed, by some, to a lack of resources and by others to a lack of interest on the part of some members of the Committee in engaging in an inclusive way.

Some expressed the view that Committee members are close to the local population and therefore know what issues are of concern to residents. However, anecdotal evidence, which is subject to many biases, is no substitute for evidence gathered through effective community engagement.

Some of the responsibility for this problem does lie with the States as a whole, rather than the Committee, because of the lack of a States-wide, consistent and coherent approach to community engagement.

## **6 To what extent is engagement with partners effective?**

Staff interviewees felt that there was no whole-system approach to the strategic leadership of criminal justice agencies and very little engagement with voluntary sector organisations or the judiciary. A Justice Review was commissioned in 2018. That is very late in the lifespan of the Committee. Opportunities to obtain efficiencies and improved outcomes, by better management of the pressures, in the criminal justice system as a whole, will certainly have been missed since 2016.

## **7 To what extent is engagement with other committees and functions within the States of Guernsey effective?**

There are many opportunities for the different Committees of the States to work together and with P & RC, to tackle thematic issues which cut across their diverse mandates, for example, innovative responses to families with complex needs, for which there is a wealth of available evidence about 'what works'. The Committee report that it has had meetings with other Committees, which is to be commended. However, the lack of a settled strategy makes it harder for the Committee to enter into strategic discussions with other Committee. The silos within which the principal

Committees operate, as well a lack of capacity and resources, certainly do not make it easy for Committees to work together.

## **8 To what extent do you think the Members' Code of Conduct is effective in ensuring the highest standards of good governance?**

Every interviewee was critical of the operation of the current Code of Conduct, to some extent. Some Committee member interviewees commented that it should not be necessary to invoke the Code by making complaints and that it should only ever need to be used in serious cases. Staff highlighted the widely held perception that the Code was not implemented fairly or in a suitably confidential manner. Others expressed views that the Code of Conduct panels are biased in favour of Committee members and that the existence of strong personal alliances, and even familial connections, between panel members and members of this or other Committees, undermined the confidence of staff and Deputies in the ability of the Code of Conduct to hold Committee members to account.

## **9 To what extent do you think the Code of Conduct for established staff is effective in supporting the highest standards of good governance?**

Some interviewees expressed dissatisfaction with the effectiveness of the way in which the Code is applied. Some highlighted the anomaly that exists in Law Enforcement, as a result of police officers being subject to one disciplinary process while the Border Agency staff are subject to a different one. Concerns were also expressed that the Code was most likely to be applied to junior members of staff whereas bad behaviour on the part of senior staff is not always dealt with effectively. Many interviewees felt that the process was cumbersome, slow and not fit for purpose.

## **10 Which achievements of the Committee for Home Affairs are you particularly proud of?**

None of the staff interviewees were able to identify any significant strategic achievements on the part of the Committee over the past three years. The only achievements that were mentioned by the Committee members in interviews were, Brexit preparations, the introduction of GDPR legislation and Population Management policies. Staff interviewees did not express the view that the Committee has not been working hard but a large number of relatively minor decisions, however necessary, is not a substitute for a robust and deliverable strategy.

At their workshop, Committee members did highlight the work they had done, in preparation for Brexit, as being very useful and important. It is evident that Brexit

has put a significant additional burden on the Committee, in common with P & RC and other Committees.

## **11 What aspects of governance cause you most concern?**

The behaviour of the Committee towards staff was highlighted as the most significant source of concern for them. Examples were given of Committee members speaking discourteously to heads of service. One example was given of two heads of service being interrupted by the President during a presentation of evidence and told that what they were saying was '*rubbish*'. The Committee's behaviour, as evidenced by the staff interview responses, frequently falls short of acceptable standards.

## **12 Is there any other aspect of governance that you'd like to explore in this interview?**

Several staff interviewees responded to this question by reiterating their concerns about the lack of openness and transparency and their views that the Committee did not consistently take advice or pay due attention to evidence before making decisions.

# **7 Conclusions**

## **7.1 Managing the boundary between politicians and heads of service and civil servants**

One of the most notable areas of difference between staff and Committee members, highlighted by the interview responses of both groups, is the view each takes of where the boundary between political and managerial responsibilities should lie<sup>12</sup>.

Staff interviewees thought that '*the Committee don't understand roles and responsibilities. They think they are responsible for everything, including the statutory responsibilities of service chiefs*'. Committee members, on the other hand, commented that they were '*close to the public and held to account by them*'. Although that may well be true, there remains a fundamental misunderstanding on the part of the Committee about where the boundaries lie between the accountabilities of the Committee, civil servants and heads of service and other parts of the organisation, including the P&RC.

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<sup>12</sup> Nalbandian, J., (2006) Politics and Administration in Local Government *International Journal of Public Administration* 29, 1049-1063

The HMICFRS report highlighted concerns about the Committee's ability to respect the boundaries between strategic leadership and operational management. It is incumbent on the Committee to be extremely careful that it never crosses the line between strategic oversight and involvement in operational issues.

Several examples were given, during the interviews, of occasions where the Committee had crossed those boundaries, including communicating directly with, and seeking information from, officers or more junior staff, about operational matters when the relevant head of service was not present. However, no evidence was presented that the Committee had tried to influence the decisions of Law Enforcement about individual cases.

One of the roots of this misunderstanding, about the nature and extent of the Committee's responsibilities, may be the wording of the Committee mandate (Red Book), which is confusing. It places the responsibility on Committees to 'oversee' delivery and also be accountable for the services that fall within its remit. However, it is evident that the Committee cannot, in practice, be responsible for delivery of services. By assuming responsibility for operational matters the Committee is actually increasing its own vulnerability to criticism.

The wording of the 2008 Policy Letter, from the States Review Committee, is more helpful than the Committee mandate in providing clarity about roles and responsibilities – *'Policy making and strategic direction are the province of politicians...there should be a clear and transparent separation between the two whilst being operationally free from political influence and interference'*. That may sound like a minor difference of interpretation, when compared with the wording of the Red Book, but it is actually fundamental. The heads of statutory services are personally and professionally accountable for the way in which their respective services are delivered. The Committee, on the other hand, is responsible for ensuring that the services have the right operational leadership and resources to deliver good outcomes for the people of the Bailiwick. These include; sufficient funding, within necessary financial constraints, and support from the Committee, in terms of strategic direction. The second report of the States Review Committee also provides additional clarification on the role of the Committee. *'Principal Committees should develop policy, advise the States on policy, review performance and budgets, and oversee and hold to account the delivery of services with a view to securing improved outcomes for the community (para 6.2.1)'*.

The other root cause of the divergence, in understanding of roles and responsibilities between staff and Committee members, is an apparent lack of trust by the Committee in the professional competence and motives of civil servants and heads of service. This is illustrated by instances reported by staff interviewees of when Committee members did not appear to be willing to listen to evidence that supported views different from their own preconceptions. However, Committee minutes do show that the Committee often follow the advice given to them, so the problems referred to by staff interviewees appear to be caused by a lack of trust on

the part of the Committee in staff's expert advice, rather than a generalised refusal to take advice.

Responses from some Committee members, though by no means all, suggested underlying assumptions on their part that staff are in need of control by the Committee. This reflects a fundamental misunderstanding of the role of civil servants. They are not mere 'apparatchiks' or cogs in a machine. They have *political* responsibilities, to take action to achieve the strategic objectives set by politicians but they also have *professional* responsibilities to act in ways that reflect their professional expertise and ethical standards and *personal* responsibilities and to act in ways that are consistent with their personal values and integrity<sup>13</sup>.

It is important to recognise that civil servants and heads of service add value to the organisation, through their personal and professional integrity, as well as through their knowledge and competence. The evident failure of the Committee *for* Home Affairs to recognise this added value, to choose sometimes to ignore their professional advice and to undermine their authority by straying into operational management, has damaged relationships and trust between the Committee and their staff to the detriment of the well-being and effectiveness of staff. Heads of service and civil servants have a broad range of skills, which enable them to undertake a wide variety of roles and navigate a complex system of government, without which no Committee can function<sup>14</sup>. If the Committee do not respect and utilise those skills, they will be wasting their greatest assets – the competence, capacity and integrity of their staff.

It is never appropriate to harass or bully staff, to issue threats about the security of their employment or denigrate them to third parties, but a number of staff interviewees offered examples of being on the receiving end of, or observing, this type behaviour by the President.

The Committee is, of course, entitled to seek assurance from the heads of service that their services are being well-managed, making good use of resources and delivering good outcomes. Civil servants and heads of service may make mistakes, for which they should be held to account. If problems do arise, the Committee's first recourse is to the Head of Operations, whose job it is to support the heads of service. This Review has not been offered any documentary or other evidence that statutory services are not performing well. On the contrary, for example, the HMICFRS report highlighted how well Law Enforcement is performing and the Annual Report of Guernsey Prison 2017, the 2017 Probation Annual Report and the Guernsey Fire and Rescue Report for 2017, all demonstrate significant achievements in their respective services.

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<sup>13</sup> Rayner, J., Williams, H., Lawton, A. & Allinson, C. (2011) *Public service ethos: developing a generic measure* Journal of Public Administration Research and Theory, Vol.21, Issue 1, pp 27 – 51.

<sup>14</sup> The 21<sup>st</sup> Century Public Servant <https://21stcenturypublicservant.wordpress.com/>

## 7.2 Focus on strategic issues

There is wealth of academic and practical literature available to the Committee, to provide guidance on strategic management, including what is and what is not a strategic issue. A classic description of core strategic management highlights six key types of issue, none of which relates to operational management:

- The scope of the organisation's activities;
- The organisation's environment;
- Strategic allocation and management of resources;
- Creating capacity by building resources and competencies;
- The values and expectations of leaders; and
- Achieving positive outcomes<sup>15</sup>.

Several staff interviewees commented that the Committee currently has a very high number of priorities: sixty at the time of the interviews in January and February 2019. Some staff were concerned that *'if everything is a priority, then nothing is'*. Some staff interviewees highlighted the lack of a strong link between the Policy & Resource Plan and individual services' priorities. The example was also given that the Committee had provided no strategic leadership to Law Enforcement, as a result of which the police developed their own policing plan for the period 2017 – 2020. During workshop discussions, the Committee did argue that its priorities do link to the Policy & Resource Plan. However, the very large number of priorities militates against effective delivery and the fact that these priorities were still being refined at such a late stage in the life of this Committee suggests a real lack of understanding of the importance and purpose of strategy.

The Committee is to be commended for commissioning a Justice Review, although it has done so too late in the life of the Committee for it to be able to act on any recommendations.

The efficient and effective functioning of the criminal justice system is a key strategic responsibility of the Committee and it should have been the focus of their attention much earlier in this term because of the current extraordinarily high levels and costs of imprisonment in Guernsey. Global statistical analysis<sup>16</sup> of the number of prisoners, per 100k of population, demonstrates how far Guernsey is from the norm. The figure for Guernsey in 2017 was 170 per 100k of population (pro rata), compared with 128 in Jersey and 139 in the UK. In Europe, only Hungary has a higher figure, at 173. Denmark, which enjoys a similar high trust and low crime environment to Guernsey, only imprisons 63 people per 100k of the population. This

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<sup>15</sup> Johnson, G., Scholes, K., & Whittington (2008) *Exploring corporate strategy: text and cases* (8<sup>th</sup> edn.) Harlow: FT Prentice Hall

<sup>16</sup> States of Incarceration: The Global Context 2018 <https://www.prisonpolicy.org/global/2018.html>

analysis is supported by World Prison Brief, which confirms the rate for Guernsey in 2018 is still as high, at 170.<sup>17</sup>

Of course, direct comparisons with other jurisdictions do not tell the whole story, but they do raise some key questions, for the Committee to pursue, about demand management, particularly failure demand, i.e. demand on the criminal justice system as a result of the failure of other services and avoidable demand, e.g. when early intervention or diversionary activities can reduce the risk of offending<sup>18</sup>.

The Committee needs to have a good understanding of the impact of other social policy issues, such as unemployment and homelessness, on offending. It should also be asking whether the States of Guernsey allocates enough resources to mental health, drug and alcohol services, restorative justice and community disposals, to help minimise the use of custodial sentences for vulnerable people, women and non-violent offenders. It is the responsibility of the Committee to seek out this evidence and act on it, in partnership with other Committees, to minimise the negative impacts of imprisonment and the cost to Bailiwick taxpayers, not only of unnecessary imprisonment, at a cost of £50k per prisoner per year, but the consequent costs to other services, including children's and families services.

None of the Committee members expressed concern in their interview responses, about the way in which the criminal justice system operates or the number or types of people who are currently imprisoned. These issues were highlighted by several staff interviewees.

### 7.3 Issues requiring attention by the States

There were a number of issues affecting the performance of the Committee that it cannot resolve by itself. Four key issues were highlighted during the Review:

- **Engagement**, at all levels is clearly not planned or managed effectively. Although the Committee itself could agree a more coherent approach to engaging with individual residents, with partners and other Committees, that would not solve the problems caused by a lack of an inclusive, coherent and strategic approach to engagement across the States as a whole.
- **The Codes of Conduct**, for both Deputies and established staff, were judged by interviewees to be not fit for purpose. Some interviewees did think that if governance was strengthened, then there would be fewer instances of the Codes being invoked.

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<sup>17</sup> : ([http://www.prisonstudies.org/highest-to-lowest/prison\\_population\\_rate?field\\_region\\_taxonomy\\_tid=14&=Apply](http://www.prisonstudies.org/highest-to-lowest/prison_population_rate?field_region_taxonomy_tid=14&=Apply)).

<sup>18</sup> Managing Demand: Building Future Public Service 2015 RSA [www.thersa.org](http://www.thersa.org)

- **The siloed nature of the principal Committees** militates against effective strategic responses to cross-cutting issues. It would be useful for the States to develop a thematic approach to complex issues, to enable Committee members, civil servants and heads of service to work together across Committee boundaries to develop policies which would help to improve the lives of residents and make better use of resources, as well as increasing the effectiveness of the States as a whole.
- **Development for Deputies, heads of service and civil servants** on good governance would help to increase their confidence in their various roles. The States does not currently have a shared language for good governance that would enable Deputies, civil servants and heads of service to challenge each other, discuss and resolve governance issues. This lack of a common understanding of good governance has contributed to the problems experienced by the Committee.

## 8 Recommendations

1. The Committee should work with civil servants and heads of service to redefine the boundaries between their strategic roles and responsibilities and the responsibilities of civil servants and operational heads of service. This should include, agreed and collaborative approaches to managing issues that have both strategic and operational elements.
2. A Protocol should be agreed, to set out clearly the boundaries between the Committee and the HoLE. Although not required by Recommendation 6 of the HMICFRS Report 2018, it would be good practice for the Committee to agree a similar document with the other heads of service, as they have also experienced behaviour on the part of the Committee which has crossed the line between the Committee's strategic responsibilities and their operational responsibilities. A draft Protocol has been written by the reviewer, which specifies how the Committee should distinguish between strategic and operational issues. That has now been passed to the Chief Secretary to the Committee to manage the process of consultation and discussion between all the parties. The Committee should adopt the final, agreed version of the Protocol – and abide by it.
3. The Committee should work with staff to build new relationships of mutual trust and respect. This will require the Committee to recognise the validity of the evidence that its governance is not currently good enough.
4. The Committee should undertake to adhere to the highest standards of governance;
  - **Independence** – the Committee should combine independence in its thinking with open-mindedness to new ideas and better ways of working.

- **Openness and transparency** – Committee minutes should be in ‘cabinet style’ and should include clear guidance to civil servants and heads of service on the actions and outcomes required of them. Full Minutes should be shared with all heads of service.
- **Accountability** – the Committee should be informed, in its understanding of respective accountabilities, by the agreements made in response to Recommendation 1 of this report and the terms of the Protocol, in the way in which it holds itself accountable.
- **Integrity** – the Committee should treat all staff with respect and should focus on achieving the best outcomes for all residents, not on gaining political or personal reputational advantage.
- **Clarity of purpose** – the Committee should develop and agree a small number of deliverable strategic priorities, in line with the Policy & Resource Plan.
- **Effectiveness** – the Committee should request and take note of expert advice, from staff or external sources, as appropriate, and be guided by that advice. Where the Committee choose not to be guided by evidence and advice, its reasons for that decision should be recorded in the Committee minutes.

## **5 Engagement with individuals**

The Committee should develop a consistent approach to dealing with individual resident’s issues, particularly directing people to the appropriate head of service or complaints process to resolve issues, rather than being drawn into detailed individual discussions.

## **6 Engagement with the wider community**

The Committee should take advice on how to improve its own community engagement and enter into discussions with the P&RC on the development of a coherent, consistent and inclusive States-wide community engagement strategy.

## **7 Engagement with partners**

The Committee should review its relationships with partners to identify ways of increasing opportunities for collaboration, in order to reduce costs and improve outcomes.

## **8 Engagement with other Committees**

The Committee should work with heads of service to identify cross-cutting issues where benefits could be gained by developing strategy and policy in partnership with other Committees, e.g. the Committee *for* Education, Sport & Culture and the Committee *for* Health and Social Care.

## **9 Supporting good governance for the future**

The States of Guernsey should provide a mandatory, engaging and rigorous development programme for new and returning Deputies, to be delivered after the elections in 2020. The aims of the programme will be to ensure a common understanding of good governance across all Deputies and to help Deputies to maintain the highest standards of governance. A mirror programme should also be provided for civil servants and heads of service to enable them to develop the skills and confidence to support good governance and to challenge Deputies in an evidence-based, positive and constructive way, when behaviour falls below acceptable levels.

**Catherine Staite**  
**Emeritus Professor of Public Management**

**19 June 2019**

# Appendices

## Appendix I

### Documents reviewed

A Framework for Public Service Reform 2015 – 2025 States of Guernsey,  
[www.goc.gg/change](http://www.goc.gg/change)

Agendas and Minutes of weekly meetings of the Committee *for* Home Affairs  
10.10.18 – 28.12.18

Guernsey Fire and Rescue: Report for year ending December 31<sup>st</sup> 2017

Guernsey Prison Annual Report 2017

HMICFRS Report 2018: Bailiwick of Guernsey Law Enforcement: an inspection of the  
capability and capacity of Guernsey Police and Guernsey Border Agency

Justice Review Scoping Document

Law Enforcement Service: Delivery Plan 2017 -2020

Police Reform and Social Responsibility Act 2011 – UK Parliament

Policy Letter 4.7.16 ‘New Police Legislation – Future of Law Enforcement’

Probation Annual Report 2017

PwC Committee *for* Home Affairs, Costing, benchmarking and prioritisation Report  
2016

Red Book – Committee mandate

Review of Governance – the States of Guernsey: Wales Audit Office 2009

Managing Demand: Building Future Public Service 2015 RSA [www.thersa.org](http://www.thersa.org)

States Review Committee Billet XII of 2015

States of Guernsey: Common Administration of Committee Meetings Guidelines  
2016

States of Guernsey Official Scrutiny Management Committee: HMIC Report Scrutiny  
Panel Hearing. Hansard 5<sup>th</sup> December 2018

States of Incarceration: The Global Context 2018

<https://www.prisonpolicy.org/global/2018.html> Prison Studies Report -  
[www.prisonstudies.org](http://www.prisonstudies.org)

# Appendix II

## Interviewees

- **Committee members;**
  
- President Lowe
  - Deputy Prow
  - Deputy Graham
  - Deputy Leadbeater
  - Deputy Oliver
  
- **Staff;**
  
- Chief Secretary to the Committee, Adrian Lewis;
  
- Head of Operations, Chelsea Martel;
  
- Current Head of Law Enforcement, Ruari Hardy;
  
- Previous Head of law Enforcement, Patrick Rice;
  
- Chief Fire Officer; Jonathan Le Page
  
- Chief Probation Officer, Anna Guilbert; and
  
- Prison Governor, David Matthews.

## **Appendix III**

### **Catherine Staite, LLB, MBA, ILM level 7 in Executive Coaching**

**Emeritus Professor of Public Management, University of Birmingham  
Fellow of the Royal Society of Arts**

Catherine Staite is an Emeritus Professor of Public Management at the University of Birmingham. She has undertaken executive and non-executive roles in a variety of organisations, including in the statutory and voluntary sectors, as well as the private sector. A lawyer by training, she worked in mental health and with criminal justice agencies, before becoming an academic.

In 2011, Catherine joined the Institute of Local Government Studies, at the University of Birmingham, as Director. INLOGOV is a unique centre for learning and research, as it brings together both academic insight and practical knowledge to support political and managerial leaders. During her years at INLOGOV, Catherine focused her teaching and writing on leadership and governance, particularly in local government.

In 2016, she was awarded a Professorship in Public Management. In 2017, she stepped down as Director of INLOGOV. She now coaches political leaders and provides support to local and national government on organisational development, governance and leadership.

Previous roles include; Associate Director at the Audit Commission from 2001 to 2005 and Director of Policy at the Office for Public Management, a not-for-profit organisation focusing on research and leadership development, from 2005 to 2011.

Non-executive roles include director of Rampton Special Hospital Authority, with responsibility for reviewing the continuing detention of patients and a member of the Board of Visitors at HMP Hull, with responsibility for the hospital wing.

During her years working in Birmingham, Catherine supported Birmingham City Council and the Mayor of the West Midlands in a number of advisory roles, including; Independent Member of Birmingham Strategic Leaders Forum for Children's Services, Independent Member of the Preventing Violence against Vulnerable People Board (BVVP) and Independent Member of the Steering Group of Birmingham Partners.