



Isle of Man
Government

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Department of Home Affairs

POLICE (AMENDMENT) BILL 2015

SUMMARY OF RESPONSES TO THE CONSULTATION

September 2015

1 Police (Amendment) Bill 2015

- 1.1 There are three issues that need to be addressed. The first issue is that a new understanding or interpretation of the law has been received in relation to the process for the appointment or re-appointment of the Chief Constable. The second issue is that there is no means by which matters or officers may be referred for investigation in relation to conduct or performance unless a member of the public has made a complaint, and then only in relation to an officer. The final issue is that the budgetary pressures on the Department and therefore on the Police are severe and unless another means of providing some police services is found certain existing services will inevitably have to be withdrawn or otherwise undertaken in a more limited form.
- 1.2 The purpose of the Bill as drafted is, therefore, to provide that an incumbent Chief Constable may be re-appointed without the full advertisement and interview process being undertaken; to empower the Chief Constable or the Police Complaints Commissioner to direct that certain matters be investigated even if a complaint has not been received by a member of the public; and to enable certain services currently performed by police officers to be contracted out.

2 The consultation

- 2.1 The Department published the draft Bill and Impact Assessment for consultation on 2nd June 2015, and the consultation subsequently closed on Wednesday 15th July 2015.
- 2.2 The consultation document, in line with the Isle of Man Government's Code of Practice on Consultation, was sent directly to various persons or organisations, including the following –
 - Tynwald Members
 - Acting Attorney General
 - Local Authorities
 - Chief Officers
 - Isle of Man Law Society
 - Liberal Vannin
 - Mec Vannin
 - Positive Action Group
 - Chief Constable
 - Chamber of Commerce
 - Isle of Man Employers Federation
 - Isle of Man Law Society
 - Isle of Man Constabulary
 - Isle of Man Police Federation
 - the Police Advisory Group
 - the Police Consultative Forum
 - Victim Support
 - Isle of Man Trades Council
 - Social Affairs Policy Review Committee of Tynwald
- 2.3 A press release was issued and details of the consultation were included in papers published and circulating in the Island. This document was also published on the Isle of Man Government's consultation website.

3 Outline and summary of responses to the consultation

- 3.1 The Department received seventeen responses to the consultation submitted either by letter or email, of which –
- eight were from Local Authorities;
 - four were from persons responding in their personal capacity;
 - one was from a Third Sector body concerned with the criminal justice system;
 - one was from a member of the Police Consultative Forum;
 - one was from a Government Department;
 - one was from a non-governmental organisation; and
 - one was from a Trade Union.
- 3.2 In issuing the Bill for public consultation the Department accepted the issues the Bill addresses, particularly contracting out the performance of certain functions and the “self-referral” of complaints, might elicit some definite views. The Department considered the third issue relating to the re-appointment of the Chief Constable to be a matter of clarifying the law. It has nevertheless appreciated the reasons for the views expressed in that respect.

4 Question 1:

The Department would value your views as to what other police functions could be contracted out.

- 4.1 Nine respondents were opposed to the contracting out of services on grounds including the view that contracting out would not accrue the savings expected, private contractors will look for profit rather than good service, contracting out may make the police less accountable and that contracting out may mean there are less police on the beat.
- 4.2 Some respondents who were not in favour of contracting out suggested that savings could be made by reviewing, or increasing, the deployment of the Department’s civilian staff, making better use of IT and cutting out duplication or by streamlining processes. One respondent doubted there would necessarily be further cuts to funding affecting the police as they are one of the least expensive police forces per head of population in the British Isles. Other respondents felt the case had not been made for contracting some or any services out and that, in any event, if the public call for the police, they should be entitled to see a member of the police force and not an employee of a private security firm.
- 4.3 Four respondents had no view or were equivocal in their response on this matter.
- 4.4 Four other respondents supported the principle of contracting out on the grounds that it would free up the police to perform their key functions, including that of front line policing and being available or visible to the public. One of those respondents suggested the collection of unpaid fines could be contracted out to Coroners Lockmen and that retired police officers or graduates with appropriate skills could be contracted in to support Scenes of Crime Officers; the checking firearms certificates and records; and the undertaking of some of the alcohol unit police functions.

5 Question 2:

If you do not consider it appropriate for any, or any particular, functions the police currently perform to be contracted out you are invited to explain why and indeed to accordingly indicate which functions you would be content for the police to cease performing.

- 5.1 Some respondents did not think contracting out would actually deliver the savings required or considered that whilst some functions could be undertaken by civilians they should be undertaken by the Department's civilian staff rather than by contract. One respondent did not consider it appropriate to contract out the role of investigating officer or community policing on the grounds this would undermine crime detection or prosecution work. The respondent suggested the police should not undertake the road safety function. Other respondents were concerned police accountability and public confidence would be diminished by contracting out functions currently performed by police officers.
- 5.2 One respondent not only considered contracting out to be inappropriate but felt there were no statutory services the police should cease performing. It was felt premature to ask what services the police should cease performing until a full review of all the services provided by Departments had been undertaken and the transfer of savings made by other areas of Government, by discontinuing the non-essential work, was quantified.

6. Question 3:

You are invited to indicate what further matters, in addition to death or serious injury following contact with the police, should be capable of being "self-referred" by the police for investigation.

- 6.1 There were six respondents supportive of the addition of other matters to be investigated as well as complaints from members of the public. The remaining respondents expressed no views on this matter.
- 6.2 One respondent suggested other matters for referral for investigation should be where serious allegations of crime are made in relation to senior officers. Other respondents gave a more open suggestion that any matter should be capable of being referred for investigation. A respondent made the point that where there is a list of matters that may be investigated there may arise a matter that should be investigated but cannot be referred because it falls outside the list.

7 Question 4:

The proposals provide for the Chief Constable and the Police Complaints Commissioner to have the power to "self-refer" matters for investigation. Should the Department also have the power to order an investigation of a specified matter in the event neither the Chief Constable nor the Police Complaints Commissioner does so?

- 7.1 Five respondents addressed this question, of which four submitted that it was not appropriate for the Department to have a role in referring matters for investigation and the remaining respondent was supportive of the Department being able to self-refer.

8 Other matters

- 8.1 Four respondents referred to clause 3, which concerned the re-appointment of the Chief Constable. One was supportive, whilst the others felt the incumbent Chief Constable should be required to reapply for his position and then only after it has been advertised. One respondent felt that if after due process the incumbent was re-appointed it should be for one further term of 5 years and not for an indeterminate term.

9 Outcome of the consultation

- 9.1 The Department carefully considered the responses to the matters referred to in the consultation document, and will be responding directly to some persons or bodies. In determining to press ahead with the Bill as drafted the Department had regard for the matters referred to in relation to contracting-out, the "self-referral" of complaints and the re-appointment of an incumbent Chief Constable for the reasons indicated in the paragraphs below.

Contracting-out

- 9.2 The Department fully understands the concerns of individual respondents and those responding on behalf of Local Authorities in relation to the proposals in clause 4. As indicated in the consultation document, the financial and budgetary situation is such that the Department considers alternative means must be sought in order to maintain those functions that are absolutely necessary for the Isle of Man Constabulary to combat local and international crime; maintain an effective presence on the streets; and engage in activities that help to bind the Constabulary and the community together in a partnership of mutual support and respect. Unless other ways of performing functions are found that free up police officers to perform these activities, then those officers will be engaged in operations that mean they are less visible on the streets, and the Department understands from all of the respondents that latter outcome is not desired. It remains the reality that, unless alternative cost effective ways of working are found, the Chief Constable may have no alternative but to reconfigure services, or indeed to cut out services, to fit current limited financial circumstances.
- 9.3 As the Department and the Chief Constable have made clear in recent times, neighbourhood policing has been a very effective model for enhancing public confidence, increasing a local police presence and combatting crime. Such policing is nevertheless resource intensive and unless the means are found to enable the model to continue it appears some hard choices will have to be made by the Chief Constable.
- 9.4 The Department is grateful for those helpful suggestions from respondents in terms of reviewing services, cutting out duplication and making greater use of information technology. The Department also appreciates the suggestion from some that if police officers are to be released from certain functions then these should be undertaken by direct labour. This matter has been examined and it would actually be more expensive, and less effective, to civilianise certain functions and employ, or redeploy from other areas of Government, extra civilian staff.
- 9.5 The Department notes the concern of some respondents that by contracting-out services the accountability for actions taken in the name of the Isle of Man Constabulary will be reduced. However, back office functions, such as the pure gaoler functions in the Custody Suite, can be undertaken by staff under the supervision of police officers. The proposed provisions would also place such personnel within the complaints process, so they will be accountable not only to the police sergeant or other senior officer. If other functions, such as that of investigating officer, are contracted out it is likely they will be former police officers with appropriate experience. In every case contracted personnel will operate within the law enacted by this Bill and under the supervision of police officers of appropriate rank and experience for the task contracted-out.

"Self-referral" of complaints

- 9.6 The Department noted most comments were made in response to the proposal to contract-out services. Insofar as responses were directed to the proposal to extend the power to investigate complaints to include matters referred by either the Chief Constable or the Police Complaints Commissioner there was broad support. Some consultees indicated strong reservations about the Department being given power to refer matter for investigation, as suggested by consultation question 4. Accordingly, the Department will not amend the Bill to enable it to refer matters for investigation – that power will be limited to the Chief Constable and the Police Complaints Commissioner.

- 9.7 In relation to the question of what kind of matters, other than death or serious injury, the Chief Constable or the Police Complaints Commissioner should be able to refer for investigation the Department will consider this issue further in the event the proposals in the Bill are adopted by the Branches and receive the Royal Assent.

Re-appointment of Chief Constable

- 9.8 The Department was intrigued by the interest shown in this minor piece of drafting concerned with those occasions where it wishes to re-appoint a serving Chief Constable who has completed his term, or is nearing the end of his term, of appointment. It appreciates the view of some respondents that there should not be any assumption that a serving Chief Constable will be re-appointed, and concurs. However, the proposal is simply to provide legal clarity to recognise that it is a waste of public money to be required to go through an entire recruitment process when the Department is satisfied with the performance of the incumbent Chief Constable, and that person is willing to continue in office. The Department believes it is important to retain the legal flexibility to be able to re-appoint the incumbent Chief Constable for a further term. Given the career pattern of officers and other factors, it will be unlikely that a person will serve more than 10 years (or two terms) as Chief Constable of the Isle of Man Constabulary in any event. The Department, in retaining this provision as drafted, is grateful for the interest shown in this matter.

10 Conclusion

- 10.1 In preparing the Bill and submitting it for consultation, the Department understood that there could be some respondents who would be most interested in the proposals to provide legal powers for the Department to contract-out certain police functions. The other issues attracted less comment and the Department is grateful for the views expressed.
- 10.2 In determining to press ahead with the Bill as drafted, the Department recognises the proposals relating to contracting-out are a bold step. The harsh reality is that unless it is able to seek best value and empower the Chief Constable to deliver some of the functions currently performed by officers under contract conditions the police service delivered to the community, including visibility on the street, may well have to be somewhat less than is enjoyed at present. It would be regrettable if that were proved to be so.

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Department of Home Affairs



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