

## Response of the States of Jersey Police to the Criminal Procedure Law Consultation

### Questions on Juries

#### **Response**

It is important that Jersey is seen to be promoting modern standards in respect of equality. Jersey has made significant progress in this regard by passing the Discrimination (Jersey) Law 2013 and the regulation in 2016 which made age a protected characteristic.

The older population has much to offer and should not be prohibited from serving on a jury. If the age limit is increased it should better reflect life expectancy and result in a local jury being more representative of the community which it serves.

The proposed increase to 72 years appears to be in line with the retirement age for Jurats, States Members and members of the judiciary.

Although serving police officers in UK have not been exempt from Jury service since 2004, SOJP has considered whether locally serving police officers should be exempt from jury service as a matter of course.

Jersey is small geographically and the potential for conflict is high. However, it is noted that Article 63 of the draft Law preserves the power of the Viscount to exempt an individual from jury service thereby allowing cases to be considered on an individual basis.

### Questions on Disclosure

#### **Response**

SOJP raises concerns at this juncture about both the resourcing of its disclosure requirements and the potential for delay in prosecutions generally.

There has been an increase in reporting sexual offences (both recent and non-recent). These cases are often very complex and resource intensive requiring the gathering, assessment and disclosure of a wide range of third party material. Lengthy investigations create a period of huge uncertainty for victims of sexual abuse and clearly exacerbate the trauma experienced by children and their families.

SOJP experiences delays generally in obtaining third party material from partner agencies which is quintessential to prosecutions for sexual offences concerning both adults and minors but may still be relevant to a broader range of offences.

It is understood that these departments have limited resources available to attend to police disclosure requests.

SOJP endorses the requirement for a defence case statement. In the absence of such a requirement it is difficult to perceive how the prosecutor's obligations can be discharged.

A maximum deadline of 28 days is proposed for the submission of a defence case statement after the prosecution has complied with Article 79 (3).

An additional deadline for subsequent amendments should be imposed after the disclosure process is complete, failing which it is foreseeable that trials may be delayed for tactical reasons.

#### Questions on compellability

##### **Response**

SOJP agrees with the proposals to increase the range of offences where a spouse or civil partner may be forced to give evidence for the prosecution against his or her spouse, so as to include all offences that might be used to tackle domestic violence.

However, it is acknowledged that the decision to compel a witness to attend court with a view to giving evidence for the prosecution against his or her expressed wish is one that should be exercised with a significant degree of sensitivity and discretion. Consequently it is the position of SOJP that the decision should be made by a senior prosecutor.

#### Questions on special measures

##### **Response**

SOJP agrees with the introduction of special measures.

#### Questions on hearsay

##### **Response**

It is acknowledged that rules governing hearsay in criminal cases can be complex.

It is noted that the proposed amendments seek to adopt substantive parts of the hearsay provisions found in the Criminal Justice Act 2003.

SOJP query why certain parts have been omitted and whether it would be preferable to adopt the provisions in their entirety.

#### Questions on bad character

##### **Response**

SOJP agrees with the proposals in respect of bad character provisions.

**Questions on trials of children and young children**

**Response**

It is proposed that consideration is given to the Scottish Government's model entitled Whole System Approach for Young People Who Offend.

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