

**Open Minutes of the Special Social and Community Development Committee Meeting  
held on Wednesday, 19 May 2021 at 11 am in the Council Chamber**

<b><u>Present:</u></b>	<b>Chairman:</b>	Hon Anthony Green, Chairman (Hon TG)
	<b>Deputy Chairman:</b>	Hon Cyril Leo (Hon CL)
	<b>Members:</b>	Hon Derek Thomas (Hon DT) Hon Jeffrey Ellick (Hon JE) Hon Gavin Ellick (Hon GE)
	<b>Non-Voting Members:</b>	Mrs Gillian Francis, Deputy Chief Secretary (GF)
	<b>Secretary:</b>	Mrs Nicole Plato, Executive Assistant, Corporate Services (NP)
	<b>Apologies:</b>	Mrs Tracy Poole-Nandy, Director of Children & Adults Social Care (TPN) (non-voting member)
	<b>Invited:</b>	Mr Allen Cansick, Attorney General (AG) – <i>for item 2 only</i> Ms Catherine Williams, Legislative Drafter (CW) – <i>for item 2 only</i> Mr David Price, Ag Chief of Police (DP) – <i>for item 2 only</i>

Hon TG welcomed all to the meeting with a special welcome extended to the AG, CW and DP.

**1. Declarations of Interest**

No declarations of interest were made. Members were reminded to declare their interest when necessary throughout the meeting.

**2. Police & Criminal Evidence (Amendment) Bill 2021**

The AG advised that this is an urgent bill that replaces the Criminal Procedure Amendment Bill brought to SCDC on the 26 April 2021 and therefore would like this bill to be submitted to ExCo soon so as to be agreed at LegCo on the 28<sup>th</sup> May.

DP advised that this issue had arisen because of recent cases coming through the magistrate's court where it was recognised that the current law does not allow pre-charge bail conditions but it does for post charge bail. This is particularly helpful to have in place for domestic violence cases as you would need to have control over the alleged offender. This capability has been in place in the UK since 2005. The reasons to implement pre-bail conditions is to ensure the person comes back to custody, that they don't commit any further offences while on bail and to ensure the safety and additional protection to victims, witnesses and the general public. It will also prevent custody having to be used in some cases.

Hon GE declared his interest.

DP said that currently there is nothing stopping the offender from approaching people to change their story as pre-charge bail conditions is not yet enshrined in legislation but this amendment bill will make it legal to enforce these conditions. It was noted that the Chief Magistrate had also had sight of the bill.

Comments and questions from the meeting were as follows:

- How does the Court get involved in a pre-charge bail case? *The AG said that you could write to the Police and apply to the court as well. You can make an application on the basis that it is disproportionate to the matter being dealt with.*

- The bill says 'a Police Officer' but does the Chief of Police have to sanction the decision? *DP clarified that this bill gives Police Officers additional powers to make these decisions but if they were at the Police Office, then the Sergeant would make the decision. However, any ranking Police officer can make the decision outside of the Police office.*
- This amendment bill should be a subject for public consultation. *The AG said that this bill will not need to be consulted on with the public as this deals with peoples liberties. Police powers have never been a subject for public consultation in any case. Hon JE said that this does not sit comfortably with him in placing this power on the custody officer as we have the courts in place and we should be working expeditiously on these things in any case.*

DP said that another example why this might be necessary for a longer period of time is because recently there were court cases on the inappropriate use of mobile phones and we cannot charge the alleged offender until we get evidence from the phones which is sent to the UK and a person have to be on bail whilst the phone is overseas. We need to ensure that the offender does not try to contact the witness whilst the phone is off island as well.

CW reviewed the draft amendment bill with the Committee.

DP clarified that the Police Headquarters and the Prison are designated detention Centre's under the police service act.

Comments from the meeting were as follows:

- There must be justification for searching premises. *CW said that this is catered for under section 17 of the ordinance. DP said that this will allow them to conduct the search and bail them at their home address which is a much more proportionate way of dealing with them instead of bringing them into custody. Hon JE expressed concern over bailing them at their house.*
- You could be placing bail conditions on the person and it is not necessary if you don't have sufficient evidence to do so. *The AG said that the Police have been imposing conditions that was unenforceable but this puts it in the law now and allows them to enforce these conditions legally.*  
DP said that currently, the Police cannot cease your passport pre-charge bail which means that a person could leave the Island to avoid justice being brought in court.
- On St Helena, instead of ceasing a person's passport, all you need to do is disallow them from boarding the plane. *CW said that you would need to have a basis for doing so and would therefore need bail conditions to be in place and enforceable by law.*
- Training needs to be in place for officers. *DP advised that a proper training programme is in place which covers the custody role and there is also processes and guidance in place for all Police officers to access.*

Hon JE and Hon GE were not in a position to endorse the bill and asked for more time to make their decision.

The Committee endorsed the Police & Criminal Evidence (Amendment) Bill 2021 to allow in criminal cases, the Police to have powers to enforce pre-charge bail conditions including the requirement to surrender to police custody at a later date, subject to any strong concerns that Hon JE and Hon GE might have which can be taken into account at ExCo if needed. They were offered to make written submissions if they so choose. The Legislative Drafter was also requested to expand her explanatory in the bill in time for ExCo/LegCo.

**(Action: AG/Hon JE/Hon GE/CW)**