

# **A review of law enforcement and criminal justice bodies in the British Virgin Islands**

**Volume 2 – a road map for 2025  
to 2035**

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# Foreword

As HM Chief Inspector of Constabulary and Fire & Rescue Services, I consider it a privilege to have been invited to review law enforcement and criminal justice bodies in the BVI. And from the outset, I want to thank all those who contributed or assisted us with this review. I understand the islands have received a significant amount of scrutiny in recent years. Such scrutiny may sometimes be difficult to accept and respond to positively. It was the [Commission of Inquiry](#) report, published in April 2022, that led us to carry out this review. And our review aims to help improve public services for those who live and work in the BVI.

This is the second volume of our report. The first volume, published in May 2024, focused on:

- immediate problems that the BVI could address quickly, and would have the greatest positive effect on outcomes for the public in the short-term; and
- current and future problems that gave us the greatest cause for concern, but which may not be easily resolved. These often relate to issues that affect the health and safety of the public, and of BVI law enforcement and criminal justice personnel.

Our recommendations intended to make communities safer.

In this report, we make further recommendations to develop the law enforcement and criminal justice bodies over the next ten years. These deal with issues that are longer term. Many of the 375 recommendations we make for their resolution would require substantial additional funding and involve significant change. I recognise the challenges and dilemmas that they create.

Many of the issues we identify aren't new and have developed over a significant period of time. While accepting the constitutional arrangements of the BVI, the Governor, Government of the Virgin Islands and, in some cases, the UK Government, all have a part to play in implementing the improvements we recommend. A systemic response is needed to a wide range of complex and interconnected issues, the impact of which go far beyond the BVI.

While carrying out the review, a wider concern has become starkly apparent. This is the impact of not having a consistent, coherent or holistic programme of review and inspection across the British Overseas Territories' and Crown Dependencies' law enforcement and criminal justice sectors. For this reason, this report includes recommendations that are more broadly applicable than to just the BVI. I shall also be writing to the Secretary of State for Foreign, Commonwealth and Development Affairs to highlight those more wide-reaching issues.



**Sir Andy Cooke QPM DL**  
His Majesty's Chief Inspector



# Introduction

We carried out this review at the request of the then Governor of the BVI, John James Rankin CMG, in response to recommendations 38 and 41 of the 2022 [Commission of Inquiry](#) report.

We were commissioned to review nine public sector bodies:

1. the [Royal Virgin Islands Police Force](#)
2. [HM Customs](#)
3. the [Financial Investigation Agency](#)
4. the [Department of Immigration](#)
5. [HM Virgin Islands Prison Service](#)
6. the [Office of the Director of Public Prosecutions](#)
7. the [Magistrate's Court](#)
8. the [Eastern Caribbean Supreme Court](#)
9. the [Attorney General Chambers](#).

We also reviewed some of the roles and capabilities of the [Governor's Office](#), the [Deputy Governor's Office](#), the [Department of Human Resources](#), the [Financial Services Commission](#), the [Civil Registry and Passport Office](#), [Virgin Islands Search and Rescue](#) and the [National Crime Agency](#). We examined the part these organisations play in law enforcement and criminal justice in the BVI and in supporting the BVI's law enforcement and criminal justice bodies.

We provide the findings and recommendations from our review in two volumes. In [volume one](#), published in 2024, we focused on recommending action that law enforcement and criminal justice bodies could address quickly. We also addressed current and future problems that gave us the greatest cause for concern, but which may not be easily resolved.

The recommendations we made in volume one remain valid regardless of the more fundamental and long-term changes proposed in volume two.



In this second volume of our report, we set out a road map for change over the next ten years. It details improvements to how some of these bodies operate and how some functions might be carried out more efficiently or effectively. This includes:

- options for the creation of new capabilities;
- the integration or amalgamation of some functions;
- improved co-operation or collaboration between bodies; and
- the redesign or restructure of organisations and their oversight arrangements.

We also consider the role of the National Security Council in providing a platform for oversight of law enforcement and criminal justice, among many other threats and risks.

This road map necessarily focuses on what needs to be done to improve law enforcement and criminal justice in the BVI. This shouldn't be interpreted as meaning that we didn't see, or are dismissing, the good work taking place in the bodies we reviewed. We saw plenty of examples of good work by committed, dedicated and conscientious public servants.

In volume one of our report, we set deadlines for public sector bodies to implement our recommendations. In this volume, we have taken a different approach. We have arranged the recommendations in three phases:

- phase 1 recommendations should be completed by the end of 2028;
- phase 2 by the end of 2031; and
- phase 3 by the end of 2035.

That isn't to say that organisations should wait until 2031 to start work on phase 3 recommendations. These are recommendations that will require significant change and may take many years to achieve.

## **Background**

On 4 April 2022, the Rt Hon Sir Gary Hickinbottom presented the then Governor of the BVI, John James Rankin CMG, with a BVI Commission of Inquiry report. This report was far-reaching in its examination of the BVI's social, political, economic and constitutional arrangements.

Part of the inquiry examined the public sector and made a range of recommendations for change. Among these were two recommendations that related to the provision of law enforcement generally, the criminal justice system and the prison service.

#### Recommendation 38 (part 1)

“I recommend that there is a review of the law enforcement and justice systems, to include not only the front-line agencies (such as the Royal Virgin Islands Police Force, the Financial Investigation Agency, HM Customs and the Immigration Department, insofar as the last two mentioned are involved in the law enforcement system), but also the Prison Service and the Office of the Director of Public Prosecutions. Consideration should be given as to whether it should also cover the whole or parts of the Attorney General Chambers and/or the courts.”

#### Recommendation 38 (part 2)

“I recommend that this review forms an element of the Constitutional Review I have proposed. The scope of the review will need careful consideration but it should in my view include a review of (i) structure (including whether the front-line law enforcement agencies should have a lead agency and what should that be, and under which arm(s) of government should law enforcement lie; and, particularly, where responsibility for border control should lie), (ii) resources and funding, (iii) conduct and standards, and (iv) terms and conditions. The review need not be a single project – strands will need to be identified and prioritised – and it can draw on the work of reviews currently in progress in relation to the Royal Virgin Islands Police Force and the Prison Service.”

#### Recommendation 41

“I recommend that consideration is given to ensuring that the Royal Virgin Islands Police Force and (as necessary) other enforcement agencies have the facilities and powers to prevent, monitor and detect crime, and prepare matters for prosecution, including by way of access to and use of modern scientific techniques and intelligence material. This can be done through a panel comprising representatives of (e.g.) the Attorney General, the Director of Public Prosecutions, the Police Commissioner, HM Customs Commissioner and the Immigration Department, with external expertise being brought in as and when required. The panel should prepare a report, setting out recommendations as to what is required, to be presented to the Governor.”

To achieve these two recommendations, in support of the [‘Framework for Implementation of the Recommendations of the Commission of Inquiry report and Other Reforms’](#), Governor Rankin invited us to carry out this review. We agreed with the [Governor’s Office](#) that our report will be published in two parts: volume one and volume two.

## About us

His Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) independently assesses the effectiveness and efficiency of police forces and fire and rescue services to make communities safer. In preparing our reports, we ask the questions that the public would ask, and publish the answers in accessible form. We use our expertise to interpret the evidence and make recommendations for improvement.

## Methodology

In this review, we evaluated a range of disparate organisations. To make sure we were able to do this effectively, we drew together a team with knowledge and experience of law enforcement and criminal justice bodies.

In reaching our findings, we have, where appropriate, made comparisons with practices in other British Overseas Territories and Crown Dependencies and, occasionally, in England and Wales. We have drawn on professional guidance from other agencies, such as the [College of Policing's 'authorised professional practice'](#). We have also referred to findings from other inspection reports and reviews. In addition, we met with personnel from law enforcement agencies in the neighbouring US Virgin Islands.

We acknowledge that the BVI is a relatively small territory, with its agencies operating in a unique geographic, political and financial environment. Throughout our review, we took account of this context.

## Consultation

In preparation for, and during, the review, we consulted with several organisations and bodies, including:

- [Air Safety Support International Ltd](#);
- the [Bermuda Police Service](#);
- the [BVI Governor's Office](#);
- the [BVI Deputy Governor's Office](#);
- [Caribbean Community Implementation Agency for Crime and Security](#);
- the [Cayman Islands Anti-Corruption Commission](#);
- [Cayman Islands Customs and Border Control](#);
- the Cayman Islands Coast Guard;
- the [Cayman Islands Ombudsman](#);
- [Douanes and Droits Indirects](#) (France);
- [HM Crown Prosecution Service Inspectorate](#);
- [HM Inspectorate of Prisons](#);

- [HM Revenue & Customs;](#)
- the [Integrity Commission of the Turks and Caicos Islands;](#)
- the [Jamaica Independent Commission of Investigation;](#)
- the [Jamaica Major Organised Crime & Anti-Corruption Agency;](#)
- [Merseyside Police;](#)
- the [Ministry of Defence Police;](#)
- the [National Police Chiefs' Council;](#)
- [Police Scotland;](#)
- the Premier of the Virgin Islands;
- the Premier's Office;
- the Regional Security System, Barbados;
- the [Royal Anguilla Police Service;](#)
- the [Royal Canadian Mounted Police;](#)
- the [Royal Cayman Islands Police Service;](#)
- the [Royal Gibraltar Police;](#)
- the [Royal Montserrat Police Service;](#)
- the [Royal Navy;](#)
- the [UK College of Policing;](#)
- the [UK Foreign, Commonwealth & Development Office;](#)
- the [UK Home Office;](#)
- the [UK Independent Chief Inspector of Borders and Immigration;](#)
- the [UK International Policing Assistance Service;](#)
- the [UK Joint Maritime Security Centre;](#)
- the [UK Ministry of Justice;](#)
- the [UK National Crime Agency;](#)
- the [US Drug Enforcement Administration;](#)
- the [US Federal Bureau of Investigation;](#)
- the US Virgin Islands Police Department;
- [United States Coast Guard;](#)
- [U.S. Customs and Border Protection;](#) and
- the [World Customs Organization.](#)

We express our thanks to all these organisations and others for their assistance. Particular thanks go to the Joint Maritime Security Centre, the Foreign, Commonwealth & Development Office, the Ministry of Defence Police, the Ministry of Justice Overseas Territories justice programme team, the Royal Gibraltar Police, the UK Financial Intelligence Unit, and the International Policing Assistance Service. We are also grateful to Dr Mary Young of the University of the West of England for her insights into law enforcement in the region.

## **Fieldwork**

We carried out the fieldwork in November and December 2023.

As part of that fieldwork, we:

- interviewed personnel at all levels in the organisations we reviewed;
- attended management meetings and personnel briefings;
- carried out [reality testing](#) with personnel;
- surveyed personnel and some service users; and
- carried out site visits to the organisations' premises on the four main islands.

We also analysed data and documents, including self-assessments and performance data provided by the organisations. And we reviewed relevant case files in several of the organisations.

The findings in this report reflect the assessment we made based on evidence gathered during our site visits in November and December 2023. This includes interviews and surveys, and documents we reviewed in 2023 and 2024.

When describing what we found, we use the past tense throughout this report. It refers to the situation we found in November and December 2023, unless stated otherwise.

# Context

This road map presents recommendations for change which will benefit the BVI, the region and the UK. The recommendations will also help the BVI to fulfil its wider international legal obligations. Stability and security in the BVI are undermined by local serious crime and corruption and transnational [organised crime](#) (including financial crimes). Ineffective law enforcement and criminal justice processes compound poor border security. These problems present considerable challenges to the UK as well as the international community.

In this road map we make 375 recommendations. While these cover a wide spectrum of issues, most are designed to:

- improve governance and oversight of law enforcement and criminal justice organisations;
- tackle international organised crime and protect the BVI's borders;
- tackle illicit finance;
- make the criminal justice system more efficient;
- tackle corruption and improve conduct and standards; and
- protect vulnerable people and safeguard fundamental rights and freedoms.

## Our main findings

### **Improving governance and oversight of law enforcement and criminal justice organisations**

We found that the current governance arrangements weren't optimised to support the law enforcement and criminal justice bodies in performing their roles. Our recommendations include:

- [re-assigning governance responsibilities for law enforcement and criminal justice](#); and
- [restructuring and broadening the responsibilities of the National Security Council](#).

## **Tackling organised crime and protecting the borders**

At the time of our review, [organised crime groups](#) were acting with near impunity in the BVI. The BVI's agencies need to take a far more proactive, integrated approach to tackling the threat posed by organised crime. We recommend a broad range of measures including:

- creating a new [Maritime Security Law Enforcement Agency](#);
- merging HM Customs and the Department of Immigration to [create the BVI Customs and Immigration Border Agency](#); and
- creating new [intelligence structures across the BVI's agencies](#) and [across the region](#).

## **Tackling illicit finance**

We found problems with BVI agencies' capacity and capability to tackle illicit finance. During our review, the [Caribbean Financial Action Task Force \(CFATF\)](#) published its '[mutual evaluation report on the BVI's anti-money laundering and counter-terrorist financing measures](#)'. The report highlighted significant shortcomings in these measures and gave the BVI until February 2025 to make progress. If it fails to do this, the FATF will place the BVI on the 'grey list' of jurisdictions under increased monitoring. This would have a negative effect on the BVI economy and potentially affect the UK economy. Considering this and our findings, our recommendations include:

- creating a [BVI Bureau of Financial Investigation](#); and
- [realigning the Financial Investigation Agency's and Financial Services Commission's roles and responsibilities](#).

## **Streamlining the criminal justice system**

We found delays in the criminal justice system and barriers to effective prosecution. To address this, our recommendations include:

- [reforming the jury system](#);
- [modernising the criminal procedure rules](#); and
- [reviewing the remand process](#).

## **Tackling corruption and improving conduct and standards**

We make several recommendations to tackle corruption in the BVI public service and raise standards, including:

- [changes to the vetting regime](#);
- the [reform of the Integrity Commission](#) and of [whistleblowing arrangements](#); and
- [strengthening organisational justice](#).

We also recommend the limited use of polygraphing to assist vetting of higher-level personnel in high-risk roles. This is because some elements of UK vetting can't be applied in the BVI, or to foreign nationals from other Caribbean jurisdictions. Polygraph examinations are currently used by many regional law enforcement agencies in places where corruption is prevalent. UK police chiefs are looking at the feasibility of its use to aid vetting for certain roles in England and Wales.

### **Protecting vulnerable people and safeguarding fundamental rights and freedoms**

The BVI courts have held that the [European Convention on Human Rights](#) applies in the territory through the jurisdiction's constitutional relationship with the UK. We found that the conditions experienced by prisoners, detainees and those held in police custody infringed their human rights. We recommend:

- far-reaching changes to [the prison's](#), [police custody suite's](#) and [immigration custody centre's](#) facilities and practices to address these problems; and
- creating a [multi-agency safeguarding hub and a multi-agency risk assessment conference](#).

### **Support for the BVI**

We recognise that our recommendations are far-reaching and ambitious. And that some of our recommendations may be unpopular in some quarters. But our assessment, based on the evidence collected during the review, is that they are necessary.

Changes on the scale we recommend will be challenging and expensive. While we recognise there are finite resources, this road map addresses historic underfunding in the British Overseas Territories (BOTs) across the law enforcement and criminal justice sectors. Significant strategic investment will be needed to modernise agencies' facilities and equipment, which have been under-invested in for decades. And further investment is needed to develop agencies' capabilities and capacities to an acceptable standard.

Addressing our recommendations will also need commitment, leadership and dedication from HM Government of the United Kingdom and Northern Ireland ("UK Government"), [the Governor's Office](#), the Government of the Virgin Islands and law enforcement and criminal justice bodies. And they will need help to do this. Since we published [volume one of our report](#), the Governor's Office appointed a law enforcement review implementation manager. Funded by the UK Government, this role will help to manage the implementation of our initial recommendations. This is a good development.



But we are concerned that, even with this additional post, the Governor's Office isn't sufficiently resourced to oversee the implementation of our recommended changes. We therefore recommend that the Governor's Office works with the Foreign, Commonwealth & Development Office (FCDO) to recruit appropriately skilled and experienced people to form an implementation team. This team should combine expertise from the BVI, the UK and elsewhere and be distinct from the National Security Secretariat that we recommend establishing [later in the report](#).

### **Recommendation 1 – Phase one**

The Governor's Office should work with the Foreign, Commonwealth & Development Office to recruit appropriately skilled and experienced people to form an implementation team. This team should work with the Governor's Office and the Government of the Virgin Islands to implement this road map.

### **Capacity of the Attorney General Chambers**

We make recommendations for legislative change in this report. This will put a considerable burden on the limited legislative drafting resources in the Attorney General Chambers. Therefore, we recommend that the Governor makes funding available to recruit more legislative drafters or secures assistance from UK drafters.

### **Recommendation 2 – Phase one**

The Governor should arrange for the recruitment of more legislative drafters or secure assistance from legislative drafters in the UK.

## **Support from the UK Government**

In November 2024, the Joint Ministerial Council issued a [UK and Overseas Territories Joint Ministerial Council 2024: communiqué](#) agreeing closer collaboration. It stated:

“Responsibilities for the security, safety and wellbeing of our citizens are shared across the UK Government and Overseas Territories. The Home Office and Foreign, Commonwealth & Development Office will continue to work in partnership to identify and address the key security challenges in the Overseas Territories from the ground up, drawing on specific areas of competence and expertise across the UK Government and the Overseas Territories.”

“The UK remains committed to supporting the Territories to enhance their security and law enforcement, including through preventative measures and strategies to respond to security threats. This includes strengthening maritime capabilities in the Territories and the need for investment.”

“The Overseas Territories and the UK will continue to cooperate, including through technical forums on anti-money laundering, sanctions enforcement, counter-terrorist financing and foreign bribery.”

“The UK remains committed to meeting the reasonable needs of Territories where financial self-sufficiency is not possible, as the Overseas Territories continue to have the first call on the aid budget to facilitate sustainable economic growth and development. The UK and Overseas Territories will work in partnership to develop and deliver long term sustainable programmes in the Territories, with a renewed focus on the priorities and needs of Territory peoples.”

The UK Government needs to provide more support to the BVI, in the spirit of this communiqué, to meet our recommendations and to make the far-reaching reforms that are needed.

We were pleased to hear that the FCDO’s Overseas Territories and Polar Directorate was developing a new strategy for the BOTs. And it is essential that the UK Government doesn’t lose focus. We are mindful that the Governor’s Office and the FCDO Overseas Territories and Polar Directorate have few personnel and a very wide range of responsibilities. But, there needs to be a more strategic, structured and coherent approach to the work that they carry out and the reviews and development projects they commission. For example, another team from the UK was reviewing His Majesty’s Prison Balsam Ghut at the same time as our inspection team. This duplication is clearly inefficient.

As with all countries and territories, the BVI is unique. However, many of the challenges facing its law enforcement and criminal justice bodies are the same as or similar to those faced by counterparts in other BOTs. Throughout this report, we have looked to recommend changes that, where possible, could help all the Caribbean and North Atlantic BOTs (Anguilla, Bermuda, BVI, Cayman Islands, Montserrat, and the Turks and Caicos Islands). These include recommendations for:

- [the FCDO to appoint expert advisors to advise maritime law enforcement agencies and customs, immigration and border agencies across those BOTs](#); and
- the International Policing Assistance Service and the [UK Ministry of Justice’s](#) Overseas Territories justice programme team to provide assistance. For example in the development of policies and procedures for the BOTs’ police forces, prisons and criminal justice bodies. We also recommend that the UK’s HM Prison and Probation Service, at the request of the Governor, send a member of personnel to the HM Virgin Islands Prison Service to support the Superintendent of Prisons.

While recognising the responsibility of the Government of the Virgin Islands to make a substantial financial investment for improved public services in the BVI, the UK Government should also make a significant contribution.

## Regional collaboration

We also make a series of recommendations to develop and strengthen regional capabilities. These will help the BVI and the other Caribbean and North Atlantic BOTs, while respecting these territories' constitutional status. These include recommending:

- [a new intelligence structure for law enforcement agencies in the Caribbean and North Atlantic BOTs](#);
- [a new regional organised crime unit for the Caribbean and North Atlantic BOTs](#);
- [a regional anti-corruption capability for the Caribbean and North Atlantic BOTs](#);
- and
- [improving the digital forensics support for police forces in the Caribbean and North Atlantic BOTs](#).

## Monitoring of BVI agencies' progress through revisit reviews

This road map differs from our usual inspection reports, in that it sets out a plan for the next decade. We recognise the scale of reform and modernisation that our review has recommended and the challenges this will pose to the Government of the Virgin Islands and BVI agencies. It will require progress reviews and refinement of the plan as circumstances change and the impact of early changes becomes apparent.

### Recommendation 3 – Phase one

The Foreign, Commonwealth & Development Office, the Governor and the Government of the Virgin Islands should agree to a formal process of external progress reviews. This should cover the recommendations published in [volume one of this report](#) (due for completion in 2025) and phase one (by 2028), phase two (by 2031) and phase three (by 2035) recommendations. These reviews should take account of new international good practice and standards that are developed during the next decade.

The progress reviews should be published (in redacted form if necessary) to provide a measure of public accountability.

The BVI has been subject to a wide range of review activities in recent years. Given the scale of our recommended change, we don't envisage the need for further inspections or reviews of the BVI's criminal justice or law enforcement agencies in the next ten years, aside from those we recommend in this report. However, this approach relies on progress reviews taking place. Now is the time to act on our recommendations. It is vital that the BVI, as a territory of the UK, demonstrates a strong ambition for positive change in the region. With increased funding and support from the UK, the BVI has the potential to be a blueprint for change in BOTs where security and stability are threatened by crime at all levels.

# Governance of law enforcement and criminal justice in the BVI

The first duties of any government are to keep its citizens safe and to maintain security and the rule of law. The public services charged with this undertaking are among the most important in any society. They require support, investment and leadership of the highest quality.

The current governance arrangements for the BVI's law enforcement and criminal justice bodies don't provide a sound bedrock for the far-reaching reforms we recommend are necessary to modernise the criminal justice and law enforcement sectors over the next ten years.

## Defining national and internal security and associated responsibilities

At the most fundamental level, the BVI lacks a clear and shared definition of what is meant by 'national security' or 'internal security'. We found these terms are both ill-defined and used interchangeably. For example, the National Security Council is responsible for internal security and the Governor has responsibility for 'internal security, including the police force', without explaining what else is deemed to be internal security.

### Recommendation 4 – Phase one

The Governor and the Government of the Virgin Islands should agree definitions of national security and internal security as it relates to the BVI. If necessary, this should be reflected in proposals to revise the [Virgin Islands Constitution Order 2007](#).

Notwithstanding the current lack of clear definitions, the Governor's current interpretation of the [Virgin Islands Constitution Order 2007](#) ("the constitution") hampers the effective oversight and operation of these critical functions.

The '[Constitutional Review Commission's 2024 report](#)' referred to the arrangements covering national security and law enforcement but made no specific recommendations. We have taken account of the Commission's observations, in making recommendations in this report. In some respects, constitutional change may be required. But in our view, a simple clarification of definitions would allow for many of the improvements we recommend relating to governance to be put in place relatively swiftly.

## **The constitutional position**

The BVI's model of governance is far from unique. The Governor and Government of the Virgin Islands work side-by-side and there are a range of devolved and reserved matters all needing to be provided in a connected way.

Effective law enforcement and criminal justice requires all those with responsibility for aspects of the system to work collaboratively. The Premier of the Virgin Islands, Dr. the Honourable Natalio D. Wheatley MHA, commented on the publication of our initial report:

“This is a serious undertaking for the betterment of the safety and security of all within the Virgin Islands. It is only by working as one team alongside the Governor's Office and the law enforcement agencies that we will be able to grasp this opportunity to put in place the reforms that will allow us to transform arrangements for law enforcement and criminal justice.”

We set out this road map with this clear collaborative intent in mind.

Section 60 of the constitution sets out that the Governor has special (reserved) responsibility for:

“...the conduct (subject to this Constitution and any other law) of any business of the Government of the Virgin Islands, including the administration of any department of government, with respect to the following matters:

- (a) external affairs, subject to subsection (4);
- (b) defence, including the armed forces;
- (c) internal security, including the Police Force, without prejudice to section 57;
- (d) the terms and conditions of service of persons holding or acting in public offices, without prejudice to section 92; and
- (e) the administration of the courts.”

But as we set out above, the constitution doesn't define what 'internal security' or 'national security' encompasses. Section 60 of the constitution includes reference to 'internal security' and section 57 refers to the role of a National Security Council (NSC) in matters relating to internal security. And we were unable to find a statutory definition of internal security, either in the BVI or other British Overseas Territories (BOTs).

This leads to differing interpretations and, in practice, a too narrow interpretation of the Governor's responsibilities.

The [Commission of Inquiry report](#) raised the potential for:

- changes to the balance of responsibility between the UK Government, the Governor and the Government of the Virgin Islands; and
- UK interventions concerning the governance arrangements.

As set out earlier, notwithstanding any such changes or interventions, a broader and clearer definition of internal security and national security are needed.

In his Commission of Inquiry report, Rt Hon Sir Gary Hickinbottom stated:

“It seems to me that the law enforcement system should probably be held under one umbrella and, under the current constitutional arrangements, that should be under the Governor.”

We agree. And we go further. Section 60 doesn't place any exclusions on what might be considered to be internal security.

Given the challenges faced by the BVI and the scale of change necessary, unless specifically precluded by law, all law enforcement and criminal justice issues should be considered matters of internal security as defined under section 60c of the constitution. Therefore, they should come under the Governor's special responsibility.

The Governor delegates to the Premier a range of matters under section 60(3), which could (and in our view should) be defined as internal security. These include, but aren't limited to, law enforcement, [intelligence](#) and criminal justice functions carried out by:

- [HM Customs](#);
- [the Department of Immigration](#); and
- the [Financial Investigation Agency](#).

There are also other examples of BVI Government departments carrying out internal security roles. Most notably, the [Ministry of Health and Social Development](#) is the lead department overseeing the day-to-day running of HM Prison Balsam Ghut. As the Commission of Inquiry pointed out, this is despite the [Prison Ordinance 1956](#) giving this power to the Governor.

A shift in oversight and responsibility doesn't reduce the need for the Government of the Virgin Islands and Governor to work together. There is evidence of cross departmental working, including through the NSC and the Criminal Justice Advisory Group. But it isn't effective enough. For example, the NSC appears to take, in the main, a reactive stance, dealing with issues as they arise, rather than taking a long-term or holistic view of the security of the BVI. This is a missed opportunity.

We are also aware of collaborative working elsewhere in government in relation to wider BVI security issues. For example, the structures led by the [Department of Disaster Management](#) in support of the comprehensive disaster management strategic plan and the National Disaster Management Council. As part of this road map, cross departmental working and arrangements must be strengthened to bring together law enforcement and island security in a more coherent manner.

### **Recommendation 5 – Phase one**

The Governor should broaden and re-specify those special responsibilities covering matters of internal security that are reserved for the Governor's Office under section 60 of the [Virgin Islands Constitution Order 2007](#). These should, as a minimum, include:

- HM Customs;
- the Financial Investigation Agency;
- the Department of Immigration;
- HM Virgin Islands Prison Service; and
- our proposed new Maritime Security Law Enforcement Agency; Customs and Border Agency, Bureau of Financial Investigation; Anti-Corruption Agency and [intelligence](#) bodies.

If simply clarifying what is within the remit of internal security is insufficient, then the Governor should consider amending section 60(3) of the constitution. This should stipulate that the Governor has reserved responsibility for internal security, including law enforcement and criminal justice matters, and agencies and bodies that perform law enforcement and criminal justice functions.

### **Recommendation 6 – Phase one**

In implementing recommendation 5, the Governor should re-specify those matters of internal security that he has devolved to the Government of the Virgin Islands under section 60(3) of the [Virgin Islands Constitution Order 2007](#).

This isn't without challenge, however. Just as the Governor has special provisions under sections 57 and 60 of the constitution, so too does the Premier, under section 60(4). At least two of those have an impact on the effectiveness of internal security:

- section 60(4) (c) relates to the relationship between the BVI and the US Virgin Islands in matters of mutual interest; and
- section 60(4) (e) relates to taxation and the regulation of finance and financial services.



Therefore, any governance structure needs to be capable of working across the Governor and Government of the Virgin Islands.

Nothing in our recommendations would reduce the Governor's obligations, set out under section 40 of the Constitution, to consult with the Cabinet.

## **National security: strategic threats and risks**

Even with the structural changes we recommend, internal security (defined as encompassing law enforcement agencies, criminal justice bodies and law enforcement and criminal justice functions) doesn't adequately cover all elements that contribute to the overall safety and security of the BVI. We propose that a broader definition of national security is applied. It should be context specific, but should include the following:

- internal security (including counter-terrorism, vetting, counter-corruption and intelligence);
- cyber threats;
- accidents and systems failures (including in the financial sector);
- natural and environmental hazards;
- human, animal and plant health;
- conflict and instability; and
- economic insecurity (including economic insecurity that is caused by a significant loss of income from tourism).

As a starting point, we recommend that the Cabinet Secretary, with support from the Governor's Office, develops a BVI-wide strategic threat and risk assessment (STRA). This will support the identification of, and planning for, the full range of security threats facing the BVI. We recognise that the Department of Disaster Management's comprehensive disaster management strategy and programming framework; and national disaster management plan, contain some of this. But the STRA should go further to encompass the full range of threats and risks. Once a new National Security Secretariat is established (which we recommend later in this chapter), it should take responsibility for managing the development and update of the STRA.

### **Recommendation 7 – Phase one**

The Cabinet Secretary, with support from the Governor's Office, should lead the development of a BVI strategic threat and risk assessment. This should build on current risk assessments and plans and cover the full spectrum of threats to national security.

Once the new National Security Secretariat is operational, it should take responsibility for updating the strategic threat and risk assessment.



Adopting a widened definition of national security, and developing a holistic STRA, would have three distinct benefits:

- it allows for the Premier and the Governor to work collaboratively, under the remit of the National Security Council on a wider set of issues;
- it brings together critical plans into one place; and
- it allows for the oversight of capabilities and response plans that, at the time of our review, were dispersed across departments.

## The National Security Council

Section 57(3) of the constitution sets out that the role of the National Security Council is to “advise the Governor on matters relating to internal security”. With a clearer definition of national security, this could empower the NSC to prepare and respond to the national security strategic threats and risks [highlighted above](#). The NSC doesn’t routinely consider all these matters now. Consequently, it isn’t taking a sufficiently holistic approach to the national security of the BVI. This poses a threat to BVI communities, the Government of the Virgin Islands and the interests of the UK.

As part of our [terms of reference](#), we were commissioned to consider the functions of the NSC. The constitutional review commission recently considered the NSC’s role. It described the NSC as having a “fairly basal structure” and suggested that it should take on a more sophisticated role. We agree.

It strikes us that strengthening the role of the NSC and how it operates would improve cross-BVI and cross-organisation working. It would also reinforce the relationship between the Governor and the Government of the Virgin Islands. This is consistent with the recommendations we make above.

The current arrangements stifle collaboration, and blur lines of accountability, rather than providing a single strategic view of those issues facing BVI.

As we set out above, neither internal nor national security is defined, nor are they set against a threat and risk assessment.

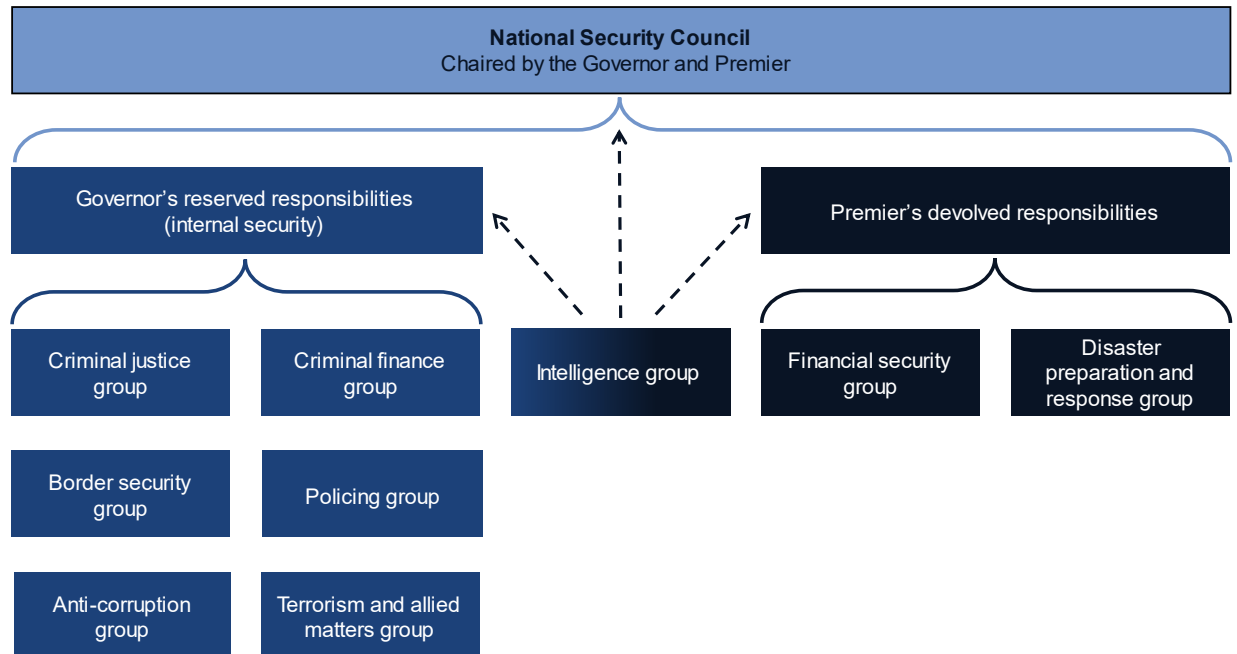
Broadening the scope of the NSC is consistent with section 57(5) of the constitution, in that the:

“...National Security Council may invite any person or summon any public officer to attend and participate in, or provide briefings to, the Council on the areas of their work bearing on internal security”.

This doesn’t mean that the full council must consider all issues. Some particularly sensitive matters, such as intelligence, terrorism and related matters, will need to be considered by a restricted group. A restructured and reshaped NSC should underpin the reforms and modernisation we recommend throughout this report. Figure 1 shows one possible configuration – in this scenario, the intelligence group provides

assessments to both the Governor and the Premier, so may convene either or both parts of the Council.

**Figure 1: Proposed new National Security Council structure**



Under such a model, responsibility for the day-to-day leadership of each organisation or capability would lie with the lead professionals. But the NSC would have a redefined role to:

- establish a new model for collective and strategic leadership, and promote it to public and frontline officers and personnel;
- set the long-term strategic direction across the law enforcement and criminal justice systems. While respecting existing strategies, it should focus on outcomes and decisions, including those concerning strategic investment;
- oversee relevant bodies' performance against the Governor's and Government's priorities (including maintaining personnel numbers and capabilities) and enable the Governor and Government of the Virgin Islands to hold these bodies to account;
- respond rapidly to any emerging cross-cutting issues. This would include commissioning work from sector leaders as required, while respecting the statutory powers of its members; and
- work with the wider law enforcement system across the Caribbean and North Atlantic BOTs (Anguilla, Bermuda, BVI, Cayman Islands, Montserrat, and Turks and Caicos Islands) and more widely, to make sure that the BVI's security interests are maintained and enhanced.

Under this model, the NSC would bring leaders of the BVI's law enforcement and criminal justice bodies together with the Governor and the Premier. A programme of regular, scheduled updates from heads of these agencies could form the basis of the standing agenda, complemented by reactive briefings as needed. When required, the NSC (or a restricted NSC) would be called to lead the response to a particular threat or situation. In such cases, one of the participants may take the lead. This approach already exists for disaster management and runs along the lines of the UK [Civil Contingencies Committee \(COBRA\)](#) arrangements, but under the direction of a chair.

Core membership of the NSC should be a matter for the Governor to determine, in consultation with the Premier. The NSC should also work effectively alongside existing structures. For example, responsibility for disaster management should continue to lay with the Department of Disaster Management. But in the case of a disaster, the Government and Governor would work together under the National Disaster Management Council which would, in effect, become a subgroup of the NSC.

The NSC wouldn't always have to operate with a focus on crime or terrorism, or other issues which relate to the handling of sensitive intelligence. A different set of arrangements could involve the NSC taking a far broader view, with the Premier and the Governor working closely together, and sensitive matters being dealt with by a subset of the council.

### **Recommendation 8 – Phase one**

The Governor should redefine the work of the National Security Council and restructure it accordingly, using his powers under section 57 of the [Virgin Islands Constitution Order 2007](#).

Following this, the reconfigured National Security Council should meet on a regular basis. Its agenda should reflect the main elements of the BVI's strategic threat and risk assessment.

Should the redefinition proposed not be sufficient, consideration would need to be given to amending section 60 of the constitution; broadening the remit of the National Security Council to cover all facets of national security.

## **A National Security Secretariat**

A broadened NSC would require enhanced support, both in terms of capacity and capability. The Governor's Office should establish a small National Security Secretariat (NSS) to carry out this role. This should sit within the Governor's Office. It would need to be staffed by people with relevant knowledge and expertise. This team would best be drawn from existing resource in relevant organisations in the BVI. And then strengthened by greater support from, for example, the UK Foreign, Commonwealth & Development Office (FCDO) and others with international expertise.

Day-to-day leadership of the NSS, and support to the NSC, should be the responsibility of a named senior official in a new role: the director of national security. They should work alongside the NSS in the Governor's office and provide oversight of law enforcement and criminal justice outcomes, on behalf of the Governor.

### **Recommendation 9 – Phase one**

The Governor's Office should establish and fund:

- a National Security Secretariat within the Governor's Office to support the work of the reconfigured National Security Council and to provide oversight of law enforcement and criminal justice bodies; and
- a new role of director of national security within the Governor's Office to lead a National Security Secretariat.

The Minister of Finance should allocate funding to facilitate this recommendation.

# The management of finance and budgets

When governments set and publish budgets, these budgets should:

- recognise the needs of departments; and
- provide certainty over the resources available to them to fulfil their functions.

This doesn't happen in the BVI law enforcement and criminal justice sectors.

In [volume one of our report](#), we stated:

“Budgets are set for only one year at a time. We saw no evidence of informal or formal planning beyond one year by the organisations or departments we reviewed.”

The absence of an agreed long-term financial plan for law enforcement and criminal justice bodies is alarming and debilitating.

The Governor and the [Ministry of Finance](#), overseen by the Premier, should develop a consolidated plan that sets out long-term funding and clarifies annual resource and multi-year capital expenditure. Such a plan is essential to underpin the technical, infrastructure, HR and operational improvements we recommend elsewhere in this report.

Later in this report, we make recommendations for the reconfiguration of certain law enforcement functions, and the creation of new organisations. This will take significant investment, as will improving the BVI's law enforcement and criminal justice capabilities to an acceptable standard. The Ministry of Finance should factor in the cost of these new capabilities in its financial planning processes. We recognise that, in the short term, additional investment may be required to redress inadequate investment in previous years.

## Capital investment

We found:

- an absence of a long-term estate strategy or capital planning;
- inefficient and ineffective delegation of capital budgets;
- a lack of investment in technology (including communications equipment); and
- an overreliance on paper-based systems.

After decades of capital underinvestment, facilities across most law enforcement and criminal justice bodies are inadequate. We are particularly concerned about the state of repair of HM Prison Balsam Ghut, and facilities for the [Royal Virgin Islands Police Force](#), [HM Customs](#) and the [Department of Immigration](#).

The current governance arrangements involve different parts of government having responsibilities for law enforcement and criminal justice bodies; they are a barrier to prioritising investment.

Under our proposed governance changes, the Minister of Finance would remain responsible for providing sufficient resource to both the Government of the Virgin Islands and the Governor to discharge their duties. Funding for law enforcement and criminal justice would flow from the Minister of Finance to the Governor and then through to the relevant agencies. This alone would help to improve the situation. But a single, coherent, long-term capital investment plan is required, if the reforms recommended in this report are to succeed.

The plan should include specific consideration of how to:

- consolidate the police and criminal justice estate into fewer, larger cross-capability hubs;
- suitably equip maritime and customs agencies;
- improve security at key law enforcement and criminal justice locations; and
- develop a long-term investment plan for the custodial estate.

### **Recommendation 10 – Phase one**

The Governor and the Government of the Virgin Islands should approve a single, ten-year, fully funded capital programme covering all law enforcement and criminal justice capabilities.

## **Resource budgets**

Similarly, the resource budgets for criminal justice and law enforcement agencies are managed by different parts of government. There appears to be very little strategic overview of the overall allocation or prioritisation process.

There is no single voice speaking for these services. And no ability to compare competing demands and prioritise spending across the various functions.

The governance changes we propose provide the opportunity to reset the resource allocation process and to bring together a single coherent view of spending across the law enforcement and criminal justice functions.

### **Recommendation 11 – Phase one**

The Ministry of Finance should:

- carry out a zero-based budgeting exercise for all law enforcement and criminal justice functions, setting out the overall total resource requirement. This should then be clearly communicated to budget holders and be subject to efficiency targets; and
- present this to the Premier and the Governor for approval.

## **Budget allocation**

Short-term planning means the heads of law enforcement and criminal justice bodies are unaware of future budget allocations. This, in turn, hampers their planning and the effectiveness of their organisations.

We also heard examples where the Ministry of Finance had reduced organisations' budgets mid-year. This happened without consultation or a clear reason for the reduction.

### **Recommendation 12 – Phase one**

Once the overall funding envelope for the BVI public service is agreed, the Ministry of Finance should clearly set and communicate law enforcement and criminal justice bodies' budget allocations. Any alteration to these allocations should be carried out transparently, through a broadened National Security Council.

## **Budget holders lack delegated authority**

Normally, budget holders with a published budget have authority to spend. This isn't the case in the BVI public sector.

As we reported in volume one:

“Each law enforcement agency, criminal justice body and the prison service has their own budget. The purpose of a budget is to give the budget holder authority over agreed levels and types of expenditure. This generally includes the numbers and grades of posts they can have in their organisation and the freedom to recruit into vacancies for those posts. An approved budget should give accountable officers some certainty over what they have available to spend on providing public services.

But we found that having a budget didn't necessarily mean that it could be spent. Multiple layers of bureaucracy exist, which in some cases prevent the accountable officer from making decisions to recruit personnel or buy goods and services. While some checks and balances are necessary for proper control, the current situation causes unnecessary delays, which can negatively affect the provision of frontline services to the public.”

This system also inevitably builds in delay and inefficiency.

The lack of financial autonomy, and the lengthy and convoluted recruitment process, have left law enforcement and criminal justice bodies holding vacancies for extended periods. Consequently, the Ministry of Finance often judges them as being able to cope without the posts, and often cuts the funding. This can happen without any discussion with the budget holder.

### **Recommendation 13 – Phase one**

The Ministry of Finance should develop, publish and implement a full scheme of delegation, along with limits of financial responsibility and accountability, and clear escalation routes.



# Workforce capacity and capability, and the provision of HR functions

In [volume one of our report](#), we recommended that, by 30 November 2024, each of the BVI's law enforcement and criminal justice bodies should develop a workforce strategy, which should include:

- the size and makeup of the workforce necessary to meet objectives;
- recruitment and retention plans;
- talent management and progression policies;
- performance management;
- training and development; and
- orderly departure from the organisation, either on transfer, resignation, retirement or dismissal.

This is an immediate step, necessary for the improvement of individual organisations. Once this is complete, the [Deputy Governor](#) (and once appointed, the director of national security) should take a holistic view across all law enforcement and criminal justice bodies.

This needs to start with the development of a strategic capability and workforce plan. This should set out:

- the capabilities required now, and those needed to meet emerging threats and demand;
- the capacity required to meet that capability demand, along with a clear statement of how emerging technologies will affect staffing requirements;
- an assessment of the current talent pool available from within the existing workforce and the talent pipeline identified for future promotion into senior roles; and
- a realistic assessment of the labour market across the BVI and the wider Caribbean region.

From this, a costed HR plan is required, with a commitment from the Governor and the Government of the Virgin Islands to fund law enforcement and criminal justice bodies sustainably.

## Recommendation 14 – Phase one

The Deputy Governor should develop a costed capability and strategic workforce plan across the law enforcement and criminal justice organisations. It should be based on plans for each organisation and the development of new capabilities.

### Workforce composition

Some people who are resident in the BVI hold [Belonger](#) status. The capability and workforce plan should include a revised statement of intent about the balance of Belongers and others in the law enforcement sector. While the [Royal Virgin Islands Police Force](#) and [HM Virgin Islands Prison Service](#) hired many non-Belongers, other bodies, including [HM Customs](#), didn't. We are concerned that limiting recruitment to Belongers unduly restricts the talent pool and is holding back the development and improvement of these organisations.

The scope, scale and complexity of the reforms recommended in this report will require highly skilled and experienced leaders and staff across the criminal justice and law enforcement organisations.

We are concerned that not all the skills and experience required are available within the current talent pool in criminal justice and law enforcement agencies. There are a number of highly talented individuals who, with the right development, mentoring and support, have the potential to reach high office. But skills and experience gaps exist now. And, to set Belongers up for future success, these gaps need to be filled. Placing Belongers into senior roles too early, or without the necessary support, risks setting them up to fail. Leadership capability across the existing law enforcement agencies should therefore be strengthened with external hires, at least in the short to medium term.

Throughout this report, we also recommend that skilled and experienced external candidates are found to fill highly specialist posts and to design and build the new law enforcement bodies. This need not be a long-term solution. With support and planning, a stronger internal talent pipeline can be developed. However, given the size of the BVI, and the complexity and international nature of many of the law enforcement challenges it faces, it seems sensible to develop a longer-term strategy that sustains a balance of home-grown and external talent.

We saw little evidence of coherent structured talent management and succession planning. A better approach is required. It will lead to an increase in the number of Belongers and BVI permanent residents in senior and specialist positions. This process needs to start now. Improved performance and talent management should lead to the consistent identification, support and external mentoring of those with potential to fill the most senior roles in the future.

### **Recommendation 15 – Phase one**

The Governor and the Premier should oversee the development of:

- a single succession plan for senior roles across each of the law enforcement and criminal justice agencies. This should map leadership requirements for the next ten years; and
- a cross-agency talent management plan and external mentoring scheme for those identified as having the potential to fill senior roles.

Under section 92 of the [Virgin Islands Constitution Order 2007](#), the:

“...power to make appointments to public offices and to remove and to exercise disciplinary control over persons holding or acting in such offices shall vest in the Governor, acting in accordance with the advice of the Public Service Commission; but the Governor, acting in his or her discretion, may act otherwise than in accordance with that advice if he or she determines that compliance with that advice would prejudice [His] Majesty’s service.”

### **Recommendation 16 – Phase one**

The Governor should consider establishing and chairing a new commission for the appointment of senior posts in law enforcement agencies and criminal justice bodies. This would include those at salary scales 14 to 19, as set out in the [‘public service management code’](#), the Director and Deputy Director of the Financial Investigation Agency, the Assistant Police Commissioner and the Deputy Superintendent of Prisons.

## **Integration of HR functions**

In volume one, we reported that:

“We believe there would be benefits in bringing together many of the HR functions of these agencies to provide a single centre of expertise. This would help in recruiting and developing a law enforcement and criminal justice workforce. Benefits would also include better integration of training, co-ordinated promotion of the highest professional standards and development of future senior leaders.”

But we also said “At the time of our review, the structural arrangements meant that this wasn’t possible.”

### **Recommendation 17 – Phase one**

The Deputy Governor's Office should create a centre of excellence for HR, to provide expert policy, guidance and support to departments.

## **Recruitment processes**

We highlighted a series of problems with the recruitment process, in volume one of our report. These included:

- a lack of formal service-level agreements between agencies and relevant government departments, which deal with the process for recruitment decisions and approvals;
- multiple layers of approvals and consequent delays; and
- a lack of clarity about:
  - whether law enforcement and criminal justice agencies had the authority to recruit without permission from central HR and finance; and
  - how many personnel they can employ.

### **Recommendation 18 – Phase one**

The Deputy Governor's Office should clarify recruitment processes and levels of delegation. It should also introduce and monitor service levels covering time to approve and time to recruit.

## **HR policies**

As we set out previously, we found many policies and guidance aimed at codifying HR processes across the public sector. But in too many cases, we found evidence that they were hampering rather than supporting leaders, managers and personnel.

There should be a 'root and branch' overhaul of HR policies and practices. This should include:

- further review of the 'public service management code' to make sure it is fit for purpose. This should include making sure that it robustly sets out what it requires of personnel and departments in the law enforcement and criminal justice sectors, and reflects the operational reality of these organisations;
- removal of duplication or inconsistency between policies, and across (and within) organisations, making sure the 'public service management code' is applied consistently;
- a continued focus on implementing the recommendations of the independent pay review that was ongoing at the time of our visits, and carry out further work as required;

- rationalisation of terms and conditions across law enforcement and criminal justice organisations, to bring consistency and explain difference;
- the introduction of a common performance management process, used across all criminal justice bodies and law enforcement agencies, and properly tied to pay increments;
- carrying out performance management appraisals for all personnel. This should be a core requirement of all line managers in their own performance development review (and will require better training for line managers); and
- an improved process for managing poor performance so that it is transparent, swift (while ensuring due process) and consistent.

### **Recommendation 19 – Phase one**

The Deputy Governor should:

- assess the implementation of the '[public service management code](#)'. This should include making proposals for further development of this code to accommodate the specific requirements of criminal justice and law enforcement agencies; and
- make sure that the 'public service management code' is understood and being followed by all departments.

# The Royal Virgin Islands Police Force

## Governance and performance

### The force needs a performance framework linked to its priorities

In [volume one of our report](#), we highlighted that the force doesn't have effective internal governance or performance management. We found it lacks an accurate understanding of the demand for calls to service, incidents and crime investigation. To address this, we recommended that the Police Commissioner makes sure the force's systems and processes are properly applied to accurately collect the information and data it needs to operate effectively.

Having accurate information about demand will help the force to better understand the day-to-day threats and risks facing its local communities. Importantly, the force will then be able to allocate its resources where they are most needed to effectively deal with threat, risk and harm.

#### Recommendation 20 – Phase one

The Police Commissioner should develop and implement a performance framework linked to the force's priorities. This should be used to monitor standards and make improvements to services.

### Strategic resource planning needs to be aligned with threat and risk

We also reported that the Royal Virgin Islands Police Force (RVIPF) has no strategic oversight of resource planning, and resources aren't aligned with threat and risk.

For example, we found there were more [officers](#) working in the force's traffic department than in the serious investigation team (SIT). This resource allocation is disproportionate to the levels of threat and risk those teams are dealing with. The SIT routinely manages [serious and organised crime](#) investigations (including homicide and drug trafficking). Whereas there are relatively few road traffic collisions that lead to serious injury or death.

However, the force requires traffic officers to attend and investigate all road traffic collisions. This is an inefficient use of resources.

In the UK, insurance companies manage and investigate road traffic collisions that result in minor injuries or damage only to vehicles. This means that officers in police traffic departments can deal with incidents that pose the greatest threat and risk and therefore require a police response.

By adopting a similar approach, the force could focus its traffic department on:

- dealing with serious road traffic collisions; and
- targeting organised criminals who use the road network.

This would reduce demand and free up resources to be reallocated elsewhere in the force. For example, in volume one we recommended that the force should increase the number of [police personnel](#) in the serious incident and major incident teams.

To improve its strategic oversight of resource planning in line with risk and demand, the force should produce a [strategic threat and risk assessment \(STRA\)](#). It should use the STRA to achieve more efficient and effective deployment of resources.

### **Recommendation 21 – Phase one**

The Police Commissioner should develop and publish a [strategic threat and risk assessment](#) for the Royal Virgin Islands Police Force.

### **Recommendation 22 – Phase one**

After completing the [strategic threat and risk assessment](#) process, the Police Commissioner should adjust the staffing of all departments to meet the identified threat and risk.

## **Command and control of incidents**

### **The force doesn't use the overseas territories regional crime and intelligence system database to record and manage investigations**

The force doesn't make effective use of the overseas territories regional crime and intelligence system (OTRCIS) database. It doesn't accurately record reports of all crimes and incidents. This reduces its ability to understand the full scale of demand. The lack of a command and control system also means that the force is unable to maintain oversight of live operational demand and make sure that it deploys officers accordingly.

For example, we found that local officers responded directly to incidents reported at police stations by members of the public. There was no process to make sure that officers recorded these incidents at the time of reporting. Often, they only made retrospective entries onto the OTRCIS database. And, if an incident was quickly resolved, they didn't usually make an entry.

The force still uses paper files to manage investigations. As a result, we found that supervisors were unable to review and oversee investigations because they don't always work on the same shift or in the same police station as investigating officers. They have no way of accessing the files remotely.

Some officers we spoke to said they refused to use the OTRCIS database, as they didn't trust it and were worried that corrupt officers could misuse the information.

By routinely using the OTRCIS database as a crime recording and management tool the force would gain a better understanding of demand. Information stored on the OTRCIS database would generate data that the force could use to support its performance framework.

### **Recommendation 23 – Phase one**

The Police Commissioner should make sure that [officers](#) record and manage all investigations on the overseas territories regional crime and intelligence system database.

### **Call handling and management of demand needs to improve**

In volume one of our report, we highlighted that there was no manager in the [control room](#) "to oversee the assessment of and deployment to incidents." As a result, the force wasn't prioritising calls effectively. The introduction of a [force incident manager](#) would help to address this problem. As there is a clear threat from criminal use of firearms in the BVI, the manager should be qualified to take initial command of firearms incidents and have the authority to deploy resources to meet that threat.

### **Recommendation 24 – Phase one**

The Police Commissioner should appoint a [force incident manager](#) to oversee the assessment of calls for service and deployment of resources. They should be qualified to take initial command of firearms incidents and be able to redeploy resources to meet the identified threat, risk and harm.



## **The force's control room isn't fit for purpose**

We found that the force's control room was outdated and not fit for purpose. It had few of the facilities expected in a modern, functional control room. We suggest it needs to be replaced.

We recommend that the BVI invest in a modern control room that meets the needs of BVI law enforcement agencies and emergency services. The Cayman Islands 911 centre could be used as a template for the new facility, with the addition of a force incident manager as per our recommendation. The BVI should consider whether modernising the control room at Peebles Hospital would meet this requirement.

A multi-agency control room could be used by [HM Customs](#), the [Department of Immigration](#), the [Virgin Islands Fire and Rescue Service](#) and the Emergency Medical Service.

Once the [Maritime Security Law Enforcement Agency \(MSLEA\)](#) and the [Customs and Immigration Border Agency \(CIBA\)](#) have been established, they could also use the control room.

Several British Overseas Territories (BOTs) and Crown Dependencies (CDs) have set up similar multi-agency arrangements. The advantages of this approach include financial efficiencies and the potential to improve multi-agency collaboration.

### **Recommendation 25 – Phase two**

The Governor, together with the Government of the Virgin Islands, should establish a multi-agency control room for law enforcement agencies and other emergency services. This should have processes and standards in line with modern [control rooms](#) in comparable jurisdictions. All calls should be routed through this control room.

## **Non-emergency calls for service need proper handling**

Once the BVI has established the control room, the RVIPF should direct all non-emergency calls to the non-emergency telephone number. The police station phone numbers should be for internal use only and shouldn't be advertised to members of the public. This will make sure the force can handle and record all calls appropriately and provide a better response to the public. And this process should enable the force to collect reliable data on call-related demand.

### **Recommendation 26 – Phase two**

Once the [control room](#) has been established, the Police Commissioner should make sure that all non-emergency calls go to the non-emergency telephone number.

### **The force doesn't have a functioning radio system**

The RVIPF has poor communication systems. Since Hurricane Irma in 2017, there has been no radio system covering the whole territory. As a result, the control room isn't always able to communicate important information to operational officers, nor can it deploy them effectively. This poses a risk to public and officer safety.

We found that officers use their personal phones and WhatsApp messaging to communicate with each other. These systems aren't suitable for this purpose, and such practices have the potential to undermine professional standards.

### **Recommendation 27 – Phase one**

The Governor and the Police Commissioner should make sure that all [police officers](#) have access to government-issue mobile telephones (or the current Hubcat radio system) for policing purposes when deployed. The use of private devices for policing purposes should be discontinued.

In the longer term, the force and other law enforcement agencies should work together to procure a suitable radio system.

### **Recommendation 28 – Phase two**

The Police Commissioner, together with the Commissioner of HM Customs, the Chief Immigration Officer, the Superintendent of Prisons, the heads of the proposed Maritime Security Law Enforcement Agency Design Authority and Customs and Immigration Border Agency Design Authority should procure a suitable radio system that:

- operates across the entire BVI territory;
- allows each agency or department to have dedicated channels that others can't access; and
- has a multi-channel facility for cross-departmental and cross-agency interaction.

## Quality control, quality assurance and review

### The force doesn't have internal review processes

We found that standards of supervision and management of processes were poor across the force. The force carries out an annual review of policies. But there is a lack of quality assurance or quality control processes, such as internal reviews, internal inspections or audits.

Without these processes (which are standard in many BOTs and UK police forces), it is difficult for the force to identify where it needs to improve or what is working well. It has no way of sharing good practice or areas of learning with the workforce.

#### Recommendation 29 – Phase one

The Police Commissioner should:

- introduce internal audit and review processes to quality assure activity;
- develop and implement processes for identifying good and poor practice;
- put training and other measures in place to tackle problems and poor practice identified in internal reviews and audits; and
- share good practice and areas of learning across the force.

## Policies and standard operating procedures

The RVIPF doesn't have the capacity and capability to develop and maintain the range of policies and standard operating procedures (SOPs) it needs to function effectively. This problem isn't unique to the BVI.

We have found a lack of important policies and SOPs during our inspections of police forces in other BOTs and CDs. In some cases, forces have copied policies and procedures from the UK without amending them to suit their operational context.

We believe there is potential for an innovative approach to developing policy and SOPs that is more achievable for small forces than the current practices. Rather than each BOT police force trying to develop, maintain and update their own policies and SOPS, there should be a central policy development unit to:

- help forces develop policies and SOPs; and
- inform forces about required updates, based on changing practice in the UK and elsewhere.

The UK International Policing Assistance Service (IPAS) is well placed to carry out this role. IPAS oversees and co-ordinates the support that UK policing gives to other countries. It has developed an understanding of all BOT police forces and has identified the absence of policy as a major concern.

Each force would then adapt relevant documents to suit their specific operational context.

### **Recommendation 30 – Phase one**

The International Policing Assistance Service should act as a policy development unit for the police forces in the British Overseas Territories.

## **Training and professional development**

It is difficult for the RVIPF to access appropriate training for its officers and personnel.

Police forces in other BOTs and CDs experience similar challenges. The smaller forces in the BOTs and CDs can't easily access the [College of Policing](#)'s courses, mainly due to cost and distance.

The law enforcement officer at the UK Foreign, Commonwealth & Development Office (FCDO) Overseas Territory and Polar Directorate (OTPD) has arranged some joint training for forces in the Caribbean and North Atlantic BOTs (Anguilla, Bermuda, BVI, Cayman Islands, Montserrat, and Turks and Caicos Islands). Despite these efforts to bring a more structured approach to training across the BOTs, forces generally source their own training through links to UK police forces or through training providers in the region.

Police forces in the Caribbean and North Atlantic BOTs should work with the IPAS to improve the co-ordination and provision of police training across the region. This would involve creating new processes for the long-term procurement of affordable training, based on a strategic training needs analysis for police forces in each BOT.

### **Recommendation 31 – Phase one**

The International Policing Assistance Service, together with the Foreign, Commonwealth & Development Office Overseas Territories and Polar Directorate should:

- produce training needs analysis for each British Overseas Territories police force; and
- work with the [College of Policing](#) to provide a long-term programme of affordable training for police forces in the British Overseas Territories.

## Working groups to support continuing professional development

Representatives from the BOTs had previously set up regional working groups where practitioners working in specialist areas could discuss forensic science, [intelligence](#) and major crime. Officers we spoke to said they valued these groups. But at the time of our review the groups were no longer running. These working groups have the potential to support [continuing professional development](#) and provide a way of sharing good practice and areas for learning. This could help promote a more structured approach to professional development, as discussed above.

### Recommendation 32 – Phase two

The International Policing Assistance Service and the Foreign, Commonwealth & Development Office should work with the Commissioners of the Bermuda Police Service, the Royal Anguilla Police Force, the Royal British Indian Ocean Territories Police Service, the Royal Virgin Islands Police Force, the Royal Cayman Islands Police Service, the Royal Gibraltar Police, the Royal Montserrat Police Service, the Royal Turks and Caicos Police Force, together with the Chief of the Royal Saint Helena Police Service, the Chief Police Officer of the Royal Falkland Islands Police, and the Chief Constable of the Sovereign Base Areas Police Service to help reinstate regional working groups for various policing specialisms (including [intelligence](#), forensics and major crime).

## Police custody

In volume one of our report, we made several recommendations for the force to improve the operational management and standards of police custody services. We recommended that the force:

- makes sure those responsible for custody of a detainee are independent of any related investigation;
- develops, publishes and implements clear policies and guidance; and
- trains personnel to carry out custody duties appropriately.

We also recommended that the force makes improvements to custody facilities to make sure that detainees are held in a safe environment. We found the conditions of facilities were inhumane and didn't meet basic standards. The College of Policing's [authorised professional practice on police custody](#) provides guidance on the minimum standards for custody operations and facilities.

### **Recommendation 33 – Phase two**

The Police Commissioner, together with the Governor, should improve police custody facilities. This should include:

- properly designed, secure and lockable cell doors;
- CCTV covering all areas, to improve safety and security;
- appropriate shower and toilet facilities;
- a separate space for male and female detainees; and
- a secure exercise yard.

## **Armed policing**

We are aware that IPAS is working with the Caribbean and North Atlantic BOTs' police forces to promote collaboration, standardisation, interoperability and sustainability of armed policing across the region. We welcome this initiative.

### **The force should set up a governance process for armed policing**

In volume one of our report, we recommended that the RVIPF should develop an armed policing strategic threat and risk assessment (APSTRA). An APSTRA establishes the operational requirements for armed policing and less lethal options within a force. It informs decisions relating to armed policing deployments, capability, training, demands and threats.

In addition, the force should develop a separate risk assessment for firearms training. This should identify the risks that could prevent the force from training enough officers who are sufficiently skilled for deployment to address the threats outlined in the APSTRA. Risks could include problems with training facilities, a lack of instructors or a lack of training for instructors. The firearms training risk assessment should link to the force's overall training needs analysis.

### **Recommendation 34 – Phase one**

The Police Commissioner, with support from the International Policing Assistance Service, should make sure the force has a risk assessment for firearms training.

### **The force should create standard operating procedures for armed policing**

The force should develop SOPs to provide officers with clear guidance. This will provide a reference to help with decision-making and set consistent standards for the force. We suggest the RVIPF refers to the College of Policing's [authorised professional practice on armed policing](#) and its [2020 code of practice on armed policing and police use of less lethal weapons](#).

### **Recommendation 35 – Phase one**

The Police Commissioner, with support from the International Policing Assistance Service, should produce and implement comprehensive standard operating procedures for armed policing.

### **The force should establish a process to debrief armed policing incidents**

At the time of our review, the force lacked a formal process to learn lessons from the deployment of armed officers. Officers complete debriefs after these deployments. But they don't follow a structure and don't keep records of them. Any problems or areas for learning identified during the debrief are managed within the group instead of being shared more widely with relevant personnel.

### **Recommendation 36 – Phase one**

The Police Commissioner should make sure that the force develops a process to record information from armed policing operational debriefs. It should use this to highlight problems and inform training and [organisational learning](#).

### **The force lacks a firearms command structure**

Police forces should have a formal command structure for the deployment of firearms officers. In the UK, a command structure comprises:

- A [strategic firearms commander \(SFC\)](#). This role should determine the strategic objectives, set tactical parameters and maintain strategic oversight and overall command and responsibility.
- A [tactical firearms commander \(TFC\)](#). This role should develop, command and co-ordinate the overall tactical response in accordance with strategic objectives.
- An [operational firearms commander \(OFC\)](#). This role is responsible for commanding a group of officers carrying out functional or territorial responsibilities related to a tactical plan.

Outside the command structure, a tactical advisor (TacAd) should be available to advise the TFC.

The RVIPF lacks a firearms command structure and doesn't have any nominated firearms commanders. Instead, we found that the TacAds were taking command and control of armed deployments. This practice poses a risk to the officers and the public, as TacAds are only trained to provide tactical advice and not take responsibility for commanding an armed deployment.



The force should identify appropriate officers to act as SFCs, TFCs and OFCs. It should then arrange relevant training and provide continuing professional development based on threats and risks identified in the APSTRA.

### **Recommendation 37 – Phase one**

The Police Commissioner, with support from the International Policing Assistance Service, should:

- identify appropriate [officers](#) who will act as [strategic](#), [tactical](#) and [operational firearms commanders](#);
- arrange initial firearms commanders' courses for them, and appropriate initial training for tactical advisors; and
- develop a [continuing professional development](#) programme that includes annual refresher training for firearms commanders.

### **The force should be able to put a full firearms command structure in place any time it is needed**

The force incident managers should be trained to carry out the role of [initial tactical firearms commander \(ITFC\)](#) and there should always be an OFC on duty. The ITFC can then take initial command of an incident and direct the OFC.

There should also be an on-call rota for a SFC, TacAds and TFCs.

### **Recommendation 38 – Phase one**

The Police Commissioner, with support from the International Policing Assistance Service, should:

- make sure that the [force incident managers](#) are trained to act as [initial tactical firearms commanders](#);
- make sure there is always an [operational firearms commander](#) on duty; and
- oversee the implementation of an on-call rota for [strategic firearms commanders](#), tactical advisors and [tactical firearms commanders](#).

### **The force should introduce professional development records for firearms commanders**

Once the firearms commanders are trained, the force should introduce professional development records. These should contain details of all the mandatory refresher training they have taken and operational deployments they have commanded.



The armed policing portfolio holder (the senior officer responsible for operational armed policing) should sign these off every year, to confirm that the commanders are operationally competent.

### **Recommendation 39 – Phase one**

The Police Commissioner, with support from the International Policing Assistance Service, should introduce mandatory professional development records for all firearms commanders.

The armed policing portfolio holder should sign these off periodically, to confirm that the commanders remain operationally competent.

### **The force should introduce a mentoring process for firearms commanders**

The [authorised professional practice](#) on armed policing in the UK stipulates that:

“Forces should implement an auditable process of shadowing, mentoring and performance review as a means of achieving operational competence. This process should be tailored to the firearms commander, or tactical advisors intended operational role and should evidence their ability to perform that role across the range of related operational activity, particularly where this involves potentially more complex armed deployment.”

We recognise that the RVIPF isn't yet able to follow this guidance, as it lacks experienced and qualified people to act as mentors. However, once the firearms commanders have gained sufficient experience to mentor others, the force should introduce a mentoring scheme.

The force should then assign a mentor to each new firearms commander. Once the mentor considers them competent, the armed policing portfolio holder should review the firearms commander's professional development record and either:

- authorise the commander as occupationally competent; or
- highlight what further development is needed.

### **Recommendation 40 – Phase two**

The Police Commissioner, with support from the International Policing Assistance Service, should develop and implement a shadowing and mentoring scheme and a performance review process for firearms commanders. This will also help them to achieve and maintain operational competence.

## **The force should develop a firearms exercising programme**

The force has an extremely limited firearms exercising programme. The only example it could give us was a multi-agency exercise that takes place annually at Terrance B. Lettsome International Airport. While the force's involvement in this exercise is positive, it should also develop an exercising programme based on the threats and risks identified in its APSTRA. It should then invite other agencies and emergency services to take part in these exercises.

### **Recommendation 41 – Phase one**

The Police Commissioner should oversee the development and implementation of a firearms exercising programme.

## **There are no role profiles for armed officers**

The RVIPF has two categories of armed officers:

- [authorised firearms officers \(AFOs\)](#); and
- armed response vehicle officers (ARVOs) who are authorised firearms officers who deploy in vehicles that contain firearms and less lethal options.

In practice, they perform slightly different roles. But the RVIPF doesn't have role profiles that set out details of the two roles, or the tactics officers should be able to use when deployed. This leaves room for confusion and creates safety concerns.

### **Recommendation 42 – Phase one**

The Police Commissioner, with support from the International Policing Assistance Service, should develop and implement armed policing role profiles, based on the threats and risks identified in its armed policing strategic threat and risk assessment.

## **The force should improve the training for armed officers**

### **Armed response vehicle officer training**

The force trains ARVOs twice a year. This includes tactics training and a requalification shoot. However, the training is outdated.

The force doesn't have an agreement with the College of Policing to access the latest firearms training curriculum. We know that some CDs and other police forces in non-UK jurisdictions have made such agreements with the College. Being able to access the curriculum would help the RVIPF design its training and develop role profiles for its armed officers.

### **Recommendation 43 – Phase one**

The Police Commissioner, together with the [College of Policing](#) and the International Policing Assistance Service, should develop a licensing agreement that allows the force to use the College of Policing’s national police firearms training curriculum.

#### **Authorised firearm officer training**

The force doesn’t provide tactics training for AFOs; they only carry out requalification shoots. This is inappropriate and poses risks to the officers and the public.

### **Recommendation 44 – Phase one**

The Police Commissioner, with support from the International Policing Assistance Service, should introduce mandatory tactics training for all [authorised firearms officers](#).

#### **The force needs more firearms instructors**

At the time of our visit, there were only two trainers in the force’s firearms training team. This isn’t enough to be able to safely run training.

We also found that operational officers act as range safety officers. But they haven’t been trained to carry out this role properly. This practice is inherently unsafe and should stop.

### **Recommendation 45 – Phase one**

The Police Commissioner should make sure that:

- operational [officers](#) don’t carry out the range safety officer role unless they are appropriately trained;
- the force trains enough operational officers to act as range safety officers; and
- the force increases the number of trainers in its firearms training team.

#### **Armoury and armourer**

We found several problems with the RVIPF’s arrangements for storing firearms, including:

- unsatisfactory housekeeping – for example, firearms not stored correctly on racking, ammunition not stored on shelving, and ancillary equipment, such as weapon magazines, left on worktops;

- a lack of robust record-keeping processes and using paper records, rather than an electronic database; and
- poor security in some cases.

#### **Recommendation 46 – Phase one**

The Police Commissioner should make sure that the force improves firearm storage arrangements in line with the [College of Policing](#)'s 2023 guidance on the management of police armouries and magazines.

At the time of our visit, the force didn't have a dedicated armourer. The chief firearms instructor was conducting this role alongside their other duties. The force should recruit a member of police personnel to act as the force armourer. They would need be trained to perform all the duties of the role, including:

- responsibility for servicing weapons;
- carrying out repairs; and
- monitoring ammunition stock levels.

#### **Recommendation 47 – Phase one**

The Police Commissioner should recruit a member of police staff to act as force armourer and make sure they are appropriately trained.

### **The force should rationalise its weapon systems**

We found that firearms officers in the RVIPF were using different types of weapons, despite carrying out the same duties. The reasons for this were unclear.

In addition to a standard sidearm, the RVIPF uses four different carbine firearms.

The force should rationalise its weapons systems and use a single type of carbine firearm, as well as its sidearm. It should base the choice of which carbine firearm to use on the threat to armed officers and the public, as outlined in the APSTRA.

Moving to a single carbine firearm would:

- improve operational effectiveness;
- reduce the training requirement for officers, thus saving money;
- reduce the annual training requirement for the force armourer; and
- create efficiencies in serving and maintaining weapons.

### **Recommendation 48 – Phase one**

The Police Commissioner, with support from the International Policing Assistance Service, should rationalise its weapons systems and move to using a single 5.56mm carbine firearm, in addition to its sidearm.

## **The use and management of intelligence**

### **The force should restructure its intelligence function**

In volume one of our report, we made a series of recommendations to improve how the RVIPF uses intelligence. In addition, the force needs to remodel its intelligence function. The ability of the intelligence unit to operate effectively is currently limited by the way it is structured and where it sits in the force's organisational structure.

The force should create an intelligence department, led by a newly recruited director of intelligence. The role holder should be an experienced intelligence manager and would represent the RVIPF in [our recommended level two intelligence structures](#).

The force should also appoint two managers with separate responsibilities for overt and covert intelligence. This would provide a "sterile corridor" between [overt and covert](#) functions. The managers would report into the director of intelligence.

At the time of our review, the force's head of intelligence wasn't trained to carry out the role of authorising officer (AO). And the Police Commissioner was the only AO. In UK policing, directors of intelligence are trained AOs and are responsible for authorising the use of some forms of covert tactics.

Appointing a trained authorising officer as director of intelligence would:

- be in line with good practice in the UK;
- add legitimacy to the directed surveillance process (covert surveillance carried out by police and other law enforcement bodies that isn't in a private residence or private vehicle. It includes covert monitoring of a person/people of interest's movements, conversations and other activities);
- provide a structure for reviews of authorities; and
- allow resilience in the role of authorising officer.

### **Recommendation 49 – Phase one**

The Police Commissioner should recruit a director of [intelligence](#) to design and lead the force's intelligence department. The role holder should have experience in the role of intelligence manager and be qualified, or be prepared to be trained, as an authorising officer.

### **Recommendation 50 – Phase one**

Once the Royal Virgin Islands Police Force has appointed a director of [intelligence](#), it should appoint separate managers for [overt and covert](#) intelligence.

### **The force lacks a tasking and co-ordination process**

Police forces in England and Wales use the [national intelligence model \(NIM\)](#) to gather, evaluate and manage information and help decision-making. This includes a tasking and co-ordination structure that provides managers with an intelligence-led process for operational decision-making at strategic and tactical levels.

The lack of intelligence-led processes in the RVIPF limits the force's effectiveness.

### **Recommendation 51 – Phase one**

Once the force has developed a [serious and organised crime](#) strategy (see [volume one](#), recommendation 32), the Police Commissioner should develop a local [overt and covert](#) tasking and co-ordination process. The director of [intelligence](#) should chair relevant tasking meetings.

We recommend that the force recruits leaders and other personnel, including analysts, intelligence officers and researchers, who have experience of working with the NIM or a similar model. This will provide the required leadership and support to officers as they adapt to new ways of working.

At the time of our review, the force wasn't using the daily management meeting or the force performance meeting to discuss the latest intelligence or any gaps in intelligence.

### **Recommendation 52 – Phase one**

The Police Commissioner should make sure that the force daily management meeting manages the tasking and co-ordination actions and focuses on priorities. Information from this meeting should be presented monthly to the force's performance meeting, with oversight from chief officers.

### **The force should brief personnel more effectively**

The RVIPF doesn't always brief personnel effectively. And the lack of data and intelligence limits the information available for briefings. The force's communications team had developed a computerised mapping system suitable for briefing personnel for daily duty or for specific operations. But, at the time of our review, this wasn't available for the intelligence department or other personnel to use.

### Recommendation 53 – Phase one

Once appointed, the force's director of [intelligence](#) should make sure that the intelligence department provides daily briefings to all relevant personnel, based on the force's priorities. The computerised mapping system should inform these briefings. The briefings should highlight matters such as:

- any linked crime series or hotspot locations;
- wanted and [missing people](#);
- [serious and organised crime](#) information;
- [intelligence requirements](#);
- patrol priorities; and
- outstanding actions from tasking and co-ordination meetings.

### The BVI INTERPOL sub-bureau isn't operational

The BVI hosts an [INTERPOL](#) sub-bureau. Sub-bureaus are meant to use the INTERPOL secure computer network to share intelligence and information with other countries and with INTERPOL. The force intelligence unit is responsible for operating the INTERPOL terminal. But we found that personnel in the unit hadn't logged on to the terminal or carried out searches on INTERPOL databases since 2017. Instead, they use emails from INTERPOL or its notices relating to the BVI as their intelligence source.

This practice contravenes INTERPOL's protocols and there is a risk that the unit could miss important intelligence or red notices. A red notice is a request to law enforcement worldwide to locate and provisionally arrest a person pending extradition, surrender or similar legal action. As a result, the force may be unaware of valuable information and intelligence linked to organised criminality.

INTERPOL produces annual data on how often bureaus and sub-bureaus search the network. In 2023, it ranked the BVI 199 out of the 218 sub-bureaus, based on its search activity. The failure of the RVIPF to search the network also undermines the UK's ranking.

### Recommendation 54 – Phase one

The Police Commissioner should make sure that:

- a member of the [intelligence](#) unit monitors the INTERPOL terminal daily; and
- intelligence from the INTERPOL database is disseminated appropriately and used to map [organised crime groups](#).

## Community policing

### The force needs to reinvigorate its community policing model

The force has a high-level community policing strategy but there are no plans or policies to implement it. As a result, it cannot carry out effective public engagement, crime prevention and problem-solving. These activities should underpin its SOC, intelligence, vulnerability and investigation strategies.

The force put in place a community team which is responsible for working with schools and the community. However, it didn't provide any training or guidance to the officers and supervisors about what was expected of them. As a result, they lacked the knowledge, skills and understanding needed to carry out their roles. Prior to our review, the force had disbanded the team. We found that some officers were nominally still part of community teams. But in practice they were deployed to carry out response team duties.

In some areas (for example in the SIT and major incident team), the RVIPF has recruited people with relevant experience to mentor personnel carrying out new roles. However, the force didn't put in place similar support when it introduced the community policing model.

The senior leadership team told us that the force is committed to improving its approach to community policing. But it is also aware that it will take a long time to put the required policies, plans and training in place.

#### Recommendation 55 – Phase one

The Police Commissioner should implement an effective community policing model. The force should:

- consider adopting relevant parts of the [neighbourhood policing guidelines](#) published by the [College of Policing](#);
- with the support of the International Police Assistance Service (where possible), develop policies, procedures and guidance for community [officers](#) and supervisors;
- train community officers and supervisors in problem-solving and crime prevention;
- develop intelligence briefings and tasking processes for community officers; and
- make sure that officers in community policing teams aren't routinely redeployed to other duties.



## **The force needs a public engagement strategy**

The force isn't doing enough to work with and consult local people and communities.

The RVIPF needs a public engagement strategy so that it can better understand the views of communities. It should use this insight to influence all areas of policing, including helping the force to identify its policing priorities. It should also ask for community views on strategies, policies and processes where it is appropriate to do so. We found no evidence of such activity during our review.

Involving the public in this way could help to restore public trust and confidence in the RVIPF.

The force's website has limited content compared to websites for the [Royal Gibraltar Police](#), the [Royal Cayman Islands Police Service \(RCIPS\)](#), the [Bermuda Police Service](#) or police forces in CDs. It doesn't include any information on crime prevention, crime statistics, how to report crime, or details about [victim](#) care or services.

The force has a small, ad-hoc social media presence. As a result, it is missing potential opportunities to communicate with a wide range of the population in the BVI. The force should establish and promote a presence on social media platforms used by people of different ages and from different social backgrounds.

As well as improving its social media presence, the force should introduce more opportunities for the public to meet with RVIPF officers in person. Senior leaders should make themselves available for regular community meetings and events.

### **Recommendation 56 – Phase one**

The Police Commissioner should establish a public engagement strategy. This should include plans to involve the public and representative groups in:

- governance and oversight arrangements;
- independent scrutiny of the police use of powers and force (including stop and search powers as set out in section 36 of the [Police Act 2019](#)); and
- priority setting.

The force should also develop its website to provide important community information.

## **The force needs to improve the service it provides to victims of crime**

In volume one of our report, we highlighted that the RVIPF doesn't provide adequate support to victims of crime. We recommended that the Police Commissioner should make sure that all officers and personnel are aware of and comply with the force's victims' charter.

Reviews of investigations by senior detectives should include an assessment of the standards of victim care and [safeguarding](#). The force should use performance meetings to measure compliance with its victims' charter. Any areas for improvement identified through these processes should feed into training needs assessments.

Victim surveys are another way that the force could assess the service it provides to victims. Police forces in England and Wales (and in some BOTs, including the Royal Gibraltar Police) carry out an annual survey to understand how victims of crime experienced the service they received. The RVIPF should adopt this practice.

The force should use results of victim surveys, outcomes of investigation reviews and performance data to identify ongoing improvements. This may also help increase public trust and confidence in policing in the BVI.

### **Recommendation 57 – Phase one**

To improve the service the force provides to [victims](#), the Police Commissioner should:

- develop an annual survey of victims;
- share the results with relevant organisations to improve services; and
- publish the findings.

### **Crime prevention and problem-solving policing**

In volume one of this report, we recommended that the RVIPF produces a crime prevention strategy.

Crime prevention is best achieved through a co-ordinated and joint approach. Forces in England and Wales use problem-solving policing as one way of helping them to do this. The College of Policing provides [authorised professional practice on problem-solving policing](#) and training resources for officers.

Senior leaders told us that problem-solving policing is at the heart of the force's community policing strategy. However, personnel are unaware of problem-solving policing and haven't received any relevant training.

### **Recommendation 58 – Phase one**

The Police Commissioner, working with the International Police Assistance Service, should oversee the development and implementation of policies, procedures and training on problem-solving policing.

## Automatic number plate recognition

The force uses technological solutions to prevent and detect crime, such as town centre CCTV, but it doesn't use automatic number plate recognition (ANPR). ANPR cameras read vehicles' number plates and instantly check against a database which records vehicles of interest. This technology provides law enforcement agencies with intelligence on vehicle activity. They can then use this to protect the public, prevent crime and use in evidence during court proceedings. UK police forces use it extensively. The [Royal Turks and Caicos Islands Police](#) also uses ANPR.

### Recommendation 59 – Phase three

The Governor and the Government of the Virgin Islands should introduce automatic number plate recognition technology. The Police Commissioner should make sure this technology forms part of the crime prevention strategy.

## Tackling serious and organised crime

Serious and organised crime (SOC) poses a threat to the public and its damaging effects can be felt by individuals, businesses and wider communities.

### Understanding the threat

The RVIPF doesn't have effective arrangements in place to deal with SOC.

To co-ordinate activity and help decide priorities, police forces in England and Wales use the NIM and the '[serious and organised crime strategy 2023 to 2028](#)' published by the UK Government. These promote the use of comprehensive strategic threat and risk assessments, intelligence collection plans, intelligence-led tasking, organised crime group mapping and the sharing of information with partner agencies and uniformed police officers.

The force has a poor understanding of the threats that SOC poses to its communities, including the makeup and hierarchy of the gangs that operate on or around the BVI. And it doesn't understand the impact of [organised crime groups \(OCGs\)](#) from other countries.

The lack of co-operation with other criminal justice bodies and law enforcement agencies means the BVI's borders are vulnerable. There is no assessment of how SOC affects the border, nor how the threats and vulnerabilities linked to SOC are putting BVI communities in danger.

The RVIPF should do more to gather intelligence from other public sector agencies (such as HM Customs and the Department of Immigration) and work in collaboration with them. It needs to develop a clear SOC intelligence requirement to help other agencies contribute to addressing the BVI's SOC problem. The absence of a defined

and comprehensive SOC intelligence requirement and an intelligence collection plan limits the force's ability to gather SOC-related intelligence.

The College of Policing requires police forces in England and Wales to [map OCGs](#) in accordance with national guidance. We recommend that the RVIPF adopts a similar process to map OCGs and link this into tasking and co-ordination processes at all levels. The College of Policing has guidance on how to develop and manage this process.

### **Recommendation 60 – Phase one**

The Police Commissioner should oversee the development of a process to:

- map [organised crime groups](#) across the BVI; and
- use the mapping to prioritise activity in tasking and co-ordination meetings.

### **The BVI lacks a multi-agency approach to tackle serious and organised crime**

Once the force has implemented the level two intelligence model (outlined in the [intelligence chapter](#)), it should work with other government departments to set up a multi-agency partnership board that focuses on SOC. This could help the force to identify the threat, vulnerability and risk from SOC in a particular area. And, with its partners, to form a multi-agency action plan to address it. This should link into the 4P-approach we discussed in volume one of the report. This approach involves tackling SOC by pursuing offenders through prosecution and disruption; preparing for crime occurring and mitigating impact; protecting individuals, organisation and systems from the effects of crime; and preventing people from taking part in criminal activities.

In the UK, the membership of such boards includes community safety partners, such as:

- community representatives;
- local authorities;
- professionals from education and health;
- local businesses;
- third sector organisations;
- law enforcement agencies;
- criminal justice bodies; and
- regional and national organisations.

A joint working approach generates more opportunities to prevent and deter SOC and includes the community and wider criminal justice partners in the process.

## Recommendation 61 – Phase two

The Police Commissioner, working with senior leaders from the BVI public and private sectors, should establish a multi-agency [serious and organised crime](#) board. This would have responsibility for directing and managing serious and organised crime prevention and deterrence activity in the BVI. The board should be chaired by a senior Royal Virgin Islands Police Force officer.

### Preventing serious and organised crime

Police forces need to be able to prevent people from being drawn into SOC. Many of these people may be [vulnerable](#) and already involved in gangs or youth violence. Police forces should also use a range of approaches and powers to prevent known criminals from continuing to cause harm.

However, we found no evidence that the RVIPF carries out any activity to prevent people from becoming involved in SOC or to divert young people at risk from exploitation by OCGs. The multi-agency board discussed above will help to address this.

### The force needs to involve uniformed officers in dealing with serious organised crime

As we reported in volume one, the force needs to involve uniformed officers in its approach to dealing with organised crime. This will enable the force to collect more intelligence and provide greater opportunities to identify and carry out [disruption activity](#). And it will help the force to spot the signs of organised crime at an early stage.

Uniformed officers we spoke to said they are keen to be involved in this type of work. They told us, “We know who the local criminals are.” Given the size of the BVI, this isn’t surprising. It seems logical for the force to harness this knowledge.

But the force doesn’t have a structured, intelligence-led process to brief uniformed officers on OCGs and involve them in the tasking and co-ordination process. As a result, it is missing opportunities to carry out prevention activity with high-risk individuals and families. We found that uniformed officers were carrying out little activity apart from liaising with schools to try to prevent younger siblings and partners of criminals being drawn into organised crime. This must change.

Once the force has mapped OCGs (as per recommendation 60), it should appoint community officers to act as [lead responsible officers](#) for some of the lower-risk individuals and groups. This will help formalise the involvement of community policing teams in the approach to SOC.

Courts in the BVI need more powers to impose restrictions to help prevent serious and organised crime

The RVIPF lacks the tools and powers to monitor convicted OCG members and prevent them from re-offending.

In the UK, the [Serious Crime Act 2007](#) and the [Police, Crime, Sentencing and Courts Act 2022](#) introduced a range of court orders aimed at preventing or deterring serious crime. These orders include [serious crime prevention orders](#), [serious violence reduction orders](#) and a range of civil orders. The courts can use these to impose extra restrictions on serious offenders to help manage the risk of re-offending. The orders can impose far-reaching restrictions on a convicted person's ability to:

- use communications devices, such as mobile phones;
- hold specific types of business bank accounts;
- communicate or interact with criminal associates; and
- visit certain locations.

No comparable legislation exists in the BVI.

### **Recommendation 62 – Phase two**

The Premier should oversee the introduction of legislation to give courts in the BVI powers to impose restrictions such as [serious crime prevention orders](#) and [serious violence reduction orders](#).

### **Disrupting serious and organised crime**

In volume one of this report, we recommended that the force develops a SOC strategy based on the 4P-approach. Following the introduction of this strategy, the force needs to adopt a structured and independent means of assessing disruptions. Such assessments would provide a basis to measure the effect of police activities.

#### **Assessing disruptions**

It is important that the force tries to measure the effect that its disruptive activity has had on a particular OCG. In the UK, [regional organised crime units \(ROCU\)](#) play a significant performance management role, by assessing whether law enforcement efforts – called “disruptions” – are effective. The process that UK police forces use to measure disruptions is well established. It includes the use of moderation panels to scrutinise disruption records, with oversight by the ROCU. The [ROCU Network's](#) National Operations Centre oversees this process and the performance of ROCUs.

This could prove a useful template for the RVIPF to adopt. [Later in this road map](#), we recommend that law enforcement agencies in the Caribbean and North Atlantic BOTs set up a level three ROCU to moderate disruption activity across the police forces. Meanwhile, the RVIPF should work with the National Operations Centre, which could moderate disruptions until processes are in place across police forces in the Caribbean and North Atlantic BOTs.

### **Recommendation 63 – Phase one**

The Police Commissioner should work with the Regional Organised Crime Unit Network to arrange for the National Operations Centre to independently assess the force's [serious and organised crime disruptions](#).

### **Recommendation 64 – Phase three**

Once the [regional organised crime unit](#) is established, it should independently assess [serious and organised crime disruptions](#) in the force.

### **Strategic tasking and co-ordination**

Once the force has set up the tasking and co-ordination process (as per recommendation 51), it will gain strategic oversight of its response to SOC, in line with the strategic threat and risk assessment.

This process will need to focus on the force's SOC priorities to be effective. Meeting attendees need to be able to contribute at the right level and make resourcing decisions for their teams and departments. Meetings should be used to:

- make effective decisions;
- direct activity;
- sanction action against OCGs;
- discuss updates and reviews;
- monitor progress;
- authorise deployment of resources; and
- assess the force's performance in tackling SOC by reviewing data, including the numbers of drug seizures, proceeds of crime recoveries and arrests.

The detective in charge of the SIT should be responsible for SOC investigations. They should manage tactical decisions and provide daily and weekly updates through the tasking and co-ordination group and daily morning meetings.



The force should use the new intelligence and briefing model to make sure that all operational officers have a role in targeting this form of criminality. Effective briefings and tasking should take part at the start of each shift or day. And each mapped OCG should be known to, and targeted by, every available officer. The introduction of robust security vetting and notifiable associations procedures recommended later in this report will mitigate the risk of sharing this information with all officers.

### **The BVI lacks a statutory framework to regulate the use of covert investigatory powers by law enforcement agencies**

In the UK, the [Regulation of Investigatory Powers Act 2000 \(RIPA\)](#) and the [Investigatory Powers Act 2016 \(IPA\)](#) provide a statutory footing for the use of covert investigatory powers by law enforcement agencies. Powers include:

- [intrusive surveillance](#) and directed surveillance;
- [covert surveillance](#);
- acquisition of communications data;
- [property interference](#);
- use of [covert human intelligence sources](#); and
- access to encrypted data.

The Acts also set out safeguards to make sure that the relevant investigatory powers are used properly. These safeguards cover:

- the purposes for which the powers may be used;
- which authorities can use the powers;
- who should authorise each use of the power;
- the use that can be made of the material gained;
- independent oversight; and
- a means of redress for the individual.

These safeguard private information and make [collateral intrusion](#) less likely.

The BVI lacks comparable legislation. The RVIPF told us that it works in “the spirit of RIPA” and that its use of covert powers is proportionate and necessary. But the BVI’s processes aren’t in line with RIPA. For example:

- authorities for covert activity lack sufficient detail;
- responsibility for signing authorities for some covert tactics rests with the Governor, who is unlikely to have relevant experience or training; and
- there is no organisation similar to the UK’s [Investigatory Powers Commissioner’s Office](#) responsible for overseeing the use of covert investigatory powers by law enforcement agencies.



Not following RIPA to the letter creates the opportunity for defence attorneys to argue an abuse of process.

Conducting covert investigations without a domestic statutory framework that includes adequate safeguards also puts the RVIPF at risk of contravening Article 8 of the [European Convention on Human Rights \(ECHR\)](#). Article 8 sets out the following rights:

“1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

Current practices could also contravene Article 6 of the ECHR: the right to a fair trial.

Shortly before our review, a [new legislative bill](#) had been drafted “to repeal and replace the [BVI] Police Act (Revised Edition 2013) and to make provision for matters connected therewith.” It set out a range of covert policing powers. But these were broad and permissive, with little oversight. If this bill is passed, the RVIPF would have powers comparable with police forces in England and Wales (if not more extensive), but with insufficient safeguards to people’s rights under Article 8 of the ECHR.

The BVI should introduce a statutory framework to regulate covert investigatory powers that includes safeguards compatible with Article 8 of the ECHR.

### **Recommendation 65 – Phase one**

The Premier should oversee the introduction of legislation to create a statutory framework to regulate the use of covert investigatory powers by law enforcement agencies. This legislation should be based on the [UK Regulation of Investigatory Powers Act 2000](#) and the [UK Investigatory Powers Act 2016](#) and authorise the BVI to use covert investigatory powers accordingly.

### **Recommendation 66 – Phase one and two**

Once our proposed Anti-Corruption Agency, Maritime Security Law Enforcement Agency and Customs and Immigration Border Agency are operational, the Premier should amend the legislation we refer to in recommendation 65 to give these agencies the covert investigatory powers outlined in the legislation.

The BVI should also create a new agency to provide independent oversight of covert operations. This agency should fall within the Governor's reserved responsibilities but be operationally independent of the Governor and the Government of the Virgin Islands.

### **Recommendation 67 – Phase one**

The Premier should oversee the introduction of legislation to create an Investigatory Powers Commissioner's Office for the BVI. It should be responsible for overseeing the use of covert investigatory powers, and ensuring covert operations are legal, necessary and proportionate.

## **Investigating crime**

### **Initial response**

We have highlighted that the RVIPF doesn't always respond effectively to demand. The standard of the initial response is critical for an effective investigation to take place. It is important that forces gather and record details of evidence as soon as possible after a crime has been committed. Any delays in this process can increase the risk that evidence could be destroyed, damaged or lost. It is usually the responsibility of the call handler or first officer who attends the scene to record the initial evidence.

The lack of a fit for purpose control room, or systems to gather and record activity in a timely manner, constrains the force's response before an investigation begins. For example, call handlers aren't trained to carry out initial risk assessments. This means they are unable to take account of risk and vulnerability factors. As a result, responding officers don't have this information available to inform their decision-making. We explore this issue further in the [vulnerability and safeguarding section](#) later in this report.

The force needs to have better processes in place for the initial response to incidents. This will act as the foundation for more effective investigations.

### **Initial investigation**

Our review of police case files was difficult because of the lack of information relating to investigations recorded on computer systems.

We found that first responders completed basic initial investigative actions, such as identifying witnesses and CCTV and carrying out enquiries to identify suspects. They usually made a record of these actions on the OTRCIS database.

However, first responders don't routinely carry out further enquiries when incidents are more complex or if further investigation is required. Nor do they act to secure evidence or safeguard victims.

In the cases we reviewed, we didn't find any evidence of an effective handover from first responders to investigators. The RVIPF has no process in place for this.

### **Recommendation 68 – Phase one**

The Police Commissioner should introduce an investigation handover process that includes:

- a written checklist of actions that should be completed prior to the handover;
- responsibilities of supervisors; and
- the requirement that the checklist forms the basis of an investigation plan and its contents are entered onto the overseas territories regional crime intelligence system database.

### **Crime recording and standards**

In volume one of this report, we recommended that the force should recruit and train a force crime registrar (FCR) and a deputy. These roles would be responsible for:

- managing standards of crime recording and allocation;
- assigning outcomes to investigations; and
- introducing an auditing process in line with the [‘Crime Recording Rules for front line officers and personnel’](#) published by the UK Home Office.

These roles will be essential:

- to help understand crime demand and gather accurate data to support effective performance management;
- to tailor services required for victims and communities based on needs and expectations; and
- to co-ordinate the review and audit of crime investigations to help maintain standards.

It would be beneficial for the FCR and their deputy to sit within the force's crime department. This would enable the force to hold senior leaders accountable for carrying out thematic or general reviews.

The force should review information gathered by the FCR roles in relevant governance and performance meetings. This information could be used to improve standards and to support the continuing professional development of officers.

## **Recommendation 69 – Phase one**

The Police Commissioner should move the crime recording function to the force's crime department. The force should then develop a comprehensive system for auditing crime records. A senior detective should lead these audits.

### **Crime allocation**

After initial investigative actions have been completed, the investigation either stays with the first responder or it is allocated to a specialist unit, such as the family justice unit (FJU), major crime unit or the crime department. This depends on the type of crime and other factors, such as the risk of harm to the victim.

Forces must make sure that the crime allocation process considers risk and the seriousness of the crime. And that investigating officers have the appropriate skills and training to manage the investigation. The force has clear policies that set out the criteria for crime allocation. It was positive to see that crimes are consistently allocated to the most appropriate team, who then take the lead on the investigation. As discussed above, the force needs to improve the processes for the handover between first responders and investigation teams.

### **Complex and serious investigations**

We found there was a lack of training and continuing professional development for detectives working in the crime department. At the time of our review, one officer had been working in the crime department for 13 months but had yet to receive any training. Other officers relied upon the training they had received while working for other police forces before joining the RVIPF.

We found a similar situation in the FJU, major incident team (MIT) and SIT. Colleagues who had previously worked in UK forces provided some mentoring. But the force hadn't provided formal training or continuing professional development to all staff in specialist teams. These included senior investigating officers, family liaison officers, exhibits officers, telecoms officers and advanced interviewing.

The force hasn't provided interview training for all investigators, including those working on serious and complex criminal investigations. A few officers we spoke to said they had received basic interview training while working in other police forces but weren't trained to an advanced level.

The force needs to provide investigators with the training and support they need to carry out their role in line with expected standards. They do a challenging job and are at the forefront of the force's response to organised crime. Investigators also play an essential role in the service the force provides to victims.

It is important that the force maintains high standards and professionalises investigation roles, particularly in specialist departments. The training and welfare of investigators should form part of force governance and performance frameworks. We have reported on the difficulties the force faces to procure training above and perhaps the College of Policing could help with this.

### **Recommendation 70 – Phase one**

The Police Commissioner should develop a training and mentoring plan for all investigators. It should put in place a programme of accreditation to professionalise all investigation roles.

### **Recommendation 71 – Phase one**

The Police Commissioner, with assistance from the [College of Policing](#), should provide interview training for all investigators. Officers in the major incident team, family justice unit and serious investigation team should be trained to an advanced level to reflect their role in carrying out complex investigations.

### **Recommendation 72 – Phase one**

The Police Commissioner should regularly review resourcing levels in specialist departments to make sure that:

- there are sufficient personnel to meet demand; and
- they have the right skills to carry out serious and complex investigations.

## **Supervision**

It is important that supervisors and senior managers provide direction for investigations, but we found scant evidence of this during our review.

### **Investigation plans**

At the start of an investigation, supervisors should record a clear initial plan that sets out investigative options and how to gather relevant evidence, based on the facts presented. The investigator should use this plan to structure their investigation. They should make a record of relevant decisions they take and actions they carry out. The College of Policing's [authorised professional practice on investigations](#) contains relevant guidance.

However, apart from some FJU investigations, we found that the force's investigations generally didn't have a recorded investigation plan.

### **Recommendation 73 – Phase one**

The Police Commissioner should make sure that supervisors record clear plans at the start of each crime investigation and carry out ongoing reviews of all cases.

#### **Reviews of investigations**

The force's crime recording policy stipulates that supervisors must carry out investigatory reviews after 24 hours, seven days and 28 days respectively. But we found no records of supervisory reviews in our case audits. There is no process to make sure that these structured, periodic reviews take place as required by the force's policy.

### **Recommendation 74 – Phase one**

The Police Commissioner should make sure that supervisors and managers are able to review investigations effectively. This should include training for supervisors on how to plan, supervise and review investigations.

#### **Forensic support**

##### **The force needs to provide up-to-date accreditation for crime scene investigators**

The force's scenes of crime office (SOCO) is well-run, and it provides good forensic support for investigators. Crime scene investigators (CSIs) attend incidents promptly and provide updates on their findings and return the results of forensic tests to investigating officers without delay. We saw that CSIs discuss forensic strategies with investigators from the FJU, MIT and SIT to agree the appropriate course of action for serious crime investigations.

Personnel working in the SOCO are skilled in examining evidence relating to fingerprints and forensic ballistics. At the time of our review, the force was training a member of staff to become a blood pattern analysis expert. It was positive to see that the SOCO works with experts in the Cayman Islands to quality assure evidence.

However, the RVIPF doesn't provide continuing professional development through training, mentoring or re-accreditation. At the time of our review, the only officer in the SOCO with current accreditation was the inspector who had paid for their own re-accreditation in 2021. This situation must improve.

Personnel need current accreditation to be able to provide expert evidence at court. Without it, there is a risk that defence lawyers could successfully challenge evidence. As a result, the force could lose cases and let down victims of crime.

### **Recommendation 75 – Phase one**

The Police Commissioner should make sure that all scenes of crime office personnel have up-to-date accreditation for their role and [continuing professional development](#).

The force's arrangements for maintaining scenes of crime office equipment and forensic service contracts are poor

At the time of our review, the force hadn't paid the monthly maintenance charge for the integrated ballistic identification system – a system for managing all ballistic evidence – for the last eight months. This put the force at risk of losing access to the system, which would have serious consequences for the force's ability to deal with serious and major crime.

We also found that the force previously had a contract with a laboratory in Miami to manage DNA examinations. But the laboratory withdrew its service after the force failed to pay for over ten months. As a result, at the time of our visit, the force held 27 firearms linked to organised crime that hadn't been subject to DNA testing. This poses a significant and unacceptable threat.

The force urgently needs to resolve these problems and introduce processes to prevent reoccurrences.

The force and the Governor should ring-fence a budget to pay for contracts, maintenance of equipment, the accreditation of personnel and licences. This will make sure that the issues outlined above don't negatively affect investigations in the future.

### **Recommendation 76 – Phase one**

The Governor, together with the Police Commissioner, should make sure that the force is funded sufficiently to pay for:

- forensic services (including laboratories and the integrated ballistic identification system);
- the maintenance of forensics equipment; and
- the accreditation of personnel responsible for carrying out forensic examinations.

The way the force deploys crime scene investigators is inefficient

The force's policy stipulates that a CSI must attend the scene of every reported crime, regardless of the circumstances or the likelihood of obtaining forensic evidence.



This is unnecessary and an inefficient use of resources. Instead, the force should empower crime managers and scenes of crime managers to make decisions about when CSIs should attend crime scenes.

CSIs often attend scenes to take photographs, which can be used in future court hearings. It would be more efficient for first responders to do this.

The force could take an analytical approach to identify when it would be most beneficial for CSIs to attend incidents. For example, it could review the outcomes of CSI deployment to identify which crime types are associated with higher forensic yields. Based on this information, CSIs would only attend crimes scenes where they are most likely to retrieve forensic evidence. This would be a more efficient and productive use of resources than the current routine deployment.

### **Recommendation 77 – Phase one**

The Police Commissioner should introduce a policy that allows senior leaders to make more effective and efficient decisions about the deployment of crime scene investigators to crime scenes.

The results of crime scene examinations should be used to inform the types of crimes where crime scene investigator attendance is most beneficial.

### **Exhibits**

We found some good examples of exhibit management in the SOCO and the MIT. There are exhibits officers on both teams.

However, as we reported in volume one, the storage of exhibits poses risks to the force. It uses paper systems to manage the storage of exhibits and provide continuity of evidence. Instead, the force should record and manage exhibits on the OTRCIS database. It would then be able to manage the transfer of exhibits to the digital forensic hub in the RCIPS on one system.

Other forces in the region already use OTRCIS for this purpose. A standard system for all forces would improve processes for the management, continuity and examination of digital and forensic exhibits.

### **Recommendation 78 – Phase two**

The Police Commissioner should put in place a process to record and manage exhibits on the overseas territories regional crime and intelligence system database.



## Digital forensics

The RVIPF should improve how it uses [digital forensics](#).

At the time of our review, the force hadn't provided investigators with training on how they could use digital forensics during their investigations. Some investigators in the MIT and SIT had been trained on digital forensics in other forces before joining the RVIPF. So they understood its potential uses. But there was less awareness outside of these specialist units.

Investigators we spoke to told us that it was also too difficult to arrange digital forensic analysis.

### The regional digital forensic hub lacks funding

In 2019, the FCDO funded the creation of a regional digital forensic hub for Caribbean and North Atlantic BOTs police forces. The RCIPS runs the hub. It is an impressive facility with the capability to carry out most digital forensic examinations. The Caribbean and North Atlantic BOTs were meant to jointly fund the hub and provide personnel. But a funding agreement wasn't finalised between the FCDO and the BOTs.

At the time of our visit, the RCIPS was the sole provider of funds and personnel. Without the wider funding the hub is unable to provide a service to the other BOTs. The hub has significant potential to support forces across the Caribbean and North Atlantic BOTs. We therefore recommend that it is reinvigorated.

The Cayman Islands Government cannot take sole responsibility for funding the hub and it is unlikely that the smaller Caribbean BOTs could afford to contribute. The FCDO should therefore work with the Commissioner of the RCIPS, the Commissioner of the RVIPF and the chief officers of the other Caribbean and North Atlantic BOTs' forces to secure a new funding arrangement. This would involve the FCDO directly funding the RCIPS to support the smaller Caribbean BOTs' forces.

### Recommendation 79 – Phase one

The Foreign, Commonwealth & Development Office Overseas Territories and Polar Directorate should work with the Commissioners of the Bermuda Police Service, the Royal Anguilla Police Force, the Royal Virgin Islands Police Force, the Royal Cayman Islands Police Service, the Royal Montserrat Police Service and the Royal Turks and Caicos Police Force to secure a funding arrangement for the [digital forensics](#) hub in the Cayman Islands. This should involve the Foreign Commonwealth & Development Office funding the Royal Cayman Islands Police Service directly to support the smaller forces.

Within the RVIPF, the SOCO should also be responsible for digital forensics.

### **Recommendation 80 – Phase one**

The Police Commissioner should improve how the force provides digital solutions to investigators. The force should:

- base the digital device expert in the scenes of crime office to maximise their expertise in managing crime scenes and handling exhibits;
- appoint the digital device expert as the point of contact with the regional forensic hub; and
- give the digital expert responsibility for mentoring investigators and co-ordinating training.

### **Offender management**

In volume one of our report, we highlighted that the force doesn't have any formal processes for offender management.

#### **There is a lack of processes for arresting suspects**

Responding officers and investigating officers routinely make early arrests when suspects are present at incidents, or when they are easily identifiable. Many offenders are known to officers.

However, we found that investigations often continued for extended periods in cases where an early arrest hadn't been made and where the suspect was unidentified or not readily located. Investigators managed these cases, and there was inconsistency in the efforts they made to secure arrest. We found no evidence of supervision or a strategic overview of the actions taken to arrest.

The force doesn't have processes to manage and co-ordinate arrest enquiries. The force should circulate details of wanted persons to officers via briefings at its daily meetings and on briefing sites. This would enable supervision and give senior leaders a strategic overview.

#### **The force should establish an offender management programme**

In the UK, police and other relevant agencies use an [integrated offender management \(IOM\)](#) programme. [Home Office guidance](#) describes IOM as a:

“...cross-agency response to the crime and reoffending threats faced by local communities. The most persistent and problematic offenders are identified and managed jointly by partner agencies working together.”

All IOM cases are discussed at a monthly multi-agency meeting, where support plans are agreed. These are based on a range of factors impacting the offender including:

- re-offending;
- housing status;
- financial position;
- employment; and
- relationship problems.

Officers we spoke to told us that a small number of offenders committed the majority of crime in the BVI. However, the force has no process to target and manage these offenders. In this context, establishing an IOM programme could bring significant opportunities to prevent crime and benefit the community.

### **Recommendation 81 – Phase two**

The Government of the Virgin Islands should introduce an [integrated offender management](#) programme.

## **Vulnerability and safeguarding**

### **The force lacks a shared understanding of vulnerability**

The RVIPF has no consistent approach to identify vulnerable people. There are different definitions of vulnerability in the victims' charter and in other RVIPF policies. This has led to confusion. Frontline officers we interviewed were unsure of what might make someone vulnerable.

A single definition of vulnerability would give officers a clearer understanding of the range of ways in which people may be vulnerable. This should be supported by relevant training and policies. These changes should enable the force to provide more appropriate support to vulnerable people.

### **Recommendation 82 – Phase two**

The Police Commissioner should lead the development of a force definition of vulnerability and arrange relevant training for the workforce.

The definition should be reflected in the force's policy and practices for the management of vulnerability.

## **The force needs to do more to understand the nature and scale of vulnerability in the BVI**

The force lacks understanding about hidden vulnerability. For example, leaders and operational officers we spoke to told us there was no [modern slavery](#) in the BVI. Yet we heard from some personnel in other agencies who disagreed.

The force doesn't have intelligence-gathering plans on crimes affecting vulnerable people, such as [honour-based abuse](#), other forms of exploitation and female genital mutilation (a procedure where the female genitals are deliberately cut, injured or changed, without medical reason, which is internationally recognised as a human rights violation).

It also has difficulties gaining relevant information from other organisations to fully understand the extent of vulnerability in the community. Most other BVI agencies (including the [Social Development Department](#), the [Health Service Authority](#), [HM Virgin Islands Prison Service](#), HM Customs or the [Ministry of Education, Youth Affairs and Sports](#)) don't routinely gather data on vulnerability and safeguarding. This means the RVIPF doesn't have information about all incidents that may involve vulnerability.

By working in partnership with other law enforcement agencies (as well as health and education), the force could gain a better understanding of the scale and nature of the demand. It could also identify suitable partnership approaches and what resources and capabilities are needed.

### [The force needs to prioritise and manage risk relating to vulnerability](#)

In volume one of our report, we recommended that the RVIPF should develop a strategy to identify and respond to potential vulnerabilities in the community. This would:

- form the basis of how the force should manage vulnerability; and
- provide a framework for effective governance and performance.

Once this recommendation is in place, the force needs to improve how it prioritises and manages risks relating to vulnerability.

Police forces in England and Wales, and in some BOTs and CDs, use the [management of risk in law enforcement \(MoRiLE\)](#) scoring methodology to do this. The RVIPF should adopt this process to manage vulnerability.

However, the force doesn't have the capacity to regularly produce assessments aimed at targeting offenders and safeguarding victims. At the time of our review, the two MIT analysts spent most of their time supporting investigations and didn't have time to develop strategic analysis of vulnerability issues. The force needs the capability to do both. With the current resourcing levels, the team also lacks resilience when analysts are on holiday or are diverted away from their main duties to carry out other analytical tasks.

### **Recommendation 83 – Phase one**

The Police Commissioner should increase the force's analytical capability to support the process for managing vulnerability.

### **Recommendation 84 – Phase one**

Once the analytical resource is in place (see [recommendation 83](#)), the Police Commissioner should adopt the [management of risk in law enforcement](#) scoring methodology to help manage vulnerability.

## **Understanding the link between serious and organised crime and vulnerable people**

There is a link between the growing threat from SOC and the criminal exploitation of young and vulnerable people. Vulnerable people are becoming involved in firearms and drug trafficking. Human trafficking to support organised crime is growing fast. But the RVIPF has limited understanding of the extent of these problems.

The force needs to prioritise tackling the exploitation of young and vulnerable people. This should involve working with schools and other agencies to identify and safeguard people being exploited by criminals, or who are at risk of exploitation. The process should be managed by the multi-agency SOC board, which will oversee multi-agency plans for individuals at the highest risk of harm. This may include juveniles and troubled families.

For this process to be effective, specially trained community police officers need to be involved in tackling vulnerability. Their role should involve warning children about exploitation, gathering information and developing intelligence about those most at risk. The long-term aim for these officers would be to identify vulnerability, take appropriate safeguarding actions and divert young people away from gangs.

Police officers from SOC teams and community teams should collaborate to provide diversion opportunities for young people identified as being most at risk of becoming involved in organised crime. In the UK, leaders in policing, education and health have devised mentoring schemes, sport tournaments, drama and dance activities to identify exploitation threats.

The RVIPF doesn't have an officer dedicated to overseeing safeguarding priorities. At the time of our review, the FJU detective inspector was carrying out these roles, in addition to their other commitments. However, they don't have the capacity to carry out both roles.

### **Recommendation 85 – Phase one**

The Police Commissioner should appoint a [safeguarding](#) lead to oversee force activity and liaison with other agencies on diversionary tactics and other safeguarding priorities.

Once appointed, the safeguarding officer should visit those who are at highest risk each month to check their progress. Once this is in place, the force should look to develop a similar operation to divert adults from criminality.

### **Identifying vulnerability**

In volume one of our report, we reported that personnel in the FJU enter some information about vulnerable people onto the OTRCIS database. We recommended that the Police Commissioner should consider allowing more officers to access some of this information, as this would help facilitate appropriate safeguarding and investigatory measures.

Outside the FJU, officers don't generally enter information relating to vulnerability onto the OTRCIS database. The RVIPF needs to make sure that all officers update the OTRCIS database after dealing with incidents involving vulnerable people. This will help the force to gain a better understanding of the demand and how it should respond.

However, as we have already highlighted, there is a lack of understanding among frontline officers about how to identify and respond to vulnerability. Members of the public can report incidents in different ways, such as by phone, at the police station or directly to officers in the street. The RVIPF doesn't have a system for the officers taking these initial reports to identify vulnerable victims and those subject to repeat victimisation.

This means the force isn't always able to identify and provide the most appropriate police or multi-agency intervention.

### **Recommendation 86 – Phase one**

The Police Commissioner should:

- set up a system to enable [personnel](#) taking initial incident reports to identify repeat and [vulnerable victims](#); and
- with support from the International Police Assistance Service, produce or source appropriate policies, procedures and guidance and training for personnel to help them identify vulnerable victims.

## **Initial response to vulnerable victims**

In the cases we reviewed, we found that the force provided a poor service to vulnerable victims that doesn't focus on their needs.

Uniformed constables are usually the first responders to incidents. However, we found there was a lack of understanding among frontline officers about how they should respond to incidents involving vulnerable people. They told us they believed the FJU was responsible for identifying vulnerability and managing safeguarding. Frontline officers requested that the FJU attended the scene of every incident involving vulnerable victims.

The FJU is a small team. It doesn't have the capacity to act as a first responder, as well as carrying out its other responsibilities.

On the occasions when first responders did deal with vulnerable victims, they didn't follow the requirements of the victims' charter and didn't always record their actions. We found no evidence of supervisors checking to make sure this was done. Nor did they check records of victim contact, care or safeguarding. The force needs to make sure that supervisors monitor compliance with the victims' charter.

There was limited recording of safeguarding actions by investigators, other than those from the FJU.

In our review of domestic abuse incidents, we found the initial safeguarding actions taken by frontline officers were ineffective, with a lack of victim care. But officers from the FJU focused on the needs of victims and took appropriate action to arrest suspects.

There was a 27 percent increase in recorded domestic abuse between the 2019 and 2022 calendar years. And given we found widespread under-recording of crime in general, the actual number of domestic abuse incidents may be higher. There are no additional resources for the FJU to manage the increasing demand, and the force lacks a multi-agency response.

The force needs to make sure that all personnel understand their responsibilities in supporting victims and identifying and managing vulnerability. It needs to put in place training and workplace practices, and promote a culture where managing vulnerability and safeguarding is everyone's responsibility. It should provide practical guidance, such as aide-memoires or checklists, to help frontline officers consider options and decide what action to take at incidents.

This will allow specialist officers in the FJU to manage more complex investigations and work with other agencies to safeguard vulnerable people. As a result, the RVIPF can provide a better service to communities.



### **Recommendation 87 – Phase one**

The Police Commissioner, supported by the International Police Assistance Service, should oversee the development of practical guides for first responders. The activity included in these guides should form part of the performance framework. This will allow senior leaders to measure standards, identify training needs and improve services for [victims](#).

### **Recommendation 88 – Phase one**

The Police Commissioner, with help from the International Police Assistance Service where appropriate, should increase the capability of first responders to respond to incidents involving [vulnerable victims](#). This should include:

- providing [officers](#) with regular training;
- developing clear policies and procedures; and
- improving supervision of first responders' actions across the force.

### **Recommendation 89 – Phase one**

The Police Commissioner should:

- provide clear policies and guidance about the expectations of the family justice unit in managing [safeguarding](#) and specialist investigations; and
- appoint an [officer](#) in the family justice unit to assess standards of initial investigation and safeguarding actions for domestic abuse incidents. This should include quality assurance of domestic abuse safeguarding and harassment forms.

### **Risk assessments for domestic abuse incidents need to improve**

The force requires first responders to complete the domestic abuse, stalking and harassment (DASH) risk assessment for all domestic abuse incidents they attend. We found that officers generally completed the forms, but the information recorded was inadequate. There was also a lack of supervision. The standard of DASH risk assessments was better when officers in the FJU completed them.

Officers complete the DASH risk assessment using paper forms. This makes it difficult for the force to monitor the information and use it to inform future risk mitigation. The force should create a way of recording the DASH assessment electronically that is compatible with the OTRCIS database. This will:

- make information and data relating to risk readily available to the force;
- assist in managing performance and standards; and



- focus personnel on safeguarding and identify any areas for improvement.

### **Recommendation 90 – Phase two**

The Police Commissioner should introduce an electronic risk assessment form for domestic abuse, stalking and harassment.

### **The force lacks a multi-agency response to managing vulnerability**

The BVI lacks sufficient multi-agency co-operation focused on keeping vulnerable people safe. In volume one of our report, we recommended that the Police Commissioner, together with senior leaders from other agencies, should develop:

- a strategy to identify and respond to potential vulnerabilities in the community; and
- a multi-agency process to review and share information relating to [high-risk domestic abuse](#) incidents.

Implementing these recommendations should help set the foundations for better partnership working. But the force could and should do much more.

In England and Wales, the [Care Act 2014](#) sets the legal framework for how local authorities, police and other statutory partners should safeguard adults who are at risk of abuse or neglect. However, there is no comparable legislation in the BVI and no formal governance arrangements for safeguarding vulnerable adults.

### **The force should set up a public protection unit**

Vulnerable people may have complex and multiple needs that can't always be met through a police response alone. For example, they may need support with housing, access to mental health services or support from social services. Some victims may appear reluctant to work with the police due to fear of their perpetrators. By working with other agencies, police forces are better able to investigate crime and protect victims.

It is essential that the police and partner agencies have up-to-date information about vulnerability across the BVI. Each organisation should identify gaps in its knowledge and have processes in place to share information with other agencies to improve outcomes for vulnerable people.

We found that the RVIPF doesn't collaborate well enough with its partner agencies to keep vulnerable victims safe. The FJU has formed a good working relationship with the Social Development Department that supports its investigation and safeguarding processes. However, it doesn't have the capacity to manage in-depth specialist investigations.

The RVIPF should set up a [public protection unit](#) to manage investigations relating to vulnerable victims and make sure their needs are met.

The unit should work alongside teams in criminal justice and health to put in place and manage effective multi-agency safeguarding responses. We suggest that the RVIPF uses high-performing public protection units in the UK and other BOTs as a benchmark. The unit should be set up to support the force's vulnerability strategy.

### **Recommendation 91 – Phase two**

The Police Commissioner should create a [public protection unit](#) to manage investigations relating to [vulnerable victims](#) and make sure that effective multi-agency [safeguarding](#) arrangements are put in place.

### The force lacks multi-agency arrangements for safeguarding

The BVI doesn't have a [multi-agency safeguarding hub \(MASH\)](#) or a [multi-agency risk assessment conference \(MARAC\)](#) for domestic abuse. These, or their equivalents, are common in many BOTs and CDs (including Bermuda, Saint Helena and Jersey).

In the absence of such arrangements, victims aren't getting the support they need. We found a case where a victim of domestic abuse, who was an immigrant, was deported after her husband was arrested for assaulting her. This was a poor outcome for a vulnerable victim and could have been avoided if the police and other agencies had worked together to safeguard her.

Setting up this partnership working environment should be the next step for the RVIPF and other relevant government agencies.

The MASH and MARAC structures will create more demand. They should be developed as part of the investigative arm of the public protection unit. The force should consider recruiting personnel who have experience of working in MASH and MARAC arrangements.

### **Recommendation 92 – Phase two**

The Police Commissioner should work with other agencies to develop a formal [multi-agency safeguarding hub](#) and a [multi-agency risk assessment conference](#). These should be co-located and resourced effectively by all relevant organisations.

# HM Customs, the Department of Immigration and the future of border control in the BVI

[HM Customs](#) and the [Department of Immigration \(DoI\)](#) are responsible for protecting the border, enforcing border and immigration-related law, collecting revenue and facilitating travel and trade.

At the time of our review, both organisations lacked:

- effective management of information and [intelligence](#);
- co-ordination of operational activity;
- sufficient funding and resources:
- appropriate technology, including IT;
- appropriate training; and
- adequate facilities and equipment.

These problems limit their abilities to carry out their roles effectively.

Many other jurisdictions have merged customs and immigration agencies. In many cases, this has increased efficiency, improved intelligence and information sharing and created more robust border controls.

[Later in this report, we recommend merging HM Customs and the DoI to form a new Customs and Immigration Border Agency \(CIBA\)](#). We anticipate that it could take up to five years before the new CIBA is operational.

In part one of this chapter, we set out a series of phase 1 recommendations for HM Customs and the DoI. These should help pave the way for the CIBA. It is important that the agencies address these recommendations, and others we have made elsewhere, before the CIBA becomes operational. Otherwise, there is a risk that problems that currently affect one agency could affect the CIBA as a whole.

In part two of this chapter, we make recommendations about the formation of the CIBA.

In part three, we make recommendations to modernise customs and immigration functions and to implement an intelligence-led approach to customs and immigration operations.

Finally, in part four we make some specific recommendations on how corruption could be prevented in the customs sector.

## **Part 1: HM Customs and the Department of Immigration**

### **Governance, strategy and performance**

#### **The Governor's role for HM Customs**

HM Customs is part of the [Ministry of Finance](#). We found that the HM Customs budget allocation was insufficient to fund enough personnel, or adequate facilities, equipment, training and IT. Consequently, it was unable to effectively carry out its role.

Moreover, we found that HM Customs focused its activity predominantly on revenue collection and didn't adequately prioritise its border security or law enforcement roles. These are essential for the protection and security of the BVI and its population.

[Earlier in the report](#) we recommend (recommendation 5) that the Governor should re-specify internal security to include all law enforcement functions. In accordance with that, the Governor should re-reserve responsibility for HM Customs' law enforcement functions under section 60 of the [Virgin Islands Constitution Order 2007](#). Changing the governance arrangements in this way would align HM Customs closer to the [Royal Virgin Islands Police Force \(RVIPF\)](#) as they would both be held to account by the Governor.

#### **The Governor's role for the DoI**

Since 2021, the oversight of the DoI has been inconsistent; it has been overseen by several bodies. These include the [Premier's Office](#) (on two separate occasions), the Ministry of Natural Resources, Labour and Immigration and, at the time of our review, the [Ministry of Tourism, Culture and Sustainable Development](#).

The DoI's objective, as set out in the [Government of the Virgin Islands '2024 budget estimates'](#), is to:

“protect our borders and enhance law, order and public safety and, to maximise the performance of the Immigration Department and improve the general service to the public ...”

It is because of these border security and law enforcement roles, that we have recommended that the Governor re-specify internal security to include the DoI's activity. And that the Governor re-reserves responsibility for the DoI.

## Oversight arrangements for HM Customs and the DoI

Once the Governor has [assumed responsibility for HM Customs](#), the Governor's Office and the Government of the Virgin Islands should develop new oversight arrangements. These should reflect the constitutional responsibilities the Governor and the Premier have for different customs functions. A new governance committee should be formed to facilitate this.

In accordance with this, the Governor should oversee HM Customs' performance in relation to its law enforcement activities. HM Customs enforces legislation. It has powers to regulate the import and export of goods across the BVI's border, maximise the collection of revenue and protect the economy and public health. It also combats smuggling by preventing and interdicting prohibited, restricted and dutiable goods.

The Premier should oversee HM Customs for its collection of customs duties and excise taxes (in accordance with section 60(4)(e) of the constitution).

### Recommendation 93 – Phase one

Once the Governor has re-reserved responsibility for HM Customs, a new governance committee should be established, as a sub-committee of the National Security Council. Under this:

- the Governor should oversee HM Customs' performance in relation to its law enforcement activities and the full range of the Department of Immigration's roles; and
- the Premier should hold HM Customs to account for its collection of customs duties and excise taxes (in accordance with section 60(4)(e) of the [Virgin Islands Constitution Order 2007](#)).

### Setting strategy and objectives for HM Customs

In [volume one of our report](#), we highlighted that HM Customs didn't have an up-to-date strategy or objectives. We recommended that the Commissioner of HM Customs should:

“...revise the organisation's strategic plan to provide clear direction to staff. It should then review and update the strategic plan on an annual basis. This should include organisational priorities for the next year that cover all aspects of HM Customs' role.”

In doing this, HM Customs should make sure that its objectives and strategies encompass the full range of its activity, including law enforcement and collecting customs duties and excise taxes.

### **Recommendation 94 – Phase one**

The new customs and immigration governance committee should sign off HM Customs' strategy and objectives.

#### **Setting strategy and objectives for the Dol**

At the time of our review, the Minister of Tourism (the Premier) set the Dol's strategic direction. This responsibility should be transferred to the Chief Immigration Officer, who should also be responsible for setting departmental objectives. The new governance committee should be responsible for considering and approving the strategy and objectives.

### **Recommendation 95 – Phase one**

The Chief Immigration Officer should set the Department of Immigration's strategic direction and objectives.

The new customs and immigration governance committee should sign off the Department of Immigration's strategies and objectives.

### **The UK Government should give more support to British Overseas Territories' customs administrations and departments of immigration**

We found insufficient UK Government support for the BVI's HM Customs and Dol, and their counterparts in other British Overseas Territories (BOTs).

The Miami-based Foreign, Commonwealth & Development Office (FCDO) Overseas Territories and Polar Directorate law enforcement advisor primarily focuses on policing. They lack the capacity to carry out a similar role for customs or immigration agencies.

The FCDO should recruit a BOTs' customs, borders and immigration advisor. The customs, borders and immigration advisor should have experience of working in a senior law enforcement role in the UK's [Border Force](#). And, ideally, experience of working in capacity-building in other jurisdictions. Their role should be to support the customs and immigration agencies in the Caribbean and North Atlantic BOTs (Anguilla, Bermuda, BVI, Cayman Islands, Montserrat, and Turks and Caicos Islands).

This should include:

- developing a strategy to increase the capabilities of these agencies;
- developing collaborated capabilities;
- sharing policy and good practice; and
- acting as a conduit to facilitate further support from the UK Home Office.

## Recommendation 96 – Phase one

The Foreign, Commonwealth & Development Office should recruit a customs, borders and immigration advisor to support the Caribbean and North Atlantic British Overseas Territories' police forces, customs administrations, immigration departments and border agencies.

### International ports and airports in the BVI

Section 13 of the BVI [Customs Management and Duties Act 2010 \(as amended\) \(CMDA\)](#) sets out that:

“Section 13(1) On the recommendation of the Commissioner, the Minister, with the approval of the Cabinet, may by an Order published in the Gazette and a newspaper of wide circulation in the Territory, do either or a combination of the following:

- (a) appoint and name an area in the Territory as a customs port;
- (b) alter the name or limits of any customs port;
- (c) revoke the appointment of any customs port;
- (d) impose any condition or restriction, or vary or revoke any condition or restriction imposed, on the use of an area in the Territory as a customs port.”

Sections 14 to 17 of CMDA give the Commissioner the same powers in relation to other customs-controlled areas, including customs wharfs, customs airports and customs areas.

In relation to immigration, section 20(1) of the BVI [Immigration and Passport Act 1977 \(as amended\)](#) stipulates that:

“Subject to the provisions of this Act a person shall not land in the Territory from any place outside the Territory or embark in the Territory for any destination outside the Territory:

- (a) save with the leave of an immigration officer; and
- (b) elsewhere than at an authorised port of entry or at such other place as an immigration officer may in any particular case allow.”

Legislation should be amended to reassign responsibility for authorising the change of the customs status of ports, airports, wharfs and areas and for designating places as ‘ports of entry’ for the examination by immigration officers of persons seeking to enter or entering the Territory.

Under section 13(1) of the CMDA, the Commissioner of HM Customs can make a recommendation to a minister about changing the customs status of a port, airport, wharf or area. The minister then needs cabinet approval for this change. The CMDA



should be amended to reassign these ministerial and cabinet responsibilities to the National Security Council through the new customs and immigration committee (and latterly through the CIBA governance committee).

### **Recommendation 97 – Phase one**

The Premier should oversee the amendment of section 13(1) of the [Customs Management and Duties Act 2010](#) to give the National Security Council, through the new customs and immigration governance committee, responsibility for approving changes of customs status of ports and airports.

Under section 45(b) of the Immigration and Passport Act 1977 (as amended), the Cabinet is responsible for making regulations “designating places in the Territory as ports of entry for the examination by immigration officers of persons seeking to enter or entering the Territory”.

### **Recommendation 98 – Phase one**

The Premier should oversee the amendment of section 45(b) of the [Immigration and Passport Act 1977](#) to:

- give the Chief Immigration Officer (and once in post, the commissioner of the Customs and Immigration Border Agency) responsibility for designating places as ports of entry for the examination by immigration officers of persons seeking to enter or entering the BVI and for removing such designation; and
- give the National Security Council, through the new customs and immigration governance committee, responsibility for approving changes to designations of places as ports of entry.

**‘Customs ports’, ‘customs airports’, and ‘authorised port of entry for the examination by immigration officers of persons seeking to enter or entering the Territory’ status should be removed from some the BVI’s ports and airports**

At the time of our visit, ten ports and airports were ‘customs ports’ or ‘customs airports’. Nine of these were also authorised ports of entry for immigration purposes. HM Customs personnel worked at nine of these and DoI personnel worked at eight of them. We are concerned that HM Customs lacks sufficient resources, facilities and equipment to operate effectively at this many international ports of entry in such a small territory.

We therefore recommend that some of these international ports of entry are closed to international traffic. Doing so would have significant benefits. It would increase staffing efficiency. It would also help to increase security. A smaller number of customs ports and airports could be equipped with modern scanning devices and other technology to detect illicit goods and persons of interest. And, given that almost



all the customs airports and ports require significant capital investment to bring HM Customs' and the DoI's accommodation, facilities and equipment in line with acceptable standards, reducing their number would significantly reduce the cost of achieving this.

Specifically, we recommend revoking customs status and immigration authorisation from:

- Auguste George Airport (Anegada);
- Dog Hole ferry terminal (Jost Van Dyke);
- Gun Creek (Virgin Gorda); and
- Taddy Bay Airport (Virgin Gorda).

We also recommend that St Thomas Bay Jetty / Spanish Town terminal shouldn't act as a customs port for containerised cargo.

With these changes in place, HM Customs and the DoI would clear all international air traffic at Terrance B. Lettsome International Airport. And all international maritime traffic would be cleared at Road Town ferry port, West End ferry terminal, Cyril B. Romney Pier Park cruise terminal, Port Purcell or St Thomas Bay Jetty / Spanish Town terminal (for non-containerised traffic).

We understand the risks posed by reducing the number of international ports and airports and removing HM Customs and DoI personnel from those locations. To mitigate this:

- facilities at the remaining ports must improve, to provide officers with the equipment they need to help identify illicit goods and persons of interest; and
- [new intelligence processes](#) should be established that can analyse the risk at ports across the BVI and deploy officers to those locations on a risk-based approach.

### **Recommendation 99 – Phase one**

The Commissioner of HM Customs, in consultation with the Governor and the Government of the Virgin Islands, should:

- revoke the appointment of Taddy Bay Airport and Auguste George Airport as customs airports;
- revoke the appointment of Dog Hole ferry terminal and Gun Creek as customs ports; and
- revoke the appointment of St. Thomas Bay Jetty / Spanish Town terminal as a customs port for containerised cargo.

### **Recommendation 100 – Phase one**

The Chief Immigration Officer, in consultation with the Governor and the Government of the Virgin Islands, should remove the designation of the following ports and airports as being authorised for the examination by immigration officers of persons seeking to enter or entering the BVI:

- Taddy Bay Airport;
- Auguste George Airport;
- Dog Hole ferry terminal; and
- Gun Creek.

### **HM Customs should remove temporary customs areas**

Section 13 of the CMDA also gives the Commissioner of HM Customs the power to temporarily appoint an area as a customs area for a period of up to 40 days. This can be extended with the approval of the House of Assembly.

At the time of our visit, HM Customs had appointed a helipad at Oil Nut Bay resort as a customs area. The House of Assembly had extended this arrangement for several years. The Government of the Virgin Islands offered high net worth individuals a niche service that allowed them, and their goods, to transfer from an arriving international flight directly onto a helicopter, without clearing customs or immigration at that airport. Instead, customs and immigration clearance was offered at a temporary customs area at Oil Nut Bay.

It would be preferable for these passengers, and their goods, to clear customs and immigration at the international airport of arrival where customs, immigration and other technology is available. This would reduce staffing pressures. Currently, already understaffed units have to make an officer available to leave their duties and travel, often alone, to the helipad to clear passengers remotely, with no examination area or available equipment.

### **Recommendation 101 – Phase one**

The Commissioner of HM Customs, in consultation with the Governor and the Government of the Virgin Islands, should consider removing the 40-day use of a customs area in the BVI for the customs and immigration clearance of passengers and goods from helicopters.

## **HM Customs and the DoI facilities need to be improved**

In volume one of our report, we highlighted our concerns about the facilities that the [BVI Ports Authority \(BVIPA\)](#) and the [BVI Airports Authority \(BVIAA\)](#) provide the DoI and HM Customs at international ports of entry. The facilities were universally poor, with some so bad that they endanger personnel's health and safety.

We recommended that the Commissioner of HM Customs should designate a customs lead to work with the port and airport organisations to help improve all international ports of entry.

Since writing volume 1, we have considered the matter further and have come to a slightly different conclusion about how best to make sure facilities are improved. We believe that, to ensure the improvement of facilities, the Commissioner of HM Customs, the Chief Immigration Officer and the strategic lead of the CIBA, with support from the BOT customs, border and immigration advisor, should develop standards similar to the Border Force's '[National statement of expectations for border infrastructure and facilities at ports](#)' (insofar as possible).

### **Recommendation 102 – Phase one**

The Commissioner of HM Customs and the Chief Immigration Officer should develop an official set of minimum standards for border infrastructure and facilities at customs ports, customs airports, customs areas and ports of entry for the examination by immigration officers of persons seeking to enter or entering the BVI.

### **Recommendation 103 – Phase one (but dependent on recommendation 102)**

The Premier should oversee the introduction of legislation that requires port and airport operators to comply with the official set of minimum standards for border infrastructure and facilities at customs ports, customs airports, customs areas and ports of entry for the examination by immigration officers of persons seeking to enter or entering the BVI.

### **Recommendation 104 – Phase one**

Once HM Customs and the Department of Immigration have developed the minimum standards (see [recommendation 102](#)), and recommendations 99 and 100 have been completed, the Governor should commission a comprehensive audit of the customs and immigration facilities at the remaining customs ports, customs airports, customs areas and ports of entry for the examination by immigration officers of persons seeking to enter or entering the BVI against the new minimum standards.

This should run parallel to the development of legislation (see [recommendation 103](#)).

### **Recommendation 105 – Phase one**

Once recommendation 104 has been completed, the Governor's Office, together with the Managing Director of the BVI Ports Authority, the Managing Director of the BVI Airports Authority, the Commissioner of HM Customs and the Chief Immigration Officer should:

- produce a plan that sets out how the minimum standards for border infrastructure and facilities at ports will be met at all customs ports, customs airports, customs areas and ports of entry for the examination by immigration officers of persons seeking to enter or entering the BVI; and
- secure capital investment for the work needed.

### **Recommendation 106 – Phase three**

The Governor's Office, the Commissioner of HM Customs, the Chief Immigration Officer and the commissioner of the Customs and Immigration Border Agency (once operational) should oversee the development of customs and immigration facilities at all customs ports, customs airports, customs areas and ports of entry, for the examination by immigration officers of persons seeking to enter or entering the BVI, in accordance with the plan.

### **HM Customs needs a secure warehouse**

At the time of our visit, HM Customs lacked a customs warehouse (a secure storage location for material that HM Customs has seized or detained). Without this, there was insufficient control of any customs related goods.

### **Recommendation 107 – Phase one**

The Governor and the Commissioner of HM Customs should commission the construction of a customs warehouse.

#### **HM Customs needs dedicated examination areas for sea containers**

Most goods imported into the BVI are transported by sea containers. There are two customs ports that handle containerised cargo – Port Purcell (Tortola) and St. Thomas Bay jetty (Virgin Gorda).

There are no container scanners at either port. And both ports lack a designated, secure area for HM Customs personnel to examine containers. This creates significant problems. For most containers, officers secure container doors with a customs seal and the containers are transported to the importers' facilities. Customs officers then examine some, but not all, of the containers at these facilities.

In contrast, [Cayman Islands Customs and Border Control \(CBC\)](#) has approved a container examination area where customs scan all containers and electronically cross-check their contents with the cargo manifest. This process is simultaneously more efficient in facilitating trade and identifying illicit and prohibited goods.

Earlier in this chapter, we recommend that HM Customs remove customs designation from St Thomas Bay jetty. Consequently, investment in container scanners and examination areas will only be needed at Port Purcell. As highlighted above, St Thomas Bay jetty should continue to operate as a customs designated port until Port Purcell's facilities are fit for purpose.

### **Recommendation 108 – Phase one**

The Governor, together with the Managing Director of the BVI Ports Authority, should arrange for HM Customs personnel to have access to a suitable, secure container examination area, equipped with a scanner, for the examination of all containers arriving at Port Purcell.

Other international ports of entry, including Terrence B. Lettsome International Airport and Road Town ferry port also need operational scanners to check non-containerised items. This should form part of the minimum standards for border infrastructure and facilities at ports.

A lack of airside passes prohibited HM Customs officers from carrying out some of their duties

Section 88 of the CMDA gives customs officers the:

“...right of access and power to search any part of a customs port ... customs airport or other customs area, and any vehicle, vessel, aircraft, or goods found at that place”.

But most customs officers working at Terrance B. Lettsome International Airport didn't have airside passes. This prohibited them from working on airside areas of the airport.

We have liaised with [Air Safety Support International \(ASSI\)](#) about this problem and discussed potential solutions. ASSI is the aviation regulatory body for the BOTs, as designated by the Secretary of State for the [UK Department for Transport](#). Our recommendations are based on ASSI's expert advice.

#### **Recommendation 109 – Phase one**

The Commissioner of HM Customs and the Chief Immigration Officer, together with the Managing Director of the BVI Airports Authority, should arrange for:

- customs and immigration officers working at Terrance B. Lettsome International airport to be issued with airside passes; and
- general security awareness training for these officers, as this is a prerequisite for issuing passes.

#### **Recommendation 110 – Phase one**

The Managing Director of the BVI Airports Authority should:

- reclassify the arrivals hall at Terrance B. Lettsome International airport as being airside;
- install a biometric entry system on the door between the arrivals hall and the landside area of the airport; and
- implement an agreement to allow immigration or customs officers to control access.

These changes will permit customs and immigration officers to work in the arrivals hall and go directly to airside areas, without having to go through security controls (located in the departure area). It will also permit them to leave and enter the landside area of the airport as required.

These solutions would permit customs and immigration officers to work in the airside areas, including where most general aviation (defined in the UK Department of Transport's '[General Aviation Handbook](#)' as "all non-scheduled civil aviation") aircraft are parked. However, it wouldn't give them access to the security restricted areas, where scheduled international flights arrive, without going through security controls. Given the configuration of the airport, these are realistic, achievable solutions.

### The regime and accommodation at the BVI immigration custody centre requires urgent reform

At the time of our review, the BVI immigration custody centre was temporarily located on two floors of the Hotel Castle Maria. A private company provided security for the centre. The Chief Immigration Office was responsible for overseeing the procedures.

The first floor of the centre housed detainees who had requested to remain in the BVI. As the DoI didn't consider them a flight risk, they could leave the centre to use local services.

The second floor consisted of 12 multiple occupancy rooms. These housed detainees, who were facing potential deportation for immigration matters. At the time of our visit, six male detainees were here, each in separate rooms. We found that there were arrangements in place to safely detain women, if required.

A nearby restaurant provided food to the centre three times a day. And bottled drinking water was freely available. We also found that the DoI and the security company provided translation services. However, we found the following problems:

- the rooms we examined didn't have televisions, radios or any other mental stimuli. One detainee had been in custody for almost a month without access to any mental stimuli in his room;
- detainees had no time in the open air and the only exercise they could get was on the corridor adjacent to their rooms;
- centre personnel didn't give detainees any written information about likely time limits, the centre's regime or access to legal advice;
- though the local authority provided healthcare for detainees during their detention, not all detainees' health was screened on arrival at the centre; and
- security personnel told us that detainees weren't allowed to keep their mobile telephones and were only permitted a phone call every other day. They were unable to provide a sound rationale for this policy.

In addition to the concerns we had about the conditions for detainees, we found there was a lack of processes and policies at the centre. There were no management plans or individual risk assessments for any of the detainees. Neither were there any ongoing records of behaviour, risk or individual needs for detainees. The only exception was a handover log where personnel recorded key events and how many people were in detention.

Interviewees also told us that all personnel were trained in the use of restraints and first aid. But we didn't have access to training records, and we weren't assured that this was the case for all personnel working there.

We found children could, and have, resided at the centre. But there were no age-appropriate activities on site. Neither were there any policies that set out the operating procedures that personnel should follow when dealing with child detainees.

There was no official complaints process. Detainees could ask to raise complaints with an immigration officer, but the process for this was unclear. The lack of written information provided during induction to the centre meant that detainees were unaware of any processes.

### **Recommendation 111 – Phase one**

The Governor, together with the Ministry of Financial Services, Economic Development and Digital Transformation and the Ministry of Health and Social Development, should develop appropriate procedures for the management and care of immigration detainees.

### **The HM Customs server**

We found that the [Department of Information Technology](#) has made changes to the HM Customs server without consulting HM Customs about when this would happen, or what changes it was going to make. This has led to frequent server outages, some lasting for several days.

One such outage occurred when we visited HM Customs.

During this time, customs officers were unable to enter information onto HM Customs' portal for processing traders' customs declarations, known as the customs automated procedure system (CAPS). Consequently, officers had to record information on other systems and then re-enter it onto the CAPS once the server was working. Officers were also unable to access the [Regional Clearance System](#) during such outages.



### **Recommendation 112 – Phase one**

The Commissioner of HM Customs, together with the Government of the Virgin Islands' Director of Information Technology, should:

- develop a service level agreement that covers all IT systems used by HM Customs; and
- arrange that the Department of Information Technology informs and consults HM Customs in advance about any work it carries out on systems used by HM Customs, to minimise disruption.

### **HM Customs – concessions schemes**

#### **The hotel aid scheme is open to abuse**

The Government of the Virgin Islands has introduced schemes to encourage tourism. Among these is the hotel aid scheme (see the Hotel Aid Ordinance (Cap 290) 1977 and the [Hotel Aid \(Amendment\) Act 2005](#)). This gives companies or individuals a temporary duty-free concession on imported construction items and other related goods used for the construction, equipping, extension or renovation of a hotel.

We found that this scheme was subject to abuse. Developers had inappropriately used the duty-free concession to import items to build houses and then sell them for a profit. This was in breach of the ordinance, as the scheme isn't applicable for residential property. Furthermore, if a company sells a building that was subject to the scheme, it should reimburse the government. This wasn't happening.

The Premier's Office approved hotel aid applications, and then informed HM Customs of its decision. This process wasn't working effectively and there was potential for significant tax evasion.

### **Recommendation 113 – Phase one**

The Governor, together with the Premier's Office and the Commissioner of HM Customs, should introduce a robust compliance regime to prevent abuse of the hotel aid scheme.

#### **The pioneer status scheme is open to abuse**

The BVI [Pioneer Services and Enterprises Ordinance \(Cap 297\) 1967](#) was designed to encourage investment in various sectors of the BVI economy through tax and customs duty relief. Under this scheme, individuals or businesses can apply to the Premier's Office to get pioneer investor status. Upon approval by the Financial Secretary, the pioneer investor is allowed to import specified items free of duty or tax for ten years.

We found that:

- the government wasn't routinely revoking pioneer investors' status after ten years; and
- some pioneer investors were importing ineligible items under the scheme.

This has resulted in lost revenue for the Government of the Virgin Islands.

#### **Recommendation 114 – Phase one**

The Governor, together with the Premier's Office and the Commissioner of HM Customs, should introduce a robust compliance regime to prevent abuse of the pioneer status scheme.

### **The Department of Immigration's visa and work permit processes**

#### **More robust checks of visa applicants should be introduced**

Volume one of our report highlighted shortcomings with the visa issuance process. The [Civil Registry and Passport Office \(CRPO\)](#) is responsible for issuing visas. But we found that it didn't carry out pre-issue checks for all visa applications. And, as it didn't have access to the immigration watchlist, it couldn't check visa applicants against it.

We suggested that more effective working between the CRPO and the DoI should resolve some of these problems. In the short-term, the DoI and the CRPO should formalise this in a memorandum of understanding.

#### **Recommendation 115 – Phase one**

The Chief Immigration Officer, together with the Registrar General of the Civil Registry and Passport Office, should develop a memorandum of understanding and procedures for information sharing and joint working to improve pre-issue checks for visa applicants.

In the longer-term, moving responsibility for visa issuance to the DoI would make the pre-entry process more robust.

#### **Recommendation 116 – Phase two**

The Governor should oversee the amendment of legislation to transfer responsibility for visa issuance to the Department of Immigration.

## The work permit process should be reformed

In the BVI, the [Department of Labour and Workforce Development \(DLWD\)](#) is responsible for issuing work permits. In volume one of our report, we reported that the DLWD and the DoI weren't working effectively together. We recommended that they should:

- review the existing process for the issuing of work permits and granting clearance to enter the BVI; and
- develop a more efficient process.

As part of this, the DoI and the DLWD should form a working group to identify areas of risk and develop checks to be carried out on employees and employers before a work permit is issued. For example, an employer with a regular high turnover of employees might need to explain why they needed more employees from abroad.

### **Recommendation 117 – Phase one**

The Chief Immigration Officer, together with the Department of Labour and Workforce Development, should form a working group to:

- identify areas of risk in the work permit system; and
- develop robust checks to be carried out on employees and employers before a work permit is issued.

We found that the BVI lacks a clear, comprehensive labour policy that sets out:

- what businesses are needed;
- how government should develop and encourage business; and
- how many domestic and overseas workers are needed to support the economy and growth, and what skills they should have.

### **Recommendation 118 – Phase one**

The Department of Labour and Workforce Development should develop a comprehensive and clear labour policy. This should consider the Department of Immigration's requirements and recognise the link between workforce planning and immigration.

The DLWD should also retain responsibility for:

- health and safety, and workers' rights; and
- making sure businesses adhere to the DLWD's policies.

However, responsibility for the issuance of work permits should be reallocated to the DoI. This should include responsibility for risk assessing the work permit applications.

### **Recommendation 119 – Phase two**

The Premier should oversee the amendment of legislation to transfer responsibility for the issuance of work permits to the Department of Immigration.

The responsibilities for visa issuance, work permit issuance and visa waivers (see volume one of our report) should transfer to the new CIBA once it is operational.

### **New legislation should make carriers liable for inadequately documented passengers**

The DoI doesn't have the power to impose fines on carriers (owners, agents and operators of ships and aircraft) that transport passengers to the BVI without the correct travel documentation. This is a significant legislative gap, as carriers bringing passengers to the BVI have little accountability for passengers' documentation.

In the UK, [section 40 of the Immigration and Asylum Act 1999](#) makes carriers liable for charges of up to £2,000 for each inadequately documented passenger who arrives in the UK. [Recent regulations](#) have increased the charges in specific circumstances.

There are circumstances where a penalty might not be imposed. For example, UK Border Force wouldn't expect the carriers to have the same skills as Border Force officers in identifying forged documents. So, it would only raise a penalty if a forgery was reasonably apparent to the naked eye.

We recommend that the Governor introduces new legislation, similar to section 40 of the UK Immigration and Asylum Act 1999 but amended to reflect the local context. Doing so, and strengthening the visa waiver system (see volume one of our report), would help secure the BVI's borders.

### **Recommendation 120 – Phase one**

The Premier should oversee the introduction of legislation that makes carriers liable for financial charges for each inadequately documented passenger who arrives in the BVI.

## Processes at ports of entry

Immigration and customs officers shouldn't collect money at ports of entry

HM Customs collect a \$10 environmental and tourism levy from [eligible visitors](#) arriving in the BVI.

Immigration officers also take payments at ports of entry. They collect a \$20 fee for each vessel that arrives out of regular hours (Sundays and public holidays, and any time between 4.30pm and 8.30am Monday to Friday). At the time of our review, there was no provision for card payment and officers had to collect the fee in cash.

These roles aren't related to HM Customs or the DoI's core functions and pose security and integrity risks. They should be transferred to the [Treasury Department](#).

### Recommendation 121 – Phase one

The Premier should oversee the amendment of legislation to transfer responsibility to the Treasury Department for collection of:

- the environmental and tourism levy; and
- fees from vessels arriving at ports and airports out of regular hours.

The Treasury Department should also require electronic payment.

### Automatic passport control kiosks should be routinely used

In 2022, the DoI installed automatic passport control kiosks at Terrance B. Lettsome International Airport and at Road Town ferry port. At the time of our review, [Belongers](#) and BVI citizens could scan their passports and respond to entry questions at the kiosks. They could then enter the BVI without having to see an immigration officer.

The DoI told us the kiosks are operational. It said a member of airport or port authority personnel had to show passengers how to use them. But we didn't see anyone use the kiosks during any of our many visits to the airport and port.

### Recommendation 122 – Phase one

The Managing Director of the BVI Port Authority and the Managing Director of the BVI Airports Authority, together with the Chief Immigration Officer, should make sure that eligible travellers are directed to use the automatic passport control kiosks.

We welcome the Dol's plans to increase eligibility for the use of the kiosks to other nationalities and recommend that this is expedited, to increase efficiencies at ports of entry.

### **Recommendation 123 – Phase two**

The Chief Immigration Officer should increase eligibility for the use of the automatic passport control kiosks to other nationalities.

### **HM Customs should introduce the electronic clearance of goods**

Importers, their agents or brokers have to complete a [customs trade declaration](#) on the CAPS. This details the goods they are importing into the BVI and the duty owed. They are also required to print and sign a version of the declaration. Customs officers then examine the declaration and assess whether the declared duty is correct.

The BVI [Electronic Transactions Act 2021](#) removed the requirement for a signed paper declaration. It permitted HM Customs to accept electronically signed declarations. Despite this, at the time of our review, HM Customs still insisted on importers, brokers or agents signing a printed declaration.

HM Customs should produce new standard operating procedures in line with the new legislation and then issue guidance on using them via the [Government of the Virgin Islands Official Gazette](#).

This change would bring efficiencies. It will also remove the need for HM Customs to store paper declarations, which took up lots of space in all its offices.

### **Recommendation 124 – Phase one**

The Commissioner of HM Customs should:

- produce standard operating procedures that permit the use of electronic signatures on customs declarations; and
- issue public guidance about this change on the Government of the Virgin Islands Official Gazette.

### **Immigration enforcement officers are frequently being drawn away from their core roles**

The Dol's enforcement unit is responsible for tackling illegal migration and pursuing immigration offenders who have:

- overstayed their permission to be in the BVI;
- never had permission to be in the BVI; or
- are working in breach of their immigration conditions.

Immigration enforcement officers have the power of arrest. They respond to reports from the public and other agencies and look for immigration offenders.

This is an essential part of immigration control, as some people will deliberately bypass the ports of entry. It can be a particular problem in jurisdictions like the BVI where there are many small cays and inlets that give opportunities for clandestine entry. However, we found that enforcement unit officers carry out work that diverts them from their core roles. This includes doing shopping for detainees held in the detention facility and transporting cash from the ports to a bank.

Transferring these roles to administrative officers or a private security company would increase efficiency and free up enforcement unit officers' time.

### **Recommendation 125 – Phase one**

The Chief Immigration Officer, together with Central HR, should:

- review the duties of the Department of Immigration enforcement unit's officers; and
- consider re-assigning some duties to administrative officers and/or private security companies.

## **Part 2: Establishing the new BVI Customs and Immigration Border Agency**

As set out earlier in this chapter, we recommend the merger of HM Customs and the Department of Immigration to form a new Customs and Immigration Border Agency (CIBA). Various models have been used in other jurisdictions.

We have concluded that all the functions of the precursor organisations, aside from maritime security and law enforcement on the water should be included in the new agency.

### **New legislation should establish the Customs and Immigration Border Agency**

The Government of the Virgin Islands should develop legislation that establishes the CIBA.

## Recommendation 126 – Phase one

The Premier should oversee new legislation that, as a minimum:

- provides for the establishment of the Customs and Immigration Border Agency (CIBA), including setting out the governance responsibilities of:
  - the CIBA director;
  - the Governor;
  - the Premier; and
  - the CIBA governance committee;
- sets funding arrangements;
- specifies the duties and powers of the CIBA, its officers and personnel;
- sets out a performance framework;
- sets out arrangements for the appointment, enlistment, service, discharge and termination of officers and personnel; and
- incorporates the relevant sections in the [Customs Management and Duties Act 2010 \(as amended\)](#) and the [Immigration and Passport Act 2013 \(as amended\)](#).

In 2019, the Cayman Islands Government merged the law enforcement units in the immigration and customs departments and set up Cayman Islands CBC. This has improved border security by streamlining operations, making greater efficiencies and improving effectiveness.

The governance arrangements for the CBC differ from what we are proposing for the CIBA. And the remits of the two agencies aren't identical. Notwithstanding this, the BVI could draw from the Cayman Islands [Customs and Border Control Act \(2024 revision\)](#) to inform the development of its legislation.

### **A strategic lead and a team of expert advisors for the Customs and Immigration Border Agency Design Authority should be appointed**

The Governor's Office should create a CIBA Design Authority (CIBADA) to design and set up the CIBA. The precursor agencies will continue performing their roles until the CIBA becomes operational.

The Governor's Office should recruit a strategic lead of the CIBADA and a team of expert advisors. They should be responsible for establishing the agency, managing it until it becomes operational and overseeing the implementation of our recommendations.



## The strategic lead should report to the Governor

The strategic lead and the team of expert advisors will need specialist skills and experience. The strategic lead should also, ideally, have experience of setting up and leading a similar agency. The advisors should have experience of senior roles in customs and immigration modernisation programmes, of international development roles and of customs and immigration law enforcement.

It is unlikely that these skills exist in the current workforce. We therefore recommend that the Governor's Office advertises these vacancies, and later, those of the initial directors and deputy directors of the operational CIBA locally, regionally and internationally.

### **Recommendation 127 – Phase one**

The Governor should recruit a strategic lead for a Customs and Immigration Border Agency Design Authority who will be responsible for setting up the Customs and Immigration Border Agency.

The Governor should also recruit a team of expert advisors with necessary skills and experience.

A detailed plan for the establishment of the CIBA, which covers every aspect of the process, is beyond the scope of this report. Instead, we focus on several important points.

### **Governance arrangements should be established for the CIBA**

The governance and oversight arrangements for the CIBA should be in line with our [recommendations for the precursor agencies](#).

### **Organisational structure and staffing for the CIBA**

The strategic lead of the CIBADA and the advisors should follow a methodical approach to designing the CIBA. This should take account of our recommendations in part one of this chapter and the development of an [integrated risk management model](#). In deciding how many personnel the CIBA will need, they should identify staffing shortages and carry out a training needs analysis across HM Customs and the DoI. They should also consider efficiencies that could be realised by:

- training and empowering all operational CIBA personnel to carry out immigration and customs duties;
- moving to an integrated risk management operating model; and
- [reducing the number of international ports and airports](#).

New border agencies often face challenges in building a workforce that identify as belonging to the new agency, rather than seeing themselves as immigration

or customs officers. To prevent this, the strategic lead of the CIBADA and the advisors should:

- make sure that all personnel are on harmonised, common contracts with the same terms and conditions;
- develop standardised induction training for new personnel and [continuing professional development](#); and
- link all role profiles and job descriptions to the CIBA's mission and objectives.

Given the level of skills and experience needed, it is likely that personnel for the CIBA will have to comprise Belongers, Virgin Islanders and experts from other jurisdictions. Accepting that the legitimate employment interests of Virgin Islanders and Belongers will be paramount, it may be necessary for the CIBA to recruit people with requisite skills not available within the BVI's workforce. This may require, at least in the short-term, significant recruitment from other jurisdictions.

When the precursor organisations merge to form the CIBA, it will have to strike a balance between:

- securing people with the right skills and the level of vetting required, and
- recognising the employment rights of existing personnel.

### **Part 3: Customs modernisation and adopting an integrated risk management operating model**

HM Customs needs fundamental reform and modernisation to effectively balance its responsibilities of:

- maintaining control over the cross-border movement of goods and people;
- providing an appropriate level of facilitation to trade and travel; and
- designing out opportunities for corruption.

Many customs authorities have adopted an integrated risk management operating model. As the [International Monetary Fund \(IMF\)](#) states in its document '[Customs Matters: Strengthening Customs Administration in a Changing World](#)', introducing an integrated risk management operating model is the foundation to improved decision-making and compliance, by focusing customs activity on high-risk and not low-risk consignments. However, this isn't easily achieved. The IMF explains:

“...the adoption of [an integrated risk management operating model] requires a change in mindset from the way a traditional customs administration operates. It introduces several key components that must be implemented at the enterprise level to achieve benefits and ensure compliance across the trade community. This involves a holistic and comprehensive view across organizational units and functions to develop a strategic vision, manage data and information, adopt new IT systems and technologies, update processes, relocate human resources, and potentially implement legal and regulatory changes.”

Once the strategic lead for the CIBADA and the customs advisors have been appointed, they should start working with the Commissioner of HM Customs on modernising HM Customs and turning it into a risk-based organisation. This work may take many years and is likely to continue once the CIBA has become operational.

As part of this modernisation programme, HM Customs' activities should be reviewed and restructured in accordance with international recommendations and international agreements. These include the [World Customs Organization's \(WCO\)](#):

- ['Strategic Trade Control Enforcement Implementation Guide'](#); and
- ['Compendium of Customs Operational Practices for Enforcement and Seizures'](#).

It should also be in line with the guidance provided in the WCO ['Risk Management Compendium'](#). Customs administrations that are members of the WCO can access a second volume of this guide. This includes lots of useful information, as it “deals with risk assessment, profiling and targeting tools that inform selection criteria for identifying high-risk consignments, passengers and conveyances for customs intervention”.

It is beyond the scope of this report to detail all the changes HM Customs needs to make to develop a risk-based operating model, or to modernise its processes effectively. However, reform should include:

- implementing our recommendations in this chapter and in volume one of our report;
- [developing intelligence and information systems](#); and
- [harmonising and simplifying duty rates, regulations, administrative guidelines and procedures](#).

It is also crucial that the modernisation programme includes a systematic review. And, as required, redesign of all customs practices to eliminate red tape, reduce unnecessary duplication and design out opportunities for corruption. This should involve digitising and automating processes where possible. We realise the scale of this undertaking but also the importance of it. In a World Customs Journal article ['Corruption in Customs: How can it be tackled?'](#), experts from the [World Bank](#) explained the scope of the problem:

“Unfortunately, almost every function performed by Customs is vulnerable to corruption including the assessment of origin, value and classification; cargo examination; the administration of concessions, suspense, exemption and drawback schemes; post clearance audit; transit operations; passenger processing; [and] the issuing of various licences and approvals ...”

The UK Government's [2025 UK Border Strategy](#) sets out how it plans to transform the UK border “to be the most effective in the world”. Much of this has potential to inform the modernisation programme in the BVI.

### **Recommendation 128 – Phase three**

The strategic lead for the Customs and Immigration Border Agency Design Authority and their team of advisors, together with the Commissioner of HM Customs and their senior management team, with support from the British Overseas Territories customs, borders and immigration advisor and international development partners, should:

- conduct a modernisation programme of HM Customs and the customs element of the Customs and Immigration Border Agency; and
- develop an integrated risk management operating model.

As part of this, they should reform and modernise all customs systems and procedures to:

- eliminate any perceived advantages which might be obtained through circumventing official requirements;
- eliminate red tape;
- reduce unnecessary duplication; and
- design out opportunities for corruption.

These initiatives should:

- be comprehensive in nature;
- focus on all aspects of HM Customs' operations and performance; and
- involve digitising and automating processes where possible.

### **HM Customs should apply for membership of the World Customs Organization**

As the IMF highlights in 'Customs Matters':

“...in many administrations ... the adoption of international [Customs] good practice requires extensive capacity development, often with the assistance of development partners through their various technical assistance programs.”

The WCO is one of the main 'development partners' for customs administrations. The UK has been a member since 1952. But none of the Caribbean BOTs' (Anguilla, BVI, Cayman Islands, Montserrat, and Turks and Caicos Islands) customs administrations are WCO members.

Membership of the WCO would give HM Customs (and the CIBA) access to:

- online and in-person training;
- analytical products;
- up-to-date information about concealment techniques;
- direct messaging to other member administrations via the WCO's [customs enforcement network communication platform](#); and
- other operational and technical help.

For a BOT's customs administration to join the WCO, the UK Government would need to propose its membership to the WCO Council.

To do this for the BVI, the UK Government would need to be satisfied that the BVI can fulfil the legal obligations of membership, as set out in the '[Convention establishing a Customs Co-operation Council 1950](#)'. The BVI would be obligated to:

- pay the membership subscription determined by the WCO Council every year (as set out in article XII of the Convention); and
- to give effect to the privileges and immunities set out in the annex to the Convention. These include immunity of WCO premises from being searched, diplomatic status for senior WCO officials and exemption from legal action for anything said in WCO meetings.

In the UK, the [Customs Co-operation Council \(Immunities and Privileges\) Order 1974](#), made under the [International Organisations Act 1968](#), gives effect to these privileges. The BVI would need introduce similar legislation.

### **Recommendation 129 – Phase one**

The Governor should arrange for HM Customs to join the World Customs Organization and:

- oversee the introduction of new legislation, based on the [UK Customs Co-operation Council \(Immunities and Privileges\) Order 1974](#) to fulfil the requisite privileges and immunities for the World Customs Organization set out in its annex to the '[Convention establishing a Customs Co-operation Council 1950](#)'; and
- arrange for payment of the membership subscription determined by the World Customs Organization Council every year (as set out in Article XII of the Convention).

## **The CIBADA should create a customs and immigration intelligence unit to serve HM Customs and the DoI**

At the time of our review, neither HM Customs nor the DoI had effective intelligence units. HM Customs had one intelligence officer and the DoI had just appointed one intelligence analyst.

As a priority, the Governor should oversee the introduction of new legislation to establish a customs and immigration intelligence unit under the management of the strategic lead of the CIBADA. This unit would be responsible for providing the intelligence function for HM Customs and the DoI. It should be incorporated in the CIBA once operational.

Its roles should include:

- developing operational intelligence and information collection, analysis and dissemination capabilities;
- producing intelligence products, including strategic assessments, control strategies and tactical assessments; and
- linking into our [recommended level two intelligence structures](#).

The unit would need a director of intelligence, operational analysts and intelligence officers. This should include personnel responsible for:

- air passengers, including general aviation;
- maritime, including general maritime (non-scheduled, non-commercial maritime traffic); and
- container freight, airfreight, fast parcels and couriers.

Once the CIBA is operational, its commissioner should consider creating a separate profiling unit. This would allow the intelligence officers to focus more on their intelligence roles.

The director of intelligence, intelligence officer and analyst positions should be open to international candidates. And successful candidates should have relevant experience in similar roles in other jurisdictions. The selection and recruitment processes for these positions should include polygraphing and enhanced vetting.

### **Recommendation 130 – Phase one**

As a priority, the Premier should oversee the introduction of new legislation to establish a customs and immigration intelligence unit under the management of the strategic lead for the Customs and Immigration Border Agency Design Authority.

The unit should be staffed appropriately with intelligence professionals with relevant experience in other jurisdictions.

## Profiling

HM Customs, the DoI and, once established, the CIBA should use bulk data to profile travellers and goods.

At the time of our review, HM Customs didn't have access to the range of information available to help it target interceptions appropriately.

## Advanced passenger information

In volume one of our report, we highlighted that customs officers at ports and airports don't always receive passenger manifests by the time passengers arrive at the customs checkpoint. This doesn't permit them to carry out any pre-arrival checks.

We recommended:

“The Commissioner of HM Customs should check that the HM Customs group email address given to airline and ferry companies is correct so that manifests can be provided efficiently. This single approach for the submission of manifests should be promoted to all companies, and relevant HM Customs staff should be given access to the group email.”

The manifests only include basic information about passengers. The advanced passenger information (API) that passengers provide before taking international flights and sea voyages includes more details of use to customs and immigration agencies.

In 2020, the House of Assembly of the BVI passed the [Advanced Passenger Information Act](#). This requires the captain or master of every aircraft or vessel to provide the Chief Immigration Officer and [Caribbean Community Implementing Agency for Crime and Security \(CARICOM\)](#), the relevant API and data relating to the flight or voyage.

By the time of our visit, the DoI was receiving API directly onto its Border Management and e-Visa System. But the CAPS didn't link into the border management system and didn't receive the API.

## Recommendation 131 – Phase one

The Commissioner of HM Customs and the Chief Immigration Officer should arrange for the customs automated processing system to automatically download advanced passenger information from the Department of Immigration's border management system.



The CARICOM's joint regional communications centre is the central clearing house for API in the Caribbean. It pre-screens travellers and cargo to and from all participating member states and territories, including the BVI. At the time of our review, the joint regional communications centre sent the DoI relevant results from its screening. But HM Customs didn't receive these.

### **Recommendation 132 – Phase one**

The Commissioner of HM Customs should liaise with the Caribbean Community Implementing Agency for Crime and Security's joint regional communications centre to arrange for receipt of relevant results from its pre-screening of travellers and cargo.

In addition to API, there is other bulk data that HM Customs and the DoI doesn't receive that could be useful to help them profile passengers. This includes [advance cargo information](#) and passenger name record information. The [WCO has published detailed guidance](#) on how customs administrations can build an API and passenger name record programme.

### **Recommendation 133 – Phase one**

The Commissioner of HM Customs and the Chief Immigration Officer, together with the British Overseas Territories customs, borders and immigration advisor and the strategic lead of the Customs and Immigration Border Agency Design Authority, should:

- identify what other data would help profile travellers and goods to identify those that are high-risk; and
- arrange for HM Customs, the Department of Immigration and the Customs and Immigration Border Agency to access this data.

The intelligence unit should profile travellers and goods to identify those that are high-risk and to help target customs and immigration interceptions appropriately using:

- available bulk data such as API;
- feedback of other detections and seizures;
- reports of suspect activity; and
- intelligence disseminated by local, regional and global law enforcement agencies through our recommended [level two](#) and [level three intelligence structures](#), [membership of the WCO](#) and other bilateral and multilateral arrangements.



It should also draw from the [Cabinet Office](#)'s watchlist, which the Cabinet Office should weed regularly. In the longer-term, when the CIBA is operational, it should set up a profiling and targeting unit to carry out this role. This would free up analysts and intelligence officers to carry out intelligence work.

### **Recommendation 134 – Phase two**

Once the Customs and Immigration Border Agency is operational, its Commissioner should establish a targeting unit to carry out profiling and targeting.

The customs and immigration intelligence unit should use the overseas territories regional crime intelligence system database appropriately

In volume one of our report, we highlighted that HM Customs officers didn't record information and intelligence on the overseas territories regional crime intelligence system (OTRCIS) database. We recommended that:

“the Commissioner of HM Customs should:

- give the intelligence officer and other appropriate staff access to, and training on how to use, OTRCIS; and
- make sure that staff record all relevant customs information and intelligence on OTRCIS”.

We also found that the DoI wasn't using OTRCIS appropriately.

### **Recommendation 135 – Phase one**

The new director of the customs and immigration intelligence unit should:

- produce a standard operating procedure guide for personnel on how to use the overseas territories regional crime intelligence system (OTRCIS) database, both for entering and checking information;
- make sure that personnel are entering all intelligence onto the OTRCIS database in line with the guidance;
- make sure personnel record all relevant data relating to suspect persons and seized and detained goods (including all prohibitions) onto the OTRCIS database and disseminate this, where appropriate; and
- make sure that personnel check any suspect person, declared or detected cash or any other prohibition against the OTRCIS database.

## **Cargo entry processing systems**

[Earlier in this chapter](#), we highlighted the need for new scanning equipment to be installed at Port Purcell and other locations.

To maximise the effectiveness of scanners, and similar equipment, they should be linked into customs administrations cargo entry systems. The Cayman Islands Customs and Border Control (CBC) has developed a portal called the Customs Online System (COLS). Importers use the COLS to start their customs declarations. The system links automatically with CBC's container and freight scanners and gives officers access to an x-ray image of the container, which they can instantly compare to the cargo entry details. This includes information about the contents and the people sending and receiving the cargo. COLS displays this as soon as officers have inputted the container number or air waybill number (an air waybill is the receipt and a contract for the transport of cargo by air).

Since the development of the COLS, container and freight examination is quicker and more effective. It therefore provides CBC with the information to carry out more targeted interventions and, simultaneously, facilitates legitimate trade.

The BVI's CAPS lacks this functionality.

A review should be carried out to determine whether the BVI should procure a new cargo entry system or continue investing in upgrading the CAPS. This should take into account which system would facilitate customs modernisation and automation and help prevent corruption.

### **Recommendation 136 – Phase one**

The Commissioner of HM Customs and the strategic lead of the Customs and Immigration Border Agency Design Authority should commission a review to evaluate whether the BVI should continue investing in upgrading the customs automated procedure system or procure a new cargo entry system.

### **Recommendation 137 – Phase one**

Upon completion of recommendation 136, the Governor should arrange for the upgrade of the customs automated processing system or the procurement of a new cargo entry system.

## Harmonisation and simplification of duty rates, regulations, administrative guidelines and procedures

The WCO recommends that:

“Customs laws, regulations, administrative guidelines and procedures should be harmonized and simplified to the greatest extent possible so that Customs formalities can proceed without undue burden. This process involves the adoption of internationally agreed conventions, other instruments and accepted standards. Customs practices should be reviewed and redeveloped to eliminate red tape and reduce unnecessary duplication. Duty rates should be moderated where possible and exemptions to standard rules be minimized. Systems and procedures should be in accordance with the revised [International Convention on the Simplification and Harmonization of Customs Procedures](#).”

HM Customs’ modernisation programme should address these issues.

[Joining the WCO](#) would help in this process. The WCO’s [Harmonized System \(HS\)](#) is a multipurpose international product classification system used by more than 200 countries as a basis for their customs tariffs. It sets more than 5,000 commodity groups and includes rules to achieve uniform classification. HM Customs uses an old version of the HS that doesn’t include many modern commodities. This poses the risk that officers will classify such commodities incorrectly. Joining the WCO would grant HM Customs access to the current version of the HS.

## Part 4: Conduct and standards

### The problem

In volume one of our report, we cited the [Commission of Inquiry report](#) finding that “in both HM Customs and the Immigration Department – but particularly in Customs – there is an environment conducive to corruption.” We reported that:

“...while our role wasn’t to investigate allegations of corruption, we found that HM Customs’ organisational structures and practices posed a high risk of corruption.”

The challenges that HM Customs in the BVI face aren’t unique. As James Shaver, former Secretary General of the WCO, noted at the 8th International Anti-corruption Conference:

“There are few public agencies in which the classic pre-conditions for institutional corruption are so conveniently presented as in a Customs administration. The potent mixture of administrative monopoly coupled with the exercise of wide discretion, particularly in a work environment that may lack proper systems of control and accountability, can easily lead to corruption.”

## Some measures to address the problem

Experience in other jurisdictions show that simple changes aren't sufficient to tackle and prevent corruption in customs administrations. Tackling the problem requires large-scale reform and the development of new processes and procedures.

The WCO's [Revised Arusha Declaration](#) (its central policy document concerning good governance and integrity in Customs) recognises that "corruption [in Customs] can be combated effectively only as part of a comprehensive national effort" and lists ten key elements of an effective national Customs integrity programme.

In the [conduct, standards and corruption chapter](#) of this road map we make recommendations about three of these for all law enforcement and criminal justice agencies. These are:

- leadership and commitment;
- organisational culture; and
- having a code of conduct and ethics.

In that chapter, we recommend that all the criminal justice and law enforcement bodies develop their own codes of ethics or codes of conduct. These should be written in line with the Government of the Virgin Islands' ['public service management code'](#) and tailored for each organisation's roles and integrity risks. We advise that those developing the code of conduct for HM Customs and the CIBA also draw from the WCO's ['Model code of ethics and conduct'](#).

The Revised Arusha Declaration also includes several key elements we have already highlighted, earlier in this chapter, as being central to the HM Customs' reform programme. These are the:

- [harmonisation of the customs regulatory framework](#);
- [the review of all process and procedures](#); and
- [automation](#).

Automating processes reduces customs officers' face-to-face interactions. This, in turn, reduces corruption opportunities.

Good IT systems for cargo entry processing can also prevent and identify corrupt activity. We recommend that HM Customs should either significantly update the CAPS or replace it with a system like CBC's COLS. It is essential that the system chosen can randomly assign consignments to officers in the relevant unit and location. This can help prevent corrupt officers from having the opportunity to review all consignments belonging to specific agents or brokers. At the time of our visit, the CAPS didn't have this functionality. We heard that some corrupt officers were acting in this way. But we weren't provided with evidence to support the allegation.

The system must also be fully auditable and have audit trails that record full details of all entries, deletions and modifications. This could highlight, for example, if an officer overruled the random assignment of tasks.

It is also important that the system is secure from attack or manipulation by external actors. Criminals in other administrations have infiltrated IT support units or corrupted people working in such units. They have then used their access to customs systems to assign corrupt officers to check consignments containing illicit or prohibited goods.

The Revised Arusha Declaration also highlights the importance of audit and investigation, stating:

“The prevention and control of corruption in Customs can be assisted by the implementation of a range of appropriate monitoring and control mechanisms such as internal check programmes, internal and external auditing and investigation and prosecution regimes. Such regimes should strike a reasonable balance between positive strategies to encourage high levels of integrity and repressive strategies designed to identify incidences of corruption and to discipline or prosecute those personnel involved. Customs personnel, clients and the public should be encouraged to report corrupt, unethical or illegal activity and, when such information is provided, it should be investigated in a prompt and thorough manner and sources should be protected. Where large scale or complex investigations are warranted or in administrations where corruption is widespread, there should also be recourse to independent anti-corruption agencies.”

None of this was in place in HM Customs. HM Customs had an audit unit. But it hadn't carried out any audits looking for indications of potential corrupt activity, such as:

- whether particular officers always clear consignments from particular consignees, brokers or agents; or
- whether customs officers working as brokers or agents cleared their own consignments.

We recognise that if there was organised crime-related corruption in HM Customs, then internal auditors could be risking their safety by carrying out these audits. But not auditing the systems properly leaves corruption unchecked. Automating the assignment of consignments is a way to reduce this risk. But upgrading the CAPS or introducing a new system will take time. And it doesn't eliminate the need for auditing. We therefore recommend that, in the interim, a new, suitably vetted audit unit is set up.

### **Recommendation 138 – Phase one**

The Commissioner of HM Customs, together with the lead for the Customs and Immigration Border Agency Design Authority, should:

- establish a new highly vetted, polygraphed audit unit; and
- make sure the new unit audits HM Customs' customs automated procedure system and refers potential corruption to the Anti-Corruption Agency.

Another of the Revised Arusha Declaration's key factors is HR management. This includes points we make in both the HR and conduct and standards chapters of this report, including the need to:

- [make sure that personnel selection and promotion procedures are free of bias and favouritism and based on the principle of merit;](#)
- [regularly rotate personnel in high-risk posts;](#)
- [regularly train personnel on ethics;](#) and
- [implement appropriate performance appraisal systems that foster high levels of personal and professional integrity.](#)

It also highlights the importance of recruiting and retaining personnel who have, and are likely to maintain, high standards of integrity. Later in the report, we recommend that the Governor sets up a vetting unit to conduct security vetting for staff in the law enforcement and criminal justice sectors. Given the corruption risks inherent in customs organisations, and the findings of the Commission of Inquiry report, we make the following recommendation.

### **Recommendation 139 – Phase one**

The BVI vetting unit should vet all current HM Customs and Department of Immigration personnel to an enhanced level, as standard at recruitment and re-vet periodically and on promotion. The unit should polygraph:

- all new entrants;
- all personnel graded at the specific rank of senior officer (SO) or above (or equivalent) and candidates for promotion to those grades; and
- personnel in high-risk posts.

The corruption risk assessment process, which we outline [below in the conduct and standards chapter](#), will help identify high-risk posts. Those conducting the assessment could find it helpful to draw from the WCO's '[Guide to corruption risk mapping](#)'.

But in the interim, all intelligence roles should be classified as high-risk.

The two remaining factors listed in the Revised Arusha Declaration are transparency and relationships with the public sector. The declaration defines them and their importance in corruption prevention as follows:

- Transparency: “Customs clients are entitled to expect a high degree of certainty and predictability in their dealings with Customs. Customs laws, regulations, procedures and administrative guidelines should be made public, be easily accessible and applied in a uniform and consistent manner. The basis upon which discretionary powers can be exercised should be clearly defined. Appeal and administrative review mechanisms should be established to provide a mechanism for clients to challenge or seek review of Customs decisions. Client service charters or performance standards should be established which set out the level of service clients can expect from Customs.”
- Relationships with the public sector: “Customs administrations should foster an open, transparent and productive relationship with the private sector. Client groups should be encouraged to accept an appropriate level of responsibility and accountability for the problem and the identification and implementation of practical solutions. The establishment of Memoranda of Understanding between Customs and industry bodies can be useful in this regard. Likewise, the development of codes of conduct for the private sector, which clearly set out standards of professional behaviour, can be useful. Penalties associated with engaging in corrupt behaviour must be sufficient to deter client groups from paying bribes or facilitation fees to obtain preferential treatment.”

These issues, important though they are, fell outside the remit of our review.

Therefore, we don't know how transparent HM Customs' processes are, or how effectively it is fostering productive relationships with the private sector. The customs modernisation programme should include these important issues in its work. The WCO's ['Revised Arusha Declaration implementation resources'](#) provide further guidance on these and the other issues addressed in this part of our report.



# Maritime law enforcement and security

The BVI faces a significant threat from transnational [organised crime groups \(OCGs\)](#). [Intelligence](#) suggests that OCGs use the BVI as a drop-off or transit point for smuggling a very significant quantity of class A drugs, as well as firearms and people. They then move most of these goods and people to other Caribbean countries and territories and onwards to the United States and Europe.

The BVI's geography, with its many islands and cays and its proximity to the US Virgin Islands, creates huge challenges for law enforcement agencies to detect, respond to and intercept suspect craft.

The [Royal Virgin Islands Police Force's \(RVIPF\)](#) marine unit and [HM Customs'](#) mobile task force are responsible for providing maritime law enforcement, security and customs roles in the BVI. But they have neither the capacity nor capability to adequately fulfil these vital duties.

At the time of our review, both organisations lacked:

- a border security and maritime strategy;
- co-ordination of operational activity;
- effective management of information and intelligence;
- sufficient resources;
- appropriate training, equipment and facilities.

In [volume one of our report](#), we made short-term recommendations that, if implemented, would mitigate some of our immediate concerns about the safety of the marine unit in carrying out its role against OCGs. However, as the mobile task force was even less advanced than the marine unit, we concluded that it should permanently cease this operational role.

Under the current model, with a separate police marine unit and customs mobile task force, transnational OCGs effectively act with impunity. Previous attempts to develop a joint marine task force – where the marine unit and HM Customs mobile task force would work together operationally – have failed. We were told this was because of a lack of trust, accusations of corruption, inter-agency rivalries and senior leaders' competing priorities. Therefore, fundamental structural, behavioural and cultural change is needed if the situation is going to improve.



For this reason, we recommend the creation of a single maritime security and law enforcement agency to provide a co-ordinated approach to law enforcement and security in the maritime domain. Such an agency would enable the co-ordination of activity with agencies in other jurisdictions. Establishing a standalone agency, rather than a multi-agency task force comprised of police and customs officers, would have many benefits:

- Senior leaders would be focused on maritime and border security responsibilities, rather than having competing priorities, therefore personnel are less likely to be diverted away from their maritime duties into other roles.
- It could address the problems of inter-agency rivalry.
- It could introduce harmonised terms and conditions that mitigate the risk of corruption.
- It would increase standardisation and efficiency, avoiding unnecessary duplication of effort.
- It would reduce cost pressures.

The Cayman Islands is one of many jurisdictions that have created a single maritime security and law enforcement agency. It took the Cayman Islands Government five years to set up the Cayman Islands Coast Guard. We anticipate it would take a similar length of time before a BVI Maritime Security Law Enforcement Agency (MSLEA) is operational. Therefore, we have divided this chapter into two sections. In section one, we set out our recommendations for the new MSLEA. In section two, we make recommendations to the RVIPF and HM Customs that are designed to improve safety, security and law enforcement in the BVI's maritime domain in the interim.

In late 2023 and early 2024, the [Joint Maritime Security Centre \(JMSC\)](#), the UK Government's central point of maritime expertise, carried out a benchmark review of maritime security in the Caribbean British Overseas Territories (Anguilla, BVI, Cayman Islands, Montserrat, and Turks and Caicos Islands).

We have jointly developed this chapter with JMSC personnel to make sure that it builds both on our findings and on the findings and recommendations in their review of the BVI.

## Part 1: Creation of a new Maritime Security Law Enforcement Agency

### The UK Government should provide greater support for British Overseas Territories' maritime law enforcement and coastguard agencies

Several of the Caribbean British Overseas Territories (BOTs), including the BVI, need more support to develop their maritime security law enforcement capabilities. The UK Foreign, Commonwealth & Development Office (FCDO) Overseas Territories and Polar Directorate (OTPD) law enforcement advisor, based in Miami, doesn't have the capacity to focus sufficient attention on the maritime domain. In the absence of this, the [Royal Navy](#) liaison officer based in Florida has been supporting the marine units of law enforcement agencies in the territories to improve their capabilities and develop training. But they don't have capacity to support all the BOTs.

Our review has concluded that the Caribbean and North Atlantic BOTs (comprising the Caribbean BOTs and Bermuda) would benefit from a dedicated law enforcement maritime security advisor (LEMSA). This role would require:

- experience of maritime law enforcement; and
- the necessary level of security clearance to be able to receive top secret material, act effectively with international partners and work alongside the law enforcement advisor and the Royal Navy officer.

The LEMSA should be responsible for:

- advising the Governors and Governments of the Caribbean and North Atlantic BOTs on setting overall strategies for maritime security;
- providing strategic policy advice, guidance and assistance to the FCDO OTPD, the Governors and heads of maritime law enforcement agencies in the Caribbean and North Atlantic BOTs (and, where appropriate, other BOTs) on the implementation of maritime law enforcement policies, practices, procedures and initiatives;
- leading, with support from the Governors and heads of maritime law enforcement agencies in the Caribbean and North Atlantic BOTs, on the development of common minimum professional standards for marine units and coastguards in these territories;
- developing plans to improve interoperability of maritime law enforcement agencies in the Caribbean BOTs and establish processes for getting external support (either from the UK or elsewhere in the Caribbean) when required; and
- ensuring effective integration of the UK Government's non-operational support for maritime law enforcement.

The LEMSA shouldn't be given any operational command, management roles or responsibilities for any of the maritime law enforcement agencies. Their advice and guidance should be limited to improving command resilience, capacity, capability, competence and sustainability.

As the LEMSA would be representing interests from across the UK Government, we suggest that it is designated as a JMSC post.

#### **Recommendation 140 – Phase one**

The Governors of the Caribbean and North Atlantic British Overseas Territories should appoint a law enforcement maritime security advisor in the region with responsibility for advising all the maritime law enforcement and security agencies in the Caribbean and the North Atlantic British Overseas Territories.

#### **Legislation should be introduced to establish the BVI Marine Security and Law Enforcement Agency**

The Government of the Virgin Islands should develop legislation that establishes and supports the MSLEA.

#### **Recommendation 141 – Phase one**

The Premier should oversee the introduction of new legislation that, as a minimum:

- provides for the establishment of the BVI Maritime Security Law Enforcement Agency (MSLEA), including setting out the roles of the director of the MSLEA and the Governor, as well as funding arrangements and governance arrangements;
- specifies the duties and powers of the MSLEA, its officers and personnel;
- sets out arrangements for the appointment, enlistment, service, discharge and termination of officers and personnel; and
- creates any new offences related to maritime security and law enforcement that are deemed to be required.

While the Cayman Islands Coast Guard's remit differs from that of the proposed MSLEA, the BVI could draw from the [Cayman Islands Coast Guard Act 2021](#) to inform the development of its legislation.

## **A strategic lead and a tactical lead of the Maritime Security Law Enforcement Agency Design Authority should be recruited**

Given our [expanded definition of internal security](#), the MSLEA should fall under the Governor's section 60 reserved functions, rather than being an agency of the Government of the Virgin Islands.

Initially, the Governor's Office should set up the MSLEA Design Authority (MSLEADA) to establish and oversee the MSLEA until it becomes operational.

The Governor's Office, with the support of the LEMSA, should recruit a strategic and a tactical lead of the MSLEADA. The strategic lead should report to the Governor and work closely with the LEMSA.

Once the MSLEA is operational, its director should report directly to the Governor.

It is vital that successful candidates for these senior MSLEADA, and subsequently MSLEA, posts have specialist experience and skills gained from working in multi-functional maritime law enforcement agencies. And the MSLEADA's strategic lead should ideally have experience of leading and/or setting up a similar agency. It is unlikely that these skills exist in the BVI workforce. We therefore recommend that the Governor's Office advertises these vacancies internationally.

### **Recommendation 142 – Phase one**

The Governor should recruit a strategic lead and a tactical lead for the Maritime Security Law Enforcement Agency Design Authority. They will be responsible for setting up the Maritime Security Law Enforcement Agency.

Detailing a comprehensive plan for the establishment of the MSLEA, that covers every aspect of the process, is beyond the scope of this report. Instead, we focus on several important points.

### **The MSLEA should have clear roles and powers and robust governance and oversight arrangements**

The Governor should create a new maritime security sub-committee of the National Security Council

Chaired by the Governor, the National Security Council's (NSC) maritime security sub-committee should include:

- the strategic lead of the MSLEADA;
- the Police Commissioner;
- the Commissioner of HM Customs;
- the Chief Immigration Officer;

- a representative from the [Department of Agriculture and Fisheries](#);
- representatives from other relevant government departments and agencies; and
- [Virgin Islands Search and Rescue \(VISAR\)](#).

When the sub-committee is discussing classified matters, only those members with appropriate vetting should attend.

### The BVI should develop clear roles and powers for the MSLEA

The MSLEA's core role should be to support national security and enforce the law in the BVI's maritime domain. This should include carrying out all maritime policing, customs and immigration duties and relevant environmental matters (i.e., pollution control). The MSLEA should draw its inspiration from the Cayman Islands Coast Guard model. But, while the Cayman Islands Coast Guard's remit includes search and rescue, we envisage VISAR continuing this role in the BVI.

The NSC's maritime security sub-committee, with support from the LEMSA, should develop the precise roles and powers of the MSLEA and agree clear priorities and objectives. The Governor should then have responsibility for signing these off.

### A BVI maritime security strategy should be developed

The BVI currently lacks a maritime security strategy. Consequently, those agencies working in the maritime domain don't have strategic guidance for maritime operations. The BVI should develop a maritime security law enforcement strategy. This strategy should be based on an assessment of the maritime-based threat and risk faced by the BVI – something else which was absent at the time of our review.

The [US Drug Enforcement Agency](#) regards the adjacent US territories of Puerto Rico and the US Virgin Islands as a high intensity drug trafficking area. To counter this, the US military and American law enforcement agencies have significant maritime capabilities in the US Virgin Islands and across the Caribbean. The Royal Navy, Dutch and French maritime law enforcement agencies also operate in the region. It is therefore vital that the MSLEA's strategy and roles are designed so they are harmonised within this broader regional security architecture. The LEMSA should, therefore, consult with the Royal Navy, the US Coast Guard (USCG), [U.S. Customs and Border Protection \(US CBP\)](#) in the US Virgin Islands and the other major maritime law enforcement and security agencies in neighbouring jurisdictions when developing the BVI's maritime strategy.

### **Recommendation 143 – Phase one**

The Governor should create a new maritime security sub-committee of the National Security Council. This sub-committee should, with support from the law enforcement maritime security advisor:

- develop a BVI maritime security and law enforcement strategy, in consultation with major maritime law enforcement and security agencies in neighbouring jurisdictions; and
- develop the precise roles and powers of the Maritime Security Law Enforcement Agency and agree clear priorities and objectives.

### **Recommendation 144 – Phase one**

The Governor, through the National Security Secretariat, should have responsibility for signing off the Maritime Security Law Enforcement Agency's strategy and objectives.

Once the MSLEA is operational, the director of the MSLEA should replace the strategic lead of the MSLEADA on this sub-committee.

There should be robust oversight arrangements for the MSLEA

The NSC should be responsible for holding the MSLEA's performance to account across the full range of its activities. To facilitate this, the MSLEADA, with support from the LEMSA, should create a performance framework for the MSLEA.

### **Recommendation 145 – Phase one**

The strategic lead of the Maritime Security Law Enforcement Agency Design Authority, with support from the law enforcement maritime security advisor, should develop a performance framework that reflects the Maritime Security Law Enforcement Agency's strategy, priorities and objectives.

### **Recommendation 146 – Phase two (once operational)**

The Governor, through the National Security Council, should oversee the Maritime Security Law Enforcement Agency's performance in relation to the full range of its activity and hold it to account.

There should be clear tasking processes to prioritise the MSLEA's operational activity

The MSLEA's operational activity should consist of:

- routine law enforcement and security patrols that cover policing, customs and immigration duties and responsibilities;
- intelligence-led operations to counter specific threats; and
- other tasks in line with the BVI's maritime security strategy that don't form part of the MSLEA's routine activity.

Agencies with a maritime role, for example the [Department of Agriculture and Fisheries](#), should be able to bid for MSLEA assets to support their work. Such bids should be assessed, approved and prioritised by a suitably vetted sub-group of the National Security Council.

#### **Recommendation 147 – Phase two**

A suitably vetted sub-group of the National Security Council should have responsibility for assessing, approving and prioritising agencies' requests for the Maritime Security Law Enforcement Agency to undertake non-routine activity.

The MSLEADA will also need to develop processes to prioritise incoming and outbound requests for support from and to USCG, US CBP and other regional partners. These should be underpinned by memoranda of understanding or terms of engagement.

#### **The MSLEA will need more personnel and better equipment than the precursor agencies to be successful**

The RVIPF marine unit and HM Customs mobile task force lack sufficient personnel to resource a robust maritime law enforcement and security role.

Therefore, staffing levels for the MSLEA shouldn't be based on combining the existing numbers employed across the two units. Instead, the strategic and tactical leads of the MSLEADA should follow a methodical approach to determining how many personnel the operational agency will need to tackle the threats it faces.

For example, the UK Ministry of Defence Police has a robust process for determining how many operational personnel it needs for its maritime operations at each of its sites. This 'statement of need' process has three phases:

1. A comprehensive analysis of the responsibilities and objectives of the marine unit and the threats and risks it is designed to mitigate. This should be outlined in a maritime strategic risk and threat assessments (STRA).
2. An analysis of what the unit must do to meet those objectives.
3. An analysis of how many vessels, and of which types, are needed to fulfil the role (outlined by phase two) and how many personnel are required to operate them.



Later in this report, we recommend (recommendation 149) that the MSLEADA with support from the LEMSA produce a statement of need for the MSLEA. This should consider the following, which is based both on our review and on the JMSC's reviews and expertise.

### The MSLEA requires a fleet that meets its needs

The MSLEA will need vessels that can undertake two duties and responsibilities. In addition to conducting inshore patrols, the MSLEA will also need vessels to carry out long distance and extended patrols to the edges of the BVI's 30,993 square mile EEZ. An EEZ is an area of the ocean within which a coastal country or territory has jurisdiction over both living and non-living resources. These patrols will act as a deterrent to transnational organised crime groups and would support the Department of Agriculture and Fisheries in the EEZ. At the time of our review, the only BVI law enforcement vessel that is capable of prolonged operation at sea is a RVIPF launch. This was approaching the end of its useful life, wasn't optimised for law enforcement use and needed to be replaced. It should be replaced by ocean-going vessels that can be adapted for small calibre weapons should the need arise, to enhance their deterrent effect.

The MSLEA's inshore patrol boats should all be the same class. This will simplify training and maintenance.

We evaluate that to fulfil its role, the MSLEA will need at least one deployable ocean-going vessel and four inshore patrol boats. It will also need an extra vessel of each class to provide contingencies when others are being serviced or are otherwise non-operational and cover the training role.

### The MSLEA should operate from Tortola and two forward operating bases

In [volume one of our report](#), we recommended that, for the short-term, the RVIPF closes its marine base on Virgin Gorda. At the time of our review, the RVIPF marine unit didn't have enough staff to resource that base without critically reducing its capacity elsewhere.

The MSLEA will need sufficient vessels and personnel to open forward operating bases at Virgin Gorda and Anegada. Without these, given the time it takes to get to these islands from the marine unit base in Tortola, the agency won't be able to cover and respond to threats across the whole of the BVI's maritime domain.

#### **Recommendation 148 – Phase one**

The strategic and tactical leads of the Maritime Security Law Enforcement Agency Design Authority should set up forward operating bases at Anegada and Virgin Gorda. These shouldn't be used until the Maritime Security Law Enforcement Agency is operational.



We propose that the MSLEA’s fleet should include the following as a minimum, subject to the head of the MSLEADA’s statement of need.

**Table 1: Proposed Maritime Security Law Enforcement Agency fleet composition**

<b>Vessel type</b>	<b>Based at</b>	<b>Proposed number required</b>
Ocean-going	Marine base, Tortola	2
Inshore patrol craft	Marine base, Tortola	3
Inshore patrol craft	Anegada	1
Inshore patrol craft	Virgin Gorda	1

### The MSLEA should be equipped with drones and counter-drone effector systems

Drones can operate across large areas and gather real-time information safely. Maritime law enforcement agencies in many jurisdictions are therefore integrating drones, in co-ordination with other assets, to gather information, monitor maritime activities and safeguard territorial waters. They have the added benefit of reducing demand on maritime agencies’ vessels.

The MSLEA’s statement of need should evaluate which drones it needs to procure, considering:

- the effect of weather conditions and wind direction on the effectiveness of basic line of sight drones on open waters; and
- the utility of tethered drones.

### Staffing

Once the strategic lead of the MSLEADA has determined the composition of the agency’s fleet, they should undertake a complement review to decide how many personnel the agency will need. We suggest that the MSLEA follows the Ministry of Defence Police’s model, where all maritime officers are armed, warranted law enforcement officers. Operational MSLEA officers should have police, customs and immigration powers, and be trained accordingly.

The MSLEA should carry out daily 24/7 patrolling. If it used a 12-hour shift system, then, based on the proposed MSLEA fleet composition, it would need approximately 90 operational law enforcement officers (30 per shift). It would also need intelligence personnel, a [maritime operations centre](#), engineers and other non-operational personnel. The fleet and staffing would require significant investment. But maritime security and law enforcement can’t be done effectively on the cheap.

### **Recommendation 149 – Phase one**

The strategic and tactical leads of the Maritime Security Law Enforcement Agency Design Authority, with support from the law enforcement maritime security advisor, should produce a statement of need to decide the optimum composition of the operational agency's fleet, its drone resource and how many personnel it needs. This should take account of the proposals in this road map.

### **Recommendation 150 – Phase one**

The Governor should specify, procure and deploy vessels and equipment for the Maritime Security Law Enforcement Agency in line with the statement of need. The Foreign, Commonwealth & Development Office should provide the requisite funding for this.

The MSLEA will not be able to source enough suitable personnel from across the marine units and the mobile task force. Therefore, the strategic lead should develop a dedicated recruitment campaign.

#### **Vetting**

Concerns about potential corruption among HM Customs and RVIPF officers has led to a lack of trust between the two organisations. This situation limits joint working between individuals and agencies. It also limits their ability to react to risks and threats, share information, develop intelligence and investigate. To mitigate against this, all MSLEA operational and intelligence personnel should be [vetted to an enhanced standard](#) (including polygraphing) as part of the recruitment process and should be regularly re-vetted.

#### **Training**

##### **Maritime tactics**

The BVI should research which other organisations could provide armed and unarmed maritime law enforcement tactics training to MSLEA officers. As part of this, they should liaise with the U.S CBP and the [United States Coast Guard \(USCG\)](#) about the possibility of contracting them to carry out this training. The training should:

- be compliant with the [Virgin Islands Constitution Order 2007](#) (section 9); and
- train MSLEA personnel in the same, or similar, tactics as US CBP and USCG to maximise interoperability with key regional partners.

### **Recommendation 151 – Phase one**

The law enforcement maritime security advisor and the strategic lead of the Maritime Security Law Enforcement Agency Design Authority should research which other organisations could train the Maritime Security Law Enforcement Agency Design Authority's officers in armed and unarmed maritime law enforcement tactics.

#### **The MSLEA should have a land-based role, in extremis**

The MSLEA's primary roles will be at sea. But it will also need to be able to operate in support of law enforcement activity on land in specific circumstances. These include:

- where a vessel it is pursuing lands on the BVI and where it needs to contain an incident until the RVIPF can respond;
- to deploy in an armed capability, where waiting for the RVIPF would be detrimental to public or officer safety; and
- to act as a surge capability in a marauding attack.

### **Recommendation 152 – Phase one**

The strategic lead of the Maritime Security Law Enforcement Agency Design Authority and the Police Commissioner should develop memoranda of understanding and standard operating procedures that set out:

- the jurisdiction of the Maritime Security Law Enforcement Agency and the Royal Virgin Islands Police Force; and
- arrangements for transferring command in situations where the Maritime Security Law Enforcement Agency acts as an armed law enforcement agency on land.

MSLEA officers should be trained in land-based armed tactics that will enable them to contain incidents until RVIPF armed units can arrive on the scene. In their land-based roles, the MSLEA officers will have to be interoperable with the RVIPF. We therefore recommend that the MSLEA contracts the force to provide training on land-based tactics. This should include modules of the force's [armed response vehicle \(ARV\)](#) training. This should include at least annual joint exercising on the scenarios set out above.

As part of the statement of need process, the MSLEADA should assess which of the ARV modules should constitute MSLEA officers' training. This should consider the scenarios outlined above.

### **Recommendation 153 – Phase one**

The strategic and tactical leads of the Maritime Security Law Enforcement Agency Design Authority should:

- assess which modules of the Royal Virgin Islands Police Force’s [armed response vehicle](#) training should constitute Maritime Security Law Enforcement Agency officers’ firearms training; and
- contract the force to train Maritime Security Law Enforcement Agency officers in these tactics.

### **The MSLEA will need a robust command and control structure**

Under the current model, there isn’t a dedicated maritime command and control facility for the marine unit or the mobile task force. Given the lack of trust between the agencies, we don’t envisage that joint command and control arrangements could work effectively at this time. However, the MSLEA will need a facility to co-ordinate all its maritime assets which should:

- be equipped with the necessary maritime communications (including secure very high frequency (VHF), ultra high frequency (UHF) and satellite phones);
- constantly monitor this equipment when the RVIPF and HM Customs’ vessels are at sea; and
- regularly check the communications system.

The command and control facility and the RVIPF’s marine VHF base station should be located in the same building as our recommended [multi-agency control room](#).

### **Recommendation 154 – Phase one**

The strategic lead of the Maritime Security Law Enforcement Agency Design Authority should:

- set up a maritime command and control facility as part of the agency; and
- equip this facility, and the agency’s vessels, with the necessary maritime communications equipment.

### **A maritime law enforcement intelligence capability needs to be developed**

To operate effectively within its jurisdiction, the MSLEA will need an adequately resourced intelligence unit to inform its activities, headed by a director of intelligence. The director of intelligence should have experience in a similar role for a similar organisation.

The unit should form part of the BVI intelligence model and be responsible for:

- receiving information and other intelligence from sources locally, regionally and internationally;
- analysing intelligence; and
- disseminating intelligence internally and to local, regional and other international partners.

The MSLEADA should procure appropriate IT systems so that these are in place when the intelligence unit becomes operational.

### **Recommendation 155 – Phase one**

The strategic lead of the Maritime Security Law Enforcement Agency Design Authority should develop an adequately resourced intelligence unit, headed by a director of intelligence, to inform the Maritime Security Law Enforcement Agency's intelligence-led operations.

As with other BVI law enforcement agencies, the MSLEA should record intelligence on the overseas territories regional crime and intelligence system (OTRCIS) database.

### **Recommendation 156 – Phase one**

The strategic lead of the Maritime Security Law Enforcement Agency Design Authority should:

- produce a standard operating procedure guide for personnel on how to use the overseas territories regional crime [intelligence](#) system database, both for entering and checking information (or modify the customs and immigration intelligence unit guide for the maritime agencies' purposes); and
- make sure that personnel are entering all intelligence onto the overseas territories regional crime intelligence system database in line with the guidance.

### **The BVI should establish a maritime operations centre**

BVI law enforcement agencies lack an adequate understanding of maritime activity. The [International Maritime Organization](#) requires vessels with a displacement of over 500 gross tonnage, and over 300 gross tonnage for those on international voyages, to be fitted with the [Automatic Identification System \(AIS\)](#). This uses transceivers to provide a short-range coastal positional awareness system for large vessels and shore stations. Smaller vessels may use AIS but it isn't a requirement of the International Maritime Organization.

However, the BVI lacks a law enforcement maritime operations centre to monitor AIS and analyse data. A maritime operations centre should be set up as part of the MSLEADA. It should operate 24/7, 365 days a year, monitoring BVI waters and be located, and work closely with, the MSLEA intelligence unit. To resource this, an operations centre manager, shift supervisors and personnel should be recruited.

The centre should carry out the role of a search and rescue central alerting post.

There is a risk that organised criminals will try to infiltrate the operations centre, to prevent their vessels being intercepted. It is therefore important that:

- personnel are vetted and polygraphed;
- information coming into the operations centre, and disseminated by it, is viewed by at least two personnel; and
- the information that stems from the operations centre is protected on a need-to-know basis.

Initially, the maritime operations centre should be equipped with a basic electronic charting system and an AIS feed. But this will only give it a partial picture of the maritime domain as the BVI lacks a maritime coastal surveillance system that can identify smaller vessels.

To support the Turks and Caicos Islands to develop an intelligence-led approach to law enforcement activity in the maritime domain, the UK Government has installed sensors, radar, high-definition video cameras and cooled thermal image cameras in appropriate locations. This has significantly improved maritime domain awareness in the Turks and Caicos Islands.

This is a model that should be followed in the BVI.

The Governor and the FCDO OTPD should commission the JMSC to facilitate the development of an optimised coastal surveillance system for the BVI. This should decide:

- what types of cameras and sensors should be used;
- where they should be located;
- whether existing power supplies are adequate;
- how they can be 'target-hardened' to prevent criminals damaging them; and
- how to securely link the sensors to the maritime operations centre.

The maritime operations centre should monitor feeds from the new coastal surveillance system once it has been installed.

### **Recommendation 157 – Phase one**

The strategic lead of the Maritime Security Law Enforcement Agency Design Authority, with support from the law enforcement maritime security advisor, should set up a maritime operations centre as a unit of the Maritime Security Law Enforcement Agency.

### **Recommendation 158 – Phase one**

The Governor and the Foreign, Commonwealth & Development Office Overseas Territories and Polar Directorate should commission the Joint Maritime Security Centre to facilitate the development of an optimised coastal surveillance system for the BVI.

### **Recommendation 159 – Phase two**

The Governor should arrange for installation of the coastal surveillance system, in line with the recommendations of the Joint Maritime Security Centre's assessment.

## **The MSLEA will need to establish a firearms command structure**

As the MSLEA will be an armed agency, it should have a firearms command structure. This should include a cadre of:

- strategic firearms commanders, who would have overall command and responsibility for firearms operations and set operational objectives;
- tactical firearms commanders, who would develop and co-ordinate the overall tactical response to an incident; and
- operational firearms commanders, who would command a group of personnel who respond to an armed incident and apply the tactics developed by the tactical firearms commander.

It should also include tactical advisors trained in maritime and land-based tactics.

Having a trained initial tactical firearms commander on duty 24/7 in the maritime command centre would enable them to work closely with the incident manager in the joint control room. This would also help them to quickly take initial command of incidents reported to the joint control room that need an MSLEA armed deployment.

### **Recommendation 160 – Phase two**

The Maritime Security Law Enforcement Agency Design Authority should develop a firearms command structure for the Maritime Security Law Enforcement Agency.

### **Other Caribbean British Overseas Territories should develop their maritime law enforcement capabilities to mitigate against displacement of organised criminality from the BVI**

Developing the MSLEA should help secure the BVI's maritime domain. But this could displace transnational organised criminality to other, less secure territories in the region. To counter this threat, the BOTs in the region should develop joint law enforcement marine capabilities, with maritime operations centres in each jurisdiction. Under the guidance of the LEMSA, these units should co-ordinate a cross-regional joint response to any maritime threats. This should help deter further transnational organised criminality in these locations.

### **Recommendation 161 – Phase two**

The Governors of Anguilla and Montserrat, with support from the law enforcement maritime security advisor, should create joint law enforcement and maritime security agencies for each territory.

Standardising the inshore and offshore vessels used by Caribbean BOTs maritime law enforcement agencies would make it easier for them to carry out joint operations. It would also be more efficient.

### **Recommendation 162 – Phase three**

The Governors of Anguilla, the BVI, the Cayman Islands, Montserrat and the Turks and Caicos Islands, with the support from the law enforcement maritime security advisor, should standardise the inshore and offshore vessels used by their law enforcement and security maritime agencies.

### **The Foreign, Commonwealth & Development Office should develop a single air operations unit for the Caribbean British Overseas Territories**

Aircraft are vital assets that many maritime agencies use to help secure and understand the maritime domain. Currently, none of the Caribbean BOTs have appropriate aircraft to adequately perform these roles.



The Royal Cayman Islands Police Service air support unit has a commitment to support other BOTs. But the unit doesn't have fixed wing aircraft. Its helicopters have limited endurance and aren't suitable to deploy to other BOTs in a maritime security role.

The FCDO should create a new, single air operations unit for the Caribbean BOTs. This would be more cost and operationally effective than each territory developing their own capabilities; as illustrated by the failure of the Royal Turks and Caicos Islands Police Service and the BVI to maintain their air support units.

The air support unit could also support:

- other law enforcement operations; and
- humanitarian and disaster relief activity (e.g., following hurricanes).

It could also act in an air ambulance function.

The Cayman Islands isn't the ideal location for a regional BOT air support capability, given its distance from the other territories. Instead, it should be based in the BVI.

We suggest that the unit should:

- be funded by the BOTs, in proportion to their use of the asset, with additional UK Government funding, in extremis, where a specific air operation is needed that exceeds the BOTs' budget;
- be equipped with three fixed-wing aircraft capable of landing at, and taking off from, the runways in the BOTs and equipped with high definition and infrared cameras, surface search radar and a searchlight; and
- use civilian pilots, and observers from the BOTs who are sworn in as special constables, in all the territories.

## **Part 2: Recommended improvements for the BVI's current maritime law enforcement entities in advance of the Maritime Security Law Enforcement Agency becoming operational**

### **HM Customs and the Royal Virgin Islands Police Force should introduce vessel risk assessments**

Neither the RVIPF marine unit, nor the HM Customs mobile task force carry out vessel safety risk assessments. This poses an unacceptable risk to people on these vessels.

#### **Recommendation 163 – Phase three**

The Police Commissioner and the Commissioner of HM Customs should introduce annual vessel safety risk assessments for their fleets.

## **The UK Government and the Government of the United States should reinvigorate the shiprider programme in the BVI**

In 1998, the United States and the UK signed the [Agreement Concerning Maritime Matters Shiprider in the Caribbean and Bermuda](#). This agreement established a joint law enforcement shiprider programme between the USCG and US Customs (later US CBP) and law enforcement authorities in the BOTs (including the RVIPF and HM Customs). This permitted the BOT agencies to designate qualified officials to act as shipriders to:

- “embark on US law enforcement vessels;
- authorise pursuit, into [BOT] waters for which the shiprider has competence, by the US law enforcement vessels on which they are embarked, of suspect vessels and aircraft fleeing into or over such [BOT] waters;
- authorise the US law enforcement vessels on which they are embarked to conduct patrols in [BOT] waters for which the shiprider has competence under this Agreement;
- enforce applicable [BOT] law in [BOT] waters for which the shiprider has competence, or seaward therefrom in the exercise of the right of hot pursuit or otherwise in accordance with international law; and
- authorise the US law enforcement vessels on which they are embarked to assist in the enforcement of [BOT] law for which the shiprider has competence.”

It also permits the USCG and US CBP to designate qualified officials to act as shipriders on BOT agencies’ vessels with the same powers.

As discussed above, co-operation between the agencies in the BVI and the US Virgin Islands is essential for securing the maritime domain. And Shiprider is a good initiative that works well elsewhere in the Caribbean and North America. Based on the principles of shared border management, intelligence sharing and privacy protection, the Shiprider agreement respects the sovereignty of the BOTs.

However, at the time of our visit, US officials weren’t acting as shipriders on BVI vessels. And the RVIPF and HM Customs weren’t performing the role on US agencies’ ships. We found no procedures for BVI agencies that would put the agreement into action. Operational officers we interviewed from the RVIPF and from the USCG in the US Virgin Islands were unaware of the Caribbean Shiprider agreement.

### **Recommendation 164 – Phase three**

The Governor should work with the US Coast Guard and U.S. Customs and Border Protection to reinvigorate and implement the [Agreement Concerning Maritime Matters Shiprider in the Caribbean and Bermuda](#).

### **Suitable armouries should be built**

At the time of our review, RVIPF marine officers stored their weapons at the police armoury at Road Town police station. It would be more efficient for them to have a purpose-built armoury in the new marine unit headquarters. Armouries should also be established for the agency's forward operating bases at Tortola and Virgin Gorda.

These should be designed, built and managed in line with the [College of Policing's](#) 'guidance on the management of police armouries and magazines 2023'.

#### **Recommendation 165 – Phase one**

The strategic lead of the Maritime Security Law Enforcement Agency Design Authority should develop armouries for the agency's new marine unit headquarters and the forward operating bases at Tortola and Virgin Gorda.

# Tackling illicit finance

## The Financial Investigation Agency's functions and governance arrangements

The [Financial Investigation Agency \(FIA\)](#) has two main roles:

1. Intelligence analysis and dissemination. The FIA's financial [intelligence](#) unit (FIU) receives and analyses [suspicious activity reports \(SARs\)](#) and disseminates information connected to:
  - a financial offence;
  - the proceeds from such; or
  - a request for legal assistance from an authority in a foreign jurisdiction.
2. Regulation. The FIA's supervision and enforcement unit (SEU) is responsible for the registration and supervision of non-profit organisations and designated non-financial businesses and professions. These include:
  - legal practitioners;
  - notaries public and accountants carrying out relevant business;
  - motor vehicle dealers;
  - real estate agents;
  - precious metal and stone dealers; and
  - yacht, jewellery or other high valued goods sellers.

In some other jurisdictions, separate agencies carry out the intelligence and regulatory functions. It would be beneficial for the BVI to do the same.

The BVI [Financial Services Commission \(FSC\)](#) is the regulatory authority for financial services business. It carries out similar functions to the SEU in relation to anti-money laundering and combating the financing of terrorism, but for different parts of the financial sector. Both organisations:

- have outreach programmes with the financial sector;
- carry out regulatory visits;
- provide trend analysis to industry; and
- administer fines.

Transferring the FIU's regulatory role to the FSC should generate a more holistic approach to these activities and lead to efficiency savings. We don't expect this restructure to affect the flow of information, as the FIU could share its analysis with the FSC rather than the SEU. The FSC may require extra resources to carry out this new role.

#### **Recommendation 166 – Phase one**

The Governor and the Government of the Virgin Islands should transfer the Financial Investigation Agency's supervision and enforcement unit to the Financial Services Commission.

We recommend that the Governor transfers responsibility for the SEU's functions to the FSC and re-reserves responsibility for the FIU.

The transfer of responsibilities should also help streamline the governance structure. As [outlined earlier in this road map](#), section 60 of the [Virgin Islands Constitution Order 2007](#) (the constitution) stipulates that the Governor has special (reserved) responsibilities for internal security. Our definition of internal security would include the roles carried out by the FIU. Conversely, section 60(4)(e) stipulates that the Premier has delegated responsibility for taxation and the regulation of finance and financial services. They are, therefore, constitutionally responsible, for the FSC and the SEU's functions.

The [Financial Action Task Force \(FATF\)](#) is an international organisation that sets standards and policies to combat money laundering, terrorist financing and proliferation financing (providing funds or financial services to support the build-up of weapons of mass destruction by certain regimes).

It has set 40 [recommendations](#) that jurisdictions should action to tackle these problems. And it monitors jurisdictions' compliance with these. FAFT recommendation 29 states that jurisdictions' financial investigation units must be operationally independent and capable of autonomous decision-making, free from any political, government or industry interference. The BVI's arrangements at the time of our review, where an independent board provides oversight and governance for the FIA, are compliant with this recommendation.

#### **Recommendation 167 – Phase one**

The Governor should join the Financial Investigation Agency Board. All board members should have equal responsibility for the oversight of the Financial Investigation Agency.

## Economic Crime Plan

At the time of our visit, the BVI's '[National Anti-Money Laundering and Combating the Financing of Terrorism 2021-2023 Strategy](#)' was current. It set out how the BVI would tackle these types of economic crime. In doing so, it highlighted a series of problems and recommended remedial actions and objectives. But it didn't set target dates or set out which agencies were responsible for delivery. It also overwhelmingly focused on the role of public sector agencies and not the private sector. Nobody we interviewed mentioned the strategy. And, at the time of our visits, most of its actions and objectives hadn't been completed.

The BVI needs a comprehensive economic crime plan covering the full range of economic crime. It should include a public-private sector co-operation strategy and set a range of actions and objectives for both sectors to address economic crime. It should also include a framework that sets out how the BVI will reduce fraud.

### Recommendation 168 – Phase one

The Governor, working with the Government of the Virgin Islands and the private and public sectors in the BVI, should develop a three-year economic crime plan with objectives designed to:

- reduce money laundering;
- increase the recovery of criminal assets;
- combat kleptocracy (a society or system ruled by people who use their power to steal their country's resources); and
- tackle sanctions evasion.

### Recommendation 169 – Phase one

The Governor should establish a sub-committee of the National Security Council to provide robust oversight of government and private sector agencies' delivery of the economic crime plan.

## The Financial Investigation Agency

### The Financial Investigation Agency should replace its computer systems for handling suspicious activity reports

The FIA has several computer systems to manage its SARs workflow, from receiving a report through analysis to dissemination. And other parts of the process are recorded on paper records. We found that this workflow:

- was inefficient, as personnel had to copy information from system to system; and

- created the potential for personnel to lose information held on paper records, or not upload it onto electronic systems.

We also found that some of the analytical computer systems weren't working.

The FIA should adopt a single computer system for the whole SARs processing workflow. It could be modelled on the [United Nations Office on Drugs and Crime \(UNODC\) goAML](#) system. This is a fully integrated software solution for SARs processing. The system also allows FIUs to share information and intelligence to help identify cross-border activities and track the movement of illicit funds.

### **Recommendation 170 – Phase one**

The Director of the Financial Investigation Agency should replace its computer and paper-based systems for managing and processing [suspicious activity reports](#) with a single system that offers the same capabilities as the United Nations Office on Drugs and Crime's goAML system.

### **The FIA should update its memoranda of understanding with other agencies**

The FIA is a signatory to the '[Memoranda of Understanding between Authorities of the Inter-Governmental Committee on Anti-Money Laundering and Countering the Finance of Terrorism](#)'. This was designed to manage exchange of information. But it doesn't specify either how quickly parties should respond to information requests or how they should protect intelligence and information coming from SARs.

### **Recommendation 171 – Phase one**

The Director of the Financial Investigation Agency, together with heads of other relevant agencies as required, should update the '[Memoranda of Understanding between Authorities of the Inter-Governmental Committee on Anti-Money Laundering and Countering the Finance of Terrorism](#)' to:

- include details on how quickly the parties should respond to requests for information; and
- set out how they should protect [intelligence](#) and information coming from [suspicious activity reports](#).

## **Outreach**

In [volume one of our report](#), we highlighted the poor quality of many SARs submitted to the FIA and recommended that the agency:

“...should review the current outreach programme to make sure it is fit for purpose and implemented effectively. They should regularly review the programme to make



sure it is helping to improve the quality and timeliness of suspicious activity report submissions from the public and private sectors”.

To improve this, the FIA should recruit an engagement officer to identify problems with SARs submissions and develop the outreach programme.

### **Recommendation 172 – Phase one**

The Director of the Financial Investigation Agency should create a dedicated engagement officer post.

We also found that the FSC didn't conduct outreach to the regulated sector to improve its understanding of anti-money laundering requirements. The FIA and FSC should circulate guidance to the regulated sectors more frequently. For example, the FSC should provide guidance to trust and company service providers and banks about anti-money laundering procedures. They should also obtain signatures on receipt. The FIA and FSC should also:

- carry out joint outreach visits to agencies that routinely submit poor quality SARs and to high-risk sectors including trust and company service providers;
- publish guidance on social networking sites; and
- jointly monitor the performance of their outreach programmes.

### **Recommendation 173 – Phase one**

The Director of the Financial Investigation Agency and the Managing Director of the Financial Services Commission should:

- circulate guidance to the regulated sectors more frequently;
- carry out joint outreach visits to agencies that routinely submit poor quality [suspicious activity reports](#); and
- jointly monitor the performance of their outreach programmes.

## **Investigating financial crime**

### **The Royal Virgin Islands Police Force financial crime unit lacks sufficient capability and capacity to carry out its remit**

The Royal Virgin Islands Police Force (RVIPF) financial crime unit's (FCU) remit is to:

- support RVIPF officers' investigations of predicate offences (criminal activity that generates monetary proceeds) by carrying out parallel financial investigations;
- confiscate and recover assets;
- investigate cash seizures;

- prepare case files and attend court on behalf of the [Virgin Islands International Tax Authority \(ITA\)](#);
- carry out domestic money laundering investigations; and
- investigate cross-border and complex money laundering, terrorist financing and proliferation financing involving the BVI.

At the time of our review, the FCU had six financial investigators (FIs), including a sergeant and an inspector.

The FCU focused its activity on carrying out parallel financial investigations and domestic money laundering cases. But it didn't have enough personnel to follow up every case referred to its team.

It also wasn't equipped to carry out other important roles. It didn't consider proactively confiscating proceeds of crime beyond initial cash seizures and hadn't carried out virtual asset investigations or investigations into complex or cross border money laundering, terrorist financing or proliferation financing.

The unit also didn't have a financial analyst. Without this, the FIs carried out some analysis, which diverted them from their core roles.

[Later in this chapter](#), we recommend that the [Governor's Office](#) and the Government of the Virgin Islands establish a new agency to investigate complex money laundering and cross-border money laundering, terrorist financing and proliferation financing. Even with this agency in place, the Police Commissioner should increase the FCU's staffing and work with the Governor to make sure that this doesn't critically reduce the force's resource in other units.

#### **Recommendation 174 – Phase one**

The Police Commissioner should:

- review the staffing levels in the force's financial crime unit and make sure it is sufficient to meet demand; and
- recruit a suitably skilled and experienced financial analyst for the financial crime unit.

**The force's financial crime unit should stop carrying out investigations on behalf of the International Tax Authority**

The FCU also carries out work on behalf of the ITA. The ITA isn't empowered to take companies or people to court, or to refer cases directly to the Office of the Director of Public Prosecutions (ODPP) for prosecution. Consequently, it sends files with initial statements and exhibits to the FCU. The FCU's FIs then have to spend time:

- carrying out background checks;

- preparing statements;
- sending files to the ODPP; and
- monitoring the case's progress through court.

#### **Recommendation 175 – Phase one**

The Director of the International Tax Authority should develop the authority's capability to carry out all aspects of its investigations.

#### **Recommendation 176 – Phase one**

Once recommendation 175 has been implemented, the Premier should oversee the development of legislation to give the International Tax Authority responsibility for all aspects of its investigations and remove the financial crime unit's role.

#### **The Government of the Virgin Islands should introduce measures to increase personnel retention in the force's financial crime unit**

Many FIs leave the RVIPF shortly after completing their FI training, to take up other roles elsewhere. This is costly and hampers the unit's effectiveness. This is a problem that law enforcement agencies face in many jurisdictions.

#### **Recommendation 177 – Phase one**

The Deputy Governor, together with the Police Commissioner, should:

- advertise all financial crime unit posts with an anticipated minimum tenure; and
- explore other options to retain personnel and recoup training investment costs.

#### **Financial investigators should be accredited**

At the time of our visits, all the FCU's FIs had received some training in financial investigation. But several organisations provided this training, syllabuses were inconsistent and there was no formal accreditation standard. Introducing accredited training in the BVI should provide greater consistency. In the UK, the [National Crime Agency's Proceeds of Crime Centre \(POCC\)](#) sets the standard for and provides accredited FI training and mandatory [continuing professional development](#). Only accredited FIs have the full range of powers including having [direct access to financial institutions](#).

The POCC recognises that the BVI is a high-risk jurisdiction and has offered to:

- provide financial awareness training to the FCU's FIs; and

- potentially provide continuing professional development modules, tailored to the BVI's legislation and context.

The POCC has provided training for FIs in Bermuda and the Cayman Islands. We would welcome its support for staff in the BVI. Its training should reinforce the BVI FIs' skills and give them access to a broad network of FIs in England, Wales and Northern Ireland.

However, the POCC isn't empowered to accredit FIs outside England, Wales and Northern Ireland. We have discussed solutions to this with the POCC and it supported our suggestion that a regional POCC for the Caribbean and North Atlantic BOTs (Anguilla, Bermuda, BVI, Cayman Islands, Montserrat, and Turks and Caicos Islands) is created. Establishing a regional POCC with the capacity and capability to provide tailored, accredited training and continuous development should improve law enforcement agencies' capabilities to tackle money laundering, terrorist financing and proliferation financing across all the Caribbean and North Atlantic BOTs.

### **Recommendation 178 – Phase two**

The Foreign, Commonwealth & Development Office should set up a Caribbean and North Atlantic British Overseas Territories Proceeds of Crime Centre to establish accredited standards and carry out accredited training and [continuing professional development](#) for financial investigators in Anguilla, Bermuda, Montserrat, the BVI, the Cayman Islands and the Turks and Caicos Islands.

The UK Foreign, Commonwealth & Development Office (FCDO) should also establish an equivalent to the UK's financial investigation support system. Administered by POCC, this system acts as the professional register of FIs in England, Wales and Northern Ireland and provides them with resources and tools.

### **Recommendation 179 – Phase two**

The Foreign, Commonwealth & Development Office should establish an equivalent to the UK's Financial Investigation Support System.

## **The Royal Virgin Islands Police Force financial crime unit needs better access to third party information**

### **Information from other government departments**

The FCU has difficulty in accessing information from other government departments. It lacks direct access to several important databases, including:

- the [Department of Motor Vehicle](#)'s vehicle ownership records;
- the [Department of Land Registry](#)'s records; and

- the [Department of Trade, Investment Promotion and Consumer Affairs](#)' records of trade licensees.

To access information from these organisations, FCU FIs have to make a request through the FIA or obtain a court order. This prolongs their investigations.

We are aware that, due to perceived corruption, some departments have concerns about sharing their information with the RVIPF. It is therefore important that all FCU investigators go through enhanced vetting.

### **Recommendation 180 – Phase one**

The Premier should oversee the development of legislation to give the Financial Investigation Agency and the Royal Virgin Islands Police Force's financial investigators direct access to the electronic systems which hold:

- the Department of Motor Vehicle's vehicle ownership records;
- the Department of Land Registry's records; and
- the Department of Trade, Investment Promotion and Consumer Affairs' records of trade licensees.

### **Access to the beneficial ownership secure search system**

Criminals look for opportunities to misuse corporate and legal entities such as companies, trusts, foundations and partnerships. To tackle this, it is important that there is transparency about the beneficial ownership of such entities.

In 2017, the Government of the Virgin Islands created a beneficial ownership secure search system (BOSS) database to:

“...facilitate the effective and efficient storage and retrieval of beneficial owner information for all corporate and legal entities ... and to provide for matters incidental thereto” (see the [Beneficial Ownership Secure Search System Act 2017 \(as amended\)](#)).

The FIA has access to the BOSS database, but the FCU doesn't. This impedes its investigations.

Not all trust or company service providers have access to the system. Granting all trust or company service providers access to the BOSS database should improve their due diligence checks of companies' beneficial ownership.

### **Recommendation 181 – Phase one**

The Director of the Financial Investigation Agency should provide access to the beneficial ownership secure search system to:

- the Royal Virgin Islands Police Force financial crime unit; and
- all trust or company service providers.

### **Getting information from financial institutions**

The UK has established a financial intelligence gateway that permits authorised FIs to contact financial institutions. Using the gateway, these FIs can make preliminary enquiries about suspect accounts. And the financial institutions can exchange sensitive financial intelligence with them. Using this gateway can speed up investigations, although law enforcement bodies can only use this information for intelligence, and not evidential, purposes.

There are no similar arrangements in the BVI. FIs don't have the power to carry out preliminary enquiries with financial institutions. Instead, they must make requests through the FIA. If FIs could make preliminary enquiries, this would reduce investigative delays and the FIA's workload.

### **Recommendation 182 – Phase two**

Once the Caribbean and North Atlantic British Overseas Territories Proceeds of Crime Centre has accredited BVI financial investigators, the Premier should oversee the development of legislation to establish a legal gateway, through which:

- accredited financial investigators could directly contact financial institutions; and
- financial institutions could exchange sensitive financial intelligence with accredited financial investigators.

### **The RVIPF financial crime unit should have a checklist of enquiries that officers should consider while carrying out their investigations**

The RVIPF's inspection manual includes a list of actions that FIs should follow during their investigations. But we found they don't routinely adhere to it. Consequently, different intelligence and systems checks are carried out in different investigations. In our audit of cases, we found examples where FIs had failed to carry out enquiries that could have collected useful information and evidence for investigations.

### **Recommendation 183 – Phase one**

The Police Commissioner should:

- make sure that financial investigators carry out standard checks as outlined in the force’s investigation manual; and
- instruct financial investigators to record their reasons for not carrying out these enquiries in case decision logs.

### **The force’s intelligence officers lack sufficient knowledge of financial crime**

Officers in the RVIPF’s intelligence unit have very limited knowledge of financial crime. Consequently, they may be missing intelligence opportunities relating to money laundering, terrorist financing and proliferation financing. To counter this, the force should arrange financial awareness training for intelligence officers to help them generate and respond to SARs and other financial intelligence.

### **Recommendation 184 – Phase one**

The Police Commissioner should arrange financial awareness training for all overt and covert [intelligence](#) officers.

### **The BVI should establish a new agency to investigate complex and international money laundering, terrorist financing and proliferation financing cases**

The FCU doesn’t carry out standalone complex money laundering investigations or routinely make enquiries into the origins of assets either from or held abroad. It also lacks sufficient capacity and capability to investigate international money laundering, terrorist financing and proliferation financing offences. These are major shortcomings, given the BVI’s status as an international financial centre. In its 2024 report ‘[Mutual Evaluation of the British Virgin Islands](#)’, the FATF highlighted the lack of resources available to investigate and prosecute large-scale and cross-border money laundering and cases involving virtual assets. It made addressing this a priority action for the BVI. The national action plan that followed the report recommended:

“The staff levels in the FCU should be increased with officers trained in financial, [money laundering] and terrorist investigations to effectively carry out its mandate to pursue and investigate [money laundering], [terrorist financing] crimes, and conduct parallel financial investigations.”

This is one of several recommendations that the BVI must action by February 2025 to avoid being placed on the ‘grey list’ of jurisdictions under increased monitoring. Being added to the ‘grey list’ could have serious economic and financial implications for the BVI and the UK.



In 2019, the FATF highlighted similar problems in its [report on the Cayman Islands](#). In response, the Cayman Islands Government created the Cayman Islands Bureau of Financial Investigation (CIBFI). Established as a unit under the Cayman Islands Office of the Commissioner of Police, the CIBFI is a dedicated unit with operational and non-operational remits to respond to the threat of money laundering and terrorist financing. Operationally, its roles include carrying out:

- complex, multi-jurisdictional economic crime investigations, with an emphasis on money laundering;
- terrorist financing and proliferation financing investigations;
- targeted financial sanctions investigations;
- seizure, confiscation and recovery of criminal assets; and
- outreach.

The [Royal Cayman Islands Police Service \(RCIPS\)](#) financial crime investigation unit (akin to the RVIPF's FCU) retained its remit to carry out domestic money laundering and predicate economic crime investigations.

We recommend that the BVI establishes a similar Bureau of Financial Investigation. As with CIBFI, the BVI bureau should recruit expert personnel trained, skilled and experienced in:

- forensic accounting;
- virtual assets;
- taxation;
- cybercrime; and
- complex financial investigation of multi-jurisdictional economic crime, involving joint investigations with agencies in other jurisdictions.

It should also recruit an analyst and an in-house legal advisor. The investigators should have powers of a constable.

Setting the BVI bureau up under the Police Commissioner wouldn't require new legislation. This should reduce delays in opening the bureau for work.

### **Recommendation 185 – Phase one**

The Governor, working with the Police Commissioner, should establish a suitably resourced and equipped Bureau of Financial Investigation, as a unit within the Royal Virgin Islands Police Force, to tackle complex, multi-jurisdictional economic crime, international money laundering, terrorist financing and proliferation financing.



In the medium term, the bureau should become an independent law enforcement agency under the Governor's Office. This would make sure that its resources are ringfenced to carry out this important remit and that personnel aren't diverted to other policing matters.

### **Recommendation 186 – Phase two**

The Premier should oversee the introduction of legislation to establish the BVI Bureau of Financial Investigation as an independent law enforcement agency.

## **Cash seizures at ports of entry**

### **HM Customs' processes for authorising cash declaration forms aren't fit for purpose**

Section 87 of the [BVI Customs Management and Duties Act 2010](#) stipulates that:

“A person entering or departing from the Territory shall, at the place and in the manner the Commissioner may direct, make a declaration of anything contained in the person's baggage or carried with the person which being an amount of cash, exceeds ten thousand dollars.”

People planning to take more than \$10,000 of cash out of the BVI must present a completed cash declaration form and supporting financial documentation to the [HM Customs](#) headquarters. HM Customs' administrative unit is then responsible for checking the form and supporting documentation to make sure the information given is complete and accurate. If authorised, the applicant is free to leave the BVI with the declared cash.

We found that the administrative unit's process wasn't fit for purpose. The unit was:

- authorising cash declaration forms without checking any intelligence system; and
- not recording declarations on any intelligence system, or other searchable database.

This process is open to abuse by money launderers. It poses the risk that HM Customs, by failing to properly check cash declaration forms, helps people to move the proceeds of crime to other jurisdictions.

### **Recommendation 187 – Phase one**

The Commissioner of HM Customs should reform the outbound cash declaration process to make sure that all personnel processing declarations:

- record declarations on a searchable database and the overseas territories regional crime intelligence system database; and
- search the database and intelligence systems as part of checking the suitability of the applicant.

They should also provide guidance for personnel processing outbound cash declarations on identifying suspicious cash declarations.

### **Airport and maritime port security officers should do more to tackle cash smuggling**

Security officers working for the [BVI Airports Authority](#) and the [BVI Ports Authority](#) should do more to prevent cash smuggling. Security officers are often in a good position to see passengers carrying cash on their person, in hand luggage and in checked baggage. But in 2023, there were no cash seizures from passengers departing the BVI. We are unconvinced that security officers routinely report passengers in possession of large amounts of cash to HM Customs.

### **Recommendation 188 – Phase one**

The Commissioner of HM Customs, together with the Managing Directors of the BVI Ports Authority and the BVI Airports Authority, should create a memorandum of understanding. This should mandate security officers at airports and maritime ports to report any large amounts of cash they see or detect on departing passengers, or in their baggage, to HM Customs.

### **Intelligence opportunities arising from cash seizures aren't being maximised**

In volume one of our report, we made recommendations to help maximise intelligence opportunities presented by cash declarations or cash seizures. This included requiring HM Customs to submit a suspicious activity report to the FIA for any suspicious movement of cash.

We also found that the FIA doesn't send HM Customs feedback about what happens having received a SAR.

When HM Customs officers detained cash, they passed it to the RVIPF. Again, the RVIPF should then send HM Customs feedback about any enquiries that are made as a result.

This information would help HM Customs improve its targeting of cash couriers.

## Recommendation 189 – Phase one

The Commissioner of HM Customs, together with the Director of the Financial Investigation Agency and the Police Commissioner, should produce a memorandum of understanding and written procedures that set out how:

- the Financial Investigation Agency should provide feedback to HM Customs following HM Customs' submission of a [suspicious activity report](#) relating to cash declarations and cash seizures at the borders; and
- the Royal Virgin Islands Police Force should enter details onto the overseas territories regional crime intelligence system database and provide feedback to HM Customs following any transfer of detained cash.

## Legislation

BVI FIs and prosecutors lack many of the powers that their counterparts in the UK have. These include, but aren't limited to:

- civil recovery orders (CROs). Part 4 of the [UK Proceeds of Crime Act 2002 \(UK POCA\)](#) introduced these in the UK. CROs enable prosecutors to, in specified circumstances, confiscate criminal property using a lower "civil" standard of proof. Similar powers are enshrined in part 3 of the [Cayman Islands Proceeds of Crime Act 2024 Revision \(Cayman POCA 2024\)](#) and part 3A of the [Bermuda Proceeds of Crime Act 1997 \(Bermuda POCA\)](#);
- unexplained wealth orders. These were introduced in England, Wales and Northern Ireland by the [Criminal Finances Act 2017](#) and modified by the [UK Economic Crime \(Transparency and Enforcement\) Act 2022](#). They allow law enforcement, in specified circumstances, to apply for a court order requiring someone linked with serious crime to explain their interest in property and how they obtained it. If that person fails to comply, law enforcement may then apply to the court for a CRO with the benefit of a presumption that the property should be confiscated. These haven't been introduced in the Cayman Islands or Bermuda, but similar powers are granted in legislation in Trinidad and Tobago and [Barbados](#);
- account freezing orders and account forfeiture notices. These increased law enforcement agencies' powers to disrupt and seize criminal funds efficiently without needing a prosecution or criminal conviction. The Criminal Finances Act 2017 amended UK POCA to introduce account freezing orders and account forfeiture notices (see [section 303Z1 of UK POCA](#)). Law enforcement agencies can use account freezing orders to freeze accounts held with financial institutions if the funds are suspected to be either the proceeds of criminal conduct (allegedly committed anywhere in the world) or intended for use in unlawful conduct. The agencies can apply for account forfeiture notices at any point during account freezing. These forfeit the funds in the account;

- interim receiving orders. Introduced in the UK by [section 246 of UK POCA](#), these orders prevent the owner of property subject to a CRO from selling it, and appoint an interim receiver to detain or preserve that property. Part 3 of Cayman POCA, Part 3A of Bermuda POCA and section 79 of the [Turks and Caicos Proceeds of Crime Ordinance 2009 \(as amended\) \(TCI POCO\)](#) grant similar powers;
- search and seizure warrants. Introduced in the UK by [section 352 of UK POCA](#), these orders authorise an appropriate person, in specified circumstances, to enter and search the premises specified and to seize and retain any material found there, which is likely to be of substantial value to the investigation. Part 6 of Cayman POCA 2024 and section 138 of TCI POCO grant similar powers;
- customer information orders. Introduced in the UK by [section 363 of UK POCA](#), these orders authorise an appropriate officer, in specified circumstances, to compel a financial institution covered by the application to provide any customer information it has relating to the person specified in the application. Part 3A of Bermuda POCA, section 140 of TCI POCO and part 6 of Cayman POCA 2024 grant similar powers; and
- disclosure orders. Introduced in the UK by [section 357 of UK POCA](#), these orders authorise an appropriate officer, in specified circumstances, to issue an information notice to any person they consider holds information relating to their investigation, requiring that person to answer questions, disclose information or produce documents. Part 6 of Cayman POCA 2024 grants similar powers.

There are also many inconsistencies between different BVI legislative acts designed to tackle illicit finance. Rather than reviewing and amending each of these, we recommend that the BVI introduces new legislation to modernise the law and grant new powers to investigators and prosecutors. The Governor should base this new legislation on UK and Cayman Islands law, amended for the BVI's context. The BVI should also introduce codes of practice to accompany the new legislation.

### **Recommendation 190 – Phase one**

The Premier should oversee the introduction of:

- new legislation to modernise the BVI's legal framework to tackle illicit finance, based on the [UK Proceeds of Crime Act 2002](#) and associated legislation and the [Cayman Islands Proceeds of Crime Act 2024 Revision](#), amended for the BVI's context; and
- codes of practice to accompany the new legislation.

## The asset seizure and forfeiture fund

Section 14 of the BVI [Asset Seizure and Forfeiture Act 2020](#) established an asset seizure and forfeiture fund. This fund, managed by a new asset management and forfeiture management committee, receives:

“(a) proceeds of disposition of forfeited property or any amount recovered as the proceeds of disposition of that forfeited property;

(b) money paid to the Government of the Virgin Islands by a foreign jurisdiction in respect of confiscated assets, whether under an agreement or arrangement providing for mutual assistance in criminal matters or otherwise.”

The Act stipulates that “all monies standing in the account of the fund shall be divided” and allocated to specified agencies, as described in schedule 2 of the Act. These include the RVIPF, the FIA, HM Customs and “the legal and court sector”.

Schedule 2 sets out the percentage of money in the fund that each agency should receive. In the UK, under the asset recovery incentivisation scheme, law enforcement agencies receive 50 percent of the amount they recover, following any deductions for costs associated with the asset. This is far higher than the 5 percent of the BVI fund that the Act stipulates should go to the RVIPF, the FIA or HM Customs. Increasing the percentage going to law enforcement agencies and prosecuting authorities would help incentivise these bodies to proactively track down criminal wealth.

At the time of our review, the fund held approximately \$8.5million, recovered from the proceeds of crime. This hadn't been distributed to the law enforcement and criminal justice bodies, which need the money to continue their fight against crime.

### Recommendation 191 – Phase one

The asset management and forfeiture management committee should distribute the money in the asset seizure and forfeiture fund, in accordance with schedule 2 of the [Asset Seizure and Forfeiture Act 2020](#).

### Recommendation 192 – Phase two

The Premier should oversee the amendment of schedule 2 of the [Asset Seizure and Forfeiture Act 2020](#) to increase incentivisation for law enforcement agencies and criminal justice bodies.

# HM Virgin Islands Prison Service

HM Prison Balsam Ghut is the sole prison facility in the BVI. It accommodates all security categories of prisoners, including those on remand. The prison houses male and female inmates, including immigration detainees and juveniles.

## Governance and external review

[HM Virgin Islands Prison Service \(HMVIPS\)](#) is overseen by the [Ministry of Health and Social Development](#). In [volume one of our report](#), we highlighted our concerns about these governance arrangements. We reported:

“The role of the prison is very distinct from that of providing health and social care. This has the potential to negatively affect the level of support and focus placed upon the prison by the ministry. There appear to be significantly more effective options for providing oversight, governance and support to the prison.

The provision of an effective and efficient prison service is a matter of national security for the BVI, not least since the prison houses some high-risk and extremely dangerous offenders. Bringing the prison service under the direct oversight of the Governor’s Office, or a single ministry with other law enforcement agencies, may prove a better option.”

We also reported that “there was a general lack of effective governance structures provided by the Ministry of Health and Social Development.”

In line with other recommendations in this report, we recommend that HMVIPS is properly considered to be a matter of internal security. It should be brought under the responsibility of the Governor and overseen through the machinery of the revised National Security Council.

At the time of our review, HMVIPS didn’t have a strategic plan in place. Nor was there a co-ordinated approach to tackling problems in the prison. By December 2023, the new Superintendent of Prisons had started developing a ten-year plan for the prison. But this was done in isolation and the management team didn’t have the capacity to get involved in detailed strategic planning.

### **Recommendation 193 – Phase one**

The Superintendent of Prisons, with support from the UK Ministry of Justice Overseas Territories justice programme team, should develop a strategy for HM Virgin Islands Prison Service, underpinned by clear objectives. The Governor should approve this strategy.

### **HMVIPS should introduce a performance management framework**

As we reported in volume one, “we found no processes in place to check performance of the prison.” Although HMVIPS had some basic performance indicators, it didn’t collect sufficient data and lacked a comprehensive performance framework of metrics and targets. The [UK Ministry of Justice \(MoJ\)](#) Overseas Territories justice programme team should help HMVIPS to develop this.

### **Recommendation 194 – Phase one**

The Superintendent of Prisons, with assistance from the UK Ministry of Justice Overseas Territories justice programme team, should develop a performance framework for HM Virgin Islands Prison Service.

Once the performance framework is completed, the UK Ministry of Justice Overseas Territories justice programme team could use it as a template to develop similar performance frameworks for other Overseas Territories’ prison services.

### **There should be robust oversight of performance**

At the time of our visit, there weren’t formal processes for the Governor or the Government of the Virgin Islands to oversee HMVIPS’ performance.

Under the [new governance structure](#), the National Security Secretariat should establish formal processes to scrutinise and oversee HMVIPS’ performance against its strategic plan, objectives and targets.



### **Recommendation 195 – Phase one**

The National Security Secretariat, once established, should implement formal reporting and oversight processes for HM Virgin Islands Prison Service (HMVIPS). These should be designed to enable the Governor, through the National Security Council, to scrutinise and oversee HMVIPS' performance against the strategic plan, objectives and performance framework. The processes should set out the:

- frequency and scope of HMVIPS' performance reporting;
- frequency and attendance of formal performance meetings; and
- arrangements for publication of performance data.

### **Regular, mandatory external reviews or inspections should be introduced**

The ['United Nations Standard Minimum Rules for the Treatment of Prisoners' \(the 'Nelson Mandela Rules'\)](#) stipulate that there should be external inspections of prisons "conducted by a body independent of the prison administration, which may include competent international or regional bodies". It continues:

#### Rule 84

"2. External inspection teams shall be composed of qualified and experienced inspectors appointed by a competent authority and shall encompass healthcare professionals. Due regard shall be given to balanced gender representation."

#### Rule 85

"1. Every inspection shall be followed by a written report to be submitted to the competent authority. Due consideration shall be given to making the reports of external inspections publicly available, excluding any personal data on prisoners unless they have given their explicit consent.

2. The prison administration or other competent authorities, as appropriate, shall indicate, within a reasonable time, whether they will implement the recommendations resulting from the external inspection."

Under the Government of the Virgin Islands [Statutory Instrument 1999 No. 25 Prison Ordinance \(Cap. 166\) The Prison Rules, 1999 \(the Prison Rules\)](#), the Prison Visiting Committee is responsible for:

- visiting the prison and satisfying "itself as to the state of the prison and the treatment of prisoners"; and
- writing "an annual report to the Superintendent at the end of each year concerning the state of prisons and their administration and including any recommendations it considers appropriate."

As the Prison Visiting Committee hasn't been functioning for the last few years, this hasn't happened.

### **Recommendation 196 – Phase one**

The Prison Visiting Committee should recommence its programme of prison visits and report its findings and recommendations to the Governor annually.

## **Training, policies, procedures and leadership**

### **There is insufficient training for prison personnel**

The 'Nelson Mandela Rules' stipulate:

#### Rule 75

"2. Before entering on duty, all prison staff shall be provided with training tailored to their general and specific duties, which shall be reflective of contemporary evidence-based best practice in penal sciences. Only those candidates who successfully pass the theoretical and practical tests at the end of such training shall be allowed to enter the prison service.

3. The prison administration shall ensure the continuous provision of in-service training courses with a view to maintaining and improving the knowledge and professional capacity of its personnel, after entering on duty and during their career."

#### Rule 76

"1. Training referred to in paragraph 2 of rule 75 shall include, at a minimum, training on:

- (a) Relevant national legislation, regulations and policies, as well as applicable international and regional instruments, the provisions of which must guide the work and interactions of prison staff with inmates;
- (b) Rights and duties of prison staff in the exercise of their functions, including respecting the human dignity of all prisoners and the prohibition of certain conduct, in particular torture and other cruel, inhuman, or degrading treatment or punishment;
- (c) Security and safety, including the concept of dynamic security, the use of force and instruments of restraint and the management of violent offenders, with due consideration of preventive and defusing techniques, such as negotiation and mediation;
- (d) First aid, the psychosocial needs of prisoners and the corresponding dynamics in prison settings, as well as social care and assistance, including early detection of mental health issues.

2. Prison staff who are in charge of working with certain categories of prisoners, or who are assigned other specialized functions, shall receive training that has a corresponding focus.”

Most of this wasn't in place when we visited the prison and there was a lack of training for personnel at all levels. In volume one, we reported:

- “There was no established initial training for prison officers and some operational personnel have never been trained.”
- “There was no current training needs analysis or training plan.”
- “There had been little training of any description undertaken in recent years and local trainers haven't been able to requalify.”
- “Many of the senior leaders in the prison are temporary in their roles and ranks and have received little, if any, training to perform their new duties.”
- “Most principal officers had been temporarily promoted to the grade for just over a year and had received little or no training for their temporary roles.”

We also found there was:

- no specific training for those personnel who deal with prisoners with mental health conditions; and
- no additional training available for the personnel who deal with long-term sentenced prisoners.

The new Superintendent of Prisons intends to address these problems. By December 2023, they had issued a training needs survey to all personnel. But more needs to be done.

### **Recommendation 197 – Phase one**

The Superintendent of Prisons, with support from the UK Ministry of Justice Overseas Territories justice programme team, should finalise the training needs assessment, produce a training plan and arrange training for all HM Virgin Islands Prison Service's personnel and new recruits. As a minimum, the training should cover:

- relevant BVI legislation, regulations and policies, as well as applicable international and regional instruments;
- the rights and duties of prison personnel in the exercise of their functions, including respecting the human dignity of all prisoners and the prohibition of certain conduct;
- security and safety, including the concept of [dynamic security](#), use of force and restraint; and

- first aid, the psychosocial needs of prisoners and the corresponding dynamics in prison settings, as well as social care and assistance, including early detection of mental health conditions.

The Superintendent of Prisons should also make sure that prison personnel with specialist functions are trained appropriately.

### **HM Virgin Islands Prison Service lacks adequate policies and procedures**

The [Prison Ordinance 1956](#) and the Prison Rules 1999 should underpin policies and processes in the prison. But, as we reported in volume one, the legislation is out of date. We recommended that:

“The Ministry of Health and Social Development, together with the Superintendent of Prisons, should review the existing prison ordinance and make arrangements for it to be updated to reflect UK custodial law and the UK HM Prison and Probation Service’s operating procedures.”

These changes should also reflect the recommendations made in this chapter.

There is also a lack of policies in place. At the time of our review, the prison’s standard operating procedures didn’t reflect operational practice.

We recognise the challenges that small agencies, including HMVIPS, face in having the capacity to develop policies and procedures. We therefore welcome the MoJ Overseas Territories justice programme team’s plan to help Overseas Territories’ prison services develop policies and procedures.

### **Recommendation 198 – Phase one**

The Superintendent of Prisons, with the assistance of the UK Ministry of Justice Overseas Territories justice programme team, should develop the policies and practices required for the effective running of HM Prison Balsam Ghut, in line with UK procedures.

### **HM Virgin Islands Prison Service should introduce leadership training**

In volume one of our report, we highlighted “a lack of effective leadership among officers of all grades. This has led to the breakdown of routine and robust systems and procedures”.

The Superintendent of Prisons has assigned areas of responsibility to each principal officer. But we found little management oversight of some key issues, including violence reduction, [safeguarding](#) and the use of force.

### **Recommendation 199 – Phase one**

The Superintendent of Prisons should:

- make sure that officers and personnel of all grades understand principles of leadership;
- arrange for all supervisors and managers to receive leadership training and specific training appropriate to their areas of managerial and supervisory responsibility; and
- introduce robust processes to review managers' and supervisors' effectiveness.

### **Early days in custody**

The Prison Rules 1999 set out procedures for the reception of new prisoners. But prison personnel didn't follow these. Instead, we found unsatisfactory reception processes in inappropriate facilities.

When new prisoners arrive, officers check warrants to identify them and to make sure the correct authorisation for detention is in place. They then carry out initial interviews with the prisoners. These are rudimentary and focus on confirming basic personal details, such as ethnicity and religion. There is an insufficient focus on prisoner welfare, other than in cases where the prisoner had sustained injuries while in police custody. In such cases, the prison refused to accept the prisoner until their injuries had been treated.

Healthcare professionals don't routinely see new prisoners upon their arrival at prison. Instead, nursing staff told us this occurs sometime during the prisoners' 14-day induction. During our visit, it was happening on prisoners' third day in prison. This is too late.

### **Recommendation 200 – Phase one**

The Superintendent of Prisons and the Ministry of Health and Social Development should make sure that every prisoner, within 24 hours of their arrival, is seen and examined by a physician or other qualified healthcare professional.

We found that personnel didn't treat newly admitted prisoners with sufficient dignity. There wasn't an appropriate area for officers to discreetly search new prisoners. Instead, they were strip searched in a shower area.

### **Recommendation 201 – Phase one**

The Superintendent of Prisons should make sure that personnel discreetly search newly admitted prisoners in a suitable location that protects the prisoners' dignity.

Prison personnel offered most prisoners a telephone call on arrival, to inform family of their whereabouts. But we weren't assured that this happened for new arrivals from other countries and territories.

### **Recommendation 202 – Phase one**

The Superintendent of Prisons should make sure that personnel offer all newly arrived prisoners, including those from other countries and territories, a telephone call on arrival to inform family of their whereabouts.

We found that personnel didn't do first night safety screening interviews.

Personnel are also expected to check on new prisoners hourly. But this wasn't routinely recorded in the files about the prisoners who had arrived in previous months. Newly arrived prisoners also confirmed that personnel didn't check on them as often as required.

### **Recommendation 203 – Phase one**

The Superintendent of Prisons should make sure that personnel carry out first night screening interviews with all new prisoners, check on new prisoners hourly and record details of such interviews and checks.

As reported in volume one, the prison houses newly arrived male prisoners in isolation in the segregation unit for up to 14 days before moving them to other accommodation. During these 14 days, prisoners are usually locked up for 23 hours a day, in what amounts to solitary confinement.

Prison managers told us that HMVIPS receives little or no information or [intelligence](#) about most new prisoners. They told us that they house these prisoners in the segregation unit for the duration of their induction, while personnel risk assess any threat they pose. But we found that this is standard practice, even in cases where personnel had a satisfactory level of information about a newly arrived prisoner. This breaches 'Nelson Mandela Rules' that state that "solitary confinement shall be used only in exceptional cases as a last resort". We highlight [further problems with the segregation unit later in this report](#).

### **Recommendation 204 – Phase one**

The Superintendent of Prisons should:

- stop the automatic practice of housing all newly arrived prisoners in the segregation unit; and
- introduce new housing arrangements for newly arrived prisoners, which are appropriately secure and in line with the [‘United Nations Standard Minimum Rules for the Treatment of Prisoners’](#).

### **HM Virgin Islands Prison Service should improve induction arrangements**

As we reported in volume one, there was little or no induction for newly arrived prisoners. We surveyed prisoners and few reported that they received any useful information or support on arrival at prison. Worryingly, fewer than half the respondents felt safe on their first night.

At the time of our visits, an ‘early days passport’ system was nominally in place in the prison. This was intended to monitor prisoners’ participation in the induction process. Personnel in specialist posts were meant to sign prisoners’ ‘passports’ once they had interviewed them and explained the process. This rarely happened, as most of the specialist posts were vacant.

### **Recommendation 205 – Phase one**

The Superintendent of Prisons should:

- introduce a formal induction programme that highlights the facilities, routines and opportunities at the prison; and
- make sure that personnel give a formal induction to all new arrivals.

The resettlement department was understaffed and there was no resettlement assessment carried out at the time of our visits. Previously, a comprehensive and useful assessment had been in place. But a former Superintendent of Prisons had discontinued its use.

### **Recommendation 206 – Phase one**

The Superintendent of Prisons should reintroduce a comprehensive resettlement assessment.



## Discipline and promoting positive behaviour

### HMVIPS should do more to incentivise prisoners to behave well

HMVIPS lacks an incentives scheme to promote good behaviour. The few prisoners who had jobs were paid, but only for complete months they worked. And they weren't paid until they were released. The only real incentive to good behaviour was a place on G or J wing, where:

- conditions were better;
- the regime was more relaxed; and
- there was greater access to the few jobs available.

#### Recommendation 207 – Phase one

The Superintendent of Prisons, with support from the Ministry of Health and Social Development, should introduce an incentives scheme to encourage good behaviour and engagement in purposeful activities.

### HMVIPS should do more to challenge poor prisoner behaviour

Personnel didn't routinely challenge poor prisoner behaviour, and few had the confidence to exercise the use of legitimate authority.

We observed some personnel ignoring threatening and abusive behaviour, blatant drug abuse and prisoners accessing areas where they weren't permitted to be, for fear of reprisal from prisoners.

During our visit, a significant amount of contraband was thrown over a low fence into the grounds of the prison. Senior personnel told us this happened regularly. We also heard of an occasion where personnel weren't prepared to retrieve a package of contraband that had been thrown into the prison, due to the threat of reprisals from prisoners.

The Superintendent of Prisons should support prison personnel in the use of legitimate authority and make sure that personnel appropriately challenge prisoners' poor behaviour.

#### Recommendation 208 – Phase one

The Superintendent of Prisons should support prison personnel in the use of legitimate authority and make sure that personnel appropriately challenge prisoners' poor behaviour.

## HM Virgin Islands Prison Service's discipline procedures should be updated

In volume one, we identified the following problems with HMVIPS' discipline procedures:

- there weren't any formal guidelines for adjudication hearings;
- some hearings took place immediately after charges were laid, which didn't give defendants any time to prepare; and
- there was no process in place to quality assure the way hearings are run or the fairness and proportionality of any outcome.

We recommended that:

"The Superintendent of Prisons should make sure that officers responsible for undertaking discipline hearings and/or adjudications are appropriately trained and certified. The process and outcome of hearings, along with the associated rationale, should be properly recorded."

We also found that:

- there wasn't any governance of adjudication hearings;
- no quality assurance measures were in place;
- data wasn't recorded to review adjudication hearings; and
- there wasn't a standardised process to make sure that rulings at adjudication hearings were fair and consistent.

### Recommendation 209 – Phase one

The Superintendent of Prisons, with assistance from the UK Ministry of Justice Overseas Territories justice programme team, should:

- review the adjudications process;
- produce formal adjudication procedures; and
- introduce a quality assurance and data collection process to monitor the system, make sure due process is followed and identify emerging trends of poor behaviour.

## HMVIPS's use of segregation isn't compliant with the 'Nelson Mandela Rules'

The prison uses cells in the segregation unit for discipline, as well as to [house new prisoners](#). The segregation unit was the worst accommodation at the prison. At the time of our review, cells were dirty, ill-equipped and had offensive graffiti. There was mould around unscreened toilets and sinks. The regime for all those held in the segregation unit was dreadful. Aside from having a shower and access to a small exercise yard for an hour each day, prisoners spent the rest of their time in their cell with little or no mental stimulation.

## Recommendation 210 – Phase one

The Superintendent of Prisons, with support from the Governor’s Office, should prioritise the renovation of the segregation unit to make it fit for use.

The ‘Nelson Mandela Rules’ stipulate:

“The imposition of solitary confinement should be prohibited in the case of prisoners with mental or physical disabilities when their conditions would be exacerbated by such measures.”

### Rule 46

“1. Health-care personnel shall not have any role in the imposition of disciplinary sanctions or other restrictive measures. They shall, however, pay particular attention to the health of prisoners held under any form of involuntary separation, including by visiting such prisoners on a daily basis and providing prompt medical assistance and treatment at the request of such prisoners or prison staff.

2. Health-care personnel shall report to the prison director, without delay, any adverse effect of disciplinary sanctions or other restrictive measures on the physical or mental health of a prisoner subjected to such sanctions or measures and shall advise the director if they consider it necessary to terminate or alter them for physical or mental health reasons.

3. Health-care personnel shall have the authority to review and recommend changes to the involuntary separation of a prisoner in order to ensure that such separation does not exacerbate the medical condition or mental or physical disability of the prisoner.”

Procedures at HMP Balsam Ghut weren’t compliant with these rules. There were no satisfactory arrangements in place to make sure that prisoners were medically fit for solitary confinement.

In England and Wales, HM Prison and Probation Service ‘[Prisoner Discipline Procedures \(Adjudications\)](#)’ state:

“For prisoners who may be considered for a period of cellular confinement upon a guilty finding, Healthcare staff (registered nurse or doctor) should prepare an ISHS [Initial Segregation Health Screen] in advance (provided there is time to do so properly) and where it hasn’t been completed prior to the adjudication, the adjudicator will either adjourn until it is completed or ensure that it is completed within two hours of location in the segregation unit. In any event prior to deciding whether to impose cellular confinement (including suspended cellular confinement) as a punishment upon a guilty finding, the adjudicator must seek medical advice (via an ISHS), as to whether there are any medical reasons why the punishment

is unsuitable and adjudicators must take that advice into account in making that decision.”

It also sets out that healthcare professionals should carry out an initial segregation health screen for all prisoners who will be in the segregation unit for more than four hours. HMVIPS should adopt similar procedures.

We also found that personnel at HM Balsam Ghut weren't required to complete daily welfare checks of those in solitary confinement.

### **Recommendation 211 – Phase one**

The Governor should introduce new procedures that mandate:

- the Superintendent of Prisons to personally approve all detentions in the segregation unit;
- healthcare professionals to carry out an initial segregation health screen before a prisoner is placed in the segregation unit, to make sure they are medically fit for solitary confinement; and
- healthcare professionals to pay particular attention to the health of prisoners held in the segregation unit, in accordance with rule 46 of the [‘United Nations Standard Minimum Rules for the Treatment of Prisoners’](#).

There wasn't a system for reviewing decisions to house prisoners in the segregation unit. This is contrary to the 'Nelson Mandela Rules' which stipulate that solitary confinement should be “subject to independent review.”

### **Recommendation 212 – Phase one**

The Governor, with support from the UK Ministry of Justice Overseas Territories justice programme team, should review HM Virgin Islands Prison Service's decisions to place prisoners in the segregation unit within 24 hours.

We found no documented evidence of prison personnel appropriately monitoring segregated prisoners. Personnel should record entries about the well-being and behaviour of segregated prisoners in supervision observation books. But most of the books we reviewed were largely blank.

### **Recommendation 213 – Phase one**

The Superintendent of Prisons should make sure that personnel monitor segregated prisoners and record their observations at least hourly.

## **HMVIPS needs to introduce oversight and monitoring of officers' use of force**

There is a lack of governance and oversight of the use of force. HMVIPS doesn't:

- appropriately record when force was used;
- collect data about use of force; and
- have processes to make sure that any use of force is necessary, justified and managed safely.

### **Recommendation 214 – Phase one**

The Superintendent of Prisons should introduce processes to make sure:

- there is robust managerial oversight of the use of force;
- personnel write comprehensive reports after use of force incidents;
- appropriate personnel review these reports; and
- use of force data is collected and monitored.

## **Security**

### **Security arrangements across the prison are wholly inadequate**

As we reported in volume one, “physical security is often weak, and we routinely saw staff leaving gates and staff offices unlocked and unattended”. We consistently found security gates left unlocked. This potentially allowed prisoners free access to other wings and undermined measures to keep some prisoners apart.

The United Nations Office on Drugs and Crime's (UNODC) [‘Handbook on Dynamic Security and Prison Intelligence’](#) highlights that a prison security framework, a prison security strategy, a security audit programme and covert testing are central to maintaining prison security.

### **Prison security framework**

The UNODC handbook explains that a high-level prison security framework should:

“...provide prisons with the information and guidance needed to maintain high levels of security, meet the aim of preventing escapes and prevent high-risk prisoners from directing criminal activities taking place outside the prison. The security framework should apply equally to all parts of all categories of prisons. ... In many jurisdictions, the prison security framework focuses on the four main high level security functions:

- assessment and categorization;
- accounting and control;
- searching; and

- communications and surveillance.”

### **Recommendation 215 – Phase one**

The UK Ministry of Justice Overseas Territories justice programme team should develop a prison security framework for British Overseas Territories’ prison services.

#### HMVIPS should develop a prison security strategy

According to the UNODC handbook a prison security strategy:

“...should set out arrangements for meeting the requirements of each of the four or more functions covered in the national security framework. This document, drawn up by local prison management, should specify procedures that enable compliance with the national framework while reflecting the particular security needs and resources of the individual prison concerned. In particular, the procedures and policies set out in the local security strategy should:

- take account of local risk analysis;
- reflect local physical and procedural security;
- consider the categories of prisoners held in the prison; and
- identify staff, equipment and resources necessary to carry out each task.”

It should also encompass the recommendations we make in this section of the road map.

### **Recommendation 216 – Phase one**

Upon completion of the prison security framework (see [recommendation 215](#)), the Superintendent of Prisons should:

- develop a prison security strategy, in line with the prison security framework;
- introduce policies, procedures and guidance that underpin the strategy;
- make sure that personnel are sufficiently trained in these; and
- monitor compliance with the strategy, policies and procedures.

#### HMVIPS should develop a security audit programme

The UNODC handbook also highlights that:

“experience has proven that the development and implementation of a comprehensive security audit programme is a major step in reducing the security risks that can be endemic in prison operations.”

It states that a security auditing programme should include a detailed evaluation of every major aspect of a prison's security programme, with a primary focus on "the security systems and their operational implementation on a daily basis."

The handbook also sets out that it is good practice for external experts to carry out the audits, using "a security audit checklist, which is often a statement of the security objectives and baselines set out in the ... security framework."

### **Recommendation 217 – Phase one**

The UK Ministry of Justice Overseas Territories justice programme team should develop a programme of external security audits of HM Prison Balsam Ghut.

### **HM Virgin Islands Prison Service should introduce covert testing**

The UNODC handbook's definition of covert testing is:

"...the planned, managed, realistic but unannounced test of security processes, procedures and equipment. ... Covert testing is a tool to give assurance to prison directors that staff are vigilant and that security procedures are conducted in accordance with national procedures. Used appropriately, covert testing is a dynamic and realistic test of security arrangements. For example, covert testing may include:

- asking a member of staff to try and smuggle an illicit item into the prison and seeing whether it is detected;
- taking a prisoner from a work party without informing the responsible member of staff and seeing how long it takes to identify that a prisoner is missing;
- asking a trusted prisoner or member of staff to smuggle something out of the kitchen and seeing if [they are] able to do it; and
- leaving a gate unlocked and closely monitoring it to see how long it takes before it is discovered."

### **Recommendation 218 – Phase two**

The Superintendent of Prisons should implement a covert security testing regime.

### **Recommendation 219 – Phase three**

The Superintendent of Prisons should address the physical security weaknesses highlighted in this report and the initial security audit.



## HMVIPS needs to increase security at the prison's front gate

In volume one of our report, we stated that “the security arrangements at the front gate were inadequate due to both the design and staffing levels.”

The outer gate of the prison was manually operated by one officer with keys. This officer was also often responsible for patrolling the nearby residential unit and booking in the significant amount of food and other property brought to the prison each day by prisoners' relatives. We repeatedly saw the gate to this unit left unsecured which created a significant escape risk. We also saw security keys left unsecured on the gate desk while gate personnel booked in food and other goods brought in by the public.

New security arrangements for the front gate should form part of HMVIPS' new security strategy.

### **Recommendation 220 – Phase one**

The Superintendent of Prisons should make sure that personnel at the front gate are properly trained on security principles and adhere to them.

### **Recommendation 221 – Phase two**

The Governor and the Superintendent of Prisons should arrange for a new, fit-for-purpose gate lodge with sufficient security and facilities to be built at the initial entry point to HM Prison Balsam Ghut.

## Remand prisoners aren't held in suitably secure accommodation

Remand prisoners nominally hold category B (high security) status prior to sentence and security allocation. They should, therefore, be held in more secure accommodation. This wasn't happening.

Instead, many remand prisoners were housed on F to J wings. These are outside the prison's main security perimeter, behind a fence line that could be easily breached.

### **Recommendation 222 – Phase one**

The Governor and the Superintendent of Prisons should make sure that all prisoners are held within a security environment proportionate to the risk they pose. This should include securing funding to extend the prison perimeter fence to include all wings of the prison.

## **HMVIPS doesn't have a programme of cell searches**

The UNODC's 'Handbook on Dynamic Security and Prison Intelligence' highlights the importance of searching within the prison environment:

“Once items have infiltrated the prison, the only defence against their illicit use is a thorough search programme. Searching strategies should not be aspirational, but based upon a realistic appreciation of what is necessary and what is possible. Realistic local searching policies, properly and professionally undertaken, will have a deterrent effect upon prisoners.”

HMP Balsam Ghut lacks any such search programme. And, at the time of our review, personnel searched prisoners or cells very infrequently.

There weren't routine cell searches in the prison. Instead, personnel only searched cells if there was specific intelligence that suggested it was needed. This hardly ever happened, as the intelligence system was poor and rarely provided the necessary information.

### **Recommendation 223 – Phase one**

The Superintendent of Prisons should:

- make sure that prison officers are trained to carry out cell searches; and
- introduce searching procedures that detect and deter threats to the security or control of the prison and make sure that personnel comply with them.

## **HMVIPS should develop dynamic security arrangements, in accordance with international recommendations**

While robust physical security arrangements are essential, so is dynamic security. This relies on “alert staff who interact with prisoners, who have an awareness of what is going on in the prison and who make sure that prisoners are kept active in a positive way.”

Where it works, dynamic security is underpinned by:

- appropriately selected, well-trained personnel who have a high-level of interpersonal skills;
- policies that “promote the role of prison personnel in developing and sustaining constructive relationships with prisoners, in making judgements and in dealing effectively with fluid and complex situations”;
- robust unit management and direct supervision;
- gathering and utilising intelligence; and
- [keeping prisoners occupied in constructive activities](#) during their sentences.

The UNODC’s Handbook on Dynamic Security and Prison Intelligence recommends that prison officers should take “every opportunity to interact directly with prisoners and avoid retreating behind doors, into corridors or offices and stations unless required to do so.”

What we found at HMP Balsam Ghut was completely at odds with this ethos. Few personnel understood dynamic security. And most didn’t enter prisoner areas often enough. Rather than encouraging personnel to engage with prisoners, section 12 of the Prison Rules 1999 actively discouraged this stating:

- “conversations between Officers on duty and prisoners, apart from any remarks that may be necessary for the proper performance of duty, work or maintenance of order and discipline, shall be kept to a minimum”; and
- “conversations between prisoners at work shall be kept to a minimum and no idle talking on general subjects shall be permitted.”

This undermines the whole ethos of dynamic security.

The new prison security strategy recommended above should introduce appropriate dynamic security processes.

## **Intelligence**

Prison authorities need effective systems to collect, manage and act on intelligence and information. Such systems make it easier to identify threats and risks to prisoners and personnel. But HMVIPS lacked such systems.

Many of the personnel we interviewed were able to point out who the dangerous prisoners were. They also told us about acts of violence and about the prevalence of drugs, mobile phones and weapons. But they didn’t formally record this valuable information.

We found personnel were reluctant to record their concerns on the prison’s new security information reports, due to:

- fear of reprisal from prisoners; and
- a lack of confidence in the integrity of the prison or police intelligence management processes.

The dynamic security measures outlined above should mitigate against reprisals against prison officers.

### **The prison should improve its intelligence management processes**

At the time of our review:

- there was no effective intelligence collection plan;
- there was no structure for the general management of information and intelligence;
- intelligence gathering processes were inadequate;

- the prison didn't collect data to show areas of high concern or to identify incident trends; and
- there wasn't any analytical capability to identify hot spots of illicit activity in or near the prison, or to identify trends.

#### **Recommendation 224 – Phase one**

The Superintendent of Prisons should appoint an experienced senior prison intelligence practitioner as the director of intelligence for the HM Virgin Islands Prison Service. They should establish and manage an effective intelligence structure, based on the prison intelligence principles set out in the United Nations Office of Drugs and Crime's '[Handbook on Dynamic Security and Prison Intelligence](#)' as part of the prison security strategy.

Once these processes are in place, HMVIPS and the Royal Virgin Islands Police Force (RVIPF) should develop a new information and intelligence sharing protocol, and regular governance and performance meetings.

#### **Recommendation 225 – Phase one**

The Governor, the Superintendent of Prisons and the Police Commissioner should:

- reinvigorate the information sharing agreement between HM Virgin Islands Prison Service and the Royal Virgin Islands Police Force to make sure they routinely maximise the sharing of [intelligence](#); and
- hold regular bilateral meetings to measure success and set direction.

Once the level two multi-agency intelligence structures are in place (see [recommendation 278](#)) these should replace this arrangement.

The prison also didn't have access to the overseas territories regional crime intelligence system (OTRCIS) database.

#### **Recommendation 226 – Phase one**

The Superintendent of Prisons should:

- arrange for appropriate personnel in the prison to have access to the overseas territories regional crime intelligence system database; and
- make sure that personnel are using it effectively to manage [intelligence](#).

## Safety

At the time of our visits, there were 21 personnel vacancies out of 64 full-time posts. There weren't enough personnel to run the prison safely.

### **Recommendation 227 – Phase one**

The Governor and the Ministry of Health and Social Development should prioritise recruiting personnel to fill the vacancies at HM Prison Balsam Ghut.

In volume one of our report, we reported that the prison “doesn't have sufficient personnel to operate efficiently and effectively” and “the prison needs more officers.” We also highlighted that:

“A recent reprofiling exercise (using the UK HM Prison and Probation Service's staffing calculator and programme) by the outgoing and newly appointed Superintendent of Prisons identified the need for an additional 33 grade I prison officers (increasing from 53 to 86 officers). It also recommended increasing the number of grade II prison officers from 11 to 15. These staffing levels were needed to ensure the safety, security and decency of all who live, work and visit HMP Balsam Ghut and to protect the public.

On several days during our review, there were insufficient staff to run the prison. The Superintendent of Prisons is seeking approval from the Ministry of Health and Social Development to increase the number of personnel in the prison.”

We urged the Ministry of Health and Social Development “to consider this request and increase the personnel numbers at the prison as soon as possible, even if only on an incremental basis over the next two years.”

### **Recommendation 228 – Phase one**

The Governor and the Ministry of Health and Social Development should increase staffing at HM Prison Balsam Ghut in line with the recent reprofiling exercise.

### **HM Virgin Islands Prison Service hasn't done enough to address the risk of prisoner self-harm**

HMVIPS didn't have any procedures or policies relating to prisoners self-harming. And the personnel we spoke to lacked an understanding of the potential risks of self-harm in the prison.

### **Recommendation 229 – Phase one**

The Superintendent of Prisons should:

- make sure that personnel are trained in how to identify risks relating to prisoners self-harming; and
- produce procedures and policies to mitigate risks of self-harm.

## **Court attendance**

At the time of our review, HMVIPS escorted prisoners to court most days. Due to staffing shortages, senior managers often had to accompany prisoners. This resulted in a lack of oversight of procedures at the prison while they were away.

Security procedures for these escorts were weak. Vehicles used for escorting prisoners to court were unsuitable. They have insufficient ballistic protection. The vehicles also had bench-seating and handcuffed prisoners slid across seats as the vehicles drove around the many tight corners on their way to court.

### **Recommendation 230 – Phase one**

The Governor and the Superintendent of Prisons should provide HM Virgin Islands Prison Service with suitable secure vehicles to escort prisoners.

## **Living conditions**

### **There needs to be a long-term improvement plan for the prison estate**

As we highlighted in volume one of our report, the cells and living conditions in the prison were cramped and unsafe. The prison infrastructure needs a complete overhaul. Hurricane Irma caused a lot of damage in 2017. But further neglect and a lack of funding since then have compounded the problem. While we are pleased to report that the new Superintendent of Prisons had addressed some of the problems by the time of our second visit in December 2023, much more still needs to be done.

A prison estates improvement plan should be developed to bring the accommodation at HMP Balsam Ghut up to a safe and acceptable standard. It should consider both renovation and the construction of new facilities. And outline how inmates will be accommodated during any major renovation work.

The Governor should then secure funding and oversee implementation of the plan.

### **Recommendation 231 – Phase one**

The Governor and Superintendent of Prisons, with support from the Ministry of Justice Overseas Territories justice programme team, should develop a prison estate improvement plan to bring the accommodation at HM Prison Balsam Ghut up to a safe, decent, acceptable standard. This should consider what can be achieved through renovation and what will require the construction of new facilities.

### **Recommendation 232 – Phase three**

The Governor should oversee the completion of the prison estate improvement work.

In the interim, the Superintendent of Prisons should address the following problems that are either urgent or don't require major renovation or new facilities.

#### **The BVI should address the problem of prison overcrowding**

The prison's cells were designed to accommodate one prisoner. To house the overcrowded prison population, every cell has subsequently been fitted with a second bunk. Some cells are single occupancy. But this is only where HMVIPS has assessed that the occupants aren't suitable to be in shared accommodation. All the other cells were over their assessed capacity.

We recognise that prison capacity can't be increased without building new facilities and this should be considered as part of the prison estates improvement plan. In the interim, those responsible for the court system should explore any opportunities for reducing the prison population that could be achieved through changes to sentencing guidelines and remand, [bail](#) and parole processes.

### **Recommendation 233 – Phase one**

The Governor, the Superintendent of Prisons and the Government of the Virgin Islands should explore options to reduce prison overcrowding, through reducing the prison population.

#### **HMVIPS should return G and H wings to their planned internal design**

The G and H wings at HMP Balsam Ghut were designed as dormitory accommodation. Each had a few cells designed to manage high-control detainees when it was designated as an immigration detention centre. These cells were now deemed the better accommodation on these wings.



The remainder of those housed there lived in self-built wooden structures within the dormitories, made from old doors, scraps of wood, blankets, sheets, canvas and plastic bags. This created what was known locally as ‘Shanty Town’. This accommodation was unsafe. It was wholly inappropriate in terms of fire safety, security and the ability of personnel to adequately supervise those held there. As we reported in volume one, the standard of accommodation, recreation facilities and sanitation falls far below what is reasonable and appropriate to house prisoners.

#### **Recommendation 234 – Phase one**

The Superintendent of Prisons should arrange for G and H wing accommodation at HM Prison Balsam Ghut to be made safe and returned to its planned internal design.

#### **Kitchen facilities and food preparation areas need to be hygienic and adequately equipped**

In volume one, we reported that the kitchen at HMP Balsam Ghut was poorly equipped and unhygienic. It was in a shed-like building in the gate complex. HMVIPS had intended this to be a temporary measure following the damage caused by the 2017 hurricane. But it hadn’t been replaced.

Food hygiene practices were poor. We saw:

- chicken being prepared in dirty sinks, next to piles of rubbish and food waste;
- freezers were poorly laid out and had old, congealed blood in them;
- food left out for lengthy periods; and
- appliances used to chill and cook food were dirty and unfit for purpose.

In addition, none of the prisoners working in the kitchen had been trained and they weren’t correctly dressed for food preparation.

#### **Recommendation 235 – Phase one**

The Superintendent of Prisons should make sure:

- personnel at HM Prison Balsam Ghut implement a regular cleaning regime so that the kitchen, food preparation areas and equipment meet hygiene standards; and
- those preparing food are trained to do so and are dressed appropriately.

In volume one of our report, we highlighted that the “main kitchen is only able to meet demand because so many prisoners arrange for food parcels to be delivered to the prison each day.” We saw a notice stating that this was allowed for three days a week. But in practice there were no restrictions. The volume of food and other goods coming in meant that it wasn’t searched sufficiently to prevent contraband hidden in such items from entering the prison.

#### **Recommendation 236 – Phase one**

The Superintendent of Prisons should equip the kitchen facilities at HM Prison Balsam Ghut to meet demand.

#### **Recommendation 237 – Phase two**

The Superintendent of Prisons should prohibit prisoners from receiving food parcels from outside the prison, once the new kitchen facilities are operational.

#### **HMVIPS should renovate the prison medical facilities**

There are two medical rooms at HMP Balsam Ghut. Personnel felt they had enough equipment to deal with medical appointments. But healthcare facilities weren’t sufficient for clinical use. Rats and a snake had entered the medical unit during the weeks we were visiting. Rats had also damaged the main door. This hadn’t been repaired and further vermin were able to enter through the damaged doors.

We also found there was only one entrance to the medical centre. This is a fire risk, as there are no other exits.

#### **Recommendation 238 – Phase one**

The Superintendent of Prisons and the Ministry of Health and Social Development should arrange for the renovation of HM Prison Balsam Ghut’s medical unit to bring it in line with health and safety and clinical hygiene standards in other medical facilities in the BVI.

#### **HMVIPS should fit proper doors to all in-use accommodation and ancillary buildings**

Except for segregation cells, all cell blocks had gates rather than doors to allow for better ventilation during hot weather.

### **Recommendation 239 – Phase one**

The Superintendent of Prisons should arrange for external weatherproof doors to be fitted to all in-use accommodation and ancillary buildings.

### **Toilet facilities should be improved**

Many toilets were dirty, scaled and unscreened. Communal facilities on G and H wings offered no privacy, as the doors had been removed to create the makeshift living quarters.

### **Recommendation 240 – Phase one**

The Superintendent of Prisons should arrange for the refurbishment of all toilet facilities, to include appropriate screens to ensure privacy.

### **Shower facilities should be improved**

At the time of our visits, showers on most units were in a poor state of repair, with missing tiles and heavily stained flooring and shower cubicles. Where there were curtains, they were filthy and in urgent need of replacement. Most showers on the main units had exposed recesses between the shower cubicles that were also filthy. The showers in C wing were suffering with drainage issues, causing the water from the sewerage pipe to come up through the waste system and into the shower trays. There was little natural light and no artificial lighting within the showers on J wing.

### **Recommendation 241 – Phase one**

The Superintendent of Prisons should arrange for the refurbishment of all prisoner showers, including the provision of adequate ventilation and drainage.

### **Gym and exercise facilities need refurbishment and maintenance**

We highlighted the lack of exercise and gym facilities in volume one, reporting:

“The prison does have a communal exercise area, which has a small amount of gym and exercise equipment. But this area is poorly equipped and not maintained. The space is only available to prisoners for one hour at set times. Alternatively, prisoners can access a basketball court during their exercise hour. This is also in need of refurbishment.”

### **Recommendation 242 – Phase two**

The Superintendent of Prisons should introduce adequate gym and exercise facilities and a formal gym programme.

### **Laundry facilities should be improved**

At the time of our visits, prisoners were issued very little in the way of prison clothing. They were provided with just two bright orange tee shirts upon arrival. Male prisoners wore their own clothing which was washed (along with their bedding) on a rota basis in a small, central laundry area. Female prisoners wore their own clothes and had access to a laundry area within their accommodation. In both areas, the machines were old. Some had been out of use for some time (one of the machines was used as a storage area). This caused backlogs and inevitable tension. There was no clothing or bedding exchange system in place.

### **Recommendation 243 – Phase one**

The Superintendent of Prisons should make sure that laundry equipment is properly maintained and that repairs are carried out quickly.

### **The prison shop should be reinstated**

There used to be a prison shop. But this had been closed following damage during the hurricane in 2017. There was no opportunity for prisoners to buy any goods to improve their day-to-day lives or to provide an incentive for good behaviour.

### **Recommendation 244 – Phase one**

The Superintendent of Prisons should reintroduce a prison shop.

### **There should be better arrangements for storing prisoners' property**

In volume one, we highlighted problems with the storage of prisoners' property. We reported:

“Property storage is also a problem, with the central storage for prisoners' property still being used despite having been damaged by Hurricane Irma. Much of the property stored there has become damp and unfit for future use. The management of this property is poor and there is no effective system to identify some of the property or even to ascertain if the owner is still in custody.”

### **Recommendation 245 – Phase one**

The Superintendent of Prisons should:

- arrange for prisoners' personal property to be stored in a dry, fit-for-purpose area;
- make sure that personnel record all prisoners' personal property; and
- make sure that the prison is held accountable for the safekeeping of prisoners' personal property.

Due to the lack of appropriate furniture in cells, most prisoners kept their property in boxes on cell floors. This added to the cramped living conditions and leaves property susceptible to damage when the rain floods the living units.

### **Recommendation 246 – Phase one**

The Superintendent of Prisons should make sure that prisoners' cells are appropriately furnished for safe storage of their personal property.

## **Maintenance**

Much of the prison estate is poorly maintained and there was no routine maintenance in place. We found many examples where a lack of maintenance had resulted in unacceptable conditions for prisoners, including:

- many cells being very poorly decorated and covered in graffiti, much of which was offensive;
- broken lights on B wing that hadn't been replaced, leaving the landing in dark after sunset;
- black mould infestation in the H wing kitchen and rotten bars on the windows;
- lots of old and broken prison furniture, including many chairs which were dangerous because of exposed sharp metal edges and failing supports; and
- waste bags which remained on the main walkway for days at a time, leading to a rodent infestation.

We also found that waste areas are shabby and overgrown. The Superintendent of Prisons should re-introduce a maintenance programme and appoint a senior member of personnel to oversee this. The Governor should also make sure that HMVIPS has sufficient funds to support this programme.

## Food

The 'Nelson Mandela Rules' stipulate that:

“Every prisoner shall be provided by the prison administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served.”

We found that the prison wasn't complying with this rule. The menu hadn't been changed for several years and consisted of mainly fish, chicken and rice. More than three quarters of prisoners who responded to our survey said the quality of food in the prison was bad.

### Recommendation 247 – Phase one

The Superintendent of Prisons should make sure that all prisoners are given good quality food, in line with the ['United Nations Standard Minimum Rules for the Treatment of Prisoners'](#).

## Health, well-being and social care

### HMVIPS should improve prisoners' access to healthcare

The 'Nelson Mandela Rules' stipulate that “prisoners should enjoy the same standards of health-care that are available in the community”. We found that the healthcare provided to prisoners at HMP Balsam Ghut didn't meet this standard.

#### Physical health

There were routinely two nurses on site. A doctor visited once per week to see a few prisoners. They were suitably qualified in line with the BVI's requirements.

We found that access to healthcare was haphazard. The process for booking an appointment was supposed to be via a written application, but this didn't work. So a new process was put in place requiring wing personnel to phone the nurse and book an appointment for the prisoner. This didn't appear to work either. Instead, personnel allowed prisoners to visit healthcare personnel unescorted and unsupervised.

More than half of the respondents to the prisoner survey considered the quality of healthcare provision to be poor.

#### Dentistry

There was no dentistry provision in the prison. Prison personnel made appointments for prisoners with the government dentist in Road Town. But these appointments were dependent on having enough available personnel to escort the prisoners. Inevitably, this often led to delays.

The dentist appeared to struggle to get medical supplies. Consequently, they were sometimes unable to treat prisoners with complex issues in a timely manner. This resulted in prisoners needing repeat visits to the dentist for urgent remedial work. If the dentist had appropriate supplies and was able to deal with the cause of dental problems at the first appointment, this would reduce visits and the length of time for treatment. Prisoners didn't understand the complexities of these issues. They tended to take their frustrations out on the nursing staff, believing they were the cause of delays.

Prisoners were allowed to visit one private dentist's surgery which had been assessed as being a low security risk, due to the building's location and accessibility. The prisoners' families had to meet the cost of this treatment. There also appeared to be a lengthy process for approving the cost of any medical treatment, which also caused delays.

### Mental health provision needs to be improved

There were seven prisoners listed as having "mental illness" at the time of the inspection.

Some prisoners were admitted under special mental health warrants, so the medical personnel were aware of their issues. In such cases, medical personnel had access to the prisoners' medical records, including treatment outside the prison. In other cases, medical personnel would diagnose mental health conditions either:

- when they carried out their first examination after admission to the prison; or
- when prison personnel referred a prisoner who may have mental health conditions to them.

Some prisoners may have developed mental health conditions during their time in the prison. But there were no records to highlight how often this happened.

A mental health nurse attends the prison weekly, to meet with prisoners with mental health conditions and to oversee the administration of their medicines. There was no other provision for the care and support of those who were diagnosed as having mental health conditions. Mental health services were underdeveloped and limited to a weekly clinic held by the community mental health team. There wasn't a full-time psychologist in the prison. There also wasn't a clear process or understanding of how anyone with complex issues could access further services.

### **Recommendation 248 – Phase one**

The Ministry of Health and Social Development, together with the Superintendent of Prisons, should make sure that prisoners receive the same standards of healthcare (including physical health, mental health and dentistry) available in the community.



### There should be more support for prisoners with drug dependence

There is a drugs problem at HMP Balsam Ghut. We saw prisoners openly smoking cannabis in front of prison personnel. The 'Nelson Mandela Rules' stipulate that prison administrations should provide prisoners with treatment and care for drug dependence. But we found no programmes or treatments for drug addicts or substance abusers.

#### **Recommendation 249 – Phase one**

The Ministry of Health and Social Development, supported by the Superintendent of Prisons, should develop treatment programmes for prisoners with drug dependence.

### There should be a more streamlined process to access pharmacy services

As there was no pharmacy on site, the nurse contacts the main hospital pharmacy in Road Town for any prescriptions. If the hospital pharmacy can't supply the medication, the nurse has to contact all the other pharmacies until they can source the medication required. Once sourced, the prison's financial officer arranges payment. This can be a lengthy process.

#### **Recommendation 250 – Phase one**

The Superintendent of Prisons, with the Ministry of Health and Social Development, should make sure that prescribed medications are managed and sourced via an appropriate pharmacy service.

### Prison personnel's processes to manage medicine were unsafe

Prison personnel allowed prisoners to keep most dispensed medicine (including controlled drugs) in their possession. They didn't have lockable cabinets to secure their medication and there were no checks made of in-possession medicines.

On weekdays, the nurse dispenses mental health medication. At weekends, prison personnel carry out this role. They take the medicines (which are controlled drugs) to the wings on a tray, in plastic containers marked with prisoners' names.

#### **Recommendation 251 – Phase one**

The Superintendent of Prisons should introduce supervision of the dispensing of all prescribed medication.

## Fair treatment and inclusion

### HM Prison Balsam Ghut isn't equipped to house juveniles

The [Criminal Code of the Virgin Islands 1997](#) identifies the age of criminal responsibility as follows:

“(1) A person under the age of ten years is not criminally responsible for any act or omission.

(2) A person under the age of fourteen years is not criminally responsible for an act or omission unless it is proved that at the time of doing the act or making the omission, he had capacity to know that he ought not to do the act or make the omission.

(3) A male person under the age of twelve is presumed to be incapable of having carnal knowledge.”

Accordingly, the age of imprisonment could be as young as ten years of age. The BVI [Criminal Justice \(Alternative Sentencing\) Act 2013](#) increased the range of sentencing options available to the courts in dealing with children and young people. It introduced:

- short sentences;
- probation fines;
- community service orders;
- curfew orders; and
- combination orders.

It also provided for the Executive Council to establish a youth custody and training centre (section 15) and, in section 13, stipulated that:

“...where a child or young person is found guilty of an offence that is punishable with a sentence of imprisonment, the court may, instead of committing him to imprisonment, order him to be detained in a youth custody and training centre for a term not exceeding five years”.

In 2016, [UNICEF](#) and the [Organisation of Eastern Caribbean States](#) published a '[Country Assessment of the child protection systems in the BVI](#)'. This highlighted that none of the centres had been established and was very critical of the situation. At that time, HMP Balsam Ghut housed two juveniles. As the assessment stated, “the placing of children at the adult prison is a recurring contravention of the '[United Nations Convention on the Rights of the Child](#)'”. It continued:

“The dire need for a juvenile rehabilitation centre is widely understood and appreciated. The relevant authorities spoke of attempts at having this issue prioritized, but lamented the fact that budgetary support was going to be quite difficult to source, given the relatively low numbers of children requiring secure

residential placements. This is a challenge that must be confronted head on because the continued incarceration of children at the prison is a blatant affront of children's rights and the international standards that support those rights."

It is also in breach of section 17(3) of the [Virgin Islands Constitution Order 2007](#) (the constitution), which enshrines the right that "every juvenile prisoner shall be segregated from adult prisoners".

At the time of our visits, there were no juveniles held at the prison and we recognise that the courts endeavour not to give juveniles custodial sentences. But the Government of the Virgin Islands still hasn't established a youth custody and training centre. Therefore, if the court gave a juvenile a custodial sentence, they would still have to serve this at HMP Balsam Ghut. As the [HMVIPS website](#) says, HMP Balsam Ghut is "a prison, young offenders institute, juvenile detention centre, remand centre and immigration removal facility rolled into one".

This is clearly not compatible with the 'UN Convention on the Rights of the Child', or the constitution.

The prison management has identified cells they would use if the need arose. But we found there was no specific training for prison personnel dealing with juvenile inmates and no special legislation in place. We also found there were:

- no special provisions for the imprisonment of juveniles; and
- no special procedures that apply to children and young people.

If there were juvenile prisoners, prison management proposed to hold them in a separate wing. This would worsen overcrowding in the male sections of the prison because they would have to move adult male detainees from those cells elsewhere. Prison management didn't have a plan for where juvenile female detainees would be accommodated.

Juvenile prisoners' educational needs would also not be met, as there were no education facilities available.

### **Recommendation 252 – Phase two**

The Governor, together with the Superintendent of Prisons, should establish an appropriate centre for the detention of juveniles in accordance with the '[United Nations Convention on the Rights of the Child](#)' and '[United Nations Standard Minimum Rules for the Treatment of Prisoners](#)'.

## **HMVIPS should improve arrangements for foreign national prisoners**

At the time of our visits, at least 17 prisoners were foreign nationals.

We found a series of problems relating to the regime for foreign national prisoners:

- There were no policies dictating access to representation by their consulate.
- Some foreign national prisoners were deported at the end of their sentences and weren't given any resettlement assistance.
- Foreign national prisoners had to formally request a phone call abroad, but most didn't expect these to be approved.
- There was no provision for regular contact with families and friends or any other privileges for foreign national prisoners.

### **Recommendation 253 – Phase one**

The Superintendent of Prisons should produce a foreign national prisoners' policy that, as a minimum:

- outlines the right of foreign national prisoners to access representation from their consulate;
- sets out how HM Virgin Islands Prison Service will support foreign national prisoners to maintain family ties and support prisoners returning home; and
- designates a single point of contact to support foreign national prisoners.

### **Recommendation 254 – Phase two**

The Superintendent of Prisons should consider the early removal of foreign national prisoners at an appropriate point in their custodial sentences.

## **Prison regime**

### **HM Virgin Islands Prison Service's data collection and record keeping should be improved**

The 'Nelson Mandela Rules' on prisoner file management include the following:

#### Rule 6

“There shall be a standardized prisoner file management system in every place where persons are imprisoned. Such a system may be an electronic database of records or a registration book with numbered and signed pages. Procedures shall be in place to ensure a secure audit trail and to prevent unauthorized access to or modification of any information contained in the system.”

## Rule 7

“No person shall be received in a prison without a valid commitment order. The following information shall be entered in the prisoner file management system upon admission of every prisoner:

- (a) Precise information enabling determination of his or her unique identity, respecting his or her self-perceived gender;
- (b) The reasons for his or her commitment and the responsible authority, in addition to the date, time and place of arrest;
- (c) The day and hour of his or her admission and release as well as of any transfer;
- (d) Any visible injuries and complaints about prior ill-treatment;
- (e) An inventory of his or her personal property;
- (f) The names of his or her family members, including, where applicable, his or her children, the children’s ages, location and custody or guardianship status;
- (g) Emergency contact details and information on the prisoner’s next of kin.”

## Rule 8

“The following information shall be entered in the prisoner file management system in the course of imprisonment, where applicable:

- (a) Information related to the judicial process, including dates of court hearings and legal representation;
- (b) Initial assessment and classification reports;
- (c) Information related to behaviour and discipline;
- (d) Requests and complaints, including allegations of torture or other cruel, inhuman, or degrading treatment or punishment, unless they are of a confidential nature;
- (e) Information on the imposition of disciplinary sanctions;
- (f) Information on the circumstances and causes of any injuries or death and, in the case of the latter, the destination of the remains.”

## Rule 9

“All records referred to in rules 7 and 8 shall be kept confidential and made available only to those whose professional responsibilities require access to such records. Every prisoner shall be granted access to the records pertaining to him or her, subject to redactions authorized under domestic legislation and shall be entitled to receive an official copy of such records upon his or her release.”

We found that record keeping at HMP Balsam Ghut was generally poor. There were wing files for all prisoners. But the majority of those we examined (a sample of 25) lacked a formal structure or expected frequency of entry. Some had gaps of months between entries. And files from previous sentences were reactivated if a prisoner returned. Where records existed, they recorded behaviour but not important information such as medical records, programme completion or eligibility for early release.

#### **Recommendation 255 – Phase one**

The Superintendent of Prisons should make sure that personnel record information on the prisoner file management system, and the rationale for decisions, in accordance with the [‘United Nations Standard Minimum Rules for the Treatment of Prisoners’](#).

In the longer-term, replacing the current paper-based system with an electronic system would help maintain and audit records.

#### **Recommendation 256 – Phase two**

The Superintendent of Prisons should introduce an electronic prisoner file management system.

The ‘Nelson Mandela Rules’ stipulate that:

“Prisoner file management systems shall also be used to generate reliable data about trends relating to and characteristics of the prison population, including occupancy rates, in order to create a basis for evidence-based decision-making.”

We found that data collection in HMP Balsam Ghut was almost non-existent.

#### **Recommendation 257 – Phase one**

The Superintendent of Prisons should start collecting data to facilitate evidence-based decision-making and to inform the performance management framework.

### **HMVIPS should do more to individualise prisoners’ time in prison**

During our visits, we found there was no process for individual needs assessment. There were no sentence plans in place and a personal officer scheme hadn’t been established.

A relatively comprehensive initial screening process was discontinued under the direction of a previous Superintendent of Prisons.

### **Recommendation 258 – Phase one**

The Superintendent of Prisons should:

- introduce an initial screening process for all prisoners;
- make sure that personnel compile individual needs assessments for all prisoners;
- make sure that personnel produce sentence plans for all prisoners; and
- establish a personal officer scheme, where officers are allocated as the first point of contact for prisoners and support them to achieve sentence plan targets.

### **Prisoners spend little time out of their cells**

All prisoners received at least an hour a day in the open air on one of the exercise areas, in accordance with the 'Nelson Mandela Rules'. And most prisoners were unlocked for an acceptable period, about seven and a quarter hours per day. But prisoners under [segregation conditions](#), including newly arrived prisoners, were only unlocked for one hour each day. This was inadequate and constituted solitary confinement.

### **Prisoners don't have access to enough activities**

The 'Nelson Mandela Rules' stipulate that:

“...prison administrations and other competent authorities should offer education, vocational training and work, as well as other forms of assistance that are appropriate and available, including those of a remedial, moral, spiritual, social and health- and sports-based nature. All such programmes, activities and services should be delivered in line with the individual treatment needs of prisoners.”

We found there was [very little work at the prison](#) with only around a third of prisoners having any kind of job or activity. Most days they just sat or slept in their cells with nothing to do.

### **There was little opportunity for prisoners to attend any regular formal study**

When we visited the prison, teaching posts had remained vacant for some time and there were no immediate recruitment exercises underway.

Teachers didn't routinely visit the prison and in the three weeks prior to our visit, none had been there. When one did attend during our visit, loaned by the [Ministry of Education, Youth Affairs and Sport](#), they arrived at 11am. This left very little time for useful study.

Except for a small woodwork workshop, some basic animal husbandry at the pig pens and some limited learning in the kitchen, there were no other training opportunities. None of the 'training' in the workshop, pig pens or kitchen was to recognised standards. And there didn't appear to be any qualifications resulting from this employment.

### **Prisoners had very limited opportunities to work**

In volume one of our report, we recommended that the Superintendent of Prisons should identify work opportunities for prisoners in the prison estate. This should include maintenance and cleaning tasks and better use of the farm facilities.

On release, prisoners are paid a discharge grant of \$20 for each full month worked. Those who hadn't been able to work, for whatever reason, received nothing.

We reviewed the discharges from 1 January to 13 December 2023. Of the 59 prisoners discharged during that period, only 14 had received any monies on discharge.

In the UK, prisoners are paid for education, as it is defined as work. This should happen in the BVI.

#### **Recommendation 259 – Phase one**

The Superintendent of Prisons should make sure that all prisoners are paid for all their work and education, regardless of their status.

#### **Recommendation 260 – Phase two**

The Superintendent of Prisons should introduce a balanced programme of activities, including work, vocational training, education, recreation, religious and cultural activities and sport.

## **Prison complaints**

The 'Nelson Mandela Rules' stipulate that prisoners should have three routes to direct complaints:

“1. Every prisoner shall have the opportunity each day to make requests or complaints to the prison director or the prison staff member authorized to represent him or her.

2. It shall be possible to make requests or complaints to the inspector of prisons during his or her inspections. The prisoner shall have the opportunity to talk to the inspector or any other inspecting officer freely and in full confidentiality, without the director or other members of the staff being present.



3. Every prisoner shall be allowed to make a request or complaint regarding his or her treatment, without censorship as to substance, to the central prison administration and to the judicial or other competent authorities, including those vested with reviewing or remedial power.”

### **Complaints to the Superintendent of Prisons**

There was a process in place for prisoners to make complaints to the Superintendent of Prisons.

Prisoners accessed it using the general application form. They were then given a receipt for the completed form.

Personnel tried to deal with the complaints at the lowest level, with the prison officer responsible for the unit dealing with any complaints and requests. If they couldn't deal with the complaints at unit level, they were escalated to the Superintendent of Prisons.

In our survey, few prisoners demonstrated any faith that the complaints system was fair (7 out of 60) or timely (6 out of 60). Generally, prisoners told us it was pointless complaining. They didn't think they would be victimised if they complained. They just felt it didn't matter if they complained; it didn't get them anywhere and nothing was resolved.

There was no system in place to record complaints and basic data (such as the number or type of complaints or the length of time taken to resolve complaints) wasn't maintained or analysed. Therefore we couldn't review the effectiveness or fairness of the process.

#### **Recommendation 261 – Phase one**

The Superintendent of Prisons should:

- introduce a process to record and monitor prisoner complaints;
- collect data to facilitate analysis of emerging and ongoing problems; and
- review data and amend the complaints procedures to make sure:
  - prisoners are aware of the procedures and can easily make applications;
  - the process is fair and timely; and
  - appropriate action will be taken if complaints are upheld.

### **Complaints to the Prison Visiting Committee**

The Prison Ordinance stipulates that prisoners can make a complaint directly to the Prison Visiting Committee. As mentioned above, the committee had been re-established but wasn't fully operational at the time of our visit.

### **Recommendation 262 – Phase one**

The Prison Visiting Committee should re-institute its role in the prisoner complaints process.

### **Complaints to central prison administration and to the judicial or other competent authorities**

There wasn't a procedure in the BVI that allowed prisoners to make complaints to other competent authorities.

### **Recommendation 263 – Phase one**

The Governor's Office should be an accessible route for prison complaints once other avenues have been exhausted.

## **Preparation for release**

### **Prisoners didn't have sufficient opportunity to have contact with the outside world**

In volume one we reported that "the level of contact with families and friends [is] inadequate and overly restrictive." Visit provision was too limited and consisted of just one 20-minute visit each week. There was capacity for four visits at any one time. This wasn't enough for the prison population.

### **Recommendation 264 – Phase two**

The Superintendent of Prisons should increase the prison's capacity to host visitors and increase visit provision accordingly.

We also found that visits were held under non-contact conditions. This was unnecessary.

### **Recommendation 265 – Phase one**

The Superintendent of Prisons should only apply non-contact conditions where there is an identified risk.

### **Prisoners don't have sufficient access to telephones**

Prisoners can make a 10-minute call each week, using wing office telephones. But calls weren't private or reliably offered.

As we highlighted in volume one, the use of the office telephone, in the absence of an official prisoner PIN phone system, also undermines security.

### **Recommendation 266 – Phase two**

The Superintendent of Prisons should introduce a replacement internal telephone system, including a prisoner telephone system, to support communication across the prison and give prisoners the opportunity to contact their families regularly and reliably.

### **The probation service needs thorough review**

In volume one we highlighted that:

“...probation services were almost non-existent at the prison, despite probation forming part of the same ministry. We identified some prisoners on remand who possibly could have been granted [bail](#) subject to the appropriate level of probation support.”

### **Recommendation 267 – Phase one**

The Governor and the Government of the Virgin Islands should commission a multi-agency review of the probation service. They should increase its capacity and capabilities so it can better protect the public, reduce the level of offending and help offenders to become more responsible citizens.

### **There should be more pre-release support for prisoners**

In volume one we highlighted that:

“...there was a complete lack of pre-release support. We believe closer working with probation services and the criminal justice system could help in managing the release of prisoners at the end of their custodial sentence.”

There wasn't a resettlement process in place at the time of our visits and prisoners' resettlement needs weren't assessed at any time during custody.

The prison can recommend to the Governor that prisoners be permitted to work outside the prison on a day release scheme. At the time of our visits there were no prisoners taking part in the work release programme or any pre-release opportunities.

## Recommendation 268 – Phase two

The Superintendent of Prisons should:

- review the conditions under which temporary release is permitted; and
- introduce a robust process to enable, where possible, prisoners to attend external work or education to support resettlement needs.

## Integrity and counter-corruption

### HMVIPS should establish a dedicated prison integrity unit

Later in this report, we recommend the creation of a BVI Anti-Corruption Agency. To supplement this, there should also be a dedicated prison counter-corruption unit focused on HMVIPS. As the [‘United Nations Convention Against Corruption Handbook on Anti-Corruption Measures’](#) states:

“Experience has shown that in order to effectively prevent and tackle corruption, the prison administration should consider the establishment or designation of a dedicated anti-corruption unit or focal point with the necessary mandate, power and resources to provide advice and coordinate and supervise the implementation of preventive anti-corruption measures.”

In England and Wales, HM Prison and Probation Service (HMPPS) has established a counter-corruption unit. It has a broad remit of prevention, intelligence management and case progression. In addition to a central team, there are local counter-corruption managers at each prison and probation site, and a network of corruption prevention managers.

Senior managers at the HMPPS counter-corruption unit told us there is potential for HMVIPS to link into this resource. They suggested two potential ways this could happen:

1. The UK Foreign, Commonwealth & Development Office (FCDO) could potentially fund HMPPS’ counter-corruption unit to second a member of personnel to HMVIPS to perform the counter-corruption role.
2. HMVIPS could arrange for a member of its personnel to attend HMPPS’s local corruption managers training course. They would need to be appropriately vetted first.

This could potentially provide a model for prison services in the other British Overseas Territories.

### **Recommendation 269 – Phase one**

The Superintendent of Prisons, with support from the UK's HM Prison and Probation Service's counter-corruption unit, should establish a counter-corruption unit for HM Virgin Islands Prison Service.

### **Recommendation 270 – Phase two**

Once the BVI Anti-Corruption Agency has been established (see [recommendation 343](#)), the Superintendent of Prisons, together with the Governor's Office, should produce a memorandum of understanding that sets out the relative roles and responsibilities of:

- the HM Virgin Islands Prison Service's counter-corruption unit; and
- the BVI Anti-Corruption Agency.

The HMVIPS counter-corruption unit should also work with the BVI Anti-Corruption Agency to carry out [an anti-corruption risk assessment and develop a mitigation plan](#).

### **Recommendation 271 – Phase one**

Once established, the HM Virgin Islands Prison Service's counter-corruption unit, with support from HM Prison and Probation Service's counter-corruption unit, should work with the BVI Anti-Corruption Agency to:

- produce a corruption risk assessment and a counter-corruption strategy;
- regularly monitor and review progress against the strategy; and
- regularly update the risk assessments and strategy.

# Intelligence structures and regional organised crime capabilities

Throughout [volume one of the report](#), and across this road map, we have highlighted that the BVI's use and management of intelligence is inadequate. This applies to the BVI's law enforcement agencies and [HM Virgin Islands Prison Service \(HMVIPS\)](#).

Within the [Royal Virgin Islands Police Force \(RVIPF\)](#) we found:

- a lack of an intelligence gathering strategy;
- poor use of the intelligence system;
- a lack of targeted briefing for personnel;
- poor understanding of the threats facing communities; and
- a lack of collaboration to understand clear and hidden demand.

As a result, we recommended that the Police Commissioner should:

- introduce performance indicators to measure the quality and quantity of intelligence submissions; and
- work with other law enforcement agencies to agree the best way to share information and build capacity to meet [intelligence requirements](#) and tackle [serious and organised crime \(SOC\)](#) effectively.

In this road map we will look at the next steps. There need to be wholesale changes to how the management of intelligence is structured across the BVI.

In 2000, the National Criminal Intelligence Service established the [National Intelligence Model](#) for UK policing. This is a business model designed to gather, evaluate and manage information. It operates at three levels of criminality:

- Level one addresses criminal activity and related problems that affect a local area.
- Level two deals with cross-border crime and criminals that affect a region.
- Level three deals with national and international serious and organised crime.

The UK has developed structures to tackle all three levels of criminality.

The Caribbean and North Atlantic British Overseas Territories (BOTs) (Anguilla, Bermuda, BVI, Cayman Islands, Montserrat, and Turks and Caicos Islands) need a similar model to address the threats they face. We recommend that they use an intelligence model (the Caribbean and North Atlantic British Overseas Territories Intelligence Model) based on the following three levels of criminality:

- Level one relates to problems that local law enforcement and criminal justice bodies can resolve on their own or via a multi-agency action within the BOT.
- Level two relates to problems that require multi-agency action within the BOTs in the region.
- Level three relates to transnational serious and organised crime that requires multi-agency action from across the broader Caribbean and Americas region.

The structures we set out in this chapter would supplement, not replace, any bilateral and multilateral intelligence and operational memoranda of understanding. Similarly, service level agreements or other official arrangements that the BVI law enforcement and criminal justice agencies have with other agencies either locally, regionally or globally, would be unaffected.

### **Level one structures**

In earlier chapters, we have made a series of recommendations for how the RVIPF, [HM Customs](#), the [Department of Immigration](#), the HMVIPS and the proposed Maritime Security Law Enforcement Agency (MSLEA) should develop their intelligence capabilities and capacities, and transition towards becoming intelligence- and risk-led organisations. We have tailored these recommendations specifically to each law enforcement body, considering their roles and operating context. We have recommended that each agency:

- creates or develops either their own intelligence unit or, in the case of HM Customs and the Department of Immigration, a shared intelligence unit;
- recruits a director of intelligence with experience of carrying out a similar role in other jurisdictions to lead the intelligence unit, set strategic aims and manage tactical performance and standards;
- develops an intelligence strategy, intelligence requirements and collection plans; and
- creates a tasking and co-ordination meeting structure, chaired by the director of intelligence, informed by analysts and attended by relevant agencies.

Every law enforcement body and HMVIPS should also brief personnel regularly about intelligence requirements and include the management of intelligence in its organisational aims and objectives.

Directors of intelligence should be invited to their agency's main performance meetings to give briefings on the management of intelligence, as well as the performance of the unit and its effect on organisational aims and objectives.

### **Recommendation 272 – Phase one**

The heads of law enforcement agencies and HM Virgin Islands Prison Service should:

- make sure that the [intelligence](#) units brief personnel regularly about intelligence gathering requirements;
- include the management of intelligence in their organisational aims and strategies; and
- invite the director of intelligence to their main performance meetings.

Once implemented, these recommendations, taken with the other intelligence-related recommendations we make in earlier chapters, will improve intelligence management and develop the level one structures required.

Once each organisation has established an intelligence function, the BVI needs a new multi-agency intelligence structure to tackle on island criminality. We recommend that the Governor creates a monthly virtual BVI internal security tasking and co-ordination group meeting for this purpose. This would be a core component of the national security machinery. The directors of intelligence (from the RVIPF, HMVIPS and the customs and immigration intelligence unit) should attend the meeting. Once the Customs and Immigration Border Agency and the MSLEA are operational, their directors of intelligence should also attend.

The Governor should develop clear standard operating procedures and terms of reference for this intelligence process. They should appoint one of the law enforcement agencies as the lead agency for intelligence. This should be based on which agency has the most sophisticated intelligence function and will manage and lead most investigations.

The lead agency's director of intelligence should act as the BVI level one director of intelligence. They should chair the internal security tasking and co-ordination meetings and have analytical support to do this. They should also attend the National Security Council as national security advisor and report any relevant information to level two or level three co-ordination meetings.



### **Recommendation 273 – Phase one**

The Governor should:

- establish a monthly virtual BVI internal security tasking and co-ordination group meeting, to be attended by the directors of [intelligence](#) of:
  - the Royal Virgin Islands Police Force;
  - HM Virgin Islands Prison Service; and
  - the customs and immigration intelligence unit;
- develop clear standard operating procedures and terms of reference for level one intelligence processes; and
- appoint a lead agency for intelligence, to chair the BVI internal security tasking and co-ordination group meeting and attend the National Security Council in the capacity of national security advisor.

At the internal security tasking and co-ordination group meetings, the directors of intelligence should present intelligence-based operations that relate to local criminality that needs a cross-agency BVI approach. The meeting should then be responsible for:

- prioritising the operations presented;
- determining which agency would lead the operation; and
- outlining how the other agencies would support this (by providing personnel or through other methods).

### **Recommendation 274 – Phase two**

Once the BVI's Maritime Security Law Enforcement Agency and Customs and Immigration Border Agency are operational, the Governor should invite the director of intelligence from each agency to attend the BVI internal security tasking and co-ordination group meeting.

Analysts in each organisation should share relevant data and information to support the operations presented at the meeting. To enable this, the National Security Secretariat should produce a memorandum of understanding (MOU). This MOU should underpin the intelligence sharing required to help the analysts access and analyse the intelligence and information they need.

### **Recommendation 275 – Phase one**

The National Security Secretariat should produce a memorandum of understanding that allows BVI law enforcement agencies and HM Virgin Islands Prison Service to share [intelligence](#) and information. It should also grant access to data on the overseas territories regional crime and intelligence system database.

The Police Commissioner, the Superintendent of Prisons and the director of the customs and immigration intelligence unit should sign this.

### **Recommendation 276 – Phase two**

Once the BVI's Maritime Security Law Enforcement Agency and Customs and Immigration Border Agency are established, the commissioners of these agencies should sign the intelligence-sharing memorandum of understanding.

The [National Security Secretariat](#) should also provide governance for the internal security tasking and co-ordination group meeting and review its performance and effectiveness.

## **Levels two and three**

### **Regional intelligence structures**

The [Commission of Inquiry report](#) stated:

“The BVI presents a significant challenge in terms of policing and law enforcement because of its topography, comprising as it does of numerous small islands. The challenge is compounded by the fact it is situated between the world's largest cocaine producers in South America and the world's largest cocaine consumer in the US.”

International [organised crime groups \(OCGs\)](#) pose an existential threat to the BVI and the other Caribbean BOTs (Anguilla, BVI, Cayman Islands, Montserrat, and Turks and Caicos Islands). None of the BOTs have the capabilities to address this threat alone. They need effective structures to share intelligence, between territories and with law enforcement and military organisations in the region.

Currently, the UK's [National Crime Agency \(NCA\)](#) liaises with law enforcement agencies in the Americas and the Caribbean to support covert investigations into international crime that impacts the UK. As part of this, it provides intelligence derived from these investigations to the RVIPF and other BOTs. However, this intelligence is targeting specific investigations and gangs and is therefore focused on a small subset of the crime that affects the territories.

There would be significant benefits if the Caribbean BOTs were represented in multi-agency intelligence facilities. It would provide them with access to other agencies' information and intelligence and allow them to share overseas territories regional crime and intelligence system (OTRCIS) database information and other relevant data with these partners. Through data analysis, this would enrich all agencies' understanding of the criminals operating in their territories and the region. For this to work effectively, all law enforcement agencies in the Caribbean and North Atlantic BOTs should make sure that all relevant intelligence is accurately recorded on the OTRCIS database.

Rather than setting up a BOTs intelligence hub, we recommend that the BOTs are represented at two joint intelligence facilities in South Florida:

- The Joint Inter-Agency Task Force South (JIATF-S) is a [U.S. Department of Defense](#) multi-agency intelligence cell focused on bulk cocaine movements in the Caribbean and Pacific. It brings together representatives from federal agencies and 21 foreign partners. The UK is represented by a [Royal Navy](#) officer and the task force is periodically attended by the NCA. It works to direct target operations to intercept vessels.
- The Joint Intelligence Operations Coordination Centre Florida (JOCC) is a multi-agency intelligence hub led by the [US Department of Homeland Security](#). It is staffed with personnel from:
  - Department of Homeland Security agencies, including [U.S. Customs and Border Protection](#);
  - the [US Coast Guard](#); and
  - agencies from other jurisdictions, including the [Royal Canadian Mounted Police](#).

The level two director of intelligence should be responsible for:

- creating a level two tasking and co-ordination process that considers information and intelligence that can't be managed at level one;
- co-ordinating the Caribbean and North Atlantic BOTs' maritime and land-based response to JIATF-S operations; and
- disseminating BOTs' related intelligence to the territories.

The level three director of intelligence should be responsible for:

- developing a co-ordination process at level three to manage the BOTs' response to international OCGs;
- overseeing relations, data and operations with international partners; and
- managing the [regional organised crime unit](#).

## **Recommendation 277 – Phase two**

The Foreign, Commonwealth & Development Office should recruit experienced UK nationals into the following posts:

- A Caribbean and North Atlantic British Overseas Territories' level two intelligence manager to work within the Joint Inter-Agency Task Force South, Florida.
- A Caribbean and North Atlantic British Overseas Territories' level three director of intelligence and intelligence analysts to be based at the Joint Intelligence Operations Co-ordination Centre, Florida.

### **Time critical intelligence**

Sometimes intelligence requires an immediate operational response. Such operations wouldn't need to be presented and discussed at level two or three tasking and co-ordination meetings, as doing so would slow the response. Instead, such operations should continue to be arranged via one-to-one conversations and through dynamic decision-making. The positioning of level two resources with international partners and resources will assist in this.

However, once fast-time operations are complete, information should be assessed and reported via the tasking process. This will inform organised crime, maritime or general crime mapping. Doing this would enable fast-time response and make sure that level one, two and three meetings have access to all relevant information to inform subsequent decisions.

### **Regional organised crime unit**

Police forces in the Caribbean and North Atlantic BOTs can't access the full range of specialist investigatory and intelligence capabilities available to some other countries. This limits their ability to tackle serious and organised crime. In the UK, [regional organised crime units \(ROCUs\)](#) provide specialist tactical and operational support to local police forces to tackle level two criminality. There is no such capability to support the law enforcement agencies in the Caribbean and North Atlantic BOTs.

Creating a Caribbean and North Atlantic BOT ROCU would give the BOTs' law enforcement agencies access to specialist resources that many can't currently maintain themselves. For example, [digital forensics](#) capability and an integrated ballistic identification system. It would also help to implement our recommended level three intelligence structures.

### **Recommendation 278 – Phase three**

The Foreign, Commonwealth & Development Office should provide funds for a [regional organised crime unit](#) for the Caribbean and North Atlantic British Overseas Territories. This should provide specialist tactical and operational support to the law enforcement agencies in these British Overseas Territories. This should include, as a minimum:

- forensics support;
- a team of covert internet investigators;
- technical surveillance;
- cybercrime experts; and
- regional financial investigators.

The level three director of [intelligence](#) should deploy these resources via the tasking and co-ordination process.

The ROCU should be structured as a virtual ROCU, with nominated BOTs responsible for hosting and managing each capability. A robust tasking process, based on the level three intelligence structures, should underpin the ROCU. This would make sure specialist resources are allocated fairly and equitably. To do this, it should draw on [College of Policing](#) good practice and [recommendations we have made in our inspections of ROCUs in England and Wales](#).

The ROCU should also include a regional undercover and surveillance hub to deploy officers to support BOT law enforcement agencies' investigations, through the level three tasking process. This hub would need back office and support personnel in addition to surveillance and undercover officers.

### **Recommendation 279 – Phase three**

The Foreign, Commonwealth & Development Office should establish a surveillance and undercover hub for the Caribbean and North Atlantic British Overseas Territories.

The level three director of [intelligence](#) should deploy these resources via the tasking and co-ordination process.

There should also be a team of investigators to help the BOTs' police forces and police services with resource-intensive investigations.

### **Recommendation 280 – Phase three**

The Foreign, Commonwealth & Development Office should create a team of investigators to help the Caribbean and North Atlantic British Overseas Territories' police forces and police services with resource-intensive investigations. This should be managed by an experienced senior investigation officer and management team, based with the level three director of [intelligence](#). They should then deploy trained personnel to assist with investigations, prioritised on threat, harm and risk.

The level three structure we recommend is consistent with the BOTs' independence and doesn't impinge on the Governors' and Governments' responsibilities within the individual BOTs. Instead, it will give their law enforcement agencies the tools they need to tackle transnational criminal groups more effectively. And thereby reduce the personal, economic and social harms these criminals cause to communities across the BOTs and beyond.

Commitment from Governments, Governors and law enforcement bodies across the region, and support from the UK Government, will be crucial if this ambition is to be realised.

### **Recommendation 281 – Phase three**

The Foreign, Commonwealth & Development Office should provide oversight of the level three [intelligence](#) process, the regional organised crime unit and the undercover and surveillance hub through a robust governance and performance management process.

# The BVI criminal justice system

## Governance, strategy and performance

### Criminal justice agencies need clear objectives and priorities

In [volume one of our report](#), we recommended that the BVI’s “law enforcement and criminal justice bodies implement a criminal justice board (CJB)”. In that report we highlighted that the CJB should:

- have agreed terms of reference that clearly outline its role and responsibilities;
- be responsible for identifying areas for improvement in the criminal justice system;
- be empowered to overcome barriers to change; and
- develop a strategic business plan, which should include measurable performance targets.

It should also set the strategic objectives and priorities for the criminal justice system, in consultation with criminal justice bodies.

#### **Recommendation 282 – Phase one**

The criminal justice board should take on responsibility for setting strategic objectives and priorities for the criminal justice system, in consultation with criminal justice bodies.

The Governor should take on responsibility for agreeing and signing off strategic objectives and priorities for the criminal justice system, through the National Security Council.

### **The criminal justice board should provide oversight of the criminal justice bodies’ performance**

The CJB should monitor agencies’ performance against the timeliness targets set out in the [criminal procedure rules](#) and a range of other key metrics, including:

- the number of, and reasons for, adjournments per case in the Magistrate’s Court and the High Court;
- the number of summonses out for service and for how long;
- the number of [bail](#) warrants out for service and for how long;

- the number of cases dismissed for want of prosecution;
- the reasons why trial hearings are adjourned or don't proceed as a trial on the day set down;
- compliance with court directions; and
- the proportion of applications granted for discretionary special measures (a range of measures that can be used to alleviate the fear felt by some witnesses when giving evidence).

The CJB should appoint a cross-agency performance officer to manage this, funded by the criminal justice bodies. The officer should report to the CJB.

The CJB should set the performance officer role. This should include, as a minimum:

- assuring the integrity of data;
- analysing data and trends;
- providing performance reports to each CJB meeting; and
- further developing the performance regime, in consultation with personnel from the [UK Ministry of Justice](#) Overseas Territories justice programme.

Initially, they should prioritise developing processes to collect accurate data from the criminal justice bodies.

#### **Recommendation 283 – Phase one**

The criminal justice board should provide oversight of performance and appoint a cross-agency performance officer, funded by the criminal justice bodies.

#### **Each criminal justice body should develop robust performance management and assurance processes**

In addition to the CJB's strategic oversight, each of the criminal justice bodies should further develop their own internal review processes. The UK Ministry of Justice Overseas Territories justice programme team should support the bodies in this work.

#### **Recommendation 284 – Phase one**

The Court Manager of the Magistrate's Court and the Registrar of the High Court, with support from the UK Ministry of Justice Overseas Territories justice programme team, should further develop internal review processes for the Magistrate's Court and the High Court, incorporating performance metrics, targets and quality assurance processes.



The Office of the Director of Public Prosecutions and the Royal Virgin Islands Police Force should establish a strategic board to improve governance

At the time of our review, the Office of the Director of Public Prosecutions (ODPP) and the [Royal Virgin Islands Police Force \(RVIPF\)](#) didn't have a common strategic approach to their activity. To address this, a sub-committee of the criminal justice board should be established. This sub-committee should meet at least quarterly and its chair should rotate between the two organisations.

For this to work, the Director of Public Prosecutions (DPP) and the Police Commissioner should:

- show a commitment to working together to achieve improved outcomes;
- be prepared to hold each other to account; and
- acknowledge where improvement is needed.

### **Recommendation 285 – Phase one**

The Director of Public Prosecutions and the Police Commissioner should establish a sub-committee of the criminal justice board to:

- set joint priorities for the Royal Virgin Islands Police Force and the Office of the Director of Public Prosecutions (for example, increasing the conviction rate in cases of domestic abuse);
- set performance metrics (for example, the timeliness and quality of police files and of Crown Counsel's advice and vetting (the review of the evidence or charges); and
- monitor performance and manage improvement, including monitoring the effectiveness of the casework task escalation process (see [recommendation 299](#)).

There should be case conferences and debriefs for all serious cases

We found that the ODPP and the RVIPF liaised on specific cases. But we found no evidence of them holding joint case debriefs on serious cases, to identify what worked well, what could be done better and lessons learned.

Having processes to learn lessons is an important part of driving improvement.

### **Recommendation 286 – Phase one**

The Director of Public Prosecutions and the Police Commissioner should:

- introduce post-finalisation joint case conferences and debriefs for designated cases (including all cases of murder and rape, regardless of outcome, and all High Court cases dismissed at the end of the prosecution case);
- adopt processes to share lessons learned with personnel; and
- amend procedures as required.

### **Individual performance management**

The DPP and Principal Crown Counsel shouldn't quality assure all vetting and advice

At the time of our review, the DPP's view was that they were personally responsible for all work coming from the ODPP. Consequently, they personally quality assured all Crown Counsels' vetting and advice or delegated it to the Principal Crown Counsel when required. There is no constitutional requirement for the DPP or the Principal Crown Counsel to do this. Doing so is unnecessary and time consuming. While it is beneficial for them to quality assure an inexperienced Crown Counsel's work, this shouldn't be necessary for experienced Crown Counsel. Instead, supervisors should dip-sample experienced Crown Counsel's work as part of the general performance assessment.

### **Recommendation 287 – Phase one**

The Director of Public Prosecutions should stop the practice where either they or Principal Crown Counsel quality assure all vetting and advice made by Crown Counsel. Instead, once supervisors are content that a Crown Counsel has reached the required standard, supervisors should dip-sample their vetting and advice quarterly as part of the general assessment of performance.

### **The DPP should restart producing annual reports**

Both the [Eastern Caribbean Supreme Court](#) and the [Magistrate's Court](#) publish annual reports. However, the DPP last published an annual report in 2021.

The DPP should restart producing annual reports that set out the Office's achievements, challenges and casework data. These should be more public facing than its previous reports. The [Eastern Caribbean Supreme Court's annual reports](#) are good examples for the ODPP to follow. The DPP's annual report should also include the Office's strategic objectives and progress against them.

## Recommendation 288 – Phase two

The Director of Public Prosecutions should restart publishing annual reports.

### Constitutional position of the Office of the Director of Public Prosecution

The [Virgin Islands Constitution Order 2007](#) (the constitution) created the ODPP. Before the enactment of the constitution, the [Attorney General Chambers \(AGC\)](#) carried out the functions of the ODPP.

Under the constitution, neither the Governor's Office nor the Attorney General supervise the ODPP. While the ODPP must remain independent, accountability for the good performance of the ODPP must be assured. Similarly, the development of the ODPP must be overseen to ensure effective justice.

We have concluded that the constitutional position of the ODPP needs to change. Earlier in the report, we recommended that the Governor should re-reserve responsibility for criminal justice. We also believe that bringing the ODPP under the Governor (and, once constituted, under the National Security Secretariat) will improve how the post of DPP is managed.

There must be no interference in the independence of prosecutorial decision-making. But oversight will help promote transparency and counter unfounded allegations about the ODPP's decisions. This should be reinforced by the Governor having direct responsibility for the DPP's personal development reviews, with agreed personal objectives.

Constitutionally, neither the Governor nor the Attorney General can intervene to stop a prosecution. We have considered carefully whether the constitution should be amended to give this power, known as a 'nolle prosequi', to either the Governor or the Attorney General. We are firmly of the view that, in regard to the ongoing criminal investigations into corruption, this power shouldn't be vested in a political appointee or the head of state.

### Support from the UK Government

The UK Ministry of Justice Overseas Territories justice programme team provides support to criminal justice bodies and prison services across the British Overseas Territories (BOTs). It can also refer these bodies to other experts in the Ministry of Justice. Currently, much of this support follows individual requests for assistance. But we were pleased to hear that the programme, in consultation with the criminal justice systems in the territories, has started to develop a strategy to prioritise its activity.

As we have highlighted earlier in this report, small law enforcement and criminal justice bodies in the BVI and other BOTs [often lack the capacity and capability to develop the range of policies and standard operating procedures](#) they require. Personnel from the UK Ministry of Justice Overseas Territories justice programme told us it intends to provide more support to agencies in this regard. We welcome this development.

## **Appointment processes and terms of conditions**

### **The appointment process for the DPP should be revised**

Under Section 95 of the constitution, the Governor has the power to appoint the DPP. They take advice from the Judicial and Legal Services Commission but aren't bound to follow that advice if they determine that "compliance with that advice would prejudice [His] Majesty's service".

### **The tenure of Directors of Public Prosecutions should be changed**

Under section 95 of the constitution, the DPP is appointed for life, subject to limited exceptions, which cause an:

“...inability to discharge the functions of his or her office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour”.

A lifetime tenure isn't healthy for public bodies. It can, for example, lead to complacency and resistance to change. Conversely, any appointment needs to be of sufficient length for the post holder to assess the strengths and weaknesses of the organisation and implement any change programme.

In many jurisdictions, DPPs are recruited on time-limited contracts. For example, for:

- five years in Gibraltar, and England and Wales; and
- three years in the Turks and Caicos Islands and the Cayman Islands.

We conclude that the DPP contract should be limited to five years, renewable by the Governor for any period up to five years. However, for the purposes of pension and employment rights the post of DPP must be regarded as permanent.

The permissible reasons for dismissal should remain unchanged.

#### **Recommendation 289 – Phase two**

The Governor should amend the constitutional terms of appointment of the Director of Public Prosecutions to limit the tenure of the appointee to five years, renewable at the discretion of the Governor.

## **Terms and conditions for Crown Counsel should be updated**

At the time of our review, only one Crown Counsel (we use the generic term Crown Counsel in this report unless commenting on a specific post) was a [Belonger](#).

The [Department of Human Resources](#) appoints Crown Counsel on two-year fixed term contracts, with the option for them to be renewed for a further two years. Two years is a short period for people to learn the job, develop their skills and contribute fully to the organisation. It also creates uncertainty for the appointee. We believe that five-year appointments would be more appropriate.

### **Recommendation 290 – Phase two**

Central HR should appoint Crown Counsel on five-year, rather than two-year, contracts.

When non-Belonger Crown Counsel on fixed term contracts leave the employment of the ODPP they aren't allowed to work in the BVI for two years unless the Governor gives them an exemption. The Governor's Office takes advice from the DPP when deciding whether to grant an exemption.

There is no merit in this bar on employment at the end of the contract. It causes a potential disincentive for non-Belonger Crown Counsel to raise concerns, as they may think that doing so could harm their future employment prospects.

We recommend revoking this rule. But any Crown Counsel re-employed in the BVI should be barred from any involvement in work they were carrying out while working in the ODPP. In addition, the rules relating to non-Belonger Crown Counsel who don't pass their probationary period, or leave before the end of their contract, should remain unchanged. They should continue to be prohibited from working in the BVI for two years.

### **Recommendation 291 – Phase one**

The Deputy Governor should amend the terms and conditions of non-Belonger Crown Counsel to:

- entitle them to accept other employment in the BVI at the end of their fixed term contract, unless they don't pass their probationary period; and
- prohibit them from any work that relates to cases they were involved in while working in the Office of the Director of Public Prosecutions after leaving their Crown Counsel role.

## **Junior Crown Counsel posts should be created**

We found that experienced Crown Counsel are carrying out advocacy and case preparation that could be done by those newer to the profession. By creating a new entry-level post – junior Crown Counsel – to deal with the most straightforward cases, experienced Crown Counsel would be able to focus on more complex cases. Junior Crown Counsel should be given the opportunity to progress through the organisation.

### **Recommendation 292 – Phase one**

Central HR should create junior Crown Counsel posts.

## **There should be new funding arrangements for the ODPP**

The Government of the Virgin Islands funds the ODPP. Every summer the DPP must submit a budget proposal for the following fiscal year. The finance standing committee, comprising politicians and senior civil servants, scrutinises the budget proposals. Our recommendation to move responsibility for the ODPP under the Governor's Office will help regularise the financing of prosecutions. It will also remove potential conflicts of interest should the ODPP face additional costs for high profile prosecutions.

## **The ODPP's vacancy rate is too high**

The ODPP's [operating budget estimates](#) were:

- \$1,670,400 for 2023; and
- \$1,220,400 for 2024.

Almost all the budget is allocated to personnel salaries. But the organisation isn't fully staffed which reduces the draw on this budget.

At the time of our review, the ODPP had a Crown Counsel vacancy rate of over 50 percent.

As we stated in volume one of our report, the number of counsel vacancies was affecting the ODPP's ability to make timely casework decisions. Furthermore, the absence of a financial Crown Counsel was preventing the ODPP from effectively handling cases with a complex financial element. Financial Crown Counsel is a highly specialist role. Successful candidates should have experience of prosecuting complex financial cases, including those involving international money laundering.

Because of the high level of vacancies across the organisation it wasn't possible to assess whether, if fully staffed, resourcing was at the right level.

### **Recommendation 293 – Phase one**

The Deputy Governor's Office and central HR should arrange for appropriately skilled candidates to be appointed to fill all Office of the Director of Public Prosecution's personnel vacancies.

## **File and case management**

### **The ODPP should improve its file management practices**

In volume one of our report, we highlighted that Crown Counsel retain files in their own offices. This should stop, apart from when they are actively working on the files.

### **Recommendation 294 – Phase one**

The Director of Public Prosecutions should make sure that Crown Counsel store all live files in court date order in the central administrative office. The exceptions to this should be:

- files that the Crown Counsel are actively working on; and
- sensitive files retained by the Director of Public Prosecutions.

### **The ODPP should develop a digitised case tracking and task management system**

At the time of our review, the ODPP didn't have effective case tracking or task management systems. It relied on spreadsheets to track cases. But we found these to be inaccurate. Personnel spent lots of time tracking down files, particularly those listed for court. Many cases also [lacked a clear audit trail of decision-making and casework actions](#).

### **Recommendation 295 – Phase two**

The Office of the Director of Public Prosecutions should implement an effective and efficient digitised case tracking system, which details the:

- file receipts;
- uploading of all documentation to create a full audit trail;
- charges faced by the defendant(s);
- flagging of case categories;
- recording of the first court hearing (if applicable) and all subsequent hearings;
- recording of to whom the file is assigned or reassigned;



- file location;
- pleas entered by the defendant for each charge; and
- outcome of each charge.

The Office of the Director of Public Prosecutions should also arrange training for personnel in the operation of the system.

A digitised system would enable ODPP personnel to easily share information on caseload and case outcomes. At the time of our review, this was a laborious manual process.

The system should also allow the ODPP to flag certain categories of case. This would enable the ODPP to provide information on these categories and to do its own performance analysis. It is for the ODPP to decide the categories of case the system should flag, but this should include cases involving:

- domestic abuse;
- rape and other serious sexual offences;
- child abuse;
- gun crime;
- fatalities; and
- [Commission of Inquiry](#) cases.

The system should also limit access to sensitive cases to particular personnel within the ODPP.

### **The ODPP should develop a digitised task management system**

In addition to the case tracking system, the Office of the Director of Public Prosecutions should introduce an effective and efficient digitised task management system.

#### **Recommendation 296 – Phase two**

The Office of the Director of Public Prosecutions should introduce an effective and efficient digitised task management system which, as a minimum, monitors:

- time targets for vetting or advice;
- return dates for information or evidence requests from investigative agencies;
- court directions;
- witness warnings;
- trial readiness reviews; and



- committal hearing due dates.

The Office of the Director of Public Prosecutions should also arrange training for personnel in the operation of the system.

## Delegated prosecutorial functions

In volume one of our report, we outlined the role of the RVIPF police prosecutions unit (PPU) in the prosecution of minor road traffic offences and breaches of COVID-19 curfew orders. We recommended that the DPP should assign the power to discontinue the prosecution of an offence in any of these categories to the PPU.

We also commented on whether, in the long term, this limited prosecutorial function should remain with the PPU. Our view was that the DPP should bring these categories of case back in-house because:

- it is unusual for the agency which investigates the offence to also retain the prosecutorial function; and
- these low-level offences offer the opportunity for inexperienced Crown Counsel to develop and improve their advocacy skills.

We are concerned that the ODPP wouldn't have enough resources to deal with this increase in casework. The recommendations we make elsewhere in this report concerning the recruitment process and terms and conditions should alleviate the problem. When the ODPP's resources permit, the cases currently assigned to the PPU should revert to the ODPP. The new [junior Crown Counsel](#) role that we propose could undertake this type of casework.

### Recommendation 297– Phase two

Once the Office of the Director of Public Prosecutions is appropriately staffed, it should bring back in-house the responsibility for prosecuting those offences currently assigned to the Royal Virgin Islands Police Force police prosecutions unit.

### **The RVIPF should have authority to determine that no further action should be taken against a suspect in some categories of cases**

The ODPP issued guidance in November 2022 that stipulated that the RVIPF should send all cases where they had charged a suspect to the ODPP. The ODPP is then responsible for deciding whether a prosecution should commence or continue, or whether no further action should be taken. There is no provision in the guidance for the force to make that decision.

We consider that there are categories of low-level cases (such as careless driving) where, applying the evidential test, the force should decide whether there is a realistic prospect of conviction. This would reduce the ODPP's workload.

### **Recommendation 298 – Phase two**

The Director of Public Prosecutions, together with the Police Commissioner, should carry out a pilot which gives the police the powers to decide whether no further action should be taken in some low-level cases. As part of this:

- the Director of Public Prosecutions should identify those categories of summary only cases where the police could decide whether the evidential test is met;
- the Director of Public Prosecutions and the Police Commissioner should carry out a joint evaluation at the end of the trial period (of not less than six months);
- the Director of Public Prosecutions and the Police Commissioner should arrange appropriate training for personnel during the pilot; and
- only police officers of the rank of chief inspector or above should be able to determine whether the evidential test has been met.

## **Casework**

### **Quality of the Office of the Director of Public Prosecutions' decision-making**

Overall, the quality of vetting and advice that Crown Counsel provided to the RVIPF was good. They detailed evidence and the appropriate charges correctly. Crown Counsel assessed evidence correctly at the vetting or advice stage in all the cases we reviewed.

#### **Timeliness**

The RVIPF may either:

- charge a suspect without reference to the ODPP; or
- send the file to the ODPP for advice on whether they should charge the suspect.

There are timeliness targets for both:

1. In the first scenario, Crown Counsel should carry out a vetting and decide whether the case should continue, within three to five days of receiving the file from the RVIPF.
2. In the second scenario, Crown Counsel should provide initial advice within five to seven days on whether the RVIPF should charge or summons the suspect, or if more evidence is needed before a final decision is made.

We found that the ODPP wasn't meeting these targets. The ODPP's staffing shortages contributed to this.

## Audit trails

Less than half the cases we examined had a clear audit trail of decision-making and casework actions. The introduction of a task management system should improve this.

## Action plans and case escalation

Crown Counsel's vetting and advice form contains a section where they can set out further actions for the police to enable the prosecutor to:

- make a fully informed charging decision; or
- strengthen the case post charge.

There was no effective monitoring of these action plans. And we found no evidence, in the files we examined, of Crown Counsel asking the RVIPF for updates on their progress. In four cases where the prosecutor had identified deficiencies in the police file quality, they had referenced them in the action plan. In two of these, the police provided the information. They provided some of the information in one and none of the information in the other.

With the introduction of the recommended task management system, the DPP will be able to monitor these requests. They should work with the Police Commissioner to develop a casework task escalation process that escalates outstanding actions to senior police officers and senior Crown Counsel.

### **Recommendation 299 – Phase one**

The Director of Public Prosecutions and the Police Commissioner should introduce an effective casework task escalation process.

## **Police casework**

### Police file quality

76 percent of police files we examined were of an acceptable standard. We found that files from specialised units were more thorough and better presented than those prepared by uniformed officers.

Cases where file quality was deficient included those relating to serious allegations of rape and attempted murder.

Police officers are meant to clearly set out the facts of the case on the detailed case summary (MG5 form). Some MG5 forms we examined included sufficient details. Others missed essential elements. For example, one MG5 relating to a murder case didn't contain any information about how the defendant was connected to the offence.

Some MG5s also included a certification by the investigating officer relating to the [disclosure](#) of unused material. In England and Wales this is done as part of the process to comply with the requirements of the [Criminal Procedure and Investigations Act 1996](#). There is no similar [disclosure regime](#) in the BVI and no certification is required. Later in this report, we recommend the Governor establishes a working group to develop proposals for a workable unused material disclosure regime for the BVI.

### **Recommendation 300 – Phase one**

The Director of Public Prosecutions and the Police Commissioner should instruct police supervisors and Crown Counsel to monitor police file quality and include the findings as part of the joint performance management regime.

The RVIPF doesn't effectively monitor action plans for files submitted to the ODPP

The PPU should introduce an effective monitoring system for action plans.

### **Recommendation 301 – Phase one**

The Police Commissioner should establish an effective process that monitors action plans relating to files submitted to the Office of the Director of Public Prosecutions (ODPP). This should record:

- when the police prosecutions unit receives the file;
- who the tasks in the action plan are allocated to; and
- the due date for their return.

When the person to whom a task is allocated can't complete it by the due date, the police prosecutions unit should make sure it sends a report to the ODPP and that a new timescale is agreed.

The Police Commissioner should also introduce a similar process for specialist police units that send their cases direct to the ODPP.

## **The manual of guidance**

RVIPF officers are required to complete files in compliance with the BVI manual of guidance (MG). This is an adaptation of the [manual of guidance](#) that provides the national file standards for prosecution files in England and Wales. We found that some of the BVI MG forms were out of date, compared with those used in England and Wales. Other MG forms (such as the MG2 which is used by police to assess the need for special measures) weren't used in the BVI.

We also found that some ODPP personnel weren't aware of the BVI Manual of Guidance and didn't know what 'MG' referred to.

### **Recommendation 302 – Phase one**

The Police Commissioner and the Director of Public Prosecutions should:

- establish a working group to review the manual of guidance to make sure its content is up-to-date and appropriate for the BVI criminal justice system; and
- jointly train the Office of the Director of Public Prosecutions' personnel on the use of the manual of guidance forms.

## **Approach to domestic abuse cases**

In volume one of our report, we stated:

“The ODPP doesn't have a domestic abuse policy. It should start to develop one immediately. To do so, the ODPP should agree with the RVIPF on the definition of domestic abuse that is to be applied. The ODPP may wish to consult with other overseas territories that have successfully introduced domestic abuse policies.”

There is a '[National Domestic Violence Protocol for the Virgin Islands](#)', to which the DPP is a signatory. But it isn't sufficiently detailed and doesn't clearly set out the ODPP's domestic abuse prosecutorial policy. For example, it doesn't outline the factors that Crown Counsel should consider when deciding whether to continue with a prosecution in which there is a reluctant virtual complainant.

### **Recommendation 303 – Phase one**

The Director of Public Prosecutions should produce a prosecutorial domestic abuse policy.

In England and Wales, the [Crown Prosecution Service legal guidance on domestic abuse](#) stipulates that “prosecutors must encourage investigators to take a suspect-centric approach to case building”. It continues:

“The stronger the overall case, the less likely it is that it will be contested or, if it is, that the prosecution will need to call upon the victim to give evidence. The starting point should be to build cases in which the prosecution does not need to rely on the victim.”

It also stipulates that the “prosecution strategy should, from the outset, consider the possibility of proceeding without the victim's support and this should be clearly recorded within the prosecutor's review.” These subject-centric and evidence-led approaches to investigating and prosecuting domestic abuse cases have been

successful in England and Wales. Now prosecutions don't necessarily fail when a complainant withdraws their support. This approach requires the prosecutor and investigator to consider and assess the availability of other evidence including:

- first contact with the police, such as emergency calls or the attending officers' statements, which may cover the demeanour of the [victim](#) and the suspect, and show the state of the scene;
- [body worn video](#) camera footage – this could cover the demeanour of the victim or suspect (if they remain present at the time the footage was obtained), a first account, record any injuries and may have significant comments;
- injuries, which could include photos or comments from the attending officers about what they have seen and any medical evidence available;
- independent witness statements;
- CCTV – may record the incident or demeanour of the parties;
- suspects' interviews – including any inconsistencies with significant statements;
- house to house enquiries;
- telephone – messaging and social media; and
- expert evidence.

It also requires police first responders to be aware of the evidence that can be recorded at the scene and to use body worn video cameras effectively.

In one RVIPF case we examined, the complainant had withdrawn support for the prosecution, but there was evidence of their injuries and admissions by the defendant. The case was discontinued. But there was no evidence on the file of any consideration of whether there was still sufficient evidence to continue.

### **Recommendation 304 – Phase one**

The Police Commissioner, the Director of Public Prosecutions, the Court Manager of the Magistrate's Court and the Registrar of the High Court, with the assistance of the UK Ministry of Justice Overseas Territories justice programme team and the International Policing Assistance Service, should:

- develop policy, procedure and guidance for [police officers](#) and Crown Counsel, and advice to the judiciary, on the use of a subject-centric approach to case building and evidence-led prosecutions; and
- arrange for trainers experienced in the investigation and prosecution of domestic abuse cases to train police officers and Crown Counsel, and inform the judiciary, about the use of a subject-centric approach to case building and evidence-led prosecutions.

## Support for complainants and witnesses

In this section, we make recommendations to improve the treatment of complainants and witnesses in the criminal justice system. These are extensive and will require legislative change that will affect the RVIPF, the ODPP, the Magistrate's Court and the High Court. They will provide a subject-centric approach, without reducing the rights of defendants to a fair trial or encroaching on judicial independence.

In our file review, the ODPP dealt with complainant and witness issues adequately in six of the nine cases. We assessed whether the ODPP effectively used the measures available to them to support complainants and witnesses. But, as we set out below, these measures are inadequate.

### There should be special measures to support witnesses

Some jurisdictions, including England and Wales, have introduced a range of [special measures](#) to alleviate the fear felt by some witnesses when giving evidence. Special measures could be particularly helpful in jurisdictions such as the BVI where, because of the small population, witnesses or their relatives are likely to be known by the defendant.

#### More complainants should be eligible for video recorded interview

At the time of our review, the only specific legislative special measures in place were available to children who were the victims of sexual assault. Under section 18 (10) of the [Evidence Act 2006 \(as revised\)](#):

- the police investigator is required to video record a child victim's evidence;
- the court should play this evidence; and
- lawyers should cross examine the child over a live link from outside the courtroom.

The Act should be amended to extend the right for complainants to give a video recorded interview to include all adults where the offence alleged is sexual.

### Recommendation 305 – Phase one

The Premier should oversee the amendment of the [Evidence Act 2006](#) to permit:

- the evidence of all complainants in cases involving an allegation of a sexual offence to be obtained by video interview; and
- that pre-recorded interview to be admitted as their evidence in chief.



Certain complainants and witnesses should be entitled to give evidence through a live link or behind screens

We recognise that provision should be made for other groups of people who should also be entitled, if they wish, to give their evidence through a live link, or to be screened in court from the defendant and the public gallery.

We recognise that the use of screens isn't feasible at the current High Court courtroom. We address this later in this chapter when we recommend a new [Halls of Justice](#).

### **Recommendation 306 – Phase one**

The Premier should oversee the amendment of the [Evidence Act 2006](#) to entitle the following complainants to give their evidence by live link or behind screens:

- all complainants in cases involving an allegation of a sexual offence;
- all complainants in cases involving an allegation of domestic abuse; and
- all witnesses under the age of 18.

### **Police officers and prosecutors don't pay sufficient consideration to issues affecting complainants and witnesses**

The ODPP and the RVIPF should develop a new approach to support complainants and witnesses.

### **Recommendation 307 – Phase one**

The Police Commissioner and the Director of Public Prosecutions should develop a three-stage process to make sure that prosecutors give due consideration to complainant and witness issues. Under this:

- police investigators should identify all complainant and witness issues on the case file using the form MG6 (used to convey confidential information);
- prosecutors should assess this information and comment; and
- in cases where special measures are discretionary and where the complainant or a witness has indicated they would like special measures, police investigators should provide evidence or information to support an application.

The England and Wales MG2 form provides a template for recording the necessary information.

Investigating officers will need training and guidance on this. In discretionary cases, investigators will need to make sure that complainants and witnesses understand they don't have an automatic right to special measures.



### **Recommendation 308 – Phase one**

The Police Commissioner, with the assistance of the Foreign, Commonwealth & Development Office's overseas territories strategy and delivery department, should:

- develop policy, procedure and guidance for [police officers](#) and prosecutors in relation to the new three-stage process outlined in recommendation 307; and
- arrange training and ongoing [continuing professional development](#) for police officers and prosecutors on this.

Dominica has developed a useful, easy to read [guide which clearly sets out the special measures](#) that are available in that jurisdiction. Once the measures are in force in the BVI, the RVIPF should produce and distribute a similar guide.

### **There should be provisions to give vulnerable witnesses anonymity**

In jurisdictions with lots of [organised crime group](#) activity linked to the drugs trade, it is essential that there are provisions to protect the most vulnerable witnesses.

A former DPP recommended introducing witness anonymity orders, but this hasn't been progressed. The Governor's Office should include witness anonymity orders as part of the package of legislative changes. The [Cayman Islands Criminal Evidence \(Witness Anonymity\) Law \(2014 Revision\)](#), which has been used to good effect, is a precedent for this in the Caribbean BOTs (Anguilla, BVI, Cayman Islands, Montserrat, and Turks and Caicos Islands). It could be adopted in the BVI. The [Falkland Islands Criminal Procedure Rules 2020](#) provides similar provisions.

### **Recommendation 309 – Phase one**

The Premier should oversee the introduction of new legislation that allows courts to make a witness anonymity order during an investigation and/or during criminal proceedings.

### **Prior inconsistent statements should be admissible in evidence**

When a witness deviates from a previous account they have given, this can be an indication that they may be in fear or have been intimidated. This occurred in a murder trial during the review.

Prior inconsistent statements by a witness should be admissible in evidence, at the discretion of the trial judge in certain circumstances.

Currently, neither the judge nor the jury are allowed to see a witness's original witness statement to assess the extent to which the witness has departed from this.

We recommend that, where there is fear or intimidation, the prior inconsistent statement should be put before the tribunal to help to determine the credibility of the witness. This should be at the discretion of the trial judge, and as an exception to the hearsay rule.

The hearsay provisions should be further amended to allow complainant and witness evidence to be adduced (to present, bring forward, offer or introduce) if they:

- don't attend court through fear; or
- stop giving evidence for that reason.

This must only happen in the interests of justice and where the fear isn't occasioned by the person trying to present or introduce the evidence.

There should be rigorous judicial scrutiny of the evidence of fear (see [R. v Riat \(Jaspal\) \[2012\] EWCA Crim 1509](#)).

### **Recommendation 310 – Phase one**

The Premier should oversee the amendment of the [Evidence Act 2006](#) hearsay provisions to allow, at the discretion of the trial judge:

- a prior inconsistent statement by a witness to be admitted in evidence; and
- the admission of a witness's evidence where they stay away through fear or refuse to continue to give evidence.

### **There should be better protection of complainants in sexual abuse cases**

Section 46 of the Evidence Act 2006 prohibits the defendant in rape cases, except with leave of the court, from cross-examining the complainant about their sexual history with other people. It also gives the judge the discretion to hold the hearing in private (in camera). But it doesn't prevent the defendant from cross-examining the complainant in person. We are concerned that this can revictimise and abuse the complainant.

This section of the Act should therefore be amended to prohibit the defendant in all sexual assault cases from cross examining the complainant in person. We recognise that this change will also require a revision of the legal aid regulations.

### **Recommendation 311 – Phase one**

The Premier should oversee the amendment of section 46 of the [Evidence Act 2006](#) to prohibit the defendant from cross examining the complainant in person in all sexual assault cases.

## Practitioners will need training and guidance on the proposed changes to the Evidence Act 2006

For our recommended amendments to the Evidence Act 2006 to be successful all parties to the proceedings, the judiciary, and for some amendments, the RVIPF must understand them. These parties will also have to fully understand how the recommended provisions will operate in the criminal justice process.

To achieve this, the Governor should invest in significant training for practitioners. A cross-agency training plan will be essential. This should identify:

- the training requirements;
- the target audience for each training workstream; and
- the order of the training plan.

The most effective and efficient way to achieve this will be through an inter-agency training committee.

Professional trainers from other Caribbean jurisdictions may provide useful assistance.

### **Recommendation 312 – Phase one**

The Governor's Office should:

- fund the development and provision of training to all the parties to proceedings, the judiciary and the Royal Virgin Islands Police Force on the implementation of our recommended amendments to the [Evidence Act 2006](#) and proposed legislative procedures; and
- with the assistance of the UK Government, convene an inter-agency training committee, responsible for providing the training programme for the proposed legislative changes.

To accompany this training, the relevant agencies should also create policy, procedures and guidance for personnel on these changes.

### **Recommendation 313 – Phase one**

The Police Commissioner, together with the Director of Public Prosecutions and with assistance from the International Policing Assistance Service and the Ministry of Justice Overseas Territories justice programme team, should develop policy, procedures and guidance for [police officers](#) and prosecutors on our recommended changes to the [Evidence Act 2006](#) and the proposed legislative procedures.

## Legal aid

The '[United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems](#)' states:

“Legal aid is an essential element of a fair, humane and efficient criminal justice system that is based on the rule of law. Legal aid is a foundation for the enjoyment of other rights, including the right to a fair trial, as defined in article 11, paragraph 1, of the Universal Declaration of Human Rights, a precondition to exercising such rights and an important safeguard that ensures fundamental fairness and public trust in the criminal justice process.”

Its first principle is:

“Recognizing that legal aid is an essential element of a functioning criminal justice system that is based on the rule of law, a foundation for the enjoyment of other rights, including the right to a fair trial, and an important safeguard that ensures fundamental fairness and public trust in the criminal justice process. States should guarantee the right to legal aid in their national legal systems at the highest possible level, including, where applicable, in the constitution.”

The BVI constitution is in line with this, with section 16 stating:

“Every person who is charged with a criminal offence shall ... (d) be permitted to defend himself or herself before the court in person or, at his or her own expense, by a legal practitioner of his or her own choice or where he or she is unable to afford to retain a legal practitioner and the interests of justice so require, by a legal practitioner at the public expense provided through an established public legal aid scheme as prescribed by law.”

However, legal aid isn't available in the BVI, unless the case is going to the High Court.

In line with the '[Universal Declaration of Human Rights](#)', the Government of the Virgin Islands should introduce a legal aid scheme that aligns with the '[United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems](#)'.

As a priority, it should introduce a duty advocate scheme and legal aid for people detained in relation to a criminal offence punishable by a term of imprisonment.

### **Recommendation 314 – Phase one**

The Premier should introduce a legal aid scheme that aligns with the '[United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems](#)' and the '[Universal Declaration of Human Rights](#)'.

## **The BVI should introduce a duty advocate scheme**

Our file examination showed that many Magistrate's Court cases are adjourned for the defendant to seek legal representation. This creates a burden for:

- the court, which must list multiple hearings;
- prosecutors, who must take files back and forth; and
- [HM Virgin Islands Prison Service \(HMVIPS\)](#), which must take prisoners backwards and forwards.

It can also result in:

- the defendant spending unnecessary time in custody; and
- complainants and witnesses losing motivation or leaving the BVI.

For cases to progress as quickly as possible, the defendant has to receive informed advice on whether they should plead guilty. This requires the prosecution to disclose the evidence it is relying on, at or before the first hearing. Once this has happened, an advocate has to be available to properly advise the defendant.

A duty advocate scheme would provide for a state-remunerated defence lawyer to be at the Magistrate's Court to advise and represent defendants. This would only be for the first hearing at court, when the court expects the defendant to enter their plea. For this to work, defence advocates should be paid an appropriate salary to encourage those sufficiently skilled in criminal casework to apply.

It will also require the co-operation of the Virgin Islands General Legal Council.

### **Recommendation 315 – Phase two**

The Governor, together with the Virgin Islands General Legal Council, should implement a fully funded duty advocate scheme for first hearings of criminal cases at the Magistrate's Court to:

- enable a defence advocate to advise the defendant on what plea to enter; and
- allow for a defence advocate to represent the defendant at the plea hearing.

### **Recommendation 316 – Phase one**

The Governor's Office should consult with the Virgin Islands General Legal Council, the Office of the Director of Public Prosecutions and the Senior Magistrate to set minimum professional standards for inclusion on the duty advocate scheme.

### **Recommendation 317 – Phase one**

The Governor, together with the Virgin Islands General Legal Council, should introduce state remuneration of defence advocates for cases where the defendant is prohibited from cross-examining the complainant in person.

### **The BVI should provide free legal advice pre-charge**

The ‘United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems’ stipulate that:

- “States should ensure that anyone who is detained, arrested, suspected of, or charged with a criminal offence punishable by a term of imprisonment or the death penalty is entitled to legal aid at all stages of the criminal justice process.”
- “Persons urgently requiring legal aid at police stations, detention centres or courts should be provided preliminary legal aid while their eligibility is being determined.”
- “(a) Police officers, prosecutors, judicial officers and officials in any facility where persons are imprisoned or detained inform unrepresented persons of their right to legal aid and of other procedural safeguards”
- “(d) Information on the rights of a person suspected of or charged with a criminal offence in a criminal justice process and on the availability of legal aid services is provided in police stations, detention centres, courts and prisons”
- “States should introduce measures to (a) promptly inform every person detained, arrested, suspected or accused of, or charged with a criminal offence of his or her right to remain silent; his or her right to consult with counsel or, if eligible, with a legal aid provider at any stage of the proceedings, especially before being interviewed by the authorities; and his or her right to be assisted by an independent counsel or legal aid provider while being interviewed and during other procedural actions; (b) To prohibit, in the absence of any compelling circumstances, any interviewing of a person by the police in the absence of a lawyer, unless the person gives his or her informed and voluntary consent to waive the lawyer’s presence, and to establish mechanisms for verifying the voluntary nature of the person’s consent.”

In the cases we reviewed, we saw no evidence that detainees were informed of their right to ‘free’ legal advice. There were no posters or forms advertising such services.

### **Recommendation 318 – Phase one**

The Governor, together with the Virgin Islands General Legal Council, should introduce legal aid for persons detained or arrested for, or suspected of, a criminal offence punishable by a term of imprisonment.

### **Recommendation 319 – Phase two**

The Police Commissioner should:

- promote the legal aid scheme for persons detained or arrested for, or suspected of, a criminal offence punishable by a term of imprisonment (including using posters in custody suites); and
- make sure that persons detained or arrested for, or suspected of, a criminal offence punishable by a term of imprisonment are aware of their legal right and can exercise it while detained.

## **Criminal Justice Processes**

### **Adjournments could be reduced**

In our file review, we saw cases that had been adjourned so that the DPP could personally agree the pleas offered by the defendant. Such adjournments could be avoided if Crown Counsel made sure that their vetting or advice set out clearly what pleas are acceptable and what basis of plea is acceptable.

Permitting Crown Counsel time at court, if necessary, to consult with the DPP without adjourning the case to another date would also benefit the process.

### **Many cases are dismissed because summons aren't served on defendants**

In 2021, the Magistrate's Court dismissed 5 percent of cases because the police couldn't service a summons on a defendant. We found examples of this problem in our case file review.

Section 27 of the [Magistrate's Code of Procedure Act 1891 \(as amended\)](#) states:

Service of summonses and notices and orders

"Every summons shall be served by a [police] officer or other person who may serve it on him or her to whom it is directed by delivering it to that person personally or if he or she cannot be conveniently found, by leaving it with some other person for him or her at his or her last or most usual place of abode."

There is a need to expand the criteria by which a summons can be serviced. The draft criminal procedure rules (rule 54(3)) make provision for service of the summons on the defendant by email. We agree with this proposal but consider it better to amend section 27 to extend it to other digital services.



### **Recommendation 320 – Phase one**

The Premier should oversee the amendment of Section 27 of the [Magistrate's Court Code of Procedure Act 1891](#) to allow service of a summons by digital services (including via email, SMS/text messages and messaging apps).

At the time of our review, legislation required the RVIPF to summons defendants in cases alleging traffic violations or common assault. Non-attendance would be reduced if the RVIPF had the power to bail common assault and traffic violations defendants to court for their first appearance.

### **Recommendation 321 – Phase one**

The Premier should oversee the amendment of legislation to empower the Royal Virgin Islands Police Force to [bail](#) common assault and traffic violation defendants to court for their first appearance.

### **There is a backlog of cases waiting to be heard by the High Court**

We highlighted in volume one that it takes too long to conclude cases in the High Court. This leads to a backlog of cases.

The BVI could reduce delays by making legislative changes to the trial process and through robust case management.

At the time of our review, witnesses had to give all evidence in person at trial, even if the defence didn't challenge the evidence. Permitting the prosecution (and defence) to read agreed evidence would reduce the length of trials and the number of witnesses who have to attend court. This should particularly benefit police witnesses who may give unchallenged evidence, such as proving the continuity of an exhibit.

We also recommend that courts are permitted to admit in evidence agreed facts between the parties. Witnesses who prove those facts wouldn't have to give evidence. This would reduce the amount of time they have to spend giving evidence. This provision can be particularly useful for expert evidence, where the point in dispute may be very narrow.

We have considered whether the BVI should introduce these provisions by:

- amending the Evidence Act 2006;
- through inclusion in new criminal procedure rules; or
- through standalone legislation.

We concluded that a short piece of new legislation would be the most effective and efficient solution.



Sections [9](#) and [10](#) of the England and Wales Criminal Justice Act 1967 and section 355 of the Gibraltar [Criminal Procedure and Evidence Act 2011](#) provide clarity on how the provisions could operate.

### **Recommendation 322 – Phase one**

The Premier should oversee the introduction of new legislation to allow the courts to admit:

- unchallenged witness statements as evidence without needing to call the witness; and
- facts agreed between parties to the proceedings without the need to call evidence of those facts.

## **The Criminal Code 1997**

The [Criminal Code 1997 of the Virgin Islands](#) sets out the core applicable criminal offences. Subsequent legislation, dealing for example with the proceeds of crime, money laundering or the operation of registered companies contains specific offences.

The Criminal Code is outdated, and in many parts isn't fit for purpose in the 21st century. Legislative revision is needed, particularly in the section on sexual offences. For example, in the current legislation:

- it isn't an offence, except in limited circumstances, for a man to rape his wife;
- there are no sexual offences relating to abusing a position of trust, for example by a teacher;
- there are no offences relating to stalking or harassment; and
- some offences still require the Attorney General's consent to prosecute, which conflicts with the terms of the constitution.

There needs to be a wholesale review of the Criminal Code. This will require substantial resourcing, but the work is essential if the Criminal Code is to meet the requirements of a modern society and criminal justice system. A law commission should be established to conduct this review.

### **Recommendation 323 – Phase one**

The Governor's Office should establish a law commission, comprising academics and practitioners skilled in the application of the criminal law, including representatives from other common law criminal jurisdictions.

The law commission should:

- review the [Criminal Code of the Virgin Islands 1997](#);
- propose those offences to be removed from the statute book;
- identify new offences;
- identify those sections which conflict with the [Virgin Islands Constitution Order 2007](#); and
- conduct public consultation on proposed changes.

### **Recommendation 324 – Phase three**

The Premier should oversee the introduction of new legislation to implement the findings of the proposed law commission.

## **The Magistrate’s Code of Procedure Act 1891**

The [Magistrate’s Code of Procedure Act 1891](#) (the Magistrate’s Code) was last revised in 2016. Like the Criminal Code, it needs to be reviewed and revised. Many of the sections are long-winded and could be shortened.

We are concerned that the Magistrate’s Code states all elected Assembly members are ex-officio justices of the peace. This has the potential to create a conflict of interest.

Some of the Magistrate’s Code’s provisions also conflict with recommendations in this report. For example, section 49 states “the accused or his or her legal practitioner shall be entitled to cross-examine the witness upon all facts relevant to the charge.”

This conflicts with our [recommendation](#) that the law shouldn’t permit the accused, in limited circumstances, to cross-examine the complainant in person. Section 72 of the code also conflicts in part with that recommendation.

Fewer amendments are needed than for the Criminal Code and an inter-agency consultative process could identify the required changes. This would then lead to the necessary legislative changes.

We advise that the consultative process includes consideration of the existing process used to commit defendants from the Magistrate’s Court to the High Court. An alternative approach at the first hearing would be to send defendants direct to the High Court. This would involve a different approach to judicial case management and the timescales for case preparation by the RVIPF and the ODPP.

## Recommendation 325 – Phase one

The Magistrate’s Court should

- initiate a consultation process with all criminal justice bodies and the Attorney General Chambers on the [Magistrate’s Code of Procedure Act 1891](#); and
- taking into account the outcome of the consultation process, propose any necessary legislative change to the Magistrate’s Code.

## Criminal procedure rules

At the time of our review, new criminal procedure rules were being developed. The Governor’s Office provided us with a draft copy of rules titled ‘Virgin Islands criminal procedure rules, 2023’. We heard that the introduction of these rules had stalled, and the criminal justice bodies needed to reinvigorate the process. We agree. However, as we recommend in volume one of our report, there should be a staged introduction of the rules.

Two sections of the draft criminal procedure rules are of particular concern, those relating to:

- custody time limits (CTLs), defined as the maximum period of time a defendant can be held in custody before their trial must be heard; and
- the disclosure of unused material. In the UK, disclosure of unused material refers to the legal obligation of prosecutors to provide a defence with any material gathered during the investigation that is not used as evidence but may undermine the prosecution case or assist the defence.

Both introduce concepts that don’t currently apply in the BVI.

The management of CTLs can be extremely difficult. Experience in other jurisdictions has shown that if the rules aren’t sufficiently clear it can lead to judicial challenge. We also note that the draft rules don’t set out a sanction for breaching a CTL.

The disclosure of unused material helps in ensuring a fair trial and reducing the risk of a miscarriage of justice. Operating a disclosure regime is complex and challenging. In England and Wales, the [Criminal Procedure and Investigations Act 1996](#) has 21 sections on the law relating to the disclosure of unused material. Its [Code of Practice](#) runs to 21 pages.

Any disclosure regime would require the RVIPF to fundamentally change how it investigates crime and builds cases. Even a case which appears evidentially straightforward may generate a disproportionate amount of unused material. It would also need a level of co-operative working and trust between the ODPP and the RVIPF that doesn’t yet exist.

We can't recommend the introduction of the proposed criminal procedure rules as currently drafted. If CTLs and the disclosure of unused material were introduced, they should be the subject of primary legislation. That legislation would need to be drafted in the context of the RVIPF's investigative process and criminal justice system to be effective.

Two working groups should be established:

- one to develop proposals for a workable CTL regime for the BVI; and
- the other to develop proposals for a workable unused material disclosure regime for the BVI.

Both groups should have representatives from:

- all the BVI criminal justice bodies;
- all the BVI investigative agencies;
- the judiciary; and
- defence practitioners.

The groups should have clear terms of reference and a timetable for completion of their reports. While recognising the context we refer to above, both groups would benefit from seeing how other jurisdictions handle CTLs and disclosure.

The disclosure working group should consider the requirement of the defendant to serve a defence statement and the consequences of non-compliance.

### **Recommendation 326 – Phase one**

The Governor should set up a working group to develop proposals for:

- a custody time limit regime; and
- an unused material disclosure regime.

### **Timescales set out in the criminal procedure rules should be reviewed**

The draft criminal procedure rules set out timescales for various parts of the criminal justice process, including sentencing. There are problems that make it very difficult for agencies to meet many of these timescales. These include:

- the lack of High Court courtroom capacity;
- the ODPP's limited resources; and
- [limited prison escort capacity](#).

### **Recommendation 327 – Phase one**

The heads of the BVI criminal justice bodies, together with representatives from the defence community, should review the timescales outlined in the draft criminal procedure rules and make sure they are appropriate and achievable.

### **Provisions for case management**

Shortly before our review, the resident High Court judge assigned to criminal matters had introduced a case management form. The prosecution and defence completed this to help counsel manage their cases. However, many defence counsels didn't complete the form. Despite that, the case management form is a good initiative supporting efficient and effective case management.

We were pleased to find that the draft criminal procedure rules follow this approach to case management. However, to be fully efficient and effective, the criminal procedure rules should clearly set out the expectations at the arraignment of the defendant (the hearing at which the defendant enters their plea of guilty or not guilty).

### **Recommendation 328 – Phase one**

The High Court should produce new criminal procedure rules to clearly set out the expectations at the arraignment of the defendant. These should include, as a minimum:

- what pleas are acceptable to the prosecution;
- the issues in the case, for example alibi, self-defence and identification;
- challenges to the admissibility of evidence;
- what further evidence the prosecution must serve;
- the witnesses agreed by the defence;
- the witnesses to be called by the prosecution;
- any special measures applications;
- the number of defence witnesses;
- what expert evidence is involved; and
- a timetable for the service of expert evidence.

There should also be an expectation, in accordance with the timescales, that the prosecution will have served the key evidence by the time of the arraignment.

Where either party must carry out further work after the arraignment, this should be set out in a clear time-bound court direction. The court should monitor compliance and hold the parties to account. Where a failure to comply with a court direction results in an ineffective hearing or adjourned trial, a wasted costs order could follow.

The rules, once in force, must apply in both the Magistrate's Court and the High Court.

### **Implementation of the criminal procedure rules**

All agencies should agree to the changes and then help publicise them. Once the criminal procedure rules have been introduced there should be a formal review to determine what is working well and what needs to be improved.

#### **Recommendation 329 – Phase one**

The criminal justice board should carry out a programme of formal post-implementation reviews after each change to the criminal procedure rules is introduced.

There should be joint training for criminal justice practitioners on the new criminal procedure rules. This will help develop a joined-up approach to the criminal justice system. Earlier in this report we recommend the establishment of a [training committee](#). This committee should have responsibility for arranging the programme of training on the new criminal procedure rules.

#### **Recommendation 330 – Phase one**

The inter-agency training committee should arrange joint training on the new criminal procedure rules for personnel from:

- the Office of the Director of Public Prosecutions;
- the Magistrate's Court;
- the probation service; and
- criminal defence advocates.

It should also inform the judiciary about this.

## Trial by jury

### Background

The process of jury selection in the BVI has had a troubled history and been the subject of judicial challenge. The small jury pool causes problems, as it is perceived that ‘everyone knows everyone else’. This was discussed extensively in the Virgin Islands Constitutional Commission’s [‘2022-2023 Constitutional Review Commission Report’](#) (the Commission Report).

As of January 2024, approximately 30 percent of people living in the BVI were either exempt from jury service or don’t meet the residency requirement to serve on a jury. Interviewees told us that those responsible for selecting jury lists knew from the name whether a person was exempt. This supports the contention that “everyone knows everyone else”.

The [Jury Act 2022](#) came into force in December 2023. The Act sets out its intention as providing “for the modernisation and enhanced performance of the Jury system and for related matters.”

The Act goes some way to increasing the pool of potential jurors by including people who hold a certificate of residence and have been normally resident for at least ten years. Despite this, as discussed above, the pool of potential jurors remains small. There were also logistical issues and cost implications for jurors who don’t live on Tortola.

The Act also allows jurors to be replaced in the most serious cases if it is determined, for any reason, that they are deemed incapable of continuing to sit. The changes made by the Act have been positive. But they don’t address the fundamental problem, namely whether the jury trial process can be fair to defendants and to complainants. Interviewees told us that juror intimidation was a significant problem in cases involving [organised crime group](#) activity.

### Challenges to fair jury trials in small Caribbean jurisdictions

In 2015, the Foreign, Commonwealth & Development Office’s (FCDO) [‘Report on impartial juries in Overseas Territories’](#) highlighted the difficulties of selecting impartial juries in criminal and civil trials in the overseas territories. It said:

“Lack of impartiality, or its perception, fatally undermines the jury system together with the system of justice that it underpins. If impartiality is effectively impossible to achieve, then the jury system quite simply is rendered not only worthless but malevolent to the rule of law itself. While the jury system may be revered where it operates by and large successfully, it is not an institution that is, or ought to be regarded as sacrosanct.”

It continued:

“...equally significant to the theme of this report is the perhaps uncomfortable issue of the attitudes displayed by juries depending upon the status of any given accused i.e., whether of belonger or non-belonger status, and the status of the victim. It is a widely if not universally held view that where a belonger is charged with an offence allegedly committed against a non-belonger then the presumption of innocence is almost inevitably translated into a certainty irrespective of the actual evidence; on the other hand, where the accused is a non-belonger and the victim a belonger then despite the best endeavours of judge, prosecution and defence then at best the accused can expect a presumption of guilt on the part of the jury. This would suggest that even assuming that an “impartial” jury i.e., a jury with no connection to the defendant, victim, or witnesses, can be found, the jury will only consider the case in a truly impartial manner where both accused and victim are belongers, or where both are non-belongers.”

Many of the people we interviewed during our review expressed similar concerns.

In 2021, the Hon. Mr Justice C. Dennis Morrison, then president of the Court of Appeal of the Turks and Caicos Islands and former president of [The Court of Appeal of Jamaica](#), set out the factors in favour of judge only trials:

- “(i) judge alone [same as judge only] trials are easier to organise and cheaper to administer;
- (ii) judge alone trials conduce to greater expedition;
- (iii) judge alone trials obviate the need for change of venue applications and the possibility of hung juries;
- (iv) as trained and experienced professionals, judges sitting alone are less likely to be ‘improperly influenced by material they access, whether inadvertently or otherwise, that is pertinent to the trial or the accused’;
- (v) a judge alone trial ‘guards against prejudice or bias that is bound to occur within small populations where potential jurors would have been already exposed to information pertaining to a case to be tried, or an accused and a prejudicial view is formed’;
- (vi) because judges are obliged to give reasoned judgments, they more readily satisfy ‘society’s increasing emphasis on transparency’;
- (vii) a reasoned judgment makes it easier to appeal, especially on purely legal grounds; and
- (viii) a judge sitting alone is easier to protect from threats or intimidation than a jury.”



Other Caribbean jurisdictions have addressed these issues in diverse ways.

For example:

- In Belize, murder cases are tried by a judge alone.
- In the Turks and Caicos Islands, there are widely drawn provisions for judge only trials.
- In the Cayman Islands, only the defendant can choose to not have a trial by jury.
- In Jamaica, the ‘gun courts’ cases are deal with by a judge alone.

The Commission Report also reviewed the position in other Caribbean jurisdictions.

### **Right to a fair trial**

Section 16 (2) (g) of the constitution states that defendants in High Court trials have a right to trial by jury. Any change to this position requires constitutional change. The Criminal Justice Advisory Group minutes of October 2020 proposed that the group discuss the issue at a future meeting. But we couldn’t find any mention of this in later minutes.

The Commission Report recommends amending S16 (2) to retain trial by jury subject to any legislation enacted which restricts that right.

We propose a simple amendment to the constitution to give the defendant the right to a ‘fair trial’. This is enshrined in other Caribbean constitutions, including Jamaica’s. Legal challenge to this provision has been unsuccessful (see [Trevor Stone versus The Queen \(Court of Appeal of Jamaica 4 March 1980 UKPC 5\)](#)).

#### **Recommendation 331 – Phase one**

The Government of the Virgin Islands should amend Section 16 (2) of the [Virgin Islands Constitution Order 2007](#) to provide the defendant with the right to a fair trial in the High Court.

Under this proposal, options include:

- retaining the current system;
- abolishing trial by jury and have judge only criminal trials;
- abolishing trial by jury and have judge only criminal trials for specific offences;
- enabling the defendant to elect for a judge only trial on all/specific offences;
- enabling the prosecution to apply for a judge only trial on all/specific offences; and
- enabling the judge of their own volition to direct a non-jury trial.

## Judge only trials in the BVI

The Commission Report suggests that there should be legislative change to allow either party to apply for judge only trials. But it doesn't specify whether this should be for all offences or limited categories. We are concerned that:

- application for judge only trials on a case-by-case basis would cause delay in the criminal justice process; and
- as part of the trial process, the judge's decision could be subject to judicial review by the Eastern Caribbean Supreme Court of Appeal, which would create further delay for defendants and complainants.

Based on these factors, we recommend abolishing trial by jury for certain categories of cases.

### Recommendation 332 – Phase two

The Premier should oversee the introduction of new legislation to allow for judge only trials in certain categories of cases including, but not limited to:

- offences involving a fatality;
- sexual offences;
- complex money laundering, terrorist financing and proliferation financing cases;
- drug related offences, except where the offence is for simple possession;
- cases where the defendant is alleged to be a member of an [organised crime group](#); and
- [Commission of Inquiry](#) police investigation cases or other cases involving high profile defendants.

## Criminal justice bodies' facilities

### The BVI should build a Halls of Justice

We reported on the state of the criminal justice bodies' facilities in volume one of our report. In summary:

- the High Court lacked physical capacity, and its layout required jurors to walk through the courtroom to get to their private room;
- the ODPP's premises were 'tired', and the offices were too small; and
- building security was inadequate, apart from at the AGC.

As we reported in volume one, there were plans to build a [Halls of Justice](#) which would address all these issues, including the provision of additional courtroom capacity. But the plans had stalled.

The plans should be progressed, with a realistic timetable and adequate funding.

### **Recommendation 333 – Phase three**

The Premier should commission a purpose-built, adequately funded Halls of Justice that:

- provides sufficient courtrooms for the Magistrate’s Court, High Court and Coroner’s Court;
- provides sufficient accommodation and facilities for the judiciary and court personnel;
- provides adequate cell capacity for prisoners, which must comply with the [‘United Nations Standard Minimum Rules for the Treatment of Prisoners’](#);
- includes secure access for prisoners, including from the cells to the courtroom;
- has secure docks for prisoners in the courtrooms;
- has separate entrances for witnesses, jurors, the judiciary, court personnel and the public;
- has separate waiting rooms, to keep prosecution and defence witnesses segregated;
- has secure accommodation for prosecuting and defence counsel;
- has a secure police room;
- provides interview rooms for defence counsel, some of which should have video-link equipment;
- includes sufficient administrative offices for the Magistrate’s Court, High Court and Coroner’s Court; and
- has effective perimeter security, including checks at all entrances.

### **Recommendation 334 – Phase three**

The Premier should commission new accommodation for the Office of the Director of Public Prosecutions near the Halls of Justice.

### **Witness services should be improved**

In England and Wales, [Citizens Advice Witness Service](#) provides a range of help for witnesses, including:

- showing witnesses the courtroom before the trial;
- being at court, so the witness can talk to them in confidence;
- accompanying witnesses when they give their evidence; and
- giving support on the day of the trial, at verdict and sentencing.

There isn't a similar service in the BVI. The Registrar of the High Court and the Court Manager of the Magistrate's Court should recruit court personnel to help witnesses when they are at court.

### **Recommendation 335 – Phase one**

The Registrar of the High Court and the Court Manager of the Magistrate's Court should recruit additional court personnel to look after witnesses when they are at court.

In the long term, the BVI should introduce a specialist witness support service to provide a range of support to witnesses. This should take on the role of looking after witnesses at the courts and Halls of Justice.

### **Recommendation 336 – Phase three**

The Governor, together with the Government of the Virgin Islands, should introduce a witness support service.

## **IT**

For the criminal justice system to [increase its use of special measures](#), effective video-link facilities will have to be installed. It is therefore imperative that the RVIPF, the courts and the ODPP audit and, if necessary, upgrade their video-link facilities as soon as possible.

### **Recommendation 337 – Phase one**

To facilitate the increased use of special measures, the Director of Public Prosecution, the Magistrate's Court, the High Court and the Police Commissioner should:

- audit their video-link facilities; and
- upgrade IT systems and facilities, as necessary, to bring them up to the required standard and meet expected demand.

## **Remand**

In volume one of our report, we highlighted that over half of the prison population was remanded into custody by the courts awaiting trial. Some of these prisoners have been held on remand for several years. The criminal justice system needs to put greater focus on dealing with remand cases more quickly. Fewer remand prisoners, held for shorter periods, would alleviate some of the overcrowding in the prison.

### **Recommendation 338 – Phase one**

The Governor and the heads of the criminal justice bodies, together with the UK Ministry of Justice Overseas Territories justice programme team, should carry out an exercise to understand the causes of the high remand population and develop measures to address them.

## **Mutual legal assistance**

In volume one of our report, we recommended that the AGC should develop a strategy to reduce the number of inappropriate requests for mutual legal assistance.

During our review, we were also surprised that none of the BVI law enforcement agencies had asked the AGC to make a request for mutual legal assistance to another competent authority (for example, a court that has criminal jurisdiction, a prosecuting authority or another authority that is legally permitted to make a request).

Police-to-police inquiries may be encouraged as a more convenient route to obtaining information, but it appears that none of these have then needed a full mutual legal assistance request.

### **Recommendation 339 – Phase one**

The Attorney General should obtain assurance from the law enforcement agencies that they will actively consider requesting mutual legal assistance where appropriate.

# Conduct, standards and corruption

In the [Commission of Inquiry \(COI\) report](#), the Rt Hon Sir Gary Hickinbottom raised the following concerns:

“The BVI is a small jurisdiction; but, due to a variety of factors (including the geographical), it has a history of more than its fair share of crime, including serious organised crime, with which its law enforcement and justice systems were and are not designed to cope. As well as not having the capability to deter, investigate and prosecute offences as they should, significant parts of the system (notably the frontline) lack good standards of governance, which has itself resulted in corruption permeating the public officials (such as police officers) involved. Although the COI’s necessarily limited enquiries have been unable to assess the level of corruption involved, I can say on what I have seen that it is significant.”

In this chapter, we make recommendations to help law enforcement agencies and criminal justice bodies prevent and tackle corruption and raise standards of conduct.

We have based these recommendations, where applicable, on internationally recognised good practice. Specifically, we have drawn from:

- [United Nations’ Office on Drugs and Crime \(UNODC\)](#) handbooks;
- the [Council of Europe](#)’s recommendations;
- the [Council of Europe’s Group of States Against Corruption \(GRECO\)](#) methodology for [assessing jurisdictions’ efforts to prevent corruption in law enforcement agencies](#);
- our methodologies for inspecting UK police forces’ processes and procedures to maintain integrity and legitimacy; and
- [Transparency International](#) and the [U4 Anti-Corruption Resource Centre](#) publications.

## Vetting

Law enforcement and criminal justice organisations need effective systems to stop people who pose a risk to public safety or national security from joining or remaining in their workforce.

In 2023, the [Governor’s Office](#) commissioned the International Policing Assistance Service (IPAS) to develop more robust vetting procedures across the BVI law

enforcement agencies. This was in response to recommendation B39 from the Commission of Inquiry report.

Prior to this, there weren't robust vetting arrangements in place for any of the law enforcement and criminal justice organisations. Some [Royal Virgin Islands Police Force \(RVIPF\) personnel](#) were vetted, but this was on a voluntary basis. The other organisations were required to get a police clearance certificate for successful job applicants. But there was no formal vetting process.

By the time of our visits, pre-appointment vetting had been introduced for all police recruits. But vetting for existing personnel remained voluntary. By August 2024, IPAS consultants, working with the RVIPF, had drafted the [Police \(Amendment\) Regulations 2024](#). This required vetting:

- of all members of the force once every five years;
- of police officers of the rank of sergeant and above every three years;
- of all personnel prior to promotion; and
- where, in the opinion of the Police Commissioner, information about a particular police officer has become known that may require them to be vetted.

The IPAS consultants were also developing a similar vetting regime for [HM Virgin Islands Prison Service \(HMVIPS\)](#), [HM Customs](#) and the [Department of Immigration](#). IPAS plans to help the Government of the Virgin Islands introduce vetting in other public-facing government agencies, including the [Office of the Director of Public Prosecutions \(ODPP\)](#), once it has satisfied recommendation B39 by vetting all the law enforcement officers.

We welcome these developments. The IPAS has made tangible progress, and its work should result in vetting for all law enforcement personnel.

However, we are concerned that once the IPAS consultants' contracts have finished, there won't be robust structures in place to continue their work. The Governor's Office should set up a vetting unit to sustain the positive work that has begun. This unit should be independent of, but overseen by, the Anti-Corruption Agency once established. In the interim, the Governor's Office should provide oversight.

The unit's personnel should have the same level of vetting needed to carry out a similar role in the UK. And they should have experience of performing a similar role in the UK law enforcement and criminal justice sector. In time, the BVI should open these positions to appropriately vetted local candidates.

#### **Recommendation 340 – Phase one**

The Governor should establish a vetting unit and appoint appropriately vetted and experienced personnel to it.

In the longer-term, the Governors of the Caribbean British Overseas Territories (BOTs) (Anguilla, BVI, Cayman Islands, Montserrat, and Turks and Caicos Islands) and the UK Foreign, Commonwealth & Development Office (FCDO) could explore the potential for establishing a regional vetting unit. However, we don't recommend that such a unit is created in the short term. This is due to the urgent need for a vetting unit to be established in the BVI and the complexities in creating a regional unit.

We are concerned that the level of vetting being introduced in the BVI isn't rigorous enough to effectively assess any potential vulnerability to malign approaches. Given the significant corruption risk facing BVI law enforcement and criminal justice personnel, the vetting process needs to be more, rather than less, robust than processes in lower-risk jurisdictions.

In the UK, both police vetting and [national security vetting](#) are tiered. Public officials are vetted to one of these tiers, depending on the sensitivity of the information or assets they access and the role they perform.

The BVI should introduce similar vetting levels for law enforcement and criminal justice personnel. The rigour of the basic vetting standard for BVI law enforcement and criminal justice posts should be no less robust than for equivalent posts in the UK.

We are aware that some of the checks that form part of UK vetting aren't achievable in the BVI. For example, it is particularly difficult to vet candidates from some other jurisdictions. The vetting unit should therefore include other processes not used in the UK to test the integrity of personnel. Many law enforcement agencies in the region routinely use polygraph examinations as part of their recruitment processes, including:

- the [Antigua Prison Service](#) and the [Antigua Financial Intelligence Unit](#);
- the [Barbados Police Service](#);
- the [Jamaica Constabulary Force](#) and the [Major Organised Crime & Anti-Corruption Agency](#);
- the [Trinidad and Tobago Police Service](#);
- the [Royal Saint Lucia Police Force](#) and the [Saint Lucia Financial intelligence Authority](#);
- the Royal Saint Vincent and the Grenadines Police Force; and
- the Saint Kitts and Nevis' law enforcement agencies.

Law enforcement agencies in the neighbouring US Virgin Islands, including the Virgin Islands Police Department, and federal agencies such as [U.S. Customs and Border Protection](#), [United States Coast Guard](#) and [US Immigration and Customs Enforcement](#) polygraph recruits.

Although polygraph examinations aren't foolproof, they provide another way to identify unsuitable candidates and discourage others from applying. We therefore recommend that polygraphing forms part of the enhanced vetting process.



### **Recommendation 341 – Phase one**

The vetting unit should:

- develop a vetting regime that includes initial vetting and re-vetting at regular intervals and in similar circumstances to UK police and national security vetting;
- introduce a tiered vetting regime, where the basic standard is no less robust than the equivalent in the UK; and
- introduce polygraphing as part of the enhanced vetting process.

Later in this report, we recommend polygraphing candidates for, and personnel in, specific posts and organisations. This should apply to local and expatriate personnel and candidates.

Some existing law enforcement and criminal justice personnel may not pass their vetting. On a case-by-case basis, they should be considered for roles in the BVI public service that don't need the same level of vetting.

### **Recommendation 342 – Phase one**

The Deputy Governor should develop pathways into other lower risk or less sensitive public service roles for appropriate law enforcement and criminal justice personnel who fail the vetting process.

## **Independent integrity and corruption unit**

### **The BVI Integrity Commission**

In December 2021, the House of Assembly passed the [Integrity in Public Life Act, 2021](#). The purpose of the Act was “to make provision for the establishment of an Integrity Commission, [and] to make provision for the promotion and enhancement of ethical conduct of persons in public life”. Schedule 1 of the Act defines persons in public life as:

- “1. Members of the House of Assembly;
2. Members of the board or other governing body of a public body and other officers (by whatever name called); and
3. All Public Officers.”

The term ‘public officers’ is defined as “the holder of any public office and includes any person appointed to act in any such office”. This would include law enforcement and criminal justice personnel.

The Act empowered the Integrity Commission to investigate complaints about any breaches of, or non-compliance with, its provisions, including those pertaining to acts of corruption.

The Commission of Inquiry report welcomed this. But it found:

“...the approach to the Act suggests that it has been progressed without the care and attention that one would expect if the political agenda included a real intention to get to grips with the challenges the BVI faces in terms of integrity in public life”.

It concluded:

“...it is little more than an enabling framework Act without evidence that could give me, or the people of the BVI, confidence that it will be effective and efficient in dealing with issues of corruption and wider issues of Integrity in Public Life.”

It raised several concerns about the Act and highlighted the following as the most important:

“For this Act to have any chance of being effective, the Integrity Commission requires both infrastructure to support its work, including a secretariat and a team of appropriately skilled and experienced investigators, and proper and sustained funding. There are currently no regulations as to how the Commission will in practice operate. The experience of other jurisdictions which have introduced a similar institution is that they are very resource-heavy (i.e. expensive) to run. Whilst I have no doubt that funding of a properly organised and effective Integrity in Public Life scheme would be money well spent, in my view Part VI of the Act does not go anywhere near far enough to ensure an adequate level of funding and support for the work of the Integrity Commission here. Neither is it clear from where investigators will be drawn, and how they will be remunerated.”

Since then, the House of Assembly hasn't passed any regulations outlining how the Integrity Commission would operate. It has, however, passed one amendment bill (at the time of writing, this was awaiting the Governor's assent). Among the amendments made in this bill, it redefined 'persons in public life' to remove public officers and members of the House of Assembly and to include “Members of the Cabinet and Junior Ministers”.

Consequently, no other public officers would be bound by its requirements, and the Integrity Commission wouldn't be empowered to investigate them.

Given the significant corruption in the BVI public service, the absence of an independent body to tackle corruption across the whole of this sector is a major shortcoming. The Turks and Caicos Islands and the Cayman Islands, along with many other jurisdictions across the world, have created agencies with this broader remit. The BVI should do the same.

## The BVI should establish a new Anti-Corruption Agency

We evaluated the statutory framework for the [Integrity Commission of the Turks and Caicos Islands](#) and the [Cayman Islands Anti-Corruption Commission \(CIACC\)](#). And we interviewed senior personnel in both bodies. The [Cayman Islands Anti-Corruption Act \(2024 revision\)](#) provides a strong legal framework for the CIACC. And it gives the commission, and its investigators, appropriate powers. This model is more suited to the challenges facing the BVI than those set out in either the BVI or Turks and Caicos legislation.

Consequently, we recommend that the BVI establishes a new Anti-Corruption Agency (ACA) based on the CIACC, but with some additional responsibilities.

### Recommendation 343 – Phase one

The Premier should oversee the introduction of legislation to establish a new BVI Anti-Corruption Agency based on the [Cayman Islands Anti-Corruption Act \(2024 revision\)](#). The legislation should grant the new agency additional responsibilities in relation to corruption risk assessments, asset declarations, confidential reporting and whistleblowing.

In establishing the ACA, the Governor's Office should make sure that it is compliant with the '[Jakarta principles for anti-corruption agencies](#)' ('the Jakarta principles').

Several anti-corruption agencies in other jurisdictions aren't fully compliant with 'the Jakarta principles' requirement that they should have adequate and reliable resources and financial autonomy.

Without these in place, it is possible for administrations to cut anti-corruption agencies' funding, to stop them investigating specific cases of corruption. The ACA's establishing legislation should be drafted to guard against this.

### Recommendation 344 – Phase one

The Premier should make sure that the legislation establishing the Anti-Corruption Agency (ACA):

- stipulates that the Government of the Virgin Islands provides long-term budget allocations to the ACA and can't reduce the ACA's funding mid-year; and
- introduces a new criminal offence of interfering with the ACA or acting improperly to reduce its power.

## Governance

Corruption poses risks to the internal security of the BVI. Therefore, under [our recommended governance changes](#), the ACA should fall under the Governor's reserved responsibilities. The Governor should hold it to account for its performance, through the National Security Council.

The ACA should be subject to robust oversight and governance. But it is also essential that its investigation and [intelligence](#) unit:

- has operational independence; and
- has the rights and powers to withhold sensitive information and intelligence.

This should be enshrined in legislation.

### **Recommendation 345 – Phase one**

The Premier should make sure that the legislation establishing the Anti-Corruption Agency (ACA) clearly sets out:

- the operational independence of the ACA's [intelligence](#) and investigatory functions from the ACA's chair or commissioner and from the Governor and Government of the Virgin Islands;
- the duty and right of the head of the ACA's intelligence and investigatory functions to withhold sensitive operational information and intelligence from the ACA chair or commissioner and from the Governor and Government of the Virgin Islands; and
- the relative roles and responsibilities of the chair or commissioner and the heads of the ACA's units.

The Anti-Corruption Agency should have covert investigatory and intelligence powers

It is difficult for anti-corruption and law enforcement agencies in small jurisdictions to use covert techniques, including undercover officers and surveillance. Later in this chapter, we outline how a Caribbean and North Atlantic BOT (Anguilla, Bermuda, BVI, Cayman Islands, Montserrat, and Turks and Caicos Islands) anti-corruption unit could help provide those covert capabilities. The new legislation we recommend earlier in this road map that codifies the RVIPF's covert powers should grant the same powers to the ACA.

### **Recommendation 346 – Phase one**

The Governor should make sure that the legislation that makes the Royal Virgin Islands Police Force's covert powers lawful grants the same powers to the Anti-Corruption Agency.

The Anti-Corruption Agency should be staffed appropriately

The chair or commissioners of the ACA should have legal or law enforcement experience. To limit the potential for politicisation of the ACA, the Governor should appoint the chair or commissioners through a merit-based apolitical process.

#### **Recommendation 347 – Phase one**

The Governor should make sure that the chair or commissioner of the Anti-Corruption Agency is appointed through a merit-based approach.

Conducting anti-corruption investigations is a specialised role. The head of the ACA investigation and intelligence unit should have experience of running an anti-corruption unit in another jurisdiction. The investigators should also be suitably skilled and have experience of carrying out investigations in similar organisations, or for [police anti-corruption units](#). As these skills and experience aren't available in the BVI workforce, suitable candidates should be recruited from other jurisdictions. To prevent burn out and mitigate against the risk of corruption, the ACA should recruit personnel on fixed-term contracts.

In the medium-term, the ACA could consider recruiting and training local candidates to work alongside expatriate investigators. But the BVI's small population makes it likely that local investigators would have to recuse themselves from some investigations, as they would likely involve friends and acquaintances. Therefore, even in the medium and long-term, the ACA shouldn't be over-reliant on local personnel.

Given the ACA's role, all personnel should be vetted to an enhanced level, including polygraphing.

The ACA should also have experienced in-house financial investigators. This would give the agency the capability to seize the proceeds of corruption and pursue money laundering investigations.

#### **Recommendation 348 – Phase one**

The Governor should recruit suitably experienced and skilled expatriate candidates to fill the positions of:

- head of the Anti-Corruption Agency investigation and intelligence unit;
- investigators; and
- financial investigators.

## **The Foreign, Commonwealth & Development Office should establish a regional anti-corruption unit**

As outlined above, it is difficult for anti-corruption units in small jurisdictions to carry out undercover operations and surveillance. This is due to the risk of compromise to their officers. The units also often lack:

- the resources to maintain other capabilities, including technical surveillance and source handling; and
- sufficient investigators to carry out multiple investigations simultaneously, or resource large investigations.

Earlier in the road map, we recommended that the Foreign, Commonwealth & Development Office (FCDO) [set up a regional organised crime unit \(ROCU\) for the Caribbean and North Atlantic BOTs](#). We recommended that as part of its remit, the ROCU should:

- provide specialist tactical and operational support to the BOTs' law enforcement agencies, including surveillance and undercover; and
- establish a team of investigators to help the BOTs with resource-intensive investigations.

The ROCU wouldn't be able support the Caribbean and North Atlantic BOTs' anti-corruption and integrity units in this way, given the sensitivity of these units' investigations. We, therefore, recommend that the FCDO establishes a Caribbean and North Atlantic BOT anti-corruption unit to provide this support.

As with the ROCU, the ability of the Caribbean and North Atlantic BOT anti-corruption unit to deploy covert resources across the territories would be dependent on each BOT amending its legislation.

In addition to their prevention and investigatory roles, 'the Jakarta principles' set out that anti-corruption agencies should carry out education and awareness raising. Rather than each BOT unit producing their own, bespoke education products, it would be more efficient for the Caribbean and North Atlantic BOT anti-corruption unit to develop these. Local units could contextualise the products and deliver them in their BOT.

### **Recommendation 349 – Phase two**

The Foreign, Commonwealth & Development Office should establish a regional anti-corruption unit for the Caribbean and North Atlantic British Overseas Territories. This should provide the existing anti-corruption and integrity bodies in those British Overseas Territories with:

- specialist tactical and operational support;
- a team of investigators to assist with resource-intensive investigations; and
- support in developing corruption education strategies, public awareness campaigns and public service corruption awareness training.

### **Asset declarations**

In '[Stolen Asset Recovery – Income and Asset Declarations: Tools and Trade offs](#)', the [World Bank](#) and the UNODC set out that:

“Asset declaration systems can contribute to combating corruption by either reducing the incidence of conflicts of interest, or by helping to identify and prosecute cases of illicit enrichment by public officials. Asset declaration systems ... are an important element of building successful anti-corruption programs and a culture of integrity in public service.”

### **The heads of all criminal justice bodies and law enforcement agencies should make asset declarations**

Section 112 of the [Virgin Islands Constitution Order 2007](#) (the constitution) states:

“(1) There shall be for the Virgin Islands a Register of Interests, which shall be maintained by a Registrar who shall be appointed, and may be removed from office, by the Governor acting in his or her discretion.

(2) It shall be the duty of any person to whom this section applies to declare to the Registrar, for entry in the Register of Interests, such interests, assets, income and liabilities of that person, or of any other person connected with him or her, as may be prescribed by law.”

Under the constitution, “all members of the House of Assembly (including Ministers) and the holders of such other offices (except that of Governor) as may be prescribed by law” have to make declarations.

The BVI [Register of Interests Act 2006](#) codifies this. It stipulates that only “the Speaker, the Attorney General or an elected member of the Legislative Council and includes a person appointed to act as Attorney General” must make a declaration.



At the time of our visits, there was no legislative requirement for other public officials to submit asset declarations. Since then, however, the BVI [Public Service Management Bill 2024 \(the PSMB\)](#) has been laid in the House of Assembly. The Bill was awaiting assent at the time of writing this report. Section 42 of the PSMB stipulates that public officers specified in schedule 2 must make a similar declaration. Schedule 2 includes the following law enforcement and criminal justice personnel:

- the Commissioner of HM Customs;
- the Court Manager of the Magistrate’s Court;
- the Director of Public Prosecutions;
- the Registrar of the Criminal Court;
- the Chief Immigration Officer;
- the Police Commissioner; and
- the Superintendent of Prisons.

But it doesn’t include the Director of the Financial Investigation Agency. There is, therefore, no statutory requirement for them to declare their assets. We recommend that, as soon as possible, the Government mandates public officials in those posts to make asset declarations.

#### **Recommendation 350 – Phase one**

The Premier should oversee the amendment of section 42 of the [Public Service Management Bill 2024](#) to include the Director of the Financial Investigation Agency in the cohort of postholders required to submit asset declarations.

#### **The Registrar of interests needs the powers, skills and equipment to verify declarations effectively**

Section 43 of the PSMB states that:

“the Registrar shall, for the purpose of satisfying himself or herself that a full and accurate declaration has been prepared:

- (a) examine each declaration and ensure that the declaration has been made in the form set out in Schedule 3; and
- (b) obtain from that public officer such information as in the opinion of the Registrar, would assist him or her in examining a declaration furnished.”



This doesn't go far enough. [The World Bank recommends](#) that agencies verifying asset declarations have powers to:

- access government databases, including tax information;
- access company registers and registers of properties and vehicles;
- access banking and other financial data; and
- request or access information abroad.

It also recommends that agencies have personnel with the technical expertise to use open-source information and the powers to liaise with foreign jurisdictions to detect hidden cash flows.

We have concluded that the Registrar of interests should have these powers in relation to law enforcement and criminal justice organisations. However, it is beyond the scope of this report for us to recommend whether the Registrar should have these powers to verify all asset declarations from officials in other parts of the public service.

Consequently, we conclude that a separate Registrar of Interests for Law Enforcement and Criminal Justice Personnel (RILECJP) is established and forms part of the ACA. This is consistent with practices in several other jurisdictions. The ACA should recruit staff to support the RILECJP, including people with experience of working in similar roles in other jurisdictions. Given the sensitivity of the role, the RILECJP and their personnel should all go through the enhanced vetting process.

It is beyond the scope of this report for us to recommend whether the Registrar in the ACA should verify all asset declarations from officials in other parts of the public service.

### **Recommendation 351 – Phase one**

The legislation establishing the Anti-Corruption Agency should give it responsibility for acting as Registrar of Interests for Law Enforcement and Criminal Justice Personnel; and empower it to:

- access government databases, including tax information;
- access company registers and registers of properties and vehicles;
- access banking and other financial data; and
- request or access information abroad.

### **Recommendation 352 – Phase one**

The Anti-Corruption Agency should recruit candidates to support the Registrar of Interests for Law Enforcement and Criminal Justice Personnel. These candidates should be subject to enhanced vetting.

## **More law enforcement and criminal justice personnel should submit asset declarations**

Fewer public officials in the BVI have to declare their assets than in many other jurisdictions. For example, in Jamaica, all public officials paid more than 3.5 million Jamaican dollars (approximately US\$22,000) have to make asset declarations. This includes all police officers of, or above, the rank of inspector. Other public officials listed in the [November 2021 Jamaica Gazette Extraordinary](#) also have to declare their assets, irrespective of their pay. This includes all personnel in the financial investigations division and those in high-risk posts in the Jamaica Customs Agency.

The BVI should adopt this approach. But only once the ACA's RILECJP is operational and fully staffed. Similar agencies in several jurisdictions have been under-resourced and weren't able effectively to review all the declarations they received. This, in turn, reduced public confidence in their processes.

## **The BVI should develop an electronic asset declaration system and a prioritisation process**

Many jurisdictions around the world have electronic systems for processing asset declarations. These minimise errors during submission and facilitate secure data processing. They can also improve the efficiency of verification as they can flag those declarations that match predefined risk indicators. The agency reviewing the declarations can then prioritise some for closer inspection.

[Transparency International's overview of good practice](#) in anti-corruption systems found that in most jurisdictions, the agency responsible for conducting reviews prioritises high-risk declarations, rather than reviewing all the declarations they receive. High-risk declarations can include declarations flagged by the software as well as those coming from public officials in:

- senior positions;
- organisations with a high risk of corruption; and
- high-risk posts.

## **Asset declarations should be more comprehensive**

[Transparency International states that:](#)

“Declarations should be as comprehensive as possible, covering all sources of income, gifts, loans, immovable assets (such as houses) and moveable objects (such as cars and jewellery) as well as financial assets (such as domestic and foreign bank accounts, stocks and bonds)”.

The [Organization of American States' \(OAS\) 'Model law on the declaration of interests, income, assets and liabilities of persons performing public functions'](#) includes a broad list of assets and liabilities that member states should insist that their public officials declare. This goes far further than the provisions of the PSMB.

For example, unlike the PSMB, it mandates officials to declare the balance of their accounts and other financial products in banks or other financial institutions. Other Caribbean jurisdictions, including Jamaica, mandate similarly comprehensive declarations.

The BVI isn't a member of the OAS, but we recommend that it amends the scope of BVI's asset declarations in line with this regional good practice.

### **Recommendation 353 – Phase one**

Once the Anti-Corruption Agency's Registrar of Interests for Law Enforcement and Criminal Justice Personnel is operational, fully staffed and has an electronic system for processing asset declarations, the Premier should oversee the introduction of legislation to increase the:

- cohort of law enforcement and criminal justice personnel mandated to provide asset declarations; and
- scope of the asset declarations to bring it in line with regional practice.

### **Public officials should continue to declare their assets for a year after they leave their post**

Section 42 of the BVI PSMB requires specified public officials to make declarations on such date as may be prescribed, and on each subsequent anniversary of that date. In line with recommendations by the World Bank and others, the BVI should also mandate officials to continue to make declarations for a year after leaving office. It should do this in advance of the ACA taking on the registrar role.

### **Recommendation 354 – Phase one**

The Premier should oversee the amendment of section 42 of the [Public Service Management Bill 2024](#) to require those public officials set out in schedule 2 of the bill and in recommendation 353 to make an asset declaration one year after leaving office.

### **The Registrar should publish some asset declarations**

Section 45 of the PSMB stipulates that "the declarations of public officers contained in the Register shall be private".

This isn't in line with international recommendations. Publishing declarations can deter public officials from corrupt activity, foster integrity in the public service and promote public trust in the government. However, these benefits need to be balanced against public officials' right to privacy and data protection regulations.

Given the BVI public service's corruption problems, we would recommend that the RILECJP publishes some declarations. This would be in line with [World Bank best practice](#), which states "the degree of transparency could be linked to the corruption and public administration integrity level in the country – the more corrupt [corruption] and less integrity there is in the system the more transparency it requires."

To alleviate privacy concerns, the RILECJP could withhold some information from publication.

### **Recommendation 355 – Phase one**

The Governor and the Government of the Virgin Islands should, through public consultation, develop legislation that sets out which asset declarations the Anti-Corruption Agency's Registrar of Interests of Law Enforcement and Criminal Justice Personnel should publish online, and which it should withhold.

### **There should be more penalties for non-disclosure of assets**

Section 42(3) of the PSMB sets out:

"A public officer who, without reasonable cause, fails to submit his or her declaration within the period prescribed in subsection (1) shall have his or her salary withheld until compliance".

We recommend that, in addition to this, the RILECJP also publishes the names of non-compliant law enforcement and criminal justice officials. Such 'naming and shaming' has acted as a deterrent to non-disclosure in some jurisdictions.

### **Recommendation 356 – Phase one**

The Registrar of Interests for Law Enforcement and Criminal Justice Personnel should publish the names of law enforcement and criminal justice officials who, without reasonable cause, fail to submit their asset declaration within the prescribed period.

## **Corruption risk assessments and mitigation plans**

### **Background**

Organisations need to understand the corruption risks they face if they are to prevent and fight corruption effectively and proportionately.

A corruption risk assessment is a systematic tool to:

- identify corruption vulnerabilities within an organisation's operations; and
- to devise strategies to mitigate those vulnerabilities or risks.

International bodies including the United Nations, the Council of Europe and the [World Customs Organization](#) recommend them. And they are the foundation of many jurisdictions' anti-corruption activities.

None of the BVI's law enforcement and criminal justice organisations have been subject to comprehensive corruption risk assessments.

### **What is a corruption risk assessment?**

Unlike other anti-corruption processes, corruption risk assessments don't focus on the perception, existence or extent of corruption. Instead, they assess the potential for corruption. Broadly, they involve:

- evaluating an organisation's operating environment;
- identifying potential corruption risks, by reviewing organisational processes. This can identify high-risk processes and posts;
- analysing corruption risks;
- evaluating and prioritising corruption risks based on likelihood and impact; and
- developing a mitigation plan to treat the corruption risks, which entails designing and sequencing anti-corruption measures and producing a counter-corruption strategy.

Detailed guidance on these processes is published in chapter three of the [UNODC's State of Integrity Guide](#) and in [Transparency International's corruption risk assessment topic guide](#).

Our recommendations focus on how the process should work in the BVI context.

### **Who should be responsible for the process?**

Transparency International recommends that bodies responsible for organisational governance and oversight should have overall responsibility for the anti-corruption risk assessment process. In line with this, we recommend that the Governor gives this responsibility to an anti-corruption sub-committee of the National Security Council.

### **Who should conduct the risk assessments?**

The UNODC recommends that organisations should usually conduct risk assessments themselves. But it recognises that, where they lack the technical skills, people with experience of conducting corruption risk assessments should be involved. As this will be a new process for the BVI law enforcement and criminal justice sector, and considering the potential for corruption, we recommend that the ACA is responsible for carrying out assessments of:

- the RVIPF;
- HM Customs;
- the Department of Immigration;

- the Financial Investigation Agency; and
- criminal justice bodies.

This would be consistent with practices in many other jurisdictions, including France, where anti-corruption agencies perform this role.

[Earlier in this road map](#), we recommend that a new HM Virgin Islands Prison Service anti-corruption capability works with the ACA on this.

The Governor's Office should decide whether to recruit corruption risk assessment experts into the ACA, or to hire expert consultants to work with the ACA to perform these roles. Either way, it should secure people with expertise in internal auditing, internal controls, HR and relevant laws. In deciding which option to choose, it should consider that:

- risk assessments are resource intensive and are likely to divert personnel from other duties for lengthy periods; and
- international bodies recommend annual risk assessments of each organisation.

Whichever option it chooses, the Governor's Office should secure appropriate funding from the FCDO.

For the reasons highlighted above, we can't recommend that the BVI law enforcement and criminal justice organisations carry out their own corruption risk assessments. But it would be impossible for the ACA to produce comprehensive assessments without their involvement. Personnel from each organisation should participate in its assessment, as only they have the essential understanding of the organisation's processes, mandates and functions.

Experience in other jurisdictions also shows that:

- organisational involvement in the assessment helps raise integrity awareness among personnel; and
- greater involvement is likely to broaden support for the assessment's conclusions and recommendations, improving the chance of implementation.

### **Recommendation 357 – Phase one**

The Anti-Corruption Agency should be responsible for conducting annual corruption risk assessments of law enforcement and criminal justice bodies, in line with international recommendations.

### **What is the scope of the assessment and what data does it need?**

The assessment's remit should cover the broadest definition of corruption including, but not limited to:

- bribery;

- embezzlement;
- abuse of functions;
- trading in influence;
- illicit enrichment;
- money laundering;
- concealment; and
- collaboration with serious and organised criminals.

Data sources should include intelligence relating to corruption, any external reviews and surveys. Focus groups of personnel and specific data relating to organisations' operations should also be included.

Organisations may be reluctant to take part in the process or refuse to collect or share necessary data with the assessment team. To counter this, law enforcement and criminal justice organisations should be legally obligated to fully co-operate with the corruption risk assessment process.

#### **Recommendation 358 – Phase one**

The Premier should oversee the introduction of legislation to mandate the corruption risk assessment process and the requirements on law enforcement and criminal justice organisations.

It is beyond our remit to advise on whether the Government of the Virgin Islands commissions corruption risk assessments of other part of the public service.

### **Professional standards department**

The RVIPF is the only BVI law enforcement and criminal justice organisation with a [professional standards department \(PSD\)](#). It is responsible for maintaining standards and discipline in the force and investigating internal and external complaints about officer conduct.

Rather than each law enforcement and criminal justice organisation establishing their own small PSD, we recommend the creation of a new cross-sector Law Enforcement and Criminal Justice Professional Standards Department (LECJPSD). This should:

- bring consistency of approach across the sector;
- introduce a level of independence;
- be more efficient; and
- provide operational resilience.



It would also be in line with the Commission of Inquiry report, in which the Rt Hon Sir Gary Hickinbottom commented:

“It seems to me that there is much to be said for the establishment of a single Professional Conduct and Standards Unit, impartial and with at least some degree of independence from the agencies themselves.”

The relative roles and remits of the LECJPSD, the service commissions, the [Office of the Complaints Commission](#) and the law enforcement and criminal justice bodies should be clearly set out in legislation.

### **Recommendation 359 – Phase one**

The Governor should set up a Law Enforcement and Criminal Justice Professional Standards Department with responsibility for:

- triaging, recording and allocating allegations of personnel misconduct for investigations;
- investigating allegations of personnel misconduct, in support of the relevant service commission, and recommending disciplinary action to the appropriate authority within the staff member’s organisation and to the commission, as appropriate;
- investigating public complaints about personnel conduct, in support of the Office of the Complaints Commission;
- maintaining codes of conduct and ethics;
- supporting law enforcement and criminal justice agencies’ development of ethics training and guidance; and
- monitoring the integrity of law enforcement and criminal justice personnel, including their business interests, secondary employment, gifts and hospitality and notifiable associations.

### **Governance**

The National Security Secretariat should be responsible for overseeing the LECJPSD and holding it to account.

### **The LECJPSD will need appropriate resources and staffing**

At the time of our review, the RVIPF was understaffed, had a large backlog of cases and lacked a secure electronic system for PSD officers to record conduct matters. It also didn’t have access to systems containing information about personnel sickness absence, attendance or performance. This was only available in paper format and was inaccurate.



The Governor should make sure that the new LECJPSD has the resources, equipment and information it needs to fulfil its functions. The BVI should liaise with the [College of Policing](#)'s lead on professional standards for advice on how to develop a robust PSD.

The BVI should recruit local and experienced expatriate officers to work in the LECJPSD. All LECJPSD personnel should go through the enhanced vetting process. The first head of the department should have experience of managing a PSD in another jurisdiction.

### **Recommendation 360 – Phase one**

The Governor and the Government of the Virgin Islands should:

- equip the Law Enforcement and Criminal Justice Professional Standards Department with the resources, equipment and information it needs to fulfil its function;
- make sure that the first head of the department has experience managing a professional standards department in another jurisdiction; and
- make sure that all personnel go through the enhanced vetting process.

## **Code of conduct and ethics**

The Government of the Virgin Islands' ['public service management code' \(PSMC\)](#), sets out a code of conduct for all public employees.

### **Public service organisations should all have their own codes of conduct and ethics**

GRECO explained the rationale for organisational codes of conduct and ethics in its ['2024 evaluation report of Armenia'](#):

“Every organisation, every State body, is unique in its nature and competency. Particular rights of different State bodies diverge and thus the possibilities of unethical behaviour of persons executing these powers are also distinct and present their very own characteristics and challenges”.

This is equally relevant to the BVI.

At the time of our review, not all the law enforcement and criminal justice agencies had developed their own codes of conduct. Those that had, hadn't supplemented their codes with practical guidance. Issuing such guidance can help personnel apply the codes in their day-to-day work.

We recommend that each law enforcement and criminal justice organisation works with the LECJPSD to develop its own new code of conduct and ethics (CCE) and supporting guidance that reflect:

- the PSMC's code of conduct;
- the recommendations in this chapter; and
- the specific duties of their personnel.

They should involve personnel in the development process. This can inspire a sense of ownership and gain greater support for, and adherence to, the CCE. It can also help identify ethical dilemmas unknown to senior leaders.

The organisations should also seek advice and examples of codes of conduct and codes of ethics from the FCDO Overseas Territories and Polar Directorate and other relevant bodies in other jurisdictions, including:

- the International Policing Assistance Service;
- the Ministry of Justice Overseas Territories justice programme team;
- the UK Financial Intelligence Unit; and
- the World Customs Organization (once [HM Customs has joined](#)).

The new CCE should apply to all employees, including contractors and volunteers.

### **Recommendation 361 – Phase one**

Once the Law Enforcement and Criminal Justice Professional Standards Department is operational, its head, together with the heads of all the BVI law enforcement agencies and criminal justice bodies, should develop a new code of conduct and ethics for each organisation, with supporting guidance. Each code should reflect:

- the code of conduct set out in the '[public service management code](#)';
- our recommendations 340 to 375; and
- the specific duties of their personnel.

Each code should apply to all employees, including contractors and volunteers.

### **Organisations should embed ethical behaviour in their practices and culture**

During our review, we found many examples of personnel failing to abide by the existing code of conduct.

Once organisations have developed their new CCE, they must embed ethical principles across their entire workforce and put ethics at the heart of decision-making. Strong leadership is instrumental in achieving this, as leaders invariably shape organisations' norms and values. Senior managers who act as ethical role models can influence staff behaviour and professionalism and improve organisational culture.

### **Recommendation 362 – Phase one**

Upon each organisation's completion of recommendation 361, the head of that organisation should embed the code of conduct and ethics (CCE) and ethical principles across their workforce. This should involve:

- briefing personnel on the CCE and providing practical examples in initial training for new personnel and in all subsequent training courses;
- training managers to equip them with the tools to promote ethics and integrity;
- instructing managers to refer to the CCE in team meetings, briefings and performance reviews;
- reviewing all policies and procedures and updating them with references to the CCE where applicable;
- including ethical behaviour in personnel appraisal and promotion processes;
- prominently displaying the CCE in offices and, where possible, on intranet systems;
- adding the CCE as an agenda item in senior management meetings; and
- forming a committee focused exclusively on ethics and equality.

### **The BVI public service should enforce the new codes of conduct and ethics effectively**

Breaches of a CCE or the BVI PSMC code of conduct should be deemed misconduct matters and considered for investigation.

For a CCE to be effective, there must be consequences for those who breach it. Continuous enforcement of the CCE is crucial to its implementation. The [Police Act 2019](#) and the PSMC set out disciplinary procedures for the RVIPF and other law enforcement and criminal justice organisations. These procedures can result in a range of outcomes, including dismissal. But senior leaders across many law enforcement and criminal justice bodies told us that processes to dismiss personnel with findings of misconduct against them were ineffective. Often, such personnel were retained or moved to another part of the public service.

As one very senior official told us, “there is a resistance to discipline individuals for wrongdoing and no appetite to dismiss people”. They told us this is because “people are scared to discipline their friends”. If the Government of the Virgin Islands is to improve conduct and standards across the public service, it needs to change this

mentality and purge the service of officials whose behaviour falls below the required ethical standards.

### **The BVI should introduce comprehensive police discipline regulations**

The discipline regulations in the Police Act 2019 aren't as comprehensive as legislation in other BOTs (see, for example, the [Bermuda Police \(Conduct\) Orders 2016](#)). The RVIPF recognises this. Some senior leaders in the force told us they are keen for the BVI to introduce statutory comprehensive police regulations akin to the [England and Wales Police \(Conduct\) Regulations 2020 \(as amended\)](#) and the [England and Wales Police \(Complaints and Misconduct\) Regulations 2020](#).

#### **Recommendation 363 – Phase one**

The Governor should introduce statutory comprehensive police regulations.

The LECJPSD should investigate breaches of the new regulations.

### **Reporting wrongdoing**

#### **There should be processes for law enforcement and criminal justice personnel to report concerns about colleagues' conduct anonymously and confidentially**

Section 7.28 of the PSMC states that public service personnel who believe that other public service employees' conduct is unethical or improper report this to the responsible officer. These responsible officers include the financial secretary, cabinet secretary, permanent secretaries, constitutional heads of department and heads of department. It also sets out that public service personnel should report concerns about a responsible officer to the Deputy Governor.

Neither the PSMC nor the PSMB sets out a process for public service personnel to report such concerns anonymously. Anonymous, confidential reporting systems are common in UK law enforcement and criminal justice agencies and in many other jurisdictions. They can remove the stigma and concern that employees can have about reporting on their colleagues.

In [volume one of the report](#), we highlighted that the RVIPF lacked a confidential reporting system and recommended the Police Commissioner develop a system for police personnel.

This wasn't only a problem in the RVIPF. During our review, we found that most law enforcement and criminal justice organisations didn't have a system. And in those organisations where they were in place, personnel didn't trust that they were confidential.

It is important that, in future, all law enforcement and criminal justice personnel have access to an anonymous confidential phone line and an anonymous confidential

online reporting system. Calls and online reports should go to an independent unit, rather than the employee's organisation. This could help dispel any fear of reprisal or concerns that their organisation would cover up wrongdoing.

In line with this, we recommend the following process:

1. Calls to the confidential reporting line and online reports go through to the ACA;
2. The ACA triages the reports, retaining and investigating any that relate to corruption and forwarding others to the LECJPSD; and
3. The LECJPSD records the reports and investigates those relating to misconduct and refers others to HR as applicable.

In developing this model, the BVI should be careful to make sure that the systems are genuinely anonymous. Many police forces in England and Wales use proprietary software with algorithms that protect the anonymity of the person providing information online. The Governor's Office and the ACA may wish to consult [Crimestoppers](#) about the systems it uses and the training it gives its personnel to protect callers' anonymity.

#### **Recommendation 364 – Phase one**

Once the Anti-Corruption Agency (ACA) is operational, it should develop an anonymous confidential phone line and an online reporting system. It should then implement the following process:

- Calls to the confidential reporting line and online reports are directed to the ACA.
- The ACA triages the reports, retaining and investigating any that relate to corruption and forwarding others to the law enforcement and criminal justice professional standards department.
- The Law Enforcement and Criminal Justice Professional Standards Department records the reports, investigates those relating to misconduct and refers others to HR, as applicable.

Officers should also have the option of openly [reporting colleagues' conduct](#) to the ACA and retain the right to report directly to their employers if they so wish.

#### **Recommendation 365 – Phase one**

The Deputy Governor should amend section 7.28 of the '[public service management code](#)' to give criminal justice and law enforcement personnel the option of making non-anonymous reports about a colleague's conduct to the Anti-Corruption Agency.

## The BVI should amend its whistleblowing legislation

### Background

Whistleblowing is a specific subset of confidential reporting, known as ‘public interest reporting’. The definition of public interest reporting differs between jurisdictions, but the Council of Europe definition is “the reporting or disclosing of information on acts and omissions that represent a threat or harm to the public interest”.

Global treaties aimed at tackling corruption have highlighted the importance of protecting whistleblowers. Article 33 of the [‘United Nations Convention against Corruption’](#) stipulates that:

“Each state party shall consider incorporating into its domestic legal system appropriate measures to provide protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds to the competent authorities any facts concerning offences established in accordance with this Convention”.

The Government of the Virgin Islands introduced the [BVI Whistleblower Act 2021](#) to provide this protection. But, by the time of our visits in late 2023, the Act hadn’t been implemented.

### Designated authority for whistleblower disclosures

Section 5 of the BVI Whistleblower Act designated the following people and authorities could receive whistleblower disclosures:

- “(a) an employer of the whistleblower;
- (b) the Governor;
- (c) the Premier;
- (d) the Attorney General;
- (e) the Director of Public Prosecutions;
- (f) the Auditor General;
- (g) a member of the House of Assembly;
- (h) the Complaints Commissioner;
- (i) a Cabinet Minister or Junior Minister; or
- (j) the head of a recognised religious body.”

We have concerns that not all the designated people and institutions listed in section 5 of the Act would have sufficient capacity, powers and resources to investigate and deal with whistleblowers’ disclosures.

Section 10 of the Act recognises this. The Act stipulates that if a designated person or authority doesn't have the capability to carry out the investigation, that person or body should refer the disclosure to the Attorney General, or another body as directed by the Attorney General for investigation. The BVI should amend the legislation to create a more efficient and robust process. This legislation should:

- make the ACA a competent authority for the receipt of whistleblower disclosures;
- require all other competent authorities to refer all disclosures to the ACA for initial triage and investigation or referral as required; and
- empower the ACA to issue binding instructions.

Legislation should also:

- instruct agencies to tell whistleblowers if they transfer their disclosure to another agency;
- stipulate that if agencies transfer disclosures to other agencies, this information continues to be a protected disclosure; and
- clearly state the limited circumstances in which whistleblowers can lawfully make public disclosures of national or internal security matters.

The designated authorities should develop a range of disclosure channels, to facilitate postal, phone and electronic disclosures.

When established, the [regional anti-corruption unit](#) should be the designated authority for receiving and investigating disclosures about the ACA.

### **Recommendation 366 – Phase one**

The Premier should oversee the amendment of the [Whistleblower Act 2021](#) to:

- make the Anti-Corruption Agency (ACA) a competent authority for the receipt of whistleblower disclosures;
- require all other competent authorities to refer all disclosures to the ACA for initial triage and investigation or referral as required;
- empower the ACA to issue binding instructions;
- instruct agencies to tell whistleblowers if they transfer their disclosure to another agency;
- stipulate that if agencies transfer a disclosure to another agency, this information continues to be a protected disclosure; and
- clearly state the limited circumstances in which whistleblowers can lawfully make public disclosures of national or internal security matters.



## **There should be a suitably resourced unit to investigate reprisals and complaints**

Jurisdictions should have a unit responsible for investigating and addressing:

- reprisals following a whistleblowing disclosure; and
- complaints about the quality of whistleblower investigations.

The BVI Whistleblower Act 2021 gives the Complaints Commissioner responsibility for the first of these. Responsibility for the second isn't enshrined in legislation. Given the concerns about the effectiveness of the Office of the Complaints Commission expressed in the '[2022-2023 Constitutional Review](#)', we recommend that a new whistleblowing authority unit is established in the ACA to perform these roles. This should be separate from the team that handles the initial disclosures.

The Governor should empower the courts and the whistleblowing authority unit to award damages to a whistleblower, or to sanction a designated authority or person, if they fail to carry out a prompt, adequate investigation. This practice, used in several jurisdictions, can help make sure that designated authorities or people handle disclosures quickly. In turn, this helps maintain public confidence in the system.

The Governor should also amend section 14 of the Whistleblower Act 2021 to bring it in line with international recommendations. This should include extending protection to whistleblowers to cover indirect retaliation, such as actions taken against the whistleblowers' family members.

### **Recommendation 367 – Phase one**

The Governor should establish a whistleblowing authority unit in the Anti-Corruption Agency, kept separate from the unit that investigates whistleblowing disclosures.

### **Recommendation 368 – Phase one**

The Premier should oversee the amendment of the [Whistleblower Act 2021](#) to give the whistleblowing authority unit responsibility for investigating and addressing:

- reprisals following a whistleblowing disclosure; and
- complaints about the quality of whistleblower investigations.



### **Recommendation 369 – Phase one**

Once the whistleblowing authority unit has been established it should:

- provide confidential advice for potential whistleblowers;
- widely promote the whistleblowing framework, including training for all public service personnel; and
- conduct periodic assessments of the effectiveness of the BVI's whistleblower framework.

These changes are in line with the core principles of the Council of Europe's whistleblower recommendations.

### **Business interests and secondary employment**

Public bodies should make sure that employees' business interests don't cause conflicts of interest with their official roles.

At the time of our visits, none of the BVI's law enforcement and criminal justice organisations had suitable arrangements in place for this. In volume one, we highlighted shortcomings with how the RVIPF managed its personnel's business interests and secondary employment and recommended improvements.

In this section of the road map, we focus on the other law enforcement and criminal justice organisations.

#### **Business interests should be recorded**

We found that law enforcement and criminal justice organisations had told personnel to declare any business interests or secondary employment to their senior leaders. And some agencies, including the Financial Investigation Agency, had stipulated this in their policies. But in most agencies, we saw no evidence that they had an accurate record of employees' business interests or secondary employment.

#### **Business interest declarations should be assessed**

The PSMB doesn't mention business interests or secondary employment. But chapter 7.25 of the PSMC outlines the approval process as follows:

- “(1) An officer or employee shall not, without the written approval of the Director, undertake remunerative work outside the officer's official duties or use office equipment for such work.
- (2) Outside employment, where approved, is to be performed wholly in the public officer's or employee's private time. The Director, on the recommendation of the Responsible Officer [the head of the organisation], may revoke the approval of outside employment where it is shown that the officer's performance is adversely

affected or in any way conflicts with the interest of the Government or the officer's or employee's position.

(3) Officers and employees may engage in part-time employment or voluntary work, which does not conflict or interfere with the performance of their official duties, and provided the appropriate approval was obtained from the Director.

(4) Failure to comply with any provision of this Chapter may constitute a misconduct and may lead to disciplinary action.”

Many law enforcement and criminal justice organisations weren't complying with this.

In some organisations, including the Financial Investigation Agency and HM Customs, the director or commissioner (rather than the director of HR) reviewed declarations. But they didn't have clear policies or guidance to assist those reviews. In other agencies, including the RVIPF, we found no evidence of any review mechanisms.

At the time of our visits, the prohibitive cost of living resulted in many law enforcement and criminal justice personnel having to supplement their salary with other paid work. Senior leaders recognised this. In many cases, they felt unable to deny employees the opportunity to supplement their income. Since our visits, an independent pay review has recommended wage increases across the law enforcement and criminal justice sector. If implemented, this should reduce the need for second jobs.

A new business interests process should be developed for law enforcement and criminal justice organisations, including the RVIPF. This should involve personnel:

1. declaring all business interests and secondary employment to a person or unit, as outlined in policy.

A suitable person or unit should then:

2. maintain a register of all declarations;
3. determine whether the declared employment or business interest has the potential to cause a conflict of interest;
4. prohibit the declarant from continuing or starting the declared business interest or occupation if it has the potential to cause a conflict of interest, or set restrictions or conditions that would reduce the risk of a conflict;
5. review each approval at least annually;
6. monitor compliance with conditions attached to the approval;
7. brief all supervisors about business interests held by members of their teams; and
8. make sure that declarants whose applications were refused are not working in contravention of this.

The LECJPSD would be the most appropriate unit to:

- review law enforcement and criminal justice personnel's declarations;
- identify inherent conflicts of interest;

- mitigate risk; and
- monitor compliance.

We recommend that the Governor gives the LECJPSD responsibility for stages two, three, five, six, seven and eight of this process and for making recommendations to the head of the declarants' organisation in relation to stage four.

It is beyond the scope of this road map to recommend whether the Government of the Virgin Islands should introduce a similar system across the rest of the public service.

### **Recommendation 370 – Phase one**

The Law Enforcement and Criminal Justice Professional Standards Department, together with the heads of the law enforcement agencies and criminal justice bodies, should:

- produce clear business interest and secondary employment rules for the sector; and
- develop guidance for personnel.

## **Gifts and hospitality**

### **Rules on whether law enforcement and criminal justice employees should accept gifts and hospitality are unclear**

The BVI's rules for public officials' acceptance of gifts and hospitality are unclear and contradictory. The regulations outlined in the PSMC not only contradict those in the PSMB, but also the [Integrity in Public Life Act 2021](#).

Section 7.22 of the PSMC stipulates:

“Subject to subsection (3), an officer or employee may accept on behalf of the Government, gifts offered by:

- (a) a representative of a foreign government on the occasion of an official visit to that country; or
- (b) an organisation where the gift represents the work and achievement of that organisation.

(2) Officers and employees are not to solicit or accept from any person:

- (a) any remuneration or benefit for the discharge of the duties of his or her office over and above the official remuneration;
- (b) any benefit, advantage or promise of future advantage whether for himself or herself, immediate family or any business concern or trust with which the officer or employee is associated with from persons who are in, or seek to be in, any contractual or special relationship with the Government; or

- (c) any gift, hospitality or travel offered in connection with the discharge of the duties of his or her office.”

This contradicts section 66 of the BVI PSMB, which proposes that:

“(1) A public officer shall not accept a gift, fee or personal benefit that is connected directly or indirectly with the performance of the duties of his or her office, whether as a reward for any official act done by him or her, or as an inducement for any official act to be done by him or her or otherwise.

(2) Subsection (1) does not apply to

- (a) a gift or a personal benefit in such amount as may be prescribed by Regulations;
- (b) a personal gift received by a public officer from a relative or friend; or
- (c) an official gift, received as an incident of the protocol or social obligations that normally accompany the responsibilities of office.

(3) Where a public officer accepts a gift in the circumstances referred to in subsection (2)(c), he or she shall make a report by completing the prescribed form, signed by the Department Head, to the Deputy Governor, within such period as may be prescribed.”

There are problems with both of these approaches:

The PSMC’s permission for a public official to accept a gift from “an organisation where the gift represents the work and achievement of that organisation” poses a risk that organisations could expect favours in return from that public official or their employer.

The PSMC’s rules also effectively prohibit public officials from accepting any gifts or hospitality connected with their duties (aside from those set out in subsection 1). Subsection 2b of the PSMB suggests that public officers could accept gifts and benefits if they are less than a specified value. This is a better approach, but at the time of writing, there were no regulations that set this value.

The PSMB’s permission for a public employee to accept “an official gift, received as an incident of the protocol or social obligations that normally accompany the responsibilities of office” is open to interpretation and abuse.

Neither the PSMC or the PSMB require public officials to record offers of gifts or hospitality they declined. This isn’t in line with good practice.

The LECJPSD should work with the heads of the law enforcement and criminal justice organisations to devise new gifts and hospitality rules for the whole sector. These should reflect good practice in other jurisdictions.

Commenting on whether this should happen for the rest of the public service is beyond the scope of this road map.

Each law enforcement and criminal justice organisation should then produce employee guidance that provides practical examples of what gifts and hospitality they should accept and decline.

### **Recommendation 371 – Phase one**

The Law Enforcement and Criminal Justice Professional Standards Department, together with the heads of the law enforcement agencies and criminal justice bodies, should:

- produce clear gifts and hospitality rules for the sector; and
- develop guidance for personnel.

### **There should be a robust process of managing gifts and hospitality**

It is unclear who officers should report gifts and hospitality to. The PSMC stipulates that where “an officer or employee accepts a gift as referred to in subsection (1), the officer or employee shall make a report to the Director [of HR]”. Again, the PSMB contradicts this, stipulating that a public officer receiving a gift must report this “by completing the prescribed form, signed by the Department of Head, to the Deputy Governor, within such period as may be prescribed.”

At the time of our review, we didn’t find evidence that law enforcement and criminal justice personnel were routinely following the PSMC rules. And the PSMC’s and PSMB’s rules didn’t go far enough. It is good practice for organisations to:

- maintain a record of all gifts and hospitality offered, accepted, or refused;
- determine what happens to gifts that officials accept in accordance with rules; and
- constantly review compliance with the rules.

We didn’t find any evidence that the organisations we reviewed were doing this consistently.

### **Our recommended model**

The LECJPSD should manage the gifts and hospitality process. As with business interests, this is a PSD role in UK policing. Following this model should result in more consistent decisions than if each organisation had their own process. We therefore recommend that:

- all personnel in law enforcement and criminal justice organisations complete an electronic form to declare all gifts and hospitality offered or accepted; and
- the LECJPSD maintains a register of these declarations.

The LECJPSD should review the register to make sure that:

- public officials are complying with the rules;
- there is a consistent interpretation of the rules across the law enforcement and criminal justice sectors; and
- it tackles non-compliance.

Commenting on whether the Government of the Virgin Islands should introduce similar processes for the rest of the public service is beyond the scope of this road map.

## **Notifiable associations**

In volume one of our report, we recommended that the RVIPF:

- introduces a notifiable associations policy that obligates personnel to report any associations with people who are criminal or linked to criminality; and
- maintains a register of all personnel who have declared such relationships.

None of the other law enforcement and criminal justice organisations had notifiable associations policies and procedures in place. And neither the PSMC nor the PSMB mentioned it.

We recommend that:

- all personnel in law enforcement and criminal justice organisations should declare notifiable associations to the LECJPSD; and
- the LECJPSD should have responsibility across the law enforcement and criminal justice sector for maintaining a register of notifiable associations, reviewing cases and managing identified risks.

As we have recommended in relation to gifts and hospitality and business interests, the LECJPSD should work with law enforcement and criminal justice organisations to produce clear rules and policies.

### **Recommendation 372 – Phase one**

The Law Enforcement and Criminal Justice Professional Standards Department, together with the heads of the law enforcement agencies and criminal justice bodies, should:

- produce clear notifiable association rules for the sector; and
- develop guidance for personnel.

### **Recommendation 373 – Phase one**

Upon the completion of recommendations 370, 371 and 372, the Premier should oversee the amendment of the [Public Service Management Bill](#) and the '[public service management code](#)' to:

- pass responsibility for managing the gifts and hospitality, business interests and secondary employment processes for law enforcement and criminal justice personnel to the Law Enforcement and Criminal Justice Professional Standards Department; and
- reflect the processes outlined in the [conduct, standards and corruption chapter](#) of this road map.

### **Staff rotation**

The UNODC's '[module series on anti-corruption](#)' outlines the benefits of staff rotation in combating corruption:

“Staff rotation in jobs that are vulnerable to corruption is expected to assist in preventing corrupt relationships from forming and in disrupting established corrupt relationships. Rotation may also lead to reduced incentives to engage in corruption for private sector actors, as there might not be the future guarantee of the corrupt partner’s continuation in a particular position.”

### **Geographic staff rotation**

The RVIPF, HM Customs and the Department of Immigration all have personnel based on Anegada. Some have been performing their duties and living on the island for many years. We didn't hear or see any evidence of these officers being corrupt. But the situation poses a clear corruption risk, especially as there are very few officers from each organisation there.

### **Rotation of staff in high-risk roles**

Introducing staff rotation for posts at a high risk of corruption can help prevent corruption.

The [Organisation for Economic Co-operation and Development](#) has highlighted this as good practice for customs administrations. In the G20, 13 customs administrations, including the UK and the United States, rotated personnel in high-risk posts. Police forces in many jurisdictions also rotate personnel in high-risk units. This is also seen as good practice in the prisons sector. The UNODC's '[Handbook on Anti-Corruption Measures in Prisons](#)' highlights the benefits:

“If carefully planned, periodic rotation of prison staff in high-risk positions can significantly contribute to minimizing the risks of personnel corruption and manipulation. Personnel rotation may also improve prison security because



it reduces the boredom that may set in if the tedium of important but routine tasks is not relieved.”

There are, of course, risks in introducing staff rotation. As the WCO acknowledges in its [‘Integrity Development Guide’](#):

“...favouritism, political loyalties and nepotism could influence internal promotion and transfers. This could be when rotation or staff transfers are misused as a reward (e.g. staff are assigned to more attractive positions) or applied as a punishment (e.g. an unfavourable placement as a means of dealing with political enemies).”

Organisations should take steps to mitigate these risks.

### **Recommendation 374 – Phase one**

The Police Commissioner, the Commissioner of HM Customs, the Chief Immigration Officer and the Superintendent of Prisons should:

- introduce personnel rotation for posts at a high risk of corruption;
- develop fair and transparent personnel rotation policies;
- make sure that personnel postings are based on established, objective criteria; and
- record the reasons for personnel transfers.

It is also important that personnel rotation doesn’t critically reduce operational capabilities. Organisations need to make sure that they transfer personnel and officers with requisite skills and training into these high-risk posts.

## **Organisational justice**

[A large body of empirical evidence](#) shows that where a workforce perceives there is ‘organisational justice’ (where employers treat it fairly and with respect) this a positive predictor of beneficial workplace attitudes and behaviours. Perceived organisational justice can also help break down the code of silence that, in many law enforcement and criminal justice agencies, discourages personnel from reporting misconduct and corruption. Evidence also suggests that a perceived lack of organisational justice can lead to personnel treating the public in a less professional and respectful way.

There is scope for all leaders across law enforcement and criminal justice organisations to do more to improve organisational justice by:

- involving the workforce in decision-making;
- carrying out regular staff surveys to understand workforce perception of how fairly and respectfully the organisation treats them;



- providing feedback to the workforce on how the organisation is responding to workforce concerns; and
- doing more to support the physical and mental well-being of personnel.

The perceived fairness of procedures is also an inherent part of organisational justice. Organisations must make sure that the distribution of workload is equitable.

And central HR should make sure that:

- employees' pay and rewards are commensurate with their duties; and
- promotion and appraisal processes are transparent, merit-based and free of favour and nepotism.

### **Recommendation 375 – Phase one**

The Governor should encourage all leaders across the law enforcement and criminal justice organisations to improve organisational justice.

# Annex A – Terms of reference

British Virgin Islands Commission of Inquiry: Recommendation B38 (Review of Law Enforcement and Justice Systems) and Recommendation B41 (Facilities and Powers of Law Enforcement Agencies)

Terms of Reference

## Introduction

HM Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) has been appointed to deliver recommendations B38 and B41 of the British Virgin Islands (BVI) Commission of Inquiry recommendations, as published in April 2022.

Within ten years, we hope that law enforcement agencies and the justice system in the BVI will be recognised as models for the region.

## The BVI Commission of Inquiry recommendations

The Commission of Inquiry recommendations, with the exception of Recommendation A1 (temporary partial suspension of the Constitution), were adopted by the BVI Government in the ‘Framework for Implementation of the Recommendations of the Commission of Inquiry Report and Other Reforms’.

Recommendation B38 is as follows:

“The Governor, in consultation with the Premier, appoints a panel to conduct the review of the law enforcement and justice systems, which will form an element of the Constitutional Review, and will cover: (i) structure (including whether the frontline law enforcement agencies should have a lead agency, and which it should be, and under which arm(s) of government should law enforcement lie; and, particularly, where responsibility for border control should lie); (ii) resources and funding; (iii) conduct and standards; and (iv) terms and conditions. The law enforcement agencies covered in the review are the Royal Virgin Islands Police Force, Financial Investigation Agency, HM Customs, Immigration Department, Prison Service, Office of the Director of Public Prosecutions, and the Attorney General’s Chambers and/or the courts. The completed report will be presented to the Governor and Premier.”

Please note, that for the Financial Investigation Agency, the Office of the Director of Public Prosecutions, the Attorney General Chambers and the courts, HMICFRS will only be looking at the elements of the system that interact with the police and other law enforcement agencies.

Recommendation B41 is as follows:

“The Governor appoints a panel to ensure that the Royal Virgin Islands Police Force and, as necessary, other enforcement agencies, have the facilities and powers to prevent, monitor and detect crime, and prepare matters for prosecution, including by way of access to and use of modern scientific techniques and intelligence material. The panel can comprise representatives of e.g., the Attorney General, the Director of Public Prosecutions, the Police Commissioner, HM Customs Commissioner and the Chief Immigration Officer, with external expertise being brought in as and when required. The completed report setting out what is required will be presented to the Governor.”

## Outcomes

Delivery of recommendations B38 and B41 will provide analysis into the current position of BVI law enforcement agencies, with a road map for reform.

The primary outcomes from the review should be greater clarity for law enforcement agencies on areas for improvement and recommendations into alternative ways of approaching law enforcement that would benefit the BVI.

## Outputs/Deliverables

A report should be sent to the Governor no later than the end of March 2024, including actions for short-term implementation. This report will be made publicly available.

A long-term roadmap for reform should subsequently be sent to the Governor in the latter part of 2024. This report will be made publicly available.

## Milestones

- May 2023: HMICFRS scoping visit to the BVI.
- 25 August 2023: HMICFRS provide agencies with a self-assessment template.
- 25 September 2023: Deadline for agencies to complete self-assessment.
- November 2023: HMICFRS team to visit the BVI to complete fieldwork.
- December 2023: HMICFRS team to visit the BVI to complete fieldwork.
- March 2024: HMICFRS report to the Governor with an implementation plan.
- Latter part of 2024: Long-term roadmap to be submitted to the Governor.

## Scope

### In scope

There will be a full review of the Royal Virgin Islands Police Force, HM Customs, the Department of Immigration and the HM Virgin Islands Prison Service. The Attorney General Chambers, Office of the Director of Public Prosecutions, Financial Investigations Agency, Magistrate's Court and High Court will be considered as part of the review insofar as they relate to law enforcement.

Recommendations from the review should consider immediate and urgent steps as well as long-term objectives. Actions stemming from recommendations should be clear and specify who should deliver them and how they should be taken forward. The reports might include different views offered by stakeholders and provide options. The reports should specify any changes to legislation or additional legislation that may be required.

### Out of scope

Areas that don't relate to law enforcement within the Attorney General Chambers, Financial Investigations Agency, Office of the Director of Public Prosecutions, Magistrate's Court and High Court won't be considered as part of this review.

### Reporting and governance

We will provide the Governor with updates on request. This will include a quarterly report on progress, which will feed into the Governor's 'Quarterly Review' of Commission of Inquiry progress.

There will be a fortnightly meeting between the Governor's Office and HMICFRS to monitor progress, identify and resolve issues and provide assistance where needed. These meetings should be attended by the review lead, the Foreign, Commonwealth & Development Office's British Overseas Territories and Polar Directorate's Law Enforcement Advisor and representatives from the Governor's Office.

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