

STATES OF JERSEY



Jersey

DRAFT POLICE (COMPLAINTS AND CONDUCT) (JERSEY) LAW 202-

Lodged au Greffe on 14th February 2022
by the Minister for Home Affairs
Earliest date for debate: 29th March 2022

STATES GREFFE



Jersey

DRAFT POLICE (COMPLAINTS AND CONDUCT) (JERSEY) LAW 202-

European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000, the Minister for Home Affairs has made the following statement –

In the view of the Minister for Home Affairs, the provisions of the Draft Police (Complaints and Conduct) (Jersey) Law 202- are compatible with the Convention Rights.

Signed: **Deputy G.C.U. Guida of St. Lawrence**
Minister for Home Affairs

Dated: 7th February 2022

REPORT

1. Introduction

The underlying principle of police complaints legislation is to ensure that the service is properly accountable to the public. Legislation is necessary as police officers hold a unique position in relation to the community.

There are three factors that set the police (either officers of the States of Jersey Police Force or members of the Honorary Police) apart from the citizen as an ‘employee’. These are –

- Police officers are not ‘States’ employees’ under the [Employment of States of Jersey Employees \(Jersey\) Law 2005](#), and they may not join a trade union or engage in industrial action;
- Police officers can interfere with the actions of the public, even to the extent of deploying force, to maintain public order on behalf of the state; and
- Police officers can be required to control dangerous and life-threatening situations with the risk of prosecution or disciplinary measures if they do not.

The purpose of the draft Police (Complaints and Conduct) (Jersey) Law 202- (the draft Law) is to modernise the existing legislative framework dealing with complaints against the police, in line with current good practice elsewhere in the British Isles. It provides for a more consistent approach to all police officers, to ensure equity of treatment, common standards and improved clarity for those making and handling complaints.

The draft Law will provide for regulations to be made to specify the details of the complaints system. Initial work on those Regulations has been undertaken alongside this draft law and the current drafts are attached for information as **Appendices 3 and 4**.

Both sets of draft Regulations will be lodged for consideration by the Assembly at a later date.

2. The current position

The current framework for complaints against the police is established in legislation. Complaints against most police officers are addressed by –

- The [Police \(Complaints and Discipline\) \(Jersey\) Law 1999](#), (the 1999 Law) which provides for the investigation of complaints about police officers and the related procedures, rights and powers.
- The [Police \(Complaints and Discipline Procedure\) \(Jersey\) Order 2000](#) (the 2000 Order) which sets out the disciplinary procedures governing members of the States of Jersey Police Force.
- The [Police \(Honorary Police Complaints and Discipline Procedure\) \(Jersey\) Regulations 2000](#) (the 2000 Regulations) which describe the disciplinary procedures governing members of the Honorary Police.

Specific arrangements are made for complaints against the Chief Officer and Deputy Chief Officer by the [States of Jersey Police Force \(Chief Officer and Deputy Chief Officer\) \(Jersey\) Regulations 2017](#).

3. Rationale for new legislation

Whilst Jersey has its own legislation in this area, many policies and procedures in respect of policing tend to mirror those of other British police forces, which have evolved over the last 20 years.

Notable changes since the 1999 Law came into force have been –

- The Police (Reform) Act 2002 expanded the role of the Independent Police Complaints Commission (IPCC) relative to its predecessor, the Police Complaints Authority (PCA).
- In 2005, a multi-agency committee chaired by William Taylor, the then HM Inspector of Constabulary for Scotland, published its Review of Police Disciplinary Arrangements Report. This highlighted the need to maintain a simple and transparent regulatory approach which identified expectations of the Force, the public and police peers, as distinct from the usual employment law relationship.
- Most recently, the UK Home Office announced further changes to ensure complaints are dealt with quickly, effectively and proportionately, with new legislation coming into effect on 1st February 2020.

A degree of compatibility with policing procedures elsewhere in the British Isles is important, as this enables common standards to be attained and eases interoperability in the event of mutual aid being required. Similarly, the States of Jersey Police trains and accredits its personnel in accordance with the professional doctrine and national standards set by the British College of Policing. It also offers an established and well-tested source of best practice.

4. The effects of the new legislation

1. Overview

The Law is intended to establish a fair, workable and transparent legal framework of enabling duties, powers and responsibilities through which complaints and conduct matters can be overseen. It will also provide appropriate checks and balances and facilitate workable resolutions to complaint and conduct matters in a timely and proportionate way.

More specific procedural matters will be the subject of the subordinate Regulations (attached for information, see **Appendices 3 and 4**).

The draft Law sets out standards of professional behaviour and contains provisions for dealing with complaints, conduct and disciplinary matters relating to police officers (both States and Honorary Police), and persons designated under the [States of Jersey Police Force Law 2012](#) to undertake certain functions of police officers¹.

The legislation is intended to ensure that officers whose conduct falls below the required standards of professional behaviour, as set out in Schedule 2 to the draft Law, should be held to account by fair processes.

However, it is generally in the public interest that where appropriate, issues should be managed as performance-related rather than necessitating a formal misconduct investigation or charge. Officers who make honest or isolated mistakes in good faith or

¹ Police civilian staff who may manage detention, escort duties etc.

with good intent should be supported and encouraged to learn and improve. Procedures for dealing with poor performance are found in the [States of Jersey Police Force \(Performance and Attendance\) \(Jersey\) Order 2016](#).

A modernised framework for managing complaints involving the Chief Officer or Deputy Chief Officer of the States Police is provided for in the much more recent [States of Jersey Police Force \(Chief Officer and Deputy Chief Officer\) \(Jersey\) Regulations 2017](#), which remain unchanged.

Police officers in the States of Jersey Police and Honorary Police are currently bound by a code of conduct (referred to as a 'Discipline Code') in Schedule 1 of the 2000 Order. This is based on the Code that once applied to Home Office police forces. However, there have been significant developments in this area and the police forces in the British Isles now follow a 'Standards of Professional Behaviour'. This more modern approach is replicated in Schedule 2 of the draft Law, which will bring Jersey up to international standards in this area.

It should also be noted that a broader 'Code of Ethics' was adopted by police forces in England and Wales in April 2014. Whilst the conduct and discipline arrangements for police officers in Jersey will be established in legislation, the Code of Ethics will remain as 'best practice' for all staff, as it has since its formal adoption by the States of Jersey Police in 2014.

2. Complaints

The Law defines a 'complaint' as being a statement in writing, made by a member of the public or on their behalf, expressing dissatisfaction about an act done by or on behalf of a police officer, or a contractor or other person designated to undertake police functions.

Complaints can be made by any member of the public who has suffered any form of loss or damage, distress or inconvenience, or been put at risk of danger. They can also be made by a third party who has witnessed such an act.

Charging decisions are not an act which can support a complaint under this Law.

3. Conduct matters

A conduct matter is any matter that is not the subject of a complaint, but where there is an indication that a person serving with the police may have either committed a criminal offence or behaved in a manner which would justify the bringing of disciplinary proceedings.

The distinction is intended to allow the Law to capture activity that the public may not be aware of, but which needs to be addressed in order to maintain good order and discipline.

4. The Jersey Police Complaints Commission

The Jersey Police Complaints Authority is renamed the 'Jersey Police Complaints Commission' (JPCC), both to reduce any confusion with the Jersey Police Authority and because Commission/Commissioner is the usual nomenclature in the British Isles.

The Commission will be empowered to make recommendations about the arrangements and practice in complaint handling. There is an expectation that any party handling complaints against the police², will comply with recommendations made by the

² The Chief Officer, Deputy Chief Officer, Attorney General or Connétable, as the case may be.

Commission, and if they decline then they must explain the reasons. The Commission may or may not accept that rationale, and if not accepted the Commission can clarify its requirements by means of a reconsideration request.

The Commission will provide an annual report for the Minister to present to the States, which is the opportunity for the Commission to make information on recommendations and reconsiderations public and indicate whether the responses were satisfactory.

The draft Law also provides a statutory framework for relevant authorities to share information required to supervise and oversee complaints and conduct matters. This is intended to improve information sharing between authorities, while reflecting the importance of individuals' right of privacy. To ensure that right of privacy is maintained, the draft Law also creates an offence of 'knowingly or recklessly' disclosing information, with a penalty of 2 years imprisonment and a fine.

5. Death and serious injury

The death or serious injury (DSI) of a member of the public during or following involvement with the police is clearly a matter of significant concern and so special rules are in place to address those circumstances.

These rules ensure that these matters are subject to review even where no complaint is made or where there is no initial indication of a conduct issue. The DSI provisions are triggered where –

- DSI occurs to a person under arrested by, or otherwise detained in the custody of, a person serving with the police; or
- there is an indication that direct or indirect contact of any kind with a person serving with the police, acting in the execution of their duties, has caused or contributed to a DSI.

In the event of a DSI, the DCO must immediately notify the Commission, as well as the Attorney General where the Honorary Police are involved and make an initial determination as to whether an investigation is required. Where the DCO recommends that an investigation should not occur, they will be required to provide details of the proposed alternative manner of dealing with the issue.

The JPCC may reject the DCO's position and recommend that the DCO investigate the matter regardless. If the DCO does not follow that recommendation, they will have to justify not doing so and the relevant facts may be included in the Commission's annual report. Thus, in dealing with any DSI matter the police will need to be aware that they may ultimately need to justify decisions in public.

6. Duties of relevant authorities

In relation to the States of Jersey Police Force and its designated persons, the Deputy Chief Officer must maintain suitable arrangements for the handling, recording and investigation of conduct matters and DSI matters, from initial referral to their final conclusion.

The equivalent responsibility for the Honorary Police is allocated as follows –

- The relevant Connétable must make the arrangements for the handling of complaints etc up to the start of an investigation.
- The Deputy Chief Officer is responsible for making arrangements for conducting the investigation itself, including the management of evidence.

- The Attorney General is then responsible for making arrangements for the steps after any investigation, including how it is recorded, until the final conclusion of the issue.

All of these arrangements must be developed with due regard to the views of the Commission and published, and where a Connétable makes arrangements, they must seek the views of the Comité des Connétables and Comité des Chefs de Police.

7. Subordinate legislation

Two sets of proposed Regulations are attached to this draft Law as **Appendices 3 and 4**. These are attached for information only, to ensure that members are aware of the future plans for subordinate legislation under this Law. It is quite possible that the details of the Regulations will change prior to finalisation.

The Draft Police (Complaints and Conduct) (Procedures) (Jersey) Regulations 202- (**Appendix 3**) provides an indication of how the disciplinary process will be structured. These Regulations have the following functions –

- Part 1 makes provision for continuing an investigation into a complaint etc, concerning individuals who have ceased to be a police officer or designated person, as well as addressing sanctions such as suspension.
- Part 2 sets out the initial steps taken to address a complaint, and outlining how complaints can end by agreement or withdrawal.
- Part 3 establishes the procedures for the misconduct investigations themselves.
- Part 4 provides that investigations may be supervised by the JPCC, and that investigations into misconduct or DSI matters must be supervised.
- Part 5 makes the necessary arrangements for misconduct proceedings, including notification, procedure, and attendance.
- Part 6 sets out the appeal procedure against various determinations made under the Regulations.
- Part 7 introduces the concept of a Reflective Practice Review, which is a non-disciplinary process designed to give officers and line managers an opportunity to identify mistakes and address issues.
- Part 8 makes various miscellaneous provisions.

The Draft Police (Complaints and Conduct) (Consequential and Miscellaneous Amendments) (Jersey) Regulations 202- are intended to make the necessary connections between the draft Law and the surrounding framework of legislation³.

5. Consultation history

- A working group, comprising representatives from: Strategic Policy, Planning and Performance (SPPP), Jersey Police Complaints Authority (JPCA), States of Jersey Police (SoJP), Honorary Police, Law Officers'

³ By means of amendments to the [Honorary Police \(Jersey\) Regulations 2005](#), the [States of Jersey Police Force \(General Provisions\) \(Jersey\) Order 2016](#) and the [States of Jersey Police Force \(Chief Officer and Deputy Chief Officer\) \(Jersey\) Regulations 2017](#).

Department (LOD), the Jersey Police Authority (JPA), Police Negotiating Board and the Human Resources Department.

- Attendance at meetings of the Comité des Connétables and Comité des Chefs de Police.
- Input from Judicial Greffier.
- Input from the Attorney General.

Financial and manpower implications

The new arrangements for the management of complaints and conduct are not materially more demanding than the current system, so there are no finance and manpower implications.

Human Rights

The notes on the human rights aspects of the draft Law in **Appendix 1** have been prepared by the Law Officers' Department and are included for the information of States Members. They are not, and should not be taken as, legal advice.

Data protection implications

A threshold assessment was completed which did not indicate a high risk to rights and freedoms in relation to personal data in the draft legislation.

APPENDIX 1 TO REPORT**Human Rights Notes on the draft Police (Complaints and Conduct)
(Jersey) Law 202-**

These Notes have been prepared in respect of the draft Police (Complaints and Conduct) (Jersey) Law 202- (the “**draft Law**”) by the Law Officers’ Department. They summarise the principal human rights issues arising from the contents of the draft Law and explain why, in the Law Officers’ opinion, the draft Law is compatible with the European Convention on Human Rights (“**ECHR**”).

These notes are included for the information of States Members. They are not, and should not be taken as, legal advice.

Article 6 of the draft Law states that the overriding objective of this Law is to ensure that effective arrangements are in place for the investigation and handling of complaints, conduct matters and DSI matters and the disciplining of police officers. Pursuant to Article 6(3) the Chief Officer (“**CO**”) or Deputy Chief Officer (“**DCO**”) of the States of Jersey Police Force, the Connétables of the parishes and the Attorney General (“**AG**”) are placed under a duty to ensure that the functions conferred under Part 3 (handling of complaints etc. and investigations) and under any Regulations made under this Law are carried out efficiently, expeditiously and impartially.

Article 7 of the draft Law makes provision to replace the Jersey Police Complaints Authority established under the 1999 Law with a Jersey Police Complaints Commission (the “**Commission**”). The Commission will supervise the investigation of complaints, conduct matters and DSI matters; and may review certain decisions made by the DCO, a relevant Connétable or the AG in connection with such matters.

The draft Law engages the following ECHR rights: right to life in Article 2, the right to freedom from torture and inhumane or degrading treatment in Article 3 and the right to a fair trial in Article 6. The relevant principles arising from each of these rights are discussed below together with the reasons why the draft Law is compatible with them.

Article 2 and 3 of the ECHR:

The rights in Article 2 of the ECHR (right to life) and Article 3 (right to freedom from torture or inhumane treatment) impose obligations on states not to interfere with the enjoyment of these rights through the actions of their agents, including the police. These obligations to refrain from acting in particular ways are often referred to as ‘negative’ obligations.

In recognition of the importance of these negative obligations, the European Court of Human Rights (“**ECtHR**”) has developed parallel ‘positive’ obligations. These require states to act, in certain circumstances, to proactively secure the observance of Convention rights. In the context of Articles 2 and 3 of the ECHR, these positive obligations include the obligation to carry out an effective investigation into alleged incidents of: unlawful killing (as an aspect of Article 2 of the ECHR); and into alleged acts of torture or inhumane and degrading treatment (an aspect of Article 3 of the ECHR).

The purpose of these positive obligations is to secure the effective implementation of the rights in Articles 2 and 3 of the ECHR by ensuring that State agents or bodies are held accountable for deaths or serious injuries resulting from their actions. To comply

with Articles 2 and 3 of the ECHR, the official investigation into allegations that a breach of these rights may have occurred must be 'effective'. An effective investigation into deaths or serious injuries alleged to have been caused by a police officer must be: independent of those whose conduct is questioned; adequate to determine the relevant facts; prompt; open to public scrutiny, and involve the complainant (or their family) in the investigatory process.

Applying these principles in the context of the draft Law, Articles 2, 3 and 4 of the draft Law are drafted broadly and ensure that conduct by the police and designated persons that may engage the Article 2 and 3 ECHR investigative obligations falls within the scope of the draft Law.

Pursuant to Article 8(1) of the draft Law, the Commission's functions are, subject to the Regulations that will be made under the Law, to secure the maintenance by the CO Officer and DCO; and by the Connétables of the Parishes, of suitable arrangements to ensure that complaints are recorded and handled; and that an effective investigation of complaints, conduct matters and DSI matters takes place (see further in Article 13 of the draft Law). These arrangements should include arrangements for the collection and preservation of evidence (see also Article 15) and for the registration of complaints, conduct matters and DSI matters (see also Article 16). The arrangements made should also accord with practice elsewhere in the British Islands, for the handling of complaints and conduct of investigations. It is anticipated that these obligations will be supplemented with further specific provision to be made in Regulations pursuant to Article 22 of the draft Law.

Article 18 requires the DCO to determine whether an investigation should take place in relation to any DSI matter and any complaint or conduct matter that relates to circumstances where an individual has died or suffered serious injury. The DCO must notify the Commission and, in cases involving the Honorary Police, the AG of any such matter without delay.

If it appears to the DCO that the matter does not require investigation, the DCO must, when giving notification of the matter to the Commission, provide reasons and give details of any proposed alternative manner of dealing with it. Pursuant to Article 8(1) of the draft Law the Commission supervises the investigation of any complaint or conduct matter; and any DSI matter notified under Article 18. The Commission may review the determination by the DCO concerning the need for an investigation and recommend that an investigation should take place.

The effect of Articles 8, 13, 14, 15, 16 and 18 of the draft Law is, among other things, to require that arrangements are maintained to enable an effective investigation to take place into conduct by the police that may give rise to a positive investigative obligation under Articles 2 and 3 of the ECHR. Such investigations will be conducted under the supervision of the Commission, which is independent of the States of Jersey Police and Honorary Police. These provisions may then be supplemented by Regulations made under Article 22 of the draft Law to ensure that investigations are prompt, thorough and conducted as independently as possible and in a manner free from any undue influence.

Further Article 19 of the draft Law requires that the complainant and the person subject to the complaint are kept properly informed of the progress of the investigation into the complaint and of its outcome. Article 20 makes provision requiring that certain descriptions of persons who have an interest in being kept properly informed about the handling of a complaint, conduct matter or DSI matter are kept informed. These obligations extend to relatives of a person whose death or whose serious injury is the alleged result of the relevant conduct.

In view of the above, the draft Law is compatible with Articles 2 and 3 of the ECHR, though it will be important that the final content of the Regulations under Article 22 of the draft Law also reflect these principles.

Article 6 ECHR – The right to a fair trial

Article 6(1) ECHR has the potential to be engaged by the procedures to be established under the draft Law. It provides –

“In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.”

The determination of complaints conduct matters and DSI matters may potentially be determinative of the civil rights of an individual officer or designated person (in respect of their employment) and of individuals who are affected by their actions. Accordingly, the conduct of disciplinary proceedings against an officer or designated person may attract Article 6(1) ECHR protection.

Regulations under Article 22(1) of the draft Law may make provision as to the conduct of disciplinary proceedings in respect of a police officer. Those Regulations may address the representation of an officer at a disciplinary hearing and the disclosure of documents to the officer for the purposes of that hearing (Article 22(1)(u)). Regulations may also confer a right of appeal on a complainant, police officer or designated person against the outcome of disciplinary proceedings and for the establishment of an appeal panel to hear appeals from disciplinary proceedings; for making provision about costs and for the conduct of appeals generally (Article 22(1)(y)).

It will therefore be possible for Regulations under Article 22 to ensure that the Article 6(1) ECHR rights of complainants and officers are determined with sufficient procedural safeguards to meet the ECHR’s requirements.

Conclusion

The draft Law is compatible with the relevant ECHR rights for the reasons outlined above. It will be important to ensure that the Regulations to be made under Article 22 also reflect the ECHR’s requirements. A draft of those Regulations has been developed alongside the draft Law having regard to the relevant ECHR principles described above and it is expected to be available to States Members in advance of the debate.

APPENDIX 2 TO REPORT**Comparable legislation in the British Isles**

For reference, the current body of police complaints legislation in England and Wales is as follows –

- [Police Appeals Tribunal Rules 2020 \(S.I. 2020/1\)](#)
- [Police \(Complaints and Misconduct\) Regulations 2020 \(S.I. 2020/2\)](#)
- [Police \(Performance\) Regulations 2020 \(S.I. 2020/3\)](#)
- [Police \(Conduct\) Regulations 2020 \(S.I. 2020/4\)](#)

The draft Law and Regulations apply these developments, including the most recent amendments, to the Jersey context. In addition, the new legislation has been constructed with reference to good and current practice in other jurisdictions than England and Wales, notably –

Scotland


- [Police, Public Order and Criminal Justice \(Scotland\) Act 2006](#)
- [Police and Fire Reform \(Scotland\) Act 2012](#)
- [The Police Service of Scotland \(Conduct\) Regulations 2014](#)

Isle of Man

- [Police Act 1993](#)
- [Police \(Conduct\) Regulations 2015](#)

APPENDIX 3 TO REPORT


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DRAFT POLICE (COMPLAINTS AND CONDUCT) (PROCEDURES) (JERSEY) REGULATIONS 202-

Made *[date to be inserted]*

Coming into force *[date to be inserted]*

THE STATES make these Regulations under Articles 8(1), 9(6), 19, 20 and 22 of the Police (Complaints and Conduct) (Jersey) Law 202--

PART 1

INTERPRETATION AND PRELIMINARY PROVISIONS

1 Interpretation

In these Regulations, unless the context indicates otherwise –

“agreed resolution” has the meaning given in Regulation 10(3);

“appeal” means an appeal under Regulation 40;

“appeal panel” means the panel established under Regulation 41;

“appropriate authority” means, in the case of a member of the Force or a designated person, the Deputy Chief Officer, and in the case of a member of the Honorary Police, the Attorney General;

“Chief de Police” means the Centenier of a parish appointed by the Connétable of that parish to be the Chief de Police for that parish and includes a Centenier appointed under Regulation 7A of the Honorary Police (Jersey) Regulations 2005;

“Crown Advocate” means an advocate appointed under Article 1 of the Crown Advocates (Jersey) Law 1987;


“designated contractor” means a person designated under Article 27 of the Police Force Law who is an employee of a contractor;


“designated employee” means a States’ employee designated to undertake police functions under Article 26 of the Police Force Law;


“designation” means a designation under Article 26 or 27 of the Police Force Law;


“disciplinary action” is construed in accordance with Regulation 37;

“disciplinary policy” means –

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	<p>(a) in the case of a designated employee, the disciplinary policy applicable to States' employees other than members of the Force;</p> <p>(b) in the case of a designated contractor, any policy of the contractor governing the conduct (as opposed to the performance) of the designated contractor in order to determine whether a sanction or punitive measure is to be imposed against him in relation to that conduct;</p> <p>"gross misconduct" means a contravention of the Professional Standards that is so serious as to justify dismissal;</p> <p>"harm test" is construed in accordance with Regulation 60;</p> <p>"interested person" is construed in accordance with Article 20 of the Law;</p> <p>"investigator" means a person appointed as such under Regulation 15 or 23(7);</p> <p>"Law" means the Police (Complaints and Conduct) (Jersey) Law 202-;</p> <p>"misconduct" means a contravention of the Professional Standards that is so serious as to justify disciplinary action;</p> <p>"misconduct hearing" in relation to a member of the Force is one to which that member's misconduct case is referred under Regulation 22(5);</p> <p>"misconduct meeting" in relation to a member of the Force or member of the Honorary Police, is one to which that member's misconduct case is referred under Regulation 22(2)(a) or (b);</p> <p>"misconduct proceedings" means a misconduct meeting or misconduct hearing;</p> <p>"performance matter" means, in relation to a referral under Regulations 13, 21, 22, 44 or 46, procedures established for improving the standards of performance of police officers or designated persons, who are under-performing in the exercise of their duties;</p> <p>"performance policy" means –</p> <p>(a) in the case of a designated employee, the capability policy (including attendance policy) applicable to States' employees other than members of the Force; and</p> <p>(b) in the case of a designated contractor, any policy of the contractor governing the performance of a designated contractor for the purposes of assessing whether the performance is unsatisfactory and whether, as a result, any action is to be taken in relation to it;</p> <p>"personal record" means a personal record kept under Article 10 of the States of Jersey Police Force (General Provisions) (Jersey) Order 2016;</p> <p>"police friend" is construed in accordance with Regulation 55;</p> <p>"presiding person" means an individual –</p> <p>(a) appointed under Regulation 26(1) to conduct a misconduct meeting; or</p> <p>(b) selected under Regulation 26(3)(a) to chair a misconduct hearing;</p> <p>"reflective practice review process" means the process set out in Part 7;</p>	
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<p>“relevant Chef de Police” means in the case of a member of the Honorary Police, the Chef de Police of the parish in which that member serves;</p> <p>“staff association” includes the States of Jersey Police Association or a trade union.</p>		
2 Application		
<p>(1) These Regulations apply in relation to complaints relating to, or conduct matters or DSI matters involving –</p> <ul style="list-style-type: none">(a) police officers other than the Chief Officer and Deputy Chief Officer; and(b) subject to paragraph (2), designated persons in so far as the complaint relates to, or conduct matter or DSI matter involves, the carrying out of functions for the purposes of which any power or duty is conferred or imposed by a designation. <p>(2) The following provisions do not apply in respect of designated persons –</p> <ul style="list-style-type: none">(a) Part 5 (misconduct proceedings); and(b) all the provisions of Part 6 (reviews and misconduct appeals) except for Regulation 39 (general provisions as to reviews and appeals).		
3 Delegation of powers or duties		
<p>(1) Subject to paragraph (2), the appropriate authority may delegate all or any of the powers or duties conferred or imposed on him or her, under the Law or these Regulations –</p> <ul style="list-style-type: none">(a) in the case of the Deputy Chief Officer, to a police officer of at least the rank of chief inspector, or to an officer of the equivalent rank of Deputy Chief Officer of another jurisdiction; and(b) in the case of the Attorney General, to the Solicitor General, a Crown Advocate or any other legally qualified individual or legal services body the Attorney General considers appropriate. <p>(2) The appropriate authority must not, in any particular case, delegate any power or duty under paragraph (1) to a person whose involvement in the role could reasonably give rise to a concern as to whether that person could act impartially under these Regulations, whether because the person has acted as investigating officer in the case or attempted to resolve it by way of agreed resolution or otherwise.</p> <p>(3) In paragraph (1)(b) “legal services body” has the same meaning as in The Law Society of Jersey Law 2005.</p>		
4 Complaints, conduct matters or DSI matters concerning a person who has ceased to be a police officer or designated person		
<p>(1) Subject to the provisions of this Regulation, these Regulations apply in respect of an individual who has ceased to be a police officer (“former police officer”) or designated person (“former designated person”) where –</p>		
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Regulation 4	Draft Police (Complaints and Conduct) (Procedures) (Jersey) Regulations 202-
<p>(a) a complaint was made, or a conduct matter or DSI matter occurred in relation to that individual before he or she ceased to be a police officer or designated person; or</p> <p>(b) a complaint is made in relation to that individual not more than 12 months after the date that he or she ceased to be a police officer or designated person.</p> <p>(2) In the case of a former police officer, these Regulations apply as if that individual were still a police officer subject to –</p> <p>(a) the provisions listed in paragraph (3);</p> <p>(b) the omission of –</p> <p>(i) Regulation 6 (suspension),</p> <p>(ii) Regulation 37 (disciplinary action),</p> <p>(iii) Part 7 (reflective practice review process), and</p> <p>(iv) any other references in these Regulations to disciplinary action; and</p> <p>(c) the requirement in paragraph (4);</p> <p>(3) The provisions referred to in paragraph (2)(a) are –</p> <p>(a) Regulation 13(6) (preliminary assessment);</p> <p>(b) Regulation 22(7) (action by appropriate authority in response to investigation report);</p> <p>(c) Regulation 38(3), (4) and (7) (notification of misconduct determination);</p> <p>(d) Regulation 40(2) (appeal from misconduct proceedings);</p> <p>(e) Regulation 43(8) (appeal procedure);</p> <p>(f) Regulation 44(7) (procedure and finding of the appeal panel);</p> <p>(g) Regulation 45(2) (effect of decision on appeal); and</p> <p>(h) Regulation 46(3) (procedure where misconduct allegation remitted back to person who conducted misconduct proceedings).</p> <p>(4) If the appropriate authority determines under Regulation 22(1)(a) (action by appropriate authority in response to investigation report) that a former police officer has a case to answer in respect of misconduct or gross misconduct, the case must not be referred to a misconduct meeting or hearing (as the case may be) under Regulation 22(2)(a) or (b), or (5), unless the appropriate authority determines that it is reasonable and proportionate for misconduct proceedings to take place.</p> <p>(5) Paragraph (6) applies where –</p> <p>(a) under paragraph (4), it is determined that it is reasonable and proportionate for misconduct proceedings to take place and the case is referred to a misconduct meeting or hearing (as the case may be); and</p> <p>(b) the person conducting the misconduct meeting, or panel in the case of a misconduct hearing, determines that the conduct of the former police officer amounted to gross misconduct.</p>	<p>Page - 8 DraftPolice(ComplaintsandConduct)(Procedures)(Jersey)Regulations202 (projet draft) 10/02/22 10:04</p> <p style="text-align: right;">States of Jersey </p>

Draft Police (Complaints and Conduct) (Procedures) (Jersey) Regulations 202-	Regulation 5	
<ul style="list-style-type: none">(6) In a case described under paragraph (5), the person or panel, as the case may be, must determine whether or not the former police officer would have been dismissed or required to resign as an alternative to dismissal, had that individual not ceased to be a police officer.(7) In the case of a former designated person, these Regulations apply to the extent specified in Regulation 2 (application), as if he or she were still a designated person –<ul style="list-style-type: none">(a) subject to –<ul style="list-style-type: none">(i) the omission of Regulation 6 (suspension) and Part 7 (reflective practice review process), and(ii) Regulation 13(6) (preliminary assessment); and(b) provided that if the case is to be referred to the former designated person’s employer under Regulation 22(2)(c) (action by appropriate authority in response to investigation report), this may only occur if the Deputy Chief Officer determines that it is reasonable and proportionate for action to be taken by the employer of that individual under that employer’s disciplinary policy or performance policy, as the case may be.(8) If the appropriate authority determines under paragraph (4), or the Deputy Chief Officer determines under paragraph (7)(b) that it is reasonable and proportionate for misconduct proceedings to take place or, in the case of a former designated person for action to be taken, he or she may revise that determination at any time before the start of the misconduct proceedings, or action under the former designated person’s employer’s policy in question.		
<p>5 Complaints or conduct matters concerning an individual whose identity is unascertained</p>		
<ul style="list-style-type: none">(1) Where a complaint or conduct matter relates to an individual whose identity is unascertained at the time at which the complaint or conduct matter is recorded, or whose identity is not ascertained during or subsequent to, the investigation of the complaint or conduct matter, then these Regulations are to apply in relation to such an individual as if it did not include –<ul style="list-style-type: none">(a) any requirement for the individual complained against to be given a notification or an opportunity to make representations;(b) any requirement for the appropriate authority to determine whether a criminal offence may have been committed by the individual whose conduct has been the subject matter of an investigation, or to take any action in relation to such a determination;(c) any requirement for the appropriate authority to determine whether misconduct proceedings should be brought against an individual whose conduct is the subject-matter of a report.(2) Where the identity of such an individual is subsequently ascertained, the appropriate authority must take such action in accordance with these		
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Regulations as he or she see fit, regardless of any previous action taken under these Regulations as modified by paragraph (1).

6 Suspension

- (1) In the circumstances described in paragraph (2) –
 - (a) the Deputy Chief Officer may suspend a police officer from membership of the Force, or suspend a designated person's designation; or
 - (b) the Attorney General may suspend a police officer from membership of the Honorary Police.
- (2) The circumstances mentioned in paragraph (1) are where –
 - (a) that police officer or designated person has been charged with a criminal offence;
 - (b) the appropriate authority receives a complaint, report or allegation which indicates that a police officer or designated person may have contravened the Professional Standards, whether or not that contravention has been investigated; or
 - (c) the appropriate authority becomes aware of a report or allegation described in sub-paragraph (b).
- (3) Before suspending a police officer or the designation of a designated person, the appropriate authority must first consult, as the case may be –
 - (a) the Chief Officer;
 - (b) the relevant Connétable and relevant Chef de Police, unless the Chef de Police is the police officer concerned.
- (4) The appropriate authority may exercise the power to suspend the police officer or the designation of the designated person concerned at any time from the time at which any of circumstances described in paragraph (2) applies and that suspension continues until –
 - (a) whichever occurs first of any of the events described in paragraph (5)(a) to (d); or
 - (b) the appropriate authority decides to end the suspension.
- (5) The time at which the appropriate authority may end a suspension is as follows –
 - (a) when the appropriate authority –
 - (i) decides –
 - (A) in the case of a police officer, not to initiate misconduct proceedings, or
 - (B) in the case of a designated person, that no grounds exist for action to be taken by the designated person's employer under that employer's disciplinary policy, or
 - (ii) directs –
 - (A) in the case of a police officer, that misconduct proceedings be withdrawn, or

- (B) in the case of a designated person, the designated person's employer to withdraw any action taken under that employer's disciplinary policy;
- (b) the dismissal of –
 - (i) in the case of a police officer, misconduct proceedings, or
 - (ii) in the case of a designated person, any action taken by that person's employer under the employer's disciplinary policy;
 - (c) the time limit for appeal by a police officer (under Regulation 39(3)) against a finding of misconduct or gross misconduct has expired; or
 - (d) a decision has been made on an appeal (under Regulation 44) against that finding or the disciplinary action ordered in respect of it.
- (6) Throughout the period where a police officer is suspended, or designated person's designation is suspended, as the case may be, he or she may not without the consent of the appropriate authority, give notice of resignation nor resign under any notice previously given.
- (7) If the police officer concerned who is suspended is required to resign under Regulation 37(2)(f), he or she must remain suspended during the period of the police officer's notice.
- (8) If a member of the Force is suspended or a designated person's designation is suspended, that individual is not entitled to any allowance in respect of the period of suspension.
- (9) If a member of the Force is suspended or a designated person's designation is suspended, the member or designated person concerned is not entitled to pay in respect of any period when –
- (a) that member or designated person is detained under a sentence of a court in a prison or other institution to which the Prison (Jersey) Law 1957 applies or is in custody (whether in prison or elsewhere) between conviction by a court and sentence; or
 - (b) that member or designated person has absented himself or herself from duty and the member's or designated person's whereabouts are unknown to the Deputy Chief Officer.
- (10) This paragraph applies where the member of the Force or designated person concerned returns to duty following his or her suspension, or the suspension of his or her designation, as the case may be, and –
- (a) it has been decided that the member of the Force or designated person concerned is not to be subject to misconduct proceedings, or any action under the designated person's employer's disciplinary policy, as the case may be;
 - (b) the member of the Force or designated person concerned has been subject to misconduct proceedings or action taken under the designated person's employer's disciplinary policy, as the case may be, which is subsequently withdrawn or dismissed; or
 - (c) the member of the Force or designated person concerned has been found to have contravened the Professional Standards and disciplinary action has been ordered.

- (11) Where paragraph (10) applies, the member of the Force or the designated person, as the case may be, must receive, as from the date of the member's suspension, or suspension of the designated person's designation, the pay to which, but for paragraph (9), that individual would have been entitled to receive.

7 Alleged offences


- (1) If the appropriate authority considers that it can be reasonably inferred that a police officer or designated person may have committed a criminal offence in respect of a complaint, conduct matter or DSI matter, the appropriate authority must refer the matter to the Solicitor General.
- (2) Where paragraph (1) applies, the appropriate authority may, until one of the events specified in paragraph (3) occurs –
 - (a) in relation to a police officer, suspend or postpone any misconduct proceedings under these Regulations; or
 - (b) in relation to a designated person, direct the designated person's employer to suspend or postpone any action taken under the employer's disciplinary policy.
- (3) The events mentioned in paragraph (2) are where the Solicitor General advises that –
 - (a) criminal proceedings are not to be brought in respect of any complaint, conduct matter or DSI matter; or
 - (b) any criminal proceedings which have been brought have been concluded.
- (4) Where paragraph (2) applies, the appropriate authority must inform the police officer or designated person concerned of the suspension or postponement of the proceedings or action in question, but that those proceedings, or that action (as the case may be) may be resumed whether or not criminal proceedings are brought against the police officer or designated person concerned, and regardless of the outcome of those criminal proceedings.
- (5) The Solicitor General must acknowledge receipt of any referral under paragraph (1) and keep the appropriate authority and the Commission informed as to the progress of that referral.
- (6) The appropriate authority must, subject to the harm test, keep the police officer or designated person and any complainant informed as to the progress of the referral.


PART 2


INITIAL HANDLING OF COMPLAINTS

8 Initial steps on complaint

- (1) A complaint must, in the first instance, be submitted to –

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<ul style="list-style-type: none">(a) the Chief Officer, where it relates to a member of the Force or a designated person; or(b) the relevant Connétable, where it relates to a member of the Honorary Police. <p>(2) The Commission may, where it determines that it is in the public interest to do so, bring a matter to the attention of the Chief Officer or relevant Connétable, as the case may be, to be treated as if it were a complaint.</p> <p>(3) The Chief Officer or relevant Connétable, as the case may be, must –</p> <ul style="list-style-type: none">(a) record the complaint in accordance with Article 16(2) of the Law;(b) in accordance with Article 15 of the Law, take any steps that appear to him or her to be desirable for the purpose of obtaining or preserving evidence relating to the conduct complained of;(c) furnish particulars of the complaint to the appropriate authority and the Commission; and(d) supply a copy of the record made of that complaint –<ul style="list-style-type: none">(i) to the complainant,(ii) the relevant Chef de Police (where applicable), and(iii) subject to paragraphs (4) to (6), to the individual complained against (if ascertained). <p>(4) A copy of the record of the complaint supplied under paragraph (3)(d) may be in a form which keeps anonymous the identity of the complainant or of any other individual.</p> <p>(5) The Chief Officer or relevant Connétable may decide not to supply such a copy if he or she is of the opinion that to do so –</p> <ul style="list-style-type: none">(a) might prejudice any criminal investigation or pending proceedings; or(b) would otherwise be contrary to the public interest. <p>(6) Where the Chief Officer or relevant Connétable decides not to supply such a copy, he or she must keep that decision under regular review.</p>		
<p>9 Disapplication of procedures under these Regulations</p>		
<p>(1) If, following receipt of the particulars of the complaint, the appropriate authority considers that a complaint falls within a description of complaints set out in paragraph (2), the appropriate authority may, with the concurrence of the Commission, handle that complaint otherwise than in accordance with these Regulations, or take no action in relation to it.</p> <p>(2) The description of complaints referred to in paragraph (1) are as follows –</p> <ul style="list-style-type: none">(a) more than 12 months have elapsed between the incident, or the latest incident, giving rise to the complaint and the making of the complaint and either that no good reason for the delay has been shown or that injustice would be likely to be caused by the delay;(b) the matter is already the subject of a complaint made by or on behalf of the same complainant;		
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Regulation 9	Draft Police (Complaints and Conduct) (Procedures) (Jersey) Regulations 202-
<ul style="list-style-type: none"> (c) the complaint discloses neither the name and address of the complainant nor that of any other interested person and it is not reasonably practicable to ascertain such a name or address; (d) the complaint is vexatious, oppressive or otherwise an abuse of the procedures for dealing with complaints; (e) the complaint is repetitious; (f) the complaint is fanciful; or (g) it is not reasonably practicable to complete the investigation of the complaint or any other procedures under these Regulations. <p>(3) For the purposes of paragraph (2)(e) a complaint is repetitious if –</p> <ul style="list-style-type: none"> (a) it concerns substantially the same complaint as a previous complaint made by or on behalf of the same complainant; (b) it contains no fresh allegations which significantly affect the account of the conduct complained of; (c) no fresh evidence, being evidence which was not reasonably available at the time the previous complaint was made, is tendered in support of it; and (d) with regard to the previous complaint – <ul style="list-style-type: none"> (i) the complaint was resolved by way of agreed resolution under Regulation 10, (ii) the Commission previously concurred with the appropriate authority under this Regulation that the complaint may be handled otherwise than in accordance with these Regulations, or that no action need be taken in relation to it, or (iii) the complainant gave such notification as is mentioned in Regulation 12 (withdrawn complaints). <p>(4) For the purposes of paragraph (2)(f) a complaint is fanciful if no reasonable person could lend any credence to it.</p> <p>(5) For the purposes of paragraph (2)(g) it is not reasonably practicable to complete the investigation of a complaint or any other procedures under these Regulations if –</p> <ul style="list-style-type: none"> (a) it is not reasonably practicable to communicate with the complainant or a person acting on the complainant's behalf; or (b) it is not reasonably practicable to complete a satisfactory investigation in consequence of – <ul style="list-style-type: none"> (i) a refusal or failure, on the part of the complainant, to make a statement or afford other reasonable assistance for the purposes of the investigation, or (ii) the lapse of time since the event or events forming the subject-matter of the complaint. <p>(6) In this Regulation any reference to action not being reasonably practicable includes a reference to action which it does not appear reasonably practicable to take within a period which is reasonable in all the circumstances of the case.</p>	<p>Page - 14 DraftPolice(ComplaintsandConduct)(Procedures)(Jersey)Regulations202 (projet draft) 10/02/22 10:04</p> <p style="text-align: right;">States of Jersey </p>

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<p>(7) Unless it is not reasonably practicable to do so, the appropriate authority must write to the complainant at his or her last known address notifying him or her that, with the concurrence of the Commission, the complaint is to be handled otherwise than in accordance with these Regulations, or that no action is to be taken in relation to it.</p> <p>(8) The written notification must set out the appropriate authority's reasons.</p>		
10 Agreed resolution of complaints		
<p>(1) This Regulation applies where the appropriate authority is furnished with the particulars of a complaint recorded under Regulation 8(3).</p> <p>(2) The appropriate authority must first determine whether or not the complaint can be resolved by way of agreed resolution.</p> <p>(3) For the purposes of these Regulations "agreed resolution" means the handling of a complaint in accordance with a procedure approved by the appropriate authority, which does not involve a formal investigation.</p> <p>(4) A determination that a complaint can be resolved by way of agreed resolution may only be made if the appropriate authority is satisfied that the conduct complained of (even if it were proved) –</p> <ul style="list-style-type: none">(a) would not justify the bringing of any criminal or misconduct proceedings against the person whose conduct is complained of; or(b) would, if misconduct proceedings were brought against the person whose conduct is complained of, be unlikely to result –<ul style="list-style-type: none">(i) in the case of a police officer, in the giving of a final written warning or in his or her dismissal or being required to resign from membership of the Force or Honorary Police, as the case may be, and(ii) in the case of a designated person, in the giving of a final written warning or in his or her dismissal. <p>(5) If the appropriate authority determines that the complaint can be resolved by way of agreed resolution, he or she must appoint a member of the Force, or, as the case may be, direct a Connétable to handle the agreed resolution of the complaint.</p> <p>(6) Where it appears to the member of the Force or Connétable, appointed or directed (as the case may be) under paragraph (5), that the complaint has in fact already been satisfactorily dealt with by the time he or she comes to deal with it, the member of the Force or the Connétable may, subject to any representation by the complainant, treat it as having been resolved by way of agreed resolution.</p> <p>(7) The member of the Force or Connétable must, as soon as practicable, give the complainant and the individual complained against an opportunity to comment on the complaint.</p> <p>(8) The member of the Force or Connétable must not, for the purpose of the agreed resolution of a complaint, tender on behalf of the individual complained against an apology for his or her conduct unless that individual has agreed to the apology.</p>		
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
- (9) When the procedure for agreed resolution has reached its conclusion, a record must be made as soon as practicable of the outcome and a copy of the record sent to the appropriate authority.
- (10) The appropriate authority must as soon as practicable after receiving that copy of the record of the outcome, provide the complainant or any interested party and the individual complained against with their own copy of the record of the outcome, together with an explanation of whether any further action is proposed under these Regulations.
- (11) At the time of providing a copy of the record of the outcome under paragraph (10), the appropriate authority must also notify the complainant in writing –
 - (a) of his or her right to request the Commission to review the outcome of the agreed resolution; and
 - (b) of the requirements specified in Regulation 39(2) for making any such request.

11 Review of outcome of agreed resolution procedure

- (1) Where a complainant requests the Commission to review the outcome of a complaint dealt with by way of agreed resolution, the Commission must –
 - (a) as soon as reasonably practicable, notify the appropriate authority of the request for a review, and may ask him or her to provide such further information as the Commission deems necessary for the purposes of the review;
 - (b) determine, as soon as practicable, whether the outcome of the complaint is a reasonable outcome; and
 - (c) if it determines that the outcome is not reasonable in all the circumstances of the case, request the appropriate authority to reconsider the outcome.
- (2) Subject to paragraph (4), the Commission must notify the appropriate authority, the complainant and the individual complained against of its determination, with reasons, and its request to reconsider the outcome (if any).
- (3) The appropriate authority must give due regard to any request made under paragraph (1)(c).
- (4) The Commission may decide not to notify the individual complained against of any request made under paragraph (1)(c) if it is of the opinion that to do so might prejudice any criminal investigation or pending proceedings or would otherwise be contrary to the public interest.


12 Withdrawn complaints

- (1) Paragraph (2) applies where the appropriate authority receives from a complainant notification in writing signed by him or her, or by a person acting on his or her behalf to the effect either –
 - (a) that the complainant withdraws the complaint; or

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<p>(b) that the complainant does not wish any further steps to be taken in consequence of the complaint.</p> <p>(2) Where this paragraph applies, the appropriate authority must forthwith record the withdrawal or the fact that the complainant does not wish any further steps to be taken, as the case may be, and subject to paragraph (5), the provisions these Regulations may cease to apply in respect of that complaint.</p> <p>(3) Where a complainant indicates that he or she wishes to withdraw a complaint or that he or she does not wish any further steps to be taken in consequence of the complaint, but fails to provide a notification to that effect in writing signed by him or her, or on his or her behalf, then the appropriate authority is to write to the complainant to seek confirmation of his or her wishes.</p> <p>(4) The appropriate authority is to treat the indication given under paragraph (3) as though it had been received in writing signed by the complainant –</p> <p>(a) if the complainant confirms in writing that he wishes to withdraw his complaint or does not wish any further steps to be taken in consequence of the complaint; or</p> <p>(b) if the complainant fails to reply within a period of 28 days commencing on the day after the date of the appropriate authority’s written communication to the complainant under paragraph (3).</p> <p>(5) Despite receipt of a written notification under paragraph (1) or treating an indication as if it had been received in writing under paragraph (4), the appropriate authority may nevertheless determine whether or not it is in the public interest for the complaint to be treated as a conduct matter instead, and assessed under Regulation 13.</p> <p>(6) The appropriate authority must –</p> <p>(a) subject to the harm test, notify the individual complained against if the appropriate authority –</p> <p>(i) records the withdrawal of a complaint or the fact that the complainant does not wish any further steps to be taken, or</p> <p>(ii) determines that a complaint is to be treated as a conduct matter instead; and</p> <p>(b) provide a copy of that notification to the following persons –</p> <p>(i) the complainant,</p> <p>(ii) the Chief Officer,</p> <p>(iii) in the case of a member of the Honorary Police, the relevant Connétable and relevant Chef de Police (unless he or she is the individual complained against), and</p> <p>(iv) the Commission.</p>		
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PART 3**MISCONDUCT INVESTIGATIONS****13 Preliminary assessment**

- (1) This Regulation applies where –
 - (a) the appropriate authority determines that a complaint is not suitable for dealing with by way of agreed resolution;
 - (b) it has not proved possible to reach any outcome by way of agreed resolution;
 - (c) during the course of an agreed resolution, it appears that the complaint is, after all, not suitable for dealing with under that procedure; or
 - (d) the appropriate authority receives a report or allegation about a conduct matter.
- (2) The appropriate authority must assess whether the conduct which is the subject matter of the complaint, report or allegation, if proved, would amount to misconduct, gross misconduct or neither.
- (3) Subject to paragraph (4), if the appropriate authority assesses that the conduct, if proved, would amount to misconduct or gross misconduct, the matter must be investigated and the investigator will notify the police officer or designated person concerned of the investigation in accordance with Regulation 17 (written notices).
- (4) The matter must not be investigated if –
 - (a) the appropriate authority is satisfied that the police officer or designated person concerned is unfit for misconduct or disciplinary proceedings (as the case may be) to be brought against him or her by reason of disability or ill-health; or
 - (b) the appropriate authority has made reasonable enquiries in order to determine the last known address of the police officer or designated person concerned but those enquiries have been unsuccessful.
- (5) Subject to paragraphs (6) and (7), if the appropriate authority assesses that the conduct, if proved, would amount to neither misconduct nor gross misconduct, he or she must then assess whether the conduct, if proved, would amount to practice requiring improvement.
- (6) No assessment under paragraph (5) may be made in the case of an individual who has ceased to be a police officer or designated person;
- (7) Before making an assessment under paragraph (5) or a determination under paragraph (9)(a), the appropriate authority must consult –
 - (a) the line manager of the member of the Force or designated person concerned;
 - (b) the relevant Connétable in the case of a Chef de Police; or
 - (c) the relevant Chef de Police in the case of a member of the Honorary Police.

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<p>(8) If the appropriate authority assesses that the conduct, if proved, would amount to practice requiring improvement, he or she must refer the matter to be dealt with under the reflective practice review process.</p> <p>(9) If the appropriate authority assesses that the conduct, if proved, would not amount to practice requiring improvement, he or she must determine whether –</p> <ul style="list-style-type: none">(a) subject to paragraph (7), to refer the matter to be dealt with as a performance matter; or(b) to take no further action. <p>(10) The appropriate authority must notify the complainant, the police officer, or the designated person and the employer of the designated person concerned in writing, as soon as practicable, of his or her assessment under paragraph (5) or determination under paragraph (9), as the case may be, and –</p> <ul style="list-style-type: none">(a) give his or her reasons for it; and(b) explain the action to be taken, if any. <p>(11) If the appropriate authority considers it appropriate to do so, he or she may revise his or her assessment of the conduct under paragraph (2) at any time –</p> <ul style="list-style-type: none">(a) in the case of a police officer, before the start of misconduct proceedings; or(b) in the case of a designated person, before the start of action taken by the designated person's employer under that employer's disciplinary policy. <p>(12) Where paragraph (4) applies, the appropriate authority must notify the individual concerned mentioned in paragraph (4)(a) and the complainant, as soon as practicable in writing, that no investigation is to take place.</p> <p>(13) At the time of providing the notification given under paragraph (10), the appropriate authority must also notify the complainant in writing –</p> <ul style="list-style-type: none">(a) of his or right to request the Commission to review an assessment under paragraph (5) or determination under paragraph (9); and(b) of the requirements specified in Regulation 39(2) (general provisions as to reviews and appeals) for making any such request.		
<p>14 Review of assessment or determination under Regulation 13(5) or (9)</p>		
<p>(1) Where a complainant requests the Commission to review an assessment or determination under Regulation 13(5) or (9), as the case may be, the Commission must –</p> <ul style="list-style-type: none">(a) as soon as reasonably practicable, notify the appropriate authority of the request for a review, and may ask him or her to provide such further information as the Commission deems necessary for the purposes of determining the review;(b) determine, as soon as practicable, whether the assessment or determination is reasonable; and		
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- (c) if it determines that the assessment or determination in question is not reasonable in all the circumstances of the case, request the appropriate authority to reconsider it.
- (2) Subject to paragraph (4), the Commission must notify the appropriate authority, the complainant and the individual complained against of its determination, with reasons, and request to reconsider (if any).
- (3) The appropriate authority must give due regard to any request made under paragraph (1)(c).
- (4) The Commission may decide not to notify the individual complained against of any request made under paragraph (1)(c) if it is of the opinion that to do so might prejudice any criminal investigation or pending proceedings or would otherwise be contrary to the public interest.

15 Appointment of investigator

- (1) This Regulation applies where the matter is to be investigated as required under Regulation 13(3).
- (2) Subject to paragraphs (3) and (4) and Regulation 23 (supervision of investigations), the Deputy Chief Officer must appoint a person to investigate the matter who –
 - (a) may be a member of the Force –
 - (i) who must be of an equivalent or superior rank to the person investigated,
 - (ii) who does not work with, or manage the person investigated, and
 - (iii) who must have an appropriate level of knowledge, skills and experience to plan and manage the investigation;
 - (b) may be a police officer serving in a police force of another jurisdiction –
 - (i) who must be of an equivalent or superior rank to the person investigated, and
 - (ii) who must have an appropriate level of knowledge, skills and experience to plan and manage the investigation; or
 - (c) may be a civilian –
 - (i) who does not work with, or manage the person investigated, and
 - (ii) who must have an appropriate level of knowledge, skills and experience to plan and manage the investigation.
- (3) If the matter was initially dealt with by way of agreed resolution, a member of the Force appointed, or a Connétable directed, to handle the agreed resolution, under Regulation 10(5), is disqualified for appointment under paragraph (2).
- (4) The Deputy Chief Officer must consult the Commission before appointing a person under paragraph (2), and no appointment is to be made unless the Commission approves the person whom the Deputy Chief Officer proposes to appoint as investigator.

16 Investigation

- (1) The purpose of an investigation required under Regulation 13(3) is to –
 - (a) gather evidence to establish the facts and circumstances of the alleged misconduct or gross misconduct; and
 - (b) assist the appropriate authority to establish whether there is a case to answer in respect of misconduct or gross misconduct or whether there is no case to answer.
- (2) Until the investigation is concluded, the investigator must obtain and preserve evidence relating to the complaint or matter, in accordance with the arrangements maintained by the Deputy Chief Officer under Article 13(1)(c) or (2) of the Law.

17 Written notices

- (1) The investigator must as soon as reasonably practicable after being appointed, and subject to paragraph (3), cause the police officer or designated person concerned to be given written notice –
 - (a) describing the conduct that is the subject matter of the allegation or complaint and how that conduct is alleged to have contravened the Professional Standards;
 - (b) of the appropriate authority's assessment that the conduct, if proved, would amount to misconduct or gross misconduct;
 - (c) that there is to be an investigation into the matter and the identity of the investigator;
 - (d) of whether (in the case of a police officer), if the matter were to be referred to misconduct proceedings, those would be likely to be either a misconduct meeting or a misconduct hearing and the reason for this;
 - (e) that if the likely form of any misconduct proceedings to be held changes, further notice (with reasons) must be given;
 - (f) informing the police officer, or the designated person that he or she has the right to seek advice from his or her staff association, the Honorary Police Association or any other body, and of the effect of Regulation 55 (police friend);
 - (g) of the effect of Regulations 18 (representations to the investigator) and 56 (legal representation); and
 - (h) informing the police officer or designated person concerned that whilst he or she does not have to say anything, it may harm that police officer's or designated person's case if he or she does not mention when interviewed, or when providing any statement or documents under Regulations 18(1) or 28(2) or (3), something which he or she later relies on in any misconduct proceedings or appeal proceedings.
- (2) If following service of the notice under paragraph (1), the appropriate authority revises his or her assessment of the conduct in accordance with Regulation 13(11) or, his or her determination of the likely form of any

misconduct proceedings to be taken, the appropriate authority must, as soon as practicable, give the police officer or designated person concerned further written notice of –

- (a) the assessment that the conduct, if proved, would amount to misconduct or gross misconduct, and the reason for that assessment; and
 - (b) whether, if the case were to be referred to misconduct proceedings, those would be likely to be a misconduct meeting or a misconduct hearing, and the reason for this.
- (3) The requirement to give a written notice to the police officer or designated person concerned under paragraph (1) does not apply for so long as the investigator considers that giving such a notice might prejudice the investigation or any other investigation (including, in particular, a criminal investigation).
- (4) Once a written notice has been given in accordance with paragraph (1), the investigator must notify the police officer or designated person concerned of the progress of the investigation –
- (a) if there has been no previous notification following the supply of the written notice under paragraph (1), before the end of 4 weeks beginning with the first working day after the start of the investigation; and
 - (b) in any other case, before the end of 4 weeks beginning with the first working day after the previous notification.
- (5) Copies of all written notices given by the investigator under this Part must be provided to the Commission.

18 Representations to the investigator

- (1) Before the end of 10 working days starting with the first working day after which the notice is given under Regulation 17(1) (unless this period is extended by the investigator) –
 - (a) the police officer or designated person concerned may provide a written or oral statement relating to any matter under investigation to the investigator; and
 - (b) the police officer or designated person concerned or the officer's or designated person's police friend may provide any relevant documents to the investigator.
- (2) The investigator must, as part of his or her investigation, consider any such statement or document and must make a record of having received it.
- (3) In this Regulation "relevant document" –
 - (a) means a document relating to any matter under investigation; and
 - (b) includes such a document containing suggestions as to lines of inquiry to be pursued or witnesses to be interviewed.

19 Timeliness of investigation

- (1) If an investigation is not completed within a relevant period, the Deputy Chief Officer must, subject to paragraph (3), provide as soon as practicable the following information in writing to the Commission –
 - (a) the date on which the allegation or complaint came to the attention of the Chief Officer or relevant Connétable;
 - (b) the date on which notice was given under Regulation 17(1);
 - (c) the progress of the investigation;
 - (d) an estimate of when –
 - (i) the investigation will be concluded, and
 - (ii) a report will be submitted under Regulation 21;
 - (e) the reason for the length of time taken by the investigation; and
 - (f) a summary of planned steps to progress the investigation and bring it to a conclusion.
- (2) For the purposes of this Regulation, each of the following is a “relevant period” –
 - (a) the first relevant period is the period of 12 months beginning with the day on which the allegation or complaint first came to the attention of the appropriate authority;
 - (b) each subsequent relevant period is the period of 6 months beginning with the day after the end of the previous relevant period.
- (3) The requirement to provide information under paragraph (1) does not apply in a case where it appears to the Deputy Chief Officer that to do so might prejudice the investigation or any other investigation (including a criminal investigation).
- (4) Subject to the harm test, a copy of the information provided under paragraph (1) or (2) must be sent to the police officer or designated person concerned.

20 Interviews during investigation

- (1) Where an investigator wishes to interview the police officer or designated person concerned as part of his or her investigation, the investigator must, if reasonably practicable, agree a date and time for the interview with the officer or person concerned.
- (2) Where no date and time is agreed under paragraph (1), the investigator must specify a date and time for the interview.
- (3) Paragraph (4) applies where a date and time is specified under paragraph (2) but the police officer or designated person concerned, or their police friend, is not available at that time.
- (4) If the police officer or designated person concerned proposes an alternative time which satisfies paragraph (5), the interview must be postponed to the time proposed by the police officer or designated person concerned.
- (5) An alternative time must –
 - (a) be reasonable; and

- (b) fall before the end of the period of 5 working days beginning with the first working day after the day specified by the investigator.
- (6) The police officer or designated person concerned must be given written notice of the date, time and place of the interview.
- (7) The investigator must, in advance of the interview, provide the police officer or designated person concerned with such information as the investigator considers appropriate in the circumstances of the case to enable that police officer or designated person to prepare for the interview.
- (8) The police officer or designated person concerned must attend the interview.
- (9) A police friend may not answer any questions asked of the police officer or designated person concerned during the interview.
- (10) An audio recording may be made of the interview and, if such a recording is made, the police officer or designated person concerned must be provided with a copy of that recording.
- (11) If no audio recording is made, a written record of the interview must be prepared by the investigator and –
- (a) a draft of that record must be provided to the police officer or designated person concerned;
 - (b) the police officer or designated person concerned must be given the opportunity to make representations in relation to that draft;
 - (c) the investigator must consider any representations made; and
 - (d) having considered those representations (if any), the investigator must send a copy of the final written record of the interview to the police officer or designated person concerned.
- (12) The investigator must as part of his or her investigation give a complainant (if any), or any interested person an opportunity to provide a written or oral statement.
- (13) The investigator must consider any statement provided under paragraph (12) and must make a record –
- (a) of having received it, if delivered in writing; or
 - (b) of that statement, if delivered orally, agreed by the statement provider.

21 Report of investigation

- (1) On completion of his or her investigation the investigator must, as soon as practicable, submit a written report on the investigation to the appropriate authority and also provide a copy of that report to the Commission and, where the investigation is in respect of –
- (a) a member of the Force or designated person, the Chief Officer; or
 - (b) a member of the Honorary Police, the relevant Connétable.
- (2) The written report must –
- (a) provide an accurate summary of the evidence;
 - (b) refer to any relevant documents including –

- (i) a copy of the audio recording made of an interview under Regulation 20(10) (if one was made),
 - (ii) a copy of the written record of such an interview prepared under Regulation 20(11),
 - (iii) a copy of any statement recorded under Regulation 20(12).
- (c) indicate the investigator's opinion as to whether or not there is a case to answer in respect of misconduct or gross misconduct; and
- (d) where the investigator's opinion under sub-paragraph (c) is that there is no case to answer, indicate the investigator's opinion as to whether the matter should be referred to be dealt with as a performance matter, or under the reflective practice review process.

22 Action by appropriate authority in response to investigation report

- (1) On receipt of the investigator's report and after consultation with the Commission, the appropriate authority must as soon as reasonably practicable, determine whether –
- (a) in the case of a police officer, that officer has a case to answer in respect of –
 - (i) misconduct,
 - (ii) gross misconduct, or
 - (iii) neither; or
 - (b) in the case of a designated person, grounds exist for action to be taken by the employer of the designated person concerned under that employer's disciplinary policy or performance policy, as the case may be.
- (2) Subject to Regulation 24(8) (Commission's statement in relation to investigator's report), if the appropriate authority determines –
- (a) in the case of a member of the Force in respect of whom paragraph (4) does not apply, that that member has a case to answer in respect of misconduct, the appropriate authority must refer the case to a misconduct meeting;
 - (b) in the case of a member of the Honorary Police, that that member has a case to answer in respect of misconduct or gross misconduct, the appropriate authority must refer the case to a misconduct meeting; or
 - (c) in the case of a designated person, that grounds exist for the employer of that person to take action under that employer's disciplinary policy or performance policy, as the case may be, the appropriate authority must refer the case to that designated person's employer.
- (3) This paragraph applies if the Deputy Chief Officer determines that –
- (a) the member of the Force has a case to answer in respect of gross misconduct; or
 - (b) the member of the Force has a case to answer in respect of misconduct and paragraph (4) applies.

- (4) This paragraph applies in the case of a member of the Force who, if at a time when any of the conduct forming the subject matter of the misconduct allegation occurred, he or she –
- (a) was subject to a final written warning which was in effect; or
 - (b) in the previous 18 months had been reduced in rank.
- (5) Where paragraph (3) applies, the Deputy Chief Officer must refer the case to a misconduct hearing.
- (6) Subject to paragraph (7), if the appropriate authority determines that the police officer has no case to answer in respect of either misconduct or gross misconduct, the appropriate authority may –
- (a) take no further action; or
 - (b) refer the matter to be dealt with as a performance matter, or under the reflective practice review process.
- (7) Paragraph (6)(b) does not apply to a person who has ceased to be a police officer.
- (8) On the making of a determination under this Regulation, the appropriate authority must, subject to paragraph (10), notify –
- (a) the Chief Officer or relevant Connétable;
 - (b) the police officer or designated person concerned;
 - (c) the employer of the designated person, or relevant Chef de Police;
 - (d) in the case of a complaint, the complainant and every person entitled to be kept properly informed in relation to the complaint under Article 20 (duty to provide information to other persons) of the Law; and
 - (e) in the case of a conduct matter, every person entitled to be kept properly informed in relation to that matter under that Article.
- (9) The notification required by paragraph (8) is one setting out –
- (a) the findings of the investigator's report;
 - (b) the determination the appropriate authority has made under paragraph (1) and the action (if any), to be taken under paragraph (6); and
 - (c) the reasons for the determination and action (if any).
- (10) Subject to the harm test and notwithstanding any obligation of secrecy imposed by any rule of law or otherwise, the appropriate authority is entitled to discharge the duty to give a person mentioned in paragraph (8)(b) to (e), notification of the findings of the report under paragraph (9)(a), by sending that person a copy of the report, or part of it.
- (11) A copy of the report, or part of it, if provided under paragraph (10) may be in a form which keeps anonymous the identity of the complainant (if any) or any other person.

PART 4

SUPERVISION OF INVESTIGATIONS BY THE COMMISSION

23 Supervision of investigations

- (1) The Commission –
 - (a) must supervise –
 - (i) misconduct investigations conducted under Part 3; and
 - (ii) the investigation of any DSI matter, complaint or conduct matter notified under Article 18 (investigation of DSI matters and complaints or conduct matters where death or serious injury has occurred) of the Law;
 - (b) may supervise the investigation of specified conduct matters notified under Regulation 58 (notification of conduct matters to the Commission).
- (2) The Commission may supervise the investigation of any matter not falling within paragraph (1) where it appears to be desirable in the public interest to do so.
- (3) Where the Commission decides to supervise an investigation under paragraph (2), it must notify the appropriate authority of its decision.
- (4) The Commission may treat a complaint or conduct matter that comes to its attention otherwise than by having been referred or notified to it as mentioned in paragraph (1), as having been so referred or notified.
- (5) Where paragraph (4) applies, the Commission must notify the following that it is treating a complaint as having been referred to it –
 - (a) the appropriate authority;
 - (b) the complainant; and
 - (c) except in a case where it appears to the Commission that to do so might prejudice an investigation of the complaint (whether an existing investigation or a possible future one), the individual complained against (if any).
- (6) Where the appropriate authority receives a notification under paragraph (5) in respect of a complaint and the complaint has not yet been recorded, the appropriate authority must supply the Chief Officer or relevant Connétable, as the case may be, with a copy of that notification and they must then record that complaint as if it were a complaint submitted under Regulation 8.
- (7) The Commission may direct the Deputy Chief Officer to appoint an investigator who is a police officer from a police force of another jurisdiction.
- (8) Subject to paragraphs (9) and (10) –
 - (a) the Commission may issue directions imposing such additional reasonable requirements as to the conduct of the investigation as appears to be necessary and are specified in those directions; and
 - (b) it is the duty of investigator to comply with any such requirements.

- (9) If at any stage of an investigation the possibility of criminal proceedings arises, the Commission must not under paragraph (8)(a) impose any requirement relating to the obtaining or preservation of evidence of a criminal offence without first obtaining the consent of the Solicitor General.
- (10) The Commission must not under paragraph (8)(a) impose any requirement relating to the resources to be made available by the Deputy Chief Officer for the purposes of an investigation without first consulting him or her and having regard to any representations the Deputy Chief Officer may make.

24 Commission's statement in relation to investigator's report

- (1) At the end of an investigation supervised under Regulation 23, and except as otherwise provided by Regulation 21(2), the investigator must –
 - (a) submit his or her report on the investigation to the Commission; and
 - (b) send a copy of it to the appropriate authority and relevant Connétable.
- (2) After considering a report submitted under paragraph (1)(a), the Commission must prepare a statement confirming whether the investigation was, or was not conducted to the Commission's satisfaction and give reasons for its determination.
- (3) The Commission may also make recommendations to the appropriate authority and relevant Connétable concerning improvements to policy or practice arising from the investigation.
- (4) The Commission may prepare separate statements in respect of the criminal and misconduct aspects of an investigation.
- (5) The Commission must submit the statement to –
 - (a) the appropriate authority and relevant Connétable; and
 - (b) where the statement is in respect of a criminal allegation, the Solicitor General.
- (6) Unless it is impracticable to do so, the Commission must send a copy of a statement under paragraph (2) –
 - (a) to the police officer or designated person whose conduct has been investigated; and
 - (b) if the investigation related to a complaint, the complainant.
- (7) If the Commission makes any recommendations under paragraph (3), a copy of those recommendations may be sent to the persons mentioned in paragraph (6) along with the copy of the statement.
- (8) No misconduct proceedings are to be brought before a statement under sub-paragraph (2) has been submitted to the appropriate authority.

25 Abandoning of supervised investigation by the Commission

- (1) This Regulation applies where it appears to the Commission that there is no cause to continue to supervise an investigation under Regulation 23.

- (2) Where this Regulation applies, the Commission must notify the appropriate authority, relevant Connétable, the complainant (if any), the police officer or designated person concerned and any interested person of the Commission's decision to abandon its supervision of the investigation.
- (3) A notification given under paragraph (2) must include the Commission's reasons for its decision.

PART 5

MISCONDUCT PROCEEDINGS

26 Persons presiding over misconduct proceedings

- (1) Where the appropriate authority determines, under Regulation 22(2)(a) or (b), to refer the case to a misconduct meeting, the misconduct meeting must be conducted –
 - (a) in the case of a member of the Force, by an individual (other than the Deputy Chief Officer) appointed by the Deputy Chief Officer who –
 - (i) is not an interested party or the Chief Officer, and
 - (ii) is either another member of the Force or a member of a police force outside Jersey, of at least one rank higher than the police officer concerned; and
 - (b) in the case of a member of the Honorary Police, by the Attorney General himself or herself, or by a suitably qualified person appointed by the Attorney General.
- (2) Where, in the case of a member of the Force, the Deputy Chief Officer determines, under Regulation 22(5), to refer the case to a misconduct hearing, the misconduct hearing must be conducted by a panel of 3 persons specified in paragraph (3), appointed by the Deputy Chief Officer after consultation with the Commission.
- (3) Those persons are –
 - (a) a chair, selected by the Deputy Chief Officer, who is either another member of the Force, or a member of a police force outside Jersey, of at least the rank of chief inspector and one rank higher than the police officer concerned;
 - (b) a legally qualified person who is not a member of the Force or a States' employee and who is selected from a list maintained by the Jersey Police Authority for the purposes of these Regulations; and
 - (c) a senior human resources professional.
- (4) The Deputy Chief Officer must not appoint to conduct any misconduct proceedings any member of the Force whose appointment could give rise to a reasonable concern as to whether that member could act impartially in relation to those proceedings.
- (5) The member of the Force concerned may object to the appointment of any person under this Regulation.

- (6) An objection under paragraph (5) must be made not later than 3 working days from receipt of the notice given under Regulation 27(1)(a), and must indicate the member's reasons for objecting.
- (7) The Deputy Chief Officer must decide whether to uphold an objection and must –
 - (a) notify the member concerned in writing of that decision; and
 - (b) if the objection is upheld –
 - (i) make a new appointment in accordance with this Regulation, and
 - (ii) notify the member concerned in writing of the name of the individual appointed.

27 Notice of referral to misconduct proceedings

- (1) Where a case is referred to misconduct proceedings, the appropriate authority must as soon as practicable and, in any event, not less than 21 days before the date of the misconduct proceedings, give the police officer concerned –
 - (a) written notice of –
 - (i) the referral,
 - (ii) the conduct that is the subject matter of the case and how that conduct is alleged to amount to misconduct or gross misconduct as the case may be,
 - (iii) the name of the presiding person,
 - (iv) in the case of a referral to a misconduct hearing, the names of the other panel members, and
 - (v) the right –
 - (A) to be legally represented where gross misconduct is alleged or where Regulation 22(4) applies in the police officer's case, or
 - (B) to seek advice from his or her staff association, the Honorary Police Association or any other body, and of the effect of Regulation 55 (police friend);
 - (b) a copy of any statement the police officer concerned may have made to the investigator during the course of the investigation; and
 - (c) if not already sent to the police officer under Regulation 22(10) and subject to the harm test, a copy of –
 - (i) the investigator's report or such parts of that report as relate to him or her (together with any document attached to or referred to in that report which relates to him or her), and
 - (ii) any other document gathered during the course of the investigation which, in the opinion of the appropriate authority, is relevant to the case the police officer concerned has to answer.


- (2) A copy of the written notice described in paragraph (1)(a) must be supplied to the Chief Officer or, as the case may be, relevant Connétable and relevant Chef de Police, and the Commission.

28 Procedure on receipt of notice

- (1) The police officer concerned must comply with paragraphs (2) and (3) before the end of –
- (a) 10 working days beginning with the first working day after the documents have been supplied to the officer concerned under Regulation 27(1); or
 - (b) where that period is extended by the presiding person for exceptional circumstances, such extended period.
- (2) The police officer concerned must provide to the appropriate authority –
- (a) written notice of whether or not the officer accepts that the officer's conduct amounts to misconduct or gross misconduct as the case may be;
 - (b) where the officer accepts that the officer's conduct amounts to misconduct or gross misconduct as the case may be, any written submission the officer wishes to make in mitigation; and
 - (c) where the officer does not accept that his or her conduct amounts to misconduct or gross misconduct as the case may be, or the officer disputes part of the case against him or her, written notice of –
 - (i) the allegations the officer disputes and the officer's account of the relevant events, and
 - (ii) any arguments on points of law the officer wishes to be considered by the person or persons conducting the misconduct proceedings.
- (3) The officer concerned must provide the appropriate authority with a copy of any document he or she intends to rely on at the misconduct proceedings.
- (4) Before the end of 3 working days beginning with the first working day after the date on which the officer concerned has complied with paragraph (2), the appropriate authority and the officer concerned must each supply to the other a list of proposed witnesses or give notice that they do not have any proposed witnesses, and any list of proposed witnesses must include brief details of the evidence that each witness is able to adduce.
- (5) Where there are proposed witnesses, the officer concerned must, if reasonably practicable, agree a list of proposed witnesses with the appropriate authority.

29 Witnesses


- (1) As soon as practicable after any list of proposed witnesses has been –
- (a) agreed under Regulation 28(5); or

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<ul style="list-style-type: none"> (b) where there is no agreement under Regulation 28(5), supplied under Regulation 28(4), the appropriate authority must supply that list to the presiding person. (2) The presiding person must – <ul style="list-style-type: none"> (a) consider the list or lists of proposed witnesses; and (b) subject to paragraph (3), determine which, if any, witnesses should attend the misconduct proceedings. (3) A witness must not give evidence at misconduct proceedings unless the presiding person reasonably believes that it is necessary for the witness to do so in the interests of justice, in which case he or she must – <ul style="list-style-type: none"> (a) where the witness is a police officer, cause that person to be ordered to attend the misconduct proceedings; and (b) in any other case, cause the witness to be given notice that his or her attendance is necessary and of the date, time and place of the proceedings. 		
30 Timing and notice of misconduct proceedings		
<ul style="list-style-type: none"> (1) Subject to paragraphs (2) and (6), the misconduct proceedings must take place before the end of 21 working days beginning with the first working day after the documents have been supplied to the officer concerned under Regulation 27(1). (2) The presiding person may extend the period specified in paragraph (1) where he or she considers that it would be in the interests of justice to do so. (3) Where the presiding person decides to extend the period under paragraph (2), or decides not to do so following representations from the officer concerned or the appropriate authority, he or she must provide written notification of his or her reasons for that decision to the appropriate authority and the officer concerned. (4) The presiding person must, if reasonably practicable, agree a date and time for the misconduct proceedings with the officer concerned. (5) Where no date and time is agreed under paragraph (4), the presiding person must specify a date and time for those proceedings. (6) Where a date and time is specified under paragraph (5), the misconduct proceedings must be postponed to the time proposed by the police officer concerned where – <ul style="list-style-type: none"> (a) either that police officer, or his or her police friend is not available at that time; and (b) the officer proposes an alternative time which satisfies paragraph (7). (7) An alternative time must – <ul style="list-style-type: none"> (a) be reasonable; and (b) fall before the end of 5 working days beginning with the first working day after the day specified by the person conducting or chairing the misconduct proceedings. 		
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- (8) The police officer concerned must be given written notice of the date, time and place of the misconduct proceedings.
- (9) Where the Commission is entitled to attend the misconduct proceedings to make representations under Regulation 34(1), or to nominate a person to attend the proceedings as an observer under Regulation 33(2)(b), the Commission must be given written notice of the date, time and place of the proceedings.

31 Procedure at misconduct proceedings

- (1) Subject to this Regulation and Regulations 32 to 35, the presiding person is to determine the procedure at those proceedings.
- (2) The presiding person must permit –
 - (a) the police officer concerned or any person representing that person, to make representations;
 - (b) evidence to be heard from any witnesses in attendance; and
 - (c) subject to paragraph (8), the police officer concerned or any person representing that officer, to ask questions of any witness.
- (3) Subject to paragraph (4), the presiding person may from time to time adjourn the proceedings if it appears to him or her to be necessary or expedient to do so.
- (4) The misconduct proceedings must not, except in exceptional circumstances, be adjourned solely to allow the complainant or any witness or interested person to attend.
- (5) A person representing the police officer concerned, may –
 - (a) address the proceedings in order to do any or all of the following –
 - (i) put the case of the officer concerned,
 - (ii) sum up that case,
 - (iii) respond on behalf of the officer concerned to any view expressed at the proceedings,
 - (iv) make representations concerning any aspect of proceedings under these Regulations, and
 - (v) subject to paragraph (8), ask questions of any witnesses; and
 - (b) confer with the officer concerned.
- (6) Where (in the case of misconduct proceedings concerning gross misconduct) the police officer concerned is legally represented, that officer's police friend may also confer with the officer concerned.
- (7) The police friend or legal representative of the police officer concerned may not answer any questions asked of the officer concerned during the misconduct proceedings.
- (8) Whether any question should or should not be put to a witness must be determined by the presiding person.
- (9) The presiding person may allow any document to be considered at the misconduct proceedings notwithstanding that a copy of it has not been supplied –

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<p>(a) by the officer concerned to the appropriate authority in accordance with Regulation 28(3); or</p> <p>(b) to the officer concerned in accordance with Regulation 27.</p> <p>(10) This paragraph applies where evidence is given or considered at the misconduct proceedings that the officer concerned –</p> <p>(a) on being questioned by an investigator at any time after he or she was given written notice under Regulation 17; or</p> <p>(b) in providing any written notices or documents or by not so providing any such notices or documents at all under Regulation 28(2) or (3), failed to mention any fact relied on in his or her case at those proceedings, being a fact which in the circumstances existing at the time, the officer concerned could reasonably have been expected to mention when so questioned or when providing such written notices or documents.</p> <p>(11) Where paragraph (10) applies, the person conducting the misconduct proceedings or panel, as the case may be, may draw such inferences from the failure as appear proper.</p> <p>(12) The presiding person may, with the agreement of the police officer concerned, permit the admission of written statements instead of oral evidence.</p> <p>(13) An audio recording may be made of the misconduct proceedings and, where such a recording is made, the police officer concerned must be provided with a copy of that recording as soon as reasonably practicable after the conclusion of the proceedings.</p> <p>(14) Where no audio recording is made under paragraph (13), a verbatim written record of the misconduct proceedings must be prepared and –</p> <p>(a) the presiding person must provide a draft of that record to the police officer concerned;</p> <p>(b) the police officer must be given the opportunity to make representations in relation to that draft;</p> <p>(c) the person conducting a misconduct meeting or the panel conducting a misconduct hearing (as the case may be) must consider any representations made; and</p> <p>(d) having considered those representations (if any), the presiding person must send a copy of the final written record of the proceedings to the police officer concerned.</p>	<p>32 Attendance of police officer concerned at misconduct proceedings</p> <p>(1) Subject to paragraph (2), the police officer concerned must attend the misconduct proceedings.</p> <p>(2) Where the officer concerned informs the presiding person in advance that the officer is unable to attend the proceedings, the presiding person, if satisfied that the police officer is unable, on reasonable grounds, to attend those proceedings, may permit the officer to participate in the proceedings by video link or other suitable means.</p> <p>(3) Paragraph (4) applies where the police officer concerned –</p>	
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- (a) participates in the misconduct proceedings in accordance with paragraph (2); or
 - (b) otherwise does not attend those proceedings.
- (4) In a case described in paragraph (3) –
- (a) the police officer concerned may be represented at the misconduct proceedings by the officer's police friend or, in the case of misconduct proceedings where gross misconduct is alleged, the officer's legal representative (if any); and
 - (b) the proceedings may be proceeded with and concluded in the police officer's absence (whether or not the police officer is so represented).
- (5) Where the police officer concerned is represented in accordance with paragraph (4), the person representing the officer concerned or the officer's police friend (if different), or both, may participate using the video link or other means where such means are also used by the officer concerned.

33 Attendance of third parties

- (1) Subject to the following paragraphs of this Regulation, misconduct proceedings are to be held in private.
- (2) Where the misconduct proceedings have arisen from a complaint –
- (a) the presiding person may –
 - (i) inform the complainant of the time, date and location of the proceedings, and
 - (ii) permit that complainant to attend, as an observer, those proceedings, or such part or parts of those proceedings as the chair considers appropriate;
 - (b) a person nominated by the Commission may, as an observer, attend those proceedings.
- (3) Paragraph (4) applies where a misconduct hearing arises from a complaint and the Commission having considered that because of the gravity of the case or other exceptional circumstances it would be in the public interest to do so, has requested the chair to hold the misconduct hearing in public.
- (4) Where this paragraph applies, the presiding person may direct that the whole or part of the misconduct hearing be held in public having first consulted –
- (a) the appropriate authority;
 - (b) the police officer concerned;
 - (c) the complainant or interested person; and
 - (d) any witnesses.
- (5) A direction under paragraph (4), together with the reasons for it, must be notified as soon as practicable, and in any event before the end of 5 working days beginning with the first working day after the decision was taken, to the persons consulted under that paragraph.


- (6) If a witness is giving evidence, the presiding person may allow such other persons to attend those proceedings as seem reasonable by virtue of any special circumstances such as where a child is giving evidence, in which case a parent or guardian may be permitted to attend.
- (7) The presiding person may, with the agreement of the police officer concerned, allow any other person to attend the misconduct proceedings.
- (8) Paragraphs (2) to (7) do not apply to any part of the misconduct proceedings at which the determination under Regulation 22 (action by appropriate authority in response to investigation report) or disciplinary action is being considered.
- (9) The presiding person may impose such conditions as he or she sees fit relating to the attendance of persons at the misconduct proceedings (including circumstances in which they may be excluded) in order to facilitate the proper conduct of the proceedings.

34 Participation of Commission and investigator at misconduct proceedings

- (1) In any misconduct proceedings arising from a complaint –
 - (a) the Commission may make written representations to the panel conducting a misconduct hearing, or the person conducting a misconduct meeting (as the case may be);
 - (b) a member of the Commission may attend the misconduct proceedings and, at the invitation of the presiding person, may make representations at those proceedings.
- (2) The investigator or a nominated person must attend the misconduct proceedings on the request of the presiding person to answer questions.
- (3) For the purposes of this Regulation, a “nominated person” is a person who, in the opinion of the appropriate authority, has sufficient knowledge of the investigation of the case to be able to assist the panel or person.

35 Exclusion from misconduct proceedings

- (1) Where it appears to the presiding person that a person may, in giving evidence, disclose information which ought not to be disclosed to any person attending the proceedings, other than a party to the proceedings, because it is information to which paragraph (2) applies, he or she must require such attendees to withdraw while the evidence is given.
- (2) This paragraph applies to information in so far as the presiding person considers that preventing disclosure of it to an attendee is –
 - (a) necessary for the purpose of preventing the premature or inappropriate disclosure of information that is relevant to, or may be used in, any criminal proceedings;
 - (b) necessary in the interests of national security;
 - (c) necessary for the purpose of the prevention or detection of crime, or the apprehension or prosecution of offenders;


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<ul style="list-style-type: none">(d) necessary for the purpose of the prevention or detection of misconduct by other police officers or police staff members or their apprehension for such matters;(e) necessary and proportionate for the protection of the welfare and safety of any informant or witness;(f) otherwise in the public interest.		
36 Determination of misconduct proceedings		
<ul style="list-style-type: none">(1) The panel conducting a misconduct hearing, or the person conducting a misconduct meeting (as the case may be) must review the facts of the case and decide whether the conduct of the police officer concerned amounts to misconduct, gross misconduct or neither.(2) The panel or person must not find that the conduct of the officer concerned amounts to misconduct or gross misconduct unless –<ul style="list-style-type: none">(a) they are satisfied on the balance of probabilities that this is the case; or(b) the officer concerned admits it is the case.(3) At a misconduct hearing, any decision by the panel must be based on a simple majority but must not indicate whether it was taken unanimously or by a majority.		
37 Disciplinary action		
<ul style="list-style-type: none">(1) If the panel conducting a misconduct hearing, or the person conducting a misconduct meeting (as the case may be) determines that any conduct of the police officer –<ul style="list-style-type: none">(a) amounts to misconduct or, as the case may be, gross misconduct, the panel or person must order such disciplinary action as the case requires under paragraph (2); or(b) amounts to neither misconduct nor gross misconduct, the panel or person may direct that the case is referred to be dealt with under the reflective practice review process.(2) Subject to paragraphs (4) to (10), the disciplinary action which may be ordered is as follows –<ul style="list-style-type: none">(a) a written warning;(b) a final written warning;(c) in the case of a member of the Honorary Police, suspension for a specified period;(d) in the case of member of the Force, demotion in rank;(e) dismissal with, or without, notice; or(f) requirement to resign as an alternative to dismissal.(3) The disciplinary action referred to in paragraph (2) must have effect from the date on which it is notified to the police officer concerned and in the case of dismissal with notice or requirement to resign, the person or		
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persons ordering the disciplinary action must decide the period of notice to be given, subject to a minimum period of 28 days.

- (4) Where it is determined that the conduct of the police officer concerned amounts to misconduct but not gross misconduct, that officer may not be dismissed (whether with or without notice) or required to resign unless a final written warning was in force on the date of the assessment of the conduct under Regulation 13.
- (5) Where, on the date of the assessment of the conduct under Regulation 13 that police officer concerned had a written warning in force, a written warning must not be ordered.
- (6) Where, on the date of the assessment of the conduct under Regulation 13 the police officer concerned had a final written warning in force, neither a written warning nor a final written warning must be ordered.
- (7) A written warning remains in force for 18 months beginning with the date on which it is notified.
- (8) Subject to paragraph (9), a final written warning remains in force for 2 years beginning with the date on which it is notified.
- (9) Where a final written warning is ordered under paragraph (2), the panel or person considering the question of disciplinary action may extend the period in paragraph (8) to a maximum period of 5 years.
- (10) Where there is a determination of gross misconduct and the panel or person considering the question of disciplinary action decide that the police officer concerned must be dismissed, the dismissal must be without notice.
- (11) Where the question of disciplinary action is being considered, the panel or person considering it –
 - (a) must, in relation to a member of the Force, have regard to the record of police service of the member concerned, as shown on his or her personal record;
 - (b) must, in relation to a member of the Honorary Police, have regard to that member's record of service for the Honorary Police;
 - (c) may receive evidence from any witness whose evidence would, in the panel's or person's opinion, assist in their determination of the question; and
 - (d) must give the officer concerned, his or her police friend or, at a misconduct hearing, his or her legal representative an opportunity to make oral or written representations before any such question is determined.

38 Notification of misconduct determination

- (1) The presiding person must, as soon as reasonably practicable after the conclusion of the misconduct proceedings (but not later than 10 working days from the date of conclusion of those proceedings), notify the persons listed in paragraph (2), in writing of –
 - (a) the determination as to whether any conduct of the police officer concerned, amounts to misconduct, gross misconduct or neither;

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<ul style="list-style-type: none"><li data-bbox="395 324 791 353">(b) the reasons for the determination;<li data-bbox="395 360 772 389">(c) any disciplinary action ordered;<li data-bbox="395 396 1126 454">(d) any direction that the matter be dealt with under the reflective practice review process. <p data-bbox="331 461 1126 519">(2) The persons to whom the written notification should be given under paragraph (1) are as follows –</p> <ul style="list-style-type: none"><li data-bbox="395 526 743 555">(a) the police officer concerned;<li data-bbox="395 562 1126 620">(b) subject to paragraph (8), if the misconduct proceedings have arisen from of a complaint, the complainant and any interested person;<li data-bbox="395 627 1126 714">(c) the Deputy Chief Officer, or in the case of a member of the Honorary Police, the Attorney General (if the Attorney General has not conducted the proceedings). <p data-bbox="331 721 1126 864">(3) In the case of a person who has ceased to be a police officer, the presiding person must, as soon as reasonably practicable after the conclusion of the misconduct proceedings (but not later than 10 working days from the date of conclusion of those proceedings), notify the persons listed in paragraph (4) in writing of –</p> <ul style="list-style-type: none"><li data-bbox="395 873 1126 931">(a) the determination as to whether any conduct of the person concerned, amounts to misconduct, gross misconduct or neither; and<li data-bbox="395 938 791 967">(b) the reasons for the determination. <p data-bbox="331 974 1126 1032">(4) the persons to whom the written notification should be given under paragraph (3) are as follows –</p> <ul style="list-style-type: none"><li data-bbox="395 1039 676 1068">(a) the person concerned;<li data-bbox="395 1075 1126 1133">(b) subject to paragraph (8), if the misconduct proceedings have arisen from of a complaint, the complainant and any interested person;<li data-bbox="395 1140 1126 1227">(c) the Deputy Chief Officer, or in the case of a person who was a member of the Honorary Police, the Attorney General (if the Attorney General has not conducted the proceedings). <p data-bbox="331 1234 1126 1346">(5) The Chief Officer, or in the case of a member of the Honorary Police, the relevant Connétable and relevant Chef de Police, and the Commission must also be provided with a copy of the notification given under paragraph (1) or (3).</p> <p data-bbox="331 1352 1054 1382">(6) Subject to paragraph (7), a notification under paragraph (1) must –</p> <ul style="list-style-type: none"><li data-bbox="395 1388 1126 1476">(a) in a case where a written warning is given, explain the effect of Regulation 37(5) and (6) in relation to any future misconduct allegation;<li data-bbox="395 1482 1126 1541">(b) in a case where a final written warning is given, explain the effect of Regulation 37(7) and (8) in relation to such an allegation;<li data-bbox="395 1547 1126 1765">(c) where there is a determination of misconduct or gross misconduct, include notice –<ul style="list-style-type: none"><li data-bbox="459 1615 1126 1695">(i) of the police officer's and complainant's, if any, right to appeal to the Commission in accordance with Regulations 39 and 40, and<li data-bbox="459 1702 1126 1765">(ii) the name of the person to whom an appeal should be submitted.		
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
- (7) The requirements of paragraph (6)(a) and (b), and the requirement in paragraph (6)(c) relating to the right of appeal under Regulation 40 do not apply in respect of a person who has ceased to be a police officer.
- (8) A notification given under paragraph (1) or (3) to a person mentioned in paragraph (2)(b) or (4)(b), is subject to the harm test where it is determined that the conduct of the police officer or person concerned did not amount to misconduct or gross misconduct.
- (9) At any time after the notification under paragraph (1) or (3) has been given to the persons mentioned in paragraph (2) or (4) and (5), the appropriate authority may, subject to the harm test, publish some or all of the information contained in that notification.
- (10) For the purposes of paragraph (9) "publish" means publish in a manner that is likely to bring the information to the attention of the public.

PART 6

REVIEWS AND MISCONDUCT APPEALS

39 General provisions as to reviews and appeals

- (1) This Regulation applies in respect of –
 - (a) Regulation 11 (review of outcome of agreed resolution procedure);
 - (b) Regulation 14 (review of assessment or determination under Regulation 13(5) or (9)); and
 - (c) Regulation 40 (appeal from misconduct proceedings).
- (2) Subject to paragraph (3), a request for a review or an appeal under the Regulations specified in paragraph (1) must be made to the Commission in writing –
 - (a) within a period of 28 days commencing on the day after the date of the written notification given under –
 - (i) Regulation 10(11) (agreed resolution of complaints),
 - (ii) Regulation 13(14) (preliminary assessment), or
 - (iii) Regulation 38 (notification of misconduct determination); and
 - (b) state the matters set out in paragraph (4).
- (3) The Commission may extend the time period specified in paragraph (2)(a) in any case where it is satisfied that by reason of the special circumstances of the case, it is just to do so.
- (4) A request for a review or an appeal must state –
 - (a) in relation to a request for a review or an appeal under any of the Regulations referred to in paragraph (1) –
 - (i) the details of the complaint, and
 - (ii) the date on which the complaint was made;


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<ul style="list-style-type: none"> (b) the person whose decision is the subject of the request for a review or appeal; (c) the grounds – <ul style="list-style-type: none"> (i) for the request for a review, or (ii) as required under Regulation 40(4), for the appeal; and (d) the date on which notification was given under whichever Regulation specified in paragraph (2) applies. <p>(5) Where the Commission receives a request for a review or an appeal which fails to state one or more of the matters listed in paragraph (4), the Commission may, despite that failure but subject to paragraph (6), decide to accept the request or process the appeal, as the case may be.</p> <p>(6) In the case of an appeal, if the grounds required for the appeal are not stated or the matters set out in Regulation 40(5) are not specified, the Commission must not process that appeal.</p> <p>(7) In this Article “process” means the carrying out by the Commission of the requirements in Regulation 41(2).</p>		
<p>40 Appeal from misconduct proceedings</p>		
<ul style="list-style-type: none"> (1) Subject to paragraph (2), this Regulation applies where – <ul style="list-style-type: none"> (a) it has been determined at misconduct proceedings that any conduct of the police officer amounts to misconduct, gross misconduct, or neither; or (b) the police officer has admitted that his or her conduct amounts to misconduct or, as the case may be, gross misconduct, and disciplinary action has been ordered. (2) The following provisions of this Regulation do not apply in respect of a person who has ceased to be a police officer – <ul style="list-style-type: none"> (a) paragraph (1)(b); (b) paragraph (3)(b) and (c); (c) paragraph (4) only to the extent that it is to be read with the following omissions – <ul style="list-style-type: none"> (i) in sub-paragraph (a), “or any disciplinary action ordered”, (ii) in sub-paragraph (b), “or the decision to order particular disciplinary action”, and (iii) in sub-paragraph (c), “or decision”; and (d) paragraph (5)(b)(i) only to the extent that it is to be read with the omission of “the disciplinary action ordered or both.” (3) Where this Regulation applies – <ul style="list-style-type: none"> (a) the police officer concerned, or a complainant (if the misconduct proceedings have arisen from a complaint) may appeal against a determination referred to in paragraph (1)(a); 		
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- (b) the police officer concerned may, in a case referred to in paragraph (1)(a), appeal against any disciplinary action ordered under Regulation 37(2);
 - (c) the police officer concerned may, in a case referred to in paragraph (1)(b), appeal against any disciplinary action ordered under Regulation 37(2).
- (4) An appeal under this Regulation may be made only on the grounds that –
- (a) any determination of misconduct or gross misconduct or any disciplinary action ordered is unreasonable;
 - (b) there is evidence that could not reasonably have been considered at the misconduct proceedings which could have affected materially such a determination or the decision to order particular disciplinary action; or
 - (c) there was a serious breach of the procedures set out in these Regulations which could have affected materially such a determination or decision.
- (5) In addition to the requirements of Regulation 39 –
- (a) an appeal by a complainant must specify whether the appeal is against a determination of misconduct or gross misconduct;
 - (b) an appeal by a police officer must specify –
 - (i) whether the appeal is against a determination of misconduct or gross misconduct, the disciplinary action ordered or both, and
 - (ii) whether the police officer requests an appeal hearing.
- (6) The complainant or police officer must –
- (a) send with the appeal a copy of any document or other information which it is considered supports his or her appeal; and
 - (b) without prejudice to the generality of sub-paragraph (a), where the complainant or police officer seeks to rely on the ground of appeal mentioned in paragraph (4)(b), submit with the appeal details of the evidence which he or she considers could have affected materially any determination or decision of the person or panel conducting the misconduct proceedings.

41 Procedure on receipt of appeal and establishment of appeal panel

- (1) This Regulation applies where an appeal is made to the Commission under Regulation 39.
- (2) Unless Regulation 39(6) applies, the Commission must as soon as reasonably practicable after receipt of the appeal –
 - (a) notify the Judicial Greffier of the appeal;
 - (b) request the Judicial Greffier to establish a panel for the purpose of hearing the appeal; and
 - (c) notify the following persons of the appeal –
 - (i) the appropriate authority,

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<ul style="list-style-type: none">(ii) the Chief Officer or, as the case may be, relevant Connétable and relevant Chef de Police (if he or she is not the police officer concerned), and(iii) the police officer concerned and complainant (if any). <p>(3) The Judicial Greffier must, as soon as reasonably practicable after receipt of the Commission's request, establish an appeal panel composed of –</p> <ul style="list-style-type: none">(a) a judge of the Royal Court, who is to preside over the proceedings; and(b) 2 Jurats.	
42 Administration for appeal panel	<p>The Judicial Greffier is to be the clerk to an appeal panel and, accordingly, any document or notice required to be given to, or by a panel is to be given to, or by the Judicial Greffier or an officer of the Judicial Greffe.</p>
43 Appeal procedure	<ul style="list-style-type: none">(1) An appeal under Regulation 40 is to be determined in accordance with this Regulation.(2) When the appeal panel is established, it must first determine whether the complainant's or police officer's appeal sets out arguable grounds of appeal and –<ul style="list-style-type: none">(a) if the panel determines that it does, it must hold an appeal hearing if the police officer concerned has requested one under Regulation 40(5)(b); or(b) if the panel determines that it does not, it must dismiss the appeal.(3) If the police officer has not requested a hearing, or the appeal is made by a complainant, the appeal must be determined on the basis of –<ul style="list-style-type: none">(a) the appeal notified in accordance with Regulations 39 and 40 and any documents provided with that appeal notification;(b) the audio recording or written record of the misconduct proceedings; and(c) any notices, submissions or other documents or information provided by the appropriate authority or the police officer under Regulation 27 or 28.(4) For the purposes of determining an appeal, with or without an appeal hearing, the Commission must provide the appeal panel with the items set out in paragraph (3).(5) If there is to be an appeal hearing, the following paragraphs of this Regulation apply.(6) The date, time and place of the appeal proceedings is to be arranged by the Judicial Greffe and the following persons notified –<ul style="list-style-type: none">(a) the police officer concerned;(b) the appropriate authority;
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- (c) where the Commission was entitled to attend the misconduct proceedings to make representations under Regulation 34(1), the Commission;
 - (d) where the misconduct proceedings arose from a complaint, the complainant; and
 - (e) where the misconduct proceedings arose from a conduct matter, any interested person.
- (7) Subject to paragraph (8), the appeal hearing is to be conducted in such manner as the appeal panel determines, provided that –
- (a) the police officer's police friend must be permitted to attend;
 - (b) in a case where any disciplinary action referred to in Regulation 37(2)(d), (e) or (f) has been ordered, the police officer's legal representative (if any) must be permitted to attend; and
 - (c) the police officer (or any person representing the police officer) must be permitted to make oral representations.
- (8) Paragraph (7)(b) does not apply in respect of a person who has ceased to be a police officer.

44 Procedure and finding of the appeal panel


- (1) Subject to the provisions of this Regulation, the complainant or any interested person entitled to be given notice of the appeal hearing under Regulation 43(6), may attend the appeal hearing as an observer.
- (2) If the police officer concerned objects to the complainant or interested person being present while a submission is made in mitigation on the officer's behalf, the appeal panel may require the complainant or interested person to withdraw while the submission is made.
- (3) The appeal panel may impose such conditions as the panel sees fit relating to the attendance of persons under paragraph (1) at the appeal hearing (including circumstances in which they may be excluded) in order to facilitate the proper conduct of the hearing.
- (4) Subject to paragraph (5), the appeal panel must determine whether the ground or grounds of appeal on which the police officer relies have been made out and –
 - (a) confirm or overturn a determination made under Regulation 36;
 - (b) confirm the disciplinary action ordered under Regulation 37(2);
 - (c) order in relation to a determination made under Regulation 36, any disciplinary action referred to in Regulation 37(2) which is less severe than that which was originally ordered;
 - (d) substitute any original determination –
 - (i) of gross misconduct with a determination of misconduct, or
 - (ii) in relation to an appeal by a complainant, of misconduct with a determination of gross misconduct;
 - (e) where there is a substituted determination under sub-paragraph (d) –

- (i) confirm, if appropriate as regards that substituted determination, the original disciplinary action ordered, or
 - (ii) substitute the original disciplinary action ordered;
 - (f) where a determination is overturned under sub-paragraph (a), order the misconduct allegation to be dealt with as a performance matter; or
 - (g) in a case where the ground of appeal mentioned in Regulation 40(4)(b) is found to be established, remit the misconduct allegation back to the panel or person who conducted the misconduct proceedings.
- (5) Subject to paragraph (6), the determination of the appeal panel must be based on a simple majority but must not indicate whether it was taken unanimously or by a majority.
- (6) A determination by simple majority must include the determination of the judge of the Royal Court.
- (7) Paragraph (4)(b), (c), (e) and (f) does not apply in respect of a person who has ceased to be a police officer.
- (8) Subject to paragraphs (9) and (10), the appeal panel may order a party to the appeal to pay the whole or any part of the costs of the appeal incurred by any other party to the appeal.
- (9) The appeal panel must consider whether to order costs if it is of the opinion that –
- (a) a party (or that party's representative) has acted vexatiously, abusively, disruptively or otherwise unreasonably in either the making of the appeal or the way that the appeal hearing (if any) has been conducted; or
 - (b) the appeal had no reasonable prospect of success.
- (10) In deciding whether to order costs, the appeal panel may have regard to the party's ability to pay.
- (11) Where costs are ordered to be paid, their amount –
- (a) is to be ascertained by the Judicial Greffier in consultation with the appeal panel, and notified to the party against whom the order is made not later than the period mentioned in paragraph (14), unless that period has been extended; and
 - (b) is enforceable in the same manner as an order for the payment of costs made by the Royal Court in a civil case.
- (12) The appeal panel must –
- (a) prepare a written statement of the panel's decision on the appeal and of the reasons for that decision;
 - (b) give the statement to the police officer and if the appeal was made by a complainant, to the complainant as well; and
 - (c) give a copy of the statement to the appropriate authority, the Commission, and, as the case may be, the Chief Officer or relevant Connétable and relevant Chef de Police.

- (13) Where the misconduct proceedings appealed against arose from a complaint but the complainant did not appeal the determination of those proceedings, the Commission must notify the complainant of the outcome of the appeal.
- (14) The statement given under paragraph (12) or notification under paragraph (13) must be given or notified not more than 10 working days from the date of conclusion of the appeal hearing (if there is one), or the appeal panel's determination, as the case may be.
- (15) But the period mentioned in paragraph (14) may be extended by such period as the appeal panel may reasonably require provided the panel considers there to be exceptional circumstances to justify doing so.
- (16) Where paragraph (15) applies, the Judicial Greffier must before the expiry of the 10 day period referred to in paragraph (14), notify the police officer concerned, the complainant (if any) and the persons referred to in paragraph (12)(c) of the period of the extension required by the appeal panel, and the reasons therefor.
- (17) In this Regulation –
- (a) "costs" means fees, charges, disbursements or any other expenses incurred by a party including expenses incurred for the purpose of, or in connection with, an individual's attendance as a witness at an appeal hearing (if any);
- (b) "party" includes –
- (i) the person who made the appeal,
 - (ii) if he or she is not the person mentioned in clause (i), the police officer or complainant (if any),
 - (iii) the appropriate person,
 - (iv) any interested person.

45 Effect of decision on appeal

- (1) Where an appeal is allowed the decision of the appeal panel is to take effect by way of substitution for the decision appealed against and as from the date of the decision appealed against.
- (2) Paragraph (3) does not apply in respect of a person who has ceased to be a police officer.
- (3) Where the effect of the decision of the panel is to reinstate –
- (a) a member of the Force, or his or her rank, the member, for the purpose of reckoning service for pension and, to such extent (if any) as may be specified in the decision, for the purpose of pay, is to be deemed to have served in the Force or in his or her rank, continuously from the date of the decision appealed against to the date of the member's reinstatement;
 - (b) a police officer and the officer was suspended for a period immediately preceding the date of the determination of the misconduct proceedings appealed against, the decision must deal with the suspension.

Draft Police (Complaints and Conduct) (Procedures) (Jersey) Regulations 202-	Regulation 46	
46 Procedure where misconduct allegation remitted back to person who conducted misconduct proceedings		
<p>(1) This Regulation applies where, in accordance with Regulation 44(4)(g), a misconduct allegation is remitted back to the panel or person who conducted the misconduct proceedings.</p> <p>(2) Subject to paragraph (3), where this Regulation applies, the panel or person who conducted the misconduct proceedings must –</p> <ul style="list-style-type: none">(a) consider the evidence submitted by the complainant or police officer, as the case may, in accordance with Regulation 40(6)(b); and(b) determine whether to do any of the following –<ul style="list-style-type: none">(i) confirm or overturn the original determination made under Regulation 36,(ii) confirm any disciplinary action originally ordered under Regulation 37(2),(iii) order, in relation to the original determination made under Regulation 36, disciplinary action which is less serious than that originally ordered under Regulation 37(2),(iv) substitute any original determination –<ul style="list-style-type: none">(A) of gross misconduct with a determination of misconduct, or(B) in relation to an appeal by a complainant, of misconduct with a determination of gross misconduct,(v) where there is a substituted determination under sub-clause (iv) –<ul style="list-style-type: none">(A) confirm, if appropriate as regards that substituted determination, the original disciplinary action ordered, or(B) substitute the original disciplinary action ordered,(vi) where a determination is overturned under clause (i), order the misconduct allegation to be dealt with as a performance matter. <p>(3) Paragraph (2)(b)(ii), (iii), (v) and (vi) does not apply in respect of a person who has ceased to be a police officer.</p> <p>(4) Before making a determination under paragraph (2), the panel or person conducting the misconduct proceedings may, by notice in writing, require the police officer to attend a further misconduct meeting or misconduct hearing, as the case requires, and the following Regulations apply to such a meeting or hearing –</p> <ul style="list-style-type: none">(a) Regulation 26 (persons presiding over misconduct proceedings);(b) Regulation 31 (procedure at misconduct proceedings);(c) Regulation 32 (attendance of police officer concerned at misconduct proceedings);(d) Regulation 36 (determination of misconduct proceedings); and		
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- (e) Regulation 56 (legal representation).
- (5) Regulation 38 (notification of determination), with the exception of paragraph (6)(c) of that Regulation, applies for the purposes of notifying a determination under paragraph (2).

PART 7


REFLECTIVE PRACTICE REVIEW PROCESS

47 Interpretation

- (1) In this Part –
- “participating officer” means the police officer or designated person whose actions are, or behaviour is subject to the reflective practice review process;
- “reviewer” means the person who is conducting the reflective practice review process.
- (2) In the case of a member of the Force or a designated person, the reviewer must be –
- the line manager of the participating officer;
 - another police officer or designated person who is senior to the participating officer; or
 - a civilian member of the Force’s staff who, in the opinion of the Deputy Chief Officer, is more senior than the participating officer.
- (3) In the case of a member of the Honorary Police, the reviewer must be –
- the relevant Connétable in the case of a Chef de Police; or
 - the relevant Chef de Police.

48 General

- (1) Regulation 55(2) (police friend) does not apply for the purposes of this Part.
- (2) Where more than one participating officer is involved in a matter that has been referred to be dealt with under the reflective practice review process, a joint reflective practice review discussion may take place, provided that individual reflective review development reports are produced.
- (3) By reason of a participating officer’s participation in the reflective practice review process, that officer must not be prevented from –
- in the case of a member of the Force or a designated person, applying for or obtaining a promotion; and
 - in the case of a member of the Honorary Police, seeking re-election to office or, as the case may be, election to a higher office.
- (4) Any account given by the participating officer under Regulation 49(1)(b) (referral to reflective practice review process) or during the reflective practice review discussion held under Regulation 51 (discussion stage) is not admissible in any subsequent misconduct proceedings brought against

Draft Police (Complaints and Conduct) (Procedures) (Jersey) Regulations 202-	Regulation 49	
<p>the participating officer, except to the extent that it consists of an admission relating to a matter that has not been referred to be dealt with under the reflective practice review process.</p>		
49 Referral to reflective practice review process		
<ol style="list-style-type: none">(1) Where a matter is referred to the reflective practice review process, the reviewer must as soon as practicable provide the following to the participating officer –<ol style="list-style-type: none">(a) details of the matter that has been referred and the circumstances that are being considered; and(b) an invitation to provide an account of the matter that has been referred for review.(2) The participating officer must provide any account under paragraph (1)(b) within 5 working days beginning with the first working day after the day on which the invitation to do so is received, unless a longer period is agreed with the reviewer.(3) The reflective practice review process consists of a fact-finding stage and a discussion stage, followed by the production of a reflective review development report.		
50 Fact-finding stage		
<ol style="list-style-type: none">(1) Enquiries made by the reviewer during the fact-finding stage must be reasonable, proportionate and relevant to the purpose, which is to establish the facts of the matter subject to the review process.(2) Paragraphs (3) and (4) apply to a matter that has been referred under these Regulations to be dealt with under the reflective practice review process.(3) If at any time during the fact-finding stage substantial evidence becomes available to the reviewer, which was not available to the appropriate authority when the matter was referred to be dealt with under the reflective practice review process, the reviewer must refer the matter to the appropriate authority for a further assessment under Regulation 13 (preliminary assessment).(4) Where a matter is so referred for a further assessment, unless such further assessment is that the conduct, if proved, would amount to practice requiring improvement, the reflective practice review process must not be continued.		
51 Discussion stage		
<ol style="list-style-type: none">(1) The reviewer must, following completion of the fact-finding stage, invite the participating officer to attend a reflective practice review discussion.(2) Such discussion should take place as soon as reasonably practicable.(3) The discussion must include, in particular –<ol style="list-style-type: none">(a) a discussion of the practice requiring improvement and related circumstances that have been identified; and		
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- (b) the identification of key lessons to be learnt by the participating officer and line manager, relevant Connétable or relevant Chef de Police concerned, to address and prevent a reoccurrence of the matter.

52 Reflective review development report

- (1) The reviewer must, following completion of the discussion stage, produce a reflective review development report.
- (2) A reflective review development report must contain the following –
 - (a) a summary of the issue and any relevant background circumstances;
 - (b) a summary of the reflective practice review discussion;
 - (c) key actions to be undertaken within a specified time period;
 - (d) any lessons identified for the participating officer;
 - (e) any lessons identified for the line manager, relevant Connétable or relevant Chef de Police concerned;
 - (f) a specified period of time for reviewing the report and the actions taken.
- (3) The reviewer must send a copy of the report to the appropriate authority.
- (4) The appropriate authority must take appropriate action to ensure that any lessons identified for the participating officer's line manager, relevant Connétable or relevant Chef de Police concerned, are addressed.
- (5) A copy of the report, together with a note of the review of the report and of actions taken, must be retained.
- (6) The report and review notes must be discussed as part of the participating officer's performance and development review during the 12 month period following agreement of the report.

53 Failure to engage with the reflective practice review process

If the reviewer considers that the participating officer is failing to engage with the reflective practice review process, the reviewer may refer that failure for assessment by the appropriate authority under Regulation 13.

PART 8

MISCELLANEOUS PROVISIONS

54 Provision of notices or documents

Where any written notice or document is to be given or supplied to a police officer or designated person under these Regulations, it must be –

- (a) given to him or her in person;
- (b) left with some other person at, or sent by recorded delivery to, the police officer's or designated person's last known address; or

- (c) in respect of a written notice under Regulation 17(1) (written notices), given to the officer in person by the police officer's police friend where the police friend has agreed with the appropriate authority, to deliver the notice.

55 Police friend

- (1) A person who is the subject of an investigation or misconduct proceedings may choose any of the following persons, to act as their police friend –
 - (a) in the case of a member of the Force or Honorary Police, another respective member;
 - (b) in the case of a member or former member of the Force –
 - (i) a person nominated by the States of Jersey Police Association (established under Article 12 of the Police Force Law),
 - (ii) a civilian member of the Force's staff, or
 - (iii) any other person nominated by a former member of the Force and approved by the Deputy Chief Officer;
 - (c) in the case of a member or former member of the Honorary Police –
 - (i) a person nominated by the Honorary Police Association, or
 - (ii) any other person nominated by a former member of the Honorary Police and approved by the Attorney General;
 - (d) in the case of a designated person, another designated person;
 - (e) in the case of a designated or former designated person –
 - (i) another person employed by the designated person's employer, or former employer (as the case may be),
 - (ii) a trade union representative, or
 - (iii) any other person nominated by a former designated person and approved by the Deputy Chief Officer.
- (2) Subject to Regulation 48(1) (general), a police friend may –
 - (a) advise the individual concerned throughout any investigation or proceedings under these Regulations;
 - (b) unless the individual concerned has the right to be legally represented and chooses to be so represented, represent that individual at the misconduct proceedings or any appeal proceedings;
 - (c) make representations to the appropriate authority concerning any aspect of the investigation or proceedings under these Regulations; and
 - (d) accompany the individual concerned to any interview, meeting or hearing which forms part of any investigation or proceedings under these Regulations.
- (3) Paragraph (4) applies in the case of a police friend who is –
 - (a) another member of the Force or a civilian member of the Force's staff, or


- (b) another designated person or individual employed by the designated person's employer.
- (4) In a case referred to in paragraph (3), the Deputy Chief Officer or the designated person's employer, as the case may be, must permit the police friend concerned to use a reasonable amount of duty or office time, as the case may be, for the purpose of performing the functions set out in paragraph (2).

56 Legal representation

- (1) A police officer is, in accordance with this Regulation, entitled to be legally represented by a solicitor or advocate at any –
 - (a) misconduct hearing in the case of a member of the Force where gross misconduct is alleged, or misconduct is alleged, and Regulation 22(4) applies in that case;
 - (b) misconduct meeting in the case of a member of the Honorary Police, where gross misconduct is alleged; or
 - (c) appeal hearing held under Part 6.
- (2) If the police officer intends to be legally represented, he or she must notify the presiding person or the appeal panel (as the case may be) of that intention not less than 10 working days before the date of that hearing.
- (3) If, without reasonable excuse, the police officer does not give notification under paragraph (2), he or she is not entitled to be legally represented and without being so represented, may be dismissed or receive any other form of disciplinary action imposable under Regulation 37, or be dealt with under the reflective practice review process.
- (4) It is for the police officer to prove that he or she had a reasonable excuse under paragraph (3).

57 Non-recordable conduct matters

- (1) For the purposes of Article 22(1)(c) of the Law relating to descriptions of conduct matter not required to be recorded, any conduct matter which the Deputy Chief Officer or Attorney General, as the case may, considers repetitious within the meaning of paragraph (2), is so specified.
- (2) A conduct matter is considered repetitious if –
 - (a) it concerns substantially the same conduct as a previous conduct matter;
 - (b) there is no fresh indication in respect of that matter that a police officer or designated person may have committed a criminal offence or behaved in a manner which would justify the bringing of misconduct proceedings; and
 - (c) there is no fresh evidence in respect of that matter which was not reasonably available at the time the previous conduct matter was recorded.

Draft Police (Complaints and Conduct) (Procedures) (Jersey) Regulations 202-	Regulation 58	
58 Notification of conduct matters to the Commission		
<p>(1) For the purposes of Article 22(1)(d) of the Law –</p> <ul style="list-style-type: none">(a) the Deputy Chief Officer or relevant Connétable, as the case may be, must notify the Commission of the following specified conduct matters –<ul style="list-style-type: none">(i) any offence of assault,(ii) any sexual offence,(iii) any offence of bribery or corruption,(iv) any other criminal offence for which the sentence is fixed by law or that carries a sentence of imprisonment of not less than 7 years,(v) any behaviour which is liable to lead to misconduct proceedings which was aggravated by discriminatory behaviour towards another person on the grounds of that person's protected characteristic (within the meaning of the Discrimination (Jersey) Law 2016),(vi) conduct of the Chief Officer or a Chef de Police;(b) conduct of the Deputy Chief Officer is a specified conduct matter which the Chief Officer must notify to the Commission. <p>(2) Any conduct matter notifiable under this Regulation, must be notified in such manner as the Commission requires without delay, and in any event not later than the end of the day following the day on which it first becomes clear to –</p> <ul style="list-style-type: none">(a) the Deputy Chief Officer or relevant Connétable that the conduct matter is one to which paragraph (1)(a) applies; or(b) the Chief Officer that the conduct matter is one to which paragraph (1)(b) applies.		
59 Manner in which duties to provide information are to be performed		
<p>(1) For the purposes of Articles 19(3) (duty to keep complainant, police officer or designated person informed) and 20(10) (duty to provide information to other people) of the Law, the manner in which the Deputy Chief Officer, relevant Connétable or Attorney General (as the case may be) must perform the duties imposed by those Articles is as follows.</p> <p>(2) The Deputy Chief Officer in a case falling within Article 19(1) of the Law, or the Deputy Chief Officer or Attorney General in a case falling within Article 20(7) of the Law, must, subject to Regulation 60, inform the complainant or, as the case may be, the interested person –</p> <ul style="list-style-type: none">(a) of the progress of the investigation promptly and in any event within 4 weeks of the start of the investigation; and(b) of any provisional findings of the person carrying out the investigation as frequently as the appropriate authority determines to be appropriate in order for the complainant or interested person to be kept properly informed.		
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- (3) When an investigation has been completed, each complainant or interested person must, as soon as is reasonably practicable, be notified in writing of the outcome of the investigation.

60 Exceptions to the duty to keep the complainant informed and to provide information for other persons - the "harm test"

- (1) Subject to paragraph (3), the duties mentioned in Article 19(1) and Article 20(7) of the Law are not to apply in circumstances where in the opinion of the Deputy Chief Officer, relevant Connétable or Attorney General (as the case may be), the non-disclosure of information is necessary for the purpose of –
- (a) preventing the premature or inappropriate disclosure of information that is relevant to, or may be used in, any actual or prospective criminal proceedings; or
 - (b) preventing the disclosure of information in any circumstances in which its non-disclosure –
 - (i) is in the interests of national security,
 - (ii) is for the purposes of the prevention or detection of crime, or the apprehension or prosecution of offenders,
 - (iii) is justified on proportionality grounds (within the meaning of Article 19(5) of the Law), or
 - (iv) is otherwise necessary in the public interest.
- (2) Without prejudice to the generality of paragraph (1), the Deputy Chief Officer, relevant Connétable or Attorney General must consider whether the non-disclosure of information is justified under that paragraph in circumstances where –
- (a) that information is relevant to, or may be used in, any actual or prospective misconduct proceedings;
 - (b) the disclosure of that information may lead to the contamination of the evidence of witnesses during such proceedings;
 - (c) the disclosure of that information may prejudice the welfare or safety of any third party; or
 - (d) that information constitutes criminal intelligence.
- (3) The Deputy Chief Officer, relevant Connétable or Attorney General must not conclude that the non-disclosure of information is necessary under paragraph (1) unless he or she is satisfied that –
- (a) there is a real risk of the disclosure of that information causing an adverse effect; and
 - (b) that adverse effect would be significant.
- (4) Any provision of these Regulations regarding the disclosure of information by the Deputy Chief Officer, relevant Connétable or Attorney General to a complainant or interested person which is stated to be subject to the "harm test", means that the non-disclosure of such information must satisfy the requirements of this Regulation.



61 Citation and commencement



These Regulations may be cited as the Police (Complaints and Conduct) (Procedures) (Jersey) Regulations 202- and come into force on the commencement of the Police (Complaints and Conduct) (Jersey) Law 202-.


PROJET REPORT DRAFT ONLY


APPENDIX 4 TO REPORT

Draft Police (Complaints and Conduct) (Consequential and Miscellaneous Amendments) (Jersey) Regulations 202-


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DRAFT POLICE (COMPLAINTS AND CONDUCT) (CONSEQUENTIAL AND MISCELLANEOUS AMENDMENTS) (JERSEY) REGULATIONS 202-		
<i>Made</i>		<i>[date to be inserted]</i>
<i>Coming into force</i>		<i>[date to be inserted]</i>
<p>THE STATES make these Regulations under Article 6 of the Freedom of Information (Jersey) Law 2011, Article 4(6) of the Data Protection (Jersey) Law 2018, Article 23 of the Police (Complaints and Conduct) (Jersey) Law 202-, and Articles 9 and 33 of the States of Jersey Police Force Law 2012 –</p>		
PART 1 AMENDMENT OF LAWS		
1	Freedom of Information (Jersey) Law 2011 amended In Schedule 1 (Scheduled public authorities) to the Freedom of Information (Jersey) Law 2011, after the entry numbered 9, there is inserted – “10 The Jersey Police Complaints Commission referred to in Article 7 of the Police (Complaints and Conduct) (Jersey) Law 202-.”	
2	Data Protection (Jersey) Law 2018 amended In Schedule 1 (modifications of Law in cases of processing by competent authorities) to the Data Protection (Jersey) Law 2018, in paragraph 1 (list of competent authorities), for “Jersey Police Complaints Authority” there is substituted “Jersey Police Complaints Commission”.	
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Regulation 3	Draft Police (Complaints and Conduct) (Consequential and Miscellaneous Amendments) (Jersey) Regulations 202-
PART 2	
AMENDMENT OF SUBORDINATE ENACTMENTS	
3	<p>Subordinate enactments amended</p> <p>This Part amends the subordinated enactments specified in Regulations 4, 5 and 6, and a reference in those Regulations to an Article or Regulation by number only and without further identification, is a reference to the Article or Regulation of that number in those respective subordinate enactments.</p>
4	<p>Honorary Police (Jersey) Regulations 2005 amended</p> <p>In Regulations 4(4) (Honorary Police Association) and 8(4) (Comité des Chefs de Police) for “the Police (Complaints and Discipline) (Jersey) Law 1999” there is substituted “the Police (Complaints and Conduct) (Jersey) Law 202-”.</p>
5	<p>States of Jersey Police Force (General Provisions) (Jersey) Order 2016 amended</p> <p>(1) In Article 12 (business interests of police officers and relatives) –</p> <p>(a) in paragraph (4), for “the Discipline Code set out in Schedule 1 to the Police (Complaints and Discipline Procedure) (Jersey) Order 2000”, there is substituted “the standards of professional behaviour (the “Professional Standards”) set out in paragraphs 2 to 11 of Schedule 2 to the Police (Complaints and Conduct) (Jersey) Law 202-”;</p> <p>(b) for paragraph (14) there is substituted –</p> <p>“(14) Paragraph (15) applies where a business interest has been held by the appropriate officer under paragraph (6) to be incompatible with continued membership of the Force and either –</p> <p>(a) no appeal has been made under this Article; or</p> <p>(b) an appeal has been made and the Chief Officer has upheld the decision of the appropriate officer.</p> <p>(15) The decision of the appropriate officer under paragraph (6) must be regarded as a lawful order for the purposes of paragraph 6 of the Professional Standards and, in the event of any contravention of the Professional Standards, the Police (Complaints and Conduct) (Jersey) Law 202- and the Police (Complaints and Conduct) (Procedures) (Jersey) Regulations 202- are to apply as if the Deputy Chief Officer had determined under Regulation 22 (action by appropriate authority in response to investigation report) of those Regulations to refer the case to a misconduct hearing or meeting (as the case may be).”.</p> <p>(2) Article 14 (Police (Complaints and Discipline Procedure) (Jersey) Order 2000 amended) is deleted.</p>
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Draft Police (Complaints and Conduct) (Consequential and Miscellaneous Amendments) (Jersey) Regulations 202-	Regulation 6	
<p>6 States of Jersey Police Force (Chief Officer and Deputy Chief Officer) (Jersey) Regulations 2017 amended</p>		
<p>(1) In Regulation 1 (interpretation) –</p> <ul style="list-style-type: none"> (a) the following definitions are deleted – <ul style="list-style-type: none"> (i) “2000 Order”, (ii) “Discipline Code”, (iii) “Police Complaints Authority”; (b) after the definition “Chief Executive Officer” there is inserted – <ul style="list-style-type: none"> “ “chief officer” has the meaning given in Article 3(6) of the Employment of States of Jersey Employees (Jersey) Law 2005; “Commission” means the Jersey Police Complaints Commission referred to in Article 7 of the Police Complaints and Conduct Law;”; (c) for the definition “conduct matter” there is substituted – <ul style="list-style-type: none"> “ “conduct matter” is construed in accordance with Regulation 4A;”; (d) after the definition “disciplinary proceedings” there is inserted – <ul style="list-style-type: none"> “ “harm test” is construed in accordance with Regulation 11B;”; (e) after the definition “investigating officer” there is inserted – <ul style="list-style-type: none"> “ “investigating officer’s report” means the report given under Regulation 14;”; (f) after the definition “Officer concerned” there is inserted – <ul style="list-style-type: none"> “ “publish” in relation to a document or report, means publish in a manner that is likely to bring it to the attention of the public, including in a form which keeps anonymous the identity of any person named within it; “Police Complaints and Conduct Law” means the Police (Complaints and Conduct) (Jersey) Law 202-;”; (g) after the definition “police officer from some other force” there is inserted – <ul style="list-style-type: none"> “ “Professional Standards” means “the standards of professional behaviour set out in paragraphs 2 to 11 of Schedule 2 to the Police Complaints and Conduct Law;”. 		
<p>(2) In Regulation 2 (investigating panel and tribunal) –</p> <ul style="list-style-type: none"> (a) for paragraph (1)(a) and (b) there is substituted – <ul style="list-style-type: none"> “(1) In these Regulations, “investigating panel” means a panel established by the Minister comprising – <ul style="list-style-type: none"> (a) the Chief Executive Officer or a chief officer nominated by the Chief Executive Officer; (b) the person designated as the chair of the Commission (under paragraph 2(5) of Schedule 1 to the Police Complaints and Conduct Law) or a member of the Commission nominated by that chair, who shall act as chair of the panel; and”; 		
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Regulation 6	Draft Police (Complaints and Conduct) (Consequential and Miscellaneous Amendments) (Jersey) Regulations 202-
<p>(b) in paragraphs (2) and (3) for “appointed” there is substituted “established”.</p> <p>(3) After Regulation 2 there is inserted –</p> <p>“2A Limitation of civil liability</p> <p>(1) This Regulation applies to –</p> <p>(a) a person who is or has been a member of an investigating panel or tribunal;</p> <p>(b) a human resources professional who is assisting or has assisted an investigating panel or tribunal under Regulation 2(4); and</p> <p>(c) a person who is advising or has advised a tribunal under Regulation 2(5).</p> <p>(2) A person to whom this Regulation applies is not liable in damages for any act done in the discharge, or purported discharge of the functions of an investigating panel or tribunal under these Regulations.</p> <p>(3) Paragraph (2) does not apply –</p> <p>(a) if it is shown that the act was done in bad faith; or</p> <p>(b) so as to prevent an award of damages made in respect of an act on the ground that the act was unlawful as a result of Article 7(1) of the Human Rights (Jersey) Law 2000.”</p> <p>(4) In Regulation 3 (meaning of “complaint”) –</p> <p>(a) in paragraph (1) for “a complaint in writing” there is substituted “a statement in writing (including in electronic form)”;</p> <p>(b) in paragraph (1)(a) after “a complaint” there is inserted “expressing dissatisfaction”;</p> <p>(c) for paragraph (2) there is substituted –</p> <p>“(2) Those persons are any of the following –</p> <p>(a) a member of the public who claims to be the person in relation to whom the conduct took place;</p> <p>(b) a member of the public not falling within sub-paragraph (a) who claims to have been adversely affected by the conduct;</p> <p>(c) a member of the public who claims to have witnessed the conduct; or</p> <p>(d) a person acting on behalf of a member of the public described in sub-paragraphs (a) to (c).</p> <p>(3) Any person described in paragraph (2) includes a member of the Force acting otherwise than in the course of that person’s duty.</p> <p>(4) For the purposes of paragraph (2)(b) a member of the public is adversely affected if he or she –</p> <p>(a) suffers any form of loss or damage, distress or inconvenience; or</p>	<p>Page - 6</p> <p>DraftPolice(ComplaintsandConduct)(ConsequentialandMisc.Amendments)(Jersey)Regulations202-_ (proj et draft) 10/02/22 10:15</p> <p style="text-align: right;">States of Jersey</p>

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(b) is put in danger, or otherwise unduly put at risk of being adversely affected.”	
(5) After Regulation 4 (meaning of “complainant”) there is inserted –	
“4A Meaning of “conduct matter”	
(1) “conduct matter” means any matter which is not and has not been the subject of a complaint (other than one which has been withdrawn) but in the case of which there is an indication (whether from the circumstances or otherwise) that an Officer may have –	
(a) committed a criminal offence; or (b) behaved in a manner which would justify the bringing of disciplinary proceedings.	
(2) “conduct” in relation to a conduct matter includes acts, statements and decisions (whether actual, alleged or inferred).”	
(6) For Regulation 5 (Discipline Code and offences against discipline) there is substituted –	
“5 Professional Standards and disciplinary offences	
(1) An Officer commits a disciplinary offence if that Officer is found guilty of contravening any of the Professional Standards.	
(2) References in these Regulations to a “disciplinary charge” are to a charge that an Officer appears to have committed a disciplinary offence.”	
(7) After Regulation 5 there is inserted –	
“5A Police friend	
(1) This Regulation applies in respect of an Officer who is the subject of an investigation or disciplinary proceedings under these Regulations.	
(2) The Officer concerned may choose any of the following persons who is not otherwise involved in the matter, to act as his or her police friend –	
(a) a member of the Force; (b) a civilian member of the Force’s staff; (c) a person nominated by any staff or professional association of which the Officer is a member; or (d) a chief officer.	
(3) The functions of a police friend include –	
(a) advising the Officer throughout any investigation or proceedings under these Regulations; (b) unless the Officer concerned is entitled to be legally represented and chooses to be so represented, representing that Officer at the disciplinary hearing or any appeal proceedings;	
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	<ul style="list-style-type: none"> (c) making representations – <ul style="list-style-type: none"> (i) under Regulation 9(8), to the investigating panel, and (ii) to the Minister concerning any aspect of any investigation or proceedings under these Regulations; and (d) accompanying the Officer to any interview, meeting or hearing which forms part of any proceedings under these Regulations. <p>(4) Provided the Chief Officer or Deputy Chief Officer is not the subject of an investigation or proceedings under these Regulations, the Chief Officer or Deputy Chief Officer, as the case may be, must permit a member of the Force or civilian member of the Force's staff who is acting as a police friend, to use a reasonable amount of duty or office time, as the case may be, for the purpose of performing the functions set out in paragraph (3).</p> <p>(5) The Chief Executive Officer must permit a chief officer who is acting as a police friend, to use a reasonable amount of duty or office time, as the case may be, for the purpose of performing the functions set out in paragraph (3).</p>
5B	Disclosure of information by the Minister
	<ul style="list-style-type: none"> (1) If it appears to be in the public interest to do so, information obtained by the Minister in connection with any of his or her functions under these Regulation may be disclosed to any public authority in Jersey or elsewhere. (2) Information disclosed under this Regulation to any public authority must not be further disclosed except – <ul style="list-style-type: none"> (a) for a purpose connected with any function of that public authority; and (b) with the consent of the Minister. (3) Consent under paragraph (2) may only be given – <ul style="list-style-type: none"> (a) in relation to a particular disclosure; or (b) in relation to disclosures made in circumstances specified or described in the consent.” (8) In Regulation 9 (procedures for removal) – <ul style="list-style-type: none"> (a) in paragraph (5) for “appoint” there is substituted “establish”; (b) in paragraph (6) for “appointment” there is substituted “establishment”. (9) In Regulation 10(1) (preliminary procedure for dealing with a complaint) for “appoint” there is substituted “establish”. (10) After Regulation 11 (preliminary procedure for dealing with a conduct matter) there is inserted –
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
"11A Duty to keep Officer and complainant informed

- (1) Subject to Regulation 11B, in any case in which there is an investigation of a complaint or conduct matter, it is the duty of the Minister to provide the Officer concerned and, in the case of a complaint, the complainant, with all such information as will keep him or her properly informed, while the investigation is being carried out and subsequently, of all the matters mentioned in paragraph (2).
- (2) The matters of which the Officer and complainant must be kept properly informed are –
 - (a) the progress of the handling of the complaint or conduct matter; and
 - (b) the outcome of the handling of the complaint or conduct matter.

11B Exceptions to the duty to keep the Officer and complainant informed - the "harm test"

- (1) Subject to paragraph (3), the duty mentioned in Regulation 11A(1) does not apply in circumstances where in the opinion of the Minister the non-disclosure of information is necessary for the purpose of –
 - (a) preventing the premature or inappropriate disclosure of information that is relevant to, or may be used in, any actual or prospective criminal proceedings; or
 - (b) preventing the disclosure of information in any circumstances in which its non-disclosure –
 - (i) is in the interests of national security,
 - (ii) is for the purposes of the prevention or detection of crime, or the apprehension or prosecution of offenders,
 - (iii) is justified on proportionality grounds (within the meaning of Article 9(4A) of the Law), or
 - (iv) is otherwise necessary in the public interest.
- (2) Without prejudice to the generality of paragraph (1), the Minister must consider whether the non-disclosure of information is justified under that paragraph in circumstances where –
 - (a) that information is relevant to, or may be used in, any actual or prospective disciplinary proceedings;
 - (b) the disclosure of that information may lead to the contamination of the evidence of witnesses during such proceedings;
 - (c) the disclosure of that information may prejudice the welfare or safety of any third party; or
 - (d) that information constitutes criminal intelligence.

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<p>(3) The Minister must not conclude that the non-disclosure of information is necessary under paragraph (1) unless he or she is satisfied that –</p> <p style="margin-left: 20px;">(a) there is a real risk of the disclosure of that information causing an adverse effect; and</p> <p style="margin-left: 20px;">(b) that adverse effect would be significant.</p> <p>(4) Any provision of these Regulations regarding the disclosure of information by the Minister to a complainant or the Officer concerned which is stated to be subject to the application of the “harm test”, means that the non-disclosure of such information must satisfy the requirements of this Regulation.</p>	
<p>11C Provision of information to the investigating panel</p> <p>(1) A public authority must, subject to paragraph (2), supply the investigating panel with all such information and documents specified or described in a notification given by the investigating panel to the public authority as appear to the investigating panel to be required by the panel for the purposes of the carrying out of any of its functions under these Regulations.</p> <p>(2) The information and documents referred to in paragraph (1) must be such which the public authority would, apart from paragraph (1), only lawfully be able to supply to the investigating panel, and provided it appears to the public authority proportionate and reasonable to do so.</p> <p>(3) Anything falling to be supplied by the public authority further to a notification given under paragraph (1) must be supplied in such form, in such manner and within such period as may be specified in the notification or in any subsequent notification given under this Regulation.</p> <p>(4) Nothing in this Regulation requires the public authority to provide the investigating panel with any information or document, or to produce any other thing, before the earliest time at which it is practicable for the public authority to do so.</p> <p>(5) A requirement imposed by any notification under this Regulation may authorise or require information or documents to which it relates to be provided to the investigating panel electronically.”</p> <p>(11) In Regulation 12 (initial investigation by investigating panel), in paragraphs (4) and (5) for “the Police Complaints Authority” there is substituted “the Commission”.</p> <p>(12) In Regulation 13 (further investigation supervised by Police Complaints Authority), in the heading and paragraphs (1) and (4), for “the Police Complaints Authority”, there is substituted “the Commission”.</p> <p>(13) In Regulation 14 (investigating officer’s report) –</p> <p style="margin-left: 20px;">(a) in paragraph (1), for “the Police Complaints Authority” there is substituted “the Commission”;</p> <p style="margin-left: 20px;">(b) after paragraph (2) there is inserted –</p>	
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<p>“(3) Paragraph (4) applies where the investigating officer gives a report which recommends that the Minister should take action other than preferring disciplinary charges or initiating criminal proceedings.</p>	
<p>(4) Provided the Commission has prepared a statement under Regulation 15(1) confirming that the investigation has been conducted to its satisfaction, the Minister may, if it appears to be desirable in the public interest to do so, publish some or all of the investigating officer’s report.”</p>	
<p>(14) In Regulation 15 (action by Police Complaints Authority and Attorney General following investigating officer’s report), in the heading and in each of paragraphs (1) to (5), for “Police Complaints Authority”, there is substituted “Commission”.</p>	
<p>(15) In Regulation 16 (action by the Minister following investigating officer’s report) –</p> <p>(a) in the heading, for “investigating officer’s report” there is substituted “Attorney General’s notification as to criminal proceedings”;</p> <p>(b) in paragraph (1) for “the Police Complaints Authority” there is substituted “the Commission”.</p>	
<p>(16) In Regulation 17 (powers of Police Complaints Authority as to disciplinary charges), in the heading and paragraphs (1), (3) in both places, (4), (6) and (7), for “the Police Complaints Authority” there is substituted “the Commission”.</p>	
<p>(17) In Regulation 19 (notice of decision to prefer disciplinary charge and appointment of tribunal) –</p> <p>(a) in the heading, for “appointment”, there is substituted “establishment”;</p> <p>(b) in paragraph (1), for “who shall appoint a tribunal to hear the disciplinary charge or nominate a member of the Police Authority make such an appointment”, there is substituted “who must establish a tribunal to hear the disciplinary charge or nominate a member of the Police Authority to so establish a tribunal”;</p> <p>(c) after paragraph (1) there is inserted –</p> <p>“(1A) The Minister must, subject to the harm test, furnish the Chairman of the Police Authority with copies of the documents specified in paragraph (4).”;</p> <p>(d) for paragraph (2) there is substituted –</p>	
<p>“(2) As soon as practicable after being notified under paragraph (1), the Chairman of the Police Authority must give the Officer concerned, and in the case of a complaint, the complainant, a written notice specifying the conduct which it is alleged constituted a disciplinary offence and the paragraph of the Professional Standards in respect of which that offence is alleged to have been committed.”;</p>	
<p>(e) for paragraph (4)(c) there is substituted –</p> <p>“(c) the investigating officer’s report or such parts of that report as relate to the Officer (together with any document attached to or referred to in that report which relates to the Officer); and</p>	
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Regulation 7	Draft Police (Complaints and Conduct) (Consequential and Miscellaneous Amendments) (Jersey) Regulations 202-
	<p>(d) any other statement, document or other material obtained during the course of the investigation which, in the opinion of the Minister, is relevant to the disciplinary charges the Officer concerned has to answer.”;</p> <p>(f) after paragraph (4) there is inserted –</p> <p>“(5) Subject to the harm test and notwithstanding any obligation of secrecy imposed by any rule of law or otherwise, in the case of a complaint, the Minister is entitled to discharge the duty in Regulation 11A by sending the complainant a copy of the investigating officer’s report, or such parts of that report as relate to the complaint about the conduct of the Officer concerned (together with any document attached to or referred to in that report which relates to the complaint).</p> <p>(6) A copy of the report, or part of it, if provided under paragraph (4)(c) or (5) may be in a form which keeps anonymous the identity of the complainant (if any) or any other person.”.</p> <p>(18) In Regulation 21 (procedure on receipt of notice), in paragraph (1)(a) for “an offence against discipline” there is substituted “a disciplinary offence”.</p> <p>(19) In Regulation 23 (documents to be given to the Officer concerned), in paragraph (1) for “an offence against discipline” there is substituted “a disciplinary offence”.</p> <p>(20) In Regulation 29 (attendance of others at disciplinary hearing), in paragraph (2)(b) for “the Police Complaints Authority” there is substituted “the Commission”.</p> <p>(21) In Regulation 35 (records of disciplinary proceedings) –</p> <p>(a) in the heading after “proceedings” there is inserted “and publication of investigating officer’s report”;</p> <p>(b) after paragraph (2) there is inserted –</p> <p>“(3) In a case where the requirements of the harm test have not been satisfied and the investigating officer’s report has been disclosed under Regulation 19, the Minister may, if it appears to be desirable in the public interest to do so, publish some or all of the investigating officer’s report.”.</p>
	<p>PART 3</p> <p>CLOSING PROVISION</p>
7	<p>Citation and commencement</p> <p>These Regulations may be cited as the Police (Complaints and Conduct) (Consequential and Miscellaneous Amendments) (Jersey) Regulations 202- and come into force on the same day as the coming into force of the Police (Complaints and Conduct) (Jersey) Law 202-.</p>
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EXPLANATORY NOTE

The Police (Complaints and Conduct) (Jersey) Law 202- (the “Law”) if passed, will repeal and replace the Police (Complaints and Discipline) (Jersey) Law 1999 (the “1999 Law”). The Jersey Police Complaints Authority established under that Law will be replaced by the Jersey Police Complaints Commission (the “Commission”) and this Law will refresh and replace provisions dealing with complaints about the conduct of police officers or people undertaking certain functions of police officers (“designated persons”), and the disciplining of police officers. This Law will also make a number of consequential and miscellaneous amendments to the States of Jersey Police Force Law 2012 (the “Police Force Law”).

Part 1 (Articles 1 to 6) contains interpretation and application provisions.

Article 1 defines particular, or frequently appearing, words or expressions used in this Law. In particular, a “relevant Connétable” means the Connétable of the parish in which the member of the Honorary Police in question serves; and references to “police officer” means a member of the Honorary Police or a member of the States of Jersey Police Force as defined by the Interpretation (Jersey) Law 1954.

Article 2 sets out what constitutes a complaint, who may be complained against, and who may make a complaint (a “complainant”) for the purposes of this Law.

Article 3 describes the expression “conduct matter” which is essentially a matter that has not been the subject of a complaint but where the case indicates that a criminal offence may have been committed, or behaviour justifying the bringing of disciplinary proceedings has occurred.

Article 4 describes the circumstances in which, and conditions subject to which, a death or serious injury matter (“DSI matter”) is said to occur.

Article 5 defines the expression “other relevant matter” which relates to incidents that do not fall within the Commission’s supervisory function i.e. the supervision of investigations into complaints or conduct matters. Those matters may nevertheless indicate the involvement of a police officer or designated person (as defined in *Article 1*) and in respect of which the Commission has the power, if it would be in the public interest to do so, to examine and report upon under *Article 8(1)(h)*.

Article 6 states that this Law, except where it expressly provides to the contrary, does not apply to complaints and conduct matters involving the Chief Officer (“CO”) or Deputy Chief Officer (“DCO”) of the States of Jersey Police Force. Those matters continue to be the remit of the Police Force Law. This Article also declares that the overriding objective of this Law is to ensure effective arrangements for the investigation and handling of complaints, conduct matters and DSI matters and the disciplining of police officers. In addition, the CO, DCO, the Connétables of the parishes and the Attorney General (“AG”) are placed under a duty to ensure that the functions conferred under Part 3 (handling of complaints etc. and investigations) and under any Regulations made under this Law are carried out efficiently, expeditiously and impartially.

Part 2 (Articles 7 to 12) contains provisions conferring functions on the Commission.

Article 7 declares that the body known as the Jersey Police Complaints Authority is to continue but is renamed the Jersey Police Complaints Commission. This Article also introduces *Schedule 1* which contains further provisions about the constitution and operation of the Commission.

Article 8 sets out the functions of the Commission which amongst other things include securing that the CO, DCO, Connétables of the parishes and AG maintain suitable

arrangements for their respective handling of complaints, conduct matters or DSI matters as set out in *Article 13*. The Commission also supervises the investigation of complaints and conduct matters, and DSI matters and complaints or conduct matters notified under *Article 18* where a death or serious injury has occurred ; and may review certain decisions, prescribed by Regulations, made by the DCO, a relevant Connétable or the AG in connection with complaints. The Commission may issue guidance to the CO, DCO, Connétables of the Parishes or AG in relation to the discharge of their functions under the Law and may request those people to assist with the preparation of the guidance.

Article 9 gives the Commission power to make recommendations to the CO, DCO, Connétables or AG about the performance of their functions and to issue a reconsideration request if the recommendations are not accepted.

Article 10 requires the Commission to make an annual report to the Minister for Home Affairs (the “Minister”) on the exercise of its functions over the year. The Commission also has the power to make more general reports at the request of the Minister, and to report to the Minister on grave or exceptional matters that have come to the Commission’s attention.

Article 11 requires the CO, DCO, relevant Connétable or AG to supply the Commission with any information and documents as appear to the Commission to be necessary for the purposes of the carrying out of any of its functions under this Law or the Police Force Law. This Article also sets out the formalities for the supply of information and documents.

Article 12 sets out the circumstances and conditions upon which, and the people to whom, the Commission is permitted to disclose information obtained in connection with the performance of its functions. It is an offence, imprisonable for a term of 2 years and an unlimited fine, if a member, or former member of the Commission discloses information in contravention of this Article.

Part 3 (Articles 13 to 20) contains provisions for the handling of complaints and investigations.

Article 13 requires the DCO, Connétables of the parishes and AG to maintain suitable arrangements for the handling and recording of complaints, conduct matters and DSI matters, the recording of matters which constitute behaviour justifying disciplinary proceedings, and the carrying out of any investigation into, and subsequent handling of those matters. The DCO, Connétables and AG are required to publish those arrangements after consulting the Commission.

Article 14 provides that if it appears to be in the public interest to do so, information obtained by the DCO or AG in connection with the performance of any of their functions may be disclosed to any public authority in Jersey or elsewhere.

Article 15 requires the CO and Connétables of the parishes to take all steps as appear to be appropriate for obtaining and preserving evidence relating to the complaint, conduct matter or DSI matter, and that duty must be performed as soon as practicable after the CO or relevant Connétable becomes aware of the complaint or matter in question.

Article 16 requires the CO and Connétables of the parishes respectively to maintain a register of complaints, conduct matters and DSI matters and record in the register certain specified matters, subject to any Regulations made under *Article 22*.

Article 17 requires the DCO and AG to keep records of referred complaints and conduct matters, disciplinary proceedings against police officers and matters constituting to commission of a criminal offence. In the case of members of the Force, those records

must be retained for a period which is generally in line with guidance adopted by police forces elsewhere in the British Islands.

Article 18 requires the DCO to determine whether to investigate every DSI matter, and complaint alleging conduct or conduct matter in consequence of which an individual has died or suffered serious injury. The DCO must, without delay, notify the Commission and the AG of that complaint, DSI matter or conduct matter. If it appears to the DCO that the DSI matter, complaint or conduct matter does not require investigation, the DCO, must when giving notification of the matter, provide reasons and give details of any proposed alternative manner of dealing with it.

Article 19 requires the DCO to keep the complainant and the individual subject to the complaint properly informed of the progress of the investigation into the complaint and of its outcome. This Article gives power to make Regulations to supplement the requirements of this Article, including a power to make exceptions from the duty to provide information, for example where it is for the purposes of the prevention or detection of crime, or the apprehension or prosecution of offenders.

Article 20 makes analogous provisions to those in *Article 19* in respect of certain descriptions of people who have an interest in being kept properly informed about the handling of a complaint, conduct matter or DSI matter and in respect of whom the DCO, relevant Connétable and AG are required to keep so informed.

Part 4 (Articles 21 to 24) contains miscellaneous final provisions.

Article 21 introduces *Schedule 2* which contains the standards of professional behaviour that police officers and designated persons must adhere to.

Article 22 is an extensive Regulation making power to make provision as to the procedures to be followed under any of the provisions of the Law, including the application of modified provisions of the Law in respect of former police officers and designated persons, and the conferring of a right of appeal against the outcome of disciplinary proceedings and the establishing of an appeal panel.

Article 23 contains standard provisions to make amending Regulations as a consequence of this Law. There is also a Regulation making power to amend the Law to change references to the Deputy Chief Officer. The 1999 Law and its subordinate enactments are repealed subject to certain transitional provisions to deal with complaints and disciplinary proceedings arising before the commencement of this Law which have not been concluded as at that date, and for the continuation in office of the Chairman and members of the former Jersey Police Complaints Authority. This Article also introduces *Schedule 3* which contains amendments to the Police Force Law.

Article 24 gives the title by which this Law may be cited and for it to come into force on a day to be specified by an Act of the States.

Schedule 1 contains provisions setting out the constitution of the Commission; eligibility for membership of the Commission; termination of members appointments, and various provisions dealing with operational and financial matters.

Schedule 2 sets out the standards of professional behaviour which all police officers, including the CO and DCO, and designated persons must abide by. Contravention of those standards may lead to disciplinary proceedings.

Schedule 3 contains miscellaneous amendments to the Police Force Law. Some of those amendments are directly consequential upon the replacement of provisions of the 1999 Law by this Law. Other amendments are to introduce into the Police Force Law, Regulation making powers which are analogous with Regulation making powers under this Law.



Jersey

DRAFT POLICE (COMPLAINTS AND CONDUCT) (JERSEY) LAW 202-

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Jersey

DRAFT POLICE (COMPLAINTS AND CONDUCT) (JERSEY) LAW 202-

A LAW to replace the Jersey Police Complaints Authority with the Jersey Police Complaints Commission; to make provision in relation to complaints about, or matters concerning the conduct of, or death or serious injury matters involving police officers or persons undertaking certain functions of police officers; for the disciplining of police officers; to amend the [States of Jersey Police Force Law 2012](#) and for connected purposes.

<i>Adopted by the States</i>	<i>[date to be inserted]</i>
<i>Sanctioned by Order of Her Majesty in Council</i>	<i>[date to be inserted]</i>
<i>Registered by the Royal Court</i>	<i>[date to be inserted]</i>
<i>Coming into force</i>	<i>[date to be inserted]</i>

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

PART 1

INTERPRETATION AND APPLICATION

1 Interpretation: general

In this Law, unless the context indicates otherwise –

“2005 Law” means the [Employment of States of Jersey Employees \(Jersey\) Law 2005](#);

“Chief Officer” and “Deputy Chief Officer” means the Chief Officer and Deputy Chief Officer of the Force respectively appointed to those offices under the Police Force Law and, in the case of the Deputy Chief Officer, includes a person appointed to carry out the functions of that office under Article 8(3) of that Law;

“Commission” means the Jersey Police Complaints Commission referred to in Article 7;

“Comité des Chefs de Police” means the Committee established under Regulation 8 of the [Honorary Police \(Jersey\) Regulations 2005](#);

- “Comité des Connétables” means the Connétables of the 12 parishes;
- “complaint” is construed in accordance with Article 2;
- “complainant” is a person described in Article 2(4);
- “conduct matter” is construed in accordance with Article 3;
- “designated person” means –
- (a) a States’ employee designated under Article 26 (States’ employees designated to undertake police functions) of the Police Force Law; or
 - (b) a person designated under Article 27 (contractors undertaking police functions) of the Police Force Law who is an employee of a contractor;
- “DSI matter” is construed in accordance with Article 4;
- “Force” means the States of Jersey Police Force continued in being by Article 2 of the Police Force Law;
- “Honorary Police Association” means the Association established under Regulation 4 of the [Honorary Police \(Jersey\) Regulations 2005](#);
- “Jersey Appointments Commission” is construed in accordance with Article 17 of the 2005 Law;
- “Law” means the Police (Complaints and Conduct) (Jersey) Law 202-;
- “Law Officers Department” is construed in accordance with Article 1(1)(b) of the [Departments of the Judiciary and the Legislature \(Jersey\) Law 1965](#);
- “Magistrate” has the meaning given in Article 1(1) of the [Magistrate’s Court \(Miscellaneous Provisions\) \(Jersey\) Law 1949](#);
- “member of the Honorary Police” means a Centenier, Vingtenier or Constable’s Officer;
- “member of the Youth Court” is construed in accordance with paragraph 1 of the Schedule to the [Criminal Justice \(Young Offenders\) \(Jersey\) Law 2014](#);
- “Minister” means the Minister for Home Affairs;
- “Police Authority” means the Jersey Police Authority established by Article 4 of the Police Force Law;
- “Police Force Law” means the [States of Jersey Police Force Law 2012](#);
- “police officer” has the meaning given in Part 1 of the Schedule to the [Interpretation \(Jersey\) Law 1954](#);
- “prescribed” means prescribed by Regulations;
- “Professional Standards” means the standards of professional behaviour set out in paragraphs 2 to 11 of Schedule 2;
- “public authority” has the meaning given in Article 1(1) of the [Data Protection \(Jersey\) Law 2018](#);
- “publish” in relation to reports, arrangements or guidelines, means publish those items in a manner that is likely to bring them to the attention of the public;
- “reconsideration request” is construed in accordance with Article 9(3);
- “relevant Connétable” means in the case of a member of the Honorary Police, the Connétable of the parish in which that member serves;

“serious injury” means a fracture, a deep cut, a deep laceration or an injury causing damage to an internal organ or the impairment of any bodily function;

“States employee” has the meaning given in Article 2 of the 2005 Law;

“States of Jersey Police Association” means the association established under Article 12(1) of the Police Force Law.

2 Meaning of “complaint”

- (1) Subject to paragraph (3), “complaint” means a statement in writing (including in electronic form) which is made by any person described in paragraph (4) (“complainant”) expressing dissatisfaction about an act done by or on behalf of –
 - (a) a police officer;
 - (b) a designated person; or
 - (c) a person who, at the time of the act, was a serving police officer or designated person.
- (2) Without prejudice to the generality of paragraph (1), an act may include the standard of any service provided.
- (3) A Centenier’s decision to charge or not to charge an individual in respect of an offence is not an act in respect of which a complaint may be made under this Law.
- (4) A complainant is any of the following –
 - (a) a member of the public who claims to be the person in relation to whom the act took place;
 - (b) a member of the public not falling within sub-paragraph (a) who claims to have been adversely affected by the act;
 - (c) a member of the public who claims to have witnessed the act;
 - (d) a person acting on behalf of a member of the public described in sub-paragraphs (a) to (c); or
 - (e) a member of the Force, a member of the Honorary Police or a designated person acting otherwise than in the course of his or her duty.
- (5) For the purposes of paragraph (4)(b) a complainant is adversely affected if he or she –
 - (a) suffers any form of loss or damage, distress or inconvenience; or
 - (b) is put in danger, or otherwise unduly put at risk of being adversely affected.

3 Meaning of “conduct matter”

- (1) “conduct matter” means any matter which is not and has not been the subject of a complaint (other than one which has been withdrawn) but in the case of which there is an indication (whether from the circumstances or otherwise) that a police officer or designated person may have –
 - (a) committed a criminal offence; or

- (b) behaved in a manner which would justify the bringing of disciplinary proceedings.
- (2) “conduct” in relation to a conduct matter includes acts, statements and decisions (whether actual, alleged or inferred).

4 Meaning of “death or serious injury matter”

- (1) A death or serious injury matter, referred to in this Law as a “DSI matter”, means any circumstances (other than those which are or have been the subject of a complaint or which amount to a conduct matter) –
 - (a) in which or in consequence of which an individual has died or has sustained serious injury; and
 - (b) in relation to which the requirements of either paragraph (2) or (3) are satisfied.
- (2) The requirements of this paragraph are, that at the time of the death or serious injury the individual –
 - (a) had been arrested by a police officer or designated person and had not been released from that arrest; or
 - (b) was otherwise detained in the custody of a police officer or designated person.
- (3) The requirements of this paragraph are that –
 - (a) at or before the time of the death or serious injury the individual had contact (of whatever kind, and whether direct or indirect) with a police officer or designated person who was acting in the execution of his or her duties; and
 - (b) there is an indication that the contact may have caused (whether directly or indirectly) or contributed to the death or serious injury.

5 Meaning of “other relevant matter”

In Articles 8(1)(h) and 9(1)(b), “other relevant matter” is any incident, not being a matter investigated under the supervision of the Commission, in relation to which there is an indication that a police officer or designated person has been involved.

6 Application and objective of Law

- (1) Except where express provision is made to the contrary, whether by this Law or the Police Force Law, nothing in this Law has effect in relation to a complaint or conduct matter in so far as it relates to the Chief Officer or Deputy Chief Officer.
- (2) The overriding objective of this Law is to ensure effective arrangements for –
 - (a) the handling and investigation of complaints, conduct matters and DSI matters; and
 - (b) the disciplining of police officers.

- (3) For the purposes of satisfying the overriding objective, the Chief Officer, Deputy Chief Officer, Connétables of the parishes and Attorney General must ensure that the respective functions conferred upon them under Part 3 (handling of complaints etc. and investigations) and under any Regulations made under this Law, are carried out efficiently, expeditiously and impartially.

PART 2

ESTABLISHMENT AND FUNCTIONS OF THE JERSEY POLICE COMPLAINTS COMMISSION

7 Jersey Police Complaints Commission

- (1) The body corporate previously known as the Jersey Police Complaints Authority established under Article 2 of the [Police \(Complaints and Discipline\) \(Jersey\) Law 1999](#) –
 - (a) is to continue to exist; and
 - (b) is to be known instead as the Jersey Police Complaints Commission.
- (2) Schedule 1 makes further provision about the constitution and operation of the Commission.
- (3) The States may, by Regulations, amend this Part or Schedule 1 for the purpose of amending the functions of the Commission or otherwise making further provision about the Commission.

8 Functions of the Commission

- (1) The Commission's functions are, subject to any Regulations under this Law –
 - (a) to secure the maintenance by the Chief Officer in relation to members of the Force and designated persons, and Connétables of the parishes in relation to members of the Honorary Police, of –
 - (i) suitable arrangements for the obtaining and preserving of evidence in accordance with Article 15, and
 - (ii) the register of complaints, conduct matters and DSI matters referred to in Article 16;
 - (b) to secure the maintenance by the Deputy Chief Officer in relation to members of the Force and designated persons, of suitable arrangements which generally accord with arrangements implemented elsewhere in the British Islands, for the matters specified in Article 13(1);
 - (c) to secure the maintenance by the Deputy Chief Officer in relation to members of the Honorary Police, of suitable arrangements for the matters specified in Article 13(2);
 - (d) to secure the maintenance by the Connétables of the parishes in relation to members of the Honorary Police, of suitable arrangements for the matters specified in Article 13(3);

- (e) to secure the maintenance by the Attorney General in relation to members of the Honorary Police, of suitable arrangements for the matters specified in Article 13(4);
 - (f) to supervise the investigation of –
 - (i) any complaint or conduct matter, and
 - (ii) any DSI matter, complaint or conduct matter notified under Article 18;
 - (g) to review prescribed decisions taken by the Deputy Chief Officer, relevant Connétable or Attorney General, and to recommend any of those people, as the case may be, to take such action as may be prescribed; and
 - (h) to examine and report upon any other relevant matter if the Commission considers that it would be in the public interest to do so.
- (2) The Commission must –
- (a) keep under review all the arrangements mentioned in paragraph (1)(a) to (e); and
 - (b) seek to secure that those arrangements –
 - (i) are effective, efficient, and expeditiously and impartially carried out,
 - (ii) contain, and manifest an appropriate degree of independence, and
 - (iii) are adhered to.
- (3) The Commission must discharge such functions as may be conferred by, or under, the Police Force Law in relation to complaints, conduct matters and disciplinary arrangements concerning the Chief Officer and Deputy Chief Officer.
- (4) The Commission may do anything which appears to the Commission to be calculated to facilitate, or is incidental or conducive to, the carrying out of the Commission's functions under this Law, or the Police Force Law.
- (5) Without prejudice to the generality of paragraph (4), the Commission may, having first consulted the Chief Officer, Deputy Chief Officer, Connétables of the parishes, or Attorney General, as the case may be, issue guidance concerning the exercise or performance of those peoples' functions under this Law, and in so doing the Commission may request any of those people to assist in the preparation of that guidance where it is reasonable and practicable to do so.

9 Power of the Commission to make recommendations

- (1) The Commission may make recommendations as appear to the Commission to be necessary or desirable in the public interest, in connection with –
- (a) the arrangements mentioned in Article 8(1)(a) to (e);
 - (b) the practice of the Deputy Chief Officer or relevant Connétable in relation to any relevant matter the Commission has examined and reported on under Article 8(1)(h); and

- (c) the performance of the Chief Officer's, Deputy Chief Officer's and relevant Connétable's duties under Article 15.
- (2) Where paragraph (1) applies, or where Regulations are made under paragraph (6), the Chief Officer, Deputy Chief Officer, relevant Connétable or Attorney General, as the case may be, must as soon as is reasonably practicable after receiving the recommendations, notify the Commission in writing –
 - (a) as to whether or not he or she is minded to accept the recommendations, whether in full or in part;
 - (b) of the steps he or she proposes to take to implement the accepted recommendations; and
 - (c) of the reasons for not accepting the recommendations, whether in full or in part.
- (3) If any of the people mentioned in paragraph (2) determines not to accept the recommendations given under paragraph (1) or (6), the Commission –
 - (a) may request those people to reconsider that determination (referred to hereafter as a reconsideration request); and
 - (b) must give a statement of its reasons for making that request.
- (4) In deciding whether or not to issue a reconsideration request, the Commission must have regard to –
 - (a) the seriousness of the case; and
 - (b) the public interest.
- (5) The people mentioned in paragraph (2) must have due regard to any reconsideration request.
- (6) The States may, by Regulations, enable the Commission to make recommendations in connection with –
 - (a) the exercise of functions by any of the people mentioned in paragraph (2) under any other provisions of this Law or Regulations; or
 - (b) particular complaints, conduct matters or DSI matters including the conduct of investigations into those complaints or matters, and where the Commission is exercising functions under the Police Force Law, any complaints or conduct matters concerning the Chief Officer or Deputy Chief Officer.
- (7) Notwithstanding the generality of the power under Article 10(4), the States may, by Regulations, enable the Commission to disclose information about the recommendations it has made, notifications it has received and reconsideration requests it has made under this Article, to specified descriptions or categories of persons.

10 Reports

- (1) As soon as practicable after the end of each calendar year, the Commission must make a report to the Minister on the carrying out of the Commission's functions under this Law, and the Police Force Law, during that year (the "annual report").

- (2) The Commission may also make reports to the Minister about matters relating generally to the carrying out of the Commission's functions under this Law or the Police Force Law as the Minister may, from time to time, request.
- (3) The Commission may, from time to time, make other reports to the Minister as the Commission considers appropriate for drawing the Minister's attention to matters which –
 - (a) have come to the Commission's notice; and
 - (b) are matters which the Commission considers should be drawn to the Minister's attention by reason of their gravity or of other exceptional circumstances.
- (4) The Commission's annual report may include the scope of any recommendations it has made, or reconsideration requests it has made, and whether those recommendations have been accepted and implemented to the Commission's satisfaction, or whether those reconsideration requests have, or have not, resulted in the reconsideration of a determination not to accept a recommendation.
- (5) The Minister must, as soon as practicable, lay before the States and publish –
 - (a) every annual report made under paragraph (1); and
 - (b) every other report made under this Article but only if, and to the extent that, the Minister considers it appropriate to do so.

11 Provision of information to the Commission

- (1) The Chief Officer, Deputy Chief Officer, relevant Connétable or Attorney General may supply the Commission with any information and documents as may be specified or described in a notification given by the Commission as appear to the Commission to be necessary for the purposes of the carrying out of any of the Commission's functions under this Law or the Police Force Law.
- (2) The information and documents referred to in paragraph (1) must be information and documents which the people mentioned in that paragraph would, apart from paragraph (1), only lawfully be able to supply to the Commission, and provided it appears to those people proportionate and reasonable to do so.
- (3) Anything falling to be supplied further to a notification given under paragraph (1) must be supplied in the form and manner and within the period as may be specified in the notification or in any subsequent notification given under this Article.
- (4) Nothing in this Article requires the people mentioned in paragraph (1) to provide the Commission with any information or document, or to produce any other thing, before the earliest time at which it is practicable for those people to do so.
- (5) A requirement imposed by any notification under this Article may authorise or require information or documents to which it relates to be provided to the Commission electronically.

12 Disclosure of information by the Commission

- (1) No information obtained by the Commission in connection with any of the Commission's functions under this Law or the Police Force Law may be disclosed by any individual who is or has been a member, officer or staff of the Commission except as otherwise in accordance with this Article.
- (2) A person who knowingly or recklessly discloses information in contravention of paragraph (1) commits an offence and is liable to imprisonment for a term of 2 years and to a fine.
- (3) Information obtained by the Commission in connection with any of the Commission's functions under this Law or the Police Force Law may be disclosed by the Commission –
 - (a) to the Minister, Attorney General, or a member, officer or staff of the Commission; or
 - (b) if it is proportionate and reasonable to do so and in accordance with paragraph (4), to any public authority in Jersey or elsewhere.
- (4) The Commission may disclose information to a public authority in Jersey, or elsewhere if –
 - (a) the information has previously been lawfully disclosed to the public;
 - (b) the disclosure is made in accordance with any enactment or order of a court;
 - (c) the disclosure is necessary for the purpose of facilitating the exercise of any of the Commission's functions; or
 - (d) the disclosure is made for the purposes of –
 - (i) the investigation or prosecution of any offence (whether in Jersey or elsewhere), under any enactment or under the customary law of Jersey, or
 - (ii) civil or disciplinary proceedings.
- (5) Information disclosed by the Commission under this Article to any public authority must not be further disclosed by that public authority except –
 - (a) for a purpose connected with a function of that public authority; and
 - (b) with the consent of the Commission.
- (6) Consent under paragraph (5) may only be given –
 - (a) in relation to a particular disclosure; or
 - (b) in relation to disclosures made in circumstances specified or described in the consent.

PART 3**HANDLING OF COMPLAINTS ETC. AND INVESTIGATIONS****13 Arrangements for handling complaints, conduct and DSI matters**

- (1) The Deputy Chief Officer, in relation to members of the Force and designated persons, must maintain suitable arrangements which generally

- accord with arrangements implemented elsewhere in the British Islands, for –
- (a) the handling of complaints (including the resolution of complaints by mutual agreement), conduct matters and DSI matters from initial referral to their conclusion by way of disciplinary proceedings, or otherwise, as the case may be;
 - (b) the recording of the matters set out in Article 17; and
 - (c) the conduct of investigations into complaints, conduct matters or DSI matters (as the case may be) including the obtaining and preserving of evidence until the complaint, conduct matter or DSI matter is concluded by way of disciplinary proceedings, or otherwise, as the case may be.
- (2) The Deputy Chief Officer in relation to members of the Honorary Police, must maintain suitable arrangements for the conduct of investigations into complaints, conduct matters or DSI matters (as the case may be) involving those members including the obtaining and preserving of evidence until the complaint, conduct matter or DSI matter is concluded by way of disciplinary proceedings, or otherwise, as the case may be.
- (3) The Connétables of the parishes, in relation to members of the Honorary Police, must maintain suitable arrangements for –
- (a) the handling of complaints, conduct matters and DSI matters from initial referral up to, and including the initiation of any investigation into those complaints or matters; and
 - (b) the resolution of complaints by mutual agreement.
- (4) The Attorney General, in relation to members of the Honorary Police, must maintain suitable arrangements for –
- (a) the recording of the matters set out in Article 17; and
 - (b) the handling of complaints, conduct matters and DSI matters after any investigation into those complaints or matters has occurred until such time as the complaints or matters in question are concluded by way of disciplinary proceedings, or otherwise.
- (5) The Deputy Chief Officer, Connétables and Attorney General must publish the details of their respective arrangements.
- (6) Before publishing their respective arrangements –
- (a) the Deputy Chief Officer, Connétables and Attorney General must seek the views of the Commission and have due regard to those views; and
 - (b) the Connétables must also seek the views of the Comité des Connétables and Comité des Chefs de Police.
- (7) The Deputy Chief Officer, Connétables and Attorney General must, in the manner as each so determines, keep the Commission and, as the case may be, the Comité des Connétables and Comité des Chefs de Police informed about –
- (a) the maintenance of their respective arrangements so that the Commission and, as the case may be, the Comité des Connétables and Comité des Chefs de Police may be satisfied that those arrangements continue to be suitable; and

- (b) improvements to policy or practice that have resulted from complaints, conduct matters or DSI matters.

14 Disclosure of information by the Deputy Chief Officer or Attorney General

- (1) If it appears to be in the public interest to do so, information obtained by the Deputy Chief Officer or the Attorney General in connection with any of his or her functions under this Law, may be disclosed to any public authority in Jersey or elsewhere.
- (2) Information disclosed under this Article to any public authority must not be further disclosed except –
 - (a) for a purpose connected with a function of that public authority; and
 - (b) with the consent of the Deputy Chief Officer or the Attorney General.
- (3) Consent under paragraph (2) may only be given –
 - (a) in relation to a particular disclosure; or
 - (b) in relation to disclosures made in circumstances specified or described in the consent.

15 Duties to preserve evidence relating to complaints, conduct and DSI matters

- (1) In relation to any complaint, conduct matter or DSI matter, the Chief Officer, in relation to members of the Force and designated persons, and the Connétables of the parishes in relation to members of the Honorary Police, must respectively take all steps as appear to be appropriate for the purposes of this Law and Regulations made under Article 22, for obtaining and preserving evidence relating to a complaint, conduct matter or DSI matter, as the case may be.
- (2) The Chief Officer's or relevant Connétable's duty under paragraph (1) must be performed as soon as practicable after he or she becomes aware of the complaint or matter in question.
- (3) After that, the Chief Officer or relevant Connétable must continue to take the steps from time to time appearing to him or her to be appropriate, for obtaining and preserving evidence relating to the complaint or matter until –
 - (a) he or she is satisfied that it is no longer necessary to do so; or
 - (b) the Deputy Chief Officer launches an investigation (if any) into the complaint or matter.

16 Duties in relation to register of complaints, conduct and DSI matters

- (1) The Chief Officer, in relation to members of the Force and designated persons, and the Connétables of the parishes, in relation to members of the Honorary Police, must respectively maintain a register of complaints, conduct matters and DSI matters.

- (2) Subject to Regulations made under Article 22, the Chief Officer and Connétables, as the case may be, must record in their respective registers, in relation to each complaint, conduct matter or DSI matter –
 - (a) the nature of it;
 - (b) the steps taken in dealing with it; and
 - (c) the outcome of it.
- (3) The Chief Officer or Connétables must make the register available to the Commission, when so requested.

17 Duty to keep records

- (1) The Deputy Chief Officer in relation to members of the Force and designated persons, and the Attorney General in relation to members of the Honorary Police must respectively keep records in the form he or she determines, of –
 - (a) every complaint, conduct matter or DSI matter that is referred to the Deputy Chief Officer, Attorney General or the Commission, as the case may be;
 - (b) disciplinary proceedings against members of the Force, designated persons or members of the Honorary Police, as the case may be; and
 - (c) matters constituting or involving the commission of a criminal offence by members of the Force, designated persons or members of the Honorary Police, as the case may be.
- (2) In the case of members of the Force and designated persons, records kept by the Deputy Chief Officer must be retained for a period which generally accords with guidance on the minimum standards for the retention and disposal of police records adopted by police forces elsewhere in the British Islands.
- (3) Nothing in this Article is to be taken as derogating from the requirements of the [Data Protection \(Jersey\) Law 2018](#).

18 Investigation of DSI matters and complaints or conduct matters where death or serious injury has occurred

- (1) Subject to paragraph (3), it is the duty of the Deputy Chief Officer to determine whether or not it is necessary, in every case, to investigate –
 - (a) DSI matters;
 - (b) complaints alleging that the conduct or other matter complained of has resulted in death or serious injury; or
 - (c) conduct matters where those matters relate to any incident or circumstances in which or in consequence of which an individual has died or suffered serious injury.
- (2) The Deputy Chief Officer must, without delay, notify the Commission and, in a case involving a member of the Honorary Police, the Attorney General of any DSI matter, and any complaint or conduct matter described in paragraph (1).

- (3) If it appears to the Deputy Chief Officer that the DSI matter, complaint or conduct matter, as the case may be, does not require investigation, the notification under paragraph (2) must include the Deputy Chief Officer's reasons for that view and give details of the proposed alternative manner of dealing with that DSI matter, complaint or conduct matter, if any.

19 Duty to keep complainant, police officer or designated person informed

- (1) In any case in which there is an investigation of a complaint, it is the duty of the Deputy Chief Officer to provide the complainant, police officer or designated person concerned with all information as will keep the individual concerned properly informed, while the investigation is being carried out and subsequently, of all the matters mentioned in paragraph (2).
- (2) The matters of which the people mentioned in paragraph (1) must be kept properly informed are –
 - (a) the progress of the handling of the complaint;
 - (b) the outcome of the handling of the complaint; and
 - (c) any other matters as may be specified in Regulations.
- (3) The duties imposed by this Article on the Deputy Chief Officer must be performed in the manner, and have effect subject to the exceptions, as may be provided for by Regulations.
- (4) Regulations providing for any exceptions from the duties imposed by this Article or Article 20 may be made for the following purposes –
 - (a) preventing the premature or inappropriate disclosure of information that is relevant to, or may be used in, any actual or prospective criminal proceedings;
 - (b) preventing the disclosure of information in any circumstances in which it has been determined in accordance with the Regulations that its non-disclosure –
 - (i) is in the interests of national security,
 - (ii) is for the purposes of the prevention or detection of crime, or the apprehension or prosecution of offenders,
 - (iii) is justified on proportionality grounds, or
 - (iv) is otherwise necessary in the public interest.
- (5) The non-disclosure of information is justified on proportionality grounds if its disclosure would cause, directly or indirectly, an adverse effect which would be disproportionate to the benefits arising from its disclosure.

20 Duty to provide information to other people

- (1) An individual has an interest in being kept properly informed about the handling of a complaint, conduct matter or DSI matter if –
 - (a) it appears to the Deputy Chief Officer, relevant Connétable or Attorney General, as the case may be, that the individual is a person described in paragraph (2), (3) or (4); and

- (b) that individual has indicated that he or she consents to the provision of information to him or her in accordance with this Article and that consent has not been withdrawn.
- (2) In the case of a complaint that relates to the conduct of a police officer or designated person, or a conduct matter, an individual falls within this paragraph, if –
 - (a) the individual is a relative of a person whose death is the alleged result from the conduct complained of or to which the conduct matter relates;
 - (b) the individual is a relative of a person whose serious injury is the alleged result from that conduct and that person is incapable of making a complaint; or
 - (c) the individual has suffered serious injury as the alleged result of that conduct.
- (3) In the case of a DSI matter, an individual falls within this paragraph if –
 - (a) the individual is a relative of the person who has died;
 - (b) the individual is a relative of the person who has suffered serious injury and that person is incapable of making a complaint; or
 - (c) the individual is the person who has suffered serious injury.
- (4) An individual who does not fall within paragraph (2) or (3) has an interest in being kept properly informed about the handling of a complaint, conduct matter or DSI matter if the Deputy Chief Officer, relevant Connétable or Attorney General, as the case may be, considers that the individual has an interest in the handling of the complaint, conduct matter or DSI matter which is sufficient to make it appropriate for information to be provided to that individual in accordance with this Article.
- (5) In relation to a complaint, this Article confers no rights on the complainant.
- (6) An individual who falls within paragraph (2), (3) or (4) is referred to in the following provisions of this Article as an “interested person”.
- (7) In any case in which there is an investigation of a complaint, conduct matter or DSI matter under this Law, it is the duty of the Deputy Chief Officer to provide the interested person with all the information as will keep the interested person properly informed while the investigation is being carried out and, subsequently, it is the duty of the Deputy Chief Officer or Attorney General, as the case may be, to keep the interested person properly informed of all the matters specified in paragraph (8).
- (8) Those matters are –
 - (a) the progress of the handling of the complaint, conduct matter or DSI matter;
 - (b) the outcome of the handling of the complaint, conduct matter or DSI matter;
 - (c) any other matters as may be prescribed.
- (9) The generality of paragraph (8)(a) and (b) is not affected by any requirement to notify an interested person that is imposed by any other provision of, or under, this Law.
- (10) The duties imposed by this Article on the Deputy Chief Officer, relevant Connétable or Attorney General in relation to any complaint, conduct

matter or DSI matter must be performed in the manner, and have effect subject to the exceptions, as may be provided for by Regulations.

- (11) Article 19(4) and (5) applies for the purposes of this Article.
- (12) In this Article “relative” means any spouse, partner (including civil partner), parent or child who has attained the age of 18.

PART 4

FINAL PROVISIONS

21 Standards of professional behaviour

- (1) Schedule 2 sets out the standards of professional behaviour required of police officers and designated persons.
- (2) The States may by Regulations amend Schedule 2 for the purpose of amending the application of that Schedule or the Professional Standards set out in it.
- (3) Regulations under this Article may only be made after the Minister has consulted –
 - (a) the Chief Officer and Deputy Chief Officer;
 - (b) the Attorney General;
 - (c) the Comité des Connétables;
 - (d) the Comité des Chefs de Police;
 - (e) the States of Jersey Police Association; and
 - (f) the Honorary Police Association.

22 Regulations as to procedures

- (1) The States may make Regulations as to the procedure to be followed under any provision of this Law and, in particular, without prejudice to the generality of that power or of any other power to make Regulations under this Law, provide –
 - (a) for the initial submission and recording of complaints or conduct matters;
 - (b) for the complainant and the individual complained against to be supplied with a copy of the record made of the complaint;
 - (c) for the specifying of descriptions of complaints or conduct matters that are not required to be recorded;
 - (d) for the notification to the Commission of specified descriptions of conduct matters;
 - (e) for complaints about police officers or designated persons, to be resolved by way of mutual agreement; for giving any of those individuals an opportunity to comment orally or in writing on the complaint; and for giving the complainant a record of the outcome of any procedure;

- (f) for the referral to the Law Officers Department of a complaint, conduct matter or DSI matter, from which it can be reasonably inferred that a police officer or designated person may have committed a criminal offence;
- (g) for the investigation of any complaint, conduct matter or DSI matter whether supervised by the Commission or otherwise, including the appointment of people to conduct investigations or to assist with the conduct of investigations and for conferring functions on those people;
- (h) for the suspension of a police officer or designated person pending the completion of an investigation of any complaint, conduct matter or DSI matter;
- (i) for the circumstances in which any investigation or other procedure under this Law may be or must be suspended to allow a criminal investigation or proceedings to continue, and for the consequences of a suspension;
- (j) for any procedure for the purposes of this Law to be discontinued, and for the consequences of any discontinuance, including where –
 - (i) a complaint is withdrawn, or the complainant indicates that he or she does not wish any further steps to be taken, or
 - (ii) the whole or part of the investigation of the complaint has been suspended until the conclusion of criminal proceedings;
- (k) for requiring the subject-matter of a complaint that has been withdrawn to be treated for the purposes of this Law, in the cases and to the extent specified in the Regulations, as a conduct matter;
- (l) for the procedure to be followed in cases in which the Commission relinquishes the supervision of any investigation and for the consequences of the Commission doing so;
- (m) for the procedures of the Commission in discharging its functions under this Law, including the discharge of any function of the Commission by one or more of the Commission's members;
- (n) for applying provisions made by or under this Law, with modifications as the States think fit, in cases where a complaint or conduct matter relates to an individual who has ceased to be a police officer or designated person since the time of the act complained about, or the conduct in question;
- (o) for applying provisions made by or under this Law, with modifications as the States thinks fit, in cases where a complaint or conduct matter relates to an individual –
 - (i) whose identity is unascertained at the time at which a complaint is made or a conduct matter is recorded,
 - (ii) whose identity is not ascertained during, or subsequent to, the investigation of a complaint or conduct matter;
- (p) for the Deputy Chief Officer or Attorney General to assess whether a complaint is likely to result in disciplinary proceedings, and if not, to assess what if any other action may be appropriate, including resolution by mutual agreement;

- (q) for establishing procedures to deal with conduct of police officers or designated persons which requires action other than disciplinary proceedings;
 - (r) for the Deputy Chief Officer and Attorney General to have power to delegate the exercise or performance of powers or duties conferred or imposed on them by or under this Law;
 - (s) for the manner in which any notification for the purposes of any provision made by or under this Law is to be given and the time at which, or period within which, any notification must be given;
 - (t) for enabling representations on behalf of an individual complained about or to whose conduct an investigation relates, to be made to the Commission by a person who is not that individual's legal representative but is of a description specified in the Regulations;
 - (u) for the conduct of disciplinary proceedings in respect of a police officer, including provision for the representation of an officer at a hearing and for the disclosure of documents to the officer for the purposes of the hearing;
 - (v) for the maintaining by the Police Authority of a list of people who may be appointed to conduct disciplinary proceedings;
 - (w) for disciplinary action to be taken in respect of a police officer whose conduct amounts to misconduct, including contravention of any of the Professional Standards;
 - (x) for conferring a complainant with a right of review in relation to decisions prescribed under Article 8(1)(g), taken by the Deputy Chief Officer, relevant Connétable or Attorney General, as the case may;
 - (y) for conferring a complainant, police officer or designated person with a right of appeal; for the establishment of an appeal panel to hear appeals from disciplinary proceedings; for making provision about costs and for the conduct of appeals generally.
- (2) Regulations under this Law may be framed so as to apply in respect of a specified rank of police officer, or to apply in relation to particular cases, description or category of cases or person, or to exclude a rank or case from their application, and may include exceptions or conditions as appear to the States to be expedient for the purposes of the Regulations.
- (3) The States may by Regulations amend this Article for the purpose of amending the scope of Regulations which may be made under paragraph (1).

23 Consequential amendments, repeals, savings and transitional provisions

- (1) The States may, by Regulations, amend any enactment, including this Law, for the purpose of making transitional, consequential, incidental, supplementary or savings provisions as the States consider necessary or expedient in consequence of any provision made by or under this Law.
- (2) The States may, by Regulations, amend this Law (and Regulations under this Law) to substitute another person for the Deputy Chief Officer.

- (3) Any Regulations under this Law may contain transitional, consequential, incidental or supplementary provisions as appear to the States to be expedient for the purposes of the Regulations.
- (4) A power to make Regulations under this Law for the purpose of amending a provision of this Law, includes the power to make transitional, consequential, incidental or supplementary amendments to any other provision of this Law as appears to the States to be necessary or expedient.
- (5) The following enactments are repealed –
 - (a) the [Police \(Complaints and Discipline\) \(Jersey\) Law 1999](#) (the “1999 Law”);
 - (b) the [Police \(Complaints and Discipline Procedure\) \(Jersey\) Order 2000](#);
 - (c) the [Police \(Honorary Police Complaints and Discipline Procedure\) \(Jersey\) Regulations 2000](#).
- (6) Despite the repeal of the enactments specified in paragraph (5), those enactments are to continue to have effect for the purposes of –
 - (a) concluding any investigation, disciplinary or appeal proceedings commenced under those enactments before the specified commencement day; and
 - (b) bringing an appeal in relation to disciplinary proceedings commenced before the specified commencement day but which are concluded whether before or after that day.
- (7) Any function conferred upon the Jersey Police Complaints Authority by the enactments specified in paragraph (5) are, for the purposes of paragraph (6), taken to be functions conferred upon the Commission.
- (8) The members of the Jersey Police Complaints Authority who were in office immediately before the specified commencement day –
 - (a) may continue to serve as members of the Commission until their 3 year term of appointment specified in the Schedule to the 1999 Law expires, or their appointment is terminated earlier under paragraph 3 of Schedule 1; and
 - (b) subject to paragraphs 2 and 3 of Schedule 1, are eligible for re-appointment.
- (9) The Chairman of the Jersey Police Complaints Authority who was in office immediately before the specified commencement day –
 - (a) may continue to serve as chair of the Commission as if that individual were so designated by the Minister under paragraph 2(5) of Schedule 1, and until his or her 3 year term of appointment specified in the Schedule to the 1999 Law expires; and
 - (b) is eligible to be designated to serve as chair or deputy chair of the Commission for a further period as the Minister may determine under paragraph 2(5) of Schedule 1.
- (10) In this Article “specified commencement day” means a day specified in accordance with Article 24.
- (11) Schedule 3 amends the Police Force Law.

24 Citation and commencement

This Law may be cited as the Police (Complaints and Conduct) (Jersey) Law 202- and comes into force on a day to be specified by the States by Act.

SCHEDULE 1

(Article 7(2))

THE JERSEY POLICE COMPLAINTS COMMISSION

1 Incorporation of the Commission

The Commission is a body corporate.

2 Constitution of the Commission

- (1) The Commission is to consist of a minimum of 3 and a maximum of 12 members.
- (2) Members of the Commission must be appointed by the Minister, and Article 2 of the [States of Jersey \(Appointment Procedures\) \(Jersey\) Law 2018](#) applies to their appointment.
- (3) The Jersey Appointments Commission must oversee the appointment of members of the Commission in accordance with Article 23 of the 2005 Law, and a person whose appointment is so overseen is to be treated as a States' appointee for the purposes of Part 4 of the 2005 Law.
- (4) When appointing a person as a member of the Commission the Minister must –
 - (a) have regard to the need to encourage diversity in the range of people appointed; and
 - (b) determine the period of the appointment, being not more than 4 years.
- (5) The Minister must, from among the members of the Commission, designate one as the chair and another as the deputy-chair for a period as the Minister may determine, being not more than 4 years.
- (6) The Minister may, subject to sub-paragraph 3, re-appoint a member of the Commission when the member's period of appointment expires (and references in this paragraph to appointment include re-appointment).
- (7) A person may not be a member of the Commission if –
 - (a) the person has been, is, or becomes a member of the Force, Honorary Police or of any other police force;
 - (b) the person has been, is, or becomes a member of the States (within the meaning of the [States of Jersey Law 2005](#)), the Magistrate, a judge of the Royal Court, Jurat or member of the Youth Court;
 - (c) the person is working or starts working, whether as a States employee, or under a contract for services, in any administration of the States for which the Minister is responsible; or
 - (d) the person has been, is, or becomes a member of an equivalent body to the Commission established in another jurisdiction.

3 Termination of member's appointment

- (1) A member may resign from the Commission by giving not less than 3 months' notice in writing to the Minister and the Minister must, as soon as practicable after receiving that notice of resignation, inform the States of it.
- (2) The Minister may terminate the appointment of a member of the Commission by giving that individual not less than 3 months' notice in writing.
- (3) A notice given under sub-paragraph (2) must include the grounds for terminating the appointment which may include, but not limited, to any of the following –
 - (a) the member has without reasonable cause failed to carry out the member's duties;
 - (b) the member has become bankrupt;
 - (c) the member is incapacitated by physical or mental illness; or
 - (d) the member is otherwise unable or unfit to perform his or her duties.
- (4) Article 3 of the [States of Jersey \(Appointment Procedures\) \(Jersey\) Law 2018](#) applies to the termination of the appointment of a member of the Commission under sub-paragraph (2).
- (5) A member's appointment automatically terminates if –
 - (a) the period for which the member was appointed expires without re-appointment;
 - (b) the member becomes a person who is ineligible to be a member of the Commission by virtue of paragraph 2(7);
 - (c) the member is convicted of a criminal offence; or
 - (d) the member completes 12 years' service (whether consecutively or in aggregate) as a member of the Commission.

4 Resources, expenses and accounts

- (1) The Minister must ensure that the Commission is provided with administrative and other support, including staff, services and accommodation, as the Commission may reasonably require for the purpose of discharging the functions of the Commission under this Law or the Police Force Law.
- (2) The Minister may determine the expenses of the Commission and of its members, and those expenses are to be paid out of the revenue of the States.
- (3) The expenses of the Commission may include the costs of legal advice, engaging persons to advise upon, conduct or supervise an investigation, or any other advice as is required to facilitate, or is conducive or incidental to the discharge of the Commission's functions.
- (4) The Minister must cause to be kept records and accounts of the finances of the Commission.

5 Method of operation

- (1) The Commission may determine the arrangements for the proceedings of the Commission (including the quorum for meetings and the establishment of committees).
- (2) The arrangements may include provision for the committees established under the arrangements to include members of the Commission, its staff and other persons who are not members of the Commission.
- (3) The Commission must prepare guidelines for the Commission's members, which it may publish as it considers appropriate, to assist in the carrying out their functions.

6 Limitation of civil liability

- (1) This paragraph applies to –
 - (a) a person who is or has been a member of the Commission; and
 - (b) a person who is, or has been a member of staff, or is acting or has acted as an agent of the Commission, or who is performing any duty or exercising any power on behalf of the Commission.
- (2) A person to whom this paragraph applies is not liable in damages for any act done in the discharge, or purported discharge, of the functions of the Commission by or under this Law or any other enactment.
- (3) Sub-paragraph (2) does not apply –
 - (a) if it is shown that the act was done in bad faith; or
 - (b) so as to prevent an award of damages made in respect of an act on the ground that the act was unlawful as a result of Article 7(1) (public authorities and the States Assembly) of the [Human Rights \(Jersey\) Law 2000](#).

7 Complaints against the Commission

- (1) The Commission must maintain suitable arrangements for the handling of any complaint made to the Commission expressing dissatisfaction about an act done by the Commission or by any member of the Commission's staff.
- (2) Before making those arrangements, the Commission must consult the Minister and any other persons it deems appropriate, as to what those arrangements should be.

SCHEDULE 2

(Article 21)

STANDARDS OF PROFESSIONAL BEHAVIOUR

1 Application and interpretation

- (1) A police officer may be subject to disciplinary proceedings where it appears that the police officer has contravened any of the Professional Standards set out in paragraphs 2 to 11 of this Schedule.
- (2) The making of a protected disclosure by a police officer is not a contravention of the Professional Standards.
- (3) In this Schedule –
 - (a) “police officer” includes the Chief Officer, Deputy Chief Officer and designated persons;
 - (b) “proceedings” include a parish hall inquiry into an allegation that an offence has been committed;
 - (c) “protected disclosure” means any disclosure of information which, in the reasonable belief of the police officer making the disclosure, is made in the public interest and tends to show one or more of the following –
 - (i) that a criminal offence has been committed, is being committed or is likely to be committed,
 - (ii) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he or she is subject,
 - (iii) that a miscarriage of justice has occurred, is occurring or is likely to occur,
 - (iv) that the health or safety of any individual has been, is being or is likely to be endangered, or
 - (v) that information tending to show any matter falling within any one of the preceding sub-paragraphs has been, or is likely to be deliberately concealed.
- (4) For the purposes of sub-paragraph (3)(c), it is immaterial whether the relevant failure occurred, occurs or would occur in Jersey or elsewhere, and whether the law applying to it is that of Jersey or of any other country or territory.
- (5) A disclosure of information is not a protected disclosure if the person making the disclosure commits an offence by making it.

2 Honesty and integrity

Police officers must –

- (a) be honest;
- (b) act with integrity; and
- (c) not compromise or abuse their position.

3 Authority, respect and courtesy

- (1) Police officers must act with self-control and tolerance, treating members of the public and colleagues with respect and courtesy.
- (2) Police officers must not abuse their powers or authority and must respect the rights of all individuals.

4 Equality and diversity

- (1) Police officers must act with fairness and impartiality.
- (2) Police officers must not discriminate unlawfully or unfairly.

5 Use of force

Police officers must only use force to the extent that it is necessary, proportionate and reasonable in all the circumstances.

6 Orders and instructions

- (1) Police officers must only give and carry out lawful orders and instructions.
- (2) Police officers must –
 - (a) in the case of members of the Force and designated persons, abide by Force policies;
 - (b) in the case of members of the Honorary Police, abide by –
 - (i) any policies referred to in Article 6A (functions) of the [Honorary Police \(Jersey\) Regulations 2005](#), issued by the Connétable of the parish in which that member serves, and
 - (ii) any directions, directives or guidance issued by the Attorney General;
 - (c) comply with –
 - (i) lawfully given orders, and
 - (ii) any requirements imposed on them by, or under, any enactment.

7 Duties and responsibilities

- (1) Police officers must be diligent in the exercise of their duties and responsibilities.
- (2) In line with the expectation set out in sub-paragraph (1), police officers when identified as witnesses are responsible for co-operating appropriately, and participating openly and professionally during investigations, inquiries and formal proceedings.

8 Confidentiality

Police officers must treat information with respect and access or disclose it only in the proper course of police duties.

9 Fitness for duty

Police officers, when on duty or presenting themselves for duty, must be fit to carry out their responsibilities.

10 Discreditable conduct

- (1) Whether on or off duty, police officers must behave in a manner which does not discredit, or undermine public confidence in, the Force or Honorary Police, as the case may be.
- (2) Police officers must report any proceedings taken against them for a criminal offence and any penalty or conditions imposed, or caution given under those proceedings.

11 Challenging and reporting improper conduct

Police officers must report, challenge or take action against the conduct of colleagues which contravenes the Professional Standards required of them.

SCHEDULE 3

(Article 23(11))

AMENDMENT OF THE POLICE FORCE LAW

The following provisions of the Police Force Law are amended –

- (a) in Article 1 (interpretation) –
 - (i) after the definition “Chief Officer” there is inserted –

“Complaints Commission” means the Jersey Police Complaints Commission referred to in Article 7 of the Police (Complaints and Conduct) (Jersey) Law 202-;”,
 - (ii) after the definition “police officer” there is inserted –

“public authority” has the meaning given in Article 1(1) of the [Data Protection \(Jersey\) Law 2018](#);”,
- (b) in Article 9 (appointment of Chief Officer and Deputy Chief Officer) –
 - (i) in paragraph (2)(f) after “the handling of complaints” there is inserted “including the provision of information to any person who is the subject of, or connected with those arrangements or matters”,
 - (ii) for paragraph (3)(g) there is substituted –

“(g) the Complaints Commission; and”,
 - (iii) in paragraph (3)(h) for “conducting or reviewing such proceedings” there is substituted “conducting, reviewing or otherwise advising or assisting in those proceedings”,
 - (iv) in paragraph (4)(a) for “the [Police \(Complaints and Discipline\) \(Jersey\) Law 1999](#)” there is substituted “the Police (Complaints and Conduct) (Jersey) Law 202-”,
 - (v) after paragraph (4)(b) there is inserted –

“(c) provide for the limitation of civil liability in respect of a body or individual referred to in paragraph (3)(h);
 - (d) provide for the disclosure of information obtained by the Minister in connection with any function imposed or power conferred under paragraph (3), to any public authority in Jersey or elsewhere;
 - (e) provide for the publication of any report obtained by the Minister in connection with disciplinary proceedings;
 - (f) where a duty to provide information is, under paragraph (3), imposed upon any person listed in that paragraph, provide that the duty may be subject to such exceptions as the States consider necessary for the purpose of –
 - (i) preventing the premature or inappropriate disclosure of information that is relevant to, or may be used in, any actual or prospective criminal proceedings,
 - (ii) preventing the disclosure of information in any circumstances in which it has been determined in

accordance with the Regulations that its non-disclosure –

- (A) is in the interests of national security,
- (B) is for the purposes of the prevention or detection of crime, or the apprehension or prosecution of offenders,
- (C) is justified on proportionality grounds, or
- (D) is otherwise necessary in the public interest.

(4A) In paragraph (4)(f)(ii)(C), the non-disclosure of information is justified on proportionality grounds if its disclosure would cause, directly or indirectly, an adverse effect which would be disproportionate to the benefits arising from its disclosure.”,

(vi) after paragraph (5) there is inserted –

“(6) The States may by Regulations amend this Article for the purpose of amending the scope of Regulations which may be made under this Article.”;

(c) in Article 26 (States’ employees designated to undertake police functions) –

(i) paragraph (9) is deleted,

(ii) in paragraph (10) for “Schedules 2 and 3” there is substituted “Schedule 2”;

(d) in Article 28A (arrangements for independent custody visitors), in paragraph (10)(e) for “Police Complaints Authority”, there is substituted “Complaints Commission”;

(e) Schedule 3 (designated persons: complaints, discipline and conduct matters) is deleted.