

**DRAFT POLICE (COMPLAINTS AND DISCIPLINE) (JERSEY)
LAW 199**

**Lodged au Greffe on 14th July 1998
by the Defence Committee**



STATES OF JERSEY

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Report

On 13th April 1993, the States approved in principle a proposition (P.29/93) for the establishment of an independent Jersey Police Complaints Authority as outlined in the second report of the Working Party on Policing in the Island and the report entitled "A Proposal Document" (R.C.3/93). The States charged the Defence Committee with preparing the necessary legislation and approved the appointment of Mr. Leslie May FCCA as Chairman (designate) of the Authority pending the approval of the necessary legislation.

On 2nd June 1994, the Defence Committee approved the report of a Steering Group chaired by Mr. May which had been appointed to make recommendations and prepare a brief for the Law Draftsman in relation to the proposed Police Complaints Authority.

Following consultation with the Attorney General, the Defence Committee considered a draft Law on 7th April 1998 and circulated it for consultation to Mr. Leslie May, the States of Jersey Police Association, the Port Control Officers' Association, the Comité des Connétables, the Centeniers Association, the Vingteniers Association, the Law Society of Jersey, the Greffier of the States and the President of the Finance and Economics Committee. The draft Law now being lodged incorporates various changes in response to representations made by consultees.

There have also been certain amendments from the initial recommendations as contained in the report by the Working Party on Policing in the Island which was presented to the States in 1993 (R.C.3/93).

These amendments can be summarised as follows -

- (a) Paragraph 12 of the original report states "The Working party recommends that in Jersey **all** complaints should be reported to the Authority which should supervise all those not resolved informally. The draft Law has moved away from that requirement in order that there is a "filter system" for complaints referred to the Authority. The primary function of the Authority is to supervise the investigation of "public

interest” matters that are referred to it. In the proposed draft Law the Authority will be **notified** of a complaint where the complaint is unsuitable, or incapable of informal resolution. The Chief Officer or Attorney General (dependent on whether the officer concerned is a member of the States Police, Port Control Unit, or Honorary Police) have **discretion** to refer to the Authority any matter which is not the subject of a complaint where the circumstances are of such serious or exceptional nature.

The Authority is **required** to supervise any complaint which alleges that the conduct of a member of either the States Police, Port Control Officer or Honorary Police resulted in the death of, or serious injury to another person, or which is of a description of complaint prescribed in an order made by the Defence Committee.

The Authority may also supervise any other complaint referred to it, if it considers it desirable in the public interest.

- (b) Paragraph 20(a) of the original report refers to the Connétable reporting a complaint to the Chairman of the PCA and will consider whether the complaint is one suitable for informal resolution.

Paragraph 20(b) of the original report refers to the Connétable reporting a failure to resolve a matter informally to the Chairman of the PCA.

Paragraph 20(c) of the original report refers to the Chairman of the PCA appointing a panel of three members of the Honorary Police and the Chairman calling on the Chief Officer of the States of Jersey Police to provide assistance to the panel.

The draft Law does not incorporate any of these recommendations. There is minimum change to the existing procedures and the Attorney General will retain his position as it stands at present.

- (c) Paragraph 25 of the original report refers to the Working Party recommending that a time limit be set within which a complaint may be laid.

This is not included in the draft Law, as it would be contrary to the principles of natural justice and to the public interest to place such a restriction on the making of a complaint.

In conclusion, this draft Law provides for the establishment of a statutory body independent and free from outside control or influence; established to oversee, monitor and supervise the investigations into certain complaints against officers of the States of Jersey Police, the Port Control Unit and the Honorary Police and to ensure that those investigations and subsequent decisions are carried out in an impartial, thorough and meticulous manner.

Explanatory Note

The purpose of this draft law is to establish a Jersey Police Complaints Authority and make new provision for the investigation of complaints and other matters relating to members of the States of Jersey Police Force (“members of the Force”), port control officers and members of the Honorary Police and the hearing of disciplinary charges.

The draft Law is divided into four parts -

Part I contains interpretation provisions, and establishes the Jersey Police Complaints Authority (“the Authority”);

Part II establishes procedures relating to the investigation of complaints and other matters concerning members of the Force and port control officers and the hearing of disciplinary charges;

Part III establishes procedures relating to the investigation of complaints and other matters concerning members of the Honorary Police and the conduct of disciplinary hearings; and

Part IV contains miscellaneous and supplemental provisions, including a requirement for the Authority to report to the Committee upon the operation of the Law.

Part I - Interpretation and establishment of Jersey Police Complaints Authority

Article 1 contains interpretative provisions.

Article 2 establishes the Authority and gives effect to the *Schedule* which contains provision for the constitution, incorporation, administration and proceedings of the Authority.

Part II - Complaints and other matters concerning members of the Force and port control officers

Article 3 provides for the interpretation of certain terms when used in *Part II*. The definition of “complaint” has the effect that the provisions of *Part II* relating to the recording and investigation of complaints about members of the Force and port control officers apply to a complaint made by a member of the public and to a complaint made by any police officer other than in the course of his duty but not to a complaint made by such an officer in the course of his duty.

Article 4 provides that *Part II* does not apply to any complaint about the direction or control of the States of Jersey Police Force (“the Force”) or Port Control Unit, and that the provisions for recording and investigation of complaints do not apply to a complaint about conduct which is or has already been the subject of criminal or disciplinary charges.

Article 5 imposes a duty on the Chief Officer of the Force (“the Chief Officer”) to obtain and preserve evidence relating to conduct which is the subject of a complaint.

Article 6 imposes a duty on the Chief Officer to maintain a register of complaints about members of the Force and port control officers and to notify a complainant about the outcome of his complaint. It replaces the existing duty imposed under the Police Force (Jersey) Law 1974 (“the 1974 Law”) for the Chief Officer to maintain a register of complaints about members of the Force received from members of the public.

Article 7 describes the procedure to be followed when a complaint is made. If the conduct complained of would not justify a criminal or disciplinary charge, and if the complainant consents, the Chief Officer must, if he considers the complaint suitable for informal resolution, try to resolve it informally. He can appoint a member of the Force or of another police force to undertake an informal resolution on his behalf. If a complaint is unsuitable for or incapable of informal resolution, the Chief Officer must notify the Authority and appoint a member of the Force or of another police force to investigate it formally. An officer cannot be appointed to investigate a complaint if he has previously tried to resolve it informally. An officer carrying out an informal resolution or an investigation must be of at least the rank of Inspector, and of at least the rank of the officer complained about.

Article 8 confers a discretion on the Chief Officer to refer to the Authority a matter which is not the subject of a complaint within the meaning of *Part II* but which may concern a criminal or disciplinary offence by a member of the Force or port control officer, if he considers the matter ought to be referred because of its seriousness or exceptional circumstances. A complaint made by any police officer in the course of his duty could be such a matter.

Article 9 requires the Authority to supervise any complaint which alleges that the conduct of a member of the Force or port control officer resulted in the death of or serious injury to another person, or which is of a description of complaint prescribed in an Order made by the Defence Committee ("the Committee"). The Authority may also supervise the investigation of any other complaint or any matter referred to it under *Article 8* if the Authority considers it desirable in the public interest that it should do so. As part of its supervisory powers, the Authority may veto the officer chosen by the Chief Officer to investigate the complaint or matter. In addition, the Committee may by Order give the Authority power to impose other requirements on an investigation.

Article 10 describes the requirements for reporting on and consideration of an investigation supervised by the Authority. If the investigation relates to a complaint which the investigating officer has found to be frivolous or vexatious, he may recommend to the Chief Officer that the investigation should not be pursued and the Chief Officer may, with the Authority's agreement and, in the case of a criminal allegation, the Attorney General's agreement, direct that the investigation shall not be pursued. Otherwise, when an investigation is completed, the investigating officer must report to the Authority, copying the report to the Chief Officer and, if a criminal allegation is involved, to the Attorney General. The Authority must then prepare a statement as to whether the investigation has been conducted to its satisfaction, indicating any areas of dissatisfaction. The Authority may prepare separate statements regarding the criminal and disciplinary aspects of a case. If the statement relates to a criminal allegation, the Authority's statement is sent to the Attorney General and copied to the Chief Officer. Otherwise, it is sent to the Chief Officer. Where practicable, the statement is copied to the officer under investigation and, if the investigation arises from a complaint, to the complainant.

Article 11 describes the procedure to be followed after the report and statement have been considered. No disciplinary charges may be brought before the Chief Officer has received the Authority's statement. If the case involves a criminal allegation, the Attorney General must tell the Chief Officer and the Authority whether criminal proceedings will be started. After that, the Chief Officer must tell the Authority whether he intends to prefer disciplinary charges in respect of the conduct investigated. If he does not intend to prefer charges, he must give reasons.

Article 12 empowers the Authority to require the Chief Officer to prefer disciplinary charges in a case where he does not intend to do so, although the Authority may also give the Chief Officer leave not to prefer charges or to drop charges. The Authority is also empowered to obtain information from the Chief Officer to enable it to discharge its functions under this Article.

Article 13 imposes new requirements for the hearing of a disciplinary charge. Subordinate legislation made under the 1974 Law currently provides for all disciplinary charges against members of the Force and port control officers to be heard by the Chief Officer. This Article of the draft Law has the effect that, where the charge is preferred at the direction of the Authority, the charge shall be heard by a tribunal consisting of the Chief Officer, who will be the chairman, and two members of the Authority nominated by the Chairman of the Authority. If the Chief Officer has an interest in the case, a chief officer of another police force will be appointed in his place. The tribunal decides whether the member of the Force or port control officer is guilty of the disciplinary charge and, if he is guilty, the chairman of the tribunal, after consulting with the other members, determines the punishment.

Article 14 enables a member of the Force or port control officer to appeal against a decision on any disciplinary charge, whether or not preferred at the direction of the Authority, or any punishment imposed. It replaces the existing provision in subordinate legislation made under the 1974 Law for appeals to be heard by the Committee. Under this Article of the draft Law, an appeal is made to the Authority, which then asks the Bailiff to set up a panel of three Jurats to hear the appeal. An appeal must be made within 21 days of the decision being notified to the

appellant, although the Authority may extend that period if it considers that there are special circumstances making it right to do so. An appeal may be allowed, dismissed or a less severe punishment substituted. New provision is made for all the costs of an appeal to be paid out of the revenue of the States, subject to a discretion for the panel of Jurats to direct the appellant to pay all or part of his costs.

Article 15 enables the Committee to make Orders in relation to complaints and disciplinary matters concerning members of the Force and port control officers and giving effect to *Part II*.

Article 16 imposes a duty on the Committee to keep itself informed as to the working of *Part II* as part of its wider duty with respect to the maintenance of an adequate and efficient Force and the Port Control Unit.

Part III - Complaints and other matters concerning members of the Honorary Police

Article 17 provides for the interpretation of certain terms when used in *Part III*. The definition of “complaint” has the effect that the provisions of *Part III* relating to the recording and investigation of complaints about members of the Honorary Police apply to a complaint made by a member of the public and to a complaint made by any police officer other than in the course of his duty but not to a complaint made by such an officer in the course of his duty.

Article 18 provides that the provisions for recording and investigation of complaints about members of the Honorary Police do not apply to conduct which is or has been the subject of criminal charges or a disciplinary hearing.

Article 19 imposes a duty on each Connétable of a Parish to obtain and preserve evidence relating to conduct which is the subject of a complaint.

Article 20 imposes a duty on each Connétable to maintain a register of complaints about members of the Honorary Police serving in his Parish and to notify a complainant of the outcome of a complaint. There are

currently no complaints registers in respect of members of the Honorary Police.

Article 21 describes the procedure to be followed when a complaint is made to a Connétable. The Connétable must record the complaint in the register and notify the Attorney General that the complaint has been made. The Attorney General then decides if the complaint is suitable for informal resolution. A complaint is only suitable for informal resolution if the complainant consents and if the conduct complained of would not justify a criminal charge or disciplinary hearing. The Attorney General will direct the Connétable to try to resolve a complaint suitable for informal resolution. If a complaint is unsuitable for or incapable of informal resolution, the Attorney General will inform the Authority of the complaint and direct the Connétable to ask the Chief Officer to appoint a member of the Force or a police officer from another force, of at least Inspector rank, to carry out a formal investigation.

Article 22 requires a Connétable to refer to the Attorney General a matter which is not the subject of a complaint within the meaning of *Part III* but which may concern a disciplinary or criminal offence. The Attorney General may refer to the Authority any matter referred to him under this Article if he considers that the matter ought to be so referred because of its seriousness or exceptional circumstances. A complaint made by any police officer in the course of his duty could be such a matter.

Article 23 requires the Authority to supervise the investigation of any complaint which alleges that the conduct of a member of the Honorary Police resulted in the death of or serious injury to another person, or which is of a description of complaint specified in Regulations made by the States. The Authority may also supervise the investigation of any other complaint or matter of which it is notified or which is referred to it by the Attorney General if the Authority considers that it is desirable in the public interest that it should do so. As part of its supervisory powers, the Authority may veto the officer appointed by the Chief Officer to investigate the complaint or matter. In addition, the States may by Regulations give the Authority power to impose other requirements on an investigation.

Article 24 describes the requirements for reporting on and consideration of an investigation supervised by the Authority. If the investigation relates to a complaint which the investigating officer finds is frivolous or vexatious, he may report to the Attorney General and recommend that the investigation is dropped and the Attorney General may direct that the investigation shall not be pursued. If the complaint relates to a disciplinary matter, the Authority must agree to the investigation being halted. Otherwise, when an investigation is completed, the investigating officer must report to the Authority, copying the report to the Connétable and to the Attorney General. The Authority must then prepare a statement as to whether the investigation has been conducted to its satisfaction, including any areas of dissatisfaction. The statement is submitted to the Attorney General and copied to the Connétable. If practical, the Authority must send a copy of the report to the member of the Honorary Police under investigation and, if the investigation relates to a complaint, to the complainant.

Article 25 describes the procedure to be followed after the report and statement have been considered. No disciplinary hearing may be held before the Attorney General receives the Authority's statement. The Attorney General considers the investigating officer's report and the Authority's statement and decides whether criminal proceedings will be started. After that, the Attorney General must tell the Authority whether he intends to hold a disciplinary hearing in respect of the conduct investigated. If he does not intend to do so, he must give reasons.

Article 26 enables the Authority to recommend that the Attorney General holds a disciplinary hearing in a case where he does not intend to do so. The Authority is empowered to obtain information from the Attorney General to enable them to discharge its functions under this Article.

Article 27 establishes a new appeals procedure for disciplinary charges which replaces the existing procedure contained in subordinate legislation made under the Police Force (Jersey) Law 1974 for an appeal against a requirement to resign or against suspension. Under this Article of the draft Law, an appeal is made to the Authority which then asks the Bailiff to set up a panel of three Jurats to hear the appeal. An appeal must be made within 21 days of the decision being notified to the appellants, although the Authority may extend that period if it considers

that there are special circumstances making it right to do so. An appeal may be allowed, dismissed, or a lesser punishment substituted. Provision is made for all the costs of an appeal to be paid out of the revenue of the States, subject to a discretion for the panel of Jurats to direct the appellants to pay all or part of his costs.

Article 28 gives the States power to make Regulations in relation to complaints and discipline concerning members of the Honorary Police and giving effect to *Part III*.

Part IV - Miscellaneous and supplemental

Article 29 imposes various duties and discretions on the Authority regarding the preparation of reports. When asked by the Committee or the Attorney General, the Authority must report upon its functions. The Authority may report to the Committee on any matter which it considers should be brought to the Committee's attention because of its gravity or exceptional circumstances, and must send a copy of any such report to the Attorney General, the Chief Officer and the Comité des Connétables. At the end of each year, the Authority must report to the Committee upon its work, and the Committee must lay the report before the States. When asked by the Committee, the Chairman of the Authority must report upon the administration and operation of the Authority.

Article 30 prevents the disclosure of information received by the Authority other than to specified persons, or for specified purposes, or in a form in which the identity of any person the information is received from or to whom the information relates is not disclosed. It is an offence liable to an unlimited fine to disclose information in contravention of this provision.

Article 31 has the effect that a statement made for the informal resolution of a complaint is not admissible in any subsequent proceedings, although any part of such a statement containing an admission relating to a matter unsuitable for informal resolution is so admissible.

Article 32 makes amendments to the Police Force (Jersey) Law 1974 which are consequential upon the remainder of the draft Law and saves

in force existing subordinate legislation made under that Law relating to complaints and discipline.

Article 33 is the short title and commencement provision.

Schedule - The Jersey Police Complaints Authority

The Schedule contains provision for the constitution, incorporation, membership, administration, funding and procedures of the Jersey Police Complaints Authority.

POLICE (COMPLAINTS AND DISCIPLINE) (JERSEY) LAW 199

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SCHEDULE - The Jersey Police Complaints Authority

POLICE (COMPLAINTS AND DISCIPLINE) (JERSEY) LAW 199

A LAW to establish the Jersey Police Complaints Authority, to make provision for the investigation of complaints about and the procedures, rights and powers relating to disciplinary charges against members of the Force, port control officers and members of the Honorary Police, and for related purposes, sanctioned by Order of Her Majesty in Council of the

(Registered on the day of 199)

STATES OF JERSEY

The day of 199

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

PART I

INTERPRETATION AND ESTABLISHMENT OF JERSEY POLICE COMPLAINTS AUTHORITY

ARTICLE 1

Interpretation

(1) In this Law, unless the context otherwise requires -

“the Authority” means the Jersey Police Complaints Authority established by Article 2, or the member or members carrying out the Authority’s duties in

accordance with any Order or Regulations made under this Law or paragraph 6 of the Schedule;

“the Chairman” means the Chairman of the Authority appointed under sub-paragraph (2) of paragraph 1 of the Schedule;

“the Chief Officer” means the Chief Officer of the Force;

“chief officer of some other force” means a chief officer from a force in the British Islands;

“the Committee” means the Defence Committee;

“the Force” means the States of Jersey Police Force;

“investigating officer” means the member of the Force or police officer from some other force appointed to carry out an investigation;

“police officer from some other force” means a police officer from a force in the British Islands;

“port control officer” means a member of the Port Control Unit;

“Port Control Unit” means the unit established by Article 13B of the Police Force (Jersey) Law 1974.¹

(2) A reference in an Article or other division of this Law to a paragraph, sub-paragraph or clause by number or letter only, and without further identification, is a reference to the paragraph, sub-paragraph or clause of that number or letter contained in the Article or other division of this Law in which that reference occurs.

(3) A reference in this Law to a Part or Article by number only or to the Schedule, without further identification, is a reference to the Part or Article of that number in or the Schedule to this Law.

¹ Volume 1982-1983, page 57.

(4) Unless the context otherwise requires, where this Law refers to an enactment, the reference is to that enactment as amended from time to time.

ARTICLE 2

Establishment of the Jersey Police Complaints Authority

(1) There shall be an authority, to be known as the Jersey Police Complaints Authority.

(2) The Schedule shall have effect in relation to the Authority.

PART II

COMPLAINTS AND OTHER MATTERS CONCERNING MEMBERS OF THE FORCE AND PORT CONTROL OFFICERS

ARTICLE 3

Interpretation of Part II

(1) In this Part -

“complaint” means any complaint about the conduct of a member of the Force or port control officer which is submitted -

- (a) by a member of the public; or
- (b) on behalf of, and with the written consent of, a member of the public; or
- (c) by a member of the Force, port control officer or member of the Honorary Police otherwise than in the course of his duty;

“register” means the register maintained under paragraph (1) of Article 6.

ARTICLE 4

Application of Part II

(1) Nothing in this Part has effect in relation to a complaint in so far as it relates to the direction or control of the Force or the Port Control Unit by the Chief Officer.

(2) If any conduct to which a complaint wholly or partly relates is or has been the subject of criminal or disciplinary charges, none of the provisions of this Part which relate to the recording and investigation of complaints has effect in relation to the complaint in so far as it relates to that conduct.

ARTICLE 5

Duty of Chief Officer in relation to evidence

Where a complaint is submitted to the Chief Officer, he shall take any steps that appear to him to be desirable for the purpose of obtaining or preserving evidence relating to the conduct complained of.

ARTICLE 6

Duty of Chief Officer in relation to complaints register

(1) The Chief Officer shall maintain a register of complaints submitted to him.

(2) In relation to each complaint submitted to him, the Chief Officer shall record in the register -

- (a) the nature of the complaint;
- (b) the steps taken in dealing with the complaint; and
- (c) the outcome of the complaint.

(3) The Chief Officer shall, as soon as practicable, notify a complainant in writing of the outcome of the complaint.

(4) The Chief Officer shall, when requested by the Authority, make the register available to it.

ARTICLE 7

Preliminary procedure for a complaint about a member of the Force or port control officer

(1) Upon submission of a complaint to him, the Chief Officer shall record it in the register.

(2) If it appears to the Chief Officer that a complaint is suitable for informal resolution, he shall seek to resolve it informally and may appoint a member of the Force or a police officer from some other force to do so on his behalf.

(3) A complaint is not suitable for informal resolution unless -

- (a) the complainant gives his consent; and
- (b) the Chief Officer is satisfied that the conduct complained of, even if proved, would not justify a criminal or disciplinary charge.

(4) If it appears to the Chief Officer that a complaint is not suitable for informal resolution or that, after attempts have been made to resolve a complaint informally, informal resolution of the complaint is impossible or the complaint is, for any other reason, unsuitable for informal resolution, he shall -

- (a) notify the Authority of the complaint; and
- (b) subject to paragraph (3) of Article 9, appoint a member of the Force or a police officer from some other force to investigate it formally.

(5) The Chief Officer may ask the chief officer of some other force to provide a police officer of his force for appointment under paragraph (2) or (4).

(6) No officer may be appointed under this Article unless he is -

(a) of at least the rank of inspector; and

(b) of at least the rank of the member of the Force or port control officer against whom the complaint is made.

(7) A member of the Force or a police officer from some other force may not be appointed to investigate a complaint formally if he has previously been appointed in relation to its informal resolution.

ARTICLE 8

Referral of other matters to the Authority

The Chief Officer may refer to the Authority any matter which -

(a) appears to him to indicate that a member of the Force or port control officer may have committed a criminal offence or an offence against discipline; and

(b) is not the subject of a complaint,

if it appears to him that the matter ought to be referred by reason of its gravity or of exceptional circumstances.

ARTICLE 9

Supervision of investigation of member of the Force or port control officer

(1) The Authority shall supervise the investigation -

- (a) of any complaint alleging that the conduct of a member of the Force or port control officer resulted in the death of or serious injury to some other person; and
 - (b) of any other description of complaint that may be prescribed by Order of the Committee.
- (2) The Authority may supervise the investigation -
- (a) of any complaint the investigation of which it is not required to supervise under paragraph (1); and
 - (b) of any matter referred to it under Article 8,

if it considers that it is desirable in the public interest that it should supervise that investigation.

(3) Where an investigation is supervised by the Authority, it may require -

- (a) that no appointment shall be made of a person to investigate the complaint or matter unless it has given notice to the Chief Officer that it approves the member of the Force or police officer from some other force whom he proposes to appoint; or
- (b) if such an appointment has already been made and the Authority is not satisfied with the person appointed, that -
 - (i) the Chief Officer shall, as soon as is reasonably practicable, select another member of the Force or police officer from some other force and notify the Authority of the proposed appointment, and
 - (ii) that appointment shall not be made unless the Authority gives notice to the Chief Officer that it approves the person to be appointed.

(4) The Committee may by Order confer power on the Authority, subject to any restrictions or conditions specified in the

Order, to impose requirements as to a particular investigation additional to any requirement imposed by virtue of paragraph (3).

(5) It shall be the duty of a member of the Force, a port control officer and an investigating officer to comply with any requirement imposed on him by virtue of an Order made under paragraph (4).

ARTICLE 10

Reports etc. on supervised investigation of member of the Force or port control officer

(1) If, during the course of an investigation supervised by the Authority relating to a complaint, it becomes clear to the investigating officer that the complaint is frivolous or vexatious, he may report that finding to the Chief Officer and recommend that the investigation should not be pursued further.

(2) Where the investigating officer makes a report and recommendation to the Chief Officer under paragraph (1), the Chief Officer may, with the concurrence of the Authority and, in the case of a criminal allegation, with the concurrence of the Attorney General, direct that the investigation shall not be pursued further.

(3) At the end of an investigation supervised by the Authority, the investigating officer shall -

- (a) submit a report on the investigation to the Authority; and
- (b) send a copy of the report to the Chief Officer and, in the case of a criminal allegation, to the Attorney General.

(4) After considering a report submitted to them under paragraph (3), the Authority shall prepare a statement -

- (a) whether the investigation has or has not been conducted to its satisfaction; and

(b) specifying any respect in which it has not been so conducted.

(5) The Authority may prepare separate statements in respect of the criminal and disciplinary aspects of an investigation.

(6) The Authority shall submit the statement to -

(a) where the statement is in respect of a criminal allegation, the Attorney General; and

(b) in any other case, the Chief Officer.

(7) Where the Authority submits the statement to the Attorney General, it shall also send a copy to the Chief Officer.

(8) Where it is practicable to do so, the Authority shall send a copy of the statement to -

(a) the member of the Force or port control officer whose conduct has been investigated; and

(b) if the investigation related to a complaint, the complainant.

ARTICLE 11

Steps to be taken after supervised investigation of member of the Force or port control officer

(1) Where an investigation has been supervised by the Authority, no disciplinary charge shall be preferred before the Chief Officer receives the statement submitted to him or copy sent to him under paragraph (6) or (7) of Article 10.

(2) After considering a report copied to him under paragraph (3) of Article 10 and a statement in respect of the report submitted to him under paragraph (6) of that Article, the Attorney General shall inform the Chief Officer and the Authority whether or not criminal proceedings will be initiated.

(3) After either the Attorney General has informed the Chief Officer that criminal proceedings will not be initiated or such proceedings are concluded, the Chief Officer shall send the Authority a memorandum, signed by him and stating whether he intends to prefer disciplinary charges in respect of the conduct which was the subject of the investigation and, if not, his reasons for not doing so.

ARTICLE 12

Powers of Authority as to disciplinary charges

(1) Where, following an investigation supervised by the Authority, the Chief Officer does not propose to prefer disciplinary charges, the Authority may recommend him to prefer such disciplinary charges as it may specify.

(2) Subject to paragraph (6), the Chief Officer may not withdraw charges which he has preferred in accordance with a recommendation under paragraph (1).

(3) If, after the Authority has made a recommendation under paragraph (1) and consulted the Chief Officer, he is still unwilling to prefer such charges as the Authority consider appropriate, it may direct him to prefer such charges as it may specify.

(4) Where the Authority gives the Chief Officer a direction under paragraph (3), it shall furnish him with a written statement of its reasons for doing so.

(5) Subject to paragraph (6), it shall be the duty of the Chief Officer to prefer and proceed with charges specified in a direction given under paragraph (3).

(6) The Authority may give the Chief Officer leave -

- (a) not to prefer charges which paragraph (5) would otherwise oblige him to prefer; and
- (b) not to proceed with charges with which paragraph (2) or

(5) would otherwise oblige him to proceed.

(7) The Authority may request the Chief Officer to furnish it with such information as it may reasonably require for the purpose of discharging its functions under this Article and the Chief Officer shall comply with any such request.

ARTICLE 13

Hearing of disciplinary charges preferred at the direction of the Authority

(1) A disciplinary charge preferred at the direction of the Authority given under paragraph (3) of Article 12 shall be heard by a tribunal consisting of -

- (a) subject to paragraph (2), the Chief Officer, who shall be the chairman; and
- (b) two members of the Authority nominated by the Chairman of the Authority, being members who have not been concerned with the case.

(2) In the event that the Chief Officer is interested otherwise than in his capacity as such, or that he is a material witness, the chairman of the tribunal shall be such chief officer of some other force, as has consented to act in the case, at the request of the Chief Officer.

(3) The tribunal shall decide whether the member of the Force or port control officer is guilty of the disciplinary charge and their decision may be a majority decision.

(4) The chairman of the tribunal, after consulting with the other members of the tribunal, shall determine any punishment to be imposed.

(5) Where -

- (a) a disciplinary charge is to be heard in accordance with this Article; and

- (b) there is another disciplinary charge against the member of the Force or port control officer which, in the opinion of the Chief Officer, can conveniently and fairly be determined at the same time,

the Chief Officer may direct that this Article shall apply also to the hearing of the other charge.

ARTICLE 14

Disciplinary appeal by member of the Force or port control officer

(1) A member of the Force or port control officer who is found guilty of a disciplinary charge, whether at a hearing held under Article 13, on the recommendation of the Authority or otherwise, may appeal against -

- (a) the decision on the disciplinary charge; and
- (b) the punishment imposed.

(2) An appeal shall be made to the Authority, which will advise the Bailiff and ask him to set up a panel of three Jurats to hear the appeal.

(3) Subject to paragraph (4), an appeal must be made within the period of 21 days beginning on the day the appellant is notified in writing of the decision against which he wishes to appeal.

(4) Where the Authority is satisfied, on the application of the appellant, that by reason of the special circumstances of the case it is just and right so to do, it may extend the period within which an appeal must be made.

(5) The appellant may conduct his appeal in person or be represented by an advocate or a solicitor or by a member of the Force selected by him.

- (6) The panel of Jurats may -

- (a) allow the appeal;
- (b) dismiss the appeal; or
- (c) subject to paragraph (7), substitute some other punishment.

(7) The panel of Jurats may not substitute another punishment unless it appears -

- (a) that the person or persons who heard the disciplinary charge could have imposed it; and
- (b) that it is less severe than the punishment imposed by that person or those persons.

(8) Subject to paragraph (9), all the costs and expenses of an appeal under this Article, including the costs of the parties, shall be defrayed out of the revenue of the States.

(9) The panel of Jurats may direct an appellant to pay the whole or any part of his own costs.

ARTICLE 15

Orders

- (1) The Committee may by Order make provision -
 - (a) for the informal resolution of complaints about members of the Force and port control officers, for giving any such officer an opportunity to comment orally or in writing on the complaint, and for giving the person who made the complaint a record of the outcome of any such procedure;
 - (b) for the investigation of any complaint or matter in respect of a member of the Force or port control officer, whether supervised by the Authority or otherwise;

- (c) for the discipline code for members of the Force and port control officers;
 - (d) for the hearing of disciplinary charges against a member of the Force or port control officer, whether preferred on the recommendation or at the direction of the Authority or otherwise, including provision for the representation of such a member or officer at such a hearing and for the disclosure of documents to him for the purposes of the hearing;
 - (e) for the suspension of a member of the Force or port control officer pending the investigation of any complaint or matter;
 - (f) for the punishment by way of dismissal, requirement to resign, reduction in rank, reduction in rate of pay, fine, reprimand or caution of a member of the Force or port control officer found guilty of an offence against discipline;
 - (g) for the hearing of an appeal by a member of the Force or port control officer found guilty of an offence against discipline;
 - (h) for the procedures of the Authority in discharging its functions under this Part, including the discharge of any function of the Authority by one or more of the Authority's members; and
 - (j) for the purpose of carrying this Part into effect.
- (2) The Committee may prescribe by Order anything which may or shall be prescribed for the purposes of this Part.
- (3) An Order made under this Part may make different provision for different cases and contain such incidental and supplementary provisions as the Committee think necessary.

(4) The Subordinate Legislation (Jersey) Law 1960² shall apply to Orders made under this Part.

ARTICLE 16

Duty of Committee to keep itself informed

The Committee, in carrying out its duty with respect to the maintenance of an adequate and efficient Force and Port Control Unit, shall keep itself informed as to the working of this Part in relation to the Force and Port Control Unit.

PART III

COMPLAINTS AND OTHER MATTERS CONCERNING MEMBERS OF THE HONORARY POLICE

ARTICLE 17

Interpretation of Part III

In this Part, unless the context requires otherwise -

“complaint” means any complaint about the conduct of a member of the Honorary Police which is submitted to the Connétable of the Parish in which that member serves -

- (a) by a member of the public; or
- (b) on behalf of, and with the written consent of, a member of the public; or
- (c) by a member of the Force, port control officer or member of the Honorary Police otherwise than in the course of his duty;

“register” means, in relation to each Parish, the register maintained for it under paragraph (1) of Article 20.

²Tome VIII, page 849.

ARTICLE 18

Application of Part III

If any conduct to which a complaint wholly or partly relates is or has been the subject of criminal charges or a disciplinary hearing, none of the provisions of this Part which relate to the recording and investigation of complaints has effect in relation to the complaint in so far as it relates to that conduct.

ARTICLE 19

Duty of Connétable in relation to evidence

Where a complaint is submitted to a Connétable, he shall take any steps that appear to him to be desirable for the purpose of obtaining or preserving evidence relating to the conduct complained of.

ARTICLE 20

Duty of Connétable in relation to complaints register

(1) Each Connétable shall maintain a register of complaints submitted to him about members of the Honorary Police serving in his Parish.

(2) In relation to each complaint submitted to him, a Connétable shall record in the register maintained by him -

- (a) the nature of the complaint;
- (b) the steps taking in dealing with the complaint; and
- (c) the outcome of the complaint.

(3) A Connétable shall, as soon as practicable, notify a complainant in writing of the outcome of the complaint.

(4) A Connétable shall, when requested by the Authority,

make available to it the register maintained by him.

(5) A Connétable shall, when requested by the Attorney General, make available to the Attorney General the register maintained by him.

ARTICLE 21

Preliminary procedure for a complaint about a member of the Honorary Police

(1) Upon submission of a complaint to him, a Connétable shall -

- (a) record it in the register; and
- (b) notify the Attorney General that the complaint has been made.

(2) If it appears to the Attorney General that a complaint is suitable for informal resolution, he shall direct the Connétable to seek to resolve it informally.

(3) A complaint is not suitable for informal resolution unless -

- (a) the complainant gives his consent; and
- (b) the Attorney General is satisfied that the conduct complained of, even if proved, would not justify a criminal charge or disciplinary hearing.

(4) If it appears to the Connétable, after attempts have been made to resolve a complaint informally, that informal resolution of the complaint is impossible, he shall inform the Attorney General.

(5) If it appears to the Attorney General that a complaint is not suitable for informal resolution, or the Connétable informs him that informal resolution of a complaint is impossible, the Attorney General shall -

- (a) notify the Authority of the complaint; and
- (b) direct the Connétable to request the Chief Officer to appoint a member of the Force or a police officer from some other force, of at least the rank of inspector, to carry out an investigation.

(6) Subject to paragraph (3) of Article 23, the Chief Officer shall comply with a request made pursuant to sub-paragraph (b) of paragraph (5) and may ask the chief officer of some other force to provide a police officer of his force for appointment.

ARTICLE 22

Referral of other matters

(1) A Connétable shall refer to the Attorney General any matter which -

- (a) appears to him to indicate that a member of the Honorary Police may have committed a criminal offence or an offence against discipline; and
- (b) is not the subject of a complaint.

(2) The Attorney General may refer to the Authority any matter referred to him under paragraph (1) which -

- (a) appears to him to indicate that a member of the Honorary Police may have committed a criminal offence or an offence against discipline; and
- (b) is not the subject of a complaint,

if it appears to him that the matter ought to be referred by reason of its gravity or of exceptional circumstances.

ARTICLE 23

Supervision of investigation of member of the Honorary Police

- (1) The Authority shall supervise the investigation -
 - (a) of any complaint alleging that the conduct of a member of the Honorary Police resulted in the death of or serious injury to some other person; and
 - (b) of any other description of complaint that may be specified in Regulations made by the States.
- (2) The Authority may supervise the investigation -
 - (a) of any complaint the investigation of which it is not required to supervise under paragraph (1); and
 - (b) of any matter referred to it under paragraph (2) of Article 22,

if it considers that it is desirable in the public interest that it should supervise that investigation.

(3) Where an investigation is supervised by the Authority, it may require -

- (a) that no appointment shall be made of a person to investigate the complaint or matter unless it has given notice to the Connétable and the Attorney General that it approves the member of the Force or police officer from some other force proposed to be appointed; or
- (b) if such an appointment has already been made and the Authority is not satisfied with the person appointed -
 - (i) that the Connétable shall, as soon as is reasonably practicable, request the Chief Officer to select another member of the Force or police officer from some other force and notify the Authority of the

person the Chief Officer proposes to appoint, and

- (ii) that appointment shall not be made unless the Authority gives notice to the Connétable and the Attorney General that it approves the person to be appointed.

(4) The States may by Regulations confer power on the Authority, subject to any restrictions or conditions specified in the Regulations, to impose requirements as to a particular investigation additional to any requirement imposed by virtue of paragraph (3).

(5) It shall be the duty of a member of the Honorary Police and an investigating officer to comply with any requirement imposed on him by virtue of Regulations made under paragraph (4).

ARTICLE 24

Reports etc. on supervised investigation of a member of the Honorary Police

(1) If, during the course of an investigation supervised by the Authority relating to a complaint, it becomes clear to the investigating officer that the complaint is frivolous or vexatious, he may report that finding to the Attorney General and recommend that the investigation should not be pursued further.

(2) Where the investigating officer makes a report and recommendation to the Attorney General under paragraph (1), the Attorney General may, with, in the case of a disciplinary allegation, the concurrence of the Authority, direct that the investigation shall not be pursued further.

(3) At the end of an investigation supervised by the Authority the investigating officer shall -

- (a) submit a report on the investigation to the Authority; and
- (b) send a copy of the report to the Connétable and to the Attorney General.

(4) After considering a report submitted to it under paragraph (3), the Authority shall prepare a statement -

- (a) whether the investigation has or has not been conducted to its satisfaction; and
- (b) specifying any respect in which it has not been so conducted.

(5) The Authority may prepare separate statements in respect of the criminal and disciplinary aspects of an investigation.

(6) The Authority shall submit the statement to the Attorney General and send a copy to the Connétable.

(7) Where it is practicable to do so, the Authority shall send a copy of the statement to -

- (a) the member of the Honorary Police whose conduct has been investigated; and
- (b) if the investigation related to a complaint, the complainant.

ARTICLE 25

Steps to be taken after supervised investigation of member of the Honorary Police

(1) Where an investigation has been supervised by the Authority, no disciplinary hearing shall be held before the Attorney General receives the statement submitted to him under paragraph (6) of Article 24.

(2) After considering a report copied to him under paragraph (3) of Article 24 and the statement in respect of the report submitted to him under paragraph (6) of that Article, the Attorney General shall inform the Authority whether or not criminal proceedings will be initiated.

(3) After either the Attorney General has informed the Authority that criminal proceedings will not be initiated, or such proceedings are concluded, he shall send the Authority a memorandum, signed by him and stating whether he intends to hold a disciplinary hearing in respect of the conduct which was the subject of the investigation and, if not, his reasons for not doing so.

ARTICLE 26

Recommendation of Authority as to disciplinary hearing

(1) Where, following an investigation supervised by the Authority, the Attorney General does not propose to hold a disciplinary hearing, the Authority may recommend him to hold such a hearing and in such an event shall furnish him with a written statement of its reasons for so recommending.

(2) The Authority may request the Attorney General to furnish it with such information as it may reasonably require for the purpose of discharging its functions under this Article and the Attorney General shall comply with any such request.

ARTICLE 27

Disciplinary appeal by member of the Honorary Police

(1) A member of the Honorary Police found guilty of an offence against discipline, whether at a hearing held on the recommendation of the Authority or otherwise, may appeal against -

- (a) the decision on the disciplinary charge; and
- (b) the punishment imposed.

(2) An appeal shall be made to the Authority, who will advise the Bailiff and ask him to set up a panel of three Jurats to hear the appeal.

(3) Subject to paragraph (4), an appeal must be made within

the period of 21 days beginning on the day the appellant is notified in writing of the decision against which he wishes to appeal.

(4) Where the Authority is satisfied, on the application of the appellant, that by reason of the special circumstances of the case it is just and right so to do, it may extend the period within which an appeal must be made.

(5) The appellant may conduct his appeal in person or may be represented by an advocate or a solicitor or by a member of the Force or member of the Honorary Police selected by him.

(6) The panel of Jurats may -

(a) allow the appeal;

(b) dismiss the appeal;

(c) subject to paragraph (7), substitute some other punishment.

(7) The panel of Jurats may not substitute another punishment unless it appears -

(a) that the person or persons who heard the disciplinary charge could have imposed it; and

(b) that it is less severe than the punishment imposed by that person or those persons.

(8) Subject to paragraph (9), all the costs and expenses of an appeal under this Article, including the costs of the parties, shall be defrayed out of the revenue of the States.

(9) The panel of Jurats may direct an appellant to pay the whole or any part of his own costs.

ARTICLE 28

Regulations

- (1) The States may by Regulations make provision -
 - (a) for the informal resolution of complaints about members of the Honorary Police, for giving any such member an opportunity to comment orally or in writing on the complaint, and for giving the person who made the complaint a record of the outcome of any such procedure;
 - (b) for the investigation of any complaint or matter in respect of a member of the Honorary Police, whether supervised by the Authority or otherwise;
 - (c) for the conduct of a disciplinary hearing in respect of a member of the Honorary Police, whether held on the recommendation of the Authority or otherwise, including provision for the representation of such a member at such a hearing and for the disclosure of documents to him for the purposes of the hearing;
 - (d) for the suspension of a member of the Honorary Police pending the investigation of any complaint or matter;
 - (e) for the punishment by way of dismissal, requirement to resign, suspension, censure or reprimand of a member of the Honorary Police found guilty of an offence against discipline;
 - (f) for the hearing of an appeal by a member of the Honorary Police found guilty of an offence against discipline;
 - (g) for the procedures of the Authority in discharging its functions under this Part, including the discharge of any function of the Authority by one or more of the Authority's members; and
 - (h) for the purpose of carrying this Part into effect.

(2) The States may specify by Regulations anything which may or shall be specified for the purposes of this Part.

(3) Regulations made under this Part may make different provision for different cases and contain such incidental and supplementary provisions as the States think necessary.

PART IV

MISCELLANEOUS AND SUPPLEMENTAL

ARTICLE 29

Reports

(1) The Authority shall, at the request of the Committee or the Attorney General, report on such matters relating generally to the Authority's functions as the Committee or the Attorney General may specify, and the Authority may for that purpose carry out research into any such matters.

(2) The Authority may report to the Committee on any matters coming to its notice under this Law to which it considers that the Committee's attention should be drawn by reason of their gravity or of other exceptional circumstances.

(3) The Authority shall send a copy of any report made under paragraph (2) to the Attorney General, the Chief Officer and to the Comité des Connétables.

(4) As soon as practicable after the end of each calendar year -

(a) the Authority shall prepare a report upon the discharge of its functions during that year and submit it to the Committee; and

(b) the Committee shall present the report to the States.

(5) The Chairman shall report to the Committee upon the administration and operation of the Authority when requested to do so by the Committee.

ARTICLE 30

Restriction on disclosure of information

(1) No information received by the Authority in connection with any of its functions shall be disclosed by any person who is or has been a member, officer or servant of the Authority except -

- (a) to the Committee, the Attorney General, or a member, officer or servant of the Authority or, so far as may be necessary for the proper discharge of the functions of the Authority, to other persons; or
- (b) for the purposes of any criminal, civil or disciplinary proceedings; or
- (c) in the form of a summary or other general statement made by the Authority which does not identify the person from whom the information was received or any person to whom it relates.

(2) Any person who discloses information in contravention of paragraph (1) shall be guilty of an offence and liable to a fine.

ARTICLE 31

Restrictions on subsequent proceedings

(1) Subject to paragraph (2), no statement made by any person for the purpose of the informal resolution of a complaint under Part II or Part III shall be admissible in any subsequent criminal, civil or disciplinary proceedings.

- (2) A statement is not rendered inadmissible by paragraph (1)

if it consists of or includes an admission relating to a matter which does not fall to be resolved informally.

ARTICLE 32

Amendments to Police Force (Jersey) Law 1974 and saving

(1) In Article 4 of the Police Force (Jersey) Law 1974³ (in this Article referred to as “the 1974 Law”), in paragraph (4), for the words “, the retirement and the suspension” there shall be substituted the words “and the retirement”.

(2) In Article 8 of the 1974 Law⁴ -

(a) in paragraph (3), sub-paragraphs (c) and (d) shall be deleted; and

(b) paragraphs (4), (5), (6) and (7) shall be deleted.

(3) In Article 13C of the 1974 Law,⁵ in paragraph (4), sub-paragraphs (b) and (c) shall be deleted.

(4) Notwithstanding the amendments made by the foregoing provisions of this Article, any provision of an Order or Regulations made under the 1974 Law which relates to the investigation and determination of complaints, suspension and disciplinary offences, which is not superseded by a provision of this Law and which is in force immediately before this Article comes into force, shall continue in force as if made under this Law.

ARTICLE 33

Short title and commencement

(1) This Law may be cited as the Police (Complaints and Discipline) (Jersey) Law 199 .

³ Volume 1973-1974, page 376.

⁴ Volume 1973-1974, page 378, Volume 1982-1983, page 55 and Volume 1992-1993, page 119.

⁵ Volume 1982-1983, page 58.

(2) This Law shall come into force on such day as the States may by Act appoint, and different days may be appointed for different provisions of this Law and for different purposes.

SCHEDULE

(Article 2(2))

THE JERSEY POLICE COMPLAINTS AUTHORITY

Constitution of the Authority

1.-(1) The Authority shall consist of a Chairman and not less than six or more than eight other members.

(2) The Chairman and other members shall be appointed by the States on the recommendation of the Committee.

(3) Both the Chairman and other members of the Authority shall be appointed for a term of three years.

(4) A person may not be a member of the Authority if -

(a) he is or has previously been a member of the Force, port control officer, member of the Honorary Police or member of any other police force; or

(b) he is a member of the States or a Jurat.

Incorporation of the Authority

2. The Authority shall be a body corporate.

Members

3.-(1) A member may resign from office at any time.

(2) Any resignation by a member must be in writing and made to the Committee and the Committee will notify the States of it at the first available opportunity thereafter.

(3) Any member of the Authority may be removed from office by the States, on the recommendation of the Committee, if the States are satisfied that -

- (a) he has without reasonable cause failed to carry out his duties;
- (b) he has been convicted of a criminal offence;
- (c) he has become bankrupt;
- (d) he is incapacitated by physical or mental illness; or
- (e) he is otherwise unable or unfit to perform his duties.

Administration and expenses

4.-(1) The Authority may appoint a secretary and such officers as it thinks fit.

(2) There shall be paid out of the revenue of the States such salaries and allowances to the secretary and any other officers of the Authority and such expenses of the Authority and its members as the Committee may determine.

(3) The Committee will cause to be kept records and accounts of the finances of the Authority.

Meetings

5.-(1) The Authority will meet at least once every year and also, from time to time as necessary.

(2) In the absence of the Chairman, any other member will be entitled to take the Chair.

(3) A quorum at any meeting shall be not less than four members.

(4) The Chairman will meet the Committee at least once a year, at the time of presenting the Authority's report prepared pursuant to paragraph (4) of Article 29, and will attend other meetings if requested to do so.

Method of operation

Law - 6.-(1) Subject to any Order or Regulations made under this

- (a) the Authority will carry out its duties in such a manner as it from time to time determines and may regulate its own procedures; and
- (b) the Chairman may make arrangements for the discharge, under the general direction of the Authority, of any of the Authority's functions by one or more of the Authority's members.

(2) The Authority will prepare guidelines for the Authority's members to assist in the carrying out their duties.

CORRIGENDUM

**P.162/98 Draft Police (Complaints and Discipline) (Jersey) Law
199**

Page 38, Article 27, paragraph (2) -

*For the word "who" in the first line, substitute the
word "which".*