

STATES OF JERSEY



POLICE COMPLAINTS AND DISCIPLINE: EXTENSION TO HONORARY OFFICERS CONDUCTING PARISH HALL ENQUIRIES (P.30/2009) – COMMENTS

**Presented to the States on 28th April 2009
by the Comité des Connétables**

STATES GREFFE

COMMENTS

The Comité has discussed the proposition of the Deputy of St. Martin and is of the view that it is flawed for several reasons. It seeks to bring only some decisions to prosecute within the scope of the Police (Complaints and Discipline) (Jersey) Law 1999; would compromise the Attorney General's independence as the chief prosecutor; and could lead to a conflict of interest for the Professional Standards Department of the States of Jersey Police who would have to conduct an investigation into a decision to prosecute.

The Honorary Police are subject to the Police (Complaints and Discipline) (Jersey) Law 1999 and to the Police (Honorary Police Complaints and Discipline Procedure) (Jersey) Regulations 2000. The Regulations set out the code of conduct for members and the correct procedure to follow when a complaint is received.

The Deputy of St. Martin seems to believe that the whole Parish Hall Enquiry (PHE) process should come within the ambit of the 1999 Law. It is clear that it already does, e.g. if a Centenier was rude to an attendee the code of conduct for politeness and tolerance would apply; or if s/he showed favouritism to the attendee over others this would fall under the code of fairness and impartiality. It is equally clear that the decision whether or not to charge comes under the direct authority of the Attorney General and, providing the Centenier has followed the code on the decision to prosecute, which states that the evidential and public interest test has been passed, this must be a matter for the Attorney General.

The Deputy of St. Martin's proposition is: *"to agree that the Police (Complaints and Discipline) (Jersey) Law 1999 should be amended so that the definition of 'complaints' is extended to include complaints against honorary police officers conducting Parish Hall Enquiries;"* but Centeniers also reach decisions on whether or not to prosecute at Police Headquarters or at Customs and Immigration. The same code on prosecution applies to these decisions, but the proposition only refers to Parish Hall Enquiries being brought within the scope of the Law.

When the Honorary Police arrest or detain a member of the public, the Attorney General cannot overturn that decision if the Centenier has made a mistake. The Attorney General may overturn a decision when a Centenier charges, as he has an absolute right in law to direct charges to be put, or for the prosecution to be abandoned. This is a very important point as the proposition, if accepted, would affect the Attorney General's independence as the chief prosecutor.

Should the Attorney General be of the view that a disciplinary complaint is not suitable for informal resolution, or could amount to an offence against discipline, the 2000 Regulations require that he directs the Connétable of the relevant parish to request the Chief Officer of the States of Jersey Police to appoint a member of the Force or of another Force to carry out the investigation. This procedure has worked very well for matters of discipline, but would be totally inappropriate for the decision to charge which rests solely with the Centenier. There would obviously be a conflict of interest if the Professional Standards Department had to conduct an investigation into such a decision.

The Attorney General has commented that the Parish Hall Enquiry is essentially a prosecution process and, to the extent that it is, it falls outside the scope of the 1999 Law except for situations of misconduct. The Comité fully agrees with this view.

The Comité des Connétables is of the opinion that the necessary provisions to deal with complaints are already covered in the Law and it therefore does not support the proposition.