

Comité des Connétables



Our ref: DWM/srdeg

30 September 2020

Deputy R. Ward
Chair, Care of Children in Jersey Review Panel
Scrutiny Office
States Greffe
Morier House
St Helier
JE1 1DD

Dear Rob

Redress and Accountability Systems in Jersey

Further to our recent correspondence, please find attached the submission of the Comité des Connétable to the Care of Children in Jersey Review Panel's review of Redress and Accountability Systems in Jersey.

We are satisfied that the current processes as set out in the submission should give confidence in the way the Parishes are run. However we also recognise there is always room for improvement and an on-going part of our work is to keep matters under review and enhance processes and systems where necessary. By way of example, we refer to the Discipline Code for members of the Honorary Police. The Connétables expect similarly high standards of all elected officers and, as part of our current review of equality and diversity training, we will consider formalising such a code for all Parish employees and honorary personnel.

Please let me know if any further information is required.

Yours sincerely

Deidre Mezbourian
Chairman, Comité des Connétables

c.c. Andrew Harris

Redress and Accountability Systems in Jersey

Scrutiny review - Care of Children in Jersey Review Panel

Submission from Comité des Connétables

September 2020

The Care of Children in Jersey Review Panel has agreed to undertake a Scrutiny Review examining the complaints systems, redress and accountability structures in Jersey. The Terms of Reference are in Appendix 1 and, in relation to Parishes, relate to -

- the systems in the Parishes that members of the public use when they have a complaint.
- whether these systems are easy to understand and easy to access for members of the public and see whether what is in place is based on good standards.
- how the Parishes put things right after a member of the public has a complaint upheld.
- identify the policies that Parishes use to hold their staff, elected officials and voluntary staff to account for their decisions and actions.
- the ways in which States Members are held to account for their actions when holding public office (this does not include their decisions in the States Assembly)
- to work out what the Parishes are doing to improve confidence in the way they are run. We also want to find out what they are doing to address the recommendations made by the Independent Jersey Care Inquiry about improving trust and confidence.

The Review Panel's report [S.R.12/2019 Response to the Care Inquiry: Update Report November 2019](#) at Section 7.2 states

62. Many of the submissions spoke about inadequate systems for redress and a lack of an effective complaints system within the public sector. One particular theme that also emerged was the fear of repercussions for speaking out on an issue or matter of concern.

This submission is in two parts covering –

- A. holding to account staff, elected officials and voluntary staff, and
- B. complaints about systems

A. The policies that Parishes use to hold their staff, elected officials and voluntary staff to account for their decisions and actions

The primary duty of all elected officials and staff is to serve their parishioners. Staff and elected officers should not behave in a way which is likely to bring discredit upon the Parish.

Elected officers may be required to swear an oath of office in the Royal Court (or Ecclesiastical Court for church officers) - see Appendix 2 for oaths. In doing so, officers have

a duty to uphold the law in accordance with their oath of office and to act on all occasions in accordance with the public trust placed in them.

A Discipline Code exists in relation to members of the Honorary Police – that is the Centeniers, Vingteniers and Constable's Officers (see Appendix 3).

The Connétables expect similarly high standards of all elected officers and, as part of its current review of equality and diversity training for all Parish employees and honorary personnel, is considering formalising such a code which could include:

- Honesty and integrity
- Fairness and impartiality
- Politeness and tolerance
- Confidentiality
- Criminal offences
- Property
- Appearance
- General conduct

By way of example, the Parish of St Martin is finalising a 'People Handbook' a section of which includes the policies on a number of the above topics as well as Gross Misconduct, Incapacity, Diversity & Inclusion, Harassment and Bullying and Disability. The handbook applies to people in all the following posts:

- Connétable
- Parish Secretary, Parish Executive Officer & Assistant Parish Secretaries
- Procureurs
- Centeniers, Vingteniers, Constables Officers
- Registrar
- Rate Assessment Committee
- Roads Committee & Roads Inspectors
- Rector & Surveillants, Parish Church of St Martin
- Volunteers

The process for accountability is documented for the Connétable and for members of the Honorary Police (see below).

For other elected officers and members of the municipality all complaints or concerns about the conduct or actions of such an officer/member should be addressed to the Connétable, as head of the Parish. The Connétable will seek appropriate advice and guidance, depending on the issue, and take the necessary action.

A decision taken by a Parish Assembly could be queried by the holding of a further Parish Assembly. This is when ten or more members of the Assembly make such a request in writing, dated, and mention the subject ('sujet') to be put forward (which must be a lawful one), and the proposition (which must relate to a matter within the competence of the Parish Assembly).

Position:	Accountability
Connétable	<p>The Connétable is sworn to office.</p> <p>The functions of the Commissioner under the Commissioner for Standards (Jersey) Law 2017 relate to investigating complaints that there has been a breach of ‘a code’ by an ‘elected member’ which includes the Connétable.</p> <p>HM Attorney General, in answering a question in the States in February 2018 (WQ. 31/2018), advised that to the extent that a complaint in the context of the Connétable’s Parish role might not be appropriate for investigation by the Commissioner, it may nonetheless - depending on the circumstances - be a matter in respect of which the Royal Court can exercise its jurisdiction.</p> <p>A person holding office as Connétable is also accountable:</p> <ul style="list-style-type: none"> • to the electorate at each public election (every 4 years) and • to the Parish Assembly in relation to management of the Parish (an annual Parish Assembly approves the accounts when setting the rate).
Honorary Police – Centeniers, Vingteniers and Constable’s Officers	<p>Members of the Honorary Police are sworn to office.</p> <p>Complaints are dealt with in accordance with the Police (Complaints and Discipline) (Jersey) Law 1999 and the Police (Honorary Police Complaints and Discipline Procedure) (Jersey) Regulations 2000.</p> <p>The Regulations establish a Discipline Code for all members of the Honorary Police – see Appendix 3.</p> <p>The Attorney General has also issued the following Direction (19 December 2019):</p> <p style="text-align: center;"><u>Attorney General's Direction Honorary Police - conduct and other ancillary matters</u></p> <p>Complaints may be dealt with by informal resolution or investigation (as advised by H M Attorney General).</p> <p>Article 6 of the Regulations provides for a member of the States of Jersey Police Force or police officer from some other force, of at least the rank of inspector, to carry out an investigation in the following circumstances:</p> <ul style="list-style-type: none"> (a) where it appears to the Attorney General that a complaint is not suitable for being dealt with informally; or (b) where it appears to the Attorney General that a report or allegation indicates that a member of the Honorary Police may have committed an offence against discipline. <p>The Jersey Police Complaints Authority oversees complaints against members of the Honorary Police as well as in relation to the States of Jersey Police. Members of the Authority regularly visit every</p>

	<p>Connétable to inspect the register of complaints which he/she maintains. The most recent report of the Board is R.22-2019.</p> <p>In relation to Centeniers and their role in the Parish Hall Enquiry there are guidelines and a Code issued by the Attorney General, as follows:</p> <ul style="list-style-type: none"> i) Attorney General's Direction 4/2019 The conduct of Parish Hall Enquiries ii) Code of Conduct for Centeniers acting in their prosecutorial capacity
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Other elected officers and members of the municipality - complaints or concerns about the conduct or actions of such an officer/member should be addressed to the Connétable.	
Office	Election/oath etc.
Procureurs du Bien Public	<p>The Procureurs du Bien Public are elected in accordance with the Procureurs du Bien Public (Terms of Office) (Jersey) Law 2013 and the Public Elections (Jersey) Law 2002.</p> <p>The Procureurs are sworn in and hold office for a period of 3 years.</p> <p>The Procureurs du Bien Public in each Parish act as public trustees i.e. they maintain an oversight of Parish finances and represent the Parish along with the Connétable (and, when appropriate, with the Rector and Churchwardens) in respect of property transactions of the Parish.</p>
Roads Committee	<p>Members of the Roads Committee are elected in accordance with the Loi (1914) sur la Voirie.</p> <p>Members are sworn in and hold office for a period of 3 years.</p> <p>The duties are set out in the Voirie law and other legislation e.g. the Highways (Jersey) Law 1956, etc.</p>
Roads Inspectors	<p>The Roads Inspectors are elected in accordance with the Loi (1914) sur la Voirie to undertake the duties set out in the law.</p> <p>Members are sworn in and hold office for a period of 3 years.</p>
Rates Assessors	<p>The Rates Assessors are elected in accordance with the Rates (Jersey) Law 2005 to undertake the duties set out in the law.</p> <p>Members are sworn in and hold office for a period of 3 years.</p>
Volunteers and members of <i>ad hoc</i> committees	<p>A Parish Assembly may from time to time elect or appoint members or <i>ad hoc</i> committees to undertake certain duties/roles.</p> <p>Parishes may also have volunteers e.g. to provide community support.</p>

	<p>Depending on the role to be fulfilled, DBS checks and confidentiality agreements are required.</p> <p>Confidentiality agreements were updated and used for those volunteering during COVID-19 and now provide a more structured framework which can be used for all volunteers/officers.</p>
Parish Registrar / Deputy Registrar	<p>The Connétable of each parish is responsible for appointing one Parish Registrar and also one or more Deputy Parish Registrar for their parish (Marriage and Civil Status (Jersey) Law 2001).</p> <p>All Parish Registrars must swear an oath of office in the Royal Court to well and faithfully perform their role. Breach of this oath may give rise to criminal prosecution.</p> <p>The Superintendent Registrar has set out the Role Description – Parish Registrar & Deputy Parish Registrar which includes a section on Investigation and Complaints (see Appendix 4).</p>
Church	<p>Rector – appointed by the Crown</p> <p>Church officers – elected in accordance with the Loi (1804) au sujet des Assemblées Paroissiales and the Canons of the Church of England in Jersey; the oath of office is taken before the Ecclesiastical Court. Section D1 of the Canons provides for dismissal and appeal to the Ecclesiastical Court (we understand the Canons are currently being updated; revisions include references to safeguarding issues).</p>
Staff	<p>In accordance with the Employment (Jersey) Law 2003, disciplinary and grievance procedures exist within parishes.</p> <p>The Employment Law provides for disputes to be referred to the Employment Tribunal (Article 9) and for appeals to the Royal Court (Article 94).</p> <p>Guidance on conduct, disciplinary and grievance procedures may be found in the ‘Staff handbook’, for example –</p> <ul style="list-style-type: none"> • commitment to valuing diversity • entitlement to work in an environment free from any type of discrimination or harassment • direct or indirect discrimination will not be tolerated • staff responsibility to endeavour to promote these concepts, to comply with all relevant legislation and to ensure that they do not discriminate against colleagues, customers, suppliers etc. • the working environment should at all times be supportive of the dignity and respect of individuals.

B. Some examples of the systems in the Parishes that members of the public use when they have a complaint

Complaint about:	What is the system, ease of access etc	Does the Parish put things right if complaint upheld?
Driving licences – Road Traffic (Jersey) Law 1956	Revocation of licence, non-issue of licence (if requirements are not met) – appeal to the Royal Court.	Yes
Rates assessment - Rates (Jersey) Law 2005	Review by Assessment Committee and appeal to the Rate Appeal Board; forms available from Parish and online.	Yes, decision of Assessment Committee or Rate Appeal Board are actioned. Appeal to Royal Court against Board decision.
Electoral registration – Public Elections (Jersey) Law 2002	Appeal to Royal Court (Article 10) against - (a) a refusal to add name to a register (b) the removal of name from a register; or (c) the refusal of application, or of the reinstatement in or addition to the register of his or her name, under Article 9. An error on an Electoral Register during an election will be dealt with by the Autorisé on the day.	The decision of the Royal Court on any such appeal shall be final and without further appeal.
Administrative penalty/notice to cut/fine for branchage infraction under the Loi (1914) sur la Voirie	Financial penalty is a civil debt (Article 43 of the Loi (1914) sur la Voirie). Other offences – criminal matter so criminal justice system applies.	Yes
Firearm certificate application – Firearms (Jersey) Law 2000	Appeals to Royal Court (Article 55) against decision of the Connétable to grant, renew or vary a certificate or revoke or impose conditions.	Yes
Shops (Regulation of Opening and Deliveries) (Jersey) Law 2010 and Shops (Regulation	Decision of the Connétable is subject to a) review by Comité des Connétables (Article 20) and	Yes (no appeals received to date)

of Opening) (Jersey) Regulations 2011	b) appeal to the Royal Court (Article 21).	
Places of Refreshment (Jersey) Law 1967	Opening on Sunday – Royal Court appeal (Articles 10 and 11).	Yes
Data Protection (Jersey) Law 2018	Subject Access Requests – Jersey Office of the Information Commissioner.	Yes
Freedom of Information (Jersey) Law 2011	Internal review process and then appeal to the Jersey Officer of the Information Commissioner.	Yes
Employment (Jersey) Law 2003	Employment Tribunal for disputes and then appeal to the Royal Court.	Yes

APPENDIX 1

Redress and Accountability Systems in Jersey

Scrutiny review - Care of Children in Jersey Review Panel*

What is the review about?

This review will seek to examine the complaints processes across the Government of Jersey, States Assembly, the Courts and the Parish System. The review will also look at the means of redress available to members of the public who have a complaint upheld and also identify the policies which underpin the processes and hold officials and staff to account. It will also seek to identify any future work that is being carried out in order to improve confidence in the systems of governance and address the recommendations of the Independent Jersey Care Inquiry in this regard.

Review progress

The Review launched on Thursday 18th June and the public call for evidence is open until Friday 21st August 2020. The Panel will also be gathering evidence from the key stakeholders about the processes in place across the four areas being examined. It is intended for public hearings to take place during September 2020 with the final report being presented during November 2020.

Terms of reference

- We will be gathering and looking at people's views on the systems in the Government of Jersey, States Assembly, Court System and Parishes that members of the public use when they have a complaint.
- We aim to find out whether these systems are easy to understand and easy to access for members of the public and see whether what is in place is based on good standards.
- We want to look at how the Government of Jersey, States Assembly, Court Systems and Parishes put things right after a member of the public has a complaint upheld.
- We are going to identify the policies that the Government of Jersey, Court System and Parishes use to hold their staff, elected officials and voluntary staff to account for their decisions and actions.
- We are going to look at the ways in which States Members are held to account for their actions when holding public office (this does not include their decisions in the States Assembly)
- We want to work out what the Government of Jersey, States Assembly, Court System and Parishes are doing to improve confidence in the way they are run. We also want to find out what they are doing to address the recommendations made by the Independent Jersey Care Inquiry about improving trust and confidence.
- We will hold a public call for evidence in order to gather views on the systems we will be examining. We will also invite key stakeholders in each area to give their views on what is working well and what could be done better.
- We will produce an evidenced-based report with findings and recommendations.

* <https://statesassembly.gov.je/scrutiny/Pages/Review.aspx?reviewid=349>

APPENDIX 2

Oaths of office from [Code of 1771 \(translated\)](#)

OATH OF THE CONNÉTABLES

You swear and promise, by the faith and oath that you owe to God, that you will well and faithfully discharge the duties and office of Connétable of the Parish of.....; you will cause to be kept the King's Peace; you will protect and uphold to the best of your ability the rights appertaining to the said Parish, and as touching the public welfare thereof, you will be guided by the advice and counsel of the Principals and other officers of the said Parish; which officers you will convene, or will cause to be convened through your Centeniers, regularly to advise on the affairs of the Parish; you will execute the lawful orders of the Lieutenant Governor, of the Bailiff, of his Deputy and of the Judges and Jurats of the Royal Court, as pertaining to their respective offices, attending meetings of the States whenever you are called upon to do so; and all this and your bounden duty you promise upon your conscience to perform.

OATH OF THE CENTENIERS

You swear and promise by the faith and oath that you owe to God, that you will well and faithfully discharge the duties and office of Centenier of the Parish of.....; you will keep and cause to be kept the King's Peace; opposing and arresting all those who attempt or commit all manner of crime, délit or contravention, whom you shall bring to judgement to punished according to their misdeeds, abiding in this respect by the directions of His Majesty's Attorney General; you will protect and uphold to the best of your ability the rights appertaining to the said Parish, and as touching the public welfare thereof, you will be guided by the advice and counsel of the Principals, the Connétable and other officers of the said Parish; you will assist the Connétable to convene the said officers regularly, and convene them yourself should he require you to do so to attend as necessary to the affairs of the Parish; you will execute the lawful orders of the Lieutenant Governor, of the Bailiff, of his Deputy and of the Judges and Jurats of the Royal Court, as pertaining to their respective offices; and all this and your bounden duty you promise upon your conscience to perform.

OATH OF THE ROADS INSPECTORS

YOU swear and promise by the faith and oath that you owe to God, that you will well and faithfully discharge the office of Roads Inspector, in the Vingtaine of....., Parish of....., and that you will abide by, and duly execute, the Regulations from time to time made governing the repair and upkeep of the public highways, and generally discharge all the duties appertaining to the said office.

OATH OF THE PARISH PROCUREURS^[11]

YOU swear and promise by the faith and oath that you owe to God, that you will discharge the office of Procureur du bien public of the Parish of; that you will conserve and augment the property of the Parish as you would your own, and more so if you are able; that you will in the execution of your duties take heed of the advice and counsel of the Principals and Officers, and Chefs de Famille^[12] of the said Parish; and that you will generally discharge all other duties appertaining to the said office.

^[11] *Procureur du Bien Public* translates into English, technically, as 'Trustee of public property'.

^[12] *Paterfamilias*, or head of a family or household: the term is no longer of any practical significance in this context.

OATH OF VINGTENIERS

YOU swear and promise by the faith and oath that you owe to God, that well and faithfully you will discharge the office of Vingtenier of the Vingtaine of in the Parish of; that you will execute due service of summonses and faithfully record the same, and that you will assist the Connétable, or Centeniers, whenever required to do so; and that you will generally discharge all other duties appertaining to the said office.

OATH OF CONSTABLE'S OFFICERS

YOU swear and promise by the faith and oath that you owe to God, that well and faithfully you will discharge the office of Constable's Officer of the Parish of.....; and that you will assist the Connétable, or Centeniers, whenever required to do so; and that you will generally discharge all other duties appertaining to the said office.

APPENDIX 3

Discipline Code from [Police \(Honorary Police Complaints and Discipline Procedure\) \(Jersey\) Regulations 2000](#)

SCHEDULE^[8] (Regulation 2(1)) DISCIPLINE CODE

1 Interpretation

In this Schedule “officers” means members of the Honorary Police.

2 Honesty and integrity

It is of paramount importance that the public has faith in the honesty and integrity of officers. Officers should, therefore, be open and truthful in their dealings; avoid being improperly beholden to any person or institution and discharge their duties with integrity.

3 Fairness and impartiality

Officers have a particular responsibility to act with fairness and impartiality in all their dealings with the public and their colleagues.

4 Politeness and tolerance

Officers should treat members of the public and colleagues with courtesy and respect, avoiding abusive or deriding attitudes or behaviour. In particular, officers must avoid: favouritism of an individual or group; all forms of harassment, victimization or unreasonable discrimination; and overbearing conduct to a colleague, particularly to one junior in rank or service.

5 Use of force and abuse of authority

Officers must not use more force than is reasonable, nor should they abuse their authority.

6 Performance of duties

Officers should be conscientious and diligent in the performance of their duties. If absent through sickness or injury, they should avoid activities likely to retard their return to duty.

7 Lawful orders, directives, etc.

The Honorary Police is a disciplined body. Unless there is good and sufficient cause to do otherwise, officers must obey all lawful orders and directives and abide by the provisions of the Honorary Police (Jersey) Regulations 1977^[9] and the Police (Honorary Police Complaints and Discipline Procedure) (Jersey) Regulations 2000.^[10] Officers should support their colleagues in the execution of their lawful duties, and oppose any improper behaviour, reporting it where appropriate.

8 Confidentiality

Information which comes into the possession of the Honorary Police should be treated as confidential. It should not be used for personal benefit and nor should it be divulged to other parties except in the proper course of police duty. Similarly, officers should respect as confidential information about the policy and operations of the Honorary Police and the Force unless authorized to disclose it in the course of their duties.

9 Criminal offences

Officers must report to the Connétable of the parish in which they serve any proceedings for a criminal offence taken against them. Conviction of a criminal offence may of itself be an offence against discipline.

10 Property

Officers must exercise reasonable care to prevent loss or damage to property (excluding their own property but including police property).

11 Alcohol

(1) Officers shall not consume any alcohol whilst on duty. An officer is on duty at all times during his or her duty rota except during such times as the officer has, with the prior agreement of, if he or she is a Vingtenier or Constable's officer, the duty Centenier or, if he or she is a Centenier, another Centenier of the parish, been relieved of duty.

(2) Officers shall not be on duty having consumed alcohol before coming on duty to such an extent that their judgment or ability to perform their duties is likely to be adversely affected or is likely to bring the Honorary Police into disrepute.

12 Appearance

Unless on duties which dictate otherwise, officers should always be well turned out, clean and tidy whilst on duty.

13 General conduct

Whether on or off duty, officers should not behave in a way which is likely to bring discredit upon the Honorary Police.

Notes:

(a) The duties of those who hold the office of Centenier, Vingtenier or Constable's Officer include the protection of life and property, the preservation of the Queen's peace, and the prevention and detection of criminal offences. To fulfil these duties they are granted extraordinary powers; the public and the Honorary Police therefore have a right to expect the highest standards of conduct from them.

(b) This Code sets out the principles which guide officers' conduct. It does not seek to restrict officers' discretion: rather it aims to define the parameters of conduct within which that discretion may be exercised. However, it is important to note that any breach of the principles in this Code may result in the preferment of disciplinary charges which, if proved, in a serious case, could involve dismissal.

(c) This Code applies to the conduct of all officers whilst on duty, or whilst off duty if the conduct is serious enough to indicate that an officer is not fit to be such. It will be applied in a reasonable and objective manner. Due regard will be paid to the degree of negligence or deliberate fault and to the nature and circumstances of an officer's conduct. Where off-duty conduct is in question, this will be measured against the generally accepted standards of the day.

APPENDIX 4

Parish Registrar & Deputy Parish Registrar – investigation and complaints

8. Investigation and complaints

The SR [Superintendent Registrar] is responsible for investigating complaints received about Parish Registrars (and Deputies) regardless of whether those complaints are:

- a) Made directly to the SR or to the Connétable of the Parish, or
- b) In the event that the SR has reasonable grounds to believe that the Parish Registrar may not be acting in accordance with the Law or may be failing to carry out their duties.

The responsibility to investigate complaints about Parish Registrars includes in relation to the St Helier Registrars. As employees of the Parish of St Helier however, the Parish, as their employer, may also determine that it is appropriate to undertake an investigation in the same way that the Parish would with relation to other employees of the Parish. Any appeal that the Registrar wishes to make against the decision of the Parish to remove the Registrar from office would be in accordance with the Parish's terms and condition of employment as opposed to via the appeals process set out below.

That investigation should be undertaken in consultation with the relevant Connétable and the SR must report the findings of that investigation to relevant the Connétable and to the Registrar.

8.1 Investigation report

In reporting back, the SR will make a recommendation to the Connétable as to what action should be taken and the grounds for the action. This could include:

- a) Grounds to remove the Parish Registrar based on matters such as
 - i. failure to comply with the law, including behaving in a discriminatory manner or failure to hold GDPR requirements
 - ii. failure to provide a good service
 - iii. failure to carry out duties
 - iv. incapacitation by illness; or
 - v. inability or unfitness to discharge the functions of the Parish Registrar
- b) No grounds for removal;
- c) Grounds for a formal warning to be issued to the Parish Registrar (where necessary the Registrar will be offered additional training)

8.2 Suspension

The SR may recommend to the Connétable whether the Registrar should be suspended during the course of an investigation. The Connétable may choose to suspend or not.

8.3 Removal from post

The Connétable may remove the Registrar from post, if on the basis of an investigation by the SR the Connétable believes there are grounds to do so. The Connétable shall not remove a Registrar from post unless he or she has notified the Parish Assembly of their intention to do so. A Connétable may however choose to suspend a registrar without notifying the Assembly, in the event that the Connétable believes it is necessary to take action in a short timeframe.

8.4 Appeal against decision of the Connétable

There is no statutory appeals process relating to the removal of a Registrar – excluding St Helier - this is because the role of Parish Registrar and Deputy Parish Registrar (excluding those roles in the Parish of St Helier) is a voluntary public office. Removal from post does not carry any obvious and significant pecuniary implications nor does it impinge on any other civil right of the registrar. Whether a Registrar should be removed is a matter of parochial administration.