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# STATES OF JERSEY



## JERSEY POLICE COMPLAINTS AUTHORITY: REPORT FOR 2016

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Presented to the States on 27th April 2017  
by the Minister for Home Affairs

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STATES GREFFE

## REPORT

### INTRODUCTION

The Jersey Police Complaints Authority (the “Authority”) is an independent organisation which was established in 1999 pursuant to the [Police \(Complaints and Discipline\) \(Jersey\) Law 1999](#) (the “Law”). The Authority reports to the Minister for Home Affairs. The role of the Authority is to oversee, monitor and supervise the investigation by the Professional Standards Department of the States of Jersey Police of complaints made against States of Jersey Police and Honorary Police Officers. The Authority does not carry out the investigations and its Members are not trained investigators. The role of the Authority is to ensure that the investigations it supervises are carried out by the investigating officers in a thorough and impartial manner.

The Members of the Authority are appointed by the States for a period of 3 years (subject to reappointment up to a maximum of 3 terms) and their services are provided on a voluntary basis. The Members who served during the year are detailed below.

|   |                    |                         |
|---|--------------------|-------------------------|
| Mrs. Debbie Prosser<br>(Retired 31 December 2016) | Chairman           | Appointed Nov 2007      |
| Mr. Howard Cooper                                 | Deputy Chairman    | Appointed February 2013 |
| Mrs. Dee Taylor-Cox                               | Supervising Member | Appointed February 2013 |
| Mr. Graeme Marett                                 | Supervising Member | Appointed February 2013 |
| Mr. Duncan Baxter                                 | Supervising Member | Appointed March 2015    |
| Ms. Debbie Sebire                                 | Supervising Member | Appointed March 2015    |
| Mrs. Gail McCourt                                 | Supervising Member | Appointed March 2015    |

The Authority continues to operate from accommodation in St. Andrew’s Place and employs one part-time administrator. The Authority’s office is open on Tuesday, Wednesday and Thursday mornings between the hours of 09.15 and 12.15.

The Members of the Authority are unpaid but are entitled to reclaim their reasonable expenses.

Following the retirement of Mrs. Prosser as Chairman, Mr. Cooper was appointed Chairman with effect from 1st January 2017 and Ms. Debbie Sebire was appointed Acting Deputy Chairman.

During the year the Authority advertised the vacancy of Chairman and also advertised for 2 new members. The selection of Mr. Howard Cooper as Chairman was made in accordance with the guidelines issued by the Jersey Appointments Commission and was overseen by Commissioner Ed Sallis. The appointments process was open and transparent and Mr. Cooper was selected based on his knowledge and experience. His appointment was recommended to the Minister for Home Affairs and subsequently approved by the States on 15th November 2016 with his appointment being effective from 1st January 2017. During the year, in anticipation of his succession to the role of Chairman, Mr. Cooper took an active role, together with the Chairman, in the day to day activities of the Authority.

Following a recruitment campaign which was conducted in accordance with the Jersey Appointments Commission's guidelines (but not formally overseen by the Commission) Advocate Matthew Swan and Mrs. Rachel Catchpole were appointed by the States Assembly on 14th December 2016, effective from 1st January 2017.

### **Authority's Powers**

The Authority supervises 3 categories of investigation: those arising from complaints made by members of the public which have not been dealt with by informal resolution, those arising from issues referred to the Authority on a voluntary basis by the States of Jersey Police and those specifically detailed in the Law, such as investigations arising from a complaint into the death of individuals following contact with the States of Jersey Police. Generally speaking the Authority is not involved in the oversight of the investigation of complaints which are of an operational nature unless the matter is specifically referred, on a voluntary basis, to the Authority by the States of Jersey Police.

One of the first stages of the complaints process is to assess whether the complaint is capable of what is currently known as Informal Resolution. The Authority does not have a role to play in supervising those complaints which are dealt with by way of informal resolution between the complainant and the States of Jersey Police. However, the Authority reviews annually the States of Jersey Police files relating to cases which have been dealt with by Informal Resolution.

Previously, the Law did not provide for the oversight of complaints made against the Chief Officer or the Deputy Chief Officer of the States of Jersey Police and the Authority therefore did not have a role to play in such matters. However, the [States of Jersey Police Force \(Chief Officer and Deputy Chief Officer\) \(Jersey\) Regulations 2017](#) were made in February 2017 are now in force and the Authority now has a formal role to play in the investigation of complaints against these 2 senior officers.

Complaints made by members of the public against Honorary Police Officers are submitted to the Authority in the usual manner by the States of Jersey Police following a referral by the Connétable of the relevant Parish, usually at the direction of the Attorney General. The Attorney General is responsible for considering informal resolution of complaints made against Honorary Police Officers.

Voluntary referral cases, not necessarily complaints, are occasionally made by the States of Jersey Police on any internal matter which is the subject of investigation by the Professional Standards Department.

The flow chart at Appendix 1 (complaints against a States of Jersey Police officer) and at Appendix 2 (complaints against an Honorary Police Officer) show the entire complaints process from receipt of a complaint from a member of the public to the issue of the Authority's closure letter.

The Law requires that the Authority supervises all complaints alleging that the conduct of a member of the States of Jersey Police Force or Honorary Police Force resulted in the death of, or serious injury to, some other person.

All potential conflicts or perceived bias are taken very seriously and avoided. The Authority has a process to ensure that there is no conflict between the supervising

member and any complainant or officer(s) subject to the complaint. If a conflict is identified, the case would be re-allocated to another supervising member to ensure impartiality.

The Authority is required to approve the appointment of the Investigating Officer. Usually the Investigating Officer is an officer of the States of Jersey Police of Inspector rank or above. However, on occasions the Authority either requires or agrees to the appointment of an Investigating Officer from an external force. The need for the involvement of an external police force arises because of potential conflicts or complex cases involving senior officers or because a case is so serious that it warrants the appointment of an external force.

Whilst the Chairman and Deputy Chairman maintain a good working relationship with the Professional Standards Department, with monthly meetings to monitor progress of investigations and other relevant issues, the relationship is one of mutual respect; regular challenges of processes and decisions are made in a healthy and constructive manner.

Members of the Authority continue to liaise with officers of the Law Officers' Department with bi-monthly meetings during which current cases are discussed, reasons for any delay are examined and other relevant matters are considered. The Attorney General attended the meeting in April 2016 and it was agreed that a service level agreement between the Authority, Professional Standards Department and the Law Officers Department would be introduced. It is expected that the terms of the agreement will be finalised by the end of April 2017.

## **OVERVIEW**

No internal investigation cases were supervised by the Authority in 2016.

Two cases that were referred by the States of Jersey Police were not as a result of a complaint, but were voluntarily referred following instances relating to death after police contact. One case has subsequently become the subject of a complaint.

The Authority has not supervised any new investigations conducted by an external force in 2016. In April the Assistant Minister for Home Affairs, Connétable D.W. Mezbourian of St. Lawrence, commissioned an independent investigation of complaints made against the States of Jersey Police, following a case in Jersey's Royal Court last year. The Authority has not been involved in this investigation.

In 2016 the Authority liaised with the Citizens Advice Bureau to ascertain the number of enquiries made to the Bureau about complaints against the Police to ensure that wherever possible members of the public are given adequate opportunity to process such complaints. The Bureau advised the Authority that during the year it had received 38 (67 in 2015) enquiries about police related matters of which 13 (14 in 2015) were specifically related to complaints against the police and the complaints process. The Authority notes that this number of enquiries is consistent with the level of enquiries referred to the Authority although there is no way of knowing how many of the matters raised with the Bureau were formally referred to the Authority.

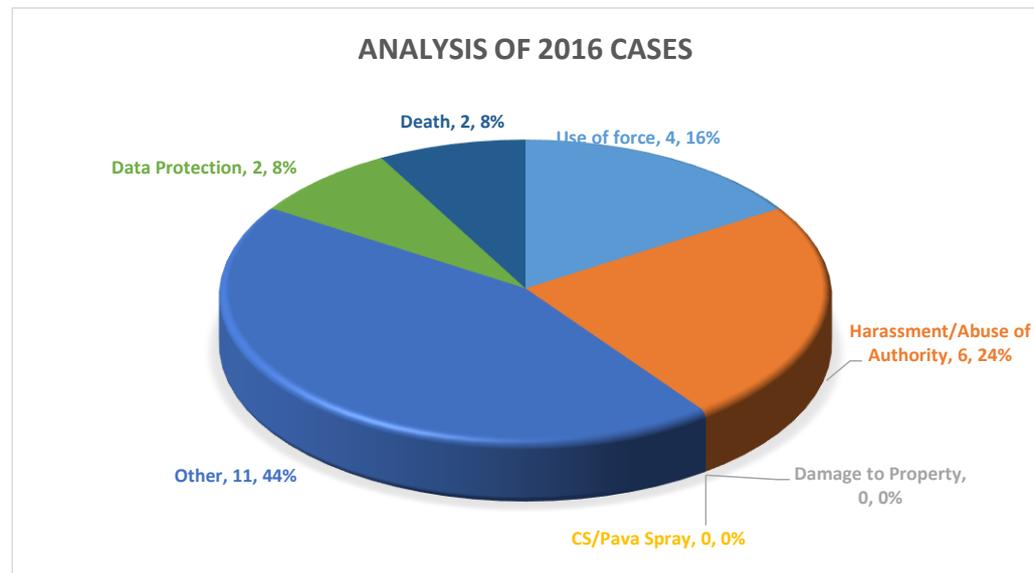
In total, 25 new cases were referred to the Authority for supervision in 2016 (21 in 2015), comprising 23 public complaints (19 in 2015), and no voluntary referrals (2 in 2015) and 2 death referrals (none in 2015). A total of 11 cases were brought forward

from 2015 and previous years, bringing the total number of cases under supervision during the year to 36 compared with 35 in 2015.

### Analysis of Complaints

| Nature of Complaint                                 | 2006      | 2007      | 2008      | 2009      | 2010      | 2011      | 2012      | 2013      | 2014      | 2015      | 2016      |
|---|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| Excessive use of force                              | 14        | 8         | 6         | 5         | 6         | 14        | 10        | 9         | 13        | 9         | 4         |
| Harassment/threatening behaviour/abuse of authority | 6         | 9         | 10        | 13        | 2         | 8         | 6         | 6         | 12        | 6         | 6         |
| Property Damage                                     |           |           |           |           | 1         |           |           |           | 2         | 0         | 0         |
| Instances relating to death                         |           |           |           | 1         | 1         |           | 2         | 2         | 2         | 0         | 2         |
| Use of CS spray                                     | 0         | 4         | 1         | 0         | 0         | 0         | 1         | 1         | 0         | 0         | 0         |
| Other   | 10        | 15        | 10        | 7         | 6         | 13        | 7         | 7         | 5         | 5         | 11        |
| Data Protection Breach                              | 0         | 0         | 0         | 0         | 0         | 0         | 3         | 1         | 1         | 1         | 2         |
| <b>TOTAL</b>  | <b>30</b> | <b>36</b> | <b>27</b> | <b>26</b> | <b>16</b> | <b>35</b> | <b>29</b> | <b>26</b> | <b>35</b> | <b>21</b> | <b>25</b> |

**Table 1 – Nature of complaints supervised**



Of the 4 use of force complaints, one was found to be substantiated, one unsubstantiated, one frivolous/vexatious (as it related to an incident 3 years ago); the remaining case has been carried forward to 2017 as it is currently sub-judice.

At the end of the year, 3 of the 6 complaints alleging abuse of authority have been carried forward. One was found to be substantiated with training provided to the officer concerned. The remaining 2 cases were found to be unsubstantiated.

In 2016, 2 cases were relating to the Data Protection Law; both of these are still under investigation and have been carried forward.

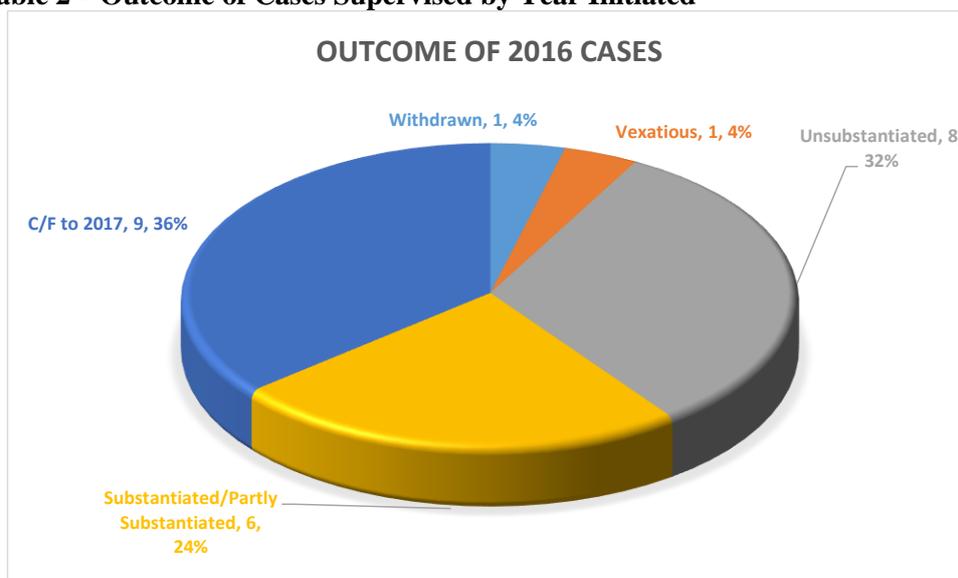
The 11 cases which fall into “Other” in Table 1 relate to allegations concerning unlawful arrest (2), seizure of property (1), conduct (1), concern over criminal investigations (6) and process (1).

Of the 25 new cases supervised, 12 complaints referred to the Authority in 2016 related to the conduct of States of Jersey Police Officers; 9 were States of Jersey Police Operational concerns and there were 2 voluntary referrals relating to death following police contact. There were 2 new cases concerning the conduct of Honorary Police Officers.

### Outcome of cases supervised

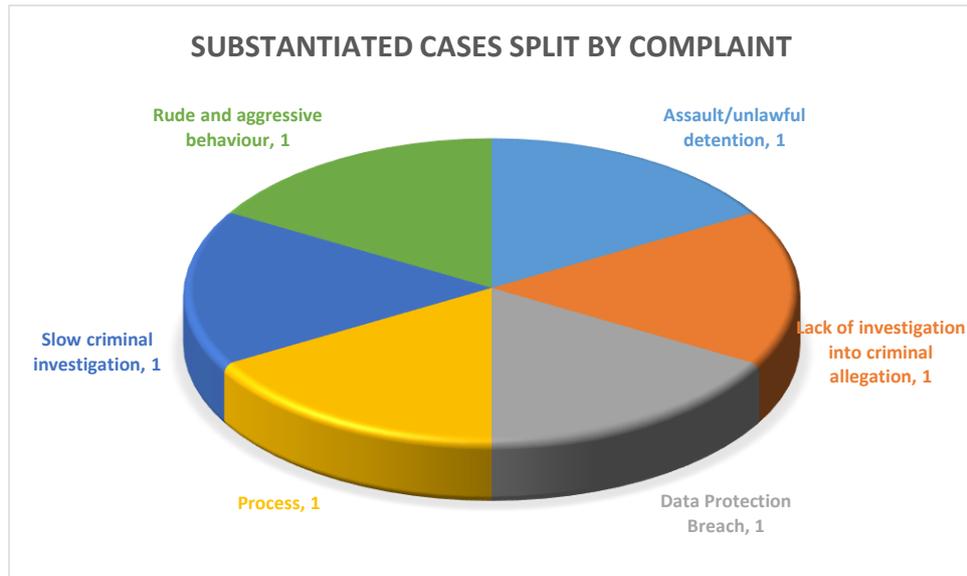
| Outcome                                 | 2006      | 2007      | 2008      | 2009      | 2010      | 2011      | 2012      | 2013      | 2014      | 2015      | 2016      |
|---|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| Withdrawn or Incapable of Investigation | 15        | 15        | 9         | 13        | 7         | 11        | 10        | 11        | 7         | 6         | 1         |
| Vexatious                               | 0         | 3         | 0         | 0         | 0         | 1         | 0         | 0         | 1         | 0         | 1         |
| Unsubstantiated                         | 14        | 16        | 13        | 8         | 7         | 13        | 11        | 9         | 19        | 10        | 8         |
| Substantiated/Partly Substantiated      | 1         | 2         | 5         | 5         | 2         | 10        | 8         | 6         | 8         | 5         | 6         |
| Outstanding at year end                 | 0         | 0         | 0         | 0         | 0         | 0         | 0         | 0         | 0         | 0         | 9         |
| <b>TOTAL</b>                            | <b>30</b> | <b>36</b> | <b>27</b> | <b>26</b> | <b>16</b> | <b>35</b> | <b>29</b> | <b>26</b> | <b>35</b> | <b>21</b> | <b>25</b> |

**Table 2 – Outcome of Cases Supervised by Year Initiated**



At the end of 2016, 25 cases had been referred to the Authority (9 cases have been carried forward to 2017 and are still being investigated).

Of the 25 new cases that were referred in 2016, 24% were found to be partly substantiated or substantiated compared with 23% in 2015 and 22.8% in 2014. It should be noted that the percentage figures for 2015 and 2014 represent the total number of complaints referred in those years. A split of the 6 substantiated cases that make up the 24% is detailed below. The Authority notes that 32% of the 25 new cases were found to be unsubstantiated.



Members of the Authority have cause, on occasions, to challenge the findings of the Investigating Officer or to question certain recommendations. Whenever such a challenge is made all matters have been concluded to the satisfaction of the Authority as a result of further explanation or clarification. Members of the Authority also, on occasions, make observations on operational issues which may be called into question by an investigation. During 2016 the Authority's supervising members questioned or asked for further information on the investigations on 8 occasions. Their questions related to the content of investigation (3), the outcome of the investigation (3), and closure of an investigation (2).

### **Regular Complainants/Unreasonable Complainant Conduct**

Although most individuals contained within the annual figures have had cause to make one complaint, over the past 5 years the Authority has noted that 9 individuals have made more than one complaint, as detailed below:



One individual made 5 separate complaints; two individuals each made 3 separate complaints and 6 further individuals each made 2 separate complaints.

It is regrettable that the Authority has witnessed an increase in the number of regular complainants, some of whom would fall to be considered as exhibiting Unreasonable Complainant Conduct in other jurisdictions. The amount of time and effort (and public resources) taken in dealing with such complainants is at risk of being out of proportion. The Authority will continue to work with the States of Jersey Police in 2017 in agreeing an Unreasonable Complainant Conduct policy.

### **Informal Resolution**

A review of the Complaints Register maintained by the States of Jersey Police revealed that in 2016 there were 13 cases resolved through the informal resolution process (14 in 2015) (22 in 2014).

The Authority had no cause for concern when reviewing the records held by the States of Jersey Police of cases informally resolved in 2016.

### **Time Taken to Complete Investigations**

Previous reports have referred to the length of time taken to complete an investigation. Occasionally delays in the investigation are unavoidable when the matter is sub-judice<sup>1</sup> due to an ongoing criminal investigation or where delays are encountered in engaging with the complainant. On the whole the Authority had no particular concerns about delays in 2016.

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<sup>1</sup> Sub-judice is generally invoked when the complainant, or the officer subject to the complaint, is facing a criminal charge. The complaint investigation is placed on hold until the criminal charge has been dealt with. However, the investigation into the complaint may proceed with the informed consent of the complainant to waive their right to sub-judice.

During the course of 2016 bi-monthly meetings between the Authority, the Professional Standards Department and a member of the Law Officers Department continued and provided a useful forum for monitoring progress in cases which had been outstanding for longer than the desired timescale. Of all cases referred and concluded (27 cases) to the Law Officers' Department during the period January 2014 – December 2016 (3 years) the average length of time taken to review was 95.9 days. It should be noted that this is an unusual length of time due to some exceptional cases which took in excess of 100 days. At the end of 2016 there were 2 public complaint cases with the Law Officers' Department with timescales ranging from 37 to 52 days. It is noted that at the time of submitting this report (April 2017) both of these cases have been concluded.

### **General Supervision and Oversight**

The Members, between them, visited all Parish Halls to view the registers of complaints made against Honorary Police Officers; maintenance of these registers is required pursuant to the Law. The visits to each Parish are conducted on an annual basis in December and details of informally resolved complaints are referred to the Attorney General. Two minor discrepancies were found in 2016 and rectified between the various complaints registers and the Authority's records. The Authority had no cause for concern when reviewing the records held by the Parishes relating to the Honorary Police of cases informally resolved in 2016.

The current Chairman and the Administrator viewed the States of Jersey Police's complaint register twice during the year. This is a useful monitoring exercise to ensure that all complaints which are made by members of the public, whether to a particular Parish or to the States of Jersey Police, are, where appropriate, referred to the Authority for supervision.

The Authority receives monthly reports of Taser and Firearms deployment by officers of the States of Jersey Police.

Members of the Authority have taken an active interest in monitoring the use of body worn cameras and it is notable that the cameras continue to play an important role in the investigation of complaints, potentially leading to the informal resolution or withdrawal of a greater number of complaints than hitherto.

### **The Law**

It is accepted by all stakeholders that the Law is no longer fit for purpose and its review is long overdue. Following the submission to the Minister for Home Affairs of a formal review and recommendation for change prepared by the former Deputy Chief Officer and the former Chairman of the Authority, a working party was established in Q3 2016 chaired by the Chief Officer of the Department for Community and Constitutional Affairs. The comprehensive review of the Law and legislation in other jurisdictions will continue in 2017 and the Authority will continue to provide input.

### **Accounts**

The budget allocated to the Authority in 2016 was £38,200 (2015 £36,630). The actual costs incurred in 2016 amounted to £45,007 (2015 £31,283). The Authority exceeded the 2016 budget by £6,807 as a result of the need to obtain significant legal advice (at a cost of £15,265) in relation to a particular matter.

All investigation costs are borne by the States of Jersey Police, including the costs incurred in appointing external police forces where they are utilised. During the year one investigation was completed by an external police force having been carried forward from 2015. The Authority is unaware of the costs involved in appointing this external force.

Due to the complexity of some of the cases under review, the Authority reached agreement with the Minister in 2013 that, where deemed necessary and appropriate, additional resources would be made available to the Authority to enable it to employ the services of an independent experienced investigator to assist with the supervision of the more complex investigations. To date the Authority has not availed itself of this additional resource.

### **New initiatives during the year**

A number of training initiatives for Authority members were implemented and some existing training initiatives were continued in 2016. The 2 new supervising members joined States of Jersey Police shifts on patrol on a Friday evening in December 2016 to witness first hand events on a night shift. Members of the Authority attended various sessions of the “new recruit training” in Q4, with particular emphasis on powers of arrest, handcuffing and various scenarios.

In Q4, the Chairman and members attended a visit to the new Police Headquarters. The Authority was pleased to note the substantially improved facilities, particularly in the custody suite.

### **SUMMARY**

Although 2016 was another busy and demanding year for the Authority with several very complex and time consuming cases, there was a small increase in the number of investigations supervised by the Authority during the year over the preceding years.

It is not possible to please everyone and there will inevitably be complainants who remain aggrieved following the conclusion of the investigation into their complaint. The Authority has witnessed an increasing number of complainants who are unsatisfied as to the conduct and findings of the investigation. However, the Authority remains committed to continuing in its role of monitoring investigations in an impartial, professional, thorough and fair manner.

The Authority considers that the system for investigating complaints has become more efficient and accessible. However, there remains room for improvement and it is hoped that once the Law has been amended there will be further opportunity for improvement in processes.

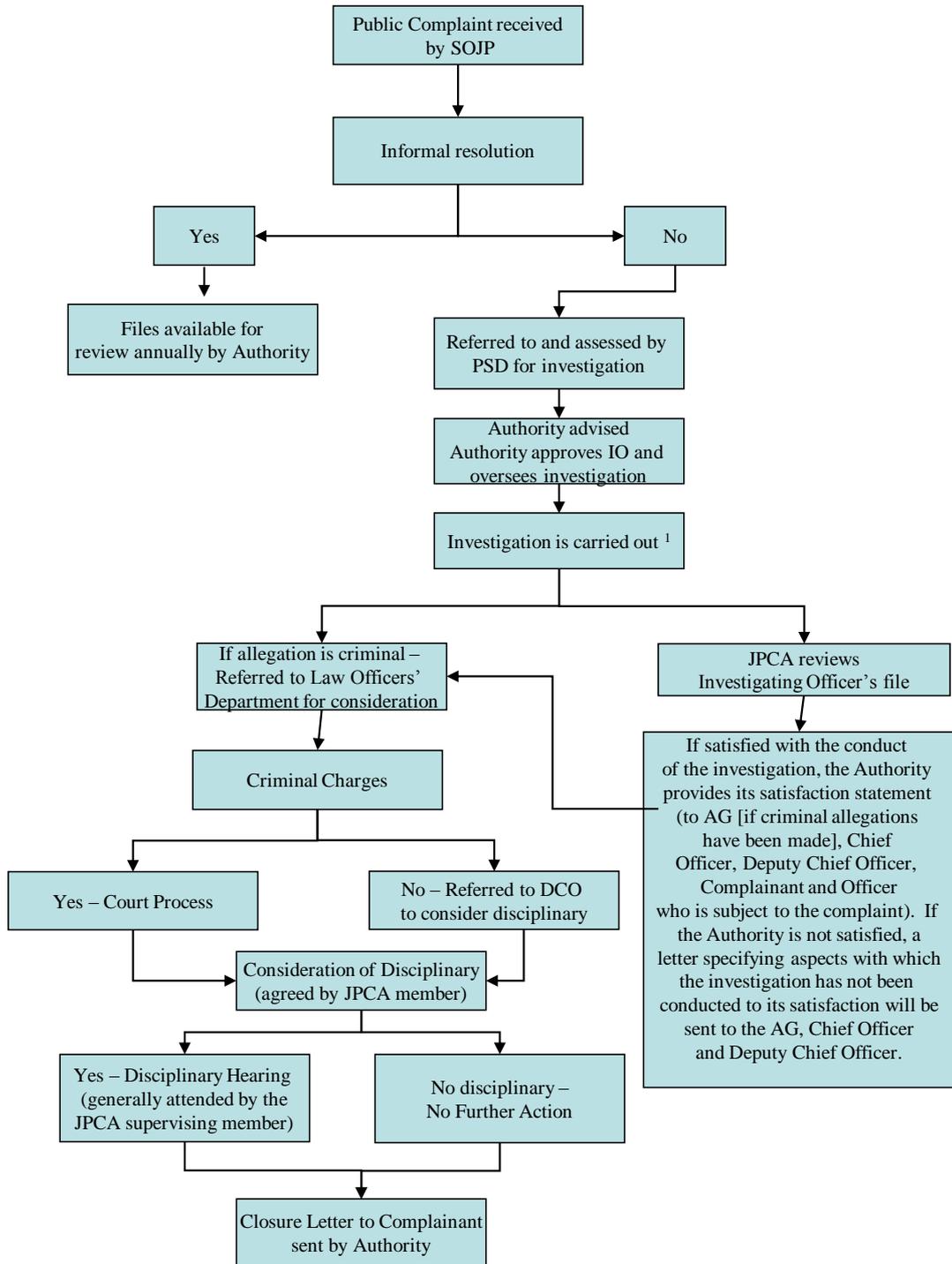
The Chairman should like to express his gratitude to the Authority’s Administrator for her continued dedication to the role and to the Members of the Authority who, voluntarily give up their time generously in the conduct of their role, ensuring impartiality and fairness at all times.

The Chairman and members of the Authority would also like to acknowledge the nine years of tremendous hard work and dedication of the outgoing Chairman, Mrs. Debbie

Prosser. The leadership and guidance she has given to the Authority, in particular her significant work in drafting proposals for changes to the Law and the input into this annual report, is very much appreciated.

**Appendix 1 – Flow chart of complaints process – States of Jersey Police Officer.**

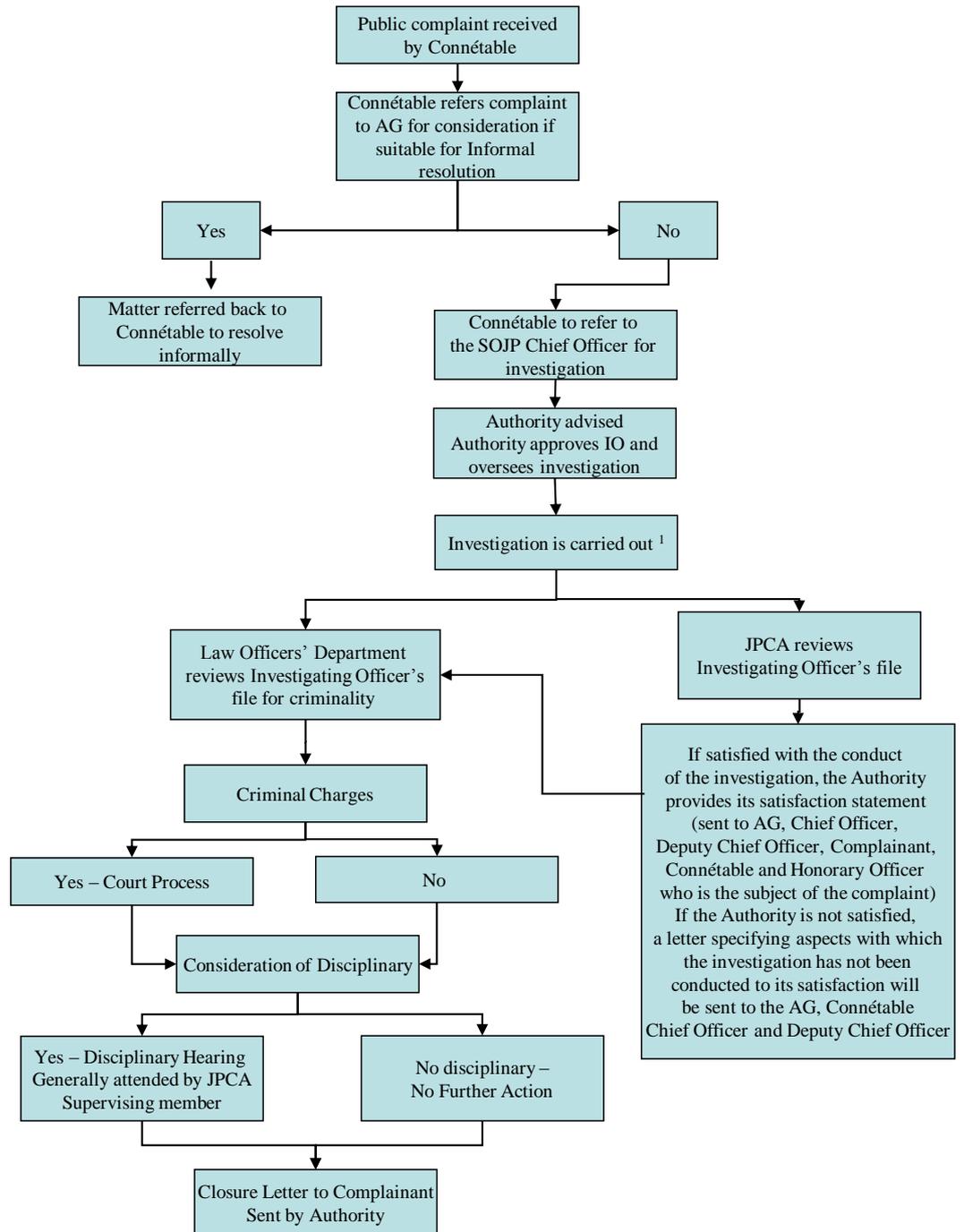
Flow Chart – Jersey Police Complaints Authority- Complaint Process  
Complaint Received Against a Police Officer



<sup>1</sup> Refer to footnote on page 9

**Appendix 2 - Flow chart of complaints process – Honorary Police Officer**

Flow Chart – Jersey Police Complaints Authority - Complaint Process  
Complaint Received Against an Honorary Police Officer



<sup>1</sup> Refer to footnote on page 9