

**DRAFT POLICE (HONORARY POLICE COMPLAINTS AND DISCIPLINE PROCEDURE) (JERSEY)  
REGULATIONS 200-**

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**Lodged au Greffe on 19th September 2000  
by the Home Affairs Committee**

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**STATES OF JERSEY**

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**Explanatory Note**

These Regulations make provision in relation to the conduct and discipline of members of the Honorary Police which supplements Part III of the Police (Complaints and Discipline) (Jersey) Law 1999 (the 'Law').

*Regulation 1* is the interpretation provision.

*Regulation 2* states what constitutes an offence against discipline.

*Regulation 3* is the procedure for a Connétable to follow when directed by the Attorney General to seek to resolve informally a complaint from a member of the public. Article 20(3) of the Law requires the Connétable to notify the member of the public of the outcome of the complaint.

*Regulation 4* empowers the Attorney General, after consultation with the Connétable, to suspend a member of the Honorary Police charged with a criminal offence or suspected of an offence against discipline.

*Regulation 5* has the effect that, unless there are exceptional circumstances, all disciplinary procedures are deferred until any criminal investigation or proceedings which relate to the same conduct of the officer are concluded.

*Regulation 6* provides that any formal investigation is conducted by a member of the States of Jersey Police Force or another police force in the British Islands.

*Regulation 7* sets out procedures for the conduct of a formal investigation.

*Regulation 8* requires an investigating officer to report his findings to, in the case of an investigation supervised by the Jersey Police Complaints Authority (the 'Authority'), by virtue of Article 23 of the Law, the Authority or, in the case of an unsupervised investigation, the Attorney General.

*Regulation 9* sets out the procedures on receipt of the investigating officer's report. Article 25(3) of the Law requires the Attorney General to notify the Authority whether he intends to hold a disciplinary hearing following a supervised investigation.

*Regulation 10* makes it clear that the Attorney General may withdraw a disciplinary charge.

*Regulation 11* makes it clear that a member of the Honorary Police may only be punished if found guilty of an offence against discipline and provides that a member of the Honorary Police found guilty at the hearing of a disciplinary charge may only be dismissed or required to resign if he was given the opportunity to be legally represented at that hearing.

*Regulation 12* requires the Attorney General to give an officer full and proper notice of a disciplinary charge against him.

*Regulation 13* requires the Attorney General to give an officer sufficient notice of a disciplinary hearing date. If the Attorney General believes that it should be possible, at the hearing, to dismiss the officer or require him to resign, he must notify the officer that he has the right to be legally represented at the hearing.

*Regulation 14* imposes procedures before hearing, in particular, to secure the attendance of witnesses requested by the officer.

*Regulation 15* allows a hearing date to be brought forward in certain circumstances.

*Regulation 16* states that the Attorney General hears a disciplinary charge.

*Regulation 17* imposes procedures before hearing dependent on whether the officer accepts or denies that he has committed an offence against discipline.

*Regulation 18* provides for representation at a disciplinary hearing. An officer given notice under *Regulation 13* may elect to be legally represented and, if he so elects, the case against him may be presented by a lawyer. If he does not so elect or has not been given notice under *Regulation 13*, he may be represented by another member of the Honorary Police, a member of the Force or a police officer from another force and the case against him must be presented by a member of the Force.

*Regulation 19* provides for the procedure at a disciplinary hearing.

*Regulation 20* provides for the attendance of the officer charged at the disciplinary hearing.

*Regulation 21* applies where the disciplinary charge arises from a complaint from a member of the public, and entitles the complainant to attend the hearing and, if the officer gives evidence, have questions put to him.

*Regulation 22* makes provision for other persons to attend a disciplinary hearing, in particular, a member of the Authority.

*Regulation 23* requires the Attorney General to cause any members of the public present at a hearing to withdraw whilst evidence is being given that should not, in the public interest, be disclosed to members of the public.

*Regulation 24* makes it clear that it is the Attorney General who determines what evidence is admissible and what questions may be put at a hearing.

*Regulation 25* requires the Attorney General to ensure that a proper record is taken of a disciplinary hearing and a transcript provided to the officer, if requested.

*Regulation 26* states the punishments that may be imposed for an offence against discipline. An officer may only be dismissed or required to resign if he has been given the opportunity to be legally represented at the hearing.

*Regulation 27* requires the Attorney General to take into account the past service of the officer, when considering his punishment.

*Regulation 28* requires the Attorney General to inform the officer of the decision at a disciplinary hearing.

*Regulation 29* requires the Attorney General to keep records of disciplinary proceedings.

*Regulation 30* imposes procedures on the initiation of an appeal against a decision on a disciplinary charge or punishment imposed.

*Regulation 31* imposes procedures for disclosure once notice of appeal has been given.

*Regulation 32* imposes procedures for the hearing of an appeal.

*Regulation 33* provides that an appeal is ordinarily held in private, although a member of the Authority has the right to attend and the panel of Jurats appointed to hear the appeal (the 'panel') has a discretion to allow other persons to attend.

*Regulation 34* makes it clear that it is the panel who determines what evidence is admissible and what questions may be put at an appeal.

*Regulation 35* applies where there is an appeal against a finding of an offence against discipline which arose from a complaint by a member of the public and entitles the complainant to attend the appeal.

*Regulation 36* enables a panel to determine an appeal without a hearing if the appellant and the Attorney General (as respondent) both agree.

*Regulation 37* requires the chairman of the panel to prepare a statement of the panel's decision on an appeal and give a copy of it to interested persons.

*Regulation 38* states the effect of a decision of a panel.

*Regulation 39* enables the Attorney General to delegate certain functions under the Regulations to the Solicitor General or a Crown Advocate.

*Regulation 40* requires the Judicial Greffier to act as clerk to the panel.

*Regulation 41* enables documents to be served by post.

*Regulation 42* repeals provisions superseded by these Regulations.

*Regulation 43* is the citation and commencement provision.

The *Schedule* sets out the Discipline Code for the Honorary Police. A failure to meet the standards set out in it constitutes an offence against discipline.

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**Police (Complaints and Discipline) (Jersey) Law 1999**  
**Police Force (Jersey) Law 1974**

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POLICE (HONORARY POLICE COMPLAINTS AND DISCIPLINE PROCEDURE) (JERSEY) REGULATIONS 200-

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*(Promulgated on the                      day of                      200-)*

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**STATES OF JERSEY**

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The                      day of                      200-

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**THE STATES**, in pursuance of Article 28 of the Police (Complaints and Discipline) (Jersey) Law 1999<sup>[1]</sup> and Article 4(4) of the Police Force (Jersey) Law 1974,<sup>[2]</sup> as amended,<sup>[3]</sup> have made the following Regulations -

**Interpretation**

**1.-(1)** In these Regulations, unless the context requires otherwise

“chairman of the panel” means the Jurat appointed as such pursuant to Regulation 30(5);

“Code” means the Discipline Code referred to in Regulation 2;

“complainant” means the person by or on whose behalf a complaint is submitted;

“complaint” has the same meaning as in Article 17 of the Law;<sup>[4]</sup>

“interested party” means a witness or any person involved in the conduct which is the subject of the case or who otherwise has a direct interest in the case;

“investigating officer” means, in relation to an investigation, the member of the Force or police officer from some other force appointed pursuant to Regulation 6;

“Law” means the Police (Complaints and Discipline) (Jersey) Law 1999<sup>[5]</sup> as amended from time to time;

“member concerned” means a member of the Honorary Police whose conduct has been the subject of a complaint, report or allegation;

“member of the Honorary Police” means a Centenier, Vingtenier or Constable’s Officer;

“original hearing” means, in relation to an appeal, the hearing of the disciplinary charge at the conclusion of which the appellant was found guilty of an offence against discipline;

“panel”, in relation to an appeal, means the panel set up by the Bailiff pursuant to Article 27(2) of the Law;<sup>[6]</sup>

“prison” has the same meaning as in the Prison (Jersey) Law 1957;<sup>[7]</sup>

“supervised investigation” means an investigation supervised by the Authority pursuant to Article 23 of the Law;<sup>[8]</sup>

“unsupervised investigation” means an investigation which is not supervised by the Authority pursuant to Article 23 of the Law.<sup>[9]</sup>

(2) Any reference in these Regulations to a report or allegation or to a report and allegation does not include a complaint.

(3) A reference in these Regulations to a Regulation by number only is a reference to the Regulation of that number in these Regulations.

(4) A reference in a Regulation or other division of these Regulations to a paragraph, sub-paragraph or clause by number or letter only is a reference to the paragraph, sub-paragraph or clause of that number or letter contained in the Regulation or other division of these Regulations in which that reference occurs.

### **Discipline Code and offences against discipline**

**2.-(1)** The Discipline Code in the Schedule to these Regulations shall have effect.

(2) A member of the Honorary Police commits an offence against discipline if his conduct does not meet the standard set out in the Code.

### **Informal resolution of complaints**

**3.-(1)** A Connétable directed by the Attorney General, pursuant to Article 21(2) of the Law, <sup>[10]</sup> to seek to resolve a complaint informally shall, as soon as practicable -

- (a) seek the views of the complainant and the member concerned about the matter; and
- (b) subject to paragraphs (3) and (4), take such other steps as may appear to him to be appropriate.

(2) Without prejudice to paragraph (1), the member concerned shall be given the opportunity to respond to the complaint, at his option, orally or in writing.

(3) Where, having obtained the views of the complainant and the member concerned, it appears to the Connétable that the complaint had in fact been satisfactorily dealt with at the time it was brought to his notice, he may treat it as having been informally resolved.

(4) The Connétable shall not, for the purpose of informally resolving a complaint, tender an apology on behalf of the member concerned unless he has admitted the conduct in question.

(5) Upon resolving a complaint informally, the Connétable shall give the Attorney General a copy of the outcome recorded pursuant to Article 20(2) of the Law. <sup>[11]</sup>

### **Suspension**

**4.-(1)** Where

- (a) a member of the Honorary Police has been charged with a criminal offence; or
- (b) there has been a complaint, report or allegation which indicates that a member of the Honorary Police may have committed an offence against discipline, whether or not it has been investigated,

the Attorney General may, after consultation with the Connétable of the Parish in which the member serves, suspend him from office.

(2) The Attorney General may exercise the power to suspend a member of the Honorary Police under this Regulation at any time from the time the member is charged with a criminal offence or the time that the Attorney General is informed of the complaint or the report or allegation is referred to him until -

- (a) he decides not to prefer a disciplinary charge in respect of the conduct which was the subject of the criminal charge, complaint, report or allegation or directs that all disciplinary charges be withdrawn;
- (b) the member concerned has been charged with an offence against discipline and all such charges against him have been dismissed;

- (c) the time limit for appeal against the decision finding the member concerned guilty of an offence against discipline has expired; or
- (d) a decision has been made on an appeal against that finding or the punishment imposed in respect of it.

(3) Where the member concerned is suspended under this Regulation, he shall be suspended until whichever occurs first of one of the events described in paragraph (2)(a) to (d) or a decision of the Attorney General to end the suspension.

(4) Where the member concerned who is suspended is required to resign under Regulation 26, he shall remain suspended during the period of his notice.

### **Conduct of investigations where there are outstanding criminal proceedings**

5. Where there are criminal proceedings outstanding against the member concerned which relate to conduct which is the subject of a complaint, report or allegation, no proceedings shall take place under these Regulations in respect of the complaint, report or allegation except the exercise of the power to suspend under Regulation 4, unless the Attorney General believes that, in the exceptional circumstances of the case, it would be appropriate for them to take place.

#### *Formal investigation of complaints and other matters*

### **Appointment of officer to investigate complaint, report or allegation**

6.-(1) The Attorney General

- (a) shall, where it appears to him that a complaint is not suitable for informal resolution or he is informed that informal resolution of a complaint is impossible, in accordance with Article 21(5) of the Law, <sup>[12]</sup> or
- (b) may, where it appears to him that a report or allegation indicates that a member of the Honorary Police may have committed an offence against discipline,

direct the Connétable of the Parish in which the member concerned serves to request the Chief Officer to appoint a member of the Force or police officer from some other force, of at least the rank of inspector, to carry out an investigation.

(2) The Chief Officer shall comply with a request made pursuant to paragraph (1) and may ask the chief officer of some other force to provide a police officer of his force for appointment.

(3) This Regulation is subject to the powers of the Authority, in the case of a supervised investigation, to approve the appointment of an investigating officer pursuant to Article 23 of the Law. <sup>[13]</sup>

### **Notice of investigation of complaint, report or allegation**

7. The investigating officer shall, as soon as is practicable (without prejudicing his or any other investigation of the matter) cause the member concerned to be given written notice -

- (a) that there is to be an investigation into the case;
- (b) of the nature of the complaint, report or allegation;
- (c) informing him that he is not obliged to say anything concerning the matter, but that he may, if he so desires, make a written or oral statement concerning the matter to the investigating officer or to the Attorney General;
- (d) informing him that if he makes such a statement it may be used in any subsequent proceedings under these Regulations;
- (e) informing him that he has the right to seek advice from the Association of Centeniers or the Association of Vingteniers and Constable's Officers, as may be appropriate; and
- (f) informing him that he has the right to be accompanied by a member of the Honorary Police or of the Force,



who shall not be an interested party, to any meeting, interview or hearing.

#### **Report on investigation**

8. At the end of an investigation, the investigating officer shall -
- (a) in the case of a supervised investigation, in accordance with Article 24(3) of the Law, <sup>[14]</sup> give a written report to the Authority and send a copy to the Attorney General and to the Connétable of the Parish in which the member concerned serves; or
  - (b) in the case of an unsupervised investigation, give a written report to the Attorney General and send a copy to the Connétable of the Parish in which the member concerned serves.

#### **Procedure on receipt of investigating officer's report**

9.-(1) The Attorney General shall consider whether a disciplinary charge shall be preferred against the member concerned -

- (a) in the case of a supervised investigation, after either he has informed the Authority, in accordance with Article 25(2) of the Law, <sup>[15]</sup> that criminal proceedings will not be initiated, or such proceedings are concluded; or
  - (b) in the case of an unsupervised investigation, after he has received the investigating officer's report made under Regulation 8 and determined either that criminal proceedings will not be initiated or such proceedings are concluded.
- (2) Paragraph (1) is without prejudice to the powers of the Attorney General under Regulation 5.

#### **Withdrawal of disciplinary charge**

10. At any time before the beginning of a disciplinary hearing, the Attorney General may direct that any disciplinary charge preferred be withdrawn and shall give the member concerned written notice of any such direction.

#### *Disciplinary hearings*

#### **Limitation on punishments**

11.-(1) No punishment of a kind described in Regulation 26 shall be imposed on a member of the Honorary Police otherwise than upon a finding at a disciplinary hearing that he is guilty of an offence against discipline.

(2) A member of the Honorary Police may not be dismissed or required to resign upon a finding described in paragraph (1) unless he has been given an opportunity to elect to be legally represented by an advocate or solicitor at the disciplinary hearing.

#### **Notice of decision to prefer disciplinary charge**

12.-(1) Where the Attorney General decides to prefer a disciplinary charge he shall ensure that

- (a) as soon as practicable, the member concerned is given written notice of the decision complying with paragraph (2); and
- (b) not less than 21 days before the date of the disciplinary hearing, the member concerned is given copies of documents required by paragraph (3).

(2) Written notice of a decision shall specify the conduct which it is alleged constituted an offence against discipline and the paragraph of the Code in respect of which that offence is alleged to have been committed.

(3) The documents of which copies are to be given to the member concerned are -

- (a) any written statement he may have made to the investigating officer;

- (b) an account of any oral statement he may have made to the investigating officer or the Attorney General; and
- (c) any other relevant statement, document or other material obtained during the course of the investigation, other than the report of the investigating officer prepared pursuant to Regulation 8.

#### **Notice of disciplinary hearing**

**13.**-(1) The Attorney General shall give the member concerned not less than 21 days' written notice of the time, date and place of the disciplinary hearing.

(2) The Attorney General shall, in every case where he is of the opinion that a disciplinary hearing should have available the punishments of dismissal or requirement to resign, given the member concerned, at the same time as he gives notice pursuant to paragraph (1), written notice of -

- (a) the opportunity to elect to be legally represented at the hearing; and
- (b) the effect of Regulation 11(2) and Regulation 18.

#### **Procedure on receipt of notice**

**14.**-(1) The member concerned shall be invited to state in writing, within 14 days of the date on which he is notified that the last of the documents to be given to him pursuant to Regulation 12(1)(b) has been so given -

- (a) whether or not he accepts that he has committed an offence against discipline;
- (b) in a case where he is given notice pursuant to Regulation 13(2), whether he wishes to be legally represented at the disciplinary hearing; and
- (c) whether he proposes to call any witnesses to relevant facts at the hearing and the names and addresses of any such witnesses whose attendance he wishes the Attorney General to secure.

(2) Where, pursuant to paragraph (1)(c), the member concerned states that he wishes the Attorney General to secure the attendance of witnesses, the Attorney General shall -

- (a) order any witness who is a member of the Honorary Police to attend the disciplinary hearing; and
- (b) cause any other witness to be given due notice that their attendance is desired and of the time and place of the hearing.

(3) Nothing in this Regulation shall require a disciplinary hearing to be adjourned where a witness is unable or unwilling to attend the hearing.

#### **Advancement of disciplinary hearing date**

**15.** Notwithstanding Regulation 13, a disciplinary hearing may take place less than 21 days after notice is given pursuant to that provision, if the Attorney General considers it appropriate in the circumstances, where -

- (a) at the time the member concerned receives notice pursuant to Regulation 12(1)(a), he is detained pursuant to a sentence of a court in a prison; and
- (b) having been given the documents required by Regulation 12(1)(b), the member concerned does not elect to be legally represented at the hearing.

#### **Hearing of disciplinary charges**

**16.** A disciplinary charge shall be heard by the Attorney General.

#### **Documents to be given to member concerned**

**17.**-(1) Where the member concerned accepts, in accordance with Regulation 14, that he has committed an offence

against discipline the Attorney General shall cause a summary of the facts of the case to be prepared and a copy of it given to the member concerned at least 14 days before the disciplinary hearing.

(2) If the member concerned does not agree the summary of facts, he may give a response within 7 days of receipt of the copy of the summary.

(3) Where the member concerned does not accept that he has committed an offence against discipline, no summary of facts shall be prepared.

#### **Representation at disciplinary hearing**

**18.**-(1) Where the member concerned has not been given an opportunity to elect to be legally represented or has not so elected, the case against him shall be presented by a member of the Force.

(2) Where the member concerned has given notice in accordance with Regulation 14 that he wishes to be legally represented, the case against him may be presented by an advocate or solicitor, whether or not the member concerned is actually so represented.

(3) The member concerned may, in any case, conduct his case in person.

(4) Where the member concerned has been given an opportunity to elect to be legally represented and has so elected, he may be represented at the disciplinary hearing, at his option, by an advocate or solicitor.

(5) Where the member concerned has not been given an opportunity to elect to be legally represented or has not so elected, he may be represented at the disciplinary hearing only by another member of the Honorary Police or by a member of the Force or police officer from some other force.

#### **Procedure at disciplinary hearing**

**19.**-(1) Except as provided by these Regulations, the procedure at a disciplinary hearing shall be determined by the Attorney General.

(2) The Attorney General may from time to time adjourn a disciplinary hearing if it appears to be necessary or expedient to do so for the due hearing of the case.

(3) The Attorney General shall review the facts of the case and decide whether or not the member concerned is guilty of the offence against discipline with which he is charged, but shall not find him guilty unless -

(a) he has admitted the offence; or

(b) the case is proved by the person presenting it on the balance of probabilities.

(4) Where the member concerned is found guilty of an offence against discipline, the Attorney General shall determine whether, in all the circumstances, it would be reasonable to impose any punishment and, if so, what that punishment should be.

#### **Attendance of member concerned at disciplinary hearing**

**20.**-(1) The Attorney General shall order the member concerned to attend the disciplinary hearing.

(2) If the member concerned fails to attend the disciplinary hearing, it may be proceeded with and concluded in his absence.

(3) Where the member concerned informs the Attorney General in advance that he is unable to attend due to ill-health or some other unavoidable reason, the disciplinary hearing may be adjourned.

(4) Where, owing to the absence of the member concerned, it is impossible to comply with any of the procedures set out in these Regulations, that procedure shall be dispensed with.

#### **Attendance of complainant at disciplinary hearing**

**21.-(1)** This Regulation applies where the disciplinary charge being heard arises from a complaint.

(2) Subject to paragraph (3), the complainant shall be allowed to attend the disciplinary hearing and may, at the discretion of the Attorney General, be accompanied by a personal friend or relative.

(3) Where the complainant or any person allowed to accompany him is called as a witness at the disciplinary hearing, he and any person allowed to accompany him shall not be allowed to attend before he gives his evidence.

(4) Where the member concerned gives evidence then, after the person presenting the case has had an opportunity of cross-examining him, the Attorney General shall put to the member concerned any questions which the complainant requests should be so put and might have been properly so put by the person presenting the case, or at the Attorney General's discretion, may allow the complainant to put such questions to the member concerned.

(5) Except as provided in paragraph (4), the complainant and any person allowed to accompany him shall neither intervene in, nor interrupt, the disciplinary hearing and, if he or such person behaves in a disorderly or abusive manner or otherwise misconducts himself, the Attorney General may exclude him from the remainder of the hearing.

#### **Attendance of others at disciplinary hearing**

**22.-(1)** Except as provided in this Regulation and Regulation 21, a disciplinary hearing shall be in private.

(2) The Attorney General may allow any advocate, solicitor or other such persons as he considers desirable to attend the whole or such part of the disciplinary hearing as he may think fit, subject to the consent of the member concerned and the person presenting the case against him.

(3) Any member of the Authority shall be entitled to attend the hearing of a disciplinary charge which arises from a complaint or from any investigation supervised by the Authority pursuant to Article 23 of the Law. <sup>[16]</sup>

(4) The member concerned may be accompanied at the hearing by another member of the Honorary Police or by a member of the Force.

(5) The Attorney General may allow witnesses to be accompanied at the hearing by a personal friend or relative.

#### **Exclusion of public from disciplinary hearing**

**23.** Where it appears to the Attorney General that a witness may, in giving evidence, disclose information which, in the public interest, ought not to be disclosed to a member of the public, he shall require any member of the public, including the complainant and any person allowed to accompany the complainant or any witness, to withdraw while the evidence is given.

#### **Evidence at disciplinary hearing**

**24.-(1)** The Attorney General shall determine any question as to whether any evidence is admissible and as to whether any question should or should not be put to a witness.

(2) With the consent of the member concerned, the Attorney General may allow any document to be adduced in evidence during the disciplinary hearing notwithstanding that a copy of it has not been given to the member concerned in accordance with Regulation 12(1)(b).

#### **Record of disciplinary hearing**

**25.** The Attorney General shall -

(a) ensure that a verbatim record of the proceedings at a disciplinary hearing is taken; and

(b) if the member concerned so requests within the time limit for any appeal specified in Article 27(3) of the Law <sup>[17]</sup> and after he has given notice of appeal in accordance with Regulation 30, supply him with a transcript of the record or a copy of it.

#### **Punishments**

say - **26.-(1)** Subject to Regulation 11, the Attorney General may impose any of the following punishments, that is to

- (a) dismissal from the Honorary Police;
  - (b) requirement to resign from the Honorary Police, as an alternative to dismissal, taking effect either forthwith or on such date as may be specified in the decision;
  - (c) suspension;
  - (d) censure;
  - (e) reprimand.
- (2) Any punishment imposed under paragraph (1), except a requirement to resign, shall have immediate effect.
- (3) The member concerned may be dismissed or required to resign without his being legally represented if he -
- (a) fails without reasonable cause to give notice in accordance with these Regulations that he wishes to be legally represented;
  - (b) gives notice in accordance with these Regulations that he does not wish to be legally represented; or
  - (c) gives notice in accordance with these Regulations that he wishes to be legally represented but, at any time, withdraws such notice.

#### **Service to be considered before punishment imposed**

**27.** Where the question of the punishment to be imposed is being considered -

- (a) the Attorney General -
  - (i) shall have regard to the past service in the Honorary Police of the member concerned, and
  - (ii) may receive evidence from any witness whose evidence, in his opinion or in the opinion of the member concerned, would assist in determining the question; and
- (b) the member concerned or his representative shall be given an opportunity to make oral or, if appropriate, written representations concerning the question or to adduce evidence relevant to it.

#### **Notification of finding**

**28.-(1)** At the conclusion of a disciplinary hearing, the Attorney General shall inform the member concerned orally of the decision on the disciplinary charge and of any punishment imposed.

(2) The Attorney General shall, within the 3 days following the conclusion of the disciplinary hearing, cause the member concerned and the Connétable of the Parish in which he serves to be given written notice of the decision and any punishment imposed and a summary of the reasons for them.

#### **Records of disciplinary proceedings**

**29.-(1)** The Attorney General shall maintain a book of record of disciplinary proceedings brought against member of the Honorary Police.

(2) The Attorney General shall enter every case brought against a member of the Honorary Police in the book of record, together with the finding on the case and a record of the decision in any further proceedings in connection with the case.

#### *Appeals*

### **Initiation of appeal**

**30.**-(1) An appeal against the decision on a disciplinary charge or punishment imposed may only be made in accordance with Article 27 of the Law<sup>[18]</sup> and these Regulations.

(2) The Attorney General shall be the respondent on an appeal.

(3) Notice of an appeal shall be in writing and given to the Authority within the time specified in Article 27(3) of the Law<sup>[19]</sup> or allowed pursuant to Article 27(4) of the Law<sup>19</sup> and a copy of it shall be given to the respondent.

(4) An application for extension of the period within which an appeal must be made shall be in writing and made to the Authority and a copy of it shall be sent to the respondent.

(5) The Bailiff, when setting up a panel pursuant to Article 27(2) of the Law,<sup>[20]</sup> shall, at the same time, appoint one of the members as chairman of the panel.

### **Procedure on notice of appeal**

**31.**-(1) As soon as practicable after receipt of a copy of a notice of appeal, the respondent shall give the panel-

(a) a copy of his report on the decision appealed against;

(b) a transcript of the proceedings at the original hearing;

(c) any documents which were made available to him at the original hearing.

(2) The respondent shall, at the same time that he gives the documents described in paragraph (1) to the panel, give a copy of the transcript of the proceedings at the original hearing to the appellant.

(3) Subject to paragraph (4), the appellant shall, within 28 days of the date on which he receives the copy of the transcript of the proceedings at the original hearing, give the panel a statement of the grounds of appeal and any supporting documents.

(4) The appellant shall, at the same time that he gives the panel the statement and documents described in paragraph (3), give a copy of them to the respondent.

(5) Where the panel is satisfied, on the written 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 referred to in paragraph (3).

(6) The respondent shall, not later than 21 days from the date on which he receives the copy referred to in paragraph (4), give the panel a statement of his response to the appeal and any supporting documents.

(7) The respondent shall, at the same time as he complies with paragraph (6), give the appellant a copy of the statement and any supporting documents.

### **Procedure at appeal hearing**

**32.**-(1) Where an appeal is to be determined at a hearing, the chairman of the panel shall cause the appellant and respondent to be given notice of the date of the hearing not less than 28 days, or such shorter period as may, with the agreement of both parties, be determined, before the hearing begins.

(2) Where an appeal hearing is held, the respondent shall have the same rights to be represented as are afforded to the appellant by Article 27(5) of the Law.<sup>[21]</sup>

(3) The panel may proceed with the appeal hearing in the absence of either party, whether represented or not, if it appears to be just and proper to do so, and may adjourn it from time to time as may appear necessary for the due hearing of the case.

(4) Except as provided in these Regulations, the procedure at an appeal hearing shall be determined by the panel.

### **Appeal hearing to be in private**

**33.**-(1) Subject to paragraphs (2) and (4) and Regulation 35, an appeal hearing shall be held in private.

(2) The panel may allow such person or persons as it considers desirable to attend the whole or such part of the hearing as it may think fit.

(3) Notwithstanding that the panel has allowed a person to attend the appeal hearing, where it appears to the panel that a witness may in giving evidence disclose information which, in the public interest, ought not to be disclosed to a member of the public, the panel shall require any member of the public present to withdraw while that evidence is given.

(4) A member of the Authority shall be entitled to attend an appeal hearing.

### **Evidence at appeal hearing**

**34.**-(1) The panel shall determine any question as to whether any evidence is admissible, or whether any question should or should not be put to a witness.

(2) The panel may require oral evidence to be given on oath.

(3) A panel may admit evidence by way of a written statement made by a person, notwithstanding that he may not be called as a witness, so, however, that evidence shall not be admissible under this Regulation if it would not have been admissible had it been given orally.

(4) For the purposes of this Regulation, a written statement purporting to be made and signed by a person and witnessed by another person shall be presumed to have been made by that person unless the contrary be shown.

(5) Nothing in this Regulation shall prejudice the admission of written evidence which would be admissible apart from this Regulation.

(6) The chairman of the panel shall either cause a verbatim record of the evidence given at the appeal hearing to be taken and kept for a period of not less 7 years from the date of the end of the hearing or cause a transcription of the record to be made.

### **Attendance of complainant at appeal hearing**

**35.**-(1) This Regulation applies in relation to an appeal hearing where the decision appealed against arose from complaint and the appeal is not against punishment only.

(2) The chairman of the panel shall cause notice of the date of the appeal hearing to be given to the complainant at the same time as it is given to the appellant and respondent pursuant to Regulation 32(1).

(3) Subject to paragraphs (4) and (5), the panel shall allow the complainant to attend the appeal hearing while witnesses are being examined or cross-examined on the facts alleged and, if the panel considers it appropriate so to do, on account of the age of the complainant or otherwise, shall allow him to be accompanied by a personal friend or relative who is not to be called as a witness at the hearing.

(4) Where the complainant is to be called as a witness at the appeal hearing, he any person allowed to accompany him shall not be allowed to attend before he gives his evidence.

(5) Where it appears to the panel that a witness may, in giving evidence, disclose information which, in the public interest, ought not to be disclosed to a member of the public, it shall require the complainant and any person allowed to accompany him to withdraw while that evidence is given.

(6) Where the appellant gives evidence, then, after the person representing the respondent has had an opportunity of cross-examining him, the chairman of the panel shall put to him any questions which the complainant requests should be so put and might have been properly so put by way of cross-examination and, at his discretion, may allow the complainant himself to put such questions to the appellant.

(7) Except as provided in paragraph (6), the complainant and any person allowed to accompany him shall neither

intervene in nor interrupt the appeal hearing and, if he or such person should behave in a disorderly or abusive manner or otherwise misconduct himself, the chairman of the panel may exclude him from the remainder of the hearing.

#### **Determination of appeal without hearing**

**36.** The panel may, with the agreement of the appellant and respondent, determine an appeal without a hearing.

#### **Statement of panel's decision**

**37.-(1)** The chairman of the panel shall

- (a) prepare a written statement of the panel's decision on the appeal and of the reason for it;
- (b) give the statement to the Chairman of the Authority; and
- (c) give a copy of the statement to the appellant and respondent.

(2) Where the decision appealed against arose from a complaint, the Chairman of the Authority shall notify the complainant of the outcome of the appeal.

#### **Effect of decision on appeal**

**38.-(1)** Where an appeal is allowed the decision of the panel shall take effect by way of substitution for the decision appealed against and as from the date of the decision appealed against.

(2) Where the effect of the decision of the panel is to reinstate the appellant in the Honorary Police and he was suspended for a period immediately preceding the date of the decision appealed against, the decision shall deal with the suspension.

#### *Supplemental*

#### **Delegation**

**39.-(1)** Subject to paragraph (2), the Attorney General may delegate to the Solicitor General or a Crown Advocate

- (a) his powers under Regulations 4, 6, 9, and 10; and
  - (b) all or any of his duties under these Regulations to give any notice, cause any document to be prepared, give a copy of any document to any person or secure the attendance of any person at a hearing.
- (2) The Attorney General may not delegate any duty imposed on him by the Law.

#### **Administration for panel**

**40.** The Judicial Greffier shall be clerk to a panel and, accordingly, any document required to be given to a panel shall be delivered to him.

#### **Service by post**

**41.** Any notice or document to be given, sent or delivered pursuant to these Regulations may be given, sent or delivered by post.

#### **Repeals**

**42.-(1)** Subject to paragraph (2), Regulations 5, 6 and 7 and the first Regulation 8 (Appeals) of the Honorary Police (Jersey) Regulations 1977<sup>[22]</sup> shall be repealed.

(2) The enactments repealed shall continue to have effect in relation to conduct which is the subject of a complaint received by the Attorney General or the Connétable of the Parish in which the member concerned serves before these Regulations come into force and in relation to a matter referred to the Attorney General before these Regulations come



into force.

#### **Citation and commencement**

**43.** These Regulations may be cited as the Police (Honorary Police Complaints and Discipline Procedure) (Jersey) Regulations 200- and shall come into force on the first day of January 2001.

## *SCHEDULE*

### **(Regulation 2(1))**

### **Discipline Code**

### **Interpretation**

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

### **Honesty and integrity**

2. 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.

### **Fairness and impartiality**

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

### **Politeness and tolerance**

4. 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.

### **Use of force and abuse of authority**

5. Officers must never knowingly use more force than is reasonable, nor should they abuse their authority.

### **Performance of duties**

6. 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.

### **Lawful orders, directives, etc.**

7. 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 and the Police (Honorary Police Complaints and Discipline Procedure) (Jersey) Regulations 200-. Officers should support their colleagues in the execution of their lawful duties, and oppose any improper behaviour, reporting it where appropriate.

### **Confidentiality**

8. 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.

### **Criminal offences**

9. 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.

### **Property**

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

## Alcohol

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

## Appearance

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

## General conduct

13. 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.

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[1] Recueil des Lois, Volume 1999, page 38.

[2] Recueil des Lois, Volume 1973-1974, page 376.

[3] Recueil des Lois, Volume 1999, page 41.

[4] Recueil des Lois, Volume 1999, page 29.

[5] Recueil des Lois, Volume 1999, page 11.

[6] Recueil des Lois, Volume 1999, page 37.

[7] Recueil des Lois, Tome VIII, page 657, Volume 1979-1981, page 365, Volume 1986-1987, page 20, Volume 1994-1995, page 61 and Volume 1996-1997, page 801.

[8] Recueil des Lois, Volume 1999, page 33.

[9] Recueil des Lois, Volume 1999, page 33.

[10] Recueil des Lois, Volume 1999, page 31.

[11] Recueil des Lois, Volume 1999, page 30.

[12] Recueil des Lois, Volume 1999, page 31.

[13] Recueil des Lois, Volume 1999, page 33.

- [\[14\]](#) Recueil des Lois, Volume 1999, page 34.
- [\[15\]](#) Recueil des Lois, Volume 1999, page 36.
- [\[16\]](#) Recueil des Lois, Volume 1999, page 33.
- [\[17\]](#) Recueil des Lois, Volume 1999, page 37.
- [\[18\]](#) Recueil des Lois, Volume 1999, page 36.
- [\[19\]](#) Recueil des Lois, Volume 1999, page 37.
- [\[20\]](#) Recueil des Lois, Volume 1999, page 37.
- [\[21\]](#) Recueil des Lois, Volume 1999, page 37.
- [\[22\]](#) No. 6480.