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# STATES OF JERSEY



## JERSEY POLICE COMPLAINTS AUTHORITY: ANNUAL REPORT 2018

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Presented to the States on 12th March 2019  
by the Minister for Home Affairs

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STATES GREFFE

## TABLE OF CONTENTS

		<i>Page</i>
1.	INTRODUCTION .....	3
2.	AUTHORITY’S POWERS.....	4
3.	OVERVIEW .....	5
4.	ANALYSIS OF COMPLAINTS .....	6
5.	INFORMAL RESOLUTION.....	8
6.	TIME TAKEN TO COMPLETE INVESTIGATIONS .....	9
7.	GENERAL SUPERVISION AND OVERSIGHT .....	9
8.	THE LAW.....	10
9.	ACCOUNTS .....	10
10.	NEW INITIATIVES DURING THE YEAR .....	11
11.	REGULAR COMPLAINANTS / UNREASONABLE COMPLAINANT CONDUCT .....	11
12.	SUMMARY .....	11
APPENDIX 1 –	Flow chart – Complaint received against States of Jersey Police Officer .....	14
APPENDIX 2 –	Flow chart – Complaint received against Honorary Police Officer .....	15
APPENDIX 3 –	Flow chart – Complaint received against Chief Officer and Deputy Chief Officer.....	16

## REPORT

### 1. 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 and has a statutory duty to provide an annual report to the States of Jersey. The role of the Authority is to oversee, monitor and supervise investigations 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 Authority is independent of the Police, and its role is to ensure that investigating officers carry out the investigations it supervises in a thorough and impartial manner, and to ensure that the Police achieve high standards in the handling of complaints, conduct matters, and death and serious injury (“DSI”) matters.

An effective police complaints system is vital to achieving public confidence in the Jersey Police Service by ensuring that the Police are accountable for their actions and that lessons are learned. The manner in which complaints, conduct matters and deaths and serious injuries during or following Police contact are dealt with, has a huge impact on public confidence in the Police, and this is perhaps more so in a small community such as Jersey, with a relatively low number of complaints.

The States of Jersey appoints members of the Authority for a period of 3 years (subject to re-appointment for up to a maximum of 3 terms), and their services are provided on a voluntary basis. The members who served during 2018 are detailed below.

Mr. Howard Cooper	Chairman	Appointed February 2013
Mrs. Rachel Catchpole	Deputy Chairman	Appointed January 2017
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
Mrs. Gail McCourt	Supervising Member	Appointed March 2015
Mr. Matthew Swan	Supervising Member	Appointed January 2017
Mr. Graham Jennings	Supervising Member	Appointed July 2018

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.

Two members are coming up to the end of their 3-year term of office. These 2 members, Mrs. Dee Taylor-Cox and Mr. Graeme Marett, are to seek re-appointment, and this proposition will be lodged early in 2019.

Mrs. Rachel Catchpole took up the post of Deputy Chairman from March 2018. This appointment was made in accordance with the [Guidelines](#) issued by the Jersey Appointments Commission.

## 2. AUTHORITY'S POWERS

The Authority supervises 3 categories of investigation –

- (1) Those arising from complaints made by members of the Public, which have not been dealt with by Informal Resolution (*see* page 8, section 5).
- (2) Those arising from issues referred to the Authority on a voluntary basis by the States of Jersey Police Force.
- (3) 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](#) came into force in February 2017; and the Authority now has a formal role to play in the investigation of complaints against these 2 senior officers. No complaints against either the Chief Officer or the Deputy Chief Officer were referred to the Authority in 2018.

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 H.M. 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 flowchart 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 supervise 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 were 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 Force 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. These meetings also provide a helpful forum to discuss the handling of all complaint matters, with the aim to improve the Police service through learning, and to put things right when they have gone wrong; while ensuring that there is appropriate accountability at both individual and Force level. Learning outcomes arising from complaints are taken up by the States of Jersey Police Learning the Lessons Forum, and are disseminated across the Force as appropriate.

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. Since the introduction of a service level agreement between the Authority, Professional Standards Department and the Law Officers' Department in 2018, the Authority is pleased to report that there has been a reduction in the time taken to review cases.

### 3. OVERVIEW

In total, 16 new cases were referred to the Authority for supervision in 2018 (18 in 2017), (25 in 2016), (21 in 2015), comprising 14 public complaints (17 in 2017), (23 in 2016), (19 in 2015), 0 voluntary referrals (1 in 2017), (0 in 2016), (2 in 2015); and 2 death referrals (0 in 2017), (2 in 2016), (0 in 2015). A total of 2 cases were brought forward from 2016, and 4 cases from 2017, bringing the total number of cases under supervision during 2018 to 22, compared with 27 in 2017, and 36 in 2016.

Overview of complaints	2015	2016	2017	2018
Total number of new cases	21	25	18	16
Split as:				
Public Complaint	19	23	17	14
Voluntary referral	2	0	1	0
Death referral	0	2	0	2

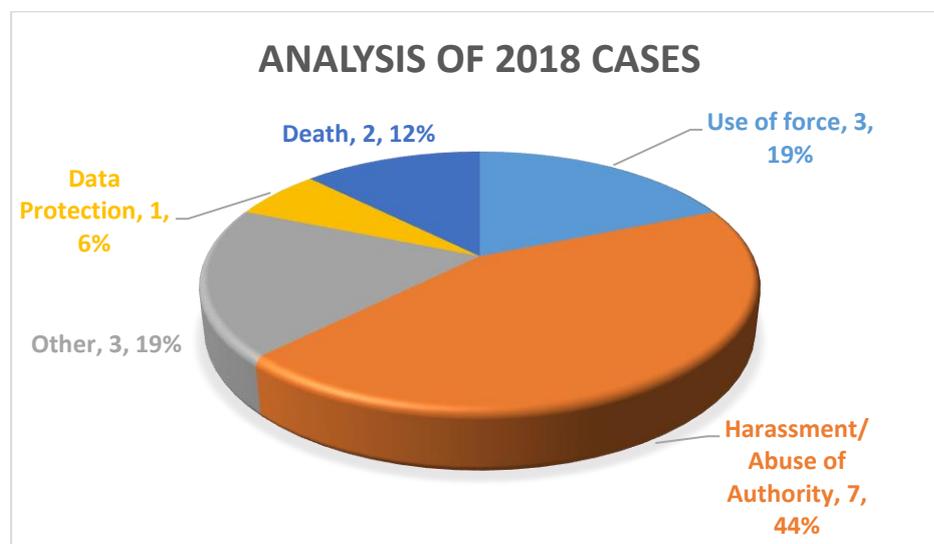
There were 2 cases referred to the Authority by the States of Jersey Police relating to death following police contact. The investigation into one of these was conducted by an external force.

In 2018, the Authority liaised with the Citizen's Advice Bureau to ascertain the number of enquiries made to the Bureau about Police-related matters, to ensure that wherever possible, members of the Public are given adequate opportunity to proceed with a complaint. The Bureau advised the Authority that during the year it had received 84 (55 in 2017), (38 in 2016), (67 in 2015) enquiries about Police-related matters; of which 12 (11 in 2017), (13 in 2016), (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.

#### 4. ANALYSIS OF COMPLAINTS

Nature of Complaint	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Excessive use of force	6	5	6	14	10	9	13	9	4	3	3
Harassment/ threatening behaviour/ abuse of authority	10	13	2	8	6	6	12	6	6	6	7
Property Damage/Loss	0	0	1	0	0	0	2	0	0	1	0
Instances relating to death	0	1	1	0	2	2	2	0	2	0	2
Use of Pava spray	1	0	0	0	1	1	0	0	0	0	0
Other	10	7	6	13	7	7	5	5	11	7	3
Data Protection Breach	0	0	0	0	3	1	1	1	2	1	1
<b>TOTAL</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>	<b>18</b>	<b>16</b>

Table 1 – Nature of complaints supervised



Of the 3 ‘use of force’ complaints, 2 were found to be unsubstantiated, and the remaining case has been carried forward to 2019.

At the end of the year, 4 of the 7 complaints alleging abuse of authority have been carried forward. One case was withdrawn, one was found to be frivolous, and the remaining case was found to be unsubstantiated.

In 2018, one case related to the Data Protection Law; this case was carried forward to 2019.

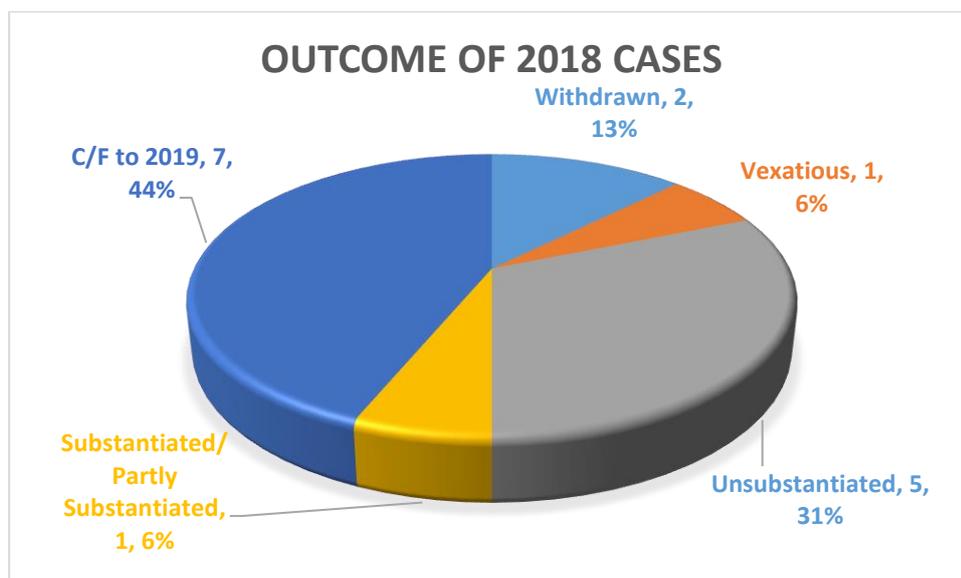
The 3 cases which fall into “Other” in Table 1 relate to allegations concerning lack of investigation.

Of the 16 new cases supervised, 9 complaints referred to the Authority in 2018 related to the conduct of States of Jersey Police Officers; 4 were States of Jersey Police operational concerns, and there were 2 voluntary referrals relating to death following Police contact. There was one new case concerning the conduct of Honorary Police Officers.

#### Outcome of cases supervised

Outcome	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Withdrawn or Incapable of Investigation	9	13	7	11	10	11	7	6	2	4	2
Vexatious/ Frivolous	0	0	0	1	0	0	1	0	1	1	1
Unsubstantiated	13	8	7	13	11	9	19	10	14	10	5
Substantiated/ Partly Substantiated	5	5	2	10	8	6	8	5	8	3	1
Outstanding at year end	0	0	0	0	0	0	0	0	0	0	7
<b>TOTAL</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>	<b>18</b>	<b>16</b>

Table 2 – Outcome of Cases Supervised by Year Initiated



At the end of 2018, 16 cases had been referred to the Authority (7 cases have been carried forward to 2019 and are still being investigated).

Nine of the 16 new cases that were referred in 2018 were concluded in the year: of these 9, one case was found to be partly substantiated or substantiated, compared with 3 cases in 2017 and 6 cases in 2016. The Authority notes that 5 of the 16 new cases were found to be unsubstantiated (compared with 6 in 2017 and 8 in 2016).

Members of the Authority have cause, on occasions, to challenge the findings of the Investigating Officer or to question aspects of the investigation or certain recommendations. Whenever such a challenge is made, the Authority ensures that any queries are resolved and all matters have been concluded to the Authority's satisfaction. Members of the Authority also, on occasions, make observations on operational issues, which may be called into question by an investigation. During 2018, the Authority's supervising members questioned or asked for further information on the investigations on 7 occasions. Their questions related to the content of investigation report and the process.

## 5. INFORMAL RESOLUTION

A review of the Complaints Register maintained by the States of Jersey Police revealed that in 2018 there were 25 cases resolved through the informal resolution process (18 in 2017), (13 in 2016), (14 in 2015), (22 in 2014). The Authority notes the continuing efforts by the States of Jersey Police to resolve complaints to the satisfaction of complainants, through the "informal resolution" process. Resolution of complaints by this process is, in the main, by way of an explanation of particular Police actions or responses, or as a result of a formal apology.

The Authority conducts a twice-yearly review of the records of all complaint cases which were informally resolved by the States of Jersey Police. These cases are not referred to the Authority. The Authority is satisfied these cases were dealt with appropriately, and had no cause for concern with those complaints resolved in 2018.

## 6. 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 2018. However, one case registered in 2016 was initially delayed pending criminal proceedings, and was subject to further delays as a result of problems in engaging with the complainant in an associated case – this case was closed in 2018.

During the course of 2018, 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 the progress of cases. The Authority notes that, since the introduction of the service level agreement between the Law Officers' Department, the Professional Standards Department (States of Jersey Police) and the JPCA, the time taken to investigate and conclude the supervision of complaint cases has generally resulted in a further reduction and within agreed timeframes. For 2018, the average time taken for a case referred to the Law Officers' Department to conclusion was 22 days (average of 3 cases). For the 3-year period 2016–2018, the average time taken was 67 days (16 cases). However, it should be noted that these numbers include one particular protracted case in 2017 which significantly extended the average. Without the protracted case in 2017, the average for the 3-year period is 44 days. At the end of 2018 there were no outstanding cases under review by the Law Officers' Department.

## 7. 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. The Authority had no cause for concern when reviewing the records held by the Parishes relating to the Honorary Police.

The annual review of Parish records by Members of the Authority and the twice-yearly review of the States of Jersey Police's complaint register by the Chairman and Administrator is an essential 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 continues to receive monthly reports of taser and firearms deployment by officers of the States of Jersey Police. It is noted that, since tasers were introduced in 2013, a States of Jersey Police Firearms Officer has discharged a taser following deployment to an incident involving a weapon on 3 occasions (2017: one incident; and 2018: 2 incidents). As reported last year, the first incident involving the discharge of taser (2017) was reported to the Authority for consideration. In reviewing this report, the Authority was satisfied that, in the circumstances, the use of taser was appropriate. It is noted that, although the Authority continues to receive notification of taser and

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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*.

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firearms deployment, under the provisions of the current Law, the Authority has no formal role in these matters unless a complaint arises from their use or the matter is referred voluntarily to the Authority. There were no complaints made regarding the 2 incidents in 2018.

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.

## **8. THE LAW**

The working group established in Q3 2016 to undertake a comprehensive review of the Law and legislation in other jurisdictions, and to recommend changes to the existing Law, chaired by the Chief Officer of the Department for Community and Constitutional Affairs, continued to meet regularly throughout the year. This stage of the process was completed in early 2018. The legislative drafting process began in Q4 2018. This work continues, and it is anticipated that a draft of the new Law will be ready for further discussion and revision by the working group in Q2 2019. The working group was made up of representatives from the Department for Community and Constitutional Affairs, the Jersey Police Complaints Authority, the Law Officers' Department, the States of Jersey Police Standards Department, the Jersey Honorary Police, The Jersey Police Authority, and the Law Draftsman's Office.

## **9. ACCOUNTS**

The budget allocated to the Authority in 2018 was £38,300 (2017: £38,300), (2016: £38,200), (2015: £36,630). The actual costs incurred in 2018 amounted to £40,748.09 (2017: £26,856.36), (2016: £45,007), (2015: £31,283).

The budget figure includes £10,000 of indemnity insurance (which was not utilised), rental costs of £12,200, and office running costs of £16,100. It should be noted that the Authority incurred exceptional legal costs in the region of £14,000 resulting from the Authority taking legal advice.

All investigation costs are borne by the States of Jersey Police, including the costs incurred in appointing external police forces where they are utilised.

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.

## 10. NEW INITIATIVES DURING THE YEAR

### Complaints procedure via the States of Jersey Portal

As part of the restructuring of the States of Jersey and the One Government initiative, the States have established a customer and local services operation based at the former Social Security offices. Customer feedback (complaints and compliments), can now be made through an online portal. Police complaints can now be made using this method. However, it should be noted that, whilst this allows an additional initial route for the Public to make a complaint against the Police, the [Police \(Complaints and Discipline\) \(Jersey\) Law 1999](#) will continue to determine the procedure for the handling and management of complaints following referral to the Police through the States' e-portal.

A supervising member joined States of Jersey Police shifts on patrol on a Friday evening in December 2018 to witness first-hand events on a night shift. The Chairman and a supervising member attended as observers to a lethal shooting role-play exercise to observe the Post-Incident Management procedures, and to establish the role that the Authority would play in such an incident.

The Authority continues to review its operating processes and procedures, and where necessary, changes and adapts its practices to ensure that the supervision and oversight of Police complaint investigations are conducted in an independent, impartial and transparent manner. All supervised investigations continue to be subjected to further scrutiny through a second review process by another member/s of the Authority before each complaint is closed.

## 11. REGULAR COMPLAINANTS / UNREASONABLE COMPLAINANT CONDUCT

The Authority wishes to emphasize that it recognises the importance of considering all new complaints and complainants (regardless of whether the complainant has previously made a complaint), in a fair, impartial and independent manner.

The Authority is pleased to note that, as part of the new customer services programme being introduced by the States, a draft customer feedback policy, which includes managing unreasonable conduct, is being prepared.

## 12. SUMMARY

The table and charts detailed earlier in this report show the number of complaints registered by the States of Jersey Police, together with those referred to the Authority for supervision, to be very similar to those of the previous year (2017). The proportion of complaints being satisfactorily concluded through the States of Jersey Police Informal Resolution process was slightly increased from last year at 25 complaints (44%) compared with 18 in 2017 (32%).

### Comparison with UK police complaints data

It is not possible to make a direct comparison between complaints made against the Police in Jersey and complaints made against separate police forces in England and Wales. There are a number of differences in complaint classification and systems, together with variables on how they are recorded. However, notwithstanding these differences, the Authority has looked at the latest available police complaints data for

England and Wales (2016/17), which records the number of complaints received per 1,000 employees by each of the 45 police forces, with a view to giving an **indication only** of the number of complaints received by the States of Jersey Police per employee. In 2018, the States of Jersey Police received 0.55 complaints per 1,000 population (58 complaints from an estimated population of 104,000). Whilst reiterating it is **not possible to provide a clear comparison**, this data suggests that complaints received by the States of Jersey Police is amongst the lowest 20% of police forces in England and Wales.

The Authority is pleased to report that the number of complaints received by the Police and those referred to the Authority are, for the second successive year, at relatively low levels when compared to the past 10 years. However, as in previous recent years, a number of cases were more complex, problematic and time-consuming. In any complaints process it is not possible to please everyone, and there will inevitably be complainants who remain aggrieved at the conclusion of the investigation into their complaint, and who are unsatisfied with the handling and findings of the investigation into their complaint.

Throughout the period 2017–18, the Authority was the subject of an ongoing application for a Judicial Review into the supervision of a complaint. Following 3 hearings, the Royal Court rejected the application for Judicial Review in late 2017. In January 2018 the complainant applied for the matter to be considered by the Judicial Committee of the Privy Council (Supreme Court – London). The Judicial Committee of the Privy Council rejected the application in May 2018.

### **Proposed Public Ombudsman**

In March 2018 the States voted to support a proposition to bring forward primary legislation to establish a Public Services Ombudsman to replace the Jersey Complaints Board and other regulatory bodies established by the States of Jersey. In November 2018 the Jersey Law Commission published a topic report entitled: ‘Designing A Public Services Ombudsman For Jersey’. This report set out various options and models of what a Public Services Ombudsman scheme might look like, together with estimated costs and comparisons with other Ombudsman models operating in similar jurisdictions around the world. In relation to the JPCA, the report makes the following observation: *“The Jersey Law Commission report recommends that as part of the current ongoing review of the police complaints system [current review of the Police Complaints Law], consideration should be given to what role the new Ombudsman might have”*. The report goes on to suggest: *“It is possible to envisage a simplified system in which police matters fall within the remit of the Ombudsman. The Ombudsman office will have expertise on carrying out investigations – so it would be possible, for the first time, to conduct investigations other than through police officers (if this is thought appropriate in a particular case). The ombudsman will also have expertise in overseeing how public bodies themselves conduct internal complaints. Transferring functions currently carried out by the JPCA to the Ombudsman could simplify the complaints system overall and to reduce costs”*. In November the Authority met with government representatives tasked with consulting key stakeholders and those regulatory bodies that might be affected by the establishment of Public Services Ombudsman. A public consultation document setting out the remit for an Ombudsman, and a proposed model is due to be published in the coming months.

The Authority remains committed to continuing in its role of supervising and monitoring complaint investigations in an impartial, independent, thorough and fair manner. The Authority considers that the system of providing independent oversight and monitoring of the investigation into complaints is efficient, cost-effective and accessible. However, there remains room for developing practice, and in particular to take account of the reforms to the police complaints and disciplinary systems taking place in the UK in 2019. These reforms will place greater emphasis on learning, development and improvement, increasing transparency whilst maintaining and ensuring accountability. The Authority anticipates that the new Jersey Law will provide further opportunity for improvement in procedure and enhancing public confidence.

### **Jersey Police Complaints Authority website**

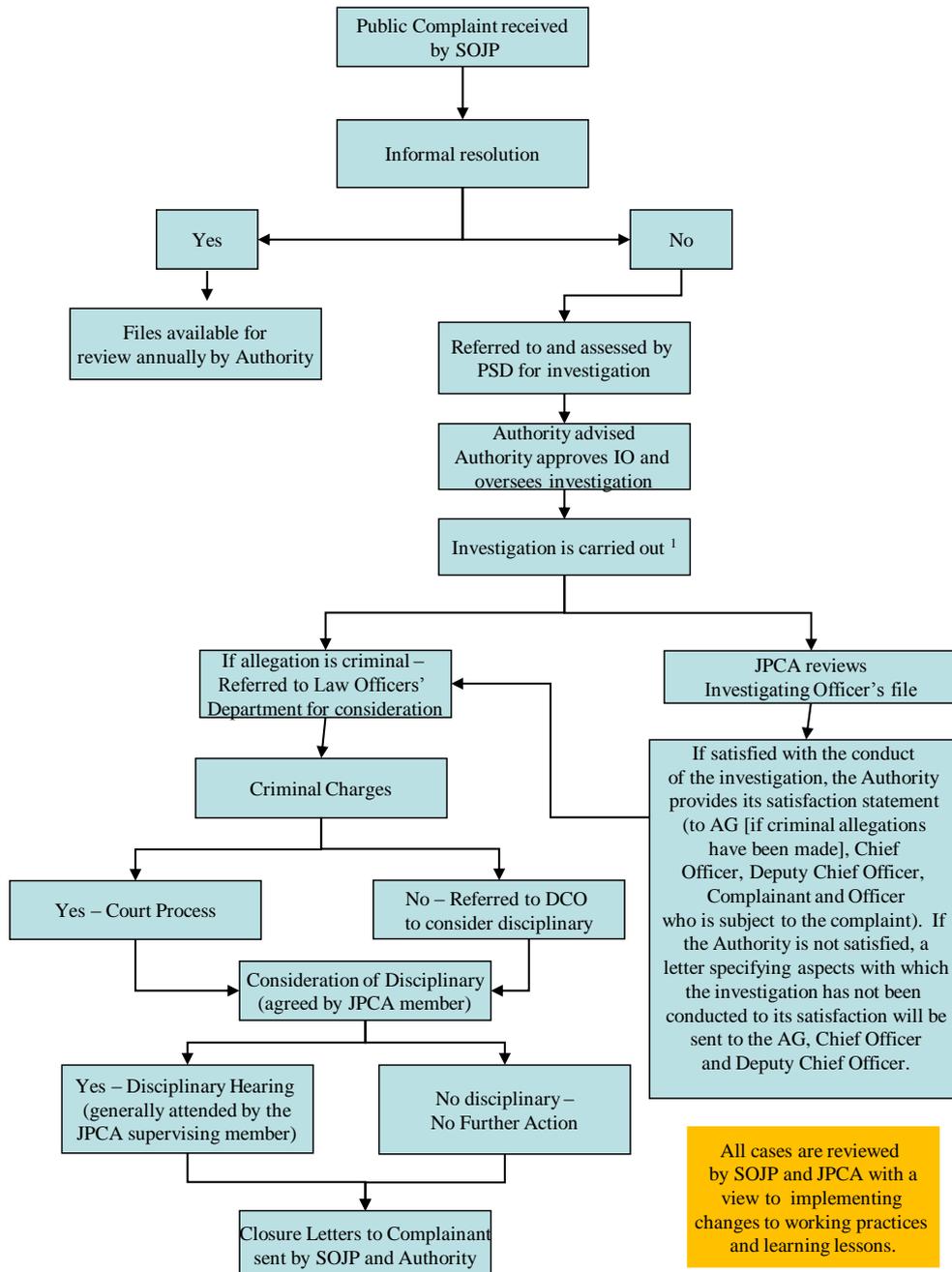
Last year the Authority set out its intention to develop its own dedicated website. The website will aim to provide the Public with much more information on the Jersey Police complaints process. The Independent Office for Police Conduct (“IOPC”) in the UK deals with the most serious complaints and conduct matters in England and Wales. UK local Police forces deal with all other complaints through their own Police Standards Departments. The Jersey Police Complaints Authority (“JPCA”) does not have the investigative powers of the IOPC. However, the Authority believes that in its role of providing independent oversight and supervision of complaint investigations conducted by the States of Jersey Police Professional Standards Department, the Public should have confidence that an independent Police complaints procedure provided by the Authority is open and transparent. It is hoped that information provided on the website will provide a better understanding and insight into the work of the Authority and the complaints process. Unfortunately, for reasons beyond its control, this work was paused in 2018. However, work has now resumed on this project, and it is hoped that a Beta version will be available sometime in Q2 2019

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

**APPENDIX 1**

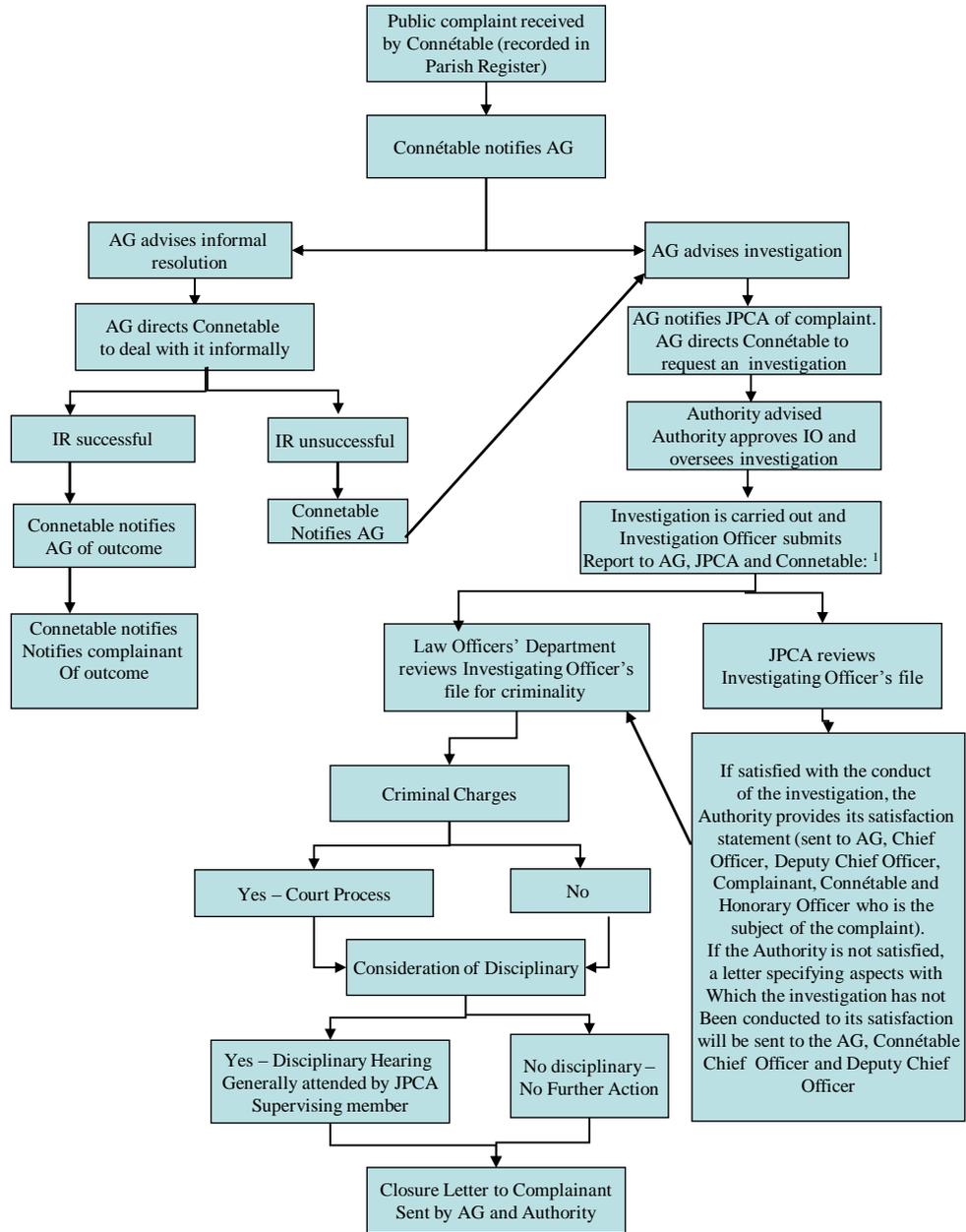
**Flow chart – Complaint received against States of Jersey Police Officer**

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



Flow chart – Complaint received against Honorary Police Officer

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



APPENDIX 3

Flow chart – Complaint received against Chief Officer and Deputy Chief Officer

