



Care of Children in Jersey Review Panel

Redress and Accountability Systems in Jersey

Witness: Chair, Comité des Connétables

Thursday, 18th March 2021

Panel:

Deputy R.J. Ward of St. Helier (Chair)

Deputy K.G. Pamplin of St. Saviour (Vice-Chair)

Deputy L.M.C. Doublet of St. Saviour

Deputy M.R. Higgins of St. Helier

Deputy M. Tadier of St. Brelade

Witnesses:

Connétable D.W. Mezbourian of St. Lawrence, Chair, Comité des Connétables

Ms. S. De Gruchy, Secretary, Comité des Connétables

[12:20]

Deputy R.J. Ward of St. Helier (Chair):

Good afternoon and welcome to what is the fourth hearing of the redress and accountability review. Apologies for the late start, there have been some technical issues but I think we have overcome them. It will mean a bit of moving around of cameras from the Constable when people talk, but we will bear with that and we will get on with that. Just some introductions to begin with so that everyone knows who is here. I will start. So I am Deputy Robert Ward and I chair the review panel for redress and accountability. Kevin, do you want to go next?

Deputy K.G. Pamplin of St. Saviour (Vice-Chair):

Yes, I am Deputy Kevin Pamplin of St. Saviour and I am the vice-chair of this panel.

Deputy L.M.C. Doublet of St. Saviour:

Deputy Louise Doublet of St. Saviour and I am a member of the panel.

Deputy M.R. Higgins of St. Helier:

Deputy Mike Higgins and I am a member of the panel.

Deputy M. Tadier of St. Brelade:

I am Deputy Montford Tadier and I am a member of the panel as well.

Chair, Comité des Connétables:

I am Deirdre Mezbourian, Constable of St. Lawrence, and I chair the Comité des Connétables. I am supported today by ...

Secretary, Comité des Connétables:

Sue De Gruchy, and I work for the Comité des Connétables.

Deputy R.J. Ward:

That was very smoothly done. Let us get started. The review has very specific terms of reference to look at accountability, redress, complaints systems and so on. We are going to focus around those. To begin with, some general questions. How can a member of the public make a complaint in relation to the Parish administrations and the Parish, their experiences with the Parish in general?

Chair, Comité des Connétables:

First of all, members of the public are not slow in coming forward if they have a complaint of any kind. Be that what may be considered a minor grumble or perhaps a more serious complaint. They do that in a number of ways. They will come into the Parish Hall or the public hall or the Town Hall in person and they will speak to a member of staff. Very often, those minor grumbles are dealt with there and then at the reception area. What is a minor grumble? Potentially, perhaps that somebody's recycling has been put out that morning and not been collected. I consider that to be a minor grumble. The Parish secretary, the assistant, can deal with that very quickly and effectively and a quick call potentially to the service provider or to the Parish team and that can be resolved. The other way that a grumble or a complaint can be drawn to the attention of the Parish is through letter, through telephone call, or by email. The process is very similar of course. Email, it can be sent to the Parish address or it can be sent directly to the Constable. If such an email comes through to me, I will deal with it directly, personally, and there is a record of it, therefore. What is a complaint? You can ask me more specifically potentially in a moment. What sort of emails come through to me? They may be about a pothole on one of the Parish roads that has not been fixed as quickly as maybe it could. So I reply.

Deputy R.J. Ward:

In terms of levels of complaint and whether they are what might be considered, obviously not for the person complaining, but lower-level or higher-level. In terms of tracking and managing of complaints, are they tracked? Do you keep a record of the complaints that are made so that you have some sort of gauge of how many, the level of them, whether they are getting more severe in their nature, for example?

Chair, Comité des Connétables:

If I go back to the complainant who comes in and grumbles about the refuse and they come in person, I would say that if it is a service provision grumble, query, complaint, then, yes. I am speaking for St. Lawrence here. Then, yes, that would be recorded because we are providing a service, for which we pay. We do retain a record for that sort of service because we are paying for it. Generally, minor grumbles, somebody comes in person, if it is rectified, if it is resolved, if they are satisfied, they go away. If it is something that they are not satisfied with, then they may ask to speak to me, in which case, if I am there and I am immediately available, they come in to see me there and then. If I am not immediately available because I am in a meeting, then a time is made for them to come in and see me. There is a record kept of those meetings. That would be filed, not in a central complaints file per se, but on the file that is pertinent to the matter about which we discussed.

Deputy R.J. Ward:

There is not a central register that would be the big book of complaints that have been dealt with over the last 5 years or so, in those terms, they are a reference to the topic perhaps or would it be the area, so whether it is refuse or branchage or something like that?

Chair, Comité des Connétables:

Yes, it would come under roads, it would come under refuse, it would come under dogs, it would come under anything specific to the matter that had been raised. Or it may potentially come under Connétable's correspondence.

Deputy R.J. Ward:

Do you think that is common across the Parishes?

Chair, Comité des Connétables:

Yes. My understanding from the research that we have undertaken for this review, is that is the practice across the Parishes.

Deputy R.J. Ward:

Is there any information available on these complaints that is made public in terms of levels of areas? Because one of the things we are looking at is how transparent processes are. Do you have a website that would say: "We dealt with this many complaints regards refuse, which have been resolved"? Just so that people know that if there is a complaint, there is a point in them making a complaint if they feel aggrieved in some way?

Chair, Comité des Connétables:

The general Parish administration and the grumbles that I have just referred to, we do not publish any figures. But there is of course the very formal complaints process that members of the public follow with regard to the Honorary Police.

[12:30]

There is a formal complaints book that records any complaint that is made regarding an Honorary Police Officer. That is reviewed on an annual basis by the Police Complaints Authority. They provide details in their annual report of the number of complaints that have been made in each Parish.

Deputy R.J. Ward:

There are some questions on that later on, but just to focus on the level of complaints that come to the Parish that perhaps are not Honorary Police at the moment. Is there a situation where an outcome of a complaint just is not public or would be kept out of the public domain? If there was something about a particular planning issue or building issue or road issue in a particular part of the Parish, is there any reason why information may not be made public?

Chair, Comité des Connétables:

Of course all information that we hold is available to be made public through F.O.I. (Freedom of Information) requests. Because Parishes are liable to F.O.I. requests and frequently do receive them, when all of this information can be requested and indeed is given out to the public. If you are interested, I have some examples of the type of questions that have been asked of us recently. Would you want to have some examples of that or we could submit them to you in writing?

Deputy R.J. Ward:

The writing might be a good way because it does give us a context, which is so important for us when we are looking at that, therefore that would be really helpful.

Chair, Comité des Connétables:

Sorry to interrupt you, Chairman, but one of the requests that was made to the Parish of St. Peter a year ago was something that is live now and it is about campervans and the area of Le Coin. One of the questions that was asked at that time was about the number of complaints that had been made. The Parish had to not only give the number of complaints that had been made but had to specify in more detail what those complaints were. Obviously, all complaints are taken seriously and are recorded as accurately as we can do.

Deputy R.J. Ward:

Therefore, if there was a complaint that is not resolved at source by a front line member of staff or yourself, what processes are in place to escalate that complaint? I know it is difficult to talk about general complaints without a specific, but the catch-22 is talking about specifics might be quite difficult as well.

Chair, Comité des Connétables:

We have a very straightforward system. We have, in the Parishes, elected officials who are sworn in by the Royal Court and we refer to those as the Municipality. That of course includes the Honorary Police who are somewhat different because they are ultimately accountable to the Attorney General and they are answerable to the Police Complaints and Discipline Law. But you said we will come on to that later. Then of course we have the administrative staff, who are accountable through their contracts of employment and employment law. Therefore, complaints made against any of the officials within the Parish, be they employees or members of the Municipality, if they are not resolved at perhaps a lower level, can be referred to the Constable. If the Constable is not able to resolve a matter, and I would say that obviously that would not be a staffing issue, it would be a complaint made about a member of the Municipality, not including the Honorary Police, then what the Constable would be required to do would be to say that effectively the complainant does have almost a right of appeal. Because, all members of the Municipality take an oath before the Royal Court. Therefore, the Royal Court has jurisdiction over the Municipality of the Parishes. Therefore, if the Constable is not able to resolve an issue regarding a member of the Municipality, it is the Constable's duty to advise the complainant that they are able to take their complaint further, which is to the Attorney General. From the Attorney General, it would be to the Royal Court. Obviously, that would be a serious matter, but it is open to any complainant to determine their courses of action.

Deputy R.J. Ward:

In terms of that process, do you think that the process is clear for members of the public as to how to go through a complaints process? Do you think there could be more clarity in terms of the stages that they may go through and the timelines in particular for how long they can expect any form of complaint to be resolved. If it is not, it moves on, and so on and so forth.

Chair, Comité des Connétables:

There is always the opportunity for good governance and for governance to be improved. Yes, I would say that there is always room for improvement and we recognise that and we acknowledge that. What we are intending to do, following the recent court judgment regarding the Constable of St. John, is we acknowledge that in that judgment, albeit the final version has not yet been published, it makes it very clear in that judgment what I have just told you, which is that the Royal Court has jurisdiction and the disciplinary power over those in honorary service in the Parishes. By honorary service, it does not refer only to the Honorary Police, it refers to all those who swear an oath of office before the Royal Court. Therefore, as chairman of the Connétables, because I have only finished reading the judgment today, I have resolved that I will take to the Comité meeting a proposal that we now make it absolutely clear to the public that course of action is open to them. We will do that by drawing up a process, which will be published on our websites, and we will write an article explaining this that will be published in all of our Parish magazines and newsletters. We will advertise this in as many ways as we can think of so that the public are absolutely left in no doubt as to the recourse that they have if they have a complaint that they believe has not been resolved by ultimately the Constable of the Parish in which they wish to make the complaint regarding a member of the Municipality. That they may take it further to the Attorney General.

Deputy R.J. Ward:

There are some questions from Deputy Higgins and Deputy Tadier. I will let them ask their questions because it might be the one I was going to ask. Deputy Higgins, do you want to ask your question next?

Deputy M.R. Higgins:

Yes, if the Constable could tell us, before this most recent case and the judgment of the Royal Court, to what extent did Constables believe that things such as the most recent occurrence came under the jurisdiction of the Royal Court? Because the Constable in that particular case, his advocate argued that the Royal Court had no jurisdiction over what he was doing in the Parish.

Chair, Comité des Connétables:

I cannot speak for the legal representative of the Constable of St. John. However, what I can say is that I have known since before I was elected as Constable in 2008 that the Royal Court has jurisdiction over the role of Constable. I can explain to you the reason for my knowing that. That is because, when I stood for election in 2008, it was an opposed election and regrettably my opponent at the time was, I believe, under investigation, and I may be wrong, I think it was by the J.F.S.C. (Jersey Financial Services Commission). I was told by someone at the time that, if that person was elected as Constable, then the court could refuse to swear them to office because it may be considered that person was not fit to be Constable, depending on a number of circumstances.

Therefore, I have always been aware and understood that my actions, notwithstanding that I recognise that I am accountable for my actions, I have always understood that I could be called to answer for my actions before the Royal Court. I have always known that the Procureur du Bien Public, if they felt that I was acting unlawfully or fraudulently or outside my remit, could refer me, because of those actions, as I said earlier, to the Attorney General.

[12:45]

Deputy M.R. Higgins:

Could I ask, you have obviously explained your understanding, but do you believe that all Constables have that understanding? Are there any documents that you are given when you become a Constable to tell you these things?

Chair, Comité des Connétables:

I would say no. Just as when I was elected as a Deputy, I was not given, as far as I remember, any documents or papers to tell me my responsibilities as a Deputy, other than I would say Standing Orders potentially and the States of Jersey Law. The same for Constables, that I do not remember being given anything as a Constable immediately to tell me of my statutory responsibilities. However, in 2018, what I did when I was elected as chairman of the Comité, I took it upon myself to meet with the then newly-elected Constables to explain, as I saw it, some of their duties and responsibilities. By then, in 2018, I had been a Constable for 10 years. Therefore, I had 10 years of experience behind me and I was in a position to speak to them with that 10 years of experience to explain some of the many duties and responsibilities that they had just been sworn to.

Deputy M.R. Higgins:

I am sorry to interrupt. If you had not been there to pass on your knowledge, what knowledge would they have had when they just came into the post?

Chair, Comité des Connétables:

We can say that about Deputies and potentially Senators. But, moving forward, what we will be doing is ensuring that, through the Comité, there will be more information available for Constables when they are elected. But it is important that those who are thinking of standing for election have information about the role that they would be elected to potentially before they put themselves forward for election. That is why I always encourage people to speak to others who have been in that role or who are standing down from a particular role. When I was considering standing as Deputy, I went to speak to serving Deputies. When I was considering standing as Constable, I went and spoke to serving Constables. People who are responsible; that is the sort of thing that they would do. However, coming back to what you have just said, Deputy, we will, through the Comité,

make sure that there is advice, there is documentation available. For instance, there is the Constables Miscellaneous Provisions. There is lots of legislation that applies to Constables that can be made available to them. For instance, there is Parish Assembly. We have a booklet on the Parish Assembly, so they know their responsibility when running or chairing a Parish Assembly. There is so much information that we have centrally that we can collate and make available through our websites of course. It will be out there whether they want to come and speak to the Constable or not.

Deputy M.R. Higgins:

Thank you for a comprehensive answer.

Chair, Comité des Connétables:

You are welcome.

Deputy R.J. Ward:

Deputy Tadier, do you want to ask your question now?

Deputy M. Tadier:

I will ask quickly and it is a supplementary question, so it is not scripted. I apologise to the chairman for that but obviously these things come up, which we were not expecting. First of all, I welcome the news that the Comité des Connétables are going to be putting and publishing a complaints process. That is really welcome. Can I ask whether that will also include the kind of standards and the kind of things that people might want to complain about and what is expected of Parish officials in whatever capacity? I have an example. I will let the Constable answer that first, but I have a specific example I would like to raise with her.

Chair, Comité des Connétables:

Thank you for your question, Deputy. In our submission, which seems quite a long time ago, if I remember correctly what we said to the panel was that it seemed, coming back to good governance standards in public life, that it made sense to the Comité to introduce, I think we would call it, a code of conduct for elected members of the Municipality. We are just about finalising that now based upon the code of conduct for Honorary Police and for States Members. Because, if you are going to be in public office, it is all about standards, the standards that you should be expected to uphold, because that is what it is all about, is it not? The public should be able to have confidence in us, in everything we do. As far as I am concerned, when I was elected as an Honorary Police Officer, I was not an Honorary Police Officer when I was on duty. I swore an oath and that applied 365 days a year. I am a Member of the States of Jersey, I am the Constable of St. Lawrence, and hold myself to high standards 365 days a year. I am a Constable and people expect me to be the Constable.

When I was a Deputy, people expected me to be a Deputy and to maintain standards. The point is, yes, at the moment they are elected officials. But, as far as we are concerned, there should be standards that elected officials maintain and reach. What we cannot do is enforce those standards simply because we are elected. It is a bit like us, really, there is a code of conduct for us as elected Members of the States. If we break that code, or if somebody thinks we have broken that code, then they are able to make a complaint about us to the Standards Commissioner. The commissioner will take a view on whether or not we have broken that code.

Deputy M. Tadier:

Can I follow up on that because I do not want to cut you off, I am just mindful of my chairman. You can come back because I think we are going in the same direction. But I fully understand what you are saying is that, as a fellow States Member, there is no time where we act privately if you like. We might have a private life but anything we do or say is subject to scrutiny and quite rightly. I have been looking at the code of conduct for the Honorary Police and Article 13 in the notes says that the code applies to the conduct of officers while on duty or while off duty. It finishes by saying: "Where off-duty conduct is in question this will be measured against the generally-accepted standards of the day." I have had sight of a very recent complaint that has been concluded against an Honorary Officer somewhere in the Island. I was very surprised that the letter came from the Attorney General's office. It said that the comments in question did not represent the officer's role as an Honorary Police Officer and, as such, did not bring discredit on the Honorary Police. What I find confusing about this, it has not ruled on whether the comments themselves were acceptable or otherwise. But it says that because the comments were not made in his capacity as a police officer, then they automatically did not bring discredit on the Honorary Police. What is your thought on that?

Chair, Comité des Connétables:

I am sure you know well enough, Deputy, I cannot comment on something like that. Because this is a matter for the Attorney General and ...

Deputy M. Tadier:

I do not wish you to comment on this specific case and I have not told you the details. But do you agree with the logic that if a comment is made in somebody's off-duty capacity that cannot therefore be scrutinised and be the subject of a complaint?

Chair, Comité des Connétables:

I would say, in the absence of details, it is difficult for me to comment. But I can comment ...

Deputy M. Tadier:

I think it is just a categorical question.

Chair, Comité des Connétables:

I am very happy to comment generally. I would say that whether you are an Honorary Police Officer, whether you are a rates assessor, a road inspector, a church warden, a Deputy or a Constable, you must be mindful of the way that you treat members of the public. You must be mindful of the comments that you make, either verbally or written comments, and if you are not mindful of your comments, of your actions, then you will be accountable for them. That is all I can say. I do not think any of us can disagree with that. We are all accountable. How we are held accountable, there are different ways we are held accountable. As States Members, you and I, Deputy, are held accountable through our electorate for our conduct through the Commissioner for Standards. However, as Constable, I have more accountability than you as a Deputy because I am accountable also to the Royal Court. I acknowledge that accountability and I have no problem with it.

Deputy M. Tadier:

I understand that, thank you. Can I ask one further one and it will save me asking it further down the line because it is germane at this point? It is correct, is it not, that the Constables' policing powers were removed a few years ago?

Chair, Comité des Connétables:

Yes, that is correct. The operational policing powers were removed. However, we have responsibility for the effective and efficient policing within our Parish.

Deputy M. Tadier:

That certainly helps. When there is a complaints process, there are occasions where matters are dealt with by words of advice from the Constable; is that correct?

Chair, Comité des Connétables:

Yes. Are you asking me to explain the process by which ...

Deputy M. Tadier:

No, just to confirm that is the case.

Chair, Comité des Connétables:

Just to be clear, any complaint made to a Constable must be referred to the Attorney General. There is no discretion for the Constable to not make the Attorney General aware of a complaint that has been made in writing to the Constable. The Attorney General then decides whether the complaint may be resolved informally, which is through words of advice given to the officer by the Constable.

Or, if it is a more serious matter, then the Constable needs to refer it to the States of Jersey Police for investigation.

Deputy M. Tadier:

That is all I wanted to know. It was a straightforward question, not a trick question in any way. Thank you.

Deputy R.J. Ward:

That is quite an interesting answer. I will ask you this in your position as chair of the Comité des Connétables because then we are talking generally, rather than just about yourself. If there was a complaint about a Constable then it goes directly to the Attorney General. Is there any role of the Comité to internally moderate complaints and perhaps come to an earlier resolution? Or does it have to be what strikes me as quite a high-up process of complaint?

[13:00]

Chair, Comité des Connétables:

All I can say here is that the Comité has no power or authority, I cannot tell one of my colleagues what to do, for instance, putting it simply. The Comité has no authority to tell a member what to do or what not to do indeed. The Comité has statutory authority to make decisions on appeals with various matters such as Sunday trading appeals. But if you are talking about, as you were, Deputy, complaints about a Constable, first of all I have to say that there have been 2 complaints about a Constable that I have been aware of since I have been in office. One is the recent complaint in St. John and the previous complaint was about another Constable in St. John. I cannot remember any others. They would not have ...

Deputy R.J. Ward:

Yes. I am just thinking it is the word "complaint" as well. Sometimes it is not a very nice word anyway, but I am just wondering whether you feel that there could be a more-graduated process. It is just about that accountability and openness. Also for Constables who are aware that people may not be happy with particular things but they do not have to go to the level of the Attorney General and the court? Do you see what I mean?

Chair, Comité des Connétables:

Yes. I am happy to respond to that. Because, obviously, just because we are Constables, we are not immune to public feeling and we are very much aware of it and we acknowledge it and, if I may use the term, we can suffer from it. The actions of one reflect upon the others. If we feel that

someone is bringing us into disrepute, if I use that term, then what would you imagine that we would do about it?

Deputy R.J. Ward:

This is one of the things I was going to move on to. One of the areas is that, if somebody does make a complaint and they do not feel it is resolved in any way, but the conclusion has been made, how would you feel that should be dealt with? Because that is one of the biggest issues. When somebody feels that they have not had the recourse that they want, they will go to the process and say the process was inadequate or they will say that the outcome was inadequate. But this still needs to be dealt with and I just wonder whether you think that the processes there are adequate enough to help make sure that you can say: "It is a really clear process here and this was the outcome." What I am getting at is the better the process is, the better it is for all involved, including yourself and the complainant and your staff and so on. Do you think that those processes could be improved for those reasons?

Chair, Comité des Connétables:

I would say there is always scope for improvement. I am sorry, Chairman, but you broke up again. It may be helpful if I can refer you to a written question, which covers what you have just been asking me. It may be easier if you as a panel look at this afterwards rather than me reading it. It is quite a long question. You may already have referred to it, in which case I apologise for drawing your attention to it again.

Deputy R.J. Ward:

Is that the one in your submission?

Chair, Comité des Connétables:

No, I do not think it is one that we put in our submission. It is Written Question 31/2018 and it was from the then Deputy Mézec to Her Majesty's Attorney General. I beg your pardon, it was included in our submission.

Deputy R.J. Ward:

I have the submission up on my second screen. Yes, that is helpful. I realise we have gone on a bit in the first part but that is because we have had some additional questions as well. In terms of the outcomes of any complaint or issue that you feel has been resolved, how is that communicated to the person? Particularly when you have that awkward situation of them thinking: "That is not the outcome I wanted." I am not asking you to say now whether it is the right or wrong outcome, just that is the conclusion that has been made. Is this done one-to-one, by letter, an email, is there a process there for doing that that is consistent?

Chair, Comité des Connétables:

It comes back to what was the complaint about. When we made our submission to you, Chairman, we gave a number of examples of administrative issues that can generate complaints. Rates issues, driving licence queries, and firearm certificates, applications, queries, complaints. We mentioned the appeals processes for those. Those would be dealt with through letter. The other thing I mentioned earlier is, if somebody comes in and grumbles in person, then obviously the resolution is dealt with at the time, so they know the outcome. If the complaint is made by email, then very often the response would be, and I speak personally, by telephone with a follow-up email. Or if it is by letter, I would say in the 10 years that I have served as Constable, I have seen many changes. Ten years ago there were far fewer emails than there are now. Everything used to be done by letter. Complaints would come in, if not in person or telephone, then by letter. They would be responded to by letter. Nowadays it is email. But what we like to do in the Parishes is have the personal touch. Even if a complaint comes in by email, then we pick the telephone up and we speak to the person. But we make a note ...

Deputy R.J. Ward:

We are all getting used to this new digital world and even the sittings online. I completely agree. Just a final thing on this before we move on and Deputy Pamplin will ask some questions, in terms of learning from complaints, because one of the points about a complaint is for everyone to learn something from it, to improve. How do you do that? Do you review the outcomes in order to improve practice in both the handling of complaints and what you may learn from a complaint? For example, if it is upheld, you might say: "We have learned something from that. Let us not do that again." That sort of thing?

Chair, Comité des Connétables:

Obviously, you are right, we all need to learn from complaints because we do not want repetition. If the complaint is that we do need to learn from and we recognise that it is something that could be repeated in another Parish, then we would take that to the Comité by way of an agenda item to draw it to the attention of the other Constables and the other Parishes. Do you know, Chairman, I cannot think of any examples, therefore I cannot help you specifically with it, other than I know that is what I would do and that is what my fellow Constables would do. Why can I not think of an example of where we get complaints of that nature? Probably that is the case. They are general grumbles regarding the local Parish issues. I suppose what could happen is that somebody came in and made a complaint about rates, a rates matter, that I would need to take to the Supervisory Committee if it came to me. But I cannot think of any specific issues. But it may be that we recognise that we need to provide better information. Do you have any examples yourself that you would like to ask me?

Deputy R.J. Ward:

It was more the general understanding of how somebody would be very clear, in making any form of complaint, the process it goes through, the timescale, and then the outcome. That is the thing we are asking about here, to get that general picture. We have had quite a lot of information on that. That has been really, really helpful. We might come back to some other areas and some more specifics later on. But I am conscious of time and we started late. Can I ask Deputy Pamplin, can you ask your accountability questions? Do you want to chip in with those?

Deputy K.G. Pamplin:

Thank you, Constable, for hanging in there and for everybody else. We are getting there. This area is all about accountability of staff. Could you just give us a brief overview of the policies, the procedures, that are in place to hold any staff accountable in the offices of the Constables and the Parish Halls, et cetera? That could be front line, senior management, and holding them to account for their actions.

Chair, Comité des Connétables:

I mentioned at the outset that all staff have contracts of employment and there are staff handbooks. Each Parish, in accordance with local employment law, will have disciplinary and grievance policies in place. Therefore, our disciplinary policies will set out the actions which will be taken when disciplinary rules are broken. In general terms, will cover statutory entitlements. That would cover, for the employee, the right to representation. Because obviously they have the statutory right to be represented at any formal part of the disciplinary process. The principles are that the procedure is designed to establish quickly the facts of the case and to deal consistently with disciplinary issues. We would not take any disciplinary action until the matter had been fully investigated. Also, at every stage, the employee would have the opportunity to state their case and, as mentioned, be represented in accordance with their statutory right. Unless the matter was deemed to be considered as an act of gross misconduct, in which case they would normally be dismissed, if I am thinking correctly, without notice or pay in lieu of notice. But it is unlikely that an employee would be dismissed for a first breach of discipline.

[13:15]

I am not sure if I am answering your question, Deputy. I am talking about the disciplinary process if a complaint was made against a member of staff. I have touched on the process would only be instigated after an investigation had been made. I would expect, in most Parishes, that investigation would be undertaken by the Constable. I would imagine the Procureurs as well. As you would imagine, most Parishes, other than St. Helier, have relatively small staffing numbers and many of

them use independent H.R. (human resources) companies or advisers. Therefore they would maybe use an independent adviser to monitor this. But what you were asking was how would the complainant be aware that something had been done about their complaint.

Deputy K.G. Pamplin:

Yes that touches on it as well. Let us just choose a scenario off the top of my head. There was a complaint about inappropriate conduct between one member of staff to another member of staff. How would that be dealt with? What policies and procedures would be in place that will kick in? A caveat to there, from what you just said about other Parish Halls, it is not standardised between the 12 Parishes. They do their own thing, so to speak.

Chair, Comité des Connétables:

Yes, because that is covered by employment law. Therefore, it does not need to be standardised across the Parishes. Because Parishes are employers, therefore we are talking about employees. You have just referenced an instance where there would be a matter between 2 employees, therefore that is covered by employment law. I know that Parishes, if we did not refer to an independent H.R. adviser, Parishes have recourse to J.A.C.S. (Jersey Advisory and Conciliatory Service) and I know that they have used that service in the past. It is all dealt with through the correct process, which is the Jersey employment law. If I just step on from that, that is the internal process. However, if it is arising from a complaint by a member of the public, then the member of the public, of necessity, needs to be kept informed of the process. First of all would need to be advised of the process and then would be advised of the outcome. Because who knows what the outcome would be? It may be that the member of staff would be given a warning, a written warning, or indeed may be dismissed. But the complainant would need to be made aware of the outcome of the matter. Just as the complainant with regard to the Honorary Police is required to be advised of the outcome of any findings regarding an Honorary Police complaint.

Deputy K.G. Pamplin:

Let us take that scenario one step further and involve the Constables themselves. As you say, there are small teams in place. Two scenarios, because there are 2 separate issues. If there is a complaint about a misconduct issue between a member of that small team and the Constable themselves, be it inappropriate behaviour of any sort, what happens? What is the route of the complaint for that member of staff about the Constable themselves? Secondly, if it was a member of the public who thought that a Constable's behaviour was inappropriate, whichever way you want to take that, what would be the member of the public's route to make that complaint?

Chair, Comité des Connétables:

Deputy, if we take the second question first, I think I have already answered that. I would say that immediately, if a member of the public believes the behaviour of a Constable is inappropriate, however the member of the public deems the interpretation of “inappropriate” to be, then the member of the public should immediately refer that Constable to the Attorney General. That is one of the issues that we will be making absolutely clear, as I mentioned earlier, when we publish our complaints process. Going back to your first question, if there was an issue between a Constable and a member of staff, what recourse does the member of staff have, and I am taking it that your example is that the Constable has acted inappropriately against a member of staff rather than the other way around, I would say that the member of staff, and I have not come across this so I am thinking on my feet here, would need to refer immediately to the Procureur du Bien Publique.

Deputy K.G. Pamplin:

Okay, and of course every Parish Hall has one of those, but let us say for argument’s sake that person was also witness to the incident or the person making the complaint felt it was too close. What other policy, procedure or advice would be given to that member of staff if they felt it was highly sensitive or the inappropriate behaviour or whatever it was?

Chair, Comité des Connétables:

That is a perfectly valid question. First, every Parish has 2 Procureurs, a senior Procureur and a junior, so hopefully there would always be one who would be able to advise. I think that any inappropriate behaviour by a Constable because of the responsibility of the role that they hold would need or should be referred to the Attorney General. My view is that the Procureur would advise the member of staff to refer their Constable to the Attorney General because the Constable should not be behaving inappropriately. We know that there are vexatious complaints and it could be that a Constable finds themselves in the unenviable situation of having a complaint made about them that is vexatious. But you, as a Deputy, and the rest of us as States Members could find ourselves in that situation of having a vexatious complaint made about us to the Commissioner for Standards and we have to accept that, because that is life, that is the situation we put ourselves in when we stand for election to public office and what we have to do then is rely upon a fair system and justice being delivered. If you were reported to the Commissioner for Standards and it was vexatious then I hope that it would be found to be the case. If a malicious complaint was made about me to the Attorney General then I would certainly hope that I would be given a fair hearing and that the Attorney General would find that it was indeed malicious and if he found that it was not then I imagine that he would refer it to the Royal Court and I would have to accept the decision of the Royal Court. That is life.

Deputy K.G. Pamplin:

What you are saying, and especially from the recent case, is there are things that are going to be done and put in place but it is an arguable point, is it not, that the reason why there are no complaints is because, and your view on this, that it is not so straightforward, that these things that we are talking about today are not standardised? I wonder what your view on that would be, that the people have not come forward because what you have been explaining is not standardised and it is not clear cut and they are very difficult things to do, as you have just outlined.

Chair, Comité des Connétables:

I think if somebody has a complaint that is of such severity that they believe that they must proceed with it then they will do that. They will speak to people; they will speak to you, Deputy Pamplin, as an elected representative and they will continue to speak to elected representatives and they will do that until somebody listens to them. This is what has not happened in the past and this is why we are here today considering this. It has not happened in the past, but things have changed and people do listen these days and so people will continue to speak to others until they are listened to and until something is done. If somebody today believes that a Constable or indeed a Deputy or for the time being a Senator has acted inappropriately then they will make their case and they will take it to somebody until it is heard. It is far easier, yes, these days to take that case immediately to the Commissioner for Standards and let us not forget as a Constable I can be reported to the Commissioner for Standards just the same as the rest of you sitting on the Scrutiny Panel can be reported, but as Constable, as I said earlier, I have far more accountability because I can be reported to the Attorney General and through him to the Royal Court.

Deputy K.G. Pamplin:

I am going to let the chair back in. He wants to ask a question on the question we are on.

Deputy R.J. Ward:

That was a really interesting exchange of ideas there. Do you think that one of the things that perhaps is missing quite widely is a system that people can access that has got stages? I think I have mentioned this before and I think you have shown it again, if you talk about the vexatious complaints that you mention, that is the other side of the coin, but there needs to be a staged system where everybody is really clear and there is a time-staged system. We talked about one the other day when we were talking to the Government of Jersey new complaints procedures, which may well be a step forward. Do you think that is something that might be important in the Parishes? We do feel at times that people are perhaps afraid to bring forward complaints because they do not want them to be blown up into a huge issue in the courts, but would like to have a process that they feel there are stages of recourse before it has to get there. I think that is the same for vexatious complaints as well. Do you think that would be a check and balance for everybody?

Chair, Comité des Connétables:

Yes, I think you have made a very good point there. I am not saying that vexatious complaints are made, but what I am saying is we are subject to close scrutiny. What I would like to ask you, Chair, is through your hearings and submissions that have been made to you, whether in writing or verbally, do you have any evidence that you can provide me of people who feel even now that they have not been able to make complaints against members of the municipality, whatever elected position within the municipality, because they think it would not be dealt with?

Deputy R.J. Ward:

What we will do as a Scrutiny Panel is we will take evidence in confidence.

[13:30]

We will look at that evidence and then make findings and recommendations that may well be not just for yourself but across our institution, so to speak, recommendations regarding the clarity of the process of making complaints, the stages of those complaints, the timelines and the stages in which outcomes can be made at the earliest opportunity. We would do that. What we would be doing is recommending those sorts of things so that individuals feel that they can happily, which is perhaps the wrong word, make a complaint of whatever level and feel that it is a positive thing as much as anything in that we will listen to it, et cetera. I think there is evidence to say not just yourself and the Parishes but elsewhere that people do find it difficult in these circumstances because by nature people are concerned about complaining. I think we are more likely to do that and we hope that the evidence that we provide in the report will be read and acted upon, so we hope it will be a very positive thing for us to do. Does that answer your question?

Chair, Comité des Connétables:

Yes, and I am sorry, I should not be questioning you.

Deputy R.J. Ward:

It is okay. I think it is very important to have that sort of dialogue. We are very pleased to have that dialogue, so thank you. Carry on.

Chair, Comité des Connétables:

We will be reading your report with interest and looking for recommendations because, as I said at the outset, we want to improve. We are constantly thinking of ways in which we can improve and for an external body to essentially review us and give us ideas and make recommendations and we welcome that. Any opportunity to better ourselves. You will remember in one of the letters that I wrote to you we were speaking about the consultation on the Public Services Ombudsman. Sorry,

it was not to you but a letter that the Comité wrote to Strategic Policy, Performance and Population. What we said was that we agree that the maladministration of a Parish should be open to investigation and therefore we thought that the role of the complaints panel might be extended or widened to cover a Parish. We welcome anything that can make the public feel more comfortable with making a complaint that covers any matter within a Parish. We do not shy away from complaints; we do not shy away from the need to improve and deliver better services for the public.

Deputy R.J. Ward:

That is good to hear. I am going to hand back to Deputy Pamplin. I am not entirely sure where you got up to there, but do you want to carry on, Deputy?

Deputy K.G. Pamplin:

Yes, I am conscious of time too. Just a couple of quick questions before I hand over. It is about redress; a fundamental part of this review. What forms, if any, of redress are there for the member of the public that makes a complaint that is then upheld in relation to anything to do with Constables?

Chair, Comité des Connétables:

I have to admit I did not quite understand what you were asking me there, so I will have to ask you to repeat it.

Deputy K.G. Pamplin:

Yes, sure. It is what forms of redress are there for a member of the public that makes a complaint, and that complaint is upheld? What redress, what kicks in, for that member of the public?

Chair, Comité des Connétables:

I suppose it depends what the topic was that the complaint was about. For instance, thinking very quickly here, when we sent in our submission, I do not know if you have that in front of you, so what form of redress? For instance, the driving licences, if it is revocation of a licence or non-issue of a licence there is an appeal to the Royal Court. Is that what you are asking, something like that?

Deputy K.G. Pamplin:

It is more from a very basic letter of an apology right through to financial compensation or whatever form of redress is appropriate to the complaint that has been upheld, what policies are in place that any Constable of any office of the 12 Parishes could turn to in dealing with that.

Chair, Comité des Connétables:

I am afraid you would need to give me a specific example. The first thing I would say is that if an apology needs to be made then one is given, so that is certainly a form of redress that if we do

something wrong then we hold our hands up and we admit it and we apologise. I have never known of financial compensation being paid. I cannot think of an instance of that, however one way for financial compensation potentially could be through an insurance claim, but that is not really what we are talking about here. You have asked me a difficult one there. I cannot think of a specific instance of redress, I am afraid.

Deputy K.G. Pamplin:

This is what we are drawing out, if there was an issue, rapidly thinking of an incident, where the Constable's office has taken responsibility that has caused damage to a member of the Parish's property or personally they will say, "Well, in this instance redress will be this and this is how we go through that process."

Chair, Comité des Connétables:

So I think what you have referred to is insurance. So if damage has been caused then all Parishes are covered through public insurance liability, so that is an example you just gave me; damage. Did I hear correctly?

Deputy K.G. Pamplin:

Yes, that was just off the top of my head, or like the example I gave earlier when I talked about inappropriate behaviour, that complaint was upheld by the Attorney General and part of the process for that member of the public going through their process there will be a form of redress that would kick in for them.

Chair, Comité des Connétables:

If it is a criminal issue then I imagine that potentially that could be a claim upon the insurance of the Parish, but I think that that determination would be made by the court. As far as I am aware, a Parish has not found themselves in that situation, so it is something that if and when a determination was made by a court then the Parish would have to consider redress at that time.

Deputy K.G. Pamplin:

Okay, that is really helpful. That is it from me. Deputy Doublet and then back to the chair.

Deputy L.M.C. Doublet:

Thank you. I want to reflect on something that you said a few minutes ago when you were talking about if somebody was upset about something that had happened they would make a complaint and they would continue speaking out until they had been heard. I want to reflect back to the Care Inquiry report, because that of course is the reason why we are here doing this review and we are looking in particular at the findings from the "Jersey Way" recommendation, which of course speaks

about the redress and accountability systems. I want to ask you to reflect on what you have just said about the fact that you have confidence that people will speak out and will continue to speak out, and how that contrasts with some of the information within the original Care Inquiry report. I will just read 2 of those to you now, there is a culture of fear in Jersey: "... with people being afraid to come forward with information or criticisms of others who could have an influence over the informant's job or family" and another quote: "Powerful interlocking networks may exclude and disempower those outside of the groups and make it hard for those outside of those networks who have genuine concerns to raise them or make complaints in an effective way." I wonder if you could reflect on the contradictions between your beliefs that you have just stated and the findings within that report, to reflect on that initially and then I might come back with another question.

Chair, Comité des Connétables:

Yes, I am happy to do that, Deputy. I can give you an example. I was contacted recently by somebody who I would describe as being in despair because they are not being heard. They feel that they have been treated unfairly over a number of years and they have gone to different States departments, different agencies and all those doors have been closed to them. They have gone to States Members and asked for help and have now come to me because the States Members that they have approached for whatever reason have not been able to help them and in fact the reason that this person has come to me is I have been told because the States Members who they have approached are too busy to help them. What do you say to that? Do I turn around and say: "Well, I am too busy as well"? No. What do I do? I could do, but I have not done that, and indeed I have been in email correspondence this morning with that person, this is somebody who is not afraid to keep knocking on the door. What I have told this person is I do not know if I can help them, I do not know if I am going to get them the justice that they are seeking, but what I will do is I will do my utmost to help them. I will help them to the best of my ability but I cannot guarantee them the outcome that they seek. Does that answer you, Deputy?

Deputy L.M.C. Doublet:

Not really, and I would ask the question again. It is great to hear that members of the public are approaching you and it is fantastic that clearly you are an approachable Constable and your parishioners are lucky to have that, but I wanted you to reflect on what you said about generally in our system and in the Parish system you had confidence that people would speak up and would continue to speak up until they were heard and how does that general view across all of the Parishes contrast with the findings from the Care Inquiry and the specific examples that I read out, please? Do you still maintain that view that you mentioned a few minutes ago?

Chair, Comité des Connétables:

I think I did just give you an example. Obviously the panel was reporting on its findings on child abuse. We are not speaking specifically about child abuse here. We are talking more generally about how people can approach those in authority to raise their concerns about complaints in a number of areas and what I said earlier was that I feel that the example I have given is of someone who has concerns that have not been addressed and that person is determined to continue to raise them until they are addressed.

[13:45]

I feel I have answered your question to the best of my ability.

Deputy L.M.C. Doublet:

Just to confirm, are you in agreement with the finding of the Care Inquiry in relation to the “Jersey Way” and what is your specific comment on those sections that I read out? I do not want to talk about specific examples, although thank you for sharing that specific example, but if you could talk generally across the Parishes as you are here to represent today, do you think that has changed or do you think that those findings from the original Care Inquiry report is still the situation across the Parishes today?

Chair, Comité des Connétables:

Can you give me a moment, Deputy? My recollection is that there were no specific findings in the report from the Care Inquiry that referred to Parishes. What I remember from the inquiry, and just bear with me, I think when I was preparing for this and looking at the report what struck me was the voice for children that was referred to in the report and you just mentioned the “Jersey Way”.

Deputy R.J. Ward:

I think you have been cut off there. We seem to have lost sound.

Chair, Comité des Connétables:

Yes, I think Deputy Doublet is on mute.

Deputy L.M.C. Doublet:

Sorry, was there a question for me? I did not hear a question for me.

Chair, Comité des Connétables:

Sorry, I am trying to respond to you, Deputy, because I am not sure how much of my response you heard. My recollection is that there was no specific reference to the Parishes in the report of the Care Inquiry, but I think what you just referenced was the “Jersey Way”.

Deputy L.M.C. Doublet:

Yes. Would you like me to read the sections out again that I have asked you to reflect on?

Chair, Comité des Connétables:

Yes, that would be useful.

Deputy L.M.C. Doublet:

Okay, so there was a culture of fear in Jersey: "... with people being afraid to come forward with information or criticisms of others who could have an influence over the informant's job or family" and another section said: "Powerful interlocking networks may exclude and disempower those outside of the groups and make it hard for those outside of those networks who have genuine concerns to raise them or make complaints in an effective way." If you could just reflect on that and how it applies to the Parishes in the past and in the present.

Chair, Comité des Connétables:

Could you confirm to me, Deputy, that those comments in the report specifically referred to the Parish system?

Deputy L.M.C. Doublet:

I do not think that it is necessary to confirm that for you to answer the question. It is talking about Jersey generally and the Parish system is, I am sure you will agree, an integral part of Jersey life.

Chair, Comité des Connétables:

My reflection is that there is not a culture of fear within the Parish system. I think had there been a culture of fear within the Parish system then I have no doubt, Deputy, that the chairperson of the inquiry would have made that absolutely clear.

Deputy R.J. Ward:

We have got about 10 minutes left, but Monty, if you ask this question and we have got a few others that would be great.

Deputy M. Tadier:

I think it is important for the transcript to make sure. Without making a pun about going down a rabbit hole there was a reference in Haut de la Garenne about Parish Hall inquiries and about Colin Tilbrook, and you can do a search on the documents that are still in the States report where that has been lodged, about children trying to raise issues with the Parishes and not being taken seriously and not being believed and about things not being dealt with at Parish Hall Inquiries, sexual abuse

that was effectively covered up. I think these are in the public domain and I think it would be wrong for an impression to be left that there was no reference to the Parish system within the Committee of Inquiry. Does the Constable accept that?

Chair, Comité des Connétables:

I am sorry, Deputy, you were breaking up there. What I would say is that the Deputy asked me to reflect on the comments that she made and I am happy to do that and I have said there is no culture of fear within the Parishes now. I say that from the experience that I have as Constable of a Parish, meeting parishioners not only in my Parish, of course, but across the Island. I think that it is obviously clear that things have moved on. I think that in my position and with the people that I meet, people are not slow in coming forward and I think that is the second time I have used that term today. People are not slow in coming forward if they have complaints to make. They come to us, they will come to me, they will come to you.

Deputy M. Tadier:

Thank you. I do want to test that piece of evidence as well, because I completely accept that you have got experience as a Deputy previously and as a Constable and you have served longer than any of us. We do often pick up casework from across the Island outside of our constituencies, but do you accept that for every one person who perhaps persists in trying to find recourse to their particular grievance, whether that grievance has any merit or not, there will be other people who fall at maybe the first, second or third hurdle and think: "I have not got any recourse so far. I am just going to stop trying" and perhaps not engage, not vote and not participate in social or political life anymore?

Chair, Comité des Connétables:

I think that statement is probably accurate, Deputy. Of course what we are doing is everything that we can to improve that situation. We have all been working as Members of the States to ensure that the recommendations of the review panel have been implemented and I am sure we are all disappointed that they have taken as long as they have to be implemented. Probably far more of them should have been implemented by now, but we are doing all that we can. I think it is only by us being as open and transparent as we can that we can convince the public that we are there for them. It is down to how we act, is it not? It is how we go about our daily lives. It is how we interact with people, it is if we say: "Good morning" to people in the local supermarket or outside the States building. We should not be seen to be aloof. It drives me mad that people think that we are not approachable because we are as ordinary as anybody else. Just because we are elected to the States does not make us any different to anyone else. To summarise, what we are doing and what we have to continue to do is to interact with the public, whether that is through what we write in Parish magazines, through what we say on radio and television interviews, in what we say in the

States and how we carry ourselves, how we conduct ourselves. As I say, the Constables are there all the time doing their best to interact with parishioners and to make themselves available. Our doors are always open to the public, both literally and metaphorically speaking, and hopefully your report will help to get that information out there. Deputy Doublet, I am not sure whether I have answered your question or not, or if I have answered it to your satisfaction or not, but I have tried to answer it to the best of my ability.

Deputy L.M.C. Doublet:

I am looking back at the Care Inquiry and perhaps it might help for clarity if you could confirm if those things that I read out do not apply to the Parishes what institutions do you believe they apply to if not the Parishes, just so I can have that clear in my mind.

Chair, Comité des Connétables:

If they were to apply specifically to the Parishes, I repeat again, I think they would have said that they applied to the Parishes. The way I interpreted it was that they applied to Government departments, rather than specifically to the Parishes and the Parish system. We interpret things in different ways, Deputy.

Deputy R.J. Ward:

Thank you. Do you want to say anything else, Deputy Doublet?

Deputy L.M.C. Doublet:

Not from me. Thank you to the Constable for her answers.

Deputy R.J. Ward:

Thank you. We have got about 4 minutes. We are 30 minutes over. Just before I ask Deputy Higgins to ask his question the questions that we have not managed to ask we will send to you in writing. I think that is probably the best thing to do. I hope that is okay. Deputy Higgins, do you want to ask your question?

Deputy M.R. Higgins:

I would hope that the Constable will agree to continue the conversation because I do not think we can get proper answers to some of the questions in writing. However, the question I was going to ask was that in the Care Inquiry evidence was given about the role of Constables' officers and States of Jersey Police Officers together who failed to respond to complaints that came from children who were being abused. Also the inquiry raised the inappropriateness of Parish Hall Inquiries for sexual-type matters and again the prosecution of cases by Centeniers and this led to changes whereby the

Law Officers' Department now deals with these cases. Is that not the case, Constable? There was criticism.

Chair, Comité des Connétables:

Yes, you have just reminded me of that, Deputy. I must admit that when Deputy Doublet quoted those references I did not think about the Honorary Police at that time. I was thinking about the administration of the Parishes. Thank you for reminding me, Deputy Higgins, and I accept that what Deputy Doublet said referred to the Honorary Police at that time. What I would say now is that that culture of fear that I think probably in context did relate to the Honorary Police and the police processes that were in place at that time does not exist now, simply because as we have just been reminded quite rightly by Deputy Higgins the processes have changed.

Deputy M.R. Higgins:

Could I ask the Constable whether she would be willing to meet with the panel and carry on with the questions? There are quite a number that I think we need to explore verbally.

Chair, Comité des Connétables:

Absolutely. I do not have any problem with that at all.

Deputy R.J. Ward:

I am conscious that it is 2.00 p.m. We were going to finish at 1.30 p.m. and I know that we started late and there are other appointments we are all going to.

[14:00]

I think we are where we are in terms of what we can ask in this hearing. Is there anything else anyone wants to add or anyone wants to put just before we end the meeting? Any other questions? I will take silence as a no.

Deputy L.M.C. Doublet:

Not from me, just to say thank you.

Deputy R.J. Ward:

Thank you very much, everyone, for their time and for dealing with the technical difficulties. It is not easy when you cannot see people, and certainly not easy having these questions in person, but we have managed to get through a lot of the questions anyway and unless there is anything you want to ask, Constable, sorry, being impolite there?

Chair, Comité des Connétables:

No, I do not have any questions to ask but I just want to apologise again for the delay at the outset because of the technical difficulties that we had at this end. So just to apologise to you all and to thank the panel for the questions and to confirm again that I am happy to answer any further questions that you may have. I will ask Sue to liaise with Andy over any question areas or whatever and potential dates to meet again. Thank you very much.

Deputy R.J. Ward:

Thank you very much, and with that I will call the hearing to an end.

[14:01]