

**POLICE (COMPLAINTS AND DISCIPLINE PROCEDURE)  
(JERSEY) ORDER 2000**

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

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POLICE (COMPLAINTS AND DISCIPLINE PROCEDURE)  
(JERSEY) ORDER 2000

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**THE HOME AFFAIRS COMMITTEE**, in pursuance of Article 15 of the Police (Complaints and Discipline) (Jersey) Law 1999<sup>1</sup> orders as follows -

*Preliminary*

**Interpretation**

1.-(1) In this Order, unless the context requires otherwise -

“appointed officer” means the member of the Force or police officer from some other force appointed under Article 7(2) of the Law<sup>2</sup> to seek to resolve a complaint informally or, if no appointment is made, the Chief Officer;

“chairman of the panel” means the Jurat appointed as such pursuant to Article 33(5);

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

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

“complaint” has the same meaning as in Article 3 of the Law;<sup>3</sup>

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

<sup>1</sup> Recueil des Lois, Volume 1999, page 27.

<sup>2</sup> Recueil des Lois, Volume 1999, page 18.

<sup>3</sup> Recueil des Lois, Volume 1999, page 16.

“investigating officer” means -

- (a) in relation to a complaint, the member of the Force or police officer from some other force appointed pursuant to Article 7(4) of the Law;<sup>4</sup> and
- (b) in relation to a report or allegation, the member of the Force or police officer from some other force appointed pursuant to Article 6 of this Order;

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

“member concerned” means a member of the Force or port control officer in relation to whose conduct there has been a complaint, report or allegation;

“member of the Force” does not include the Chief Officer or Deputy Chief Officer;

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

“panel”, in relation to an appeal, means the panel set up by the Bailiff pursuant to Article 14(2) of the Law;<sup>6</sup>

“presiding authority” means, in relation to a hearing of a disciplinary charge preferred at the direction of the Authority, the tribunal and, in relation to any other hearing of a disciplinary charge, the Chief Officer or the chief officer of some other force to whom the case is remitted pursuant to Article 27;

“presiding officer” means, in relation to a hearing of a disciplinary charge preferred at the direction of the Authority, the chairman of the tribunal and, in relation to

<sup>4</sup> Recueil des Lois, Volume 1999, page 19.

<sup>5</sup> Recueil des Lois, Volume 1999, page 11.

<sup>6</sup> Recueil des Lois, Volume 1999, page 26.

any other hearing of a disciplinary charge, the Chief Officer or the chief officer of some other force to whom the case is remitted pursuant to Article 27;

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

“tribunal” means a tribunal constituted pursuant to Article 13(1) of the Law<sup>8</sup> to hear a disciplinary charge preferred at the direction of the Authority.

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

(3) A reference in this Order to an Article by number only is a reference to the Article of that number in this Order.

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

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

2.-(1) The Discipline Code in Schedule 1 to this Order shall have effect.

(2) A member of the Force or port control officer commits an offence against discipline if his conduct does not meet the standard set out in the Code.

### **Informal resolution of complaints**

3.-(1) For the purpose of informally resolving a complaint, the appointed officer shall, as soon as practicable -

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

<sup>8</sup> Recueil des Lois, Volume 1999, page 24.

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

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

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

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

(5) Upon resolving a complaint informally, the appointed officer shall record the outcome in writing and, where he is not the Chief Officer, give a copy of the record to the Chief Officer.

### **Suspension**

**4.-(1)** Where -

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

the Chief Officer may suspend him, in the case of a member of the Force, from membership of the Force and from his office of constable or, in the case of a port control officer, from his appointment to the Port Control Unit.

(2) The Chief Officer may exercise the power to suspend the member concerned under this Article at any time from the time when the member is charged with a criminal offence or the time the Chief Officer receives the complaint, report or allegation until -

- (a) he decides not to prefer a disciplinary charge in respect of the conduct which was the subject of the criminal charge, complaint, report or allegation or directs that all disciplinary charges be withdrawn;
- (b) the member concerned has been charged with an offence against discipline and all such charges against him have been dismissed;
- (c) the time limit for appeal against the decision finding the member concerned guilty of an offence against discipline has expired; or
- (d) a decision has been made on an appeal against that finding or the punishment imposed in respect of it.

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

(4) Where the member concerned is suspended under this Article he may not, without the consent of the Chief Officer, give notice of resignation under the 1974 Order or the 1983 Order, as the case may be, nor resign under notice previously given.

(5) Where the member concerned who is suspended is required to resign under Article 29, he shall remain suspended during the period of his notice.

(6) Where the member concerned is suspended under this Article, he shall not, by virtue of the 1974 Order or the 1983 Order, as the case may be, be entitled to any allowance in respect of the period of suspension.

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(7) Subject to paragraph (8), where the member concerned is suspended under this Article, he shall not be entitled to pay in respect of any period when -

- (a) he is detained in pursuance of a sentence of a court in a prison or other institution to which the Prison (Jersey) Law 1957, as amended,<sup>9</sup> applies or is in custody (whether in prison or elsewhere) between conviction by a court and sentence; or
- (b) he has absented himself from duty and his whereabouts are unknown to the Chief Officer.

(8) Where the member concerned returns to duty following his suspension under this Article and -

- (a) it has been decided that he shall not be charged with a disciplinary offence;
- (b) he has been so charged and all the charges have been withdrawn or dismissed; or
- (c) he has been found guilty of an offence against discipline and punished by a reduction in rate of pay or by a fine, reprimand or caution,

he shall receive, as from the date of his suspension, the pay to which, but for paragraph (7), he would have been entitled.

(9) In this Article, “1974 Order” means the Police Force (General Provisions) (Jersey) Order 1974,<sup>10</sup> as amended,<sup>11</sup> and “1983 Order” means the Port Control Unit (General Provisions) (Jersey) Order 1983.<sup>12</sup>

<sup>9</sup> Recueil des Lois, Tome VIII, page 657, Volume 1979-1981, page 365, Volume 1986-1987, page 20, Volume 1994-1995, page 61 and Volume 1996-1997, page 801.

<sup>10</sup> No. 6095.

<sup>11</sup> Nos. 6163, 6504, 6755, 7714 and 8669.

<sup>12</sup> No. 7178.



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

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

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

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

6.-(1) Where the Chief Officer receives a report or allegation which indicates that a member of the Force or port control officer may have committed an offence against discipline, he may appoint a member of the Force or police officer from some other force to investigate the case.

(2) The Chief Officer may ask the chief officer of some other force to provide a police officer of his force for appointment under this Article.

(3) No officer may be appointed under this Article unless he is -

- (a) of at least the rank of inspector; and
- (b) of at least the rank of the member concerned.

(4) This Article is subject to the powers of the Authority to approve the appointment of an investigating officer pursuant to Article 9 of the Law.<sup>13</sup>

<sup>13</sup> Recueil des Lois, Volume 1999, page 20.

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

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

- (a) that there is to be an investigation into the case;
- (b) of the nature of the complaint, report or allegation;
- (c) informing him that he is not obliged to say anything concerning the matter, but that he may, if he so desires, make a written or oral statement concerning the matter to the investigating officer or to the Chief Officer;
- (d) informing him that if he makes such a statement it may be used in any subsequent proceedings under this Order;
- (e) informing him that he has the right to seek advice from his staff association; and
- (f) informing him that he has the right to be accompanied by any person other than an interested party, to any meeting, interview or hearing.

**Report on investigation**

**8.** At the end of an investigation, the investigating officer shall -

- (a) in the case of an investigation supervised by the Authority, give a written report to the Authority and send a copy of the report to the Chief Officer and, in the case of a criminal allegation, to the Attorney General;
- (b) in the case of an investigation which is not so supervised, give a written report to the Chief Officer.

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

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

- (a) in the case of a supervised investigation, after Article 11(1) and (2) of the Law<sup>14</sup> have been complied with and any criminal proceedings are concluded; or
- (b) in the case of an unsupervised investigation, after he has received the investigating officer's report and either the Attorney General has informed him that criminal proceedings will not be initiated or such proceedings are concluded.

(2) The Chief Officer shall, in any case, prefer a disciplinary charge where the member concerned has received 2 written warnings about his conduct within the previous 12 months and, in a statement made under Article 7, has admitted that he has committed an offence against discipline.

(3) In a case where no disciplinary charge is preferred against the member concerned, no reference to the case shall be made on his personal record.

### **Withdrawal of disciplinary charge**

10.-(1) At any time before the beginning of a disciplinary hearing, the Chief Officer may direct that any disciplinary charge preferred be withdrawn, unless he has a duty to proceed with it under Article 12(2) or (5) of the Law.<sup>15</sup>

(2) The Chief Officer shall give the member concerned written notice of the withdrawal of a disciplinary charge.

(3) In a case where all disciplinary charges are withdrawn, no reference to the case shall be made on the personal record of the member concerned.

<sup>14</sup> Recueil des Lois, Volume 1999, page 23.

<sup>15</sup> Recueil des Lois, Volume 1999, pages 23 and 24.

*Disciplinary hearings*

**Limitation on punishments**

**11.**-(1) No punishment of a kind described in Article 29 shall be imposed on a member of the Force or port control officer otherwise than upon a finding at a disciplinary hearing that he is guilty of an offence against discipline.

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

**Notice of decision to prefer disciplinary charge**

**12.**-(1) Where the Chief Officer decides or is required to prefer a disciplinary charge he shall ensure that -

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

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

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

- (a) any written statement he may have made to the investigating officer;
- (b) an account of any verbal statement he may have made to the investigating officer; and

- (c) any other relevant statement, document or other material obtained during the course of the investigation, other than the report of the investigating officer prepared pursuant to Article 8.

### **Notice of disciplinary hearing**

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

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

- (a) the opportunity to elect to be legally represented at the hearing; and
- (b) the effect of Article 11(2) and Article 19.

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

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

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

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

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

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

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

**15.** Notwithstanding Article 13(1), a disciplinary hearing may take place less than 21 days after notice is given pursuant to that provision, if the Chief Officer considers it appropriate in the circumstances, where -

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

### **Hearing of disciplinary charges preferred otherwise than at the direction of the Authority**

**16.** Subject to Article 27, a disciplinary charge preferred otherwise than at the direction of the Authority given under Article 12(3) of the Law<sup>16</sup> shall be heard by the Chief Officer.

<sup>16</sup> Recueil des Lois, Volume 1999, page 24.

**Documents to be given to member concerned**

17.-(1) Where the member concerned accepts, in accordance with Article 14, that he has committed an offence against discipline the Chief Officer shall cause a summary of the facts of the case to be prepared and a copy of it given to the member concerned at least 14 days before the disciplinary hearing.

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

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

**Documents to be supplied to presiding authority**

18. The Chief Officer shall supply the presiding authority with -

- (a) a copy of the notice given under Article 12(1); and
- (b) where a summary of facts has been prepared under Article 17, a copy of that summary and of any response from the member concerned.

**Representation at disciplinary hearing**

19.-(1) Where the member concerned has not been given an opportunity to elect to be legally represented or has not so elected, the case against him shall be presented by a member of the Force, other than the Chief Officer, or by a police officer from some other force provided by the chief officer of that force for the purpose.

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

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

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

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

### **Conduct of disciplinary hearing**

**20.**-(1) The presiding authority may from time to time adjourn a disciplinary hearing if it appears to be necessary or expedient to do so for the due hearing of the case.

(2) A decision of a tribunal shall not indicate whether it was taken unanimously or by a majority.

### **Procedure at disciplinary hearing**

**21.**-(1) Except as provided by this Order, the procedure at a disciplinary hearing shall be determined by the presiding authority.

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

- (a) he has admitted the offence; or
- (b) the case is proved by the person presenting it on the balance of probabilities.



(3) Where the member concerned is found guilty of an offence against discipline, the Chief Officer or, in accordance with Article 13(4) of the Law,<sup>17</sup> the chairman of the tribunal after consultation with the other members of the tribunal, as the case may be, shall determine whether, in all the circumstances, it would be reasonable to impose any punishment and, if so, what that punishment should be.

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

**22.**-(1) The Chief Officer shall order the member concerned to attend the disciplinary hearing.

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

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

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

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

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

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

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

(4) Where the member concerned gives evidence then, after the person presenting the case has had an opportunity of cross-examining

<sup>17</sup> Recueil des Lois, Volume 1999, page 25.

him, the presiding officer shall put to the member concerned any questions which the complainant requests should be so put and might have been properly so put by the person presenting the case, or at the presiding officer's discretion, may allow the complainant to put such questions to the member concerned.

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

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

**24.**-(1) Except as provided in Article 23 and the following paragraphs of this Article, a disciplinary hearing shall be in private.

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

(3) Any member of the Authority shall be entitled to attend the hearing of a disciplinary charge which arises from a complaint or from any investigation supervised by the Authority pursuant to Article 9 of the Law.<sup>18</sup>

(4) The member concerned may be accompanied at the hearing by any person other than an interested party.

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

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

**25.** Where it appears to the presiding officer that a witness may, in giving evidence, disclose information which, in the public interest, ought not to be disclosed to a member of the public, he shall require any member of the public, including the complainant and any

<sup>18</sup> Recueil des Lois, Volume 1999, page 20.

person allowed to accompany the complainant or any witness, to withdraw while the evidence is given.

### **Evidence at disciplinary hearing**

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

(2) With the consent of the member concerned, the presiding authority may allow any document to be adduced in evidence during the disciplinary hearing notwithstanding that a copy of it has not been supplied to the member concerned in accordance with Article 12(1).

### **Remission or return of hearing of disciplinary charge**

**27.**-(1) The presiding officer shall remit the disciplinary hearing of a case to the chief officer of some other force who, at his request, has agreed to act as the presiding officer in the matter -

- (a) if the presiding officer is an interested party otherwise than in his capacity as such; or
- (b) if -
  - (i) there would not be available, on a finding that the member concerned is guilty of an offence against discipline, any of the punishments referred to in Article 13(2), because the member concerned was not given notice of the opportunity to elect to be legally represented at the hearing, and
  - (ii) it appears to the presiding officer that those punishments ought to be available and, accordingly, that it would be desirable for there to be another hearing at which the member concerned could, if he so wished, be so represented.

(2) The presiding officer may remit the disciplinary hearing of a case in the manner described in paragraph (1) if, either before or during the hearing, he considers remission appropriate.

(3) Where a case is remitted pursuant to paragraph (1)(b), the presiding officer -

- (a) shall cause written notice to be given to the member concerned inviting him to elect, within 14 days of receipt of the notice, to be legally represented at the disciplinary hearing before the officer to whom the case is remitted; and
- (b) shall not give to the officer to whom the case is remitted any indication of his assessment of the case or of the punishment which might be imposed.

### **Record of disciplinary hearing**

**28.** The presiding officer at a disciplinary hearing shall -

- (a) ensure that a verbatim record of the proceedings at the hearing is taken; and
- (b) if the member concerned so requests within the time limit for any appeal specified in Article 14(3) of the Law<sup>19</sup> and after he has given notice of appeal in accordance with Article 33 of this Order, give him a transcript of the record or a copy of it.

### **Punishments**

**29.**-(1) Subject to Article 11 and, in the case of the hearing of a disciplinary charge preferred at the direction of the Authority, the requirement for consultation in Article 13(4) of the Law,<sup>20</sup> the presiding officer may impose any of the following punishments, that is to say -

- (a) dismissal from the Force or Port Control Unit;
- (b) requirement to resign from the Force or Port Control Unit, as an alternative to dismissal, taking effect either forthwith or on such date as may be specified in the decision;

<sup>19</sup> Recueil des Lois, Volume 1999, page 26.

<sup>20</sup> Recueil des Lois, Volume 1999, page 25.

- (c) reduction in rank;
- (d) reduction in rate of pay;
- (e) fine;
- (f) reprimand;
- (g) caution.

(2) Any punishment imposed under paragraph (1), except a requirement to resign, shall have immediate effect.

(3) The member concerned may be dismissed, required to resign or reduced in rank without his being legally represented if he -

- (a) fails without reasonable cause to give notice in accordance with this Order that he wishes to be legally represented;
- (b) gives notice in accordance with this Order that he does not wish to be legally represented; or
- (c) gives notice in accordance with this Order that he wishes to be legally represented but, at any time, withdraws such notice.

(4) A reduction in rate of pay imposed under paragraph (1) shall not be such as to reduce the member's rate of pay below the minimum of the scale of pay for his rank in the Force or Port Control Unit.

(5) A fine imposed under paragraph (1) shall be such that, if it were recovered by way of deductions from the pay of the member concerned during the period of 13 weeks following the imposition of the punishment, the aggregate sum which might be so deducted in respect of any one week (whether on account of one or more fines) would not exceed one seventh of his weekly pay.

**Personal record to be considered before punishment imposed**

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

- (a) the presiding officer and, in the case of the hearing of a disciplinary charge preferred at the direction of the Authority, the other members of the tribunal -
  - (i) shall have regard to the record of service in the Force or Port Control Unit of the member concerned, as shown on his personal record, and
  - (ii) may receive evidence from any witness whose evidence, in the opinion of the presiding officer and, as the case may be, those members or, in the opinion of the member concerned, would assist in determining the question; and
- (b) the member concerned or his representative shall be given an opportunity to make oral or, if appropriate, written representations concerning the question or to adduce evidence relevant to it.

**Notification of finding**

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

(2) The presiding officer shall, within the 3 days following the conclusion of the disciplinary hearing, cause the member concerned to be given written notice of the decision and any punishment imposed and a summary of the reasons for them.

**Records of disciplinary proceedings**

**32.**-(1) The Chief Officer shall maintain a book of record of disciplinary proceedings brought against members of the Force and port control officers.

(2) The Chief Officer shall enter every case brought against a member of the Force or port control officer in the book of record, together with the finding on the case and a record of the decision in any further proceedings in connection with the case.

### *Appeals*

#### **Initiation of appeal**

**33.**-(1) An appeal may only be made in accordance with Article 14 of the Law<sup>21</sup> and this Order.

(2) The Chief Officer shall be the respondent on an appeal.

(3) Notice of an appeal shall be in writing and given to the Authority within the time specified in Article 14(3) of the Law<sup>22</sup> or allowed pursuant to Article 14(4) of the Law<sup>22</sup> and a copy of it shall be given to the respondent.

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

(5) The Bailiff, when setting up a panel pursuant to Article 14(2) of the Law,<sup>22</sup> shall, at the same time, appoint one of the members as chairman of the panel.

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

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

(a) a copy of the report of the presiding authority who made the decision appealed against;

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

<sup>21</sup> Recueil des Lois, Volume 1999, page 25.

<sup>22</sup> Recueil des Lois, Volume 1999, page 26.

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

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

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

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

(5) Where the panel is satisfied, on the written application of the appellant that, by reason of the special circumstances of the case it is just and right so to do, it may extend the period referred to in paragraph (3).

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

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

### **Procedure at appeal hearing**

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



(2) Where an appeal hearing is held, the respondent shall have the same rights to be represented as are afforded to the appellant by Article 14(5) of the Law.<sup>23</sup>

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

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

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

**36.**-(1) Subject to paragraphs (2) and (4) and Article 39, an appeal hearing shall be held in private.

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

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

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

### **Evidence at appeal hearing**

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

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

<sup>23</sup> Recueil des Lois, Volume 1999, page 26.

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

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

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

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

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

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

(2) The chairman of the panel shall cause notice of the date of the appeal hearing to be given to the complainant at the same time as it is given to the appellant and respondent pursuant to Article 35(1).

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

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

(5) Where it appears to the panel that a witness may, in giving evidence, disclose information which, in the public interest, ought not to

be disclosed to a member of the public, it shall require the complainant and any person allowed to accompany him to withdraw while that evidence is given.

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

(7) Except as provided in paragraph (6), the complainant and any person allowed to accompany him shall neither intervene in nor interrupt the appeal hearing and, if he or such person should behave in a disorderly or abusive manner or otherwise misconduct himself, the chairman of the panel may exclude him from the remainder of the hearing.

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

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

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

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

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

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

**Effect of decision on appeal**

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

(2) Where the effect of the decision of the panel is to reinstate the appellant in the Force or Port Control Unit or in his rank, the appellant shall, for the purpose of reckoning service for pension and, to such extent (if any) as may be specified in the decision, for the purpose of pay, be deemed to have served in the Force or in the Port Control Unit or in his rank, continuously from the date of the decision appealed against to the date of his reinstatement.

(3) Where the effect of the decision of the panel is to reinstate the appellant in the Force or Port Control Unit and he was suspended for a period immediately preceding the date of the decision appealed against, the decision shall deal with the suspension.

*Supplemental*

**Personal record of member concerned**

**42.**-(1) Where, at any hearing, the only punishment imposed on a member of the Force or port control officer is a caution, no reference to the disciplinary charge or punishment shall be made on his personal record.

(2) If a member of the Force or port control officer so requests -

- (a) a punishment of a fine or reprimand may be expunged from his personal record after 3 years free from punishment; and
- (b) any other punishment, other than a requirement to resign or dismissal, may be expunged after 5 years free from punishment.

### **Delegation**

**43.**-(1) Subject to paragraph (2), the Chief Officer may delegate to the Deputy Chief Officer -

- (a) his powers under Articles 4 and 6;
- (b) all or any of his duties under this Order to give any notice, cause any document to be prepared, give a copy of any document to any person or secure the attendance of any person at a hearing; and
- (c) his duties and powers under Articles 9 and 10.

(2) The Chief Officer may not delegate any duty imposed on him by the Law.

(3) In the event of the absence, incapacity, suspension or vacancy in the office of the Deputy Chief Officer, any function delegated to him under paragraph (1) shall be discharged by another member of the Force appointed by the Chief Officer for the purpose.

### **Administration for panel**

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

### **Revocations**

**45.**-(1) Subject to paragraph (2), the enactments specified in column 1 of Schedule 2 to this Order are revoked to the extent specified in column 2 of that Schedule.

(2) The enactments revoked shall continue to have effect in relation to conduct which is the subject of a complaint, report or allegation received before this Order comes into force.

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**Citation and commencement**

**46.** This Order may be cited as the Police (Complaints and Discipline Procedure) (Jersey) Order 2000 and shall come into force on the first day of January 2001.

By Order of the Home Affairs Committee,

**C.M. NEWCOMBE**

*Greffier of the States.*

30th November 2000.

*SCHEDULE 1*

(Article 2(1))

**Discipline Code**

**Interpretation**

1. In this Schedule “officers” means members of the Force and port control officers.

**Honesty and integrity**

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

**Fairness and impartiality**

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

**Politeness and tolerance**

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

**Use of force and abuse of authority**

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

**Performance of duties**

6. Officers should be conscientious and diligent in the performance of their duties. Officers should attend work promptly when rostered for

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duty. If absent through sickness or injury, they should avoid activities likely to retard their return to duty.

### **Lawful orders**

7. The Force is a disciplined body. Unless there is good and sufficient cause to do otherwise, officers must obey all lawful orders and abide by the provisions of the Police (Complaints and Discipline Procedure) (Jersey) Order 2000<sup>24</sup> and, in the case of a member of the Force, the Police Force (General Provisions) (Jersey) Order 1974<sup>25</sup> or, in the case of a port control officer, the Port Control Unit (General Provisions) (Jersey) 1983.<sup>26</sup> Officers should support their colleagues in the execution of their lawful duties, and oppose any improper behaviour, reporting it where appropriate.

### **Confidentiality**

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

### **Criminal offences**

9. Officers must report any proceedings for a criminal offence taken against them. Conviction of a criminal offence may of itself be an offence against discipline.

### **Property**

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

<sup>24</sup> No. 131/2000.

<sup>25</sup> Nos. 6095, 6163, 6504, 6755, 7714 and 8669.

<sup>26</sup> No. 7178.



### **Sobriety**

11. Whilst on duty, officers must be sober. Officers should not consume alcohol when on duty unless specifically authorized to do so or it becomes necessary for the proper discharge of police duty.

### **Appearance**

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

### **General conduct**

13. Whether on or off duty, officers should not behave in a way which is likely to bring discredit upon the Force or Port Control Unit.

#### **Notes:**

- (a) The primary duties of those who hold the office of constable are the protection of life and property, the preservation of the Queen's peace, and the prevention and detection of criminal offences. To fulfil these duties they are granted extraordinary powers; the public and the Force therefore have a right to expect the highest standards of conduct from them.
- (b) This Code sets out the principles which guide officers' conduct. It does not seek to restrict officers' discretion: rather it aims to define the parameters of conduct within which that discretion may be exercised. However, it is important to note that any breach of the principles in this Code may result in the preferment of disciplinary charges which, if proved, in a serious case, could involve dismissal.
- (c) This Code applies to the conduct of officers in all ranks whilst on duty, or whilst off duty if the conduct is serious enough to indicate that an officer is not fit to be such. It will be applied in a reasonable and objective manner. Due regard will be paid to the degree of negligence or deliberate fault and to the nature and circumstances of an

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officer's conduct. Where off-duty conduct is in question, this will be measured against the generally accepted standards of the day.

*SCHEDULE 2***(Article 45(1))****Enactments revoked**

<i>1</i> <i>enactment</i>	<i>2</i> <i>extent of revocation</i>
Police Force (General Provisions) (Jersey) Order 1974 <sup>27</sup>	In Article 1, the definition “the discipline code”.  In Article 8(1), the words “Subject to paragraph (2) of this Article,”.  Article 8(2).  Articles 23 to 44 and the Schedule.
Police Force (General Provisions) (Amendment No. 4) (Jersey) Order 1988 <sup>28</sup>	Articles 2 to 7.
Police Force (General Provisions) (Amendment No. 5) (Jersey) Order 1994 <sup>29</sup>	The whole Order.
Port Control Unit (General Provisions) (Jersey) Order 1983 <sup>30</sup>	Articles 13 to 30 and the Schedule.

<sup>27</sup> No. 6095.<sup>28</sup> No. 7714.<sup>29</sup> No. 8669.<sup>30</sup> No. 7178.