STATES OF JERSEY

DRAFT POLICE (COMPLAINTS AND CONDUCT – HONORARY POLICE) (JERSEY) REGULATIONS 202-

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STATES GREFFE

REPORT

Introduction

If approved, the draft Police (Complaints and Conduct – Honorary Police (Jersey) Regulations 202-) will set rules for investigating complaints against Honorary police officers. It will also cover disciplinary actions and appeals related to these investigations.

Background

There are three over-arching purposes for police disciplinary proceedings:

- To maintain public confidence in, and the reputation of, the police service,
- To uphold high standards in policing and deter misconduct,
- To protect the public

The Police (Complaints and Conduct) (Jersey) Law 2022 (hereafter the 2022 Law) was adopted on 30th March 2022. It is a comprehensive update of Jersey legislation, modernising the approach to police complaints. The Law provides the framework from which detailed rules for managing complaints can be developed. It provides some commonality with other legislation in the British Isles to assist with interoperability if some kind of reciprocal exchange of resources and services (more commonly known as "mutual aid"), is required.

In certain scenarios the Law and the Regulations also provide accountability for former police officers.

Dissatisfaction with the police can be categorised into three main areas (which are detailed in the 2022 Law):

- **Complaints:** Written statements expressing dissatisfaction about an action taken.
- **Conduct Matters:** Issues not subject to a complaint, indicating potential criminal offences or behaviour warranting disciplinary action.
- **Death or Serious Injury (DSI):** Incidents where a detained individual sustains serious injury or dies, and there is an indication that police contact may be directly or indirectly connected.

These Regulations will consolidate procedural and process matters into one set of rules. They will develop the law and outline how complaints, conduct issues, and DSI matters involving all police officers and former officers are handled. This excludes the Chief Officer (CO) and Deputy Chief Officer (DCO), who are covered by separate legislation.

The Regulations are accompanied by the draft Police (Complaints and Conduct) (Jersey) Amendment Regulations 202-, which make consequential amendments, repeal provisions, and establish saving and transitional provisions. These amendments affect various laws and subordinate enactments due to the 2022 Law.

Rationale for new legislation

The objective is to ensure consistent complaint handling standards across the States and Honorary police forces.

The focus is on resolving matters early, reasonably, and proportionately, with an emphasis on learning and development. Any decisions in relation to disciplinary proceedings (see section 4) will apply these standards reasonably, transparently, objectively, proportionately and fairly. The disciplinary procedures align with best practices in other employment fields, recognising the special status of police officers.

Overview

Conduct matters, complaints and DSI may require formal investigation and disciplinary proceedings.

Conduct matter

The threshold for a conduct matter is low, any indication of a criminal offence or behaviour justifying disciplinary proceedings. Not all conduct meets this threshold. If there is no indication of a criminal offence or need for disciplinary proceedings, the conduct can be handled outside the formal regime. For example, the Agreed Resolution of Complaints (Part 2) provides an opportunity to resolve disputes through mediation or arbitration and the Reflective Practice Review Process (Part 7) handles matters needing improvement. Similarly, Unsatisfactory Performance Procedures address performance, attendance, and capability issues within the States of Jersey Police Force (Performance and Attendance) (Jersey) Order 2016.

Complaint

A complaint is a written statement of dissatisfaction about an act by a police officer or designated person. It can be made by those directly affected, witnesses, or representatives. Complaints cannot be made about a Centenier's decision to charge or not charge someone. Relevant effects include loss, damage, distress, or risk.

Standards of professional behaviour

Police officers are currently governed by a discipline code comprising rules, regulations, and ethical standards. This code, previously outlined in the Police (Complaints and Discipline Procedure) (Jersey) Order 2000 has been repealed. In its place, new "standards of professional behaviour" are now detailed in Schedule 2 of the 2002 Law.

Disciplinary proceedings

Disciplinary proceedings refer to disciplinary meetings and are for serious breaches of the standards of professional behaviour, warranting at least a written warning.

Key elements

Application of the legislation

Former police officers

A complaint or conduct matter about a former police officer must relate to something that occurred while that person was still serving and it must be made not more than 12 months since they left the police.

If the person has ceased serving with the police since the time of the conduct in question, then the investigation should continue even though, self-evidently, there will be no jurisdiction to take disciplinary action against the person no longer serving with the police. This enables considerations of institutional learning and public accountability to be addressed. Additionally, they will not be subject to reviews, misconduct appeals or the reflective practice review.

Suspension

The Attorney General can suspend an officer (except a former officer) if they are charged with a crime, reported for misconduct, or receive a relevant complaint. Suspension continues until specific conditions are met or the Attorney General decides to end it.

In each case the Connétable or Chef de Police must be consulted as appropriate.

Initial handling of complaints

Where it is suspected that a criminal offence has been committed the Attorney General must refer it to the Solicitor General (SG).

Complaints about police officers must be submitted in writing to the relevant Connétable, who will record the complaint, preserve evidence, and inform the Attorney General and the Commission. Copies are given to the complainant and the officer. The Connétable can withhold the record if it might harm an investigation or is against public interest and must review this decision regularly.

Exceptions to the standard complaint procedures

The AG, with the Commission's concurrence, may handle complaints differently or take no action if certain criteria are met. These include:

- complaints made over 12 months after the incident without a valid reason,
- duplicate complaints,
- anonymous complaints,
- vexatious or oppressive complaints,
- repetitious complaints, fanciful complaints, or
- complaints where investigation is impractical due to communication issues, lack of cooperation, time lapse, or inability to locate involved personnel.

The complainant must be notified in writing of the decision and reasons, unless impractical.

Unknown identity

This Regulation applies to complaints involving unidentified police officers. In such cases, there is no requirement for notification, representation, or determinations by the Attorney General regarding potential criminal offences or disciplinary actions. If the officer's identity is later discovered, the Attorney General may take appropriate action under these Regulations.

Agreed Resolution of Complaints

The "Informal Resolution of Complaints" process is now replaced by the "**Agreed Resolution of Complaints**" for cases where criminal proceedings are not warranted and a formal investigation is unnecessary. This applies when outcomes such as a final written warning, dismissal, or

resignation are unlikely. The procedure will be conducted by the Connétable, and the outcome will be documented and provided to the AG. The complainant retains the right to request a review of the outcome by the Commission. The handling officer must not offer an apology on behalf of the officer unless that officer has agreed. The complainant retains the right to request a review of the outcome by the Commission.

Initial Assessment

The AG will make a preliminary assessment of any complaint, report or allegation that does not fall within an Agreed Resolution of Complaints and decide whether it would amount to:

- Misconduct,
- Gross Misconduct or
- Neither

Where it is not deemed to be misconduct or gross misconduct, the Attorney General must then consider whether it amounts to:

- Practice requiring improvement (which would be dealt with as a reflective practice review- please see below) or
- Performance matter or
- Take no action.

If the Attorney General assesses that the conduct, if proved, would amount to misconduct or gross misconduct, the matter must be investigated.

If a complainant requests a review of the decision, the Commission will notify the Attorney General and may request more information. The Commission will assess the reasonableness of the determination and, if unreasonable, ask the Attorney General to reconsider. The Commission will inform all parties of its decision and may withhold notification if it could prejudice investigations or public interest.

See also Reflective Practice Review Process for other options (Part 7) #

Appointment of Investigator

At the request of the Attorney General the Deputy Chief Officer will appoint an investigator, who must be appropriately qualified and not work with the individual investigated. The Commission must approve the appointment and may recommend an investigator from another jurisdiction.

Investigation

The investigation will gather evidence to establish facts and assist the Attorney General in determining if there is a case to answer. The investigator will preserve evidence until the investigation concludes and provide progress updates at least every 4 weeks. Additionally, the Deputy Chief Officer must also provide progress reports to the Commission if it is not completed within 12 months.

Upon receiving the investigator's report and consulting with the Commission, if the Attorney General decides that the police officer has a case to answer for misconduct or gross misconduct he/she will refer the matter to a misconduct meeting.

The Commission must supervise misconduct investigations and investigations of complaints or conduct matters where death or serious injury has occurred. It may choose to supervise

investigations into certain criminal offences and other matters if it considers that it would be in the public interest to do so.

Misconduct Meeting (Chair: AG or suitably qualified person appointed by the AG)

For members of the Honorary Police, whether it's misconduct or gross misconduct, it is always referred to a misconduct meeting.

During a disciplinary meeting, the Commission can either submit written representations or have a member attend and make representations if invited by the determining person. The investigator or a nominated person, who has sufficient knowledge of the case, must attend the meeting to answer questions if requested by the determining person.

Following a disciplinary meeting, if a police officer's conduct is found to constitute **misconduct**, the determining officer may impose one of the following sanctions:

- Written warning
- Final written warning
- Dismissal (with or without notice), or a requirement to resign as an alternative to dismissal, **if a final written warning was in effect at the time of the preliminary assessment**

If the conduct is found to constitute gross **misconduct**, the available sanctions are:

- Written warning
- Final written warning
- Dismissal (with or without notice)
- Requirement to resign as an alternative to dismissal

However, where **gross misconduct** is found **and** a final written warning was in effect at the time of the preliminary assessment, the determining officer **must** impose either:

- Dismissal (with or without notice), or
- Requirement to resign as an alternative to dismissal

Appeals

Appeals against findings must be made to the Commission within 28 days (extensions are possible).

The Commission must work with the Judicial Greffe to set up an appeal panel with a Judge of the Royal Court and 2 Jurats.

Reflective Practice Review

Evidence from this process will not be admissible in later proceedings. The reviewer will be either the relevant Connétable or Chef de Police and the Commission has the authority to review assessments and supervise investigations.

Process:

Referral: Reviewer provides details and invites the officer to respond within 5 days.

Fact-Finding: Reasonable and relevant enquiries. New evidence is referred back to the Attorney General.

Discussion: Reviewer and officer discuss improvements and key lessons.

Report: Summarises issues, actions, and lessons. This will be shared with the Attorney General and reviewed over 12 months.

Non-Engagement: Reviewer may refer the issue to the Attorney General if the officer fails to engage.

Timescales

This legislation will come into force by Commencement Act 202-.

Financial and staffing implications

The new arrangements for the management of complaints and conduct are not materially more demanding than the current system, so there are no finance and staffing implications.

Data protection implications

A threshold assessment was completed which did not indicate any new high risk to rights and freedoms in relation to personal data in the draft legislation.

Children's Rights Impact Assessment

A Children's Rights Impact Assessment (CRIA) has been prepared in relation to this proposition and is available to read on the States Assembly website.

EXPLANATORY NOTE

The draft Police (Complaints and Conduct – Honorary Police) (Jersey) Regulations 202-, if passed, will provide for –

- the conduct of investigations into complaints against, and conduct matters involving, members of the Honorary Police;
- disciplinary proceedings against members of the Honorary Police; and
- for appeals against a finding of misconduct or gross misconduct in disciplinary proceedings or a disciplinary sanction.

These Regulations will be made under the Police (Complaints and Conduct) (Jersey) Law 2022 (the "Law") and will come into force on the same day as that Law. They will replace the Police (Honorary Police Complaints and Discipline Procedure) (Jersey) Regulations 2000.

Part 1 (*Regulations 1* to *6*) contains interpretation and preliminary provisions.

Regulation 1 defines certain words and expressions used throughout these Regulations. Of particular note are the definitions of "misconduct", which means a contravention of the Professional Standards (as defined in the Law) that is so serious as to justify a disciplinary sanction, "gross misconduct", which means a contravention of the Professional Standards that is so serious that it justifies dismissal and "determining person", which means the Attorney General or a person appointed under *Regulation 25* to conduct a disciplinary meeting. Words and expressions used in these Regulations that are not expressly defined take their definitions from the Law or use their natural meanings.

Regulation 2 sets out the scope of these Regulations.

Regulation 3 enables the Attorney General to delegate powers and duties conferred under the Law or these Regulations to certain Crown officers or legally qualified people, provided there is no concern about their ability to act impartially in the exercise of those delegated functions.

Regulation 4 sets out how these Regulations operate in the case of a person who has stopped serving as a member of the Honorary Police ("former police officer") if the complaint, conduct matter or death or serious injury matter ("DSI") (those expressions all being defined in the Law) occurred either before they stopped serving, or a complaint was made not more than 12 months after they stopped serving. These Regulations apply subject to certain modifications and exclusions, and to the Attorney General determining that it is reasonable and proportionate for disciplinary proceedings (as defined in *Regulation 1*) to take place. If, in the case of a former police officer whose case is referred to a disciplinary meeting and the determining person finds that the former police officer's conduct amounted to misconduct or gross misconduct, the determining person must decide whether the former police officer would have been dismissed or required to resign as an alternative to dismissal, had they not stopped serving.

Regulation 5 sets out the circumstances in which members of the Honorary Police may be suspended and describes when a period of suspension comes to an end.

Regulation 6 requires the Attorney General to refer cases to the Solicitor General if an investigation into a complaint, conduct matter or DSI matter gives rise to a reasonable inference that a police officer may have committed a criminal offence. If a referral is made, the Attorney General may suspend or postpone disciplinary proceedings until the Solicitor General advises that no criminal proceedings are to be brought or have been concluded.

Part 2 (*Regulations 7* to *11*) contains provisions dealing with the initial handling of complaints.

Regulation 7 sets out various record-keeping and information-giving procedures to be followed by the relevant Connétable when a complaint is first submitted. If it is in the public interest to do so, the Commission has the power to refer matters to the relevant Connétable to be treated as if they are complaints. Copies of the record of the complaint must be supplied to the complainant and the individual complained against. Particulars of the complaint must also be provided to the Attorney General and the Commission.

Regulation 8 enables the Attorney General, with the agreement of the Commission, to handle certain descriptions of complaint otherwise than in accordance with these Regulations. For a complaint to qualify under this Regulation it must fall within 1 of the listed descriptions of complaints. For example, a complaint submitted more than 12 months since the incident with no good reason or that is likely to cause injustice. Other examples include complaints that are vexatious, oppressive, repetitious or fanciful (as defined in this Regulation), or if it would not be reasonably practicable to complete the investigation of the complaint or other procedures under these Regulations.

Regulation 9 requires the Attorney General, after they have been provided with particulars of the complaint, to determine whether it can be resolved by agreed resolution without the need to initiate a formal investigation. The agreed resolution procedure can be initiated only if the Attorney General is satisfied that the conduct complained of would not justify the bringing of criminal proceedings or disciplinary proceedings or, if disciplinary proceedings were brought, would be unlikely to result in a final written warning, dismissal or a requirement to resign from the Honorary Police. If the Attorney General decides that the matter can proceed by way of agreed resolution, they must direct the relevant Connétable, or if they have to recuse themselves, a Connétable from another parish, to handle the agreed resolution. The outcome of the agreed resolution must be recorded and copies provided to the complainant, an interested person and the person complained against. The complainant must also be notified of their right to request the Commission to review the outcome.

Regulation 10 sets out the process the Commission must follow upon receipt of a request to review the outcome of the agreed resolution under *Regulation 9,* and the subsequent notification of its determination of the review. If the Commission finds that the outcome is not reasonable, it must request the Attorney General to make a preliminary assessment under *Regulation 12*, and the Attorney General must give due regard to that request.

Regulation 11 sets out the procedures the Attorney General must follow if they receive written notification or an indication that a complainant wishes to withdraw their complaint. Despite this, the Attorney General may nevertheless determine whether it is in the public interest for the complaint to be treated as a conduct matter instead and assessed under *Regulation 12* to determine whether, if proved, it would amount to misconduct, gross misconduct or neither.

Part 3 (*Regulations 12* to *21*) contains provisions dealing with investigations into misconduct ("misconduct investigations").

Regulation 12 provides for the making of a preliminary assessment by the Attorney General as to whether the conduct that is the subject matter of the complaint, report or allegation, if proved, would amount to misconduct or gross misconduct or neither. This assessment occurs if the case relates to a report or allegation about a conduct matter or falls outside the agreed resolution procedure. If the assessment concludes that the conduct, if proved, would amount to misconduct or gross misconduct, the matter must be investigated and, at the Attorney General's request, the Deputy Chief Officer must appoint an investigator under *Regulation 14.* If the assessment concludes that the conduct, if proved, would amount to neither misconduct nor gross misconduct, the Attorney General must then assess whether the conduct, if proved, would amount to practice requiring improvement. If it would, the matter must be dealt with under the reflective practice review process under *Part 7*. If it would not, the Attorney General must determine whether to refer the matter to be dealt with as a performance matter, or to take no further action. This Regulation also contains notification requirements, including the giving of reasons, an

explanation of action to be taken and the complainant's right to request the Commission to review the Attorney General's assessment that the case does not amount to misconduct or gross misconduct, or the Attorney General's decision to deal with the matter as a performance matter or take no further action.

Regulation 13 sets out the notification obligations and Commission's functions in relation to its review of the Attorney General's assessment and determinations under *Regulation 12.* If the Commission decides the assessment or determination was not reasonable in all the circumstances of the case, it must request a reconsideration by the Attorney General. The Attorney General must have due regard to that request.

Regulation 14 provides for the appointment of an investigator if an investigation is required under *Regulation 12.* Those eligible for appointment are described in this Regulation.

Regulation 15 sets out the purposes of a misconduct investigation and duty on the investigator to obtain and preserve evidence relating to the complaint or conduct matter.

Regulation 16 describes the investigator's obligations to give written notice, their content, including the fact that an investigation is to take place, the investigator's identity and an obligation to give progress notifications every 4 weeks.

Regulation 17 provides that a police officer has 10 working days from receiving a written notice under *Regulation 16* to provide the investigator with a written or oral statement and any relevant documents.

Regulation 18 provides for certain information on progress to be provided to the Commission if an investigation is not completed within 12 months of the complaint first coming to the attention of the relevant Connétable, and then at 6 monthly intervals.

Regulation 19 sets out the procedural requirements for arranging, conducting and recording interviews of the police officer by the investigator. The investigator must also give a complainant an opportunity to provide a written or oral statement.

Regulation 20 requires that on completion of the investigation, the investigator submits a written report to the Attorney General copied to the Commission. This Regulation sets out what the report must contain including an indication as to whether or not there is a case to answer in respect of misconduct or gross misconduct. If, in the investigator's view, there is no case to answer, the report must indicate the investigator's opinion as to whether the matter should be referred to be dealt with as a performance matter, or under the reflective practice review process.

Regulation 21 sets out the Attorney General's decision-making process following receipt of the investigator's report. A finding of a case to answer in respect of misconduct or gross misconduct must be referred to a disciplinary meeting, but not before the Commission has submitted a statement to the Attorney General under *Regulation 23*. If there is a finding that there is no case to answer in respect of misconduct or gross misconduct, the Attorney General may take no further action or refer the matter to be dealt with as a performance matter, or under the reflective practice review process.

Part 4 (*Regulations 22* to *24*) contains provisions dealing with the supervision of investigations by the Commission.

Regulation 22 provides that the Commission –

(a) must supervise investigations of misconduct under *Part 3* and investigations of complaints or conduct matters where death or serious injury has occurred; and

(b) may supervise the investigation of specified conduct matters notified under *Regulation 58*.

The Commission may choose to supervise investigations into other matters if it appears to be desirable in the public interest to supervise them. If a complaint comes to the attention of the Commission, it may treat the complaint has having been made directly to the Commission. The

Commission is however required to notify the Attorney General of the complaint, after which the process for handling the complaint is dealt with in accordance with the procedures under *Parts 2* and *3*.

Regulation 23 sets out the involvement of the Commission in investigations that it supervises. It must prepare a statement, after considering the investigation report, confirming whether the investigation was conducted to its satisfaction and give reasons for its determination. The Commission may also make recommendations to the Attorney General and relevant Connétable concerning improvements to policy or practice arising from the investigation. If those recommendations are not accepted, the Commission has, under Article 9(3) of the Law, power to request the Attorney General or relevant Connétable to reconsider.

Regulation 24 enables the Commission to abandon its supervision of an investigation if it appears that there is no cause to continue to supervise it. The Commission must give notice, with reasons, of its decision to abandon the supervision.

Part 5 (*Regulations 25* to *37*) contain provisions dealing with disciplinary meetings.

Regulation 25 provides for disciplinary meetings to be conducted by the Attorney General or a suitably qualified person appointed by the Attorney General.

Regulation 26 sets out the notification requirements in advance of disciplinary meetings and the documents that must be supplied to the police officer.

Regulation 27 sets out the procedure the police officer must follow upon receipt of the documents given under *Regulation 26* including the process of providing lists of proposed witnesses and details of the evidence they are able to give and agreeing a proposed witness list between the police officer and the Attorney General.

Regulation 28 sets out the procedures to be followed in relation to the calling of witnesses to attend a disciplinary meeting.

Regulation 29 sets out the timescales within which disciplinary meetings are to take place. The determining person may extend timescales fixed by this Regulation and there is also provision for agreement of a different timescale with the police officer.

Regulation 30 provides that the determining person determines the procedures to be followed at a disciplinary meeting. The Regulation provides for the conduct of the hearing, including audio and written recording, the giving or admitting of oral or written evidence, questioning and making of representations, and adjournment.

Regulation 31 requires a police officer to attend their disciplinary meeting unless there are reasonable grounds for being unable to attend. If that is the case, the police officer may be permitted to participate via video link or other suitable means. If the police officer does not attend the proceedings or attends via video link, they may be represented by their police friend or, if gross misconduct is alleged, by their legal representative.

Regulation 32 provides that disciplinary meetings must be held in private. However, if the disciplinary meeting arises out of a complaint, the determining person may permit the complainant to attend, and the Commission may nominate a person to attend as an observer. At the request of the Commission, the disciplinary meeting may be heard in public if it considers that the gravity of the case or other exceptional circumstances mean it would be in the public interest to do so. The determining person has a duty to consult others before directing a public hearing. Circumstances in which third parties may attend are provided for, including the imposition of conditions on their attendance.

Regulation 33 provides that at a disciplinary meeting the Commission may make written representations or 1 of its members may, at the invitation of the determining person, attend to make oral representations. The investigator or a nominated person (someone with sufficient knowledge of the investigation of the case to be able to assist) must attend to answer questions when requested to do so by the determining person.

Regulation 34 enables the determining person to exclude third-party attendees from part of the disciplinary meeting if it appears to them that a person might, in giving evidence, disclose information of a type described in this Regulation that should not be disclosed to third parties.

Regulation 35 sets out the process the determining person must follow in deciding whether the police officer's conduct amounts to misconduct, gross misconduct or neither, and the factors that must be considered if a disciplinary sanction is being considered. A finding of misconduct or gross misconduct must be made on the balance of probabilities or based on admission by the police officer.

Regulation 36 sets out the range of disciplinary sanctions that may be ordered against a police officer whose conduct is found to amount to misconduct or gross misconduct.

Regulation 37 sets out the notification requirements about the outcome of a disciplinary meeting. The contents of the written notification are provided for, including an explanation of the right of appeal. The Attorney General may publish the contents of the written notification, subject to the harm test as defined in *Regulation 60*.

Part 6 (*Regulations 38* to *46*) contains provisions dealing with the process for requests for reviews and appeals.

Regulation 38 sets out the various procedural requirements, including timescales, attaching to a right of review or appeal under these Regulations.

Regulation 39 sets out a police officer's and complainant's right of appeal against a finding of misconduct or gross misconduct or a disciplinary sanction ordered in disciplinary proceedings. It also sets out further procedural requirements in addition to those in *Regulation 38*. An appeal may be made on 1 or more of the following grounds –

- the finding, or no finding, of misconduct or gross misconduct, or the disciplinary sanction ordered, is unreasonable;
- that there is evidence that could not reasonably have been considered at the disciplinary proceedings that could have materially affected the finding, or the decision to order a particular disciplinary sanction; or
- that there was a serious breach of the procedures set out in the Regulations that could have materially affected materially the finding or decision.

Regulation 40 sets out the steps the Commission must take upon receipt of an appeal, including notification of the appeal to specified people and request that the Judicial Greffier establish an appeal panel composed of a judge of the Royal Court and 2 Jurats.

Regulation 41 provides for the Judicial Greffier to be the clerk to an appeal panel.

Regulation 42 provides for how an appeal is to be decided. First, the appeal panel must determine whether the appeal sets out arguable grounds of appeal. If it does not, the appeal must be dismissed. If it does, and the police officer has requested it, the appeal must be determined by an appeal hearing. Otherwise, the appeal can be determined without a hearing on the basis of the material specified in this Regulation. This Regulation makes further provision about the notification of an appeal hearing and who is permitted to attend and make oral representations.

Regulation 43 sets out the approach to determining the appeal. The panel must determine whether each ground of appeal is established and confirm or quash the original finding or disciplinary sanction ordered, order a less severe disciplinary sanction, substitute an original finding or disciplinary sanction, or remit a misconduct allegation back to the original disciplinary person if there is evidence that could have materially affected the outcome of the original disciplinary proceedings. The appeal is decided by simple majority, which must include the judge of the Royal Court. The appeal panel must prepare a written statement of its decision with reasons, and the Regulation provides for the timescale for its preparation and notification to specified people.

Regulation 44 provides that if an appeal is successful, the decision of the appeal panel replaces the original decision as at the date that original decision was made.

Regulation 45 sets out the procedure to be followed if an appeal panel orders a misconduct allegation to be remitted back to the determining person who conducted the disciplinary meeting.

Regulation 46 permits the appeal panel to require a party to pay the whole or any part of the costs of another party to the appeal and sets out the principles that apply.

Part 7 (*Regulations 47* to *53*) deals with the reflective practice review process.

Regulation 47 defines the words used in *Part 7* and, in particular, describes who is eligible to conduct the reflective practice review process (the "reviewer"). A "participating officer" means the police officer who is subject to the process.

Regulation 48 states that that the reflective practice review process consists of three parts –

(a) the fact-finding stage;

(b) the discussion stage; and

(c) the production of a reflective review development report.

The reflective practice review process does not prejudice application for promotion.

Regulation 49 describes the initial steps to be taken by the reviewer upon a referral to the reflective practice review process. The participating officer must give an account of the matter that has been referred for review.

Regulation 50 sets out that the purpose of the fact-finding stage is to establish the facts of the matter subject to the review process and provides that enquiries by the reviewer must be reasonable, proportionate and relevant to that purpose. This stage may result in the matter being referred for a further assessment under *Regulation 12* (*preliminary assessment*) if substantial evidence becomes available that was not available to the Attorney General at that preliminary stage.

Regulation 51 deals with the discussion stage. The stage must include a discussion of the practice requiring improvement, related circumstances that have been identified, and the identification of lessons to be learnt by the participating officer and line manager to prevent a reoccurrence of the conduct that was the subject matter of the referral.

Regulation 52 contains provisions related to the production of the reflective practice review development report. This Regulation sets out what the report should contain, the role of the Attorney General in ensuring that lessons identified for the person supervising the participating officer are addressed, and the requirement for the report to be considered as part of performance and development reviews in the following year.

Regulation 53 provides that a failure by the participating officer to engage with the reflective practice review process may trigger a referral to the Attorney General by the reviewer under *Regulation 12* (*preliminary assessment*).

Part 8 (*Regulations 54* to *61*) contains miscellaneous provisions.

Regulation 54 provides for how written notices or other documents required under the Regulations are to be served on a police officer.

Regulation 55 provides for who may act as a police friend and what that police friend may do during misconduct investigations and proceedings under these Regulations.

Regulation 56 provides that a police officer is entitled to legal representation at a disciplinary hearing or appeal hearing. The police officer must give notice of their intention to be legally represented not less than 10 working days before the date of the hearing. Unless the police officer can prove they had a reasonable excuse not to have given the required notice, they will lose the right to legal representation.

Regulation 57 provides that, for the purposes of Article 22(1)(c) (Regulations as to procedures) of the Law, a repetitious conduct matter is not required to be recorded by the Attorney General in accordance with Article 16(2) (duties in relation to register of complaints, conduct and DSI matters) of the Law. This Regulation describes what constitutes "repetitious".

Regulation 58 specifies, for the purposes of Article 22(1)(d) of the Law, the types of conduct matters that the Attorney General must notify to the Commission without delay.

Regulation 59 sets out how the Attorney General must perform their duties under Articles 19(3) (duty to keep complainant, police officer or designated person informed) and 20(10) (duty to provide information to other people) of the Law.

Regulation 60 sets out the harm test, which provides certain exceptions to the duties mentioned in Articles 19(1) and 20(7) of the Law and to which some provisions of these Regulations are also subject.

Regulation 61 gives the title by which these Regulations may be cited and for them to come into force on the same day as the Law.

Jersey

DRAFT POLICE (COMPLAINTS AND CONDUCT – HONORARY POLICE) (JERSEY) REGULATIONS 202-

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Jersey

DRAFT POLICE (COMPLAINTS AND CONDUCT – HONORARY POLICE) (JERSEY) REGULATIONS 202-

Made *[date to be inserted]*

Coming into force *[date to be inserted]*

THE STATES make these Regulations under Articles 8(1A), 9(6), 19(2), (3) and (4), 20(10) and 22 of the Police (Complaints and Conduct) (Jersey) Law 2022 –

PART 1

PRELIMINARY PROVISIONS

1 Interpretation

In these Regulations –

"agreed resolution" has the meaning given in Regulation 9(3);

"appeal" means an appeal under Regulation 39;

"appeal panel" means the panel established under Regulation 40;

"Chef de Police" means the Centenier of a parish appointed by the Connétable of that parish to be the Chef de Police for that parish and includes a Centenier appointed under Regulation 7A of the Honorary Police (Jersey) Regulations 2005;

"determining person" means the Attorney General or a person appointed under Regulation 25 to conduct a disciplinary meeting;

"disciplinary action" means a preliminary assessment and misconduct investigation;

"disciplinary meeting" is a meeting to which the police officer's disciplinary case is referred under Regulation 21(2);

"disciplinary sanction" means a sanction ordered under Regulation 36;

"former police officer" means a police officer who has stopped serving as a member of the Honorary Police;

"gross misconduct" means a contravention of the Professional Standards that is so serious that it justifies dismissal;

"harm test" is explained in Regulation 60;

"interested person" means an individual described in Article 20 of the Law;

"investigator" means a person appointed under Regulation 14;

"Law" means the Police (Complaints and Conduct) (Jersey) Law 2022;

"misconduct" means a contravention of the Professional Standards that is so serious that it justifies a disciplinary sanction;

"misconduct investigation" means an investigation required under Regulation 12(3);

"performance matter" means, in relation to a referral under Regulation 12(7), 20, 21(4)(b), or order under Regulation 43(1)(g) or 45(2)(f), procedures established for improving the standards of performance of police officers who are underperforming in the exercise of their duties;

"police friend" has the meaning given in Regulation 55;

"police officer" means a member of the Honorary Police;

"practice requiring improvement" means conduct not amounting to misconduct or gross misconduct that falls short of the expectations of the public and the Honorary Police, or underperformance;

"preliminary assessment" means an assessment carried out under Regulation 12:

"reflective practice review process" means the process set out in Part 7 for handling practice requiring improvement and described in Regulation 48(1);

"relevant Chef de Police" means the Chef de Police of the parish in which the police officer serves;

"relevant Connétable" means the Connétable of the parish in which the police officer serves.

2 Application

These Regulations apply in relation to complaints relating to, or conduct matters or DSI matters involving, members of the Honorary Police.

3 Delegation of powers or duties

(1) The Attorney General may delegate in writing the powers conferred, or duties imposed, on them under the Law or these Regulations –

(a) to the Solicitor General;

(b) to a Crown Advocate; or

(c) to a legally qualified person or legal services body that the Attorney General considers appropriate.

(2) But the Attorney General must not delegate a power or duty to a person whose involvement in the role could reasonably give rise to a concern that they are not able to act impartially under these Regulations.

(3) In this Regulation –

"Crown Advocate" means an advocate appointed under Article 1 of the Crown Advocates (Jersey) Law 1987;

"legal services body" has the meaning given in Article 1(1) of the The Law Society of Jersey Law 2005.

4 Complaints, conduct matters or DSI matters concerning former police officers

(1) If the circumstances in paragraph (2) apply –

(a) these Regulations apply, subject to paragraph (3), to a former police officer as if they were still a serving police officer; and

(b) a reference in these Regulations only to a police officer is taken to include a former police officer.

(2) The circumstances are that –

(a) a complaint was made, or a conduct matter or DSI matter occurred, before the police officer stopped serving; or

(b) a complaint is made not later than 12 months after the date the police officer stopped serving.

(3) The following table sets out the Regulations that do not apply, or partly apply to a former police officer –

Regulation that does not apply or partly applies	**Application to former police officer**
Regulation 5 (suspension)	No
Regulation 8 (disapplication of procedures under these Regulations)	Yes
Regulation 12 (preliminary assessment)	Yes, apart from an assessment under Regulation 12(5)
Regulation 20 (report on misconduct investigation)	Yes, apart from Regulation 20(2)(d)
Regulation 21 (action by Attorney General in response to misconduct investigation report)	Yes, apart from a referral under Regulation 21(4)(b)
Regulation 36 (disciplinary sanctions)	No
Regulation 37 (notification of finding after disciplinary meeting)	Yes, apart from Regulation 37(1)(c) and (3)(a)
Regulation 39 (appeal from disciplinary meeting)	Yes, apart from Regulation 39(1)(b), (2)(b) and (c) and (3)(c)(iii), and to the extent provided by paragraph (8)
Regulation 42 (appeal procedure)	Yes, apart from Regulation 42(8)(b)
Regulation 43 (appeal panel decision and notification of decision)	Yes, apart from Regulation 43(1)(c), (d), (f) and (g)
Regulation 44 (effect of decision on appeal)	Yes, but only to the extent provided by paragraph (2)
Regulation 45 (procedure if misconduct allegation remitted back to determining person)	Yes, apart from Regulation 45(2)(b), (c), (e) and (f)
Part 7 (reflective practice review process)	No

(4) If the Attorney General determines under Regulation 21(1)(a) or (b) (action by Attorney General in response to misconduct investigation report) that a former police officer has a case to answer in respect of misconduct or gross misconduct, the case

must not be referred to a disciplinary meeting unless the Attorney General determines that the referral is reasonable and proportionate.

(5) Paragraph (6) applies if –

(a) the case is referred to a disciplinary meeting; and

(b) the determining person finds that the conduct of the former police officer amounted to misconduct or gross misconduct.

(6) The determining person must decide whether the former police officer would have been dismissed, or required to resign as an alternative to dismissal, had they not left the Honorary Police.

(7) The Attorney General may revise a determination referred to in paragraph (4) at any time before the start of the disciplinary meeting.

5 Suspension

(1) The Attorney General may suspend a police officer if 1 of the following events occurs –

(a) the police officer is charged with a criminal offence;

(b) the Attorney General becomes aware of a complaint, report or allegation that indicates that the police officer may have contravened the Professional Standards, regardless of whether the contravention has been investigated; or

(c) the Attorney General receives, in respect of the police officer, a complaint, report or allegation described in sub-paragraph (b).

(2) Before suspending a police officer, the Attorney General must first consult the relevant Connétable and relevant Chef de Police, unless the Chef de Police is the police officer concerned.

(3) A suspension continues until –

(a) the occurrence of an event described in paragraph (4); or

(b) the Attorney General decides to end the suspension.

(4) The Attorney General may end a suspension –

(a) when the Attorney General decides under Regulation 21(4)(a) to take no further action;

(b) when the Attorney General or the determining person is notified under Regulation 37 of the finding that the police officer's conduct did not amount to misconduct or gross misconduct;

(c) when the time limit for making a request under Regulation 38(2) for an appeal under Regulation 39 has expired; or

(d) when the Attorney General is given a copy of the written statement of the appeal panel's decision under Regulation 43.

(5) Throughout the period that a police officer is suspended, they must not, without the Attorney General's consent –

(a) give notice of resignation; or

(b) resign under a notice of resignation given before the suspension.

(6) If a suspended police officer is required to resign under Regulation 36, the police officer must remain suspended during the period of the notice given by the determining person.

6 Alleged offences

(1) If the Attorney General considers that it can be reasonably inferred that a police officer may have committed a criminal offence in respect of a complaint, conduct matter or DSI matter, the Attorney General must refer the matter to the Solicitor General.

(2) If paragraph (1) applies, the Attorney General may, until 1 of the events specified in paragraph (3) occurs –

(a) suspend or postpone disciplinary action;

(b) suspend or postpone the disciplinary meeting; or

(c) if the Attorney General is not the determining person, request the disciplinary person to suspend or postpone the disciplinary meeting.

(3) The events mentioned in paragraph (2) are if the Solicitor General advises that –

(a) criminal proceedings are not to be brought in respect of a complaint, conduct matter or DSI matter; or

(b) criminal proceedings that have been brought are concluded.

(4) The Attorney General must inform the police officer –

(a) of the suspension or postponement of disciplinary action or the disciplinary meeting; and

(b) that disciplinary action or the disciplinary meeting may be resumed regardless of –

(i) whether criminal proceedings are brought against the police officer; and

(ii) the outcome of those criminal proceedings.

(5) The Solicitor General must –

(a) acknowledge receipt of the referral; and

(b) keep the Attorney General and the Commission informed about its progress.

(6) The Attorney General must, unless the harm test requires otherwise, keep the police officer and complainant informed about the progress of the referral.

PART 2

INITIAL HANDLING OF COMPLAINTS

7 Initial steps on receipt of complaint

(1) A complaint that relates to a police officer must be submitted in writing to the relevant Connétable.

(2) The Commission may, if it determines that it is in the public interest to do so, bring a matter to the attention of the relevant Connétable to be treated as if it were a complaint.

(3) The relevant Connétable must –

(a) record the complaint in accordance with Article 16(2) of the Law;

(b) supply a copy of the record made of the complaint to –

(i) the complainant; and

(ii) the police officer complained against (if known); and

(c) in accordance with Article 15 of the Law, take steps that appear to the relevant Connétable to be appropriate for the purpose of obtaining or preserving evidence relating to the conduct complained about.

(4) The relevant Connétable must provide particulars of the complaint to the Attorney General and the Commission.

(5) A copy of the record of the complaint supplied under paragraph (3)(c) may be in a form that keeps anonymous the identity of the complainant or another person.

(6) The relevant Connétable may decide not to supply a copy of the record if they believe that it might prejudice a criminal investigation or pending criminal proceedings or would otherwise be contrary to the public interest.

(7) But paragraph (6) does not apply if a copy of the record is required to be disclosed for the purposes of another enactment.

(8) If the relevant Connétable decides not to supply a copy of the record, they must keep that decision under regular review.

8 Disapplication of procedures under these Regulations

(1) If, following receipt of the particulars of the complaint, the Attorney General considers that a complaint fits a description in paragraph (2), the Attorney General may, if the Commission agrees –

(a) handle that complaint otherwise than in accordance with these Regulations; or

(b) take no action in relation to it.

(2) The description of complaints referred to in paragraph (1) are as follows –

(a) more than 12 months have elapsed between the incident, or the latest incident giving rise to the complaint, and the making of the complaint and –

(i) no good reason for the delay has been given; or

(ii) it is likely that the delay would cause an injustice;

(b) the matter is already the subject of a complaint made by, or on behalf of, the same complainant;

(c) the complaint does not disclose the name and address of the complainant nor that of an interested person and it is not reasonably practicable to ascertain a name or address;

(d) the identity of the police officer whose conduct is the subject of the complaint is unknown;

(e) the complaint is vexatious, oppressive or otherwise an abuse of the procedures for dealing with complaints;

(f) the complaint is repetitious;

(g) the complaint is fanciful;

(h) it is not reasonably practicable to complete an investigation of the complaint or other procedures under these Regulations.

(3) For the purposes of paragraph (2)(f), a complaint is repetitious if any of the following apply –

(a) it concerns substantially the same complaint as a previous complaint made by, or on behalf of, the same complainant;

(b) it contains no fresh allegations that significantly affect the account of the conduct complained about;

(c) no fresh evidence, being evidence that was not reasonably available at the time the previous complaint was made, is tendered in support of it;

(d) with regard to the previous complaint –

(i) the complaint was resolved by agreed resolution;

(ii) the Commission previously agreed with the Attorney General under this Regulation that the complaint may be handled otherwise than in accordance with these Regulations, or that no action needed be taken in relation to it; or

(iii) the complainant gave a notification under Regulation 11 (withdrawn complaints).

(4) For the purposes of paragraph (2)(g), a complaint is fanciful if no reasonable person could lend credence to it.

(5) For the purposes of paragraph (2)(h), it is not reasonably practicable to complete the investigation of a complaint or other procedures under these Regulations –

(a) if it is not reasonably practicable to communicate with the complainant or a person acting on the complainant's behalf; or

(b) because –

(i) the complainant has refused or failed to make a statement or provide other reasonable assistance for the purposes of the investigation;

(ii) of the lapse of time since the event that is the subject matter of the complaint;

(iii) reasonable enquiries to determine the police officer's last known address or whereabouts have been unsuccessful; or

(iv) reasonable enquiries to ascertain the identity of the police officer whose conduct is the subject of the complaint have been unsuccessful.

(6) Unless it is not reasonably practicable to do so, the Attorney General must write to the complainant at their last known address notifying the complainant that, with the agreement of the Commission, the complaint is to be handled otherwise than in accordance with these Regulations, or that no action is to be taken in relation to it, subject to paragraph (9).

(7) The written notification must set out the Attorney General's reasons.

(8) Despite paragraph (5)(b)(iii) and (iv), the investigation of a complaint, or the conduct of other procedures under these Regulations, may resume if the police officer's last known address is, or whereabouts are, or their identity is, subsequently ascertained, and it is reasonably practicable to complete the investigation despite the lapse of time since the event that is the subject matter of the complaint.

(9) If the investigation of a complaint is, or other procedures are, resumed and completed, a notification given under paragraph (6) does not prevent the Attorney General from handling the complaint in accordance with these Regulations.

(10) In this Regulation, a reference to action not being reasonably practicable includes action that does not appear reasonably practicable to take within a period that is reasonable in all the circumstances of the case.

9 Agreed resolution of complaints

(1) This Regulation applies if the Attorney General is provided with the particulars of a complaint under Regulation 7(4).

(2) The Attorney General must determine whether the complaint may be resolved by agreed resolution.

(3) For the purposes of these Regulations, "agreed resolution" means the handling of a complaint in accordance with a procedure, approved by the Attorney General, that does not involve a misconduct investigation.

(4) A determination that a complaint can be resolved by agreed resolution must not be made unless the Attorney General is satisfied that the conduct complained about (if proved) –

(a) would not justify bringing criminal proceedings or disciplinary action against the police officer; or

(b) would be unlikely to result –

(i) in a final written warning;

(ii) in dismissal; or

(iii) in a requirement to resign from the Honorary Police.

(5) If the Attorney General determines that the complaint can be resolved by agreed resolution, they must direct the relevant Connétable to handle the agreed resolution of the complaint.

(6) If the relevant Connétable declares an interest in the complaint or it involves the Chef de Police, the Attorney General must direct a Connétable from another parish to handle the agreed resolution of the complaint.

(7) If it appears to the Connétable handling the complaint that the complaint has already been satisfactorily dealt with by the time they come to deal with it, they may, subject to any representation made by the complainant, treat the complaint as having been resolved by agreed resolution.

(8) The Connétable handling the complaint must, as soon as reasonably practicable, give the complainant and the police officer complained against an opportunity to comment on the complaint.

(9) Unless the police officer complained against has agreed to apologise, the Connétable handling the complaint must not, for the purpose of the agreed resolution of a complaint, tender on behalf of the police officer an apology for that officer's conduct.

(10) When the procedure for agreed resolution has reached its conclusion, the Connétable handling the complaint must, as soon as reasonably practicable, record the outcome and provide a copy of the record of the outcome ("record") to the Attorney General.

(11) As soon as reasonably practicable after receiving the copy of the record, the Attorney General must provide a copy of it, together with an explanation of whether further action under these Regulations is proposed, to –

(a) the complainant;

(b) any interested person; and

(c) the police officer complained against.

(12) At the time of providing a copy of the record, the Attorney General must also notify the complainant in writing –

(a) of the complainant's right to request the Commission to review the outcome of the agreed resolution under Regulation 10; and

(b) of the requirements specified in Regulation 38(2) (general provisions about reviews and appeals) for requesting a review.

10 Review of outcome of agreed resolution procedure

(1) If a complainant requests the Commission to review the outcome of a complaint dealt with by agreed resolution, the Commission must –

(a) as soon as reasonably practicable, notify the Attorney General of the request for a review, and may ask the Attorney General to provide information the Commission considers necessary for the purposes of the review;

(b) determine, as soon as reasonably practicable, whether the outcome of the agreed resolution is a reasonable outcome; and

(c) if it determines that the outcome is not reasonable in all the circumstances of the case, request the Attorney General to carry out a preliminary assessment.

(2) The Commission must notify the Attorney General, the complainant and the police officer complained against of its determination, with reasons.

(3) The Attorney General must give due regard to a request made under paragraph (1)(c).

(4) The Commission may decide not to notify the police officer complained against of a request made under paragraph (1)(c) if it is of the opinion that to do so might prejudice a criminal investigation or pending criminal proceedings or would otherwise be contrary to the public interest.

11 Withdrawn complaints

(1) Paragraph (2) applies if the Attorney General receives written notification signed by a complainant, or by a person acting on the complainant's behalf, to the effect –

(a) that the complainant withdraws the complaint; or

(b) that the complainant does not wish further steps to be taken in respect of the complaint.

(2) The Attorney General must immediately record the withdrawal, or the fact that the complainant does not wish further steps to be taken and, unless paragraph (5) applies, these Regulations cease to apply.

(3) If a complainant indicates that they wish to withdraw the complaint or do not wish further steps to be taken in relation to the complaint but fails to provide a written notification to that effect signed by the complainant, or on the complainant's behalf, the Attorney General must write to the complainant to seek confirmation of the complainant's wishes.

(4) If the complainant fails to reply within a period of 28 days beginning with the day after the date of the Attorney General's written communication to the complainant under paragraph (3), the Attorney General must –

(a) treat the indication given under paragraph (3) as though it had been received in writing signed by the complainant; and

(b) record the complaint as withdrawn, or that the complainant does not wish further steps to be taken.

(5) Despite receiving a written notification or treating an indication as if it had been received in writing, the Attorney General may nevertheless determine that it is in the

public interest for the complaint to be treated as a conduct matter instead, and assess the conduct under Regulation 12.

(6) The Attorney General must, unless the harm test requires otherwise, notify the police officer complained against if –

(a) the complaint has been withdrawn or the complainant does not wish further steps to be taken in relation to the complaint; or

(b) the Attorney General determines that a complaint is to be treated as a conduct matter instead.

(7) The Attorney General must provide a copy of that notification to –

(a) the complainant;

(b) the relevant Connétable and relevant Chef de Police (unless they are the police officer complained against); and

(c) the Commission.

PART 3

PRELIMINARY ASSESSMENT AND MISCONDUCT INVESTIGATION

12 Preliminary assessment

(1) This Regulation applies if –

(a) the Attorney General determines that a complaint is not suitable for dealing with by agreed resolution;

(b) it has not proved possible to reach an outcome by agreed resolution;

(c) during the course of an agreed resolution, it appears that the complaint is not suitable for dealing with by way of that procedure;

(d) the Attorney General receives a report or allegation about a conduct matter; or

(e) the Commission has determined that the outcome is not reasonable in all the circumstances of the case under Regulation 10(1)(c).

(2) The Attorney General must assess whether the conduct that is the subject matter of the complaint, report or allegation, if proved, would amount to misconduct, gross misconduct or neither.

(3) If the Attorney General assesses that the conduct, if proved, would amount to misconduct or gross misconduct, a misconduct investigation must be carried out.

(4) At the request of the Attorney General the Deputy Chief Officer must appoint an investigator under Regulation 14 to carry out the misconduct investigation.

(5) If the Attorney General assesses that the conduct, if proved, would amount to neither misconduct nor gross misconduct, they must then further assess whether the conduct, if proved, would amount to practice requiring improvement.

(6) No further assessment under paragraph (5) may be made in the case of a former police officer.

(7) If the Attorney General assesses that the conduct, if proved, would amount to practice requiring improvement, they must refer the matter to be dealt with under the reflective practice review process.

(8) If the Attorney General assesses that the conduct, if proved, would not amount to practice requiring improvement, they must determine whether –

(a) to refer the matter to be dealt with as a performance matter; or

(b) to take no further action.

(9) Before making a further assessment under paragraph (5) or a determination under paragraph (8)(a) the Attorney General must, unless they consider it would be prejudicial to do so, consult –

(a) the relevant Connétable in the case of a Chef de Police; or

(b) the relevant Chef de Police in the case of a police officer.

(10) The Attorney General must notify, in writing, the complainant or the police officer as soon as reasonably practicable, of the Attorney General's further assessment under paragraph (5) or determination under paragraph (8), and –

(a) give reasons; and

(b) explain the action to be taken, if any.

(11) At the time of giving the notification under paragraph (10), the Attorney General must also notify the complainant in writing –

(a) of the complainant's right to request the Commission to review an assessment under paragraph (5) or determination under paragraph (8); and

(b) of the requirements specified in Regulation 38(2) (general provisions about reviews and appeals) for making a request.

(12) If the Attorney General considers it appropriate to do so, they may revise their assessment, under paragraph (2), of the conduct that is the subject matter of the complaint, report or allegation at any time before the start of the disciplinary meeting.

13 Review of assessment or determination under Regulation 12(5) or (8)

(1) If a complainant requests the Commission to review an assessment or determination under Regulation 12(5) or (8), the Commission must –

(a) as soon as reasonably practicable, notify the Attorney General of the request for a review, and may ask the Attorney General to provide further information the Commission considers necessary for the purposes of conducting the review;

(b) determine, as soon as reasonably practicable, whether the assessment or determination is reasonable; and

(c) if it determines that the assessment or determination in question is not reasonable in all the circumstances of the case, request the Attorney General to reconsider it.

(2) The Commission must notify the Attorney General, the complainant and the police officer complained against of its determination, with reasons, and request a reconsideration, if necessary.

(3) The Attorney General must give due regard to a request made under paragraph (1)(c).

(4) However, the Commission may decide not to notify the person complained against of a request made under paragraph (1)(c) if it is of the opinion that to do so might

prejudice a criminal investigation or pending criminal proceedings or would otherwise be contrary to the public interest.

14 Appointment of investigator

(1) This Regulation applies if a misconduct investigation is to be carried out.

(2) On the request of the Attorney General, the Deputy Chief Officer must appoint a person to investigate the conduct that is the subject matter of the complaint, report or allegation (the "investigator") who –

(a) may be a police officer serving in the States of Jersey Police Force –

(i) who must be of at least the rank of inspector;

(ii) who does not work with or manage the police officer being investigated; and

(iii) who must have an appropriate level of knowledge, skills and experience to plan and manage the misconduct investigation;

(b) may be a police officer serving in a police force of another jurisdiction –

(i) who must be of at least the rank of inspector; and

(ii) who must have an appropriate level of knowledge, skills and experience to plan and manage the investigation; or

(c) may be a civilian –

(i) who does not work with or manage the police officer being investigated; and

(ii) who must have an appropriate level of knowledge, skills and experience to plan and manage the misconduct investigation.

(3) The Deputy Chief Officer must consult the Commission before appointing a person under paragraph (2), and no appointment is to be made unless the Commission approves the person whom the Deputy Chief Officer proposes to appoint as investigator.

(4) The Commission may recommend that the Deputy Chief Officer appoint an investigator who is a police officer serving in a police force of another jurisdiction.

15 Purpose of misconduct investigation

The purpose of a misconduct investigation is to –

(a) gather evidence to establish the facts and circumstances of the alleged misconduct or gross misconduct; and

(b) assist the Attorney General to establish if there is a case to answer in respect of misconduct or gross misconduct or if there is no case to answer.

16 Written notices

(1) The investigator must, as soon as reasonably practicable after being appointed, and subject to paragraph (3), give the police officer a written notice that confirms that there is to be a misconduct investigation into the matter and –

(a) states the identity of the investigator;

(b) describes the conduct that is the subject matter of the allegation or complaint and explains how that conduct is alleged to have contravened the Professional Standards;

(c) states the Attorney General's assessment that the conduct, if proved would amount to misconduct or gross misconduct;

(d) informs the police officer that they have the right to seek advice from the Honorary Police Association or another body, and states the effect of Regulation 55 (police friend);

(e) states the effect of Regulation 17 (representations and document provided to investigator) and Regulation 56 (legal representation).

(2) If, after giving the notice, the Attorney General revises their assessment of the conduct in accordance with Regulation 12(12), the investigator must, as soon as reasonably practicable give the police officer –

(a) a further written notice of the assessment that the conduct, if proved, would amount to misconduct or gross misconduct; and

(b) the reason for that assessment.

(3) The requirement to give a written notice to the police officer does not apply for so long as the investigator considers that giving a notice might prejudice the misconduct investigation or another investigation (including, in particular, a criminal investigation).

(4) Once a written notice has been given in accordance with paragraph (1) or (2), the investigator must notify the police officer of the progress of the misconduct investigation –

(a) if there has been no previous notification following the giving of the written notice under paragraph (1) or (2), before the end of 4 weeks beginning with the first working day after the start of the misconduct investigation; and

(b) in any other case, before the end of 4 weeks beginning with the first working day after the previous notification.

(5) Copies of all written notices given by the investigator under this Part must also be provided to the Commission.

17 Representations and documents provided to investigator

(1) Before the end of 10 working days beginning with the first working day after which a notice is given under Regulation 16(1) (unless this period is extended by the investigator) –

(a) the police officer may provide the investigator with a written or oral statement relating to a matter under investigation; and

(b) the police officer or the officer's police friend may provide the investigator with any relevant document.

(2) The investigator must, as part of the misconduct investigation, consider the statement or document (if provided) and make a record –

(a) of having received it, if delivered in writing; or

(b) of the statement, if delivered orally, agreed by the police officer.

(3) Until the misconduct investigation is concluded, the investigator must obtain and preserve evidence relating to the complaint or conduct matter, in accordance with

the arrangements maintained by the Deputy Chief Officer under Article 13(1)(c) of the Law.

(4) In this Regulation, "relevant document" –

(a) means a document relating to a matter under investigation; and

(b) includes a document containing suggestions about lines of inquiry to be pursued or witnesses to be interviewed.

18 Timeliness of misconduct investigation

(1) If a misconduct investigation is not completed within a relevant period, the Deputy Chief Officer must, subject to paragraph (3), provide as soon as reasonably practicable the following information in writing to the Commission –

(a) the date on which the allegation or complaint came to the attention of the relevant Connétable;

(b) the date on which notice was given under Regulation 16(1);

(c) the progress of the misconduct investigation;

(d) an estimate of when –

(i) the misconduct investigation will be concluded; and

(ii) a report will be submitted under Regulation 20;

(e) the reason for the length of time taken by the misconduct investigation; and

(f) a summary of planned steps to progress the misconduct investigation and bring it to a conclusion.

(2) For the purposes of this Regulation, each of the following is a "relevant period" –

(a) the first relevant period is the period of 12 months beginning with the day on which the allegation or complaint first came to the attention of the relevant Connétable;

(b) each subsequent relevant period is the period of 6 months beginning with the day after the end of the previous relevant period.

(3) The requirement to provide information under paragraph (1) does not apply if it appears to the Deputy Chief Officer that to do so might prejudice the misconduct investigation or another investigation (including a criminal investigation).

(4) The Deputy Chief Officer must, unless the harm test requires otherwise, send a copy of the information provided under paragraph (1) or (2) to the police officer.

19 Interviews during misconduct investigation

(1) If an investigator wishes to interview the police officer as part of the misconduct investigation, the investigator must, if reasonably practicable, agree with the police officer a date and time for the interview.

(2) If no date and time is agreed because the police officer states that they are unfit for interview because of disability or ill-health, they must provide the investigator with a certificate to that effect from a doctor.

(3) If no date and time is agreed, the investigator must specify a date and time for the interview.

(4) If a date and time is specified, the interview must not be postponed unless –

(a) either the police officer or their police friend is not available at that time; and

(b) the police officer proposes an alternative time that satisfies paragraph (5).

(5) An alternative time must –

(a) be reasonable; and

(b) fall before the end of the period of 5 working days beginning with the first working day after the day specified by the investigator.

(6) The police officer must be given written notice of the date, time and place of the interview.

(7) Unless paragraph (2) applies, or the investigator is satisfied that the police officer has given a reasonable excuse, failure to attend the interview may be treated as a conduct matter for failure to comply with orders and instructions as required by the Professional Standards.

(8) The investigator must, in advance of the interview, provide the police officer with any information the investigator considers appropriate in the circumstances of the case to enable the police officer to prepare for the interview.

(9) During the interview, a police friend must not answer the questions asked of the police officer.

(10) An audio recording may be made of the interview and, if a recording is made, the police officer must be provided with a copy of the recording.

(11) If no audio recording is made, a written record of the interview must be prepared by the investigator and –

(a) a draft of the record must be provided to the police officer;

(b) the police officer must be given the opportunity to make written representations in relation to the draft of the record;

(c) the investigator must –

(i) consider those written representations and having considered them;

(ii) send a copy of the final written record of the interview, together with a copy of the written representations, if any were made, to the police officer.

(12) The investigator must, as part of the investigation, give the complainant or an interested person an opportunity to provide a written or oral statement.

(13) The investigator must consider a statement, if provided, and must make a record –

(a) of having received it, if delivered in writing; or

(b) of the statement, if delivered orally, agreed by the person who made it.

20 Report on misconduct investigation

(1) On completion of a misconduct investigation the investigator must, as soon as reasonably practicable –

(a) submit a written report on the misconduct investigation to the Attorney General; and

(b) provide a copy of that report to the Commission.

(2) The written report must –

(a) provide an accurate summary of the evidence;

(b) refer to relevant documents including –

(i) a copy of the audio recording made of the interview under Regulation 19(10) (if one was made);

(ii) a copy of the written record of the interview prepared under Regulation 19(11) (if one was made);

(iii) a copy of a statement provided under Regulation 19(12);

(c) indicate the investigator's opinion about whether or not there is a case to answer in respect of misconduct or gross misconduct;

(d) if the investigator's opinion under sub-paragraph (c) is that there is no case to answer, indicate the investigator's opinion about whether the matter may be referred to be dealt with as a performance matter or under the reflective practice review process.

(3) Paragraph (2)(d) does not apply in respect of a former police officer.

21 Action by Attorney General in response to misconduct investigation report

(1) On receipt of the investigator's report and after consultation with the Commission, the Attorney General must, as soon as reasonably practicable, determine whether the police officer has –

(a) a case to answer in respect of misconduct;

(b) a case to answer in respect of gross misconduct; or

(c) no case to answer.

(2) The Attorney General must refer the case to a disciplinary meeting if they determine that the police officer has a case to answer in respect of misconduct or gross misconduct.

(3) No case is to be referred to a disciplinary meeting before the Commission has submitted a statement to the Attorney General under Regulation 23(4).

(4) If the Attorney General determines that the police officer has no case to answer in respect of either misconduct or gross misconduct, the Attorney General may –

(a) take no further action; or

(b) refer the matter to be dealt with as a performance matter, or under the reflective practice review process.

(5) Paragraph (4)(b) does not apply to a former police officer.

(6) On making a determination under this Regulation, the Attorney General must –

(a) provide the relevant Connétable with a copy of the investigator's report; and

(b) notify the following people in accordance with paragraph (7) –

(i) the police officer;

(ii) the relevant Chef de Police;

(iii) in the case of a complaint, the complainant and every person entitled to be kept properly informed in relation to the complaint under Article 20 (duty to provide information to other people) of the Law; and

(iv) in the case of a conduct matter, every person entitled to be kept properly informed in relation to the conduct matter under Article 20 of the Law.

(7) The notification must set out –

(a) the findings of the investigator's report, subject to paragraph (8);

(b) the Attorney General's determination under paragraph (1) and, if the case requires, the referral under paragraph (2) or (4)(b); and

(c) the reasons for the determination and referral.

(8) Unless the harm test requires otherwise, the Attorney General discharges the duty to give a person mentioned in paragraph (6)(b) notification of the findings of the investigator's report under paragraph (7)(a) by sending the person –

(a) a copy of the investigator's report; or

(b) a part of the investigator's report that relates to the police officer.

(9) A copy of the investigator's report, or part of it, if provided under paragraph (8) may be in a form that keeps anonymous the identity of the complainant or of another person.

PART 4

SUPERVISION OF MISCONDUCT INVESTIGATIONS BY COMMISSION

22 Supervision of misconduct investigations

(1) The Commission –

(a) must supervise –

(i) misconduct investigations conducted under Part 3; and

(ii) the misconduct investigation of a DSI matter, complaint or conduct matter notified under Article 18 (investigation of DSI matters and complaints or conduct matters where death or serious injury has occurred) of the Law;

(b) may supervise the misconduct investigation of specified conduct matters notified under Regulation 58 (notification of conduct matters to Commission).

(2) The Commission may supervise the investigation of a matter not falling within paragraph (1) if it appears to the Commission to be desirable in the public interest to do so.

(3) If the Commission decides to supervise an investigation under paragraph (2), it must notify the Attorney General of its decision.

(4) The Commission may treat a complaint that comes to its attention otherwise than under paragraph (1) as having been made to the Commission.

(5) If paragraph (4) applies, the Commission must notify the following people of the complaint –

(a) the Attorney General;

(b) the complainant; and

(c) the person complained against unless it appears to the Commission that to do so might prejudice an investigation of the complaint (whether an existing investigation or a possible future one).

(6) If the Attorney General receives a notification under paragraph (5) and the complaint has not yet been recorded, the Attorney General must provide the relevant

Connétable with a copy of that notification and the relevant Connétable must then record that complaint as if it were a complaint submitted under Regulation 7.

23 Commission's statement in relation to investigator's report

(1) After considering a report submitted under Regulation 20(1), the Commission must prepare a statement confirming whether the misconduct investigation was or was not conducted to the Commission's satisfaction and give reasons for its determination.

(2) The Commission may also make recommendations to the Attorney General and relevant Connétable for improvements to policy or practice arising from the misconduct investigation.

(3) The Commission may prepare separate statements about the criminal and misconduct aspects of a misconduct investigation.

(4) The Commission must submit the statement to –

(a) the Attorney General and relevant Connétable; and

(b) the Solicitor General if the statement is in respect of a criminal allegation.

(5) Unless it is impracticable to do so, the Commission must send a copy of a statement under paragraph (2) –

(a) to the police officer whose conduct has been investigated; and

(b) if the misconduct investigation related to a complaint, the complainant.

(6) If the Commission makes recommendations, a copy of those recommendations must also be sent to the people mentioned in paragraph (6).

24 Abandonment of supervised misconduct investigation by the Commission

(1) If it appears to the Commission that there is no cause to continue to supervise a misconduct investigation, the Commission must notify the following people of its decision to abandon its supervision of the misconduct investigation –

(a) the relevant Connétable;

(b) the complainant;

(c) the police officer; and

(d) an interested person.

(2) The notification must include the Commission's reasons for its decision.

PART 5

DISCIPLINARY MEETING

25 Person conducting disciplinary meeting

If the Attorney General refers a case to a disciplinary meeting, the disciplinary meeting must be conducted by the Attorney General, or by a suitably qualified person appointed by the Attorney General.

26 Notice of referral to disciplinary meeting

(1) If a case is referred to a disciplinary meeting, the Attorney General must, as soon as reasonably practicable, and in any event not less than 21 working days before the date of the disciplinary meeting, give the police officer –

(a) written notice of –

(i) the referral;

(ii) the conduct that is the subject matter of the case and how that conduct is alleged to amount to misconduct or gross misconduct;

(iii) the name of the determining person;

(iv) the right –

(A) to be legally represented if gross misconduct is alleged; or

(B) to seek advice from the Honorary Police Association or another body, or to choose a person to act as police friend under Regulation 55;

(b) a copy of any statement made by the police officer to the investigator during the course of the misconduct investigation; and

(c) if not already sent to the police officer under Regulation 21(8), unless the harm test requires otherwise, a copy of –

(i) the investigator's report or a part of the report that relates to the police officer (together with any document attached to or referred to in that report that relates to the police officer); and

(ii) any other document gathered during the course of the misconduct investigation that, in the opinion of the Attorney General, is relevant to the case the police officer must answer.

(2) A copy of the written notice described in paragraph (1)(a) must also be provided to the relevant Connétable and relevant Chef de Police and the Commission.

27 Procedure on receipt of notice

(1) The police officer must comply with paragraphs (2) and (3) before the end of –

(a) 10 working days beginning with the first working day after the documents have been given to the police officer under Regulation 26(1); or

(b) if that period is extended by the determining person for exceptional circumstances, the extended period.

(2) The police officer must provide to the Attorney General –

(a) written notice of whether the police officer accepts that their conduct amounts to misconduct or gross misconduct;

(b) if the police officer accepts that their conduct amounts to misconduct or gross misconduct, a written submission by the officer containing any mitigating factors; and

(c) if the police officer does not accept that their conduct amounts to misconduct or gross misconduct, or the police officer disputes part of the case against them, written notice of –

(i) the allegations the police officer disputes and their account of the relevant events; and

(ii) arguments on points of law the police officer wishes to be considered by the determining person.

(3) The police officer must provide the Attorney General with a copy of any document the officer intends to rely on at the disciplinary meeting.

(4) Before the end of 3 working days beginning with the first working day after the date on which the police officer has complied with paragraph (2), the Attorney General and the police officer must –

(a) each supply to the other a list of proposed witnesses that includes brief details of the evidence that each witness is able to give; or

(b) give notice that they do not propose any witnesses.

(5) If there are proposed witnesses, the police officer must, if reasonably practicable, agree a list of proposed witnesses with the Attorney General.

28 Witnesses

(1) As soon as reasonably practicable after a list of proposed witnesses has been agreed under Regulation 27, the Attorney General must provide that list to the determining person if the Attorney General is not the determining person for the disciplinary meeting.

(2) The determining person must –

(a) consider the list of proposed witnesses; and

(b) determine which witnesses must attend the disciplinary meeting.

(3) A witness must not give evidence at a disciplinary meeting unless the determining person reasonably believes that it is necessary for the witness to do so in the interests of justice.

(4) The determining person must give the witness written notice that they are required to attend the disciplinary meeting on the date, and at the time and place, specified in the notice.

29 Timing and notice of disciplinary meeting

(1) The disciplinary meeting must take place not later than 21 working days after the first working day after the documents have been given to the police officer under Regulation 26(1).

(2) However, the determining person may extend the period specified in paragraph (1) if they consider that it would be in the interests of justice to do so.

(3) If the determining person decides to extend the period, or decides not to do so following representations from the police officer or the Attorney General (if they are not the determining person), the determining person must provide written notification of their reasons for that decision to the Attorney General (if they are not the determining person) and the police officer.

(4) The determining person must, if reasonably practicable, agree with the police officer a date and time for the disciplinary meeting.

(5) If no date and time is agreed, the determining person must specify a date and time for the disciplinary meeting.

(6) If a date and time is specified, the disciplinary meeting must not be postponed unless –

(a) either the police officer or their police friend is not available at that time; and

(b) the police officer proposes an alternative time that satisfies paragraph (7).

(7) An alternative time must –

(a) be reasonable; and

(b) fall before the end of 5 working days beginning with the first working day after the day specified by the determining person under paragraph (5).

(8) The determining person must give the police officer written notice that they are required to attend the disciplinary meeting on the date, and at the time and place, specified in the notice.

(9) If the Commission is entitled to attend the disciplinary meeting to make representations under Regulation 33(1), or to nominate a person to attend the disciplinary meeting as an observer under Regulation 32(2)(b), the determining person must give the Commission written notice of the date, time and place of the disciplinary meeting.

30 Procedure at disciplinary meeting

(1) The determining person determines the procedure at the disciplinary meeting.

(2) The determining person must permit –

(a) the police officer whose case is referred to the disciplinary meeting, or a person representing the police officer, to make representations;

(b) evidence to be heard from any witnesses required to attend the disciplinary meeting in accordance with Regulation 28; and

(c) the police officer, or another person representing that police officer, to ask questions of a witness, subject to paragraph (6).

(3) The determining person may adjourn the disciplinary meeting if it appears to be necessary or expedient to do so.

(4) The disciplinary meeting must not, except in exceptional circumstances, be adjourned solely to allow the complainant, a witness or interested person to attend.

(5) A person representing the police officer may –

(a) address the determining person to do any of the following –

(i) put the police officer's case forward;

(ii) sum up the case;

(iii) respond on behalf of the officer to a view expressed during the disciplinary meeting;

(iv) make representations concerning an aspect of the proceedings under these Regulations;

(v) ask questions of witnesses, subject to paragraph (6); and

(b) confer with the officer.

(6) If a question put to a witness is challenged or objected to, the presiding person must determine whether the question may be put.

(7) The police officer's police friend or legal representative must not answer questions put to the police officer during the disciplinary meeting.

(8) The determining person may allow a document to be considered at the disciplinary meeting even if a copy of the document has not been provided –

(a) by the police officer to the Attorney General in accordance with Regulation 27(3); or

(b) to the police officer in accordance with Regulation 26.

(9) The determining person may, with the agreement of the police officer, permit the admission of written statements instead of oral evidence.

(10) An audio recording may be made of the disciplinary meeting and, if a recording is made, the police officer must be provided with a copy of that recording as soon as reasonably practicable after the conclusion of the disciplinary meeting.

(11) If no audio recording is made, a word for word contemporaneous written record of the disciplinary meeting must be prepared and –

(a) the determining person must, as soon as reasonably practicable after the conclusion of the disciplinary meeting, provide a draft of that record to the police officer;

(b) the police officer must be given the opportunity to make representations in relation to that draft;

(c) the determining person must consider any representations made; and

(d) having considered those representations (if any), the determining person must, as soon as reasonably practicable, provide a copy of the final written record of the disciplinary meeting to the police officer.

31 Attendance of police officer at disciplinary meeting

(1) The police officer whose case is referred to a disciplinary meeting must attend the disciplinary meeting.

(2) But if the police officer informs the determining person in advance of the disciplinary meeting that they are unable to attend, the determining person may, if satisfied that the police officer has reasonable grounds for being unable to attend, permit the police officer to participate in the meeting by video link or other suitable means.

(4) If the police officer is represented, the person representing the officer or the officer's police friend (if different), or both, may participate using a video link or other suitable means –

(a) if those means are also used by the police officer; or

(b) if they are unable to attend the disciplinary meeting in person to represent the police officer.

(5) The disciplinary meeting may be proceeded with and concluded in the police officer's absence regardless of whether the police officer –

(a) informed the determining person in advance of their absence under paragraph (2); or

(b) is represented.

32 Attendance of third parties

(1) A disciplinary meeting must be held in private.

(2) But if disciplinary meeting has arisen from a complaint –

(a) the determining person may –

(i) inform the complainant of the date, time and place of the disciplinary meeting; and

(ii) permit the complainant to attend, as an observer, the disciplinary meeting or any part of the disciplinary meeting as the determining person considers appropriate;

(b) the Commission may nominate a person to attend as an observer.

(3) Paragraph (4) applies if disciplinary meeting arises from a complaint and the Commission has requested the presiding person to hold the disciplinary meeting in public because –

(a) of the gravity of the case or other exceptional circumstances; and

(b the Commission considers it would be in the public interest to do so.

(4) If this paragraph applies, the determining person may direct that the whole or part of the disciplinary meeting be held in public having first consulted –

(a) the Attorney General (if they are not the determining person);

(b) the police officer;

(c) the complainant or interested person; and

(d) any witnesses required to attend the disciplinary meeting under Regulation 28.

(5) A direction, together with the reasons for it, must be notified to the people consulted under paragraph (4) as soon as reasonably practicable and in any event before the end of 5 working days beginning with the first working day after the direction was notified.

(6) If a witness is giving evidence, the determining person may allow other people to attend the disciplinary meeting if reasonable because of special circumstances.

(7) If a child is giving evidence, an appropriate adult (within the meaning given in Code C of the Police Procedures and Criminal Evidence (Codes of Practice) (Jersey) Order 2004) must be permitted to attend.

(8) The determining person may, with the agreement of the police officer, allow other people to attend the disciplinary meeting.

(9) Paragraphs (2) to (8) do not apply to any part of the disciplinary meeting during which the determination under Regulation 21 (action by Attorney General in response to misconduct investigation report) or a disciplinary sanction is being considered.

(10) The determining person may impose any conditions they see fit on the attendance of people at the disciplinary meeting (including circumstances in which they may be excluded) to facilitate the proper conduct of the disciplinary meeting.

33 Participation of Commission and investigator at disciplinary meeting

(1) At a disciplinary meeting arising from a complaint –

(a) the Commission may make written representations to the determining person; or

(b) a member of the Commission may attend the disciplinary meeting and, at the invitation of the determining person, may make representations at the meeting.

(2) The investigator or a nominated person must attend the disciplinary meeting at the request of the determining person to answer questions.

(3) For the purposes of this Regulation, a "nominated person" is a person who, in the opinion of the Deputy Chief Officer or Attorney General, has sufficient knowledge of the misconduct investigation of the case to be able to assist the determining person.

34 Exclusion from disciplinary meeting

(1) If it appears to the determining person that a person might, in giving evidence, disclose information that should not be disclosed to other people attending the disciplinary meeting (other than the police officer or an interested person) because it is information to which paragraph (2) applies, the determining person must require those attendees to withdraw while the evidence is given.

(2) This paragraph applies to information in so far as the determining person considers that preventing its disclosure to an attendee is –

(a) necessary for the purpose of preventing the premature or inappropriate disclosure of information that is relevant to, or may be used in, criminal proceedings;

(b) necessary in the interests of national security;

(c) necessary for the purpose of the prevention or detection of crime;

(d) necessary for the purpose of the prevention or detection of misconduct by other police officers;

(e) necessary and proportionate for the protection of the welfare and safety of an informant or witness; or

(f) otherwise in the public interest.

35 Finding of misconduct or gross misconduct

(1) The determining person must review the facts of the case and decide whether the police officer's, or former police officer's, conduct amounts to misconduct, gross misconduct or neither.

(2) If a disciplinary sanction is being considered, the determining person –

(a) must have regard to the police officer's record of service for the Honorary Police;

(b) may receive evidence from a witness whose evidence will, in the determining person's opinion, assist in their determination of the police officer's conduct; and

(c) must give the police officer and their police friend (if any) and legal representative (if any) an opportunity to make oral or written representations before the police officer's conduct is decided under paragraph (1).

(3) The determining person must not find that conduct amounts to misconduct or gross misconduct unless –

(a) they are satisfied on the balance of probabilities that it does; or

(b) the police officer admits misconduct or gross misconduct.

36 Disciplinary sanctions

(1) If the determining person finds that a police officer's conduct –

(a) amounts to misconduct or gross misconduct, the determining person must order a disciplinary sanction set out in this Regulation; or

(b) amounts to neither misconduct nor gross misconduct, the determining person may direct that the matter is referred to be dealt with under the reflective practice review process.

(2) If, at a disciplinary meeting, the determining person finds that a police officer's conduct amounts to misconduct, the determining person may order 1 of the following disciplinary sanctions –

(a) a written warning;

(b) a final written warning;

(c) dismissal with or without notice if a final written warning was in force on the date of the preliminary assessment;

(d) a requirement to resign as an alternative to dismissal if a final written warning was in force on the date of the preliminary assessment.

(3) If, at a disciplinary meeting, the determining person finds that a police officer's conduct amounts to gross misconduct the determining person may, subject to paragraph (4), order 1 of the following disciplinary sanctions –

(a) a written warning;

(b) a final written warning;

(c) dismissal with or without notice;

(d) a requirement to resign as an alternative to dismissal.

(4) If, at a disciplinary meeting, the disciplinary person finds that a police officer's conduct amounts to gross misconduct and a final written warning was in force on the date of the preliminary assessment, the disciplinary person must order 1 of the following disciplinary sanctions –

(a) dismissal with or without notice;

(b) a requirement to resign as an alternative to dismissal.

(5) A disciplinary sanction takes effect from the date the police officer is notified of it under Regulation 37.

(6) A written warning remains in force for 18 months beginning with the date on which the police officer is notified of it.

(7) Unless paragraph (8) applies, a final written warning remains in force for 2 years beginning with the date on which the police officer is notified of it.

(8) If the determining person considers that exceptional circumstances apply, they may order that a final written warning remains in force for a period of more than of 2 years up to a maximum of 5 years beginning with the date on which the police officer is notified of it.

(9) If the determining person orders dismissal with notice or a requirement to resign, the determining person must decide the period of notice to be given, subject to a minimum period of 28 days.

(10) This Regulation does not apply to a former police officer.

37 Notification of finding after disciplinary meeting

(1) The determining person must, as soon as reasonably practicable after the conclusion of the disciplinary meeting, but in any event not later than 10 working days after the

date of conclusion of that disciplinary meeting, notify the people listed in paragraph (2), in writing of –

(a) the finding that the police officer's conduct amounts to misconduct, gross misconduct or neither;

(b) the reasons for the finding; and

(c) the disciplinary sanction ordered, or direction given that the matter be dealt with under the reflective practice review process.

(2) The people to whom the written notification must be given are –

(a) the police officer;

(b) if the disciplinary meeting arose from a complaint, the complainant and an interested person, subject to paragraph (8);

(c) the Attorney General if they are not the determining person;

(d) the relevant Connétable; and

(e) the Commission.

(3) The written notification must –

(a) if a written warning or final written warning is ordered, explain the effect of its duration under Regulation 36(4) or (5) in relation to any future disciplinary meeting;

(b) if there is a finding of misconduct or gross misconduct, include notice –

(i) of the police officer's (or former police officer's) and complainant's right to appeal to the Commission in accordance with Regulations 38 and 39; and

(ii) that if an appeal is to be made, it must be submitted to the Commission.

(4) Paragraphs (1)(c) and (3)(a) do not apply in respect of a former police officer.

(5) The written notification given to a person mentioned in paragraph (2)(b) is subject to the harm test if it is found that the police officer's conduct or former police officer's conduct did not amount to misconduct or gross misconduct.

(6) After the written notification has been given to the people mentioned in paragraph (2), the Attorney General may, unless the harm test requires otherwise, publish any of the information contained in that notification.

(7) In this Regulation, "publish" means publish in a manner that is likely to bring the information to the attention of the public.

PART 6

REVIEWS AND DISCIPLINARY APPEALS

38 General provisions about reviews and appeals

(1) This Regulation applies in respect of –

(a) Regulation 10 (review of outcome of agreed resolution procedure);

(b) Regulation 13 (review of assessment or determination under Regulation 12(5) or (8)); and

(c) Regulation 39 (appeal from disciplinary meeting).

(2) A request for a review or an appeal under the Regulations specified in paragraph (1) must be made to the Commission in writing –

(a) not later than 28 days after the date of the written notification given under –

(i) Regulation 9(12) (agreed resolution of complaints);

(ii) Regulation 12(11) (preliminary assessment); or

(iii) Regulation 37(1) (notification of finding after disciplinary meeting); and

(b) state the matters set out in paragraph (4).

(3) But the Commission may extend the period specified in paragraph (2)(a) if it is satisfied that an extension is justified because of the special circumstances of the case.

(4) A request for a review or an appeal must state –

(a) the details of the complaint and the date on which the complaint was made;

(b) the determining person whose decision is the subject of the request for a review or an appeal;

(c) the grounds –

(i) for the request for a review; or

(ii) as required under Regulation 39(3), for the appeal; and

(d) the date on which notification was given under the applicable Regulation specified in paragraph (2).

(5) If the Commission receives a request for a review or an appeal which fails to state 1 or more of the matters listed in paragraph (4), the Commission may, despite that failure but subject to paragraph (6), decide to accept the request or process the appeal, as the case may be.

(6) The Commission must not process an appeal if the grounds required for the appeal are not stated or the matters set out in Regulation 39(4) are not specified.

(7) In this Regulation, "process" means the carrying out by the Commission of the requirements in Regulation 40(2).

39 Appeal from disciplinary meeting

(1) This Regulation applies if –

(a) it has been found at a disciplinary meeting that the police officer's conduct amounts to misconduct, gross misconduct or neither; or

(b) the police officer has admitted that their conduct amounts to misconduct or gross misconduct, and a disciplinary sanction has been ordered against them.

(2) If this Regulation applies –

(a) the police officer, or a complainant (if the disciplinary meeting arose from a complaint), may appeal against a finding of misconduct or gross misconduct;

(b) the police officer or complainant may, in relation to a finding of misconduct or gross misconduct, appeal against the disciplinary sanction ordered;

(c) the police officer may, in a case referred to in paragraph (1)(b), appeal against the disciplinary sanction ordered;

(d) the complainant may appeal against a finding of no misconduct or no gross misconduct.

(3) An appeal under this Regulation may be made on 1 or more of the following grounds only –

(a) that the finding of misconduct or gross misconduct or the disciplinary sanction ordered is unreasonable;

(b) that the finding of no misconduct or no gross misconduct is unreasonable;

(c) that there is evidence that could not reasonably have been considered at the disciplinary meeting that could have materially affected –

(i) the finding of misconduct or gross misconduct;

(ii) the finding of no misconduct or no gross misconduct; or

(iii) the decision to order a particular disciplinary sanction;

(d) that there was a serious breach of the procedures set out in these Regulations that could have materially affected the finding or decision.

(4) In addition to the requirements of Regulation 38 –

(a) an appeal by a complainant must specify whether the appeal is against –

(i) a finding of misconduct or gross misconduct, the disciplinary sanction ordered or both the finding and the sanction ordered; or

(ii) a finding of no misconduct or no gross misconduct;

(b) an appeal by a police officer must specify –

(i) whether the appeal is against a finding of misconduct or gross misconduct, the disciplinary sanction ordered or both the finding and the sanction ordered; and

(ii) whether the police officer requests an appeal hearing.

(5) The complainant or police officer must send with the appeal copies of documents or other information that they consider support their appeal.

(6) Despite the generality of paragraph (5), if the complainant or police officer seeks to rely on a ground of appeal specified in paragraph (3)(c), they must submit with the appeal details of the evidence that they consider could have materially affected the determining person's finding or decision.

(7) Paragraphs (1)(b), (2)(b) and (c) and (3)(c)(iii) do not apply in respect of a former police officer.

(8) Paragraphs (3), (4) and (6) apply in respect of a former police officer but with the following omissions –

(a) in paragraph (3)(a), "or the disciplinary sanction ordered";

(b) in paragraph (3)(d), "or decision";

(c) in paragraph (4)(b)(i), ", the disciplinary sanction ordered or both the finding and the sanction ordered";

(d) in paragraph (6), "or decision".

40 Procedure on receipt of appeal and establishment of appeal panel

(1) This Regulation applies if an appeal is made to the Commission under Regulation 39.

(2) Unless Regulation 38(6) applies, the Commission must, as soon as reasonably practicable after receipt of the appeal –

(a) notify the Judicial Greffier of the appeal;

(b) request the Judicial Greffier to establish a panel for the purpose of hearing the appeal (the "appeal panel"); and

(c) notify the following of the appeal –

(i) the Attorney General;

(ii) the relevant Connétable;

(iii) the police officer; and

(iv) the complainant.

(3) The Judicial Greffier must, as soon as reasonably practicable after receipt of the Commission's request, establish an appeal panel composed of –

(a) a judge of the Royal Court, who is to preside over the proceedings; and

(b) 2 Jurats.

41 Administration for appeal panel

(1) The Judicial Greffier is to be the clerk to an appeal panel.

(2) Documents or notices required to be given to or by the appeal panel are to be given to or by the Judicial Greffier or an officer of the Judicial Greffe.

42 Appeal procedure

(1) When the appeal panel is established, it must first determine whether the complainant's or police officer's appeal sets out arguable grounds of appeal.

(2) If the appeal panel determines that –

(a) the appeal sets out arguable grounds of appeal, it must hold an appeal hearing if the police officer has requested one under Regulation 39(4)(b)(ii); or

(b) the appeal does not set out arguable grounds of appeal, it must dismiss the appeal.

(3) If the police officer has not requested a hearing, or the appeal is made by a complainant, the appeal must be determined on the basis of –

(a) the appeal notified in accordance with Regulations 38 and 39 and the documents provided with that appeal notification;

(b) the audio recording or written record of the disciplinary meeting; and

(c) notices, submissions or other documents or information provided by the Attorney General or the police officer under Regulation 26 or 27.

(4) For the purposes of determining an appeal with or without an appeal hearing, the Commission must provide the appeal panel with the items set out in paragraph (3).

(5) If there is to be an appeal hearing, the following paragraphs of this Regulation apply.

(6) The date, time and place of the appeal hearing must be arranged by the Judicial Greffe and the following people notified –

(a) the police officer;

(b) the Attorney General;

(c) the Commission, if the Commission was entitled to attend the disciplinary meeting to make representations under Regulation 33(1);

(d) the complainant, if the disciplinary meeting arose from a complaint; and

(e) an interested person, if the disciplinary meeting arose from a conduct matter.

(7) The appeal hearing is to be conducted in the manner the appeal panel determines.

(8) Despite the generality of paragraph (7) –

(a) the police officer's police friend must be permitted to attend the hearing;

(b) the police officer's legal representative (if any) must be permitted to attend the hearing if the disciplinary sanction ordered against the officer was –

(i) dismissal with or without notice; or

(ii) a requirement to resign as an alternative to dismissal;

(c) the police officer (or a person representing the police officer) must be permitted to make oral representations at the hearing;

(d) the complainant or an interested person may attend the appeal hearing as an observer.

(9) Paragraph (8)(b) does not apply in respect of a former police officer.

(10) If the police officer objects to the complainant or an interested person being present while a submission is made in mitigation on the officer's behalf, the appeal panel may require the complainant or interested person to withdraw while the submission is made.

(11) The appeal panel may impose conditions the panel considers appropriate on the attendance of the complainant or an interested party at the appeal hearing (including circumstances in which they may be excluded) to facilitate the proper conduct of the hearing.

43 Appeal panel decision and notification of decision

(1) The appeal panel must decide whether each ground of appeal that the police officer or complainant relies on has been established and –

(a) confirm or quash a finding of misconduct or gross misconduct under Regulation 35;

(b) confirm or quash a finding of no misconduct or no gross misconduct under Regulation 35;

(c) confirm the disciplinary sanction ordered by the determining person under Regulation 36;

(d) order a disciplinary sanction that is less severe than that ordered by the determining person;

(e) substitute the determining person's finding –

(i) of gross misconduct with a finding of misconduct;

(ii) in relation to an appeal by a complainant, of misconduct with a finding of gross misconduct; or

(iii) in relation to an appeal by a complainant, of no misconduct or no gross misconduct with a finding of misconduct or gross misconduct;

(f) if there is a substituted finding under sub-paragraph (d) –

(i) confirm the disciplinary sanction ordered by the determining person if it is an appropriate sanction for the substituted finding; or

(ii) substitute the disciplinary sanction ordered by the determining person with another disciplinary sanction;

(g) if a finding of misconduct or gross misconduct is quashed, order the misconduct allegation to be dealt with as a performance matter;

(h) if, in relation to an appeal by a complainant, a finding of no misconduct or no gross misconduct is quashed, remit the misconduct allegation back to the determining person; or

(i) if the ground of appeal specified in Regulation 39(3)(c) or (d) is found to be established, remit the misconduct allegation back to the determining person.

(2) The appeal panel's decision must be made by simple majority and no indication is to be given about whether the decision was arrived at unanimously or by majority.

(3) A decision by simple majority must include the decision of the judge of the Royal Court.

(4) Paragraph (1)(c), (d), (f) and (g) does not apply in respect of a former police officer.

(5) The appeal panel must –

(a) prepare a written statement setting out the panel's decision to allow or dismiss the appeal and the reasons for that decision;

(b) give the statement to the police officer and, if the appeal was made by a complainant, to the complainant; and

(c) give a copy of the statement to –

(i) the Attorney General;

(ii) the Commission;

(iii) the relevant Connétable; and

(iv) an interested person, if the disciplinary meeting arose from a conduct matter.

(6) If the disciplinary meeting appealed against by the police officer arose from a complaint, the Commission must notify the complainant of the outcome of the appeal.

(7) The statement or copy of it given under paragraph (5) or notification under paragraph (6) must be given or notified not more than 10 working days after the date of conclusion of the appeal hearing (if there is one), or the appeal panel's decision, as the case may be.

(8) But the period specified in paragraph (7) may be extended by a period the panel considers reasonable if there are exceptional circumstances to justify it.

(9) If paragraph (8) applies, the Judicial Greffier must, before the expiry of the 10-day period specified in paragraph (7), notify the following people of the period of the extension given by the appeal panel, and the reasons for it –

(a) the police officer;

(b) the Attorney General;

(c) the Commission;

(d) the complainant; and

(e) an interested person, if the disciplinary meeting arose from a conduct matter.

44 Effect of decision on appeal

(1) If an appeal is allowed, the decision of the appeal panel takes effect by way of substitution for the finding or sanction appealed against and as at the date of the finding or sanction appealed against.

(2) But, with regard to a former police officer, if an appeal is allowed, the decision of the appeal panel takes effect by way of substitution for the finding appealed against and as at the date of the finding appealed against.

45 Procedure if misconduct allegation remitted back to determining person

(1) This Regulation applies if, under Regulation 43(1)(h) or (i), a misconduct allegation is remitted back to the determining person.

(2) The determining person must consider the evidence submitted by the complainant or police officer in accordance with Regulation 39 and determine whether –

(a) to confirm or quash the original finding under Regulation 35;

(b) to confirm the disciplinary sanction originally ordered under Regulation 36;

(c) to order, in relation to the original finding under Regulation 35, a disciplinary sanction that is less severe than that originally ordered;

(d) to substitute the original finding –

(i) of gross misconduct with a finding of misconduct;

(ii) in relation to an appeal by a complainant, of misconduct with a finding of gross misconduct; or

(iii) in relation to an appeal by a complainant, of no misconduct or no gross misconduct with a finding of misconduct or gross misconduct;

(e) if there is a substituted finding under sub-paragraph (d) –

(i) to confirm the disciplinary sanction originally ordered if it is an appropriate sanction for the substituted finding; or

(ii) to substitute the original disciplinary sanction ordered with another disciplinary sanction; or

(f) if the original finding misconduct or gross misconduct is quashed, to order the misconduct allegation to be dealt with as a performance matter.

(3) Paragraph (2)(b), (c), (e) and (f) does not apply in respect of a former police officer.

(4) Before making a determination under paragraph (2), the determining person may, by notice in writing, require the police officer to attend a further disciplinary meeting and the following Regulations apply to that meeting –

(a) Regulation 25 (person conducting disciplinary meeting);

(b) Regulation 30 (procedure at disciplinary meeting);

(c) Regulation 31 (attendance of police officer at disciplinary meeting);

(d) Regulation 35 (finding of misconduct or gross misconduct);

(e) Regulation 55 (police friend); and

(f) Regulation 56 (legal representation).

(5) Regulation 37 (notification of finding after disciplinary meeting), apart from Regulation 37(3)(b), applies for the purposes of notifying a determination under paragraph (2).

46 Costs of appeal

(1) The appeal panel may order a party to the appeal to pay the whole or part of the costs of the appeal incurred by another party to the appeal.

(2) The appeal panel must consider whether to order costs if it is of the opinion that –

(a) a party (or that party's representative) has acted vexatiously, abusively, disruptively or otherwise unreasonably in either making or conducting the appeal; or

(b) the appeal had no reasonable prospect of success.

(3) In deciding whether to order costs, the appeal panel may have regard to the party's ability to pay.

(4) If costs are ordered to be paid, their amount –

(a) is to be ascertained by the Judicial Greffier in consultation with the appeal panel, and notified to the party against whom the order is made not later than the period mentioned in Regulation 43(7), unless that period has been extended; and

(b) is enforceable in the same manner as an order for the payment of costs made by the Royal Court in a civil case.

(5) In this Regulation –

(a) "costs" means fees, charges, disbursements or other expenses incurred by a party including expenses incurred for the purpose of, or in connection with, a person's attendance as a witness at an appeal hearing;

(b) "party" includes –

(i) the person who made the appeal;

(ii) if they are not the person mentioned in clause (i), the police officer or complainant;

(iii) the Attorney General;

(iv) an interested person.

PART 7

REFLECTIVE PRACTICE REVIEW PROCESS

47 Interpretation and application

(1) In this Part –

"participating officer" means the police officer whose matter has been referred to be dealt with under the reflective practice review process;

"reviewer" means the person who is conducting the reflective practice review process.

(2) The reviewer must be –

(a) the relevant Connétable in the case of a Chef de Police; or

(b) the relevant Chef de Police.

(3) This Part does not apply to a former police officer.

(4) Regulation 55 (police friend) does not apply for the purposes of this Part.

48 General provisions about reflective practice review process

(1) The reflective practice review process consists of a fact-finding stage and a discussion stage, followed by the production of a reflective review development report.

(2) A participating officer's participation in the reflective practice review process does not prevent them from applying for, or obtaining, a promotion.

49 Referral to reflective practice review process

(1) If a matter is referred to be dealt with under the reflective practice review process, the reviewer must as soon as reasonably practicable –

(a) provide the participating officer with details of the matter that has been referred and the circumstances that are being considered;

(b) request the participating officer to give an account of the matter that has been referred for review.

(2) The participating officer must give an account under paragraph (1)(b) within 5 working days beginning with the first working day after the day on which the request is made, unless a longer period is agreed with the reviewer.

(3) An account given by the participating officer or during the reflective practice review discussion held under Regulation 51 (discussion stage) is not admissible in any subsequent referral to a disciplinary meeting relating to the participating officer, except to the extent that it consists of an admission relating to a matter that has not been referred to be dealt with under the reflective practice review process.

(4) If more than 1 participating officer is involved in a matter that has been referred to be dealt with under the reflective practice review process –

(a) a joint reflective practice review discussion may take place; and

(b) individual reflective review development reports must be produced for each participating officer.

50 Fact-finding stage

(1) Enquiries made by the reviewer during the fact-finding stage must be reasonable, proportionate and relevant to its purpose, which is to establish the facts of the matter to be dealt with under the reflective practice review process.

(2) If at any time during the fact-finding stage substantial evidence becomes available to the reviewer that was not available to the Attorney General when the matter was referred to be dealt with under the reflective practice review process, the reviewer must refer the matter to the Attorney General for assessment under Regulation 12(2).

(3) If a matter is referred for a further assessment and the Attorney General assesses that the conduct, if proved, would amount to practice requiring improvement, the reflective practice review process must be continued.

51 Discussion stage

(1) Following completion of the fact-finding stage the participating officer must attend a reflective practice review discussion.

(2) The reviewer must arrange for the discussion to take place as soon as reasonably practicable.

(3) The discussion must include, in particular –

(a) a discussion of the practice requiring improvement and related circumstances that have been identified; and

(b) the identification of lessons to be learnt by the participating officer and the relevant Chef de Police or, if the participating officer is the Chef de Police, the relevant Connétable to prevent a reoccurrence of the conduct that was the subject matter of the referral.

52 Reflective practice review development report

(1) The reviewer must, following completion of the discussion stage, produce a reflective practice review development report.

(2) A reflective practice review development report must contain the following –

(a) a summary of the matter and relevant background circumstances;

(b) a summary of the reflective practice review discussion;

(c) actions to be undertaken within a specified time period;

(d) lessons identified for the participating officer;

(e) lessons identified for the relevant Chef de Police or relevant Connétable.

(f) a specified period for reviewing the report and the actions taken.

(3) The reviewer must give a copy of the report to the Attorney General.

(4) The Attorney General may take any action they consider appropriate to ensure that the lessons to be learnt identified under Regulation 51 are addressed.

(5) A copy of the reflective practice review development report, together with a note of the review of the report and of actions taken, must be retained by the participating officer's supervisor.

(6) The reflective practice review development report and review notes must be discussed as part of the participating officer's performance and development review during the 12-month period following the date of the report.

53 Failure to engage with reflective practice review process

If the reviewer considers that the participating officer is failing to engage with the reflective practice review process, the reviewer may refer that failure for assessment by the Attorney General under Regulation 12(2).

PART 8

MISCELLANEOUS PROVISIONS

54 Giving of notices or documents

If a written notice or document is to be given to a police officer under these Regulations, it must be –

(a) given to them in person;

(b) left with another person at, or sent by recorded delivery to, the police officer's last known address; or

(c) in respect of a written notice under Regulation 16(1) (written notices), given to the officer in person by the police officer's police friend if the police friend has agreed with the Attorney General to deliver the notice.

55 Police friend

(1) A police officer or former police officer who is participating in an agreed resolution, or is the subject of a misconduct investigation or disciplinary meeting may choose 1 of the following people, if they are not otherwise involved in the case, to act as their police friend –

(a) in the case of a police officer –

(i) another police officer; or

(ii) a person nominated by the Honorary Police Association;

(b) in the case of a former police officer –

(i) a person nominated by the Honorary Police Association; or

(ii) a person nominated by the former police officer and approved by the Attorney General.

(2) A police friend's functions are –

(a) to advise the police officer or former police officer in an agreed resolution or throughout a misconduct investigation or disciplinary meeting;

(b) unless the police officer of former police officer has the right to be legally represented and chooses to be so represented, to represent them at a disciplinary meeting or appeal proceedings under these Regulations;

(c) to make representations to the relevant Connétable concerning the agreed resolution, or the Attorney General concerning the misconduct investigation or disciplinary meeting; and

(d) to accompany the police officer or former police officer to an interview, meeting or hearing that forms part of an agreed resolution, a misconduct investigation, disciplinary meeting or appeal proceedings.

(3) In the case of a police friend who is another police officer, the Attorney General must permit the police friend to use a reasonable amount of duty or office time for the purpose of performing their functions.

(4) A police officer is not entitled to a police friend for the purposes of the reflective practice review process.

56 Legal representation

(1) A police officer is, subject to paragraph (3), entitled to be legally represented by a solicitor or advocate at –

(a) a disciplinary meeting; or

(b) an appeal hearing held under Part 6.

(2) If the police officer intends to be legally represented, they must notify the determining person or the appeal panel (as the case may be) of that intention not less than 10 working days before the date of the hearing.

(3) But a police officer who does not give the required notification without reasonable excuse is not entitled to be legally represented.

(4) It is for the police officer to prove that they had a reasonable excuse.

57 Non-recordable conduct matters

(1) For the purposes of Article 22(1)(c) (Regulations as to procedures) of the Law, a conduct matter that the Deputy Chief Officer considers repetitious within the meaning of paragraph (2) is specified as a description of conduct matter that is not required to be recorded.

(2) A conduct matter is considered repetitious if –

(a) it concerns substantially the same conduct as a previous conduct matter;

(b) there is no fresh indication in respect of that previous conduct matter that a police officer may have committed a criminal offence or behaved in a manner that would justify a referral to a misconduct meeting; and

(c) there is no fresh evidence in respect of that previous conduct matter that was not reasonably available at the time the previous conduct matter was recorded.

58 Notification of conduct matters to Commission

(1) For the purposes of Article 22(1)(d) (Regulations as to procedures) of the Law, the Attorney General must notify the Commission of the following specified descriptions of conduct matters –

(a) an offence of assault;

(b) a sexual offence;

(c) an offence of bribery or corruption;

(d) a criminal offence for which the sentence is fixed by law or that carries a sentence of imprisonment of 7 years or more;

(e) behaviour that is liable to lead to a disciplinary meeting that was aggravated by discriminatory behaviour towards another person on the grounds of that person's protected characteristic (within the meaning of the Discrimination (Jersey) Law 2013);

(f) conduct of a Chef de Police.

(2) A conduct matter that is notifiable under this Regulation must be notified in the manner the Commission requires without delay and in any event not later than the end of the fifth day following the day on which the Attorney General first becomes aware that the conduct matter is one to which paragraph (1) applies.

59 Manner in which duties to provide information are to be performed

(1) For the purposes of Articles 19(3) (duty to keep complainant, police officer or designated person informed) and 20(10) (duty to provide information to other people) of the Law, this Regulation provides for the manner in which the Deputy Chief Officer or Attorney General must perform the duties imposed by those Articles.

(2) Unless the harm test requires otherwise,

(a) the Attorney General in a case falling under Article 20(7) of the Law must promptly inform the complainant and, if required, an interested person of the progress of the misconduct investigation and in any event not later than 4 weeks after the start of the investigation, and then as frequently as the Attorney General determines is appropriate to keep the complainant or interested person properly informed of progress; and

(b) the Deputy Chief Officer in a case falling under Article 19(1) of the Law must promptly inform the complainant and, if required, an interested person of any provisional findings of the investigator.

60 Exceptions to duty to provide information – harm test

(1) The duties in Articles 19(1) (duty to keep complainant, police officer or designated person informed) and 20(7) (duty to provide information to other people) of the Law do not apply if –

(a) in the opinion of the Attorney General it is necessary to withhold information –

(i) to prevent the premature or inappropriate disclosure of information that is relevant to, or may be used in, actual or prospective criminal proceedings;

(ii) in the interests of national security;

(iii) for the purposes of the prevention or detection of crime, or the apprehension or prosecution of offenders;

(iv) because it is justified on proportionality grounds (within the meaning of Article 19(5) of the Law); or

(v) is otherwise necessary in the public interest; and

(b) The Attorney General is satisfied that there is a real risk that the disclosure of that information would cause a significant adverse effect.

(2) The Attorney General must consider whether the withholding of information is necessary if –

(a) the information is relevant to, or may be used in, an actual or prospective disciplinary meeting;

(b) the provision of information may lead to the contamination of the evidence of witnesses during a disciplinary meeting;

(c) the provision of information may prejudice the welfare or safety of a third party; or

(d) the information consists of criminal intelligence.

(3) A reference in these Regulations to the harm test means that the withholding of information must satisfy the requirements of this Regulation.

61 Citation and commencement

These Regulations may be cited as the Police (Complaints and Conduct – Honorary Police) (Jersey) Regulations 202- and come into force on the same day as the Police (Complaints and Conduct) (Jersey) Law 2022.