

GUERNSEY POLICE COMPLAINTS COMMISSION

2017 & 2018 Annual Report

Date of publication: June 2019

CHAIRMAN'S FOREWORD

In beginning my third foreword as Chairman of the Police Complaints Commission (the "Commission"), I first wish to acknowledge that as the Commission did not submit a report for the period January to December 2017, I intend to cover this period, and the period January to December 2018, in this report. I note that the Commission is required to report to the Committee *for Home Affairs* as soon as practicable at the end of each calendar year with regards to the discharge of its duties throughout the year as well as any additional matters that should be drawn to the Committee's attention. The Commission met with the Committee *for Home Affairs* throughout 2017 and 2018 in an attempt to progress proposed changes to existing police complaints legislation which were identified back in 2014, but as work has not progressed significantly it was agreed to combine our 2017 summary with 2018.

The Commission is disappointed at the lack of progress on securing the changes and acknowledges the unavoidable pressures which have impacted resources, since the UK's Referendum on Brexit. The Commission is encouraged by the appointment of Mr Ruari Hardy as the new Head of Law Enforcement and looks forward to working closely with him in 2019 to further progress legislative changes and other non-statutory improvements to the process.

The Commission operated with four Commissioners in 2017, a Commissioner was recruited in that year but commenced their duties in 2018. I would like to put on record my thanks and appreciation to my fellow Commissioners who have continued to approach their roles with both professionalism and integrity, which I have greatly valued throughout my tenure serving on the Commission. The Commission is committed to working with the Committee *for Home Affairs* and the Guernsey Police to ensure that we have a robust system in place locally to provide public confidence in the police complaints process. The Commissioners' tenacity in driving forward reforms is to be commended, especially in light of conflicting priorities and frustrations in progressing work which we agree are necessary to make the complaints process more fit for purpose and to re-assure members of the community that complaints about the conduct of police officers are dealt with fairly, confidentially and efficiently.

In 2018, I met with inspectors from Her Majesty's Chief Inspectors of Police and Fire and the Commission acknowledges their report and the recommendations contained therein. The Commission was disappointed to note that in the inspectors' opinion the Commission was responsible for delays. The Commission acknowledges that there was a period of time when it was without administrative support however, this did not significantly impact upon the progress that was made on specific cases.

Stewart Chisholm
Chairman
Police Complaints Commission

INTRODUCTION TO THE POLICE COMPLAINTS PROCESS

The Police Complaints Commission was established under the Police Complaints (Guernsey) Law, 2008 (“the Law”) and provides independent oversight of the investigation of complaints made against the police with the aim of increasing public confidence and trust in the police and the complaints system as a whole.

The Commission does not carry out investigations itself as, in introducing the legislation it was the view of the States that the investigation of complaints against the police is most appropriately carried out by the police, where necessary with the assistance of an independent Force.

The Commission has sight of all complaints made against the police – these complaints are recorded in a register which the Commission reviews on a regular basis. The Commission:

- **Must** supervise the investigation of any complaint alleging the conduct of a police officer resulting in the death or serious injury of a person
- **Must** supervise the investigation of any complaint relating to the conduct of a senior officer (Superintendent or above)
- **May** supervise the investigation of any complaint if it considers that it is desirable in public interest to do so
- **May** supervise the investigation of any matter which is not subject to a complaint but has been referred to the Commission by reason of its gravity, public importance or any other exceptional circumstances.

Each investigation is overseen by three Commissioners - this mechanism is useful in allowing the Commission to benefit from members’ varying expertise and also enabling Commissioners to remain familiar with the process whilst maintaining the impartiality of other Commissioners to supervise appealed decisions.

When supervising an investigation within the remit of the current legislation, the Commission is looking to satisfy itself that the statutory process has been appropriately followed. At the conclusion of a supervised investigation, the Commission is required to prepare a statement detailing whether the investigation has been completed to its satisfaction, in terms of its compliance with the processes established by the Law and the Police Complaints (Conduct Proceedings and Investigations) (Guernsey) Regulations, 2011 (“the Regulations”), if the Commission is not satisfied then it must state its reasons. The Commission is prohibited from making a statement, at this stage of the process that it agrees (or disagrees) with the conclusion of the investigator’s report.

The Commission must refrain from taking a view on the outcome, findings, conclusions and recommendations made, as it plays an important role under Part V of the Regulations as the appeal body for a complainant who is dissatisfied with the Appropriate Authorities determination. Regulation 56 gives the complainant the right to appeal the determination made in respect of the assessment of conduct and information provided in respect of that decision and Regulation 60 gives the complainant rights of appeal against a whole range of findings, decisions and actions identified by the investigating officer or the appropriate Authority. The Commission must be impartial and independent to preserve the integrity of the appeal function.

THE COMMISSION'S OBSERVATIONS IN THE REPORTING PERIOD 2017 & 2018

The role of the Commission is to provide independent oversight of the investigation of complaints made against police officer conduct. In undertaking this role, the Commission has sight of all of the complaints made to the police and actively supervises the most serious (those which might constitute misconduct or gross misconduct) and those where it is in the public interest to do so.

Further, the Commission also has a statutory role in considering various appeals in respect of the complaints process, including the initial assessment of the severity of the complaint which determines how the matter will be progressed and the outcomes of investigations.

In 2017 the Commission were notified of seven complaints, of which it supervised two which were brought to a conclusion in 2018. In both cases the Committee concluded that the investigations had been conducted to its satisfaction. The other five complaints required no further action.

In 2018 the Commission was notified of four complaints, two were supervised and came to a conclusion in that year, both were conducted to the Commission's satisfaction, one was appealed in 2019. The remaining two required no further action.

No appeals were considered during the years 2017 and 2018.

Confidentiality restricts the Commission in providing specific details of individual complaints. The Commission is of the view that to provide even brief summaries could potentially risk identifying the complainant or the officer concerned. This is compounded by the low number of complaints supervised and is also reflective of the low-level of serious complaints received by the force, that is those which, if proven would amount to misconduct or gross misconduct.

It is the Commission's view, formed through the complaints that it supervised and brought to a conclusion in 2017 and 2018, that complaints were dealt with professionally and without bias.

The Commission is mindful that the number of complaints formally supervised under the Law is not the best, or indeed most accurate, reflection of the Commission's work. The amount of time taken to supervise the complaints has continued to vary and is ultimately dependent upon the nature of the complaint and the complexity of the resultant investigation. Some of the investigations undertaken have been adequately considered by Commissioners within a single meeting; however other complaints required active supervision by Commissioners over a longer period of time.

RECOMMENDATIONS FOR THE FUTURE

The Committee for Home Affairs have acknowledged the Commission's concern in relation to the limitations of its statutory role in supervising investigations. We are in agreement that there is scope for enhancing this area of the Commission's responsibility to better support the original objectives of the police complaints process; that is to ensure public confidence in the complaints process and the Force in general. Whilst the Commission acknowledges that amendments to legislation takes time to progress it is frustrated with the general lack of progress in bringing forward proposals for positive change.

As members of the public, the Commission has a unique insight in to the force and considers that there may be opportunities to for the Commission to take on additional responsibilities. 2019 has commenced with productive discussions with the Head of Law Enforcement and the Commission looks forward to making some real progress on fully scoping the possibilities for enhancing its current role so as to provide independent assurance that complaints are dealt with professionally and that the public can have confidence in policing within our community.

There are a number of possible options to be explored in additional amended legislation. The Commission recognise that complaints often help to identify learning and development opportunities for the Force. The Commission is working with the Head of Law Enforcement to consider how it may support this process and importantly how complainants may be informed of how the issues that they have raised have contributed to this process.

The Commission has already acknowledged HMCIP's Inspection Report and the Commission support the principle of Border Agency Officers under the police complaints process, however, understand that this will require a fundamental change to their terms and conditions of employment.

The Commission look forward to being able to provide details of its enhanced responsibilities in providing confidence in the police complaints process in its 2019 Annual Report.

SUPPORT AND COST OF THE COMMISSION

The Commission is funded from the general revenue of the Committee *for* Home Affairs and is supported by staff from the Office *of the* Committee *for* Home Affairs. Whilst the Commission recognises that receiving administrative and technical support from staff employed by the Committee responsible for police is not ideal, the Commission firmly believes that the support it receives is delivered impartially and objectively. The Commission recommends that the current arrangement should be considered alongside the legislative review.

The Police Complaints Commission receives remuneration for all of the meetings that are attended; payment for Commissioners in 2017 was £72 per half day attendance and increased to £73 in 2018, as set out by the States of Guernsey. The complaints supervised in the reporting period differed in terms of complexity and requirement in terms of Commissioner's input. The Committee *for* Home Affairs provided £1975.20 of remuneration for the Commission's time in the 2017 calendar year and £5056.40 in 2018. This sum does not include estimations for the cost of time given by Home Affairs staff to support the Commission nor does it include the time given by Law Officers when they are consulted on specific police complaints cases.

COMMISSIONERS

Commissioners are appointed by the States of Guernsey on the recommendation of the Committee *for* Home Affairs. Members and their respective dates of appointment along with their term of office, appear below.

Name	Position	Appointed	Expiry
^Mr Stewart Chisholm	Chairman	July 2011	July 2019*
^Mr Nigel Ward	Ordinary Member	July 2011	July 2019
+Mrs Bonita Hamilton	Ordinary Member	July 2011	September 2021
+Mrs Ann Nippers	Ordinary Member	July 2011	September 2021
+Mrs Alison Leonard	Ordinary Member	January 2013	April 2021
Mr Robert Jordan	Ordinary Member	July 2018	June 2022

+Reappointed by the States during 2017

^Reappointed by the States during 2015

* To be re-appointed in 2019

If further information is required in relation to any matter contained within this Report please write to the Chairman of the Police Complaints Commission Sir Charles Frossard House, La Charroterie, St Peter Port, GY1 1FH or telephone 01481 717000 or email PoliceComplaintsCommission@gov.gg