

GUERNSEY POLICE COMPLAINTS COMMISSION

2019 & 2020 Annual Report

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CHAIRMAN'S FOREWORD

It is with pleasure that I present my first annual report, though I do this also on behalf of Mr Stewart Chisholm who was Chairman for the 2019 reporting period. Mr Chisholm retired in early 2020 having served as Chairman from when the Law came into force, in July 2011. Mr Chisholm was dedicated to his role, respectful and considerate of others and I hope to be able to follow in his footsteps ensuring that matters are dealt with in a timely and professional manner.

I must also acknowledge the resignation of two of my fellow Commissioners; Nigel Ward who resigned in 2019 and Ann Nippers who resigned at the end of 2020, both having served on the Commission since its inception. The Commission is indebted to both Mr Ward and Mrs Nippers for their valuable contribution, insight, attention to detail and due process; both having and played a key role in identifying improvements that could be made to the complaints process.

The Commission welcomed Mrs Judith Watson to the Commission in 2020 and there are two vacant memberships at the time of writing; a recruitment campaign is underway.

2020 was certainly an interesting year and the Commission has been impressed by the way that Bailiwick Law Enforcement have responded to the pandemic.

The Commission is disappointed to report that there has been little progress made on securing the legislative changes which we have been anticipating for a number of years now. The Commission acknowledge that there have been pressures, including the impact of Brexit and a UK Policing Review, which have led to delays in progressing this work and other non-statutory improvements to the process.

The Commission looks forward to working with the new Committee *for* Home Affairs and the Guernsey Police in 2021 to ensure that we have a robust system in place locally to provide public confidence in the police complaints process. We all agree that changes are necessary to make the complaints process 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.

Finally, I must acknowledge and thank my fellow Commissioners who have continued to approach their roles with professionalism and integrity and who have fully supported me in my new role as Chairman.

Robert Jordan
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.

REPORTING PERIOD 2019 AND 2020

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 has a statutory role in considering appeals in respect of the complaints process, including after the initial assessment of the severity of the complaint which determines how the matter will be progressed and, when there has been an investigation.

In 2019, the Commission was notified about two complaints that were to be investigated and it agreed to supervise both. The Commission registered seven appeals in 2019. None of which were upheld. An application was made for a judicial review of one of these appeal decisions however the application was later withdrawn.

In 2020, the Commission was notified about two complaints that were to be investigated and agreed to supervise both. The Commission registered four appeals, none of which were upheld.

Confidentiality restricts the Commission in providing specific details of individual complaints and 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 which 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.

The Commission is mindful that the number of complaints formally supervised, and appeals conducted, is not the best or indeed most accurate reflection of the Commission's work. The amount of time taken to supervise each case varies and is ultimately dependent upon the nature of the complaint and the complexity of the resultant investigation. Some investigations undertaken are adequately considered by Commissioners within a single meeting whilst other complaints require active supervision by Commissioners over a longer period of time.

In 2019, Commissioners met with shift police officers and delivered a short presentation on the role of the Commission which gave the officers an opportunity to ask questions. These sessions were championed by Mr Chisholm who was keen for the Commission to have visibility within the Force and for the officers on the beat to recognise that complaints present an opportunity for learning and development and should be seen as an opportunity for the organisation to examine their practices as a whole, for the benefit of the community.

The Commission attended a practical session, delivered by the Guernsey Police, on use of force which included information about the deployment and use of firearms and tazer. The session was of benefit to increase our awareness of how officers are trained

to use force and what the acceptable methods are. The Commission engaged in open discussion about the various techniques and explored their use in various settings.

The session also covered the use of spit-guards by officers, which is a controversial issue and the Commission on balance were in favour of their use should senior management consider that this tool would benefit officers' safety when excising their duties.

The Commission attended a presentation on the National Decision-Making Model which is now established locally and used by officers to inform their decision-making during incidents. The Code of Ethics is central to this Model and is based on the Nolan Principles¹, which as a public body, the Commission also subscribes to. Overall, the session was very informative and there was an opportunity for discussion about the UK's review of its Police Misconduct Procedures.

RECOMMENDATIONS FOR THE FUTURE

As noted previously, the previous Committee *for Home Affairs* (2016-2020) have acknowledged the Commission's concerns in relation to the limitations of its statutory role in supervising investigations. We continue to believe that there is scope for enhancing 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.

In the meantime, the Commission is committed to increasing the accessibility of the complaints process and hopes to be able to produce information to assist complainants through the process. The Commission consider that it could do a better job of supporting those who wish to express dissatisfaction about the service they receive without risking the integrity of the process.

The Commission have a unique insight in to the Force and recognise that complaints often help to identify learning and development opportunities for the Force. The Commission is keen to work with the Head of Law Enforcement to consider how it may support any new processes and importantly how the public might be more informed of how the issues they raise contribute to change.

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 meetings attended. The complaints supervised in the reporting period differed in terms of complexity and requirement in terms of Commissioner input. The Committee *for Home Affairs*

¹ <https://www.gov.uk/government/publications/the-7-principles-of-public-life>

provided £4,360 of remuneration for the Commissioner’s time in 2019 and £2,581.20 in 2020. 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 Deliberation on the recommendation of the Committee for Home Affairs. Members and their respective dates of appointment along with the end of their current term of office, appear below. There are currently two vacant positions.

Name	Position	Appointed	Expiry of current term/ Retirement
<i>Mr Stewart Chisholm</i>	<i>Chairman</i>	<i>July 2011</i>	<i>28th February 2020</i>
Mr Robert Jordan	Chairman	February 2020	25 th January 2024
<i>Mr Nigel Ward</i>	<i>Ordinary Member</i>	<i>July 2011</i>	<i>31st July 2019</i>
Mrs Bonita Hamilton	Ordinary Member	July 2011	30 th June 2025
<i>Mrs Ann Nippers</i>	<i>Ordinary Member</i>	<i>July 2011</i>	<i>31st Dec 2020</i>
Mrs Alison Leonard	Ordinary Member	January 2013	31 st March 2025
Mrs Judith Watson	Ordinary Member	November 2020	24 th November 2024

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