



## Code of Conduct for Centeniers acting in their prosecutorial capacity

### Interpretation

- 1) In this Code of Conduct, unless the context requires otherwise:
  - a) “*acting as a prosecutor*” includes making a charging decision, granting or declining bail, conducting a Parish Hall Enquiry, preparing the case for prosecution and presenting the prosecution at any stage of proceedings in the Magistrate’s Court by the Centenier concerned, whether or not the Centenier is physically present at the Magistrate’s Court. Acting as a prosecutor does not include the conduct of a Centenier when acting on police duties as a member of the Honorary Police, which is subject to the Regulations;
  - b) “*Centenier concerned*” means a Centenier whose conduct whilst acting as a prosecutor has been the subject of a complaint, report or allegation;
  - c) “*Code*” means the Discipline Code in this Code of Conduct;
  - d) “*complainant*” means the person by or on whose behalf a complaint is submitted;
  - e) “*complaint*” means any complaint in writing about the conduct of a Centenier acting as a prosecutor: (i) by a member of the public; or (ii) on behalf of, and with the written consent of, a member of the public;
  - f) “*Magistrate*” includes an assistant or relief magistrate;
  - g) “*prison*” means the States of Jersey Prison at La Moye, any other prison which may be built, any building or part of a building designated to be a prison under the Prison (Jersey) Law 1957, and any young offender institution;
  - h) “*Regulations*” means the Police (Honorary Police Complaints and Discipline Procedure) (Jersey) Regulations 2000;
  - i) “*relevant Parish*” means the Parish in which the Centenier serves as a member of the Honorary Police.
- 2) This Code of Conduct is without prejudice to the provisions of the Regulations. In the event of any inconsistency or contradiction between the provisions of this Code of Conduct and the Regulations the provisions of the Regulations shall have precedence and take effect. Complaints against a Legal Adviser are subject to the separate code of conduct and disciplinary procedure for lawyers working in the Law Officers’ Department.

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

- 3) (1) The Discipline Code in this Code of Conduct shall have effect whilst a Centenier is acting as a prosecutor.  
  
(2) A Centenier commits a breach of the Code if the Centenier's conduct does not meet the standard set out in the Code whilst the Centenier is acting as a prosecutor.
- 4) Whilst acting as a prosecutor a Centenier should follow the Attorney General's Code on the decision to prosecute, as well as any supplementary guidance issued by the Attorney General.
- 5) An error in a decision to prosecute or an acquittal of the Defendant will not of itself amount to a breach of the Code by the Centenier concerned. However, where a Centenier is acting as a prosecutor and a complaint is made that alleges a breach of the Code in relation to a Centenier's conduct concerning making a decision, granting or declining bail, conducting a Parish Hall Enquiry, preparing the case for prosecution, and presenting the prosecution then such conduct may be a breach of the Code which is subject to this Code of Conduct.

## **Application**

- 6) This procedure shall apply where:
  - a) The Attorney General receives a complaint in writing about a Centenier acting as a prosecutor in the Magistrate's Court; or
  - b) The Attorney General becomes aware of conduct by a Centenier acting as a prosecutor which may constitute a breach of the Code provided that the conduct complained of is reduced to writing.

## **Threshold determinations**

- 7) The Attorney General shall dismiss a complaint or not pursue conduct under paragraph 6b if:
  - a) It does not adequately particularise the matter complained of or is not in writing;
  - b) The Attorney General considers it to be vexatious, malicious, frivolous or trivial;
  - c) It does not, even if true, amount to a breach of the [Discipline] Code;
  - d) It is plainly without substance, untrue, mistaken or misconceived; or
  - e) It refers to matters already dealt with and does not raise any material new consideration that would change the manner in which the matter has been disposed of.

- 8) A complaint shall not be dismissed under paragraph 7a unless the complainant has been afforded an opportunity to provide adequate details of the complaint or an opportunity to put the complaint in writing. A complainant must provide further details as requested or put the complaint in writing within 15 working days of any such request by the Attorney General.
- 9) The Attorney General may dismiss a complaint if received more than six months after the last of the events giving rise to the complaint, and should do so unless the Attorney General is satisfied that exceptional circumstances exist which justify the making of the complaint outside that period.
- 10) If the Attorney General dismisses a complaint under paragraphs 7 or 9, the Attorney General shall inform the complainant in writing and provide a summary of reasons. If the Centenier is aware of the complaint he or she shall also be informed of the dismissal and reasons.

### **Procedure in relation to a complaint or conduct which meets the threshold determination**

- 11) If the Attorney General does not dismiss a complaint that has been made under subparagraph 6a or conduct has come to the Attorney General's attention under subparagraph 6b, the Attorney General may:
  - a) refer the matter to the Chef de Police of another Parish for informal resolution of minor complaints in accordance with paragraphs 13 to 17 below; or
  - b) refer the matter to the Solicitor General for investigation in accordance with paragraphs 18 to 22 below.

### **Informal resolution of complaints or conduct**

- 12) The Attorney General may not refer a complaint or conduct to the Chef de Police of a different Parish for informal resolution of minor complaints unless the Attorney General is satisfied that the complaint or conduct, even if proved, would not justify a criminal charge or a disciplinary hearing.
- 13) In the event that the Attorney General decides to refer a complaint or conduct to the Chef de Police of a different Parish for informal resolution:
  - a) The Attorney General shall direct the relevant Chef de Police in writing to deal with it in that way;
  - b) The relevant Chef de Police shall comply with the direction and inform the Attorney General of the outcome;
  - c) If the matter relates to a complaint made to the Attorney General under subparagraph 6a the Attorney General shall notify in writing the person who made

the complaint that the matter has been referred to the relevant Chef de Police of the different Parish.

- 14) Informal resolution may include, but is not limited to, the following:
  - a) Inviting the Centenier concerned to apologise in writing to a complainant;
  - b) Holding an informal meeting with the Centenier concerned to resolve the issues; and/or
  - c) Establishing an agreed course of action with the Centenier concerned including setting objectives, identifying timescales for implementation of such objectives, and the provision of additional training.
- 15) If the Chef de Police of the other Parish is informally resolving a complaint made in accordance with sub-paragraph 6a, the Chef de Police shall:
  - a) Seek the views of the complainant and the Centenier concerned about the matter;
  - b) Give the Centenier concerned the opportunity to respond to the complaint orally or in writing.
- 16) If the Chef de Police of the different Parish is resolving informally a matter that has come to the attention of the Attorney General in accordance with sub-paragraph 6b the Chef de Police shall give the Centenier concerned the opportunity to respond to the matter orally or in writing.
- 17) (1) Where:
  - a) the Centenier concerned has been charged with a criminal offence; or
  - b) there has been a complaint, report or allegation which indicates that the Centenier concerned may have committed an offence against discipline, whether or not it has been investigated, the Attorney General may, after consultation with the Connétable of the relevant Parish, suspend the Centenier concerned from office.

(2) The Attorney General may exercise the power to suspend a Centenier under this paragraph at any time from the time the Centenier concerned is charged with a criminal offence or the time that the Attorney General is informed of the complaint or the report or allegation is referred to the Attorney General until:

  - a) the Attorney General decides not to prefer a disciplinary charge in respect of the conduct which was the subject of the criminal charge, complaint, report or allegation or directs that all disciplinary charges be withdrawn;
  - b) the Centenier concerned has been charged with a breach of the Code and all such charges against the Centenier have been dismissed;

- c) the time limit for appeal against the decision finding the Centenier concerned guilty of a breach of the Code has expired; or
- d) a decision has been made on an appeal against that finding or the punishment imposed in respect of it.

(3) Where the Centenier concerned is suspended under this Regulation, the Centenier shall be suspended until whichever occurs first of one of the events described in sub-paragraphs (2)(a) to (d) or a decision of the Attorney General to end the suspension.

(4) Where the Centenier concerned who is suspended is required to resign under paragraph 38, the Centenier shall remain suspended during the period of the Centenier's notice.

### **Investigation of complaints or conduct coming to the Attorney General's attention**

- 18) (1) If the Attorney General decides to refer to the Solicitor General for investigation a complaint made in accordance with sub-paragraph 6a or conduct that has come to the Attorney General's attention under sub-paragraph 6b, the Solicitor General shall commence an investigation into the matter.  
  
(2) In the event that the Solicitor General has a conflict of interest or is not available the investigation shall be undertaken by a Crown Advocate selected by the Attorney General.
- 19) An investigation shall take into account at least a statement from the Centenier under investigation and any information from a complainant. The Centenier may be interviewed and shall have the right to be accompanied at such interview by a legal representative or a colleague.
- 20) A written complaint shall be taken as the statement of any complainant for the purposes of the investigation and if necessary the complainant may be invited to a separate or further interview.
- 21) The investigation will normally be completed within 28 calendar days of the commencement of the investigation.
- 22) Following completion of the investigation the Solicitor General or Crown Advocate may:
  - a) Refer the matter back to the Attorney General with a recommendation that the matter be dismissed under paragraph 7;
  - b) Seek an informal resolution involving the Chef de Police of a different Parish in accordance with paragraphs 13 to 17; or

- c) Recommend that a disciplinary hearing be held if he or she considers, based on an investigation report or otherwise, that there is a prima facie case against the Centenier of the breach of the Code which cannot be dealt with informally.

### **Limitation on punishments**

- 23) (1) No punishment of the kind described in paragraph 38 shall be imposed on a Centenier otherwise than upon a finding at a disciplinary hearing that the Centenier is guilty of a breach of the Code.

(2) A Centenier may not be dismissed or required to resign unless the Centenier has been given the opportunity to elect to be legally represented by an advocate or solicitor at the disciplinary hearing.

### **Notice of decision to prefer a disciplinary charge**

- 24) (1) Where the Attorney General decides to prefer a disciplinary charge the Attorney General shall ensure that:

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

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

(3) The documents of which copies are to be given to the Centenier concerned are:

- a) any written statement the Centenier may have made to the Solicitor General or Crown Advocate;
- b) an account of any oral statement the Centenier may have made to the Solicitor General or Crown Advocate; and
- c) any other relevant statement, document or other material obtained during the course of the investigation, other than any report of the Solicitor General or Crown Advocate of the investigation pursuant to paragraph 22 above.

### **Notice of disciplinary hearing**

- 25) (1) The Attorney General shall give the Centenier concerned not less than 21 days' written notice of the time, date and place of the disciplinary hearing.

(2) The Attorney General shall, in every case where the Attorney General is of the opinion that a disciplinary hearing should have available the punishments of dismissal or requirement to resign, give the Centenier concerned, at the same time as the Attorney General gives notice pursuant to paragraph (1), written notice of:

- a) the opportunity to elect to be legally represented at the hearing; and
- b) the effect of paragraph 23.

## **Procedure on receipt of notice**

26) (1) The Centenier concerned shall be invited to state in writing, within 14 days of the date on which the Centenier is notified that the last of the documents to be given to the Centenier pursuant to paragraph [24] has been so given:

- a) whether or not the Centenier accepts that he or she has committed a breach of the Code;
- b) in a case where the Centenier is given notice pursuant to paragraph 25, whether he or she wishes to be legally represented at the disciplinary hearing; and
- c) whether the Centenier proposes to call any witnesses to relevant facts at the hearing and the names and addresses of any such witnesses whose attendance the Centenier wishes the Attorney General to secure.

(2) Where, pursuant to paragraph (1)(c), the Centenier concerned states that he or she wishes the Attorney General to secure the attendance of witnesses, the Attorney General shall –

- a) order any witness who is a member of the Honorary Police to attend the disciplinary hearing; and
- b) cause any other witness to be given due notice that their attendance is desired and of the time and place of the hearing.

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

## **Advancement of disciplinary hearing date**

27) Notwithstanding paragraph 27, a disciplinary hearing may take place less than 21 days after notice is given pursuant to that provision, if the Attorney General considers it appropriate in the circumstances, where:

- a) at the time the Centenier concerned receives notice pursuant to paragraph 26, the Centenier is detained pursuant to a sentence of a court in a prison; and

- b) having been given the documents required by paragraph 24, the Centenier concerned does not elect to be legally represented at the hearing.

## **Hearing of disciplinary charges**

- 28) A disciplinary charge shall be heard by the Attorney General.

## **Documents to be given to Centenier concerned**

- 29)
  - (1) Where the Centenier concerned accepts, in accordance with paragraph [30], that the Centenier has committed a breach of the Code the Attorney General shall cause a summary of the facts of the case to be prepared and a copy of it given to the Centenier concerned at least 14 days before the disciplinary hearing.
  - (2) If the Centenier concerned does not agree the summary of facts, the Centenier may give a response within 7 days of receipt of the copy of the summary.
  - (3) Where the Centenier concerned does not accept that the Centenier has committed a breach of the Code, no summary of facts shall be prepared.

## **Representation at disciplinary hearing**

- 30)
  - (1) The case against the Centenier shall be presented by the Solicitor General or a Crown Advocate.
  - (2) The Centenier concerned may, in any case, conduct his or her case in person.
  - (3) Where the Centenier concerned has been given an opportunity to elect to be legally represented and has so elected, the Centenier may be represented at the disciplinary hearing, at the Centenier's option, by an advocate or solicitor or by a member of the Honorary Police or, with the consent of the Attorney General, another person.

## **Procedure at disciplinary hearing**

- 31)
  - (1) Except as provided by this Code of Conduct, the procedure at a disciplinary hearing shall be determined by the Attorney General.
  - (2) The Attorney General may from time to time adjourn a disciplinary hearing if it appears to be necessary or expedient to do so for the due hearing of the case.
  - (3) The Attorney General shall review the facts of the case and decide whether or not the Centenier concerned is guilty of the breach of the Code with which the Centenier is charged, but shall not find the Centenier guilty unless:

- a) the member has admitted the offence; or



b) the case is proved by the person presenting it on the balance of probabilities.

(4) Where the Centenier concerned is found guilty of a breach of the Code, the Attorney General shall determine whether, in all the circumstances, it would be reasonable to impose any punishment and, if so, what that punishment should be.

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

32) (1) The Attorney General shall order the Centenier concerned to attend the disciplinary hearing.

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

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

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

(5) The Attorney General is entitled to reject a Centenier's request to resign before the disciplinary hearing and to proceed with the hearing.

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

33) (1) This paragraph applies where the disciplinary charge being heard arises from a complaint.

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

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

(4) Where the Centenier concerned gives evidence then, after the person presenting the case has had an opportunity of cross-examining the Centenier, the Attorney General shall put to the Centenier concerned any questions which the complainant requests should be so put and might have been properly so put by the person presenting the case, or at the Attorney General's discretion, may allow the complainant to put such questions to the Centenier concerned.

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

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

- 34) (1) Except as provided in this paragraph and paragraph 37, a disciplinary hearing shall be in private.
- (2) The Attorney General may allow any advocate, solicitor or other such persons as the Attorney General considers desirable to attend the whole or such part of the disciplinary hearing as the Attorney General may think fit, subject to the consent of the Centenier concerned and the person presenting the case against the Centenier.
- (3) The Centenier concerned may be accompanied at the hearing by any person other than an interested party.
- (4) The Attorney General may allow witnesses to be accompanied at the hearing by a personal friend or relative.

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

- 35) Where it appears to the Attorney General that a witness may, in giving evidence, disclose information which, in the public interest, ought not to be disclosed to a member of the public, the Attorney General shall require any member of the public, including the complainant and any person allowed to accompany the complainant or any witness, to withdraw while the evidence is given.

## **Evidence at disciplinary hearing**

- 36) (1) The Attorney General shall determine any question as to whether any evidence is admissible and as to whether any question should or should not be put to a witness.
- (2) With the consent of the Centenier concerned, the Attorney General may allow any document to be adduced in evidence during the disciplinary hearing notwithstanding that a copy of it has not been given to the Centenier concerned in accordance with paragraph 24.

## **Record of disciplinary hearing**

- 37) The Attorney General shall:
- (1) ensure that a verbatim record of the proceedings at a disciplinary hearing is taken, if recorded by tape or other recording;
- (2) if the Centenier concerned so requests, within the time for any appeal pursuant to the customary law jurisdiction of the Royal Court over members of the Honorary Police and after the Centenier has given notice of appeal, supply the Centenier with a transcript of the record or a copy of it.

## **Punishments**

- 38) (1) Subject to paragraph 23, the Attorney General may impose any of the following punishments, that is to say:

- a) dismissal from the Honorary Police;
  - b) requirement to resign from the Honorary Police, as an alternative to dismissal, taking effect either forthwith or on such date as may be specified in the decision;
  - c) suspension;
  - d) censure;
  - e) reprimand.
- (2) Any punishment imposed under sub-paragraph (1), except a requirement to resign, shall have immediate effect.
- (3) The Centenier concerned may be dismissed or required to resign without the Centenier's being legally represented if the Centenier concerned:
- a) fails without reasonable cause to give notice in accordance with this Code of Conduct that the Centenier wishes to be legally represented;
  - b) gives notice in accordance with this Code of Conduct that the Centenier does not wish to be legally represented;
  - c) gives notice in accordance with this Code of Conduct that the Centenier wishes to be legally represented but, at any time, withdraws such notice; or
  - d) fails to attend the hearing and the Attorney General elects to proceed.

### **Service to be considered before punishment imposed**

- 39) Where the question of the punishment to be imposed is being considered:
- (1) the Attorney General:
    - a) shall have regard to the past service in the Honorary Police of the Centenier concerned, including any previous disciplinary findings, and
    - b) may receive evidence from any witness whose evidence, in the Attorney General's opinion or in the opinion of the Centenier concerned, would assist in determining the question; and
  - (2) the Centenier concerned or the Centenier's representative shall be given an opportunity to make oral or, if appropriate, written representations concerning the question or to adduce evidence relevant to it.

### **Notification of finding**

- 40) (1) At the conclusion of a disciplinary hearing, the Attorney General shall inform the Centenier concerned orally of the decision on the disciplinary charge and of any punishment imposed.
- (2) The Attorney General shall, within the seven days following the conclusion of the disciplinary hearing, cause the Centenier concerned and the Connétable of the parish in which the Centenier serves to be given written notice of the decision and any punishment imposed and a summary of the reasons for them.

## **Records of disciplinary proceedings**

- 41) The Attorney General shall enter every case brought against a Centenier pursuant to this Code of Conduct in the book of record of disciplinary proceedings against members of the Honorary Police referred to in Regulation 29 of the Regulations, together with the finding on the case and a record of the decision in any further proceedings in connection with the case.

## **Delegation**

- 42) The Attorney General may, if necessary, delegate to the Solicitor General or a Crown Advocate all or any of the Attorney General's powers and duties under this Code.

## **Service by post**

- 43) Any notice or document to be given, sent or delivered pursuant to these Regulations may be given, sent or delivered by post.

# Discipline Code

## 1 Interpretation

This Discipline Code applies to Centeniers who are acting as a prosecutor.

## 2 Honesty and integrity

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

## 3 Fairness and impartiality

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

## 4 Politeness and tolerance

Centeniers should treat members of the public and colleagues with courtesy and respect, avoiding abusive or deriding attitudes or behaviour. In particular, officers must avoid: favouritism of an individual or group; all forms of harassment, victimisation or unreasonable discrimination; and overbearing conduct to a colleague.

## 5 Lawful orders, directives, etc

The Honorary Police is a disciplined body. Unless there is good and sufficient cause to do otherwise, Centeniers must obey all lawful orders and directives including Directions given by the Attorney General and relevant (in the opinion of the Attorney General) orders or directions given by the Magistrate. Centeniers should support their colleagues in the execution of their lawful duties, and oppose any improper behaviour, reporting it where appropriate.

## 6 Confidentiality

Information which comes into the possession of a Centenier acting as a prosecutor should be treated as confidential. It should not be used for personal benefit and nor should it be divulged to other parties except in the proper course of duty. Similarly, Centeniers should respect as confidential information about the policy and operations of the Honorary Police and the States of Jersey Police unless authorized to disclose it in the course of their duties.

## 7 Criminal offences

Centeniers must report to the Connétable of the parish in which they serve any proceedings for a criminal offence taken against them. Conviction of a criminal offence may of itself be an offence against discipline.

## **8 Alcohol**

- (1) Centeniers shall not consume any alcohol whilst acting as a prosecutor.
- (2) Centeniers shall not act as a prosecutor having consumed alcohol before acting as a prosecutor to such an extent that their judgment or ability to perform their duties is likely to be adversely affected or is likely to bring the Honorary Police into disrepute.

## **9 Appearance**

Unless on duties which dictate otherwise, Centeniers should always be well turned out, clean and tidy whilst acting as a prosecutor.

## **10 General conduct**

Centeniers should not behave in a way which is likely to bring discredit upon the Honorary Police.