



Attorney General's Direction 4/2019

The conduct of Parish Hall Enquiries

Preliminary

- 1) No person shall be warned to attend a Parish Hall Enquiry ("an Enquiry") unless it reasonably appears to a Centenier, police officer or other appropriate law enforcement agency that an offence may have been committed.
- 2) Every person formally warned to attend at an Enquiry and who does so attend (hereinafter referred to as "an Attendee") shall, at the Parish Hall, be given an opportunity to study the information leaflet about enquiries before the Enquiry begins. Leaflets in English, French, Polish and Portuguese are to be available to Attendees.
- 3) A Parish Hall Enquiry is essentially a prosecution process. The purpose of an Enquiry is for the Centenier to decide:
 - a) whether there is sufficient evidence to justify a charge;
 - b) if so, whether the public interest requires a charge be laid;
 - c) if a charge is appropriate, whether the matter can be dealt with at the Enquiry after the charge is laid.
- 4) It is not appropriate for a Centenier to conduct an Enquiry into an alleged offence which he or she has investigated or taken any part in investigating.
- 5) Enquiries are not held in public. The Centenier should ensure that the room in which the Enquiry is held is sufficiently private to ensure that the attendee cannot be seen by other members of the public during the Enquiry and that the proceedings cannot be overheard. The Centenier should at all times be accompanied during the Enquiry by another police officer. It is desirable, where practicable, that either the Centenier or the other officer (or both) should be of the same sex as the Attendee.
- 7) An Attendee is entitled to be accompanied by a lawyer and may be accompanied by any one other person should he or she so wish. It is a matter for the Centenier's discretion what part the lawyer or other person is allowed to play at the Enquiry. However, the lawyer is there to advise his client and should be permitted to do so. The Centenier may nonetheless exclude any person from the Enquiry for misconduct or unruly behaviour.
- 8) An Attendee who is under 18 years of age must also be accompanied by a parent or guardian or other responsible adult and, if no such person is present, the Centenier should adjourn the Enquiry. If, despite all reasonable efforts by the Centenier to procure the attendance of a parent, guardian or other responsible adult no such person attends following such adjournment or adjournments, the Centenier should warn the

Attendee to attend Court. All persons under 18 years of age should be seen either on a different evening or at different times from adult enquiries.

- 9) A Probation Officer should be invited to attend the enquiry and the Centenier should establish such background information as is necessary for him or her to carry out the Enquiry which may include contacting the Attendees school.
- 10) A person who has a mental disorder; or an inability to communicate that may mean they are incapable of participating effectively in the Enquiry must also be accompanied by a relative, guardian or other person who may be able to assist the person to participate in the Enquiry, and the Centenier should normally adjourn the Enquiry if no such person is present. This adjournment will enable the Centenier to make further enquiries with a view to ensuring that at the next hearing, a relative, guardian or other person will be present so that the matter can proceed.

Procedure at Parish Hall Enquiry

- 11) The Centenier shall be mindful of the fact that anything said by the Attendee whilst not under caution is not admissible in evidence against the Attendee.
- 12) At the Enquiry, the Centenier should introduce themselves and explain the purpose of the Enquiry. The Attendee should first be told with sufficient particularity to inform him or her of all the material details of the offence alleged to have been committed. This does not normally involve reading out either the relevant police report or any witness statement but it does require a summary of the allegations to be put. Where the Centenier is in any doubt as to whether the Attendee has a sufficient understanding of the English language, she/he should arrange for an official interpreter to be present and should adjourn the Enquiry until an interpreter is present.
- 13) The Centenier, who shall have read the report of the incident before the Enquiry starts, shall consider such other material as she/he thinks fit including hearing from the Attendee. Before inviting the Attendee to say anything, the Centenier must caution him or her that s/he is not obliged to say anything unless s/he wishes to do but whatever s/he wishes to say will be taken down in writing and may be given in evidence. The Centenier will normally reach a decision based upon the police report and witness statements without the need to resort to the oral hearing of witnesses. It is to be remembered that the Parish Hall Enquiry is not an occasion for a Centenier to act as an investigator.
- 14) Having considered the material before him, and the Code on the Decision to Prosecute, the Centenier shall decide whether there is sufficient evidence to justify a prosecution. In any case where the Centenier ultimately concludes that there is not sufficient evidence to justify a prosecution, the Enquiry shall be ended and no further action taken against the Attendee.
- 15) In such cases, all records of the Enquiry shall show that there was insufficient evidence of an offence. The Centenier shall ensure that all records of the Enquiry are returned to Police Headquarters within 14 days from the date of the Enquiry.
- 16) If the Centenier concludes that there is sufficient evidence to justify a prosecution, the Centenier shall then go on to determine whether the public interest requires that charge(s) be laid. In reaching a conclusion the Centenier shall have regard to the Guidelines issued by the Attorney General and contained in the Code on the Decision to Prosecute.

- 17) If the Centenier considers that it is appropriate to do so, the Centenier may:
- i) adjourn the Enquiry in order to allow further information to be gathered to determine whether there is sufficient evidence to justify a prosecution or seek the advice of the Legal Advisers;
 - ii) where the Centenier considers that the evidential test is met and with the consent of the Attendee, defer the decision on whether to prosecute and adjourn the Enquiry for no longer than six months. A deferral of this decision may be accompanied by voluntary probation or any appropriate voluntary community measure agreed by the Attendee. This may include, if the Attendee and the victim agree, a supervised meeting between the Attendee and the victim, or such other reparation as the Centenier thinks appropriate which is agreed by the Attendee.
- 18) In the case of an adjourned Enquiry under paragraph 17 the Attendee must return to Parish Hall Enquiry at a later date. On that occasion, depending upon what has transpired in the meantime, the Centenier will proceed in accordance with paragraphs set out below.
- 19) If the Attendee adequately complies with the voluntary probation order or other appropriate community measure, and there are no new circumstances which should be taken into account, the Centenier would be expected to determine at the end of the adjournment described in paragraph 17(ii) above, that the public interest did not lie in the commencement of a prosecution at that stage, and to proceed in accordance with paragraph 20 below. If the Attendee has not so complied, or new circumstances have arisen which require it, the Centenier should proceed in accordance with paragraph 21 below, charging the Attendee and warning him or her to appear in the Magistrate's Court or the Youth Court as the case may be.
- 20) In any case where the Centenier is satisfied that the public interest does not lie in the commencement of criminal proceedings, the options open to the Centenier are:
- i) with the agreement of the Attendee, to issue a written caution;
 - ii) to take no further action, although this may well involve words of advice, an oral caution, warning, etc.
- 21) If the Centenier concludes that the public interest requires a prosecution he or she shall so inform the Attendee. The Centenier shall proceed to charge the Attendee. At the time a person is charged he or she shall be given a written notice showing particulars of the offence with which he or she is charged and including the name of the officer in the case and the name and the Parish of the Centenier who charges the person. So far as possible the particulars of the charge shall be stated in simple terms, but they shall also show the precise offence in law with which the person is charged. The notice shall begin with the following words:

"You are charged with the offence(s) shown below. Do you wish to say anything? You are not obliged to say anything unless you wish to do so, but whatever you say will be taken down in writing and may be given in evidence."

If the person is aged under 18 or has a mental disorder; or an inability to communicate that may mean they are incapable of understanding the notice then it shall be given to

the relative, guardian or other person who is assisting the person to participate in the Enquiry.

- 22) Where the Centenier has charged the Attendee, the Centenier should:
- a) inform the Attendee of the availability of the Legal Aid Scheme and explain the procedure for obtaining Legal Aid if this is required;
 - b) subject to paragraph 23 below -
 - i) warn the Attendee to attend at Court on the first available date; or
 - ii) admit the Attendee to bail in such sum as the Centenier may reasonably determine pending his or her appearance at Court.
- 23) After the charge(s) have been laid in cases where the Centenier has a statutory power to fine.
- 24) If the Attendee admits the offence(s) and agrees that the Centenier deal with the matter, the Centenier should make clear to the Attendee that a record of a fine will be kept by the police and may be made available on a future occasion to a Court or a Parish Hall Enquiry, although it will not amount to a “conviction”. Payment of the fine by the Attendee concludes the proceedings in respect of the offences which the Centenier has charged.
- 25) If the Attendee admits the offence(s) s/he should do so in writing by signing a document substantially in the form attached, supplied to him or her by the Centenier. S/he should then be asked whether s/he has anything to say by way of excusing the offence(s) after hearing which the Centenier shall determine the appropriate course of action.
- 26) If the Attendee does not admit the offence(s) the Centenier cannot proceed to deal with him or her at the Parish Hall Enquiry and the Centenier should warn the Attendee for appearance before the Magistrate’s Court on the charge(s) laid.
- 27) It is important that the Centenier should have regard to the consequences of the various options referred to above in terms of the records maintained at Police Headquarters. The criminal records of an offender consist of:
- a) any conviction before a Court;
 - b) any offence for which a fine is imposed pursuant to statutory power at Parish Hall Enquiry; and/or
 - c) any offence for which a written caution is given at Parish Hall Enquiry.

It follows that anything less than a written caution will not appear in the criminal record of an offender. There are at present a number of expressions used for lesser sanctions, e.g. “verbal caution”, “words of advice”, “severally cautioned”, “strong words of advice”. All of these expressions amount to the same thing, namely a decision to take No Further Action.

A Centenier must therefore consider the consequences of a written caution as against no further action. It must be a matter of judgment for the Centenier on the facts of a particular case as to whether he or she thinks the matter ought to be dealt with by way of a written caution in order to mark the offence formally or whether it is sufficient

simply to take no further action. Each of these courses pre-supposes that the offender has admitted the offence at Parish Hall Enquiry.

- 28) A Centenier must record in writing the reasons for a decision not to prosecute. This must make clear whether there is insufficient evidence or whether there is sufficient evidence but the public interest is in favour of the matter being dealt with at the Enquiry in one of the manners described above rather than a prosecution. If the latter is the case, the Centenier must record the reasons for the decision that it is not in the public interest to prosecute. The Centenier shall ensure that the written record is returned to Police Headquarters within 14 days from the date of the Enquiry.

Other points

- 29) A Centenier may, if asked to do so, give advice or counsel to any Parishioner or fellow citizen about domestic or other problems. In this respect a Centenier has neither more nor less right than any other person, although his or her position as Centenier will naturally lend authority to the advice given. Centeniers may give advice or counsel at the Parish Hall if persons choose to seek them out there or at any other time and place which may be convenient. Centeniers should never give the impression that in advising or counselling they are exercising a judicial function, neither should they purport to make a judgment binding on any person in matters brought to their attention. Centeniers have no civil jurisdiction. Centeniers should never ask an Attendee, for example, to accept civil liability for a road traffic accident.
- 30) In the event of fines being levied by a Centenier at the Parish Hall Enquiry; if there are several offences the total should not exceed £750.00.
- 31) A Centenier must bear in mind the importance of keeping the victim of an offence informed. Accordingly, it is the responsibility of the Comité des Chefs, in conjunction with the States Police, to ensure that arrangements are in place to inform the victim of the outcome of a Parish Hall Enquiry including, if the decision at the Enquiry is not to charge the alleged offender, a brief statement of the grounds for the decision. This should be taken from the reasons recorded pursuant to paragraph 28 above.
- 32) These Directions replace those issued in 1997 and 2008 and are of immediate effect.

March 2019

NOTICE OF CHARGE / SUMMARY FINE / WRITTEN CAUTION. PARISH OF

You are not obliged to say anything unless you wish to do so, but what you say may be put into writing and given in evidence.

Date of Enquiry	Time of First Caution	O.I.C. Ref:	CENTENIER	Official Stamp
Surname:		Forenames:		
Date of Birth :		Place of Birth :		
Address :				

STATEMENT OF OFFENCES

Not Guilty Reserved

1.			
2.			
3.			
4.			
5.			

Being an infringement of

1.
2.
3.
4.
5.

Do you wish to say anything ? You are not obliged to say anything unless you wish to do so, but whatever you say will be taken down in writing and may be given in evidence.

Time of second or formal Caution

REPLY:

You are hereby warned to appear before the Magistrate of the Island of Jersey in the court and at the time and date specified below:

Magistrates Court, Union Street, St. Helier	Day:	Date:	Time:
Youth Court, Union Street, St. Helier	Day:	Date:	Time:

Signed Centenier :

Signed Accused :

FAILURE TO ATTEND COULD RESULT IN YOUR ARREST

RECORD OF SUMMARY FINE

I..... acknowledge having been charged with committing the above offence(s) and hereby admit committing the offence(s) and agree to a payment of a fine of £ to the Parish of levied summarily by Centenier in accordance with the statutory powers conferred.

I recognise that if I had decided not to accept the decision of the Centenier, the charge would have been referred to the Magistrate's Court for adjudication.

Signed

WRITTEN CAUTION

Date of Offence(s)..... Offence(s)

THIS IS A FORMAL NOTICE OF A WRITTEN CAUTION IMPOSED UPON YOU IN RESPECT OF THE ABOVE ADMITTED OFFENCE(S)

Signed Centenier: Signed Offender: Dated.....

THE ATTORNEY GENERAL HAS THE POWER TO OVERRULE A CENTENIER'S DECISION