



Complaints against the Police relating to Discrimination

The relevant legislation

Complaints against the police in Jersey are dealt with pursuant to the Police (Complaints and Discipline) (Jersey) Law 1999, as amended by the Police Force (Amendment No. 11) (Jersey) Law 2009, and the Police (Complaints and Discipline Procedure) (Jersey) Order 2000, which may be found at:

http://www.jerseylaw.je/Law/lawsinforce/consolidated/23/23.325_Police_ComplaintsandDiscipline_Law1999_RevisedEdition_1January2009.pdf

www.jerseylaw.je/Law/lawsinforce/htm/LawFiles/2009/L-08-2009.pdf

http://www.jerseylaw.je/Law/lawsinforce/consolidated/23/23.325.50_Police_ComplaintsandDisciplineProcedure_Order2000_RevisedEdition_1January2007.pdf

A positive duty not to discriminate

The Police Discipline Code ("the Code") is contained in Schedule 2 to the Police Complaints and Discipline (Procedure) Order 2000 ("the Order").

Articles 3 and 4 of the Code impose positive duties on Police officers to:

- act with fairness and impartiality in their dealings with the public; and
- avoid harassment, victimisation and unreasonable discrimination.

The Order provides that an officer commits a disciplinary offence if he fails to act in accordance with the Code in the performance of his duties.

How to complain about discrimination

The general Police complaints procedure is clearly explained on the States website at:

<http://www.gov.je/HomeAffairs/Police/Complaints+against+the+Police.htm>

How to initiate a complaint

The best way to initiate a complaint against a Police officer is to:

- Write to the Chief Officer of the Force;
- Give details at the Police station or to any Police officer; or
- E-mail the complaint to complaints@jersey.pnn.police.uk

It is important that the complaint contains as much information as possible, such as when and where the incident took place, names and addresses of any witnesses, the name or number of the Police officer concerned and a description of what happened.

Informal resolution of complaints

When the Police receive a complaint, the first step will be for a senior officer to visit or telephone the complainant to describe the complaints procedure, discuss the complaint and see if it can be resolved informally.

Complaints may only be resolved informally if:

- The complainant consents; and
- The conduct complained of would not justify a criminal charge.

Suspension of officer

The Chief Officer has the power to suspend an officer who has been charged with a criminal offence or where there has been a complaint, which indicates that the officer has committed a disciplinary offence, such as e.g., unreasonable discrimination.

Formal investigation of complaints

If the complaint relates to a disciplinary offence such as unreasonable discrimination and it has not been possible to resolve the complaint informally, the Chief Officer may appoint an independent officer ("the Investigating Officer") to investigate the complaint.

The Investigating Officer will talk to the complainant, the officer subject to the complaint and any witnesses. He/she will then refer an account of the investigation of the complaint to the Chief Officer, who will then decide whether:

- no formal action is needed and/or the complaint should be withdrawn;
- a disciplinary charge should be brought against the officer concerned; and/or
- the matter should be referred to the Attorney General (e.g. where a criminal offence may have been committed).

There is also an independent body known as the Independent Jersey Police Complaints Authority ("the Authority"), which may supervise the investigation and review the Chief Officer's conclusions.

If, for example, the Chief Officer decides not to bring a disciplinary charge against the officer but the Authority believes that it is right that such a charge should be brought, it can direct the Chief Officer to bring the charge.

No member of the Police force or Jurat may be a member of the Authority.

Disciplinary hearings

If a disciplinary charge is brought, e.g. on the ground that the officer behaved

towards the complainant with unreasonable discrimination, the complaint proceeds to a disciplinary hearing.

The hearing takes place before the Chief Officer or, if the Authority has directed that the charge be brought, by the Chief Officer and two members of the Authority itself.

The complainant and the officer subject to complaint may both attend the hearing and the tribunal hears evidence.

Finally, the tribunal will reach a decision on the complaint and, if satisfied that a disciplinary offence has been committed, the officer may be made subject to a range of penalties, such as reduction in rank, dismissal, reprimand, fine or caution.

The officer subject to complaint has a right of appeal against a decision of the tribunal. This right of appeal is to the Authority, which is then obliged to ask the Bailiff to set up a panel of three Jurats to hear the appeal.

An aggrieved complainant whose complaint has been rejected by the tribunal does not appear to have a statutory right of appeal and would need to take legal advice as to his/her options at that stage.