

GUERNSEY STATUTORY INSTRUMENT

2011 No. 15

**The Police Complaints (Appeal Tribunal) (Guernsey)  
Regulations 2011**

<i>Made</i>	3 May 2011
<i>Coming into operation</i>	1 July 2011
<i>Approved by resolution of the States</i>	2011

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**THE HOME DEPARTMENT**, in pursuance of the powers conferred upon it by sections 12(1), 13(1)(h) and 21 of the Police Complaints (Guernsey) Law, 2008<sup>a</sup>, makes the following regulations:-

PART I

THE TRIBUNAL AND ITS JURISDICTION

**Membership of the Tribunal.**

1. (1) The Police Appeal Tribunal shall consist of three members appointed by the States from persons nominated by the Department, being –

- (a) a qualified lawyer, as Chairman of the Tribunal,
- (b) a serving or retired senior-ranking officer of another police force, and
- (c) a qualified person.

(2) A member of the Tribunal –

- (a) subject to paragraphs (b) and (c), must be appointed for a term of three years (or any shorter period that the States may specify by resolution),

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<sup>a</sup> Order in Council No. XIX of 2009, as amended by the Police Complaints (Guernsey) Law, 2008 (Commencement and Amendment) Ordinance, 2011.

- (b) must retire on attaining the age of 70, and
  - (c) may be re-appointed in accordance with this regulation.
- (3) None of the following persons may be appointed a member of the Tribunal –
- (a) a member of the States of Deliberation or the States of Election of Guernsey,
  - (b) a member of the States of Alderney or the Chief Pleas of Sark, or
  - (c) an employee of the States of Guernsey.

**Remuneration and expenses.**

2. Members of the Tribunal must be paid remuneration, and reimbursed expenses, as determined by the Department.

**Prescribed disciplinary proceedings.**

3. The following disciplinary proceedings are prescribed for the purposes of section 12(1) of the Law (in addition to disciplinary proceedings under section 11 of the Law) –

- (a) any misconduct meeting in respect of senior-ranking officers,
- (b) any misconduct hearing, and
- (c) any special case hearing.

**Decisions that may be appealed.**

4. (1) Subject to paragraph (2), in relation to the proceedings prescribed or referred to in regulation 3 (prescribed disciplinary proceedings), an appeal may be made against any one or more of the following decisions –

- (a) a finding of misconduct or gross misconduct against an officer other than a senior-ranking officer at any misconduct hearing,
- (b) a finding of misconduct or gross misconduct against a senior-ranking officer at any misconduct hearing,
- (c) a finding of misconduct against a senior-ranking officer at any misconduct meeting,
- (d) a finding of gross misconduct against an officer at any special case hearing, or
- (e) a decision to impose any disciplinary action as a result of a finding referred to in subparagraph (a), (b), (c) or (d).

(2) No appeal may be made against a finding referred to in paragraph (1)(a), (b), (c) or (d) if the finding was made following acceptance by the officer concerned that his conduct amounted to misconduct or (as the case may be) gross misconduct.

## PART II PRELIMINARY PROCEDURES

### **Who can appeal.**

5. An appeal may be made by the officer against whom the finding referred to in regulation 4(1)(a), (b), (c) or (d) (decisions that may be appealed) was made.

### **The respondent.**

6. The respondent to an appeal –

- (a) where the appeal is against a decision of the Complaints Tribunal, is the Commission, and
- (b) in any other case, is the appropriate authority.

**Grounds of appeal.**

7. The grounds of appeal are –

- (a) the finding or disciplinary action was ultra vires or unreasonable,
- (b) there is evidence that could not reasonably have been considered at the misconduct meeting which could have materially affected the finding or decision on disciplinary action, or
- (c) there was a serious breach of the procedures set out in the Conduct Regulations or other unfairness which could have materially affected the finding or decision on disciplinary action.

**Procedure on notice of appeal.**

8. (1) An officer who serves notice of appeal under section 12(6) of the Law may include in his notice of appeal a request for a transcript of the original proceedings (or a specified part of the original proceedings).

(2) The respondent must provide the Chairman and the appellant with a copy of any transcript requested under paragraph (1) –

- (a) as soon as reasonably practicable, and
- (b) in any event, within 15 working days of receipt of the request.

(3) Within 20 working days of service of the notice of appeal, or of receipt of a copy of the transcript if requested under paragraph (1), the appellant must supply the following documents to the Chairman and to the respondent –

- (a) a statement of the relevant decision and his grounds of appeal,
- (b) any supporting documents,
- (c) where the appellant is permitted to adduce witness evidence, a list of any proposed witnesses and a witness statement from each proposed witness, and
- (d) if he consents to the appeal being determined without a hearing, notice in writing that he so consents.

(4) For the purposes of paragraph (3)(c) –

- (a) an appellant is only permitted to adduce witness evidence where he is relying on the ground of appeal set out in regulation 7(b) (grounds of appeal), and
- (b) a "**proposed witness**" is a person whom the appellant wishes to call to give evidence at the hearing, whose evidence was not and could not reasonably have been considered at the original proceedings, and whose evidence could have materially affected the relevant decision.

**Further procedures following notice of appeal.**

9. (1) Within 20 working days of receipt of the documents specified in regulation 8(3) (procedure on notice of appeal), the respondent must supply the following documents to the Chairman and the appellant –

- (a) a statement of the respondent's response to the appeal,
  - (b) any supporting documents,
  - (c) where the respondent is permitted to adduce witness evidence, a list of any proposed witnesses and a witness statement from each proposed witness, and
  - (d) if the respondent consents to the appeal being determined without a hearing, notice in writing that the respondent so consents.
- (2) For the purposes of paragraph (1)(c) –
- (a) a respondent is only permitted to adduce witness evidence where the appellant is relying on the ground of appeal set out in regulation 7(b) (grounds of appeal),
  - (b) a "**proposed witness**" is a person whom the respondent wishes to call to give evidence at the hearing, whose evidence is relevant to all or part of the evidence on which the appellant is relying for the purposes of regulation 7(b) (grounds of appeal).

**Extensions of time limits.**

10. (1) The appellant or the respondent may apply to the Chairman for an extension of a relevant period.

(2) An application must set out the period of the required extension and the reasons for the application.

(3) As soon as practicable after receipt of an application, the Chairman must –

- (a) give a copy of the application to the other party (being the appellant or the respondent as the case may be), and
- (b) ask that other party if it consents to the application.

(4) If that other party consents to the application, the relevant period is extended in accordance with the application and regulations 8 (procedure on notice of appeal) and 9 (further procedures following notice of appeal) have effect as if for that period there were substituted the extended period.

(5) If the other party does not consent to the application, the Chairman must determine whether the relevant period should be extended and if so by how long; and if he extends the relevant period, regulations 8 (procedure on notice of appeal) and 9 (further procedures following notice of appeal) have effect as if for that period there were substituted the extended period.

(6) In this regulation , "**relevant period**" means –

- (a) in relation to an application by the appellant, the period specified in regulation 8(3) (procedure on notice of appeal), and
- (b) in relation to an application by the respondent, the period specified in regulation 8(2)(b) (procedure on notice of appeal) or regulation 9(1) (further procedures following notice of appeal).

#### **Review of appeal.**

11. (1) Upon receipt of the documents specified in regulation 8(3) (procedure on notice of appeal) and regulation 9(1) (further procedures following

notice of appeal), the Chairman must determine whether the appeal should be dismissed under paragraph (2).

(2) An appeal must be dismissed under this paragraph if the Chairman considers that –

- (a) the appeal has no real prospect of success, and
- (b) there is no other compelling reason why the appeal should proceed.

(3) If the Chairman considers that the appeal must be dismissed under paragraph (2), before making his determination, he must give the appellant and the respondent written notification of his view together with the reasons for that view.

(4) The appellant and the respondent may make written representations in response to the Chairman within 10 working days of receipt of the notification; and the Chairman must consider any such representations before making his determination.

(5) The Chairman must give the appellant and the respondent written notice of his determination.

(6) Where the Chairman determines that the appeal must be dismissed under paragraph (2) –

- (a) the notice under paragraph (5) must include the reasons for the determination, and
- (b) the Chairman must dismiss that appeal.

**Method of determining an appeal.**

12. (1) Where an appeal has not been dismissed under regulation 11 (review of appeal), the Chairman must determine whether the appeal should be dealt with at a hearing or without a hearing.

(2) The Chairman may determine that the appeal should be dealt with without a hearing only if the appellant has so consented.

(3) Where the appeal is to be dealt with at a hearing, the provisions of Part III (Procedure for Hearing Appeals) apply and the Chairman must give the appellant and the respondent his name and contact address.

### PART III PROCEDURE FOR HEARING APPEALS

#### **Power to request disclosure of documents.**

13. (1) At any time following the provision of the documents specified in regulation 8(3) (procedure on notice of appeal) and regulation 9(1) (further procedures following notice of appeal), the appellant or the respondent (the "**requesting party**") may apply to the Chairman for disclosure of any document by the other party which is relevant to the appeal.

(2) The Chairman may request the disclosure of any such document by the other party and where it is disclosed, a copy must be given to the Chairman and to the requesting party.

(3) Where a party does not comply with a request to disclose under paragraph (2), it must give the Chairman and the requesting party its reasons for non-disclosure in writing.

#### **Notice of the hearing.**

14. (1) The Chairman must give the appellant and the respondent written notice of the date, time and place of the hearing at least 20 working days, or any shorter period agreed with the parties, before the date of the hearing.

(2) Where –

- (a) the appellant is relying on the ground of appeal set out in regulation 7(b) (grounds of appeal), and
- (b) either the appellant or the respondent (or both) have proposed witnesses under regulation 8(3)(c) (procedure on notice of appeal) or regulation 9(1)(c) (further procedures following notice of appeal) (as the case may be ),

the Chairman must determine which, if any, witnesses shall give evidence at the hearing.

(3) No witness may give evidence at the hearing unless the Chairman reasonably believes that it is necessary for the witness to do so, in which case the Chairman must –

- (a) cause the witness to be given notice that his attendance is necessary and of the date, time and place of the hearing, and
- (b) if the Chairman considers this necessary, issue a summons for the attendance of that witness under regulation 18.

**Legal and other representation.**

15. (1) The appellant has the right to conduct his appeal in person or to be represented by a lawyer or police friend.

(2) Where the appellant is represented at the hearing by a lawyer, he may also be accompanied at the hearing by a police friend.

(3) If an appellant chooses not to be represented, the hearing may take place and the appeal may be determined without him being represented.

- (4) The respondent has the right to be represented at a hearing by a lawyer or –
- (a) where the respondent is the Commission, by any member of the Commission,
  - (b) where the respondent is the Chief Officer, by another officer, and
  - (c) where the respondent is the Department, by any member of the Department.
- (5) The Chief Officer must permit the police friend to use a reasonable amount of duty time for the purposes referred to in this regulation.

**Procedure and oral evidence at hearing.**

16. (1) Subject to these Regulations and to section 12 of the Law, the Tribunal must determine the procedure at a hearing.

(2) The Tribunal may proceed with the hearing in the absence of either party, whether represented or not, if it appears to be just and proper to do so, and may adjourn it from time to time if it appears necessary to do so.

(3) Unless the Tribunal determines otherwise, the evidence adduced by the appellant must be given first.

(4) Witnesses giving evidence at the hearing may be subject to questioning and cross-questioning.

(5) Any question as to whether any evidence is admissible, or whether any question should or should not be put to a witness, must be determined by the Tribunal.

(6) A verbatim record of the evidence given at the hearing must be taken; and the Tribunal must keep such record for a period of not less than two years from the date of the end of the hearing.

**Statements in lieu of oral evidence.**

17. (1) Subject to this regulation, the Tribunal may admit as evidence a witness statement of a proposed witness supplied under regulation 8(3)(c) (procedure on notice of appeal) or regulation 9(1)(c) (further procedures following notice of appeal), notwithstanding that he is not to be called as a witness at the hearing.

(2) Evidence is not admissible under this regulation if it would not have been admissible had it been given orally.

(3) For the purposes of this regulation, a written statement purporting to be made and signed by a person and witnessed by another person is presumed to have been made by that person unless the contrary be shown.

(4) Nothing in this regulation prejudices the admission of written evidence which would be admissible apart from the provisions of this regulation.

**Powers of Tribunal as to summoning witnesses, etc.**

18. For the purposes of hearing and determining an appeal, the Tribunal has the same powers as the Royal Court in respect of –

- (a) the attendance and examination of witnesses,
- (b) the administration of oaths or affirmations to witnesses,
- (c) the production of documents and exhibits,

and a summons in relation to any of these matters signed by the Chairman is equivalent to a formal process issued in that behalf in an action before the Royal Court.

**Attendance of observer.**

19. The Tribunal may allow a person to attend all or part of the hearing as an observer for the purposes of training.

**Attendance of complainants and interested persons at hearing.**

20. (1) The Chairman must cause notice of the date, time and place of the hearing to be given to the complainant (if any) and any interested person at the same time as such notice is given to the appellant and the respondent under regulation 14(1) (notice of the hearing).

(2) Subject to paragraph (4), the complainant (if any) and any interested person may attend the hearing as observers.

(3) Subject to paragraph (4), the complainant (if any) or interested person may be accompanied by one other person, and if the complainant (if any) or interested person has a special need, by one further person to accommodate that need.

(4) Where –

(a) a complainant,

(b) an interested person, or

(c) any person accompanying a complainant or an interested person,

is a proposed witness (of either party) and is to give evidence at the hearing, none of the persons mentioned in subparagraphs (a) to (c) may attend the hearing before that evidence is given.

(5) The Chairman may, at his discretion, put any questions to the appellant that the complainant (if any) or an interested person request be put to him.

**Attendance of Commission at hearing.**

21. (1) This regulation applies to an appeal –

(a) in relation to proceedings arising from a supervised investigation, and

(b) where the Commission is not the respondent.

(2) The Chairman must cause notice of the date, time and place of the hearing to be given to the Commission at the same time as such notice is given to the appellant and the respondent under regulation 14(1) (notice of the hearing).

(3) Members of the Commission may attend the hearing as observers.

**Attendance of appropriate authority at hearing.**

22. (1) Where the appropriate authority is not the respondent, the Chairman must cause notice of the date, time and place of the hearing to be given to the appropriate authority at the same time as such notice is given to the appellant and the respondent under regulation 14(1) (notice of the hearing).

(2) The appropriate authority or its nominee may attend the hearing as an observer.

**Exclusion from hearing.**

23. (1) On the application of the appellant or the respondent or otherwise, the Chairman may require any observer to withdraw from all or any part of the hearing.

(2) The Chairman may impose such conditions as he sees fit relating to the attendance of an observer (or any person accompanying a complainant

or interested person) at the hearing in order to facilitate the proper conduct of the hearing.

(3) This regulation has effect notwithstanding any provision to the contrary in regulation 19 (attendance of observer), 20 (attendance of complainants and interested persons at hearing), 21 (attendance of Commission at hearing) or 22 (attendance of appropriate authority at hearing).

#### PART IV APPEAL DETERMINATION AND GENERAL MATTERS

##### **Statement of Tribunal's determination.**

24. (1) The Tribunal must determine whether the grounds of appeal on which the appellant relies have been made out.

(2) The determination of the Tribunal must be made by a majority but must not indicate whether it was taken unanimously or by a majority.

(3) The Chairman must prepare a written statement of the Tribunal's determination of the appeal and of the reasons for the decision.

(4) As soon as reasonably practicable after the determination of the appeal the Chairman must give the appellant and the respondent a copy of the statement; but, in any event, the appellant must be given written notice of the decision of the Tribunal within 3 working days of the determination of the appeal.

(5) The Chairman must give the complainant (if any), any interested person, the Commission (if it is not the respondent) and the appropriate authority (if it is not the respondent), notification of the decision of the Tribunal in such form as he considers appropriate.

(6) Paragraphs (3) to (5) are subject to any direction of the Tribunal under section 12(13) of the Law.

**Effect of orders.**

25. (1) Where on the determination of an appeal the Tribunal makes an order to effect any action specified in section 12(9)(a), (c) or (d) of the Law, the order takes effect –

- (a) by way of substitution for the relevant decision, and
- (b) as from the date of that decision.

(2) An order of the kind specified in paragraph (1) may include a direction that the appellant be reinstated in the Island Police Force; and the appropriate authority and any other person concerned shall comply with that direction.

(3) Where an order includes a direction under paragraph (2), the appellant is deemed to have served in the Island Police Force continuously from the date of the relevant decision to the date of his reinstatement –

- (a) for the purposes of reckoning service for pension, and
- (b) to such extent (if any) as may be determined by the order, for the purposes of pay.

(4) Where an order includes a direction under paragraph (2), and the appellant was suspended for a period immediately preceding the date of the relevant decision or any subsequent decision, the order shall deal with the suspension.

**Provision of notices or documents.**

26. (1) Where any document is to be given or supplied under these Regulations, the document may be given or supplied to –

- (a) an individual, by being delivered to him, or by being

- left at, or sent by post or transmitted to, his usual or last known place of abode,
- (b) a body corporate with a registered office in Guernsey or Alderney, by being left at, or sent by post or transmitted to, that office,
  - (c) a body corporate without a registered office in Guernsey or Alderney, by being left at, or sent by post or transmitted to, its principal or last known principal place of business in Guernsey or Alderney or, if there is no such place, its registered office or principal or last known principal place of business elsewhere,
  - (d) an unincorporated body -
    - (i) by being given or supplied to any partner, member of the committee or other similar governing body, manager, director or other similar officer thereof in accordance with paragraph (a), or
    - (ii) by being left at, or sent by post or transmitted to, the body's principal or last known principal place of business in Guernsey or Alderney or, if there is no such place, its principal or last known principal place of business elsewhere, and
  - (e) a department or committee of the States, a committee of the States of Alderney or a committee of the Chief Pleas of Sark by being left at, or sent by post or transmitted to, the principal offices of that department, or committee, in Guernsey, Alderney or Sark, as the case may be.

(2) If a person ("Person A") notifies the appropriate authority, the Commission, the Tribunal, the Complaints Tribunal or any other person of an address for service within the Bailiwick, any document to be given or supplied to Person A under these Regulations may be given or supplied by being left at, or sent by post to, that address.

(3) Where any document is to be given or supplied under these Regulations to a person who is -

(a) a minor, or

(b) a person under legal disability,

the document may be given or supplied to his guardian; and if there is no guardian, the party wishing to give or supply the document may apply to a court of competent jurisdiction for the appointment of a person to act as guardian for the purposes of these Regulations.

(4) If a document cannot, after reasonable enquiry, be given or supplied to a person in accordance with this regulation, the document may be given or supplied to the person by being published on two occasions in La Gazette Officielle or, in the case of a document to be given or supplied in Alderney, the Alderney Official Gazette.

(5) Paragraphs (1) to (4) are without prejudice to any other lawful method of giving or supplying a document (for example, under the Electronic Transactions (Guernsey) Law, 2000<sup>b</sup>).

(6) Unless the contrary is shown, where a document is sent by post, it is deemed for the purposes of these Regulations to have been received –

<sup>b</sup> Ordres en Conseil Vol. XL, p. 263; as amended by Recueil d'Ordonnances Tome XXIX, p. 406; see also G.S.I. No. 13 of 2001.

- (a) in the case of a document sent to an address in the United Kingdom, the Channel Islands or the Isle of Man, on the third working day after the day of posting,
- (b) in the case of a document sent elsewhere, on the seventh working day after the day of posting.

(7) For the purposes of this regulation, the sending of any document by post is proved by showing the date of posting, the address thereon and the fact of prepayment.

(8) In this regulation –

**"by post"** means by registered post, recorded delivery service or ordinary letter post,

**"document"** includes written notice, and

**"transmitted"** means transmitted by electronic communication, facsimile transmission or other similar means which produce or enable the production of a document containing the text of the communication (in which event the document shall be regarded as given or supplied when it is received).

### **Interpretation.**

27. (1) In these Regulations, unless the context requires otherwise –

**"appeal"** means an appeal made under section 12 of the Law,

**"appellant"** means an officer who makes an appeal,

**"appropriate authority"**, in relation to any complaint or

proceedings –

- (a) in any case where the complaint or those proceedings concern the conduct of a senior-ranking officer, means the Department, and
- (b) in any other case, means the Chief Officer,

**"Chairman"** means Chairman of the Tribunal,

**"Commission"** means the Police Complaints Commission established under section 1 of the Law,

**"complaint"** means a complaint about the conduct of an officer submitted to the appropriate authority under Part II of the Law,

**"complainant"**, in relation to an appeal arising from original proceedings that result from a complaint, means the person who made the complaint,

**"Complaints Tribunal"** means the Police Complaints Tribunal constituted under section 11 of the Law,

**"Conduct Regulations"** means Police Complaints (Conduct Proceedings and Investigations) (Guernsey) Regulations, 2011,

**"disciplinary action"** has the meaning given by regulation 68(1) (interpretation) of the Conduct Regulations,

**"gross misconduct"** has the meaning given by regulation 68(1) (interpretation) of the Conduct Regulations,

**"interested person"** –

- (a) has the meaning given by regulation 67 (meaning of "interested person") of the Conduct Regulations, but
- (b) a reference in that regulation to "the person chairing the proceedings" must be read as if it were a reference to the Chairman of the Police Appeal Tribunal constituted under section 12 of the Law,

**"the Law"** means the Police Complaints (Guernsey) Law 2008<sup>c</sup>,

**"lawyer"** means –

- (a) an Advocate of the Royal Court of Guernsey,
- (b) a member of the Bar of England and Wales, the Bar of Northern Ireland or the Faculty of Advocates in Scotland, who is engaged in the practise of law,
- (c) a solicitor of the Senior Courts of England and Wales, a solicitor in Scotland or a solicitor of the Court of Judicature of Northern Ireland, or
- (d) a person entitled to practise law as a member of the legal profession in any other Commonwealth jurisdiction,

<sup>c</sup> Order in Council No. XIX of 2009, as amended by the Police Complaints (Guernsey) Law, 2008 (Commencement and Amendment) Ordinance, 2011.

**"misconduct"** has the meaning given by regulation 68(1) (interpretation) of the Conduct Regulations,

**"misconduct hearing"** has the meaning given by regulation 68(1) (interpretation) of the Conduct Regulations,

**"misconduct meeting"** has the meaning given by regulation 68(1) (interpretation) of the Conduct Regulations,

**"officer"** has the meaning given by regulation 68(1) (interpretation) of the Conduct Regulations,

**"officer concerned"** has the meaning given by regulation 68(1) (interpretation) of the Conduct Regulations,

**"original proceedings"**, in relation to an appeal, means –

- (a) the proceedings under section 11 of the Law, or
- (b) the prescribed disciplinary proceedings,

at or following which the relevant decision being appealed was made,

**"police friend"** has the meaning given by regulation 68(1) (interpretation) of the Conduct Regulations,

**"qualified lawyer"** means a person who meets the requirements of paragraphs (a) and (b) –

- (a) the person is –
  - (i) an Advocate of the Royal Court of Guernsey,

- (ii) a member of the Bar of England and Wales, the Bar of Northern Ireland or the Faculty of Advocates in Scotland, who is engaged in the practise of law,
- (iii) a solicitor of the Senior Courts of England and Wales, a solicitor in Scotland or a solicitor of the Court of Judicature of Northern Ireland, or
- (iv) a person entitled to practise law as a member of the legal profession in any other Commonwealth jurisdiction,

of not less than five years standing, and

- (b) the person's name is on a list of persons approved by the Department and Her Majesty's Procureur as qualified to conduct regulated proceedings for the purposes of the Law by reason of their relevant experience in or knowledge of employment-related proceedings or proceedings concerning discipline,

**"qualified person"** means a person whose name is on a list of persons approved by the Department as persons qualified to conduct regulated proceedings for the purposes of the Law by reason of their relevant experience in or knowledge of human resources or employment or disciplinary matters,

**"regulated proceedings"** has the meaning given by regulation 68(1) (interpretation) of the Conduct Regulations,

**"relevant decision"** means the decision appealed to the Tribunal under section 12 of the Law and regulation 4,

**"respondent"** has the meaning given by regulation 6 (the respondent),

**"senior-ranking officer"** means a member of the Island Police Force holding the rank of Superintendent or above,

**"serving or retired senior-ranking officer of another police force" –**

(a) means any police officer who holds the rank of, or any person who has retired from service as, Chief Constable, Deputy Chief Constable, Assistant Chief Constable or its equivalent in –

(i) any police force in England, Wales, Northern Ireland or Jersey, or

(ii) the Isle of Man constabulary, but

(b) excludes any person who has at any time been a member of the Island Police Force,

**"special case hearing"** has the meaning given by regulation 68(1) (interpretation) of the Conduct Regulations,

**"supervised investigation"** has the meaning given by regulation 68(1) (interpretation) of the Conduct Regulations,

**"the Tribunal"** means the Police Appeal Tribunal constituted under section 12 of the Law, and

"working day" means any day other than –

- (a) a Saturday, a Sunday, Christmas Day or Good Friday, or
- (b) a day appointed as a public holiday by Ordinance of the States of Deliberation, or (as the case may be) the States of Alderney or the Chief Pleas of Sark, under section 1(1) of the Bills of Exchange (Guernsey) Law, 1958<sup>d</sup>.

(2) Unless the context requires otherwise, references in these Regulations to any enactment are references to it as amended, varied, re-enacted (with or without modification), extended or applied.

(3) The provisions of the Interpretation (Guernsey) Law, 1948<sup>e</sup> apply to these Regulations as they apply to an enactment.

(4) For the avoidance of doubt, unless the context requires otherwise, an expression used in these Regulations has the same meaning as in the Law.

**Application.**

28. For the avoidance of doubt, nothing in these Regulations applies in relation to any complaint, matter or proceedings excluded from the application of the Law by section 4 of the Police Complaints (Guernsey) Law, 2008 (Commencement and Amendment) Ordinance, 2011.

**Consultation required before amending regulations.**

29. The Department must consult the association known as the Guernsey Police Association LBG, and the body of persons known as the Senior Officers' Staff

<sup>d</sup> Ordres en Conseil Vol. XVII, p. 384; Vol. XXIV, p. 84; Vol. XXXIV, p. 507; and Vol. XXXV (1), p. 370.

<sup>e</sup> Ordres en Conseil Vol. XIII, p. 355.

Association, before it amends or revokes any of these Regulations, except in relation to amendments or revocations with minor or insignificant effect, for example, those made in order –

- (a) to shorten or simplify the phraseology of any provision,
- (b) to correct grammatical or typographical errors, or any clerical or printing errors,
- (c) to correct cross-references, or
- (d) to alter or replace names, offices, titles, descriptions, definitions and terms to bring these into conformity with the circumstances for the time being.

**Citation.**

30. These regulations may be cited as the Police Complaints (Appeal Tribunal) (Guernsey) Regulations, 2011.

**Commencement.**

31. These regulations come into force on the 1<sup>st</sup> July, 2011.

Dated this 3 day of May 2011



DEPUTY G H MAHY

Minister of the States Home Department

For and on behalf of the Department

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations set out the composition, jurisdiction and procedures of the Appeal Tribunal established by the Police Complaints (Guernsey) Law, 2008. These Regulations should be read together with section 12 of that Law as well as the Police Complaints (Conduct Proceedings and Investigations) (Guernsey) Regulations, 2011.

Part I of these Regulations deal with the appointment of members of the Tribunal and their remuneration and expenses. It specifies disciplinary proceedings and findings which may be appealed.

Part II gives the right of appeal to the officer against whom the finding was made. It also specifies the respondent in the event of an appeal, grounds of appeal, and procedures on and following notice of appeal. It requires the Tribunal chairman to review each appeal and dismiss it if there is no real prospect of success or if there are compelling reasons not to proceed with it. If the appeal is not dismissed, the Chairman must decide whether to proceed with it by way of a hearing or (with the appellant's consent) otherwise.

Part III sets out the procedure for appeals dealt with by way of a hearing, including disclosure of documents, notice of hearing, legal or other representation, evidence, the Tribunal's power to summon witnesses, and the attendance and participation of the complainant and interested persons, the Police Complaints Commission and the appropriate authority.

Part IV sets out the procedure to be followed by the Tribunal in making its determination and the legal effect of the Tribunal's orders. It also deals with the provision of notices and defines special terms and expressions used throughout these Regulations. Finally, it requires the Guernsey Police Association LBG and the Senior Officers' Staff Association to be consulted before these Regulations are amended or revoked.

These regulations come into force on the 1<sup>st</sup> of July, 2011.