



Jersey

**STATES OF JERSEY POLICE FORCE
(PERFORMANCE AND ATTENDANCE)
(JERSEY) ORDER 2016**

Official Consolidated Version

This is an official version of consolidated legislation compiled and issued under the authority of the Legislation (Jersey) Law 2021.

Showing the law from 1 January 2019 to Current



Jersey

STATES OF JERSEY POLICE FORCE (PERFORMANCE AND ATTENDANCE) (JERSEY) ORDER 2016

Contents

Article

PART 1	4
PRELIMINARY	4
1 Interpretation and application	4
2 Meaning of “attendance”, “performance” and related expressions	6
3 Police friend	6
PART 2	6
FIRST STAGE MEETING	6
4 Circumstances in which a first stage meeting may be required	6
5 Arrangements for a first stage meeting	7
6 Procedure at first stage meeting	8
7 Procedure for notifying officer concerned following a first stage meeting	8
PART 3	9
SECOND STAGE MEETING	9
8 Circumstances in which a second stage meeting may be required	9
9 Timing and notice of second stage meeting	10
10 Information provided by officer to line manager prior to second stage meeting	10
11 Selection of witnesses	11
12 Attendance of witnesses and others at a second stage meeting	11
13 Exclusion from a second stage meeting	12
14 Procedure at a second stage meeting	12
15 Procedure for notifying officer concerned following a second stage meeting	13
PART 4	14
THIRD STAGE MEETING	14
16 Circumstances in which a third stage meeting may be required	14
17 Appointment of panel members for a third stage meeting	15
18 Right of officer concerned to object to panel members	15
19 Timing and notice of third stage meeting	16
20 Information provided by officer to panel chair prior to third stage meeting	16

21	Selection of witnesses	16
22	Attendance of witnesses and others at a third stage meeting	17
23	Exclusion from a third stage meeting.....	17
24	Procedure at a third stage meeting.....	17
25	Finding of a third stage meeting.....	18
26	Outcomes of a third stage meeting.....	18
27	Procedure where a second stage improvement notice is extended	19
PART 5		20
APPEALS		20
28	Appeal against the finding and outcome of a second stage meeting.....	20
29	Arrangements for a second stage appeal meeting	21
30	Procedure and outcomes of second stage appeal meeting.....	21
31	Appeal against the finding and outcome of a third stage meeting.....	22
32	Appointment of tribunal members for a third stage appeal meeting	23
33	Legal representation.....	24
34	Arrangements for a third stage appeal meeting	24
35	Procedure at the third stage appeal meeting	25
PART 6		26
CLOSING		26
36	Citation and commencement.....	26
ENDNOTES		27
Table of Legislation History.....		27
Table of Endnote References		27



Jersey

STATES OF JERSEY POLICE FORCE (PERFORMANCE AND ATTENDANCE) (JERSEY) ORDER 2016

THE MINISTER FOR HOME AFFAIRS, in pursuance of Articles 13 and 33 of the [States of Jersey Police Force Law 2012](#) and after consulting the Chief Officer, the States of Jersey Police Association and the Jersey Police Authority, orders as follows –

Commencement [[see endnotes](#)]

PART 1

PRELIMINARY

1 Interpretation and application

- (1) In this Order, unless the context otherwise requires –
- “attendance” shall be construed in accordance with Article 2(1);
 - “Director of Employee Relations” means a person holding the post of Director of Employee Relations in a department of the States for which the Chief Minister has specific responsibility;
 - “Director of Human Resources” means a States’ employee holding the post of Director of Human Resources in a department of the States for which the Chief Minister has specific responsibility;
 - “first stage improvement notice” shall be construed in accordance with Article 6(4)(d);
 - “first stage meeting” shall be construed in accordance with Article 4;
 - “human resources professional” means a States’ employee who has responsibility for personnel matters relating to police officers;
 - “legal representative” includes an advocate or a solicitor;
 - “line manager” means the person, being a police officer or States’ employee, as the case may be, having immediate supervisory responsibility for the officer concerned or being otherwise responsible for assessing the performance of the officer concerned;
 - “officer concerned” means the police officer who is or has been required to attend a first stage meeting, second stage meeting or third stage meeting, as the case may be;
 - “panel” shall be construed in accordance with Article 17(1);

“performance” shall be construed in accordance with Article 2(2);

“police friend” means –

- (a) police officer;
- (b) police staff member; or
- (c) a person nominated by the States of Jersey Police Association, chosen by the officer concerned to act in accordance with Article 3, such person not otherwise being involved in the matter or proceedings in relation to which he or she is acting;

“police officer from some other force” means a police officer from a police force in the British Islands other than Jersey;

“police staff member” means a States’ employee with specific responsibilities to assist the States of Jersey Police Force in the discharge of its functions and who is under the direction and control of the Chief Officer;

“proceedings” means any of a first stage meeting; a second stage meeting; second stage appeal meeting, a third stage meeting or a third stage appeal meeting;

“second line manager” means a person, being a police officer or States’ employee, having immediate supervisory responsibility of the line manager of the officer concerned or being otherwise responsible for assessing the performance of the line manager;

“senior manager” means a States’ employee who is equivalent in rank to the second line manager of the officer concerned and who is notified to the officer concerned under Article 15(4);

“second stage appeal meeting” shall be construed in accordance with Article 28(2);

“second stage improvement notice” shall be construed in accordance with Article 14(5)(d);

“second stage meeting” shall be construed in accordance with Article 8(3)(a);

“senior human resources professional” means any of the following –

- (a) the Director of Human Resources;
- (b) the Director of Employee Relations; or
- (c) any other human resources professional who, in the opinion of the Chief Officer, after consultation with the Director of Employee Relations, has sufficient seniority, skills and experience to be a panel member for the purposes of a third stage meeting, or a tribunal member for the purposes of a third stage appeal meeting, as the case may be;

“States’ employee” has the same meaning as in the [Employment of States of Jersey Employees \(Jersey\) Law 2005](#);

“third stage appeal meeting” shall be construed in accordance with Article 31(3);

“third stage meeting” has the meaning in Article 16(3)(a);

“tribunal” shall be construed in accordance with Article 32(1);

“unsatisfactory attendance” shall be construed in accordance with Article 2(1);

“unsatisfactory performance” shall be construed in accordance with Article 2(2);

“working day” means a day other than –

- (a) a Saturday, a Sunday, Christmas Day, or Good Friday; or

- (b) a day that is a bank holiday or a public holiday under the [Public Holidays and Bank Holidays \(Jersey\) Law 1951](#).
- (2) These Regulations do not apply for the purpose of assessing the performance or attendance of –
 - (a) the Chief Officer or Deputy Chief Officer; or
 - (b) a police officer who has not completed his or her period of probation.

2 Meaning of “attendance”, “performance” and related expressions

- (1) In this Order –
 - (a) references to the attendance of a police officer shall be construed as referring to the extent to which the ability of a police officer to undertake the duties of the role or rank that he or she is currently undertaking to a satisfactory standard is compromised by the extent of his or her authorized absence from duty caused by sickness; and
 - (b) references to attendance which is unsatisfactory shall be construed accordingly.
- (2) In this Order –
 - (a) references to the performance of a police officer shall be construed as referring to the extent to which a police officer meets the objectives and exercises the competences required to perform the duties of the role that he or she is undertaking to a satisfactory level, such objectives and competences being communicated to the police officer through appraisals of the police officer’s performance conducted by the police officer’s line manager; and
 - (b) references to performance which is unsatisfactory shall be construed accordingly.

3 Police friend

- (1) A police friend may –
 - (a) advise the officer concerned in relation to any proceedings;
 - (b) make representations on behalf of the officer concerned in relation to any matter under this Order, whether orally or in writing and whether or not in the course of proceedings; and
 - (c) accompany the officer concerned in any proceedings.
- (2) Where a police friend is a police officer, police staff member or a human resources professional, the police friend shall be entitled to use a reasonable amount of his or her working time on duty for the purposes referred to in paragraph (1).

PART 2

FIRST STAGE MEETING

4 Circumstances in which a first stage meeting may be required

Where the line manager of a police officer considers that the performance or attendance of that police officer is unsatisfactory, the line manager may require that officer to attend

a meeting (referred to in this Order as a “first stage meeting”) to discuss the performance or attendance of the officer concerned.

5 Arrangements for a first stage meeting

- (1) Where the line manager requires a police officer to attend a first stage meeting, the line manager must give notice in writing to the officer concerned –
 - (a) requiring the officer concerned to attend a first stage meeting;
 - (b) summarizing the reasons why the performance or attendance of the officer concerned is unsatisfactory;
 - (c) informing the officer concerned of the possible outcomes of a first stage meeting, second stage meeting and a third stage meeting;
 - (d) informing the officer concerned of the procedures for determining the date and time of the first stage meeting in accordance with paragraphs (3) to (6);
 - (e) informing the officer concerned that he or she may seek advice from a representative of the States of Jersey Police Association;
 - (f) informing the officer concerned that he or she may be accompanied and represented at the meeting by a police friend; and
 - (g) informing the officer concerned that he or she must provide to the line manager in advance of any meeting a copy of any document on which he or she intends to rely at the meeting.
- (2) Such notice must be accompanied by a copy of any document relied upon by the line manager when coming to the view referred to in Article 4 that the performance or attendance of the officer concerned is unsatisfactory.
- (3) The line manager must, if reasonably practicable, agree a date and time for the first stage meeting with the officer concerned.
- (4) Where no date is agreed under paragraph (3), the line manager must specify a date and time for the first stage meeting.
- (5) Where a date and time is specified under paragraph (4) and –
 - (a) the officer concerned or the police friend of the officer concerned will not be available at that date and time; and
 - (b) the officer concerned proposes an alternative date and time which satisfies paragraph (6),the first stage meeting must take place at that alternative date and time.
- (6) The alternative date and time must –
 - (a) be reasonable; and
 - (b) fall before the end of 10 working days beginning with the first working day after the date specified by the line manager under paragraph (4) or within such longer period as the line manager may allow.
- (7) The line manager must give to the officer concerned a notice in writing of the date and time of the meeting determined in accordance with paragraphs (3) to (6) and of the place of the first stage meeting.
- (8) In advance of the first stage meeting, the officer concerned must provide the line manager with a copy of any document on which the officer concerned intends to rely at the meeting.

6 Procedure at first stage meeting

- (1) The following provisions of this Article set out the procedures to be followed at a first stage meeting.
- (2) The meeting shall be conducted by the line manager.
- (3) The line manager shall –
 - (a) explain to the officer concerned why the line manager considers that the performance or attendance of the officer concerned is unsatisfactory;
 - (b) provide the officer concerned with an opportunity to make representations in response; and
 - (c) provide the police friend (if there is one) with an opportunity to make representations on behalf of the officer concerned.
- (4) If, after considering any representations made in accordance with paragraph (3), the line manager finds that the performance or attendance of the officer concerned has been unsatisfactory, the line manager must –
 - (a) inform the officer concerned in what respect his or her performance or attendance is considered unsatisfactory;
 - (b) inform the officer concerned of the improvement that is required in his or her performance or attendance;
 - (c) inform the officer concerned that, if a sufficient improvement is not made within such reasonable period or periods as the line manager specifies (being a period or periods totalling an aggregate period of not more than 12 months), the officer concerned may be required to attend a second stage meeting; and
 - (d) inform the officer concerned that he or she will receive an improvement notice (referred to in this Order as a “first stage improvement notice”) specifying the matters referred to in sub-paragraphs (a) to (c).
- (5) The line manager may, if he or she thinks it appropriate, recommend that the officer concerned seeks assistance in relation to any matter affecting his or her health or welfare.
- (6) The line manager may postpone or adjourn the meeting to a specified later time or date if it appears to the line manager on reasonable grounds to be necessary or expedient to do so.

7 Procedure for notifying officer concerned following a first stage meeting

- (1) The line manager must, as soon as reasonably practicable after the date of the conclusion of the first stage meeting or, if it did not take place because the officer concerned failed to attend, after the date the meeting should have taken place –
 - (a) cause to be prepared a written record of the meeting or, where applicable, a written record of the fact that the meeting did not take place and the reason for it not taking place; and
 - (b) where the line manager found at the meeting, or if the meeting did not take place, remains of the view that the performance or attendance of the officer concerned has been unsatisfactory, cause to be prepared in writing a first stage improvement notice.
- (2) A first stage improvement notice must –

- (a) record the matters of which the officer concerned was informed, or would have been informed if he or she had attended the meeting, under Article 6(4)(a) to (c); and
 - (b) be signed and dated by the line manager.
- (3) The line manager must give a copy of the record referred to in paragraph (1)(a) and any first stage improvement notice to the officer concerned as soon as reasonably practicable after they have been prepared.
- (4) The officer concerned may submit in writing comments to the line manager on the record of the meeting before the end of 7 working days beginning with the first working day after the day on which a copy of it is received by the officer concerned or within such longer period as the line manager may allow.
- (5) The line manager shall ensure that the record of the meeting, any comments of the officer concerned on it, and any first stage improvement notice are retained together and kept on a file held by the department for which the Director of Human Resources is responsible.

PART 3

SECOND STAGE MEETING

8 Circumstances in which a second stage meeting may be required

- (1) The line manager must take the steps specified in paragraph (2) –
 - (a) as soon as reasonably practicable after the date on which the period (or each period, if more than one) for improvement specified in the first stage improvement notice in accordance with Article 6(4)(c) ends; or
 - (b) during any period for improvement specified in the first stage improvement notice in accordance with Article 6(4)(b) when it becomes apparent that the officer concerned cannot show sufficient improvement during that period.
- (2) Those steps are –
 - (a) to assess the performance or attendance of the officer concerned during that period; and
 - (b) to notify the officer concerned whether the line manager considers that there has been a sufficient improvement in the performance or attendance of the officer concerned during that period.
- (3) If, following the assessment referred to in paragraph (2)(a) the line manager considers there has been insufficient improvement during that period such that the performance or attendance of the officer concerned remains unsatisfactory, the line manager shall, at the same time that notification is given under paragraph (2)(b), notify the officer concerned in writing –
 - (a) that the officer concerned is required to attend a meeting (referred to in this Order as a second stage meeting) to consider his or her performance or attendance;
 - (b) the reasons why the line manager considers that there has not been sufficient improvement in the performance or attendance of the officer concerned;
 - (c) the possible outcomes of a second and third stage meeting;

- (d) the procedures for determining the date and time of the second stage meeting in accordance with Article 9;
 - (e) that witnesses may be required to attend a second stage meeting in accordance with Article 11;
 - (f) that a human resources professional may attend the second stage meeting;
 - (g) that the officer concerned may seek advice from a representative of the States of Jersey Police Association; and
 - (h) that the officer concerned may be accompanied and represented at the second stage meeting by a police friend.
- (4) Such notice must be accompanied by a copy of any document relied upon by the line manager when coming to the view referred to in paragraph (3) that there has not been sufficient improvement in the performance or attendance of the officer concerned.
- (5) A second stage meeting which a police officer is required to attend under this Article must concern unsatisfactory performance or attendance which is similar to or connected with the unsatisfactory performance or attendance referred to in the first improvement notice.
- (6) A second stage meeting must not take place unless the officer concerned has been notified of his or her right to representation under paragraph (3)(h).

9 Timing and notice of second stage meeting

- (1) The second stage meeting shall take place before the end of 10 working days beginning with the first working day after the day on which a notice has been given to the officer concerned under Article 8(3) or within such longer period as the line manager may allow in the interests of fairness.
- (2) Where the line manager extends the time period under paragraph (1) he or she shall give notice in writing of his or her reasons for doing so to the officer concerned.
- (3) The line manager must, if reasonably practicable, agree a date and time for a second stage meeting with the officer concerned.
- (4) Where no date is agreed under paragraph (3), the second stage meeting shall take place –
- (a) at such time as may be specified by the line manager; or
 - (b) if the officer concerned or the police friend is not available at that date, such other time as the officer concerned proposes provided such alternative date is reasonable and is no later than 10 working days after the date proposed by the line manager.
- (5) The line manager must give to the officer concerned a notice in writing of –
- (a) the date and time of the meeting determined in accordance with this Article; and
 - (b) the place of the meeting.

10 Information provided by officer to line manager prior to second stage meeting

Before the end of 5 working days beginning with the first working day after the date on which a notice has been given to the officer concerned under Article 8(3), or such further

period as may be extended by the line manager, the officer concerned shall provide to the line manager –

- (a) written notice of whether or not he or she accepts that his or her performance or attendance has been unsatisfactory and, if so, any written submission that he or she wishes to make in mitigation;
- (b) any matters that he or she wishes the line manager to consider arising from the notice given to him or her under Article 8(3), including any matters which he or she disputes;
- (c) any arguments on points of law he or she wishes to be considered by the line manager; and
- (d) a copy of any document he or she intends to rely on at the second stage meeting.

11 Selection of witnesses

- (1) Before the end of 3 working days beginning with the first working day after the date on which the officer concerned has complied with Article 10, the line manager and the officer concerned shall each supply each other with a list of proposed witnesses with brief details of the evidence that each witness is to give or, as the case may be, give notice to the other that he or she does not have any proposed witnesses.
- (2) The line manager must –
 - (a) consider the list or lists of proposed witnesses; and
 - (b) determine which, if any, witnesses (whether or not included in the list or lists) should attend the second stage meeting.
- (3) In making a determination that a witness should attend a second stage meeting, the line manager must consider that the evidence of the witness is necessary or expedient in the interests of fairness.
- (4) The line manager must –
 - (a) in the case of a witness who is a police officer, cause him or her to be ordered to attend the second stage meeting; and
 - (b) in the case of any other witness, cause him or her to be given notice that his or her attendance is necessary and of the date, time and place of the meeting.

12 Attendance of witnesses and others at a second stage meeting

- (1) A human resources professional may attend the second stage meeting.
- (2) Subject to any contrary decision by the line manager, a witness or the officer concerned must only attend the second stage meeting for the purposes of giving his or her evidence.
- (3) The line manager may, at his or her discretion, permit a witness in the second stage meeting to be accompanied at the meeting by one other person.
- (4) The line manager may impose such conditions as he or she sees fit relating to the attendance under this Article of persons at the second stage meeting (including the circumstances in which they may be excluded) in order to facilitate the proper conduct of the meeting.

13 Exclusion from a second stage meeting

- (1) Where it appears to the line manager that any person may, in giving evidence, disclose information which ought not to be disclosed to any person attending the meeting because it is information referred to in paragraph (2), the line manager shall require such attendee to withdraw from the meeting while the evidence is being given.
- (2) That information is information the disclosure of which the line managers considers should be prevented because it is –
 - (a) necessary for preventing the premature or inappropriate disclosure of information that is relevant to, or may be used in, any criminal proceedings;
 - (b) necessary in the interests of security;
 - (c) necessary for the prevention or detection of crime, or the apprehension or prosecution of offenders;
 - (d) necessary for the prevention or detection of misconduct by other persons (including police officers) or their apprehension for such matters;
 - (e) necessary and proportionate for the protection of the welfare and safety of any informant or witness; or
 - (f) otherwise in the public interest.

14 Procedure at a second stage meeting

- (1) Subject to the provisions of this Article, the procedure at the second stage meeting shall be such as the line manager may determine.
- (2) If the officer concerned fails to attend the second stage meeting, the meeting may nevertheless proceed at the line manager's discretion and the provisions in paragraphs (4) and (5) shall, accordingly, be disregarded.
- (3) In considering the exercise of his or her discretion under paragraph (2), the line manager shall take into account in particular the extent to which witnesses may be inconvenienced by postponement of the second stage meeting.
- (4) The line manager must –
 - (a) provide the officer concerned with the opportunity to make representations in relation to the matters referred to in the notice given under Article 8(3);
 - (b) provide the police friend of the officer concerned (if there is one) with an opportunity to make representations on behalf of the officer concerned; and
 - (c) allow the officer concerned, or police friend, as the case may be, to question any witness attending the meeting following a notification given to that witness by the line manager under Article 11(4).
- (5) If, after considering any representations made and evidence given at the second stage meeting, the line manager finds that the performance or attendance of the officer concerned has continued to be unsatisfactory, the line manager must –
 - (a) inform the officer concerned in what respect his or her performance or attendance remains unsatisfactory;
 - (b) inform the officer concerned of the improvement that is required in his or her performance or attendance;
 - (c) inform the officer concerned that, if a sufficient improvement is not made within such reasonable period or periods as the line manager specifies (being

- a period or periods totalling an aggregate period of not more than 12 months), the officer concerned may be required to attend a third stage meeting; and
 - (d) inform the officer concerned that he or she will receive an improvement notice (referred to in this Order as a “second stage improvement notice”) specifying the matters referred to in sub-paragraphs (a) to (c).
- (6) The line manager may, if he or she thinks it appropriate, recommend that the officer concerned seeks assistance in relation to any matter affecting his or her health or welfare.
- (7) The line manager may postpone or adjourn the second stage meeting to a specified later time or date if it appears to the line manager to be necessary or expedient to do so.

15 Procedure for notifying officer concerned following a second stage meeting

- (1) The line manager must, as soon as reasonably practicable after the date of the conclusion of the second stage meeting –
- (a) cause to be prepared a written record of the meeting; and
 - (b) where the line manager found at the meeting that the performance or attendance of the officer concerned has been unsatisfactory, cause to be prepared in writing a second stage improvement notice.
- (2) A second stage improvement notice must –
- (a) record the matters of which the officer concerned was informed under Article 14(5)(a) to (c) (or would have been informed if he or she had attended the second stage meeting); and
 - (b) be signed and dated by the line manager.
- (3) The line manager must give a copy of a written record of the meeting and any second stage improvement notice to the officer concerned as soon as reasonably practicable after they have been prepared.
- (4) Where the officer concerned is given a second stage improvement notice, the officer concerned shall, at the same time, be given a notice in writing setting out the officer’s right of appeal under Article 28 including notification of the senior manager to whom any appeal must be addressed.
- (5) The officer concerned may submit in writing comments to the line manager on the record of the meeting before the end of 7 working days beginning with the first working day after the day on which a copy of it is received by the officer concerned or within such longer period as the line manager may allow.
- (6) The line manager shall ensure that the record of the second stage meeting, any comments of the officer concerned on it, and any second stage improvement notice are retained together and kept on a file held by a department for which the Director of Human Resources is responsible.

PART 4

THIRD STAGE MEETING

16 Circumstances in which a third stage meeting may be required

- (1) The line manager must take the steps specified in paragraph (2) –
 - (a) as soon as reasonably practicable after the date on which the period (or each period, if more than one) for improvement specified in the second stage improvement notice in accordance with Article 14(5)(c) ends; or
 - (b) during any period for improvement specified in the second stage improvement notice in accordance with Article 14(5)(c) when it becomes apparent that the officer concerned cannot show sufficient improvement during that period.
- (2) Those steps are –
 - (a) to assess the performance or attendance of the officer concerned during that period in consultation with a human resources professional; and
 - (b) to notify the officer concerned whether the line manager considers that there has been a sufficient improvement in the performance or attendance of the officer concerned during that period.
- (3) If, following the assessment referred to in paragraph (2)(a) the line manager considers there has been insufficient improvement during that period such that the performance or attendance of the officer concerned remains unsatisfactory, the line manager shall, at the same time that notification is given under paragraph (2)(b), notify the officer concerned in writing –
 - (a) that the officer concerned is required to attend a meeting (referred to in this Order as a “third stage meeting”) with a panel to consider his or her performance or attendance;
 - (b) the reasons why the line manager considers that there has not been sufficient improvement in the performance or attendance of the officer concerned;
 - (c) the possible outcomes of a third stage meeting;
 - (d) the procedures for determining the date and time of the third stage meeting in accordance with Article 19;
 - (e) that witnesses may be required to attend a third stage meeting in accordance with Article 21;
 - (f) that the officer concerned may seek advice from a representative of the States of Jersey Police Association; and
 - (g) that the officer concerned may be accompanied and represented at the third stage meeting by a police friend.
- (4) Such a notice must be accompanied by a copy of any document relied upon by the line manager when coming to the view referred to in paragraph (3) that there has not been sufficient improvement in the performance or attendance of the officer concerned.
- (5) Any third stage meeting which a police officer is required to attend under this Article must concern unsatisfactory performance or attendance which is similar to or connected with the unsatisfactory performance or attendance referred to in the second stage improvement notice.

- (6) A third stage meeting under this Article must not take place unless the officer concerned has been notified of his or her right to representation under paragraph (3)(g).

17 Appointment of panel members for a third stage meeting

- (1) The third stage meeting shall be conducted by a panel comprising a panel chair and 2 other members.
- (2) The panel chair shall be a second line manager, or if there is no second line manager who is able to act, the Chairman of the Police Authority.
- (3) The other 2 members of the panel shall be appointed by the panel chair and comprise –
 - (a) a senior human resources professional; and
 - (b) either –
 - (i) a police officer (who may be a police officer from some other force) who is of a rank higher than the police officer concerned, other than the line manager of the police officer concerned, or
 - (ii) a chief officer of a department of the States.
- (4) A person must not be appointed as a panel member under paragraph (3) if such appointment could reasonably give rise to a concern as to whether he or she could act impartially as a panel member.
- (5) As soon as reasonably practicable after the panel members have been appointed, the panel chair shall notify the officer concerned of their names.
- (6) As soon as the panel chair has appointed the panel members, the panel chair shall arrange for a copy of any document which was available to the line manager for the purposes of the second stage meeting to be made available to each panel member and to the officer concerned.

18 Right of officer concerned to object to panel members

- (1) The officer concerned may object to the appointment of any panel member other than the panel chair.
- (2) Any such objection must be made in writing to the panel chair before the end of 3 working days beginning with the first working day after receipt of the notification referred to in Article 17(5) and must set out the grounds of objection of the officer concerned.
- (3) The panel chair shall notify the officer concerned in writing whether it upholds or rejects an objection to the panel member.
- (4) If the panel chair upholds the objection, the panel chair shall remove that panel member from the panel and shall appoint a new member to the panel and, as soon as reasonably practicable after any such appointment, notify the officer concerned of the name of the new panel member.
- (5) The officer concerned has no right to object to the appointment of a panel member under paragraph (4).

19 Timing and notice of third stage meeting

- (1) Subject to paragraph (4)(b), the third stage meeting shall take place before the end of 10 working days beginning with the first working day after the day on which a notice has been given to the officer concerned under Article 16(3) or within such longer period as the panel chair may allow in the interests of fairness.
- (2) Where the panel chair extends the time period under paragraph (1) he or she shall, at the same time, give notice in writing of his or her reasons for doing so to the other panel members and to the officer concerned.
- (3) The panel chair must, if reasonably practicable, agree a date and time for a third stage meeting with the officer concerned.
- (4) Where no date is agreed under paragraph (3), the third stage meeting shall take place –
 - (a) at such time as may be specified by the panel chair; or
 - (b) if the officer concerned or the police friend is not available at that date, such other time as the officer concerned proposes provided such alternative date is reasonable and is no later than 10 working days after the date proposed by the panel chair.
- (5) The panel chair must give to the officer concerned and to the other panel members a notice in writing of –
 - (a) the date and time of the meeting determined in accordance with this Article; and
 - (b) the place of the third stage meeting.

20 Information provided by officer to panel chair prior to third stage meeting

Before the end of 5 working days beginning with the first working day after the date on which notification has been given to the officer concerned under Article 17(5) (regardless of whether any objection is made under Article 18), the officer concerned shall provide to the panel chair –

- (a) written notice of whether or not he or she accepts that his or her performance or attendance has been unsatisfactory and, if so, any written submission that he or she wishes to make in mitigation;
- (b) any matters he or she wishes the panel to consider arising from the notice given to him or her under Article 16(3), including any matters which he or she disputes;
- (c) any arguments on points of law he or she wishes to be considered by the panel; and
- (d) a copy of any document on which he or she intends to rely at the third stage meeting.

21 Selection of witnesses

- (1) Before the end of 3 working days beginning with the first working day after the date on which the officer concerned has complied with Article 20, the panel chair and the officer concerned shall each supply each other with a list of proposed witnesses with brief details of the evidence that each witness is to give or, as the case may be, give notice that he or she does not have any proposed witnesses.
- (2) The panel chair must –
 - (a) consider the list or lists of proposed witnesses; and

- (b) determine which, if any, witnesses (whether or not included in the list or lists) should attend the third stage meeting.
- (3) In making a determination that a witness should attend a third stage meeting, the panel chair must consider that the evidence of the witness is necessary or expedient in the interests of fairness.
- (4) The panel chair must –
 - (a) in the case of a witness who is a police officer, cause him or her to be ordered to attend the third stage meeting; and
 - (b) in the case of any other witness, cause him or her to be given notice that his or her attendance is necessary and of the date, time and place of the meeting.

22 Attendance of witnesses and others at a third stage meeting

- (1) Subject to any contrary decision by the panel chair, a witness or the officer concerned must only attend the third stage meeting for the purposes of giving his or her evidence.
- (2) The panel chair may, at his or her discretion, permit a witness in the third stage meeting to be accompanied at the meeting by one other person.
- (3) The panel chair may impose such conditions as he or she sees fit relating to the attendance under this Article of persons at the third stage meeting (including the circumstances in which they may be excluded) in order to facilitate the proper conduct of the meeting.

23 Exclusion from a third stage meeting

- (1) Where it appears to the panel chair that any person may, in giving evidence, disclose information which ought not to be disclosed to any person attending the third stage meeting because it is information referred to in paragraph (2), the panel chair shall require such attendees to withdraw from the meeting while the evidence is being given.
- (2) That information is information the disclosure of which the panel chair considers should be prevented because it is –
 - (a) necessary for preventing the premature or inappropriate disclosure of information that is relevant to, or may be used in, any criminal proceedings;
 - (b) necessary in the interests of security;
 - (c) necessary for the prevention or detection of crime, or the apprehension or prosecution of offenders;
 - (d) necessary for the prevention or detection of misconduct by other persons (including police officers) or their apprehension for such matters;
 - (e) necessary and proportionate for the protection of the welfare and safety of any informant or witness; or
 - (f) otherwise in the public interest.

24 Procedure at a third stage meeting

- (1) Subject to the provisions of this Article, the procedure at the third stage meeting shall be such as the panel chair may determine.

- (2) If the officer concerned fails to attend the third stage meeting, the meeting may nevertheless proceed at the panel chair's discretion and the provisions in paragraph (4) shall, accordingly, be disregarded.
- (3) In considering the exercise of his or her discretion under paragraph (2), the panel chair shall take into account, in particular, the extent to which witnesses and any member of the panel may be inconvenienced by postponement of the third stage meeting.
- (4) The panel chair must –
 - (a) provide the officer concerned with the opportunity to make representations in relation to the matters referred to in the notice given under Article 16(3);
 - (b) provide the police friend of the officer concerned (if there is one) with an opportunity to make representations on behalf of the officer concerned; and
 - (c) allow the officer concerned, or police friend, as the case may be, to question any witness attending the third stage meeting following a notification given to that witness under Article 21(4).
- (5) The panel chair may adjourn the third stage meeting to a specified later date or time if it appears necessary or expedient to do so.

25 Finding of a third stage meeting

- (1) Following the third stage meeting the panel shall make a finding, with reasons, as to whether there has been sufficient improvement in the performance or attendance of the officer concerned during the period referred to in Article 16(3) for his or her performance or attendance to be considered satisfactory and, if not and his or her performance or attendance is considered to be unsatisfactory, determine what, if any, outcome is ordered under Article 26.
- (2) As soon as reasonably practicable after the conclusion of the third stage meeting, but in any event before the end of 5 working days beginning with the first working day after the conclusion of the meeting, the panel chair shall give to the officer concerned and the line manager a written copy of the panel's finding, reasons and any outcome ordered under Article 26.
- (3) Where the panel have made a finding of unsatisfactory performance or attendance, the copy of the decision given to the officer concerned shall be accompanied by a notice in writing setting out the officer's right of appeal under Article 31 including notification of the person to whom any appeal must be addressed.
- (4) Any finding or determination of the panel under this Article may be made by a majority of the panel members but a finding or determination must not indicate whether it is made by the panel unanimously or by a majority.

26 Outcomes of a third stage meeting

- (1) If the panel make a finding that the performance or attendance of the officer concerned is unsatisfactory, it may order –
 - (a) dismissal of the officer concerned with notice, the period of notice to be decided by the panel, subject to a minimum period of 28 days;
 - (b) where a finding of unsatisfactory performance has been made, a reduction in rank; or

- (c) in exceptional circumstances only, the extension of the second stage improvement notice.
- (2) Where the panel orders an extension of the second stage improvement notice –
 - (a) the notice shall be amended to state that if the officer concerned does not make a sufficient improvement within such period or periods as is specified in the notice (being a period or period totalling an aggregate period of not more than 12 months) he or she may be required to attend another third stage meeting; and
 - (b) the panel may vary any of the other matters recorded in the notice.
- (3) Where the question of ordering any of the outcomes mentioned in paragraph (1) is being considered, the panel –
 - (a) shall have regard to the record of police service of the officer concerned as shown on his or her personal record;
 - (b) may receive evidence from any witness whose evidence would, in their opinion, assist them in determining the question; and
 - (c) shall give any of the following –
 - (i) the officer concerned, or
 - (ii) the police friend of the officer concerned (if any),the opportunity to make oral or written representations before any such question is determined.

27 Procedure where a second stage improvement notice is extended

- (1) This Article applies where a second stage improvement notice is extended under Article 26(1)(c).
- (2) As soon as reasonably practicable after the period specified under Article 26(2)(a) ends –
 - (a) the panel shall assess the performance or attendance of the officer concerned (as the case may be) during that period; and
 - (b) the panel chair shall notify the officer concerned in writing whether the panel considers that there has been sufficient improvement in performance or attendance during that period.
- (3) If the panel chair considers that there has not been a sufficient improvement, the panel chair shall, at the same time as notification is given under paragraph (2)(b), also notify the officer concerned that he or she is required to attend another third stage meeting to consider his or her performance or attendance.
- (4) A third stage meeting under this Article must concern unsatisfactory performance or attendance which is similar to or connected with the unsatisfactory performance or attendance referred to in the second stage improvement notice extended under Article 26(1)(c).
- (5) References in this Article to the panel are references to the panel that conducted the previous third stage meeting, subject to paragraph (6).
- (6) Where any panel member, including the panel chair, is not able to continue to act as such, such panel member may be replaced by any person who meets a description in Article 17(3) and, following such replacement, the panel chair shall notify the officer concerned.

- (7) The officer concerned may object to the replacement of a panel member under paragraph (6).
- (8) Any such objection must be made before the end of 3 working days beginning with the first working day after receipt of the notice under paragraph (6) and the procedures set out in Article 18(3) to (5) shall be followed accordingly.
- (9) Where a third stage meeting is held under this Article –
 - (a) the panel may not order a further extension of the second stage improvement notice as an outcome of that meeting; and
 - (b) except in relation to any specific matter for which provision is made under this Article, the case shall be treated as if it fell within the provisions of this Part relating to a third stage meeting, subject to such modifications as may be necessary.

PART 5

APPEALS

28 Appeal against the finding and outcome of a second stage meeting

- (1) An officer concerned may appeal against a second stage improvement notice by giving in writing a notice of appeal to the senior manager before the end of 10 working days beginning with the first working day after the officer concerned receives the second stage improvement notice.
- (2) A meeting for an appeal against a second stage improvement notice is referred to in this Order as a “second stage appeal meeting”.
- (3) An appeal against a second stage improvement notice may be made on any of the following grounds –
 - (a) the finding of unsatisfactory performance or attendance was unreasonable;
 - (b) the improvement required or the period or periods within which such improvement must be made as stated in the second stage improvement notice is or are unreasonable;
 - (c) there is evidence which could not reasonably have been considered at the second stage meeting and that such evidence could have materially affected any matter referred to in sub-paragraph (a) or (b);
 - (d) there was a breach of the requirements set out in this Order or other unfairness that could have materially affected any matter referred to in sub-paragraph (a) or (b).
- (4) A notice of appeal under paragraph (1) must set out the ground or grounds on which the officer concerned relies and any evidence in support.
- (5) Subject to paragraph (6), the second stage appeal meeting must take place before the end of 15 working days beginning with the first working day after the day on which the notice of appeal is received under paragraph (1).
- (6) A second stage appeal meeting may take place after the period of 15 working days referred to in paragraph (5) if the senior manager considers it necessary or expedient and he or she notifies the officer concerned in writing of the reasons for the delay.

29 Arrangements for a second stage appeal meeting

- (1) As soon as reasonably practicable after receipt by the senior manager of the notification of the appeal referred to in Article 28(1), the senior manager must give notice in writing to the officer concerned –
 - (a) informing the officer concerned of the procedures for determining the date and time of the second stage appeal meeting in accordance with paragraphs (2) to (5);
 - (b) informing the officer concerned that a human resources professional may attend the second stage appeal meeting to advise the senior manager on the proceedings;
 - (c) informing the officer concerned that any other person specified in the notice may attend the meeting and make representations, if the officer concerned consents;
 - (d) informing the officer concerned that the officer concerned may seek advice from a representative of the States of Jersey Police Association; and
 - (e) informing the officer concerned that he or she may be accompanied and represented at the meeting by a police friend.
- (2) The senior manager must, if reasonably practicable, agree a date and time for the second stage appeal meeting with the officer concerned.
- (3) Where no date is agreed under paragraph (2), the senior manager must specify a date and time for the second stage appeal meeting.
- (4) Where a date and time is specified under paragraph (3) and –
 - (a) the officer concerned or the police friend of the officer concerned will not be available at that date and time; and
 - (b) the officer proposes an alternative date and time which satisfies paragraph (5),the second stage appeal meeting must take place at that alternative date and time.
- (5) The alternative date and time must –
 - (a) be reasonable; and
 - (b) fall before the end of 10 working days beginning with the first working day after the date specified by the senior manager under paragraph (3).
- (6) The senior manager must give to the officer concerned a notice in writing of the date and time of the meeting determined in accordance with paragraphs (2) to (5) and of the place of the second stage appeal meeting.

30 Procedure and outcomes of second stage appeal meeting

- (1) The following provisions of this Article set out the procedures to be followed at a second stage appeal meeting.
- (2) The meeting shall be conducted by the senior manager.
- (3) A human resources professional may attend the meeting to advise the senior manager on the proceedings.
- (4) Any other person specified in the notice referred to in Article 29(1)(c) may attend the meeting if the officer concerned consents to such attendance.
- (5) The senior manager shall –

- (a) provide the officer concerned with an opportunity to make representations in response;
 - (b) provide the police friend (if there is one) with an opportunity to make representations on behalf of the officer concerned.
- (6) Subject to paragraph (7), after considering any representations in accordance with paragraph (5), the senior manager may do any of the following –
 - (a) make a finding that the officer concerned should not have been required to attend the second stage meeting because that meeting did not concern unsatisfactory performance or attendance that is similar to or connected with the unsatisfactory performance or attendance referred to in the first stage improvement notice;
 - (b) confirm or reverse the finding of unsatisfactory performance or attendance; or
 - (c) confirm or vary the second stage improvement notice appealed against.
- (7) Where the senior manager has reversed the finding of unsatisfactory performance or attendance made at the second stage meeting, the senior manager must revoke the second stage improvement notice.
- (8) The senior manager may postpone or adjourn the meeting to a specified later time or date if it appears to the senior manager to be necessary or expedient to do so.
- (9) As soon as reasonably practicable after the conclusion of the second stage meeting, the officer concerned shall be given written notice of the senior manager's decision and a written summary of the reasons for the decision, but in any event the officer concerned must be given such notice before the end of 5 working days beginning with the first working day after the conclusion of the second stage appeal meeting.
- (10) Where the senior manager has –
 - (a) reversed the finding of unsatisfactory performance or attendance and revoked the second stage improvement notice; or
 - (b) varied the second stage improvement notice,the decision of the senior manager shall take effect by way of substitution for the finding or the second stage improvement notice, as the case may be.

31 Appeal against the finding and outcome of a third stage meeting

- (1) An officer concerned may appeal against the outcome of a third stage meeting by giving in writing a notice of appeal to the person notified to him or her under Article 25(3) before the end of 10 working days beginning with the first working day after the officer concerned receives the notification of the outcome referred to in Article 26.
- (2) If a further third stage meeting is required under Article 26, references in this Part to a third stage meeting are to that further third stage meeting.
- (3) A meeting for an appeal against the outcome of a third stage meeting is referred to in this Order as a “third stage appeal meeting”.
- (4) An appeal against the outcome of a third stage meeting may be made on any of the following grounds –
 - (a) the finding of unsatisfactory performance or attendance or the sanction ordered was unreasonable;

- (b) there is evidence which could not reasonably have been considered at the third stage meeting and that such evidence could have materially affected the finding;
 - (c) there was a breach of the requirements set out in this Order or other unfairness that could have materially affected the finding.
- (5) A notice of appeal must set out the ground or grounds on which the officer concerned relies and any evidence in support.

32 Appointment of tribunal members for a third stage appeal meeting

- (1) The third stage appeal meeting shall be heard by a tribunal comprising a tribunal chair and 2 other members.
- (2) The tribunal chair shall be –
 - (a) a line manager of the same rank, or equivalent, to the second line manager of the officer concerned, each such line manager being a police officer or States' employee; or
 - (b) if there is no person available who meets the description in subparagraph (a) –
 - (i) a chief officer of a department of the States, or
 - (ii) a police officer from some other force who is a chief constable or of equivalent rank or a retired police officer who, at the time of retirement, was a chief constable or of equivalent rank.
- (3) The other 2 members of the tribunal shall be appointed by the tribunal chair and comprise –
 - (a) a senior human resources professional; and
 - (b) a person who is –
 - (i) a line manager of the same rank, or equivalent, to the second line manager of the officer concerned, such line manager being a police officer or a States' employee, or
 - (ii) if there is no person available who meets the description in clause (i) any of the following –
 - (A) a chief officer of a department of the States, or
 - (B) a police officer from some other force who is a chief constable or of equivalent rank or a retired police officer from some other force who, at the time of retirement, was a chief constable or equivalent rank.
- (4) A person must not be appointed as a tribunal member if such appointment could reasonably give rise to a concern as to whether he or she could act impartially as a tribunal member.
- (5) As soon as reasonably practicable after the tribunal members have been appointed, the tribunal chair shall notify the officer concerned of their names.
- (6) The tribunal chair shall arrange for –
 - (a) a copy of the notice of appeal under Article 31 and any evidence in support to be made available to each of the tribunal members; and
 - (b) a copy of any document which was available –

- (i) to the line manager in relation to the first stage meeting and second stage meeting, or
 - (ii) to the panel for the third stage meeting (including any further third stage meeting),
- to be made available to each tribunal member and to the officer concerned.
- (7) Subject to paragraph (8) and Article 34(3)(b), the third stage appeal meeting must take place before the end of 10 working days beginning with the first working day after the day on which notice of appeal is received under Article 31(1).
- (8) A third stage appeal meeting may take place after the period of 10 working days referred to in paragraph (4) if the tribunal chair considers it necessary or expedient and he or she notifies the officer concerned in writing of the reasons for the delay.

33 Legal representation

- (1) The officer concerned and the panel whose decision is appealed against each has the right to be represented by a legal representative at a third stage appeal meeting.
- (2) Where the officer concerned is represented by a legal representative, he or she may also be accompanied by a police friend.
- (3) A third stage appeal meeting must not take place unless the officer concerned has been notified in writing of the content of this Article.

34 Arrangements for a third stage appeal meeting

- (1) As soon as reasonably practicable after receipt by the panel chair of the notice of the appeal given under Article 31(1), the tribunal chair must give notice in writing to the officer concerned –
 - (a) informing the officer concerned of the procedures for determining the date and time of the third stage appeal meeting in accordance with paragraphs (2) to (4);
 - (b) informing the officer concerned that any other person specified in the notice may attend the meeting and make representations;
 - (c) informing the officer concerned that he or she may seek advice from a representative of the States of Jersey Police Association; and
 - (d) informing the officer concerned that he or she may be represented by a legal representative or a police friend, and, if represented by a legal representative, may be accompanied by a police friend.
- (2) The tribunal chair must, if reasonably practicable, agree a date and time for the third stage appeal meeting with the officer concerned.
- (3) Where no date is agreed under paragraph (2), the third stage appeal meeting shall take place –
 - (a) at such time as may be specified by the tribunal chair; or
 - (b) if the officer concerned, legal representative or the police friend is not available at that date, such other time as the officer concerned proposes provided that such alternative date is reasonable and is no later than 10 working days after the date proposed by the tribunal chair.
- (4) The tribunal chair must give to the officer concerned and to the other tribunal members a notice in writing of –

- (a) the date and time of the third stage appeal meeting determined in accordance with this Article; and
- (b) the place of the meeting.

35 Procedure at the third stage appeal meeting

- (1) Subject to the provisions of this Article, the procedure at the third stage appeal meeting shall be such as the tribunal chair may determine.
- (2) Any other person specified in the notice referred to in Article 34(1)(b) may attend the meeting and may be asked to make representations.
- (3) The tribunal chair shall –
 - (a) provide the officer concerned with an opportunity to make representations;
 - (b) provide the person representing the officer concerned (if there is one) with an opportunity to make representations on behalf of the officer concerned.
- (4) After considering any representations given at the third stage appeal meeting, the tribunal may do any of the following –
 - (a) make a finding that the officer concerned should not have been required to attend the third stage meeting because that meeting did not concern unsatisfactory performance or attendance that is similar to or connected with the unsatisfactory performance or attendance referred to in the second stage improvement notice;
 - (b) confirm or reverse the finding of unsatisfactory performance or attendance; or
 - (c) confirm or vary the sanction appealed against.
- (5) Where the tribunal has reversed the finding of unsatisfactory performance or attendance made at the third stage meeting, the tribunal must revoke the second stage improvement notice.
- (6) The tribunal may postpone or adjourn the meeting to a specified later time or date if it appears to the tribunal to be necessary or expedient to do so.
- (7) As soon as reasonably practicable after the conclusion of the third stage appeal meeting, the officer concerned shall be given written notice of the tribunal's decision and a written summary of the reasons for the decision, but in any event the officer concerned must be given such notice before the end of 5 working days beginning with the first working day after the conclusion of the third stage appeal meeting.
- (8) Where the tribunal has –
 - (a) reversed the finding of unsatisfactory performance or attendance and revoked the second stage improvement notice; or
 - (b) varied the sanction,the decision of the tribunal shall take effect by way of substitution for the finding or the sanction, as the case may be.

PART 6

CLOSING

36 Citation and commencement

This Order may be cited as the States of Jersey Police Force (Performance and Attendance) (Jersey) Order 2016 and shall come into force 7 days after the day it is made.

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement
States of Jersey Police Force (Performance and Attendance) (Jersey) Order 2016	R&O.134/2016	26 December 2016

Table of Endnote References

There are currently no endnote references