



BAILIWICK OF GUERNSEY LAW ENFORCEMENT

POLICY

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"Consideration has been given to the compatibility of this policy and related procedures with The Human Rights Law; with particular reference to the legal basis of its precepts; the legitimacy of its aims; the justification and proportionality of the actions intended by it; that it is the least intrusive and damaging option necessary to achieve the aims; and that it defines the need to document the relevant decision making processes and outcomes of action".

Public disclosure is approved unless where otherwise indicated and justified. A hard copy will be made available upon written request. Any complaint against this policy or any decision made there under shall be made verbally or in writing by members of the public via the police complaints procedures or internally via grievance procedures.

"In the application of this policy Bailiwick of Guernsey Law Enforcement (Police Force and Border Agency) will not discriminate against any persons regardless of sex, race, colour, language, religion, political, or other opinion, national or social origin, association with national minority, property, birth, or other status as defined under Article 14, European Convention Human Rights (ECHR)"

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Version Control

Review

Review following change to procedure	
Reviewed Date	

Review of Purpose	
Reviewed Date	
Reviewed by	

Next Review Due	16 March 2025
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Version History

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0.1	14 April 2022	Initial draft for review	
0.2	19 April 2022	Draft for SMT consideration	M Halliday / J Reeves
0.3	15 March 2023	Clarified outcome section following SMT feedback	M Mauger
1.0	16 March 2023	V1 approved by SMT	
2.0	03 April 2023	Section 3.1 and 5.1 updated – clarify terminology – ‘Take no further action’	A Hockey

Document History

Portfolio Holder	CI Crime Division
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Index

1	Background.....	- 4 -
2	Aims	- 4 -
3	Victim Right to Review Policy (Public Information)	- 5 -
4	What cases cannot be reviewed.....	- 5 -
5	Who can ask for a review and when ?	- 6 -
6	Outcomes of a review of a Police decision.....	- 6 -
7	Method.....	- 6 -
8	Summary	- 8 -
9	Associated Documentation.....	- 8 -
10	Who to contact about this policy	- 8 -

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1 Background

- 1.1 This policy puts in place a recognised formal structure for dealing with quality of service complaints relating to dissatisfaction as a victim of crime following a Police or Customs investigation.
- 1.2 A 'complaint' is: *'Any expression of dissatisfaction with a Police Force / Border Agency which is expressed by or on behalf of a member of the public'.*
- 1.3 This policy mirrors the UK 'Victim Right to Review' (VRR) Scheme as recognised best practice for dealing with dissatisfaction relating to the outcome of a criminal investigation.
- 1.4 Many complaints received in the Professional Standards Department (PSD) fall into this category. It should be noted that unless misconduct is suspected or identified, that PSD are not a crime investigation or case file review unit. Often the dissatisfaction complained of does not amount to a breach of the standards of professional behaviour and there is no identified or suspected misconduct, gross misconduct, corruption or criminality. More often than not the complainant (victim/aggrieved) simply has grievances to do with either the quality of investigation itself or the chosen disposal outcome. The use of misconduct proceedings under the police complaints law is often inappropriate and disproportionate. It causes our staff unnecessary stress and anxiety to involve PSD for what at best is often no more than a performance issue which should be addressed at line management level.

2 Aims

- 2.1 This policy puts in place a formal standardised process to quality assure Police/Customs decision making thus strengthening the integrity of decision making by having a recognised and consistent quality assurance process to review the investigation and subsequent outcome decision.
- It seeks to empower victims of crime as they have the knowledge that the decision when appropriately challenged, is subject to additional enhanced scrutiny and reviewed by a senior officer. This in turn seeks to increase public confidence in BLE procedures.
 - It seeks to demonstrate that BLE have open and transparent processes in place to deal with appeals/quality of service complaints related to criminal investigations and the subsequent outcome decisions made.
 - It seeks to provide the original police/customs decision maker with additional internal scrutiny/review when their decision is scrutinised, challenged or questioned.
 - It seeks It seeks to maintain public confidence in the reputation of Bailiwick Law Enforcement.
 - To uphold high standards in policing.

3 Victim Right to Review Policy (Public Information)

- 3.1 If you have been a victim of a crime in which the outcome of the investigation or a decision has been taken by Guernsey Police/Guernsey Border Agency **to take no further action**, you can request a further review of that decision where a named suspect has been identified.
- 3.2 On occasion, investigating officers may decide there is insufficient evidence to take action against a named suspect or that to take further proceedings would not be in the public interest.
- 3.3 In such circumstances, officers will keep you updated on the investigation process and will explain in detail why they will not be taking further action.
- 3.4 If you are not happy with this outcome and you would like to see an investigation taken further, you can request that a senior officer formally reviews your case. This officer is usually a rank above that of the original supervisory officer or the original decision officer in a case. This is known as Victims' Right to Review (VRR).
- 3.5 In order to request a review of a BLE decision not to prosecute, contact should be made with the BLE Crime Management Unit (CMU). Our CMU will access your request to ensure that it qualifies for this process and if so allocate the review to an appropriate senior officer. The CMU can be contacted on CMU2@guernsey.pnn.police.uk or via 01481 222 222.

4 What cases cannot be reviewed

- 4.1 The Victims' Right to Review policy does not apply if Law Officers of the Crown (LOC) made the decision not to prosecute or discontinue a case as the right to review lies with them. Should you wish to appeal against a LOC decision then contact should be made with St James Chambers or by emailing law@gov.gg
- 4.2 **VRR also does not apply to the following cases where:**
- no suspect has been identified and interviewed.
 - some of the charges are brought against some of the suspects.
 - a positive decision (charge, caution, or other out of court disposal) has been made about someone else in connection with the incident.
 - the suspect is charged with a different crime from the one that was recorded and complained about by the victim, for example, the suspect is charged with common assault but an offence of grievous bodily harm was recorded.
 - an out of court disposal has been given, for example, a caution.
 - the victim retracts their complaint or refuses to cooperate with the investigation, so police decide not to charge or refer the case to LOC for a charging decision.
- 4.3 Sometimes an investigation into an offence is ongoing. Even though law enforcement have made a decision on whether or not to charge someone, a VRR consideration may be deferred until the investigation is complete.

5 Who can ask for a review and when?

- 5.1 You must request a review within three months of the law enforcement decision to take no further action or discontinue an investigation.
- 5.2 If the case qualifies, any victim is entitled to request a review.
- 5.3 A victim is defined as a person who has suffered:
- harm – including physical, mental or emotional
 - economic loss directly caused by criminal conduct
- 5.4 Others that can apply for VRR on behalf of a victim:
- Close relatives of a person whose death was directly caused by criminal conduct
 - parents or guardians where the main victim is under 18
 - police officers who are victims of crime
 - family spokespersons of victims with a disability, or who are so badly injured they cannot communicate
 - businesses, providing they give a named contact
- 5.5 A victim can ask someone to act on their behalf, such as an Advocate or Deputy. In these cases, BLE will need written confirmation to show that the person in question has the authority of the victim to act on their behalf.

6 Outcomes of a review of a BLE decision

- 6.1 There are 5 outcomes following a review of a BLE decision:
1. The original decision to take no further action is upheld.
 2. The original decision is overturned and proceedings are started against the suspect.
 3. The original decision is overturned and the suspect dealt with by out of court disposal.
 4. The original decision is overturned and the case referred to LOC for a charging decision.
 5. BLE decide to make further enquiries before the reviewing officer can make a decision.
- 6.2 Whatever the outcome BLE will contact the complainant confirming it unless it would be inappropriate to do so or if the complainant has requested differently.

7 Method

- 7.1 Where victim right to review applies the following steps are to be implemented:
- 7.2 An officer the rank above that of the original BLE decision maker is to review the decision.
This will normally be the line manager of the original BLE decision maker. For example if a Police Sergeant has made the original decision, their Inspector would be the reviewing officer. When unavailable any senior officer the rank above the original decision maker can review the decision.

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In some cases it may be appropriate that the reviewing officer is a subject specialist in a specific area of policing (i.e. PPU, CID, EFCB).

- 7.3 The reviewing officer should be tasked on Niche by CMU. However it is accepted that members of the public may likely air their dissatisfaction and request the VRR process through the officer in the case, JESCC or PSD. Regardless of how the request for VRR is received, CMU are to be notified to ensure a consistent approach across BLE.

CMU assess the request and if it qualifies will notify the reviewing officer via a Niche tasking that the original decision is being appealed by the victim (aggrieved, complainant) under the Victim Right to Review (VRR) process.

The reviewing officer should then conduct a comprehensive review of the investigation in so far as they are able to make a determination that the original decision was appropriate and proportionate in the circumstances. In simple terms, does the reviewing officer agree with the original decision maker's rationale, judgement and disposal outcome for the investigation?

- 7.4 **The reviewing officer should consider factors such as:**

- Have police/customs conducted a reasonable and proportionate investigation?
- Is the investigation compliant with the investigative core doctrine?
- Have all reasonable lines of enquiry been identified or considered?
- Is the rationale for the outcome decision clearly documented?
- Is it compliant with the Investigation Management Procedure (THIVE) policy?
- Is it an ethical investigation? (Would BLE be happy to be associated with the investigation and the outcome?)
- Have BLE done '*the right thing*' in accordance with our core mission, vision and values?
- Is there a clear auditable decision making process? – Recording what has been done and why it was done. The reasons for tasking particular investigative actions and the outcome.

- 7.5 The above points are not an exhaustive list and experienced reviewing officers will be able to readily identify if an investigation and the outcome decision stands future scrutiny. Reviewing officers should be cognisant of factors affecting decision making to include:

- **Limited personal/professional experience**
- **Unconscious nature of working rules**
- **Personal Bias** – Personal perception of people, places and class
- **Verification Bias** – Only focus and gather material that supports your theory (hypothesis) thus ignoring other viable lines of enquiry.
- **Availability error** – Base decisions on material that is vivid or memorable and emotionally charged or easy to visualise.

- 7.6 It should be clear within the crime report on the relevant Niche Occurrence that the aggrieved has appealed the original decision. By way of an example a heading of ****VRR**** or ****Victim Right to review**** should be used. The reviewing officer's review and decision rational outcome as detailed at 6.1 should equally be clear and future scrutiny.

8 **Summary**

- 8.1 This process is not intended to be onerous or burdensome. The reviewing officer simply has to review the investigation satisfy themselves that an appropriate investigation has been undertaken with a suitable subsequent outcome decision. The reviewing officer should also seek to identify and address any learning and development performance issues with the investigation and the resulting outcome.
- 8.2 Only if the reviewing officer identifies misconduct or gross misconduct should the matter be referred to PSD.

Misconduct – *A breach of the standards of professional behaviour so serious as to justify disciplinary action.*

Gross Misconduct - *A breach of the standards of professional behaviour so serious as to justify dismissal.*

9 **Associated Documentation**

[National Crime Recording Standard](#)

[Guernsey Witness/Victim Guide](#)

[National Decision Model](#)

[Code of Ethics](#)

[Authorised Professional Practice for Investigation](#)

[Thrive Guidance](#)

10 **Who to contact about this policy**

- 10.1 The Chief Inspector, Crime division should be contacted in the first instance should there be any queries about this policy.