



Committee for Home Affairs  
Sir Charles Frossard House  
La Charroterie  
St Peter Port  
Guernsey  
GY1 2QN

18<sup>th</sup> July 2024

Dear Deputies,

### **Rauri Hardy Complaint**

We (the 'Complainants') write to submit a complaint against Chief Officer Ruari Hardy. An appendix with supporting documentation is included; references are in parentheses and bold (for example, page eight of the appendix is shown as '**(8)**').

### **BACKGROUND**

- 1.1 On 13 May 2024, [REDACTED] ('D') submitted a complaint (the 'Complaint') to the Guernsey police relating to the serious ill-treatment he suffered whilst detained (**1-10**).
- 1.2 On 3 June 2024, D and [REDACTED] submitted further information to the police (**11-13**). They identified PC Winberg ('W'), the officer who initiated the unlawful assault on D's person, who the Complainants learned has been the recipient of five complaints in under a year. In every instance, victims submit W unlawfully assaulted and injured them.
- 1.3 On 18 June 2024, D and his wife wrote to Mr Hardy concerning his false and defamatory claims (below).
- 1.4 Notwithstanding Mr Hardy's public comments in respect of the Complaint, D or his family have yet to receive any updates from the police.

### **MR HARDY'S CLAIMS**

2. On 4 June 2024, during an interview with ITV Mr Hardy claimed:

*"...while enroute to custody and in custody [D] threatened to assault the officers and also threatened to self-harm himself..."*

*"...because of [D's] threats to cause self-harm, the officers were compelled to put him into clothing that didn't pose a ligature risk..."*

- 2.1 On 10 June 2024, via the Guernsey Press, Mr Hardy wrote, *"enroute to the police station [D] had threatened to harm... himself"* (**14**).

- 2.2 On 19 June 2024, the Bailiwick Express ('BE') published an interview with Mr Hardy (15-25) where he alleged: "[D] also threatened to further self-harm... that threat was very, very genuine that [D] was threatening something that [D] potentially could try and carry out" (21).
- 2.3 On 10 June 2024, Mr Hardy wrote (Guernsey Press) that "In nearly 40 years of public service, I have never been subject to allegations such as these". Allegations which include, inter alia, dishonesty, perjury (lying under oath), and misfeasance/malfeasance in public office (26).

## APPLICABLE STANDARDS

- 3.1 The 'Police Complaints (Conduct Proceedings and Investigations) (Guernsey) Regulations, 2011' include a 'Schedule' which sets out the 13 'Standards of Professional Behaviour' for local police officers (27-29).
- 3.2 The Committee is reminded that the 'case to answer test' concerning police complaints has been judicially considered in *R (IPCC Chief Executive) v IPCC* [2016] EWHC 2993 (Admin) at [21] by Elias U: "...there is a case to answer where there is sufficient evidence, upon which a reasonable misconduct meeting or hearing could, on the balance of probabilities make a finding of misconduct or gross misconduct".

## HONEST AND INTEGRITY – PART 1

- 4.1 This Standard states: 'Police officers are honest, act with integrity and do not compromise their position'.
- 4.2 Mr Hardy said: "In nearly 40 years of public service, I have **never** been subject to allegations such as these" (26). This is false and Mr Hardy knew this to be false. For example:
- (a) Mr Hardy was investigated by Kent police due to "allegations of corruption, negligence and unethical practices" (30-31).
  - (b) On 10 June 2024, the Complainant confirmed Mr Hardy's claims to be false: "I accused Ruari Hardy of both perjury & malfeasance in public office. He's also guilty of perverting the course of justice" (32-33).
  - (c) In 2022, Mr Hardy, as the Data Controller for the Guernsey police, was twice accused of unlawfully withholding personal data (video footage which had captured police misconduct) and then lying by claiming that the footage 'did not exist'. These claims were false and Mr Hardy knew them to be false. Guernsey police later confirmed this via an internal 'running log' which showed officers' observations and comments during their review of the footage. On 16 February 2023, the Office for the Data Protection Authority subsequently ruled that on two occasions "[Mr Hardy] has breached an operative provision of the Law" by unlawfully withholding personal data.
- 4.3 Mr Hardy alleged (as above) that D had: (i) "threatened to self-harm himself"; (ii) "threatened to further self-harm"; and because D had threatened to self-harm, "officers were compelled to put him into clothing that didn't pose a ligature risk".
- 4.4 These claims are false and Mr Hardy knew them to be false, as evidenced by police video footage. For example, at 01:28:12 (34), footage shows W informing D: "We need to get those clothes of you mate... **for the PAVA that was used... you got to take your shirt, your shoes, and your socks off, because obviously... the PAVA in your socks**".
- 4.5 Mr Hardy complained of the shortened clip of the footage showing D's unlawful assault, published on X (formerly Twitter): "there was no context... If you know the full facts and the full circumstances, it's a very

*different picture*". Yet when, in response, Dr Rebecca Tidy published the video footage *in full*, for the public to have the "*full facts and the full circumstances*", as Mr Hardy put it, the Guernsey police quickly contacted Facebook (where it was published) to have the video immediately removed by **falsely** claiming that it "*contained a threat from [Dr Tidy] to hard them*" (A35).

5.1 During interview and in writing to the Press, Mr Hardy attempted to mislead the public by withholding key details. For example, he failed to detail where officers had failed to comply with domestic law (1-10, paragraphs 16-18 and 26-32), human rights legislation (1-10, paragraphs 19-23), and the applicable Guernsey police protocols and College of Policing guidelines (1-10, paragraphs 14-15 and 33-46).

5.2 Mr Hardy relied on rhetoric techniques by which he avoided giving direct answers to questions he did not want to answer (15-25). For example:

(a) When the interviewer pointed out to Mr Hardy that, "*Because I do understand that [D], when we touch about the conversation about self-harm, has since come out to say, 'I didn't say that'*" (22), Mr Hardy refused to answer.

(b) Mr Hardy went to great lengths to describe techniques officers use to control a suspect, including the "*prone position*". Yet Mr Hardy again withheld key details, like the dangers of using these techniques under these specific circumstances (see paragraph 5.3 and 1-10).

(c) Then, when the interviewer attempted to eke out more facts from Mr Hardy (23): "*there was a lot of noise made about the prone position where questions were being raised about leaving somebody in the position*", Mr Hardy for a second time refused to answer (23).

5.3 Because officers had carelessly and against protocol placed D in the prone position whilst he was: (i) suffering from breathing difficulties; (ii) had imbibed alcohol; (iii) and was highly distressed, he lost consciousness. D was nevertheless refused medical assistance and then left unsupervised – in the prone position (1-10, paragraphs 33-46).

6.1 Mr Hardy spent substantial time working for the Met before arriving in Guernsey. He would, therefore, have a good working knowledge and experience of how UK forces manage complaints. Whilst being interviewed (BE), Mr Hardy stated (17):

*"What you'll probably find in the UK is they will just report the numbers of matters that turn out to be either misconduct, gross misconduct or worse. We are reporting everything that is reported. Our law requires that every allegation that is made has to go through a process prior to it being established whether there is evidence of misconduct or gross misconduct. That is why that figure appears slightly higher than a lot of other UK forces."*

6.2 Mr Hardy's claim that UK police forces "*will just report the numbers of matters that turn out to be either misconduct, gross misconduct or worse*" is false and he knew it to be false. UK police complaints law, *inter alia*, states (36-39):

"A complaint must be recorded if:

- at any point the complainant wants it to be recorded.
- It involves someone's death or serious injury.
- It involves an allegation of criminal conduct or misconduct by a serving member of a police force.

- It involves a possible infringement of the right to life or the prohibition of torture under the European Convention of Human Rights.
- It meets the criteria for mandatory referral to the IOPC.”

6.3 Mr Hardy then claimed, “[the Guernsey police] are reporting everything that is reported [complained about]” (17). This is false and Mr Hardy knew it to be false. The Guernsey police has refused to accept complaints (and continues to do so), which has resulted in complaints **not** being recorded. Regardless of any argument over the nature of the complaints, the Guernsey police **do not** “report everything that is reported”.

6.4 Next, Mr Hardy considerably downplayed the extraordinary number of complaints received by the Guernsey police: “this is why that [number of complaints received per Guernsey police officer] appears slightly higher than a lot of other UK forces” (17). This is false and misleading and Mr Hardy knew it to be so.

6.5 The Guernsey police regularly receives the highest number of complaints (per officer) than **all** “other UK forces” (**not** “a lot of” them) (40). In two decades of published figures, Guernsey police has set an unbroken record for the number of police complaints (per officer) ever recorded. It is the only force to have *ever* received more complaints than serving officers (on three separate occasions), and in 2022, received four times over the number of complaints (per officer) compared to an average taken across E&W forces. On any objective analysis, Mr Hardy cannot accurately claim that a **400%** difference is “slightly higher”.

7.1 Mr Hardy went on to say (18-19):

*“When you look in the United Kingdom... they have legislation that if vexatious complainants continue under a certain course of conduct, there are routes and opportunities for them to deal with that issue and prevent it being a perpetuation of similar complaints. We don’t have any route or any avenue currently to do that.*

*“...within our actual law there is no way of properly dealing with a vexatious complaint.”*

7.2 This is false and Mr Hardy knew it to be false. “Within our actual law” **there is** a way “of properly dealing with a vexatious complaint”. Section 8(1) of the Police Complaints (Guernsey) Law, 2008 states (41-43) [emphasis added]:

“8. (1) If, during the course of an investigation supervised by the Commission relating to a complaint, it becomes clear to the investigating officer *that the complaint is frivolous, vexatious or otherwise an abuse of process*, he shall report that finding to the [appropriate authority] *and recommend that the investigation should not be pursued further.*

“8. (2) Where the investigating officer makes a report and recommendation to the [appropriate authority] under subsection (1), the [appropriate authority] may, concurrence of the Commission and, in the case of a criminal allegation, with the concurrence of Her Majesty's Procureur, *direct that the investigation shall not be pursued further.*”

## HONEST AND INTEGRITY – PART 2

- 8.1 Given that the Standard of ‘Honesty and Integrity’ is considered *primus inter pares* in relation to the other Standards, in that a breach of it puts an officer at serious risk of dismissal, what amounts to this is important – for officers and presenting authorities.
- 8.2 There has been a number of cases addressing this over the past couple of years. They have focused on the meaning of integrity as opposed to honesty – whether integrity is something different to honesty and, if so, whether it is measured subjectively or objectively.
- 8.3 In *Scott v Solicitors Regulation Authority* [2016] EWHC 1256 at [40]-[41], the Court expounded on the difference between dishonesty and integrity. The court went further and stated that there was an “obvious distinction” between the two, at [48] (Sharp LJ) [emphasis added]:

*“The fact that the appellant was, in the event, found not to have been dishonest, plainly did not mean that it was not open to the SDT to conclude that he lacked integrity. There is an obvious distinction between the two concepts, as Mr Williams QC submits, and Mr Kendal did not argue to the contrary. A person can lack integrity without being dishonest. One example which applied here, was by being reckless as to the use of various client accounts. As the SDT found, the appellant had not enquired as to the reasons for the improper payments and transfers out of client account; he had not cared at all about what he was instructed to authorise, and he had not shown any steady adherence to any kind of ethical code. Accordingly it was not so much a case of what the appellant thought, but that he neither thought nor cared about what was required by the rules governing his profession, of which he was aware.”*

- 8.4 In *Solicitors Regulation Authority v Wingate and Evans* [2016] EWHC 3455, Holman J s properly followed the decisions of both *Solicitors Regulation Authority v Chan* [2015] EWHC 2659 (Admin) and *Scott*, agreeing both that there was a distinction between the two concepts and that it was unnecessary to provide a rigid, judicial definition of integrity. In referring to *Iqbal v Solicitors Regulation Authority* [2012] EWHC 3251, Holman J explained a lack of integrity as including, but not being limited to, a failure to adhere to trustworthiness. Whereas dishonesty was subjective, a lack of integrity was objective, at [37]:

*“While all dishonesty involves a lack of integrity, not all lack of integrity involves dishonesty. The law requires a subjective element to any finding or conclusion of dishonesty, but the question whether a person lacked integrity is objective.”*

- 8.5 This was reaffirmed clearly by *Morris J in Newell-Austin v Solicitors Regulatory Authority* [2017] EWHC 411, drawing upon the cases stated above, that whereas dishonesty involved subjectivity, the test for lack of integrity was an objective test alone. At [48]:

*“Thirdly, it is clear that, by contrast with the test of dishonesty, the test of “lack of integrity” is an objective test alone. A distinction must be drawn between subjective knowledge of the facts of the underlying conduct (which are alleged to give rise to the lack of integrity), and subjective knowledge of the fact that the conduct would be regarded by reasonable people as lacking in integrity. There is no requirement that a solicitor must “subjectively” realise that his conduct lacks integrity.”*

- 8.6 Given the office of constable, a failure to uphold the law and/or acceptable standards, for instance by refusing to appropriately discipline police officers or by giving out carefully selected facts which render a non-objective view, may similarly amount a lack of integrity. Even if lacking dishonesty, turning a blind eye to employee and organisational issues or a lack of trustworthiness may properly amount to a lack of integrity.

8.7 In *McGowan J in Chief Constable of Thames Valley Police v (1) Police Misconduct Panel (2) Mark White* [2017] EWHC 923 (Admin) the Judge, relying on *Bolton*, stated [emphasis added]:

*“...A lapse of integrity is very serious but can fall short of the quality of a lapse of honesty. Integrity in this context is not used in the sense of freedom from moral corruption rather in the sense of a failing to act in the right way, not behaving as the totally correct police officer would, in some way falling short of the whole. It is explained for police officers as “doing the right thing”.*

8.8 The judicial interpretation, therefore, is that a failure to act with integrity, considered objectively, may result in a failure to meet the Standard of ‘Honesty and Integrity’ and amount to a breach of it – even where the act is not considered dishonest.

## FURTHER STANDARDS

9.1 Further Standards include (27-29):

- Equality and Diversity: ‘Police officers act with fairness and impartiality. They do not discriminate unlawfully and unfairly’.
- Duties and Responsibilities: ‘Police officers are diligent in the experience of their duties and responsibilities’.
- Challenging and Reporting Improper Conduct: ‘Police officers report, challenge or take action against the conduct of colleagues which has fallen below the standards of professional behaviour’.
- Discreditable Conduct: ‘Police officers behave in a manner which does not discredit the police service or undermine confidence in it, where on or off duty’.

9.2 In or around September 2023, W unlawfully assaulted and injured an elderly cancer patient. He was found guilty by senior officers, but nevertheless was not subject to disciplinary action (44).

9.3 When the video showing the incident was leaked via social media, Mr Hardy explained that W “*probably just had a bad day*” (20). Mr Hardy continued, “*Of course, if [W] did that again, that would be a very, very different issue and would be approached, and I sincerely hope it never will happen again. I think it is important that I make those points*” (20).

9.4 First, Mr Hardy’s comment that W “*probably had a bad day*” was inappropriate and unprofessional. This discredited him and the police force and served only to further undermine public confidence. It is submitted that this is a breach of the Standard relating to Discreditable Conduct.

9.5 Second, by justifying W’s unlawful assault but not applying the same fairness or impartiality to D (who was convicted of assault), Mr Hardy breached the Standard relating to Equality and Diversity. Certainly, individuals who stand accused of any form of assault cannot evade charges with the excuse used by local officers who stand accused – and who repeatedly evade criminal charges – of the same.

9.6 Third, in spite of being found guilty W went on to unlawfully assault, hospitalise and injure a vulnerable female (45); initiate the unlawful assault on D’s person (causing injuries) (46-47); and unlawfully assault and injure a vulnerable teenager (48). The College of Policing states that the Standard relating to Challenging and Reporting Improper Conduct ‘*also has a preventive role. It requires everyone in policing to prevent unprofessional conduct by questioning behaviour which falls below expected standards. Additionally, it supports reporting or taking action against such behaviour*’. Thus, it is submitted that Mr

Hardy's failure to take appropriate action in response to W's continuing misconduct breaches this Standard.

- 9.7 Last, it is submitted that Mr Hardy's claims concerning W (above) are false and he knew them to be false. This, as well as the unlawful justifications over W's conduct, were made in efforts to mislead the public. Therefore, Mr Hardy's actions constitute a breach of the Standard relating to Honesty and Integrity.

## DISCREDITABLE CONDUCT

10.1 Mr Hardy's actions discredited the police service and undermined confidence in it – the public has made this very clear (for example: *"More than a third (36%) [of women] lacked trust in the [Guernsey police]..."*) (49-50). Insofar as this is denied, the Committee is politely asked to take a dip sample from a random and statistically viable data set (of the populace). If this is not possible, or the Committee rejects this or similar, the Complainants considerably request answers to the following:

- (a) Why the Committee decided against seeking out the views of the public (who ultimately decide whether his standard has been breached)?
- (b) What parameters the Committee used to qualify and quantify whether (or not) Mr Hardy's conduct (as above) has (i) 'discredited' and (ii) 'undermined confidence' in the police force?
- (c) On what grounds, generally, did the Committee reach its conclusion over whether Mr Hardy's conduct breached the Standard relating to Discreditable Conduct?

## CONCLUSION

11.1 Mr Hardy has proven himself to have been:

- insincere and untruthful;
- knowingly made false, misleading and inaccurate oral and written statements in a professional context; and
- ensured that these acts, and the narrative he is aggressively pushing via the media, were influenced by improper considerations of personal gain (to protect his officers and by extension, his reputation).

11.2 Mr Hardy has further proven himself to be deceptive in ways of which could fairly be described as being 'economical with the truth'. What is wrong with lying is not just that it typically results in people believing things which are not true, but also that it involves deliberate deception and may have bad consequences. Yet being economical with the truth also involves deliberate deception and can have just as bad consequences as lying. It is hard then to see how to justify drawing a moral distinction between the two sorts of deception. From a legal standpoint, this was examined in paragraphs in 8.1 – 8.8.

11.3 As the Chief Officer, Mr Hardy sets the cultural tone for his organisation. Employees look to him, whether they realise it or not, in order to work out what behaviours are acceptable and what behaviours are not. It is fair to say then, that the Guernsey police is a reflection of Mr Hardy and his ethos.

11.4 Since Mr Hardy took over as the Chief Officer (2019), Guernsey police has published the worst results ever recorded (40) and has received (and continues to receive) a record number complaints and lawsuits (in one instance, Mr Hardy was reported to have spent £400,000 of taxpayers' monies defending claims worth under £12,000).

## THE COMMITTEE

- 12.1 Facets of this complaint are unusually clear cut. In respect of Mr Hardy's false claims, it is a simple matter for an impartial panel to request that Mr Hardy show exactly where police footage, he says, substantiates his claims. Should the Committee rule that Mr Hardy did not make false statements, please can it provide specific references to the footage where it believes Mr Hardy's claims are proven true.
- 12.2 The Committee will have regard to relevant case law which made clear that any officer subject of a dishonesty finding is compromised for the future as a professional witness. It was therefore established that the outcome in any case involving operational dishonesty, must usually be dismissal.
- 12.3 On this basis, the misconduct complained of herein, and taking into account Mr Hardy is currently under investigation for analogous misconduct (lying under oath) (51), the Complainants respectfully request he be removed from the position of Chief Officer with immediate effect, pending the outcome of an investigation.
- 12.4 Inasmuch as the Committee declines, please can it explain the reasoning behind such a decision.
- 12.5 Finally, of concern is the Committee's very clear, and very public message that *"we have a great police force"* and *"an excellent Chief Officer"*. Likewise, on 13 June 2024, Island FM (online) published an article entitled: "Home Affairs Committee writes in defence of Guernsey Police". The article went on to say that ***"the Committee "give their 'unequivocal support' to the Chief of Police and the wider force"***.
- 12.6 With respect, were the Committee be seen not to consider this complaint from an impartial perspective, and then not act appropriately, the Complainants may consider bringing claims against Deputy Prow personally.

Please can we trouble you for a response no later than 31 July 2024.

Yours faithfully,

[Redacted signature]

[Redacted signature]

[Redacted contact information]

[Redacted contact information]