

Police Complaints Authority MOU

Memorandum of Understanding **between** the New Zealand Police **and** the Police Complaints Authority.

Purpose

1. This Memorandum of Understanding (Memorandum) defines the working relationship between the Commissioner of the New Zealand Police ("the Commissioner") and the Police Complaints Authority ("the Authority") in relation to incidents of serious misconduct or serious neglect of duty that are internally reported within the Police.

Definitions

2. Serious Misconduct and Serious Neglect of Duty

(a) Misconduct or neglect of duty shall be deemed to be serious for the purpose of this Memorandum if such misconduct or neglect of duty constitutes a criminal offence, or is of such significant public interest as to put at risk the reputation of the New Zealand Police.

(b) For the avoidance of doubt the offences of misconduct or neglect of duty listed in the First Schedule to this Memorandum, taken from Reg.9 of the Police Regulations 1992, lie outside the scope of this Memorandum and shall not be notified to the Authority in terms of paragraph 4 of this Memorandum.

(c) For further avoidance of doubt the offences of misconduct or neglect of duty listed in the Second Schedule to this Memorandum, taken from Reg.9 of the Police Regulations 1992, shall be reportable to the PCA and subject to the provisions of paragraph 4 of this memorandum.

3. Internal Reporting

The expression internally reported is used in this Memorandum to refer to the bringing to official Police notice any serious misconduct or serious neglect of duty by means of a Police member reporting the fact to a senior Police member, rather than by means of a complaint made by a member of the public or by a Police member acting in his or her private capacity.

Procedure

4. When any serious misconduct or any serious neglect of duty is internally reported the Commissioner shall notify the Authority of such serious misconduct or serious neglect of duty as soon as practicable and such notification shall make clear on its face that it is made pursuant to this Memorandum.

5. When notified of any serious misconduct or serious neglect of duty pursuant to this Memorandum the Authority shall deem such notification to be notification of a complaint and shall respond, using all his powers under the Police Complaints Authority Act 1988, in the same manner as he would with any complaint.

Revocation

6. The Commissioner and the Authority may at any time confer to review the operation of this Memorandum and to vary this Memorandum as they agree shall be appropriate, otherwise this Memorandum may be revoked by either the Commissioner or the Authority by notice in writing.

DATED at WELLINGTON this 10TH day of
NOVEMBER 1994
SIGNED by

SIGNED by:

R N MACDONALD
COMMISSIONER OF POLICE

SIR JOHN F JEFFRIES
POLICE COMPLAINTS AUTHORITY

First Schedule

Offences of misconduct and neglect of duty

Police Regulations 1992

Reg 9 Disciplinary offences by sworn members of Police

The following shall be offences of misconduct or neglect of duty on the part of any sworn member for the purposes of the Act:

- (1) Disobedience of the lawful order of a supervisor:
- (2) Behaving disrespectfully towards, or speaking or writing disrespectfully of or to, a supervisor:
- (3) Insubordinate conduct by word or act:
- (4) Oppressive conduct towards a subordinate:
- (6) Being absent from his or her sub-district when on duty, except in the course of duty or with permission:
- (7) Consuming intoxicating liquor while on duty in uniform:
- (8) Drunkenness or intoxication by alcohol, drugs, or any substance while on duty:
- (9) Bringing into or keeping in offices any intoxicating liquor, except in the course of duty or with the permission of the Assistant Commissioner or District Manager:
- (10) Using insulting or offensive language in any report or any other official document:
- (11) Using indecent, insulting, abusive, or threatening language in or upon Police premises or while on duty:
- (13) Refusing or failing without reasonable cause to pay any lawful debt or becoming a bankrupt:
- (16) Without reasonable excuse, sleeping or lying down on any beat or place when on duty:
- (17) Without reasonable excuse, failing to work any beat or patrol in accordance with defined directions:
- (18) Without reasonable excuse, leaving or being absent from any beat, post or place of duty:
- (19) Without reasonable excuse, being absent from or late for parade, Court, or other duty:
- (20) Feigning or exaggerating any sickness or injury with a view to evading duty:
- (21) Unduly holding over any complaint:
- (22) Failing to take due and prompt measures for the investigation of any matter requiring to be investigated or for the arrest of any offender:
- (23) Failing to report promptly accidents, offences, or unusual occurrences:
- (24) Failing to report promptly anything which the member knows concerning an offence or offender, or to disclose any evidence which the member or any other person can give for or against any defendant:
- (27) Without reasonable excuse, divulging any information which it is the member's duty not to divulge:

- (28) Knowingly making any false return, report, or statement or signing any false certificate:
- (29) Wilfully making any false entry in any official document, record, or information recorded or stored by means of any tape recorder, computer, or other device:
- (30) Wilfully or negligently omitting to make an entry in any official book, document, record, or information recorded or stored by means of any tape recorder, computer, or other device as to any matter which ought to be entered:
- (31) Without colour of right:
- (a) Destroying, mutilating, or removing from the place where it is normally kept an official book or document, or any record or information recorded or stored by means of any tape recorder, computer, or other device; or
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- (34) Wilfully or negligently losing or damaging in the course of duty any Government property, any property in that member's custody, or any property in the custody of any other member:
- (35) Using a departmental motor vehicle without proper authority or outside the scope of the authority given:
- (36) Prevarication before any Court or inquiry:
- (37) While on duty, wearing any party emblem, taking part or marching in any party procession, or otherwise manifesting political or sectarian partisanship:
- (38) While in uniform, wearing any medal or badge whatever without the authority of the Commissioner:
- (40) Negligence in the discharge of the member's duties:
- (41) Wilfully violating any provision of these regulations, or of general instructions, or of any general order issued by the Commissioner, the member's Assistant Commissioner, the member's District Manager, or the Director: Training of the Royal New Zealand Police College:
- (42) Any act, conduct, disorder, or neglect to the prejudice of good order, morality, or discipline of the Police, though not specified in these regulations.

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The following shall be offences of misconduct or neglect of duty on the part of any sworn member for the purposes of the Act:

- (5) treating any person or prisoner cruelly, harshly, or with unnecessary force or violence;
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- (15) Improperly using for private advantage his or her position as a member of the Police;

- (25) Directly or indirectly giving or causing notice to be given to any person, with a view to the evasion of a summons, warrant, or other process, or in any way conniving at, assisting, or encouraging any person to evade the same;
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(34) Wilfully or negligently losing or damaging in the course of duty any Government property, any property in that member's custody, or any property in the custody of any other member:

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New Zealand Police Retention and Disposal Schedule Part Two: Non-Offence Records

Class ID	Record class	Description and Examples of Records	Office	Agency Retention Period	Disposal action	Restrictions
4.0.0		CLASS 4: PROFESSIONAL CONDUCT				
4.1.0		This class covers records associated with allegations against Police conduct and complaints				
4.1.1	Police Conduct Allegations and Complaints	Allegation and Complaints files (6A)	PNHQ	30 years after date of last action	Destroy	

