

## Guidance note: making a referral to the police and/or the Attorney General

16 April 2024

This guidance note deals with the referral by us of criminal offences that may come to our attention in the conduct of our statutory functions, to either the police and/or the Attorney General. We make such referrals where there are grounds to believe that a criminal offence(s) may have been committed and the matter should be reported for consideration of a criminal investigation.

The policy of the JFSC is that criminal offences will be referred to the police and/or the Attorney General if we consider the matter to be sufficiently serious. It should be stressed, however, that a decision on whether to prosecute will be a matter solely for the Attorney General.

We will generally regard a criminal offence as sufficiently serious to the extent that it poses a threat to clients or potential clients; poses a threat to the reputation of the Island; and/or casts doubt on the integrity, competence or financial standing of the person concerned. It will also be relevant if the criminal conduct was deliberate or premeditated rather than accidental, or if the person (individual or body corporate) has knowingly or recklessly provided the JFSC with false or misleading information.

Failure, or refusal, to cooperate with the JFSC in the exercise of our statutory duty or a history of past contraventions/poor regulatory compliance (which may give grounds to believe that the contravention is likely to be repeated and/or is part of a systemic failure), will also be taken into account in determining if a referral to the police and/or the Attorney General is warranted.

In deciding whether to make a referral to the police and/or the Attorney General, we may also consider whether the matter can be adequately addressed by the use of any of the regulatory powers or sanctions available to us.

The above list of relevant factors is not intended to be exhaustive. But it should be enough to indicate that referrals to the police and/or the Attorney General by us will be judged on their merits, on a case-by-case basis, and will not be made on every occasion a criminal offence is identified. For example, where we identify a negligent contravention of the Money Laundering (Jersey) Order 2008, it may be appropriate for us to oversee the implementation of an effective remediation programme and/or to otherwise use our regulatory powers, without referring the matter to the police and/or the Attorney General.

Regulated entities and all their employees should, however, be in no doubt that they put themselves at potential risk if they do not take adequate steps to ensure that they are compliant with any regulatory and other laws that affect them and any subordinate legislation and Codes of Practice, the Money Laundering Order, and the Handbook for the Prevention and Detection of Money Laundering, the Financing of Terrorism, and the Financing of Proliferation (the AML/CFT/CPF Handbook).

**Notes:**

This guidance does not affect the role of the Attorney General to investigate and prosecute criminal offences under statutory or customary law.

This guidance does not affect the role of the Attorney General to investigate and apply for confiscation or forfeiture of criminal or tainted property under statutory or customary law.

This guidance does not affect the functions of the Chief Officer of Police and the duties and powers of police officers to prevent, detect and investigate offences and take such lawful measures as are appropriate to bring offenders to justice under statutory or customary law.