

Decree No. (27) of 2012

Concerning the Office of the Independent Ombudsman at the Ministry of Interior

We, Hamad bin Isa Al Khalifa

The King of the Kingdom of Bahrain

Having reviewed the Constitution;

And Decree Law No (3) of 1982 Concerning Public Security Forces, as amended;

And Decree No. (69) of 2004 Concerning the Reorganisation of the Ministry of Interior, as amended;

And the Report of the Bahrain Independent Commission of Inquiry, especially its recommendations Nos. 1717 and 1722;

And upon the submission of the Deputy Prime Minister:

Article 1

For the purposes of this Decree, the following words and phrases shall have the meaning ascribed to them, unless where used, the context indicates otherwise:

1. **“Complaint”** shall mean a written or oral complaint by any person who:
 - a) claims to be the person in relation to whom the conduct of any kind committed by any member of the public security forces during the performance of his/her duties;
 - b) claims to have been adversely affected by the conduct mentioned in subparagraph (a) of this Article;
 - c) claims to have witnessed the conduct; or
 - d) is acting on behalf of a person falling under any of the above mentioned subparagraphs.

However, a complaint shall not include shall not include the decisions, directives, guidelines and instructions issued by the Minister of Interior or Chief of Public Security, as the case might be

2. **“conduct”** shall mean any act, or failure to act, the continuation of any act or failure to continue any act and any attempt to act by a member of the Public Security Forces [a member of the Police] committed in contravention of the provision of this Decree.

3. **“A member of the Police”** includes all personnel serving at the Public Security Forces wherever they happened to be.
4. **“Superior Responsibility”**: constitutes the failure of persons with de facto supervisory authority to take reasonable steps to prevent such conduct or to investigate or punish it, in circumstances where a superior knew or had reasons to know of such conduct.
5. **“Review”** means a consideration of whether or not the complaint in question merits investigation.

”Investigation” means the process of enquiry into the complaint in question and the collection and the collection and evaluation of evidence relevant to the compliant.

Article 2

An Independent Ombudsman’s Office shall be established at the Ministry of Interior, and shall consist of:

1. The Head of the Ombudsman Office and his deputy. Each shall be appointed by Decree, upon the advice of the Minister of Interior and the approval of the Prime Minister. The appointment of the Head and his deputy shall be for a term not exceeding five years; but each shall be eligible for re-appointment at the end of their term of office. Both the Head of the Ombudsman and his deputy shall be in a position to act independently, impartially and with integrity.
2. Such suitably qualified staff appointed for the discharge of the function of the Ombudsman Office. The Ombudsman’s Office staff shall be appointed by the Head of the Ombudsman in accordance with procedures set out by him/her and agreed upon by the Minister of the Interior.

In the performance of his/her functions, the Ombudsman may request from the Chief of Public Security Forces that competent personnel be seconded to his/her office.

Article 3

The Ombudsman shall exercise his/her authority and duties as regards complaints submitted and any decisions made concerning such complaints with complete independence; accordingly, the Ombudsman:

1. shall have the ultimate oversight (including supervision and control) over the Office of Internal Affairs in relation to handling and allocation of complaints.

2. shall decide on the efficient and appropriate allocation of its resources.
3. may make such recommendations and give such advice concerning the work of the Office of the Internal Affairs with the aim of fulfilling the objectives set out in Article 6 of this Decree, including advice concerning the handling of complaints and the recording of evidence.
4. may indicate the appropriate disciplinary proceedings against any relevant member of the Police.

Article 4

An independent Office of Internal Affairs shall be established in the Ministry of Interior. The work and functions of the Office of Internal Affairs shall be determined by a decision of the Minister of Interior..The Office of Internal Affairs shall be responsible for:

1. Receiving and investigating complaints made about the conduct of persons serving with the Police which fall within their respective responsibilities as set out in the provisions of this Decree; such conduct include planning, ordering, inducing, aiding and abetting or otherwise participating in the commission of criminal offences or behaviour justifying disciplinary proceedings, as well as superior responsibility for the commission of such acts.
2. Recording and keeping evidence and findings following complaints which indicate that the conduct in question may have been that of persons serving with the Police which involved either the commission of a criminal offence or behaviour justifying disciplinary proceedings.

Article 5

The Head of the Ombudsman or his deputy or any staff member of the Ombudsman Office, or any staff member of Office of Internal Affairs shall carry out any aspect of the work in which he/she, or his/her spouse and children, or any of his/her relatives, or in-laws, or anyone having fourth degree relationship, or anyone in his/her care has a direct personal interest.

Should the Head of the Ombudsman or his deputy has a conflict in any matter being investigated, the Minister of Interior shall be asked by the Head of the Ombudsman to appoint another person to lead the investigation of that particular complaint. The rules governing the appointment of that person shall be identical to those governing the appointment of the Head of the Ombudsman.

If any staff member of the Ombudsman has a conflict or personal interest, he/she shall be replaced by another member of staff.

Article 6

Upon the recommendation of the Head of the Ombudsman, the Minister of Interior shall issue the necessary decisions that facilitate the working relationship between the Ombudsman and the Office of Internal Affairs in accordance with their functions and powers as set out in this Decree.

The functions and working of each the Ombudsman and the Office of Internal Affairs shall be executed with the aim of securing the following objectives:

1. Efficiency and effectiveness, and capable of securing accountability.
2. Independence and impartiality, including the absence of any kind of bias.
3. Appropriate public scrutiny and transparency.
4. Employ all necessary expertise.
5. Get the job done promptly and expeditiously that will achieve justice.
6. Protect the privacy and safety of the parties.
7. Inspire public confidence, trust and credibility [of the Police].
8. Avoid mistakes learned through experience, and assist the Police in ensuring that learned lessons are incorporated into existing Police policies with the aim of ensuring that such mistakes are not committed again.

Article 7

If the Head of the Ombudsman (or his deputy) fails to carry out the functions of his/her office, he/she shall be removed from his/her office by a Royal Decree, upon the proposal of the Minister of the Interior and the approval of the Prime Minister.

Article 8

The Office of Internal Affairs shall investigate any complaint submitted to it in accordance with the provisions of this Decree. It shall determine whether the complaint falls within its competence, or whether to refer such complaint to the competent authority in the Ministry of Interior or to the Ombudsman.

Article 9

It is within the competence of the Office of Internal Affairs to investigate any complaint that there may have been Police conduct which might justify disciplinary proceedings. The Office of Internal Affairs is not obliged to refer such a complaint to the Ombudsman's Office, save where the Head of the Ombudsman requests that the complaint be referred to the Ombudsman, and

particularly if the Police conduct may have a serious negative impact on public confidence in policing.

Article 10

Taking into account the provisions of Article 6 of this Decree, the Ombudsman and the Office of Internal Affairs shall (following the commencement of an investigation into a complaint):

1. Where appropriate, direct the competent authority in the Ministry of Interior to bring disciplinary proceedings against any member of the Police;
2. Where necessary under Article 14 of this Decree, notify the relevant complaint to the Office of the Attorney General; and
3. As soon as practicable provide the complainant and the person complained against (as the case may be) with all such information as will keep him/her properly informed as to the commencement of the investigation, the progress, the conclusions of the investigation, whether any action has been taken following the investigation and, if so, the outcome of any such action.

Article 11

The Office of the Internal Affairs shall be obliged to refer, without delay, any complaint to the Ombudsman in the following cases:

1. Where it appears from the complaint that there may have been a death or serious mistreatment suffered during, or following, contact with a member of the Police.
2. Any police conduct which may have a serious negative impact on public confidence in policing.
3. Upon a request for such a referral from the Head of the Ombudsman.

Cases (1) and (2) include complaints submitted against the Ministry of Interior or any member of the Police.

Article 12

The Ombudsman's Office shall investigate any complaints submitted in accordance with this Decree. In addition to its competence as regards cases referred to it by the Office of Internal Affairs, the Ombudsman's Office may investigate serious complaints even if the complaint in question is within the competence of the Office of Internal Affairs.

Article 13

Within the applicable laws in the Kingdom of Bahrain, the Ombudsman and members of his/her staff and the Office of Internal Affairs shall have the necessary powers to investigate into any and all matters relevant to the complaint under investigation in accordance with the provisions of this Decree, including:

1. access to all premises, documents, computer files and other materials.
2. seek information or evidence from any person.

Ministries, public officials and relevant bodies shall assist the Ombudsman and the Office of Internal Affairs by providing them with whatever they request of data, information and documents that are related to the subject of the complaint under investigation.

Article 14

In any case where it appears to the Ombudsman's Office or the Office of Internal Affairs that the complaint being handled would justify criminal prosecution, it shall notify the Office of the Attorney General without delay of the complaint. Such notification shall be accompanied with all relevant information and documents concerning the complaint in question.

Where the Office of the Attorney General decides not to investigate such a complaint, the Ombudsman or the Office of Internal Affairs shall have the power to commence or resume their own investigation in accordance with the provisions of this Decree.

Article 15

The Head of the Ombudsman shall submit an annual report to the Minister of Interior as to the carrying out of the Ombudsman's work. This report shall be made public subject to any relevant applicable laws in the Kingdom of Bahrain.

The Head of the Ombudsman may also report to the Minister of Interior any matter concerning any complaint or complaints that have been investigated, with additional comments or findings.

Article 16

In a separate item of the overall budget of the Ministry of Interior, the Ombudsman's Office shall be allocated a budget sufficient to cover its expenses. The Head of the Ombudsman alone shall have full authority to decide on the management of the allocated budget.

Article 17

The Minister of Interior shall issue the required decisions to implement the provisions of this Decree.

Article 18

The Prime Minister and all ministers shall implement this Decree, which shall come into force the day following its publication in the Official Gazette.

The King of the Kingdom of Bahrain

Hamad bin Isa Al-Khalifa

Deputy Prime Minister

Muhammad bin Mubarak Al-Khalifa

Field Marshal

Minister of Interior

Rashid bin Abdullah Al-Khalifa

Issued at Rifa'a Palace

Date: 28 February 2012.