

THE BAILIFF OF JERSEY
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Deputy R Ward
Chair, Care of Children in Jersey Review Panel
c/o Morier House
St Helier
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Dear Deputy Ward

Redress and Accountability Systems in Jersey

I regret that I have not before now, been in a position to respond substantively to your letter of 26 June 2020.

There are two forms of complaint systems within the Court Service. I am aware that the Judicial Greffier has responded to your Panel in connection with the complaints that apply to his Department (which, of course, together with the Viscounts Department provides administrative and executive support services for all of the Courts of the Island). I will not trespass on or repeat his observations.

I restrict myself, therefore, to complaints in connection with Members of the Judiciary.

Anyone who is a party and is aggrieved by a Judicial decision has access to the rights of appeal or review that applies in their case by reason of specific rights of appeal or judicial review in accordance with settled legal principles. I am assuming for the purposes of my answer that your letter is not directed to such rights which may be found in statute and in particular in those provisions that are directed to appeals from the lower courts to the Royal Court and from the Royal Court to the Court of Appeal.

If the complaint relates, however, to the behaviour of a judge, then that is a matter that frequently falls outside the appeals process and would be the subject of a judicial complaint.

The Judicial Code of Conduct identifies principles that govern all judges in the Island, how they should approach their role, how they should behave and therefore, what failings may amount to a breach of that code.

If there is a breach of the Code of Conduct then a complaint may be made by a member of the public to the Bailiff pursuant to the Judicial Complaints process, a copy of which I attach hereto and which may be found at ([www.gov.je/SiteCollectionDocuments/Government and administration/Judicial Complaints Procedure](http://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/Judicial%20Complaints%20Procedure)).

The above complaint's process applies to all judges except for the Bailiff and the Deputy Bailiff. Any complaint against the Bailiff or Deputy Bailiff is made directly to his Excellency the Lieutenant Governor who deals with the matter in accordance with the appropriate complaints process.

The Judicial Code in its current form dates from early 2017 and I enclose a copy for your information. It may also be found at www.gov.je/Government/NonexecLegal/JudicialGrefte/Pages/CodeConduct.

This Code is in the process of review and I would anticipate that the revised code will be adopted and issued later this year. I am reluctant to share the latest draft with you as it will be subject to further comment and revision but should you wish to see it before it is amended then I would be prepared to provide the most current draft on the basis that it is understood that it is simply a work in progress until finalised and adopted.

Complaints against judges are of their nature disciplinary and they are not a means of seeking redress in the sense of compensation. If someone alleges that they have suffered financially or otherwise as a result of judicial behaviour then it is unlikely that this could be established and vindicated through the complaint or review process mentioned above. For example, a breach of the part of the Code of Conduct which relates to an appearance of bias will not give rise to compensation as the simple appearance of bias could not give rise to any loss. Had, for example, a judge exhibited actual bias then that judicial decision could probably be challenged on appeal and that may well benefit any claimant in that the decision may be reversed, if the complaint of actual bias is made out.

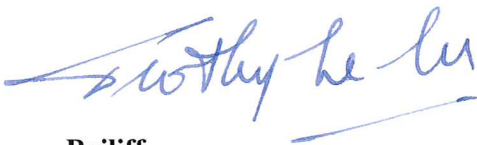
I believe that the answers above cover paragraphs 1 – 4 inclusive of your letter of 1 May 2020.

With regard to paragraph 5, an overview of future work programmes, it is certainly open to judges to attend courses and that regularly happens in connection with new developments in the law. A most recent example would be training organised by the Court offered and attended to understand the new bad character and hearsay provisions contained within the new criminal statutory provisions. All new judges attend the training courses run for English judges which take place at Warwick University.

You have asked me about findings of the Independent Jersey Care Inquiry. There is only one area specifically mentioned in that report where training is recommended. We have arranged for training in respect of recent developments in English public law children's cases to take place in Jersey in the next year. That training will be provided by an experienced English care judge. The Jurats also attend regular and frequent training days.

I hope that the above is of assistance to you and I look forward to hearing from you if I can be of further help. Of course if it assists to meet with your Panel I would be happy to do so.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Stothy he lu', with a horizontal line underneath.

Bailiff