

## Briefing Note: Complaints, Redress and Accountability Systems in Jersey

### Purpose

1. The Care of Children in Jersey Review Panel has agreed to undertake a Scrutiny Review examining the complaints systems, redress and accountability structures in Jersey. The review will focus on these aspects within the Government, States Assembly, Court System and Parish Administration, gathering views, identifying whether systems are open, transparent and accessible, assessing means of redress, identifying how these functions are held accountable, and establishing future work programmes.

The following briefing identifies the key developments for consideration under each focus area proposed by the Review Panel. It goes on to describe policy areas under development which should be considered in terms of enhancing redress in the future.

### Government (Current State)

2. A new Government Customer Feedback Policy and process was launched in September 2019<sup>1</sup> with the aim to identify and resolve issues and improve future service. Feedback, complaints and questions can be given in person, by phone and by email, with consistent processes and timeframes for response and / or escalation.
3. The One Gov Customer Strategy was presented to the Council of Ministers in February 2020 and is included in the CLS Business Plan<sup>2</sup>. The strategy is designed to ensure customer experience meets the same standards across government and to make interacting with Government as easy as possible. CLS will lead the development of Customer Service Standards, develop a customer insight programme, enable a shift to digital self-service and improved accessibility, and structure services around life events.
4. The Jersey Care Commission was established in 2018 as an independent arm's length body. The Regulation of Care (Jersey) Law 2019<sup>3</sup> provides for the Care Commission to hear complaints about 'regulated activities' in health and social care.
5. The Commissioner for Children and Young People was established in 2019 as an independent arm's length body. The legal framework (Commissioner for Children and Young People (Jersey) Law 2019<sup>4</sup>) enables the Commissioner to investigate a complaint from a child or young person about the infringement of that child's or young person's rights in relation to the delivery of services by a relevant authority to that child or young person. The Commissioner may also investigate such a matter where information comes to his or her attention, without a complaint being made. For example, as a result of a report by a regulator or another Commissioner.

### States Assembly (Current State)

6. The Commissioner for Standards considers complaints about the conduct of States Members<sup>5</sup>. States Members are expected to behave in accordance with the Code of Conduct for Elected Members, Ministers and Assistant Ministers are expected to comply the Code of Conduct and Practice for Ministers and

<sup>1</sup> <https://www.gov.je/government/comments/Pages/index.aspx>

<sup>2</sup> <https://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/ID%20Business-Plan%20CLS.pdf>

<sup>3</sup> <https://www.jerseylaw.je/laws/unofficialconsolidated/Pages/20.820.aspx>

<sup>4</sup> <https://www.jerseylaw.je/laws/unofficialconsolidated/Pages/12.280.aspx>

<sup>5</sup> <https://statesassembly.gov.je/Pages/complaints.aspx>

Assistant Ministers, both as set out in Standing Orders. The Commissioner is appointed by the PPC and may also initiate investigations of their own accord if they believe a breach has occurred.

### **Courts System (Current State)**

7. The Court Service complaints policy<sup>6</sup> is set out online and is accompanied by a Judicial Complaints Procedure<sup>7</sup>, where complaints are received by the Bailiff, and a Bailiff Complaints Procedure<sup>8</sup> where complaints received by Lieutenant Governor. These complaints processes are in support of a non-statutory *Code of Conduct for Members of the Judiciary of Jersey*.

### **Parish Administration (Current State)**

8. There is no published complaints policy or process available on the Parish website for all functions. Complaints about Parish Hall Enquiries are referred to the Attorney General.
9. The Comité des Connétables in October 2019<sup>9</sup>, in response to the public consultation on a Public Services Ombudsman (as set out below), noted that the Comité whilst not in favour of the establishment of the JPSO “... agreed that the maladministration of a parish should be open to investigation and therefore the role of the Complaints Panel might be extended or widened to cover a parish.”

### **Policy Under Development**

#### **Public Services Ombudsman**

10. The question of whether Jersey should have a Public Services Ombudsman has been a matter of consideration for some time:
  - In 2000, the *Clothier Review*<sup>10</sup> stated that the Complaints Panel arrangements in place at that point in time were unsatisfactory and that an independent Ombudsman should be established
  - In 2017, the Jersey Law Commission Report on *Improving Administrative Redress in Jersey*, recommended changes to internal Government of Jersey (GoJ) complaints handling processes, modernisation of the Tribunals system, ending the role of the Complaints Panel and setting up a Public Services Ombudsman<sup>11</sup>.
  - In July 2017, the Independent Jersey Care Inquiry<sup>12</sup> noted a lack of trust and confidence in government. The Inquiry stated that the recommendations of the Clothier Review should be given further consideration and that more should be done to improve openness and transparency in government

<sup>6</sup> <https://www.gov.je/Government/Comments/Pages/JerseyCourtServiceComplaints.aspx>

<sup>7</sup> <https://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/ID%20Judicial%20Complaints%20Procedure%2020160408%20JR.pdf>

<sup>8</sup> <https://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/ID%20Bailiff%20Complaints%20Procedure%2020150901%20JR.pdf>

<sup>9</sup> <https://parish.gov.je/Documents/Comité%20des%20Connétables%20non-exempt%20minutes%20October%202019.pdf>

<sup>10</sup> <https://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/ID%20ClothierReport%20100331%20CC.pdf>

<sup>11</sup> [https://jerseylawcommission.files.wordpress.com/2016/04/jsylawcom\\_topicreport\\_adminredress\\_final.pdf](https://jerseylawcommission.files.wordpress.com/2016/04/jsylawcom_topicreport_adminredress_final.pdf)

<sup>12</sup> <https://statesassembly.gov.je/assemblyreports/2017/r.59-2017%20independent%20jersey%20care%20inquiry%20report%20%20-complete-.pdf>

- In March 2018, the States Assembly considered proposition P.32/2018 - *Public Services Ombudsman: Establishment of Office*<sup>13</sup> and agreed in principle that, subject to the findings of further research, a Public Services Ombudsman should be established
- In October 2018, the Law Commission undertook that further research and published *Designing a Public Services Ombudsman for Jersey*<sup>14</sup>; a report which considered many of the issues raised in P.32/2018 and set out proposals and recommendations relating to the design, remit and reach of a Jersey Public Services Ombudsman (JPSO).
- A public consultation ran from July to October 2019, this consultation set out proposals for the design and remit of a JPSO. The consultation feedback report<sup>15</sup> was published in February 2020.

### Draft Police Complaints and Conduct Law

11. Stakeholders from Strategic Policy, Planning and Performance, the Comité des Connétables, Jersey Police Complaints Authority, States of Jersey Police, Honorary Police, Law Officers' Department, Jersey Police Authority and Human Resources Department, have commented on a first draft law and regulations. These comments have been shared with the law draftsman for preparation of a second full version.
12. The policy objectives are to update the current Jersey legislative framework to match good practice elsewhere in the British Isles, providing for a more harmonised approach to all police officers, States and Honorary, to ensure equity of treatment, consistent standards and improved simplicity for those making and handling complaints and conduct matters.

### Redress scheme

13. A new, non-statutory, GoJ redress scheme was launched on 1 July 2019 to provide ex-gratia payments to people who, as children, were abused or suffered harm between 9 May 1945 and 31 December 2005 while a resident in a Government of Jersey children's home, while in a Government of Jersey foster care placement, or while accommodated at Les Chênes secure residential unit. The aim of the redress scheme is to offer access to fair redress for people who suffered abuse via a scheme which is easy to access and reduce the risks associated with people progressing to action in the civil courts.
14. The scheme is open to application until the end of June 2020. Up to £2.7m has been set aside in central contingency for the scheme in 2019, with total estimated spend being c. £6.5 million. This is GoJ's second redress scheme; the first was restricted to residential care up to 1994, excluding foster care, the harsh regime at Les Chênes and abuse in residential care after 1994, all of which were features of the subsequent IJCI findings. Applicants who receive an award must confirm they accept payment as full and final settlement of their claim (i.e. they cannot subsequently go to Court to seek other compensation for the abuse or harm suffered).

<sup>13</sup> <https://statesassembly.gov.je/assemblypropositions/2018/p.32-2018.pdf>

<sup>14</sup> [https://jerseylawcommission.files.wordpress.com/2018/11/jsylawcom\\_designingombudsman\\_final.pdf](https://jerseylawcommission.files.wordpress.com/2018/11/jsylawcom_designingombudsman_final.pdf)

<sup>15</sup> <https://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/CR%20Jersey%20Public%20Services%20Ombudsman%20Feedback%20Report.pdf>

15. In December 2019 the Council of Ministers considered proposals to address limitations in Jersey's existing provisions relating to criminal injuries compensation, access to damages and financial redress. This included the Redress scheme, as set out above, Criminal Injuries Compensation scheme, Damages (Jersey) Law 2019 and court ordered compensation. CoM approved the policy principles set out below and instructed officers to undertake further analysis of potential solutions.

- Principle A: an abused child should be able access redress when they are ready to do so (subject to safeguards)
- Principle B: we must protect the public purse and insurance arrangements (if we are to provide for the needs of wider public)
- Principle C: the public purse should only provide for financial redress when GoJ is at fault (unless there is 'clawback' from perpetrators)
- Principle D: victims should receive fair and proportionate compensation, but the public purse should not 'overly compensate'
- Principle E: victims of reported crime (or where there has been a conviction) should be able to easily access redress (not feel shame, and the process should not require personal resilience nor potentially undermine evidence)
- Principle F: victims should have a 'clean break' from the perpetrator; they should not have to rely on the perpetrator to pay them (but the public purse should be repaid by the perpetrator)

### Tribunals

16. Tribunals provide an important quasi-judicial forum to hear disputes, keeping issues outside the formality of the Royal Court.
17. Policy development is planned in 2021 to consider the remaining recommendations of the Jersey Law Commission in the report *Improving Administrative Redress in Jersey*, which included consolidation of tribunals in a Jersey Administrative Appeals Tribunal (JAAT), with a broad jurisdiction to hear appeals against administrative decisions, ending of appeals to Ministers and working with colleagues in Guernsey to explore the possibilities of pan-Island tribunal membership.

### Inquiries Law

18. An Inquiries Law for Jersey has been proposed to give a legislative basis in the event a public inquiry is required in future, with policy to be developed in 2020.  
Comptroller and Auditor General (C&AG) Governance Thinkpiece<sup>16</sup>
19. Amongst other items in her report, the C&AG highlights gaps in the inspection of Jersey's criminal justice services and recommends that consideration be given to adopting a consistent and comprehensive approach to statutory inspection.
20. The C&AG is in favour of the establishment of a JPSO, advising this would send an important message about transparent and accountable public services that embrace feedback.

<sup>16</sup> <https://www.jerseyauditoffice.je/wp-content/uploads/2019/12/Report-Governance-A-Thinkpiece-18.12.2019.pdf>

21. The C&AG is preparing a report on the *Handling and Learning of Complaints*<sup>17</sup>, which will be published in early 2020. The review will evaluate the design and effectiveness of arrangements for the handling of complaints across the States; and the design and effectiveness of arrangements for learning from the management of complaints across the States.

---

<sup>17</sup> <https://www.jerseyauditoffice.je/wp-content/uploads/2019/04/Project-Specification-Handling-and-Learning-from-Complaints.pdf>

## Useful weblinks

**An overview of all complaints systems and processes within the Government of Jersey and any policies and documents that underpin them;**

- One Government customer feedback policy  
<https://www.gov.je/government/comments/pages/customerfeedbackpolicy.aspx#Continuousimprovement>
- One Gov MD: Customer Feedback policy  
<https://www.gov.je/Government/PlanningPerformance/Pages/MinisterialDecisions.aspx?showreport=yes&docid=F6B633B6-CD65-40F0-AF0E-C35BB0520490>
- Judicial Complaints procedure -  
<https://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/ID%20Judicial%20Complaints%20Procedure%2020160408%20JR.pdf>
- Bailiff Complaints procedure -  
<https://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/ID%20Bailiff%20Complaints%20Procedure%2020150901%20JR.pdf>
- States of Jersey Complaints Board -  
<https://www.gov.je/Government/Comments/Pages/StatesJerseyComplaintsBoard.aspx>
- Jersey Police complaints Authority -  
<https://www.gov.je/Government/Comments/Pages/PoliceComplaintsAuthority.aspx#anchor-2>
- Jersey Court Service procedure -  
<https://www.gov.je/Government/Comments/Pages/JerseyCourtServiceComplaints.aspx>
- Complaining about honorary police – process is to write directly to the Connétable of the parish where the honorary police officer operates. <https://parish.gov.je/Pages/default.aspx>
- Appeals and complaints about planning and building decisions and notices (including appealing a high hedge decision, complaining about construction site noise, review of a planning decision or condition by the Planning Committee, appealing a planning or building decision or notice, planning and building compliance, appealing against the listing of a building or place, register of notices (Development and Dangerous Buildings) <https://www.gov.je/PlanningBuilding/AppealsComplaints/Pages/index.aspx>
- Complaints Panel procedure - Greffe - <https://statesassembly.gov.je/Pages/Complaints-Board.aspx>
- Complaints about States Members or States Greffe employees – process is to write to the Commissioner for Standards <https://statesassembly.gov.je/pages/complaints.aspx>

**An overview of the various forms of redress available to people who have a complaint upheld with the Government of Jersey. We would also be grateful for copies of any documents or policies (where applicable) which outline how these forms of redress are administered.**

- Jersey Redress Scheme <https://www.gov.je/Caring/Pages/RedressScheme.aspx>
- Scheme T&Cs  
<https://www.gov.je/SiteCollectionDocuments/Caring%20and%20support/LD%20Redress%20Scheme%20Terms%20and%20Conditions.pdf>
- Initial response of the CM <https://statesassembly.gov.je/assemblyreports/2018/r.1-2018.pdf>

**An overview of all disciplinary processes within the Government of Jersey and copies of the relevant policies that underpin these processes.**

- Disciplinary policy – MyStates  
<https://soj/SiteCollectionDocuments/20150508%20Disciplinary%20Policy%20V1.2%20Lion%20EXT.docx>
- Grievance Policy – MyStates  
<https://soj/SiteCollectionDocuments/20151209%20Individual%20Grievance%20Policy%20v1.3%20Lion%20EXT.docx>
- Police (Complaints and Discipline procedure) Order  
<https://www.jerseylaw.je/laws/revised/Pages/23.325.50.aspx>