
STATES OF JERSEY



**STATES OF JERSEY COMPLAINTS
BOARD: FINDINGS – COMPLAINT BY
MR. X AGAINST THE MINISTER FOR
EDUCATION AND THE STATES
EMPLOYMENT BOARD REGARDING
THE WAY IN WHICH A REFERRAL TO
THE DISCLOSURE AND BARRING
SERVICE WAS HANDLED, FOLLOWING
HIS DISMISSAL FROM THE
YOUTH SERVICE**

**Presented to the States on 9th April 2018
by the Privileges and Procedures Committee**

STATES GREFFE

REPORT**Foreword**

In accordance with Article 9(9) of the Administrative Decisions (Review) (Jersey) Law 1982, the Privileges and Procedures Committee presents the findings of the Complaints Board constituted under the above Law to consider a complaint against a decision of the Minister for Education and the States Employment Board regarding the way in which a referral to the Disclosure and Barring Service was handled, following the dismissal of Mr. X from the Youth Service.

Connétable L. Norman of St. Clement
Chairman, Privileges and Procedures Committee

STATES OF JERSEY COMPLAINTS BOARD

22nd January 2018

**Complaint by Mr. X against the Minister for Education and the States
Employment Board regarding the way in which a referral to the Disclosure and
Barring Service was handled, following his dismissal from the Youth Service**

**Hearing constituted under the
Administrative Decisions (Review) (Jersey) Law 1982**

Present

Board members –

G. Crill (Chairman)
J. Eden
D. Greenwood

Complainant –

Mr. X
D. Whewell, Principal Youth Officer, Wiltshire County Council (2004–2010)
T. Keefe, Regional Co-ordinating Officer, Unite the Union

Minister for Education / States Employment Board –

D. Woodside, Senior Legal Adviser, Law Officers' Department
M. Grandfield, Human Resources Business Partner
M. Capern, Principal Youth Worker
A. Cousins, Information Manager, States of Jersey Police

States Greffe –

L.M. Hart, Deputy Greffier of the States
K.L. Slack, Clerk.

The Hearing was held in public at 10.00 a.m. on 22nd January 2018, in the Blampied Room, States Building.

1. Opening

- 1.1 The Chairman opened the Hearing by introducing the members of the Board and outlining the process which would be followed. He indicated that the Board was not able to make an order, but if it came to the conclusion that all, or part, of the decision made by the Minister for Education, or the States Employment Board ("SEB"), was wrong, it could make recommendations. It would then be for the Minister to decide whether to act thereon. He informed the Complainant that the Board did not have the power to award any damages, costs or expenses.

1.2 Mr. T. Keefe, Regional Co-ordinating Officer, Unite the Union, observed that since the documentation had been circulated by the Deputy Greffier of the States, a lawyer had been added to the list of witnesses appearing on behalf of the SEB and the Education Department, which, he suggested, was a significant change. It was noted that the Assistant Legal Adviser, who had been due to appear, had been unavoidably detained in the U.K. and, accordingly, her line manager was in attendance. The Chairman indicated that it was for the Board to decide whether it wished to hear from a representative of the Law Officers' Department and that there was nothing to prevent it from so doing.

2. Summary of the Complainant's case

2.1 Mr. X explained that his complaint was set out in the paperwork that had been circulated in advance of the Hearing and centred on the way in which a referral had been made to the Disclosure and Barring Service ("DBS") in the UK, following his dismissal from the Jersey Youth Service ("the Service").

2.2 Mr. X had been employed as a Team Leader with the Service until 14th April 2014, when, after 35 years working with young people (of which 7 years with the Service) and following a disciplinary hearing, he had been dismissed from his post. The reason for his dismissal had been gross misconduct, resulting from the receipt of a complaint by a counsellor at the Youth Enquiry Service ("YES") that he had corresponded inappropriately over social media with a 17 year-old user of the Service ("Mr. Y").

2.3 Officers from the States of Jersey Police had spoken with Mr. X and Mr. Y at the time of the complaint and having deemed that Mr. X had not committed a criminal offence, had issued words of advice. The messages, which had been exchanged between Mr. X and Mr. Y, had been deleted by both parties and were not available in Mr. X's disciplinary proceedings. Prior to the disciplinary hearing, Mr. X had also been interviewed by employees of the Service, who had carried out an internal investigation at the behest of Mr. Capern, the Principal Youth Officer. The record of that interview reflected that Mr. X had acknowledged that the content of the exchange between the parties had been '*lewd and inappropriate*' (p.32). The letter from the Education Department to Mr. X, dated 15th April 2014, which had formally confirmed the outcome of the disciplinary hearing, had stated '*... the act of entering into inappropriate communication of a lewd nature with a client of the Youth Service, which you acknowledged, is clearly one that crosses the professional boundary and contravenes the Youth Service Safeguarding and Child Protection Policy.*' (p.51).

2.4 Mr. X had appealed the decision to dismiss him but, at a meeting on 4th June 2014, which he had been unable to attend, the Panel constituted to hear the appeal had upheld the decision of the original disciplinary hearing. In dismissing Mr. X, the Education Department had acknowledged his '*unblemished record of service to the Youth Service*' (p.51).

2.5 In a later letter to the Minister for Home Affairs, in June 2016 (p.69), Mr. X had stated that when he had admitted 'lewd' behaviour he had, in fact, been making reference to one single incident of sending a text containing profane language to Mr. Y. Mr. X told the Board that he regretted accepting that his message had

been 'lewd', as he had been dismissed from the Service on the basis of the dictionary definition of that word. During the appeal hearing, Mr. Capern, who had been Mr. X's line manager, had said that he had looked up the phrase 'lewd and inappropriate' in the Oxford English Dictionary, and had found the definition 'crude and offensive in a sexual way' (definition of 'lewd'). When asked during that hearing to confirm that Mr. X had not used the word 'sexual', reference had again been made to 'lewd and inappropriate', and the question had not been answered by Mr. Capern, or the Human Resources representative from the Education Department (p.56).

- 2.6 After a period of time Mr. X, who had returned to the U.K. to stay with friends following his dismissal, because he was concerned for his mental wellbeing, had obtained employment in an administrative role with a charity in the U.K. He had been open with the new employer about the reason for his departure from Jersey, and had been able to present a 'clean' DBS certificate. Mr. X informed the Board that, having settled in the U.K. and having been employed for 2 months, he had been profoundly shocked to receive, via electronic mail, a letter, dated 30th July 2014, from Mrs. M. Grandfield (p.61), which stated that the Education Department would be making a DBS barring referral in connexion with his dismissal from the Service.
- 2.7 Mr. X indicated that the possibility of a barring referral had not been raised with him at his disciplinary hearing, nor at the time of his appeal. Moreover, he found it difficult to understand why, if a barring referral had to be made, it had not been actioned sooner, rather than several months after he had left the Service. He did not deny responsibility for the actions that had led to his dismissal, but stated that the barring referral had had an horrendous effect on both his professional and personal life.
- 2.8 Upon receipt of the letter from Mrs. Grandfield, Mr. X had shown it to his new employer, who had contacted Human Resources at the Education Department, by electronic mail, on 31st July 2014. The employer had been concerned that additional information had been uncovered about Mr. X's conduct because of the delay between his dismissal and the making of the barring referral (p.62). No response was received by Mr. X's new employer, and electronic mail exchanges obtained subsequently by Mr. X showed that a conscious decision had been taken not to respond thereto, because Mrs. Grandfield had believed the enquiry to be someone '*fishng for information and trying to set us up*' and had indicated that the Education Department was '*suspicious of this individual*' (p.126 and p.127).
- 2.9 Mr. X had registered to use the DBS update service, which allowed applicants for that service to keep their DBS certificates current and for employers to check those certificates, thereby rendering them more portable when individuals moved from one job to another. When Mr. X's DBS check had been run in October 2014 it had been 'clean'. In May 2015, Mr. X's registration for the update service had fallen due for renewal, and upon re-registration he had been alerted that additional information had been endorsed on his DBS certificate under the heading '*Other relevant information disclosed at the Chief Police Officer(s) discretion*'. This non-conviction information included various statements, which were strongly denied by Mr. X, *inter alia* the allegation referred to in paragraph 2.2 above, which had been withdrawn by Mr. Y.

- 2.10 Mr. X described the implications of that endorsement on his DBS certificate as ‘*devastating*’ and as having had an adverse impact on his mental wellbeing. Although he stated that his employer had been satisfied with his (Mr. X’s) explanation and had been surprised that the DBS referral had been made at all, Mr. X felt that the endorsement denied him any opportunity to obtain future employment in the profession that he had trained to work in and for which he was highly experienced, and he had been of the view that he had no other option than to return to university in order to qualify in a different field.
- 2.11 Mr. X had disputed the non-conviction information that had been endorsed on his DBS certificate with the DBS, and had ultimately felt compelled to appeal to the Independent Monitor in respect thereof. After consideration, the Independent Monitor had decided, in December 2015, that the endorsement was an accurate reflection of the information that he/she had viewed (p.174). This had come as a shock to Mr. X, because he had considered the endorsement to be inaccurate and grossly disproportionate. Moreover, the Independent Monitor had indicated that he/she felt that the ‘*main issue being disclosed*’ was the allegation by Mr. Y, which had been withdrawn.
- 2.12 In March 2016, Mr. X had contacted the States of Jersey Police to enquire whether the endorsement on his DBS certificate had been compiled solely from the conversations that the Police had had with him and Mr. Y, or whether it had been constructed from the Youth Service investigation reports. The response received from the States of Jersey Police, dated 5th April 2016, was that ‘*the information provided ... to DBS was drawn both from our own records and from information received from the Youth Service over the telephone.*’ (p.64). There was, however, no record of these telephone conversations, and this had been confirmed in a letter, dated 25th July 2015, to Mr. X from a Human Resources Officer at the Education Department (p.147) and in a further letter, dated 31st March 2017, in which it had been stated ‘*... the Department has confirmed, and reiterates, that no recorded information was passed to SoJP in this regard. Information was verbally provided during a ‘phone conversation which was not recorded. Therefore we do not hold and did not create, any transcript of a conversation with SoJP.*’ (p.117).
- 2.13 Mr. X had submitted various Subject Access Requests (“SARs”) under data protection legislation to the Education Department and the States of Jersey Police, *inter alia* to obtain copies of the documentation that had been provided to the Independent Monitor. As a result of these requests Mr. X received various documents, including a copy of the original DBS referral form, which had been completed by Mrs. Grandfield on 31st July 2014. According to Mr. X there were various omissions and inaccuracies in that document, including a box being checked to the effect that he had ‘*harmed a child*’ (p.156). He felt that background information should have been included on Mr. Y, and also opined that reference should have been made to his own good character and previously unblemished career. Overall, he considered the referral form to lack balance and proportionality and to provide ‘*a narrative that [was] highly likely to mislead*’ (p.22).
- 2.14 Mr. X also received a copy of electronic mail correspondence which had been sent by the YES counsellor, to whom Mr. Y had complained (p.29). When compared with the version of the same electronic mail message, which had been submitted to the Independent Monitor (p.28), it was clear that much of the

information had been redacted, including the reference to Mr. Y's statement that he might blackmail Mr. X. Mr. Keefe argued that the documents that had been sent to the Independent Monitor had been over-redacted to such an extent that a different picture from reality would have been created.

- 2.15 Further paperwork obtained by Mr. X showed that, in September 2014, the DBS had written to the Vetting Unit at the States of Jersey Police indicating that, having considered all of the evidence that had been made available, it was unable to reach a decision on the case, and requesting further information from the States of Jersey Police (p.173). The States of Jersey Police had responded that neither Mr. X nor Mr. Y had been interviewed in relation to the allegations which had given rise to the DBS barring referral, and it could not provide any paperwork (p.172).
- 2.16 Mr. X had also received paperwork, dated July 2015 (a form AT12), which had emanated from the States of Jersey Police in relation to the decision to disclose the other information referenced in paragraph 2.2 above. Contained therein, at Section 4 was the following: *“The DCO believes this information ought to be disclosed. The aim is to highlight that this behaviour may be repeated and lead to children or vulnerable adults coming into contact with Mr. X being subjected to grooming and sexual assault. There is no other legitimate way of advising prospective employers of these facts.”* (p.139).
- 2.17 The Board asked Mr. X if there was any form of appeal open to him to challenge the findings of the Independent Monitor. Mr. X indicated that he could have taken the matter to Judicial Review, but that it would be extremely costly and he could not afford to do so. He had started to bring a claim for unfair dismissal from the Service, which he had withdrawn because he had been in extremely poor mental health at the time and had been unable to face going through a public hearing. Until he had made a subject access request under data protection legislation, he had not had 90% of the relevant information disclosed to him, and it was only at this time, almost 4 years after his dismissal, that he felt he was able to make an objective decision about bringing his complaint.

3. Summary of the case of the Minister for Education

- 3.1 Mrs. Grandfield, Human Resources Business Partner at the Education Department, indicated that it was essential that employees working for that Department were appropriately vetted in order to protect children in respect of whom they were in a position of trust. Those working directly with children would be subject to an 'enhanced check with barred lists' through the DBS. (This would show spent and unspent convictions, cautions, reprimands, final warnings, any information held by the Police that was considered relevant to the role, plus whether the applicant was on the list of people barred from undertaking the role.) Mrs. Grandfield had signed up to receive the newsletter published by the DBS, and on 1st May 2014 had attended a training event, which had been advertised therein, entitled 'Meeting your legal duty to refer', presented by a case worker for the DBS.
- 3.2 Mrs. Grandfield informed the Board that the dismissal of Mr. X had prompted her to attend the training event, and she had received input on the legal duty of employers to refer people to DBS (e.g. if they had sacked them because they had harmed someone; or sacked them or changed their role because they might

have harmed someone; or were planning to sack them for either of the foregoing reasons, but they had resigned first). She had raised the case of Mr. X and one other case with the trainer, and had discussed the need to satisfy the 'harm test'. She had subsequently had telephone conversations with the DBS and had sought legal advice from the Law Officers' Department in respect of Mr. X's case. Although Mrs. Grandfield had previously been involved in the dismissal of staff, Mr. X's case was the first time that she had made a barring referral to the DBS, and she wished to ensure that she was thorough and that the referral was correctly handled. She later indicated that the referral in respect of Mr. X remained the only referral that she had had cause to make to the DBS to date.

- 3.3 Mrs. Grandfield made reference to a document entitled: 'Keeping children safe in education', which had been issued by the U.K.'s Department for Education and which she termed her 'bible'. It contained statutory guidance for schools and colleges in respect of their duties to safeguard and promote the welfare of children. She indicated that although it had not been formally adopted by the Education Department in Jersey, the principles contained therein were followed, and the duty to refer was reaffirmed. The Education Department had introduced a policy in relation to allegations against staff members and, following on from the findings of the Independent Jersey Care Inquiry, a new policy would be introduced through the Safeguarding Partnership Board.
- 3.4 Mrs. Grandfield informed the Board that she had felt that she had a professional responsibility to refer Mr. X to the DBS, and did not believe that the time taken to make the referral had been too slow, albeit it was put to her that Mr. X was again working with young people before the referral was made, and in her letter to the DBS dated 31st July 2014, she had cited the need to obtain appropriate legal advice as '*one of the reasons for the delay in submitting this Barring Referral*' (p.258). She stated that the trainer from the DBS had indicated that they would rather receive a delayed referral than not get a referral at all. Mrs. Grandfield accepted that Mr. X had not been informed that a barring referral would be made to the DBS until she had written to him on 30th April 2014. She acknowledged that it would have been sensible to have made it clear at the outset of Mr. X's disciplinary process that a barring referral to DBS would be a likely outcome of dismissal, but indicated that this did not form part of the disciplinary policy at the time, although it did now.
- 3.5 Mrs. Grandfield stated that she had downloaded the DBS referral form from the www.gov.uk website, and had completed it in conjunction with Mr. Capern. Mrs. Grandfield's recollection was that she had spoken to officers at the DBS in relation to which boxes to tick on the form. No sign-off had been required within the Education Department, although the Chief Officer had been aware that the referral would be made. Mr. Cousins informed the Board that the States of Jersey Police had not been involved in the barring referral, as there was no criminal case.
- 3.6 Officers from the States of Jersey Police had spoken with Mr. X at his home in March 2014, as a result of the complaint made by Mr. Y, and had decided that he had committed no criminal offence. This notwithstanding, Mr. Cousins explained that a 'nominal' (file) would have been created on Mr. X, by virtue of the fact that the Police had been in contact. The States of Jersey Police kept information on individuals on a case-by-case basis when they had been in contact with them. If nothing new came to light on a particular person for in

excess of 10 years, the information might drop off, but notionally the information could be held for 100 years and the Police statements were never retracted.

- 3.7 Mr. Cousins expressed some concern that, in October 2014, when a DBS check had been run on Mr. X and had come back as 'clean', the States of Jersey Police would have been in possession of the information that had subsequently been endorsed on Mr. X's DBS certificate. He indicated that his predecessor had left the States of Jersey Police in March 2014, and the post had not been filled on a permanent basis until November 2014 when he had been appointed. As a result, during the interim period, the work had been done 'off the side of the desk' by someone with little experience. When Mr. X's DBS certificate had fallen due for renewal in May 2015, the States of Jersey Police had released the information held on Mr. X which was deemed to be relevant.
- 3.8 Mr. Cousins informed the Board that the information released to the DBS would be that which was held on file by the States of Jersey Police, but could be enhanced with additional information, or intelligence reports. Some officers could also include their opinion on file. When an individual applied for a position which required a DBS check, or when an individual's certificate was due for update, the Police would assess the information held on that person and decide upon its relevance. The accuracy, veracity and timeliness of the information, as well as whether or not it had been corroborated, would be considered. In addition, anything deemed to be fact, or likely to be true, would be put to the Chief Officer, who would make a value judgment on whether the information should be disclosed to the DBS. The intention was to provide a balanced report, which would give the prospective employer sufficient information to enable them to make an informed decision on whether or not to employ the individual. Mention was not normally made of an individual's career, but if an allegation had arisen out of one single incident, this might be referenced.
- 3.9 Mr. Cousins indicated that an individual could challenge the information that had been disclosed, at which point the DBS would refer back to the relevant police force to ascertain whether it wished to review the submission. The information would then go back to the DBS, and the individual could make a further appeal, before having recourse to the Independent Monitor and ultimately going to Judicial Review, if not satisfied. The Independent Monitor would see the information that the Police had used to draw its conclusions, and would take a view on whether the decision reached by the DBS was justified.
- 3.10 In the case of Mr. X, the States of Jersey Police had made a submission to the Independent Monitor, in pdf format, without additional comment. Mr. Cousins denied that the information supplied had been 'beefed up' following conversations between himself and Mr. Capern which, he indicated, had centred on the veracity of the information held, and whether Mr. X had made admissions in respect of Mr. Y's allegation. He had been asked by the Independent Monitor to provide the paperwork from the Education Department disciplinary hearing, but he had been unable to obtain this. Mrs. Grandfield indicated that she assumed that the Independent Monitor had received these documents, but had not been involved in correspondence in this regard.

- 3.11 The Board queried at what point information held by the States of Jersey Police would cease to be included on a DBS certificate. Mr. Cousins stated that this was not defined in legislation and would depend on the timeframe and the severity of any incident being referred to. In the case of Mr. X, a positive decision had been taken in March 2017 (p.86) not to include the endorsement that had previously appeared on his DBS certificate, but the information remained on the States of Jersey Police's system. If anyone were to run a DBS check on Mr. X at the current time, it would be 'clean'.
- 3.12 The Board noted that it was the submission of the Education Department and States Employment Board, that they did not believe that Mr. X had exhausted the internal complaints procedure, because he had not, to their knowledge, made a complaint to the Police Complaints Authority.

4. Closing remarks by the Chairman

- 4.1 The Chairman thanked the Complainant and the representatives of the Education Department and States Employment Board for their time and contributions. He indicated that the crossover of jurisdictions between the Education Department and the States of Jersey Police on the one hand, and the DBS on the other, was problematic and caused the Board some difficulty, as the Board could not consider the actions or decisions of the DBS but only those of the Island authorities, and it was not clear what paperwork the Independent Monitor had received and what process he or she had gone through. The Chairman informed both parties that a report of the Hearing would be prepared in due course and would be circulated to both parties for their input on the factual content. The Board's findings would then be appended thereto at a later date.

5. The Board's findings

- 5.1 The complaint relates to the actions of the Education Department in the referral of Mr. X to the DBS. The complaint does not specifically refer to the submissions made by the States of Jersey Police in respect of that referral. The Complaints Board has no knowledge of the decision-making process of the DBS, or the relative weight given to the various submissions made by the authorities in Jersey in reaching its decision. The Complaints Board has, therefore, to limit its consideration to whether the Education Department acted correctly in referring Mr. X to the DBS, and whether the referral process was correct and appropriate insofar as concerns the Department.
- 5.2 The Complaints Board wishes to emphasize, first and foremost, that the protection of children and vulnerable adults should be paramount, and any decision made which relates to such protection, should always err on the side of caution.
- 5.3 The Board does not express a view as to whether it was appropriate to refer Mr. X to the DBS. Formal disciplinary proceedings had been followed and an appeal against Mr. X's dismissal had been rejected. It is the view of the Complaints Board that the Education Department should have made it clear to Mr. X, at the commencement of the disciplinary process, that a possible outcome of the proceedings could be a barring referral to the DBS, which would, of course, have a material detrimental effect on Mr. X's opportunities

for re-employment in a sector in which he had previously led an unblemished career. Whether that would have made a difference to the manner in which Mr. X approached his disciplinary hearing one can only speculate, but the Board considers that the Education Department was at fault in failing to bring the real possibility of such a referral in the event of dismissal to Mr. X's early attention. The Board further considers that it should be a matter of standard practice in any disciplinary proceedings involving an employee's behaviour with children, or vulnerable adults, which might result in dismissal, to notify the employee at the outset of disciplinary processes that the employee might, in such event, be liable to be referred to the DBS.

- 5.4 The Board considers that the failure to inform Mr. X that referral to the DBS in the event of his dismissal was likely, was evidence that the Department's policy with regard to such referrals was not fully formulated, and not as clear as the Board was assured by the Department is now the case. In England, a local authority has a statutory obligation to make a referral under the Safeguarding Vulnerable Groups Act 2006. The Board considers that, if Jersey was to adopt similar legislation, the policy and procedure for referral would be clear and unequivocal.
- 5.5 The Board has no reason to believe that the Education Department was at fault in deciding to make the referral of Mr. X to the DBS. As the Board has already stated, the protection of children and vulnerable adults is paramount, and the Department's decision to make the referral was reasonable in the Board's view. It should be remembered that this was a referral only – the DBS makes its own independent decision as to whether the person referred to it should, indeed, be barred in any way.
- 5.6 A further limb of the complaint is the delay in making the referral between the conclusion of the disciplinary proceedings and the referral itself, a period of almost 2 months, which Mr. X claimed created difficulties with his new employer. The Board takes the view that the delay in making the referral, whilst being symptomatic of a lack of clear policy at the time relating to referrals, and less than ideal, was not material. In the context of the protection of children being paramount, a late referral is better than no referral. Nevertheless, the Board urges the Department, in reviewing its referral policy, to ensure that consideration of a referral to the DBS follows seamlessly from the conclusion of the relevant disciplinary proceedings.
- 5.7 As already stated, the Department's referral does not result in an automatic barring, as the DBS makes its own independent judgment. Following the Department's referral, the DBS was undecided and sought further input from the States of Jersey Police. Prior to making its submission to the DBS, the States of Jersey Police sought further information from the Education Department. Evidently, it was the Police submission that 'tipped the balance', resulting in Mr. X's inclusion on the barring register. The Police submission was independent of the Education Department's original referral, yet it clearly relied, to some extent at least, on the information provided by telephone by the Education Department. That the Education Department did not keep a record, or substantial note, of the telephone conversation(s) with the Police in relation to Mr. X can only be described as poor practice. The Department, as immediate past employer to Mr. X, was disclosing to the Police matters relating to his employment which, as such, should have formed part of his employment record

and been available to him. As it is, one can only speculate as to the information that was provided to the Police and, in turn, the DBS. The Board is conscious that the Police Force is perfectly entitled to hold on record subjective matters, and matters of professional opinion, as part of its intelligence on an individual, and it may be appropriate to disclose such subjective information where such disclosure is material and proportionate. That, however, is quite different from an employer making subjective and opinionated statements about an employee, or former employee. Whilst the Board has no reason to suppose that the Education Department made any inappropriate statements to the Police during the telephone conversation(s) concerning Mr. X, had a proper record or note been taken at the time, any speculation could have been easily answered. The Board recommends that greater diligence be shown in recording, or taking note, of material conversations relating to employees, or former employees, which should properly form part of the record of employment.

- 5.8 Much of Mr. X’s complaint relates to delay – the delay in the Department making the referral to the DBS after his dismissal, and the further delay in the imposition of a bar following the submission by the States of Jersey Police. Mr. X would not have been aware that a bar had been imposed on him had he not subscribed to the update service provided by the DBS.

- 5.9 The DBS procedures are governed by English Statute, and it appears that there is no obligation on any party to inform an individual if he or she has been referred to the DBS. Whilst the Board cannot make any recommendations with regard to DBS policy or procedures, it can and does now express its concern that an individual may have no knowledge that a process has been initiated which could have fundamental and far-reaching professional consequences for him or her. The Board, therefore, asks that the Education Department (and any other States Department in a position to make a referral to the DBS) should consider carefully whether it is fair and equitable to inform the subject that he or she has been the subject of a referral to DBS at the time of such referral.

- 5.10 The Complaints Board does not have access to the DBS, or the Independent Monitor, who took the decision to impose the bar and is, therefore, unaware of what weight was given to which submission. The Board notes, however, that the Complainant has not exhausted his complaints remedies and, in particular, a complaint to the Jersey Police Complaints Authority may enable him to ascertain exactly what was submitted by the States of Jersey Police Force, and on what such submission was based.

Signed and dated by –

G. Crill, Chairman Dated:

J. Eden Dated:

D. Greenwood Dated: