
STATES OF JERSEY



STATES OF JERSEY COMPLAINTS PANEL REPORT FOR 2021

Presented to the States on 12th December 2022
by the Privileges and Procedures Committee

STATES GREFFE

REPORT

FOREWORD BY THE CHAIR OF THE PRIVILEGES AND PROCEDURES COMMITTEE

The Privileges and Procedures Committee is delighted to present the 2021 Annual Report of the Complaints Panel.

As ever, Islanders should be very grateful to this group of volunteers who give of their time to consider administrative complaints in lieu of a Public Sector Ombudsman.

2021 was a busy year, but it should be noted that out of the 22 new cases considered by the Panel, in the vast majority the Panel agreed with the way in which Government Departments had determined matters and did not take the complaint forward, which not only highlights that public administration is generally handled well in Jersey, but also that the Complaints Panel is objective and only escalates matters to a hearing when it considers this to be justified.

It is therefore a shame that the Panel's aim of improving public administration is often not positively recognised by those government departments which they are seeking to improve. It is so disappointing that unexplained government delay and obfuscation leads to increased distress and anger when it is totally unnecessary. Greater care and attention to following the timelines outlined in the Government's own Feedback complaints process, a comment repeatedly highlighted to departments by the Panel, would undoubtedly lead to greater confidence in the validity of the process by all involved.

In 2021 the Panel consisted of 17 members. This provided a broad base from which Boards could be convened, avoided any conflicts of interest which can understandably be common in an Island community and ensured that complaints were assessed impartially and without bias.

The members of the Panel in 2021 were –

Mr. Geoffrey Crill (Chair)
Mr. Chris Beirne (Deputy Chair)
Mr. Stuart Catchpole, Q.C. (Deputy Chair)
Mrs. Christine Blackwood
Ms. Penny Chapman
Ms. Tina Chatterley
Ms. Sue Cuming
Mr. David Curran
Mr. Gavin Fraser
Mr. David Greenwood
Mr. Andrew Hunter
Miss. Kerry Leadbetter
Mr. David Le Heuzé
Dr. Gwyn Llewelin
Mr. Graeme Marett
Mr. John Moulin

Mr. Damian Warman (stepped away briefly from the Panel in June 2021, due to work conflicts, but was later reinstated)

The Privileges and Procedures Committee would like to place on record its sincere thanks to the Chairman, Deputy Chairmen and all of the members of the Panel for their honorary work dealing with complaints and their unwavering commitment to service improvement across the public sector.

We are pleased to present the report of the States of Jersey Complaints Panel for 2021.

Connétable Karen Shenton Stone
Chair of the Privileges and Procedures Committee

**STATES OF JERSEY COMPLAINTS PANEL
REPORT FOR 2021**

Dear Chair,

I have pleasure in forwarding to you the report for 2021, which also includes the resolution of the matters outstanding at the end of 2020.

2021 was another busy year for us – despite the sense that the Panel is living on ‘borrowed time’ as we await the introduction of an Ombudsperson for Jersey.

We dealt with 13 cases carried over from 2020 and 22 new cases. Unusually, the two Departments which received the most complaints in 2021 (3 each) were both ones for which no complaints had been received for many years, namely Tax (now Revenue Jersey) and the Population Office (CLS). In relation to the Revenue Jersey cases, we were pleased to see that when advised of the complaints, which were outside of the jurisdiction of the Panel, the Department made swift efforts to resolve matters. Importantly, the tax appeals process is easily accessible on the gov.je website.

Similarly, the Panel was delighted that in relation to Population complaints, once the findings report from one hearing had been published (R.137/2021), the Department not only reviewed that case, but recognised that there was an inconsistency in the policy, which was addressed and resulted in the resolution of two further cases, obviating the need for further hearings.

This was an example of complaint handling at its best by a Department; accepting that the existing policy was flawed, making the requisite changes and applying it to other cases. The Panel wishes to thank Deputy Lyndon Farnham, who was the Deputy Chief Minister at that time, and the officers involved, for their pragmatic and sensible approach to the three complaint cases.

2021 saw the implementation of a new Standing Order, proposed by the Privileges and Procedures Committee for any Minister responding to a Complaints Board findings Report to be required to also make a statement and answer questions in the Assembly at the time of publication. There were two statements made in 2021 – the Minister for Treasury and Resources responded to R.139/2021 on 8th June 2021 and the aforementioned Deputy Chief Minister made a statement in relation to R.137/2021 on 23rd November 2021. As a Panel we were very grateful to PPC for bringing in this change which we believe strengthens the accountability of Ministers and ensures that our findings are not roundly ignored and if the recommendations are not accepted, that Ministers have to explain to the Assembly their rationale for rejecting them.

It was disappointing that several complaints remained unresolved even after there had been a Hearing at which the complaint had been upheld. Two cases in particular stand out as a very poor reflection of the level of regard which Ministers appear to have for the Complaints process. The first is the ongoing situation in relation to the complaint for Mrs X (R.4/2019 refers) who at the end of 2021 was still waiting for the Complaints Board’s recommendations published in 2019 and those subsequently made by Barrister and Human Rights campaigner Johnathan Cooper OBE in 2020 to be actioned; namely a heartfelt apology, positive re-engagement with Health services and some form of

financial compensation for the stress and difficulties which she and her family had suffered over the years as a consequence. We are sadly used to our recommendations being ignored, but when those recommendations are supported and enhanced by someone so well respected as the late Mr. Cooper and still no action is taken, it is indefensible.

The second outstanding case relates to the Complaints Board Hearing, which took place on 10th September 2020, and the findings which were published on 9th December 2020 (R.139/2020 refers). This case concerns a retired firefighter's pension evaluation following changes to the policy. In her statement made to the Assembly on 8th June 2021, the Minister for Treasury and Resources had advised that a Working Group of the Committee of Management had been established to review the findings. The group, comprising employer and member representatives had concluded that no new or material evidence had been presented which would cause the Committee to alter its original decision. The Deputy Chair of the Panel, who had chaired the original Hearing, subsequently wrote to the Minister for Treasury and Resources in August and November of 2021 urging reconsideration of this decision and seeking further information regarding the way in which the 'review' had been undertaken. It was of great concern to the Panel that the review process had been biased and undertaken by members of the Committee of Management responsible for the original, and in the Panel's opinion, unlawful decision. At the close of 2021 serious consideration was being given to taking the unusual step of reconvening the Board hearing in relation to this matter, as the issues were of such deep concern and importance, both for the complainant and for the proper administration of public sector-related powers and functions in Jersey.

These cases are of concern, because in both instances people with a wealth of experience, skills and knowledge have considered the details of the complaints and upheld them; yet the findings have been ignored. What compounds matters in both cases is the fact that these two complainants have been left with the impression that despite the fact that a Complaints Board Hearing has upheld their complaint, the Government doesn't care. They have been left to languish whilst waiting for the Government to do the right thing and the impact of that on them, both mentally and morally and on their families who share their experiences, is unacceptable.

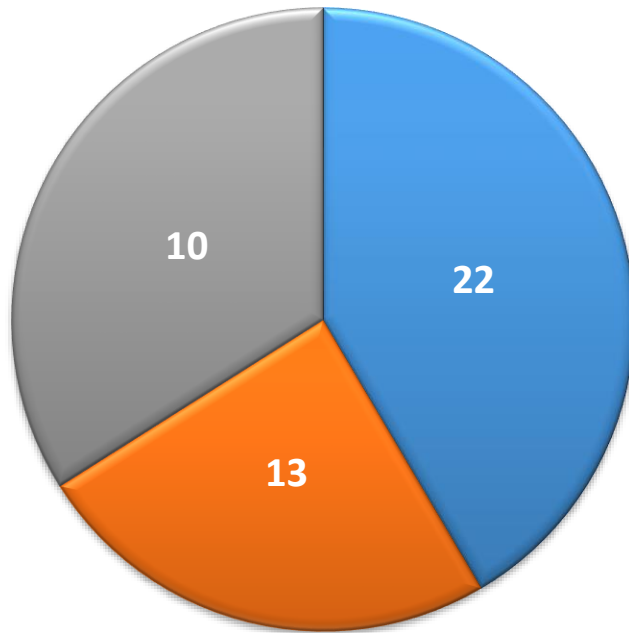
Whatever the future holds for the oversight of public sector administration in Jersey, I hope that the Government will be held more to account and required to respond and act on any recommendations made, because the current stance is totally unacceptable.

Put simply, the States established the Complaints Panel and approved its membership for a purpose. Government chooses to ignore it. Unless it is to give the proposed Ombudsman statutory powers, there is nothing to indicate that role will be regarded by Government any differently than the Complaints Panel.

Geoffrey Crill

Chair, States of Jersey Complaints Panel

Complaints dealt with in 2021



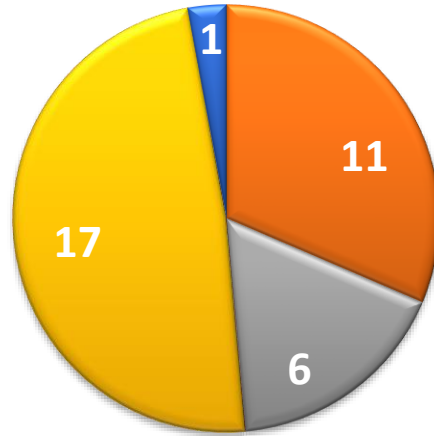
- New formal complaints in 2021
- 2020 formal complaints carried forward
- Informal enquiries about the complaints process/potential complaints

Complaints received in 2021 by Department



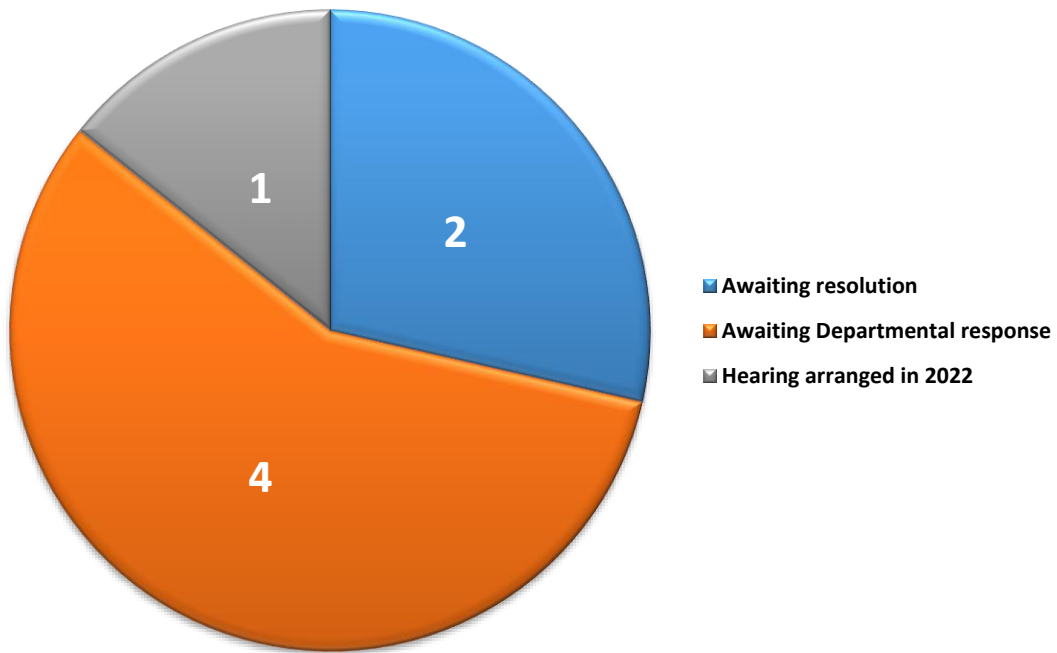
- GHE (Planning)
- SEB
- Health
- CLS (Social Security)
- CYPES (Education)
- Other
- Population
- Revenue Jsy

Complaint outcomes 2021 (including those carried forward from 2020)

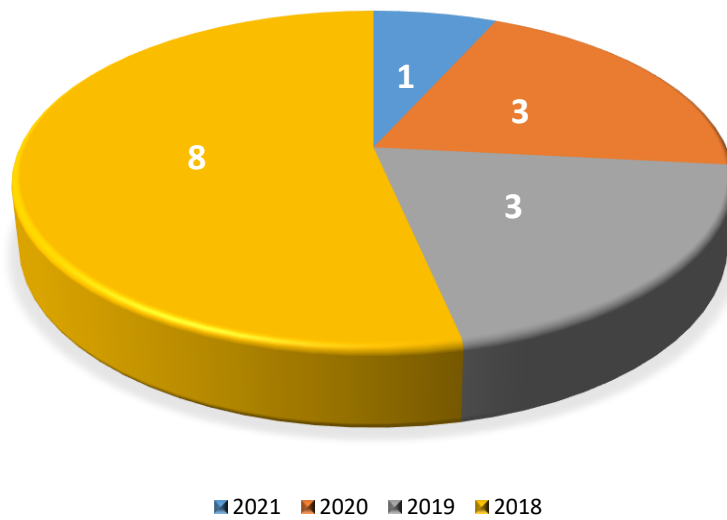


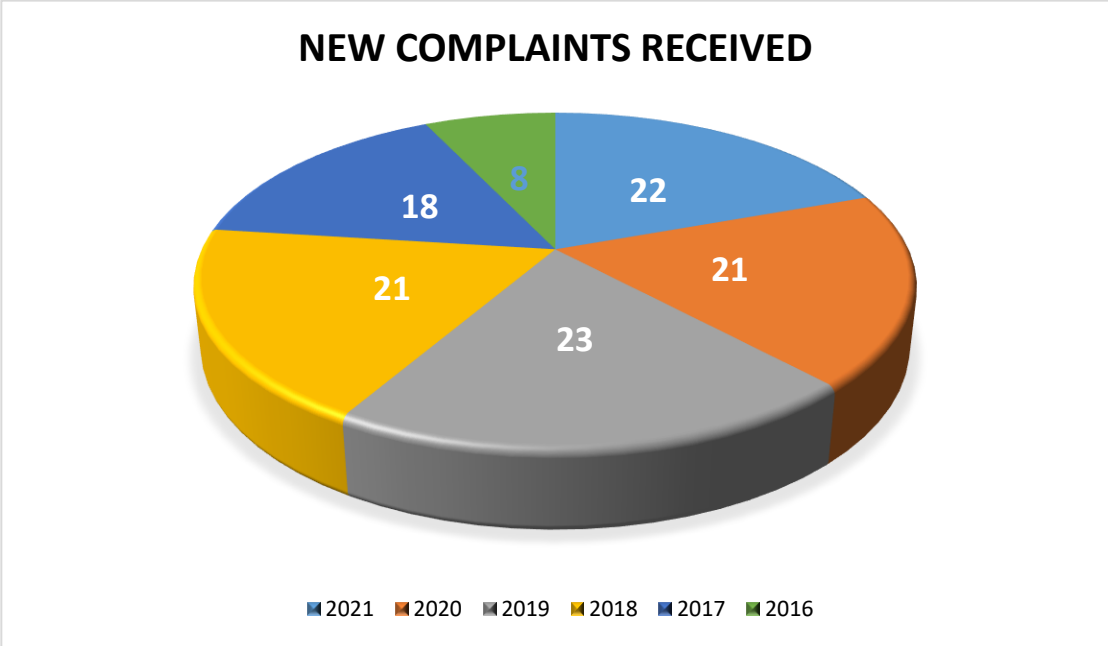
- Resolved through Complaints Panel involvement
- Ongoing
- Case closed
- Hearing -complaint upheld

Ongoing complaints carried into 2022



HEARINGS





22 NEW FORMAL COMPLAINTS WERE RECEIVED IN 2021

(1) 1386.2.1.2(346)

Complaint against the Minister for the Environment for failure to enforce an applicant's non-compliance with approved plans at a property in St. Helier.

A statement of complaint was received on 21st January 2021.

The complaint concerned the alleged failure to enforce an applicant's non-compliance with the requirement to install a privacy screen to a balcony at a property in St. Helier. The screening was required to mitigate potential overlooking of the adjacent property, where the complainant lived.

A summary was requested from the Department on 2nd February 2021 and a response received on 19th March 2021. On 29th March 2021 papers were sent to the Chair and an independent member of the Panel for review.

The Chair noted that within the paperwork submitted by the Department were photos of the site and it was noted that the neighbour had now largely complied with the privacy condition and had installed panels by the balcony/terrace. In light of this, and since this had occurred subsequent to the complaint being submitted, the Deputy Greffier sent a letter to the complainant on 9th April 2021 asking them to confirm whether they wished to proceed with the complaint. No further response was received.

Status as at 31.12.2021:

CLOSED – NO FURTHER RESPONSE RECEIVED FROM COMPLAINANT

(2) 1386.2.1.21(17)

Complaint against the Minister for Infrastructure regarding the site noise at the Nightingale Hospital site

A statement of complaint was received on 27th January 2021.

The complaint concerned the site noise experienced by neighbours of the Nightingale Hospital since April 2020.

A summary was requested from the Department on 2nd February 2021 and a response received on 5th March 2021. On 8th March 2021 papers were sent to the Chair and an independent member of the Panel for review.

On 16th March 2021, a letter was sent to the complainant advising them that whilst the Chair sympathised with their situation, he did not consider that this matter fell under the Panel's jurisdiction and it was consequently not an appropriate case for a hearing by a Board.

On 5th April 2021 the complainant submitted an appeal against the decision of the Chair.

On 13th May 2021 the Deputy Greffier wrote to the complainant advising them that both Deputy Chairmen had considered the case and had upheld the decision of the Chair that the circumstances did not justify a review by a Complaints Board.

Status as at 31.12.2021:
CLOSED

(3) 1386.2.1.17(8)

Complaint against the Minister for Justice and Home Affairs regarding allegations of uses of the jurisdiction of Jersey and financial services companies for financial crime

A statement of complaint was received on 29th January 2021.

The complaint related to allegations of uses of the jurisdiction of Jersey and financial services companies for financial crime.

The Deputy Greffier sent the complaint directly to the Chair and the Deputy Chairs and after consideration, they all agreed that this was not a case for a Complaints Board.

Status as at 31.12.2021:
CLOSED

(4) 1386.2.1.5(26)

Complaint against the Minister for Treasury and Resources regarding a request to transfer pension outside of Jersey under provisions of Article 131CG(4) of the Income Tax (Jersey) Law 1961

A statement of complaint was received on 26th February 2021.

The complaint concerned a request from the complainant to transfer their pension outside of Jersey under provisions of Article 131CG(4) of the Income Tax (Jersey) Law 1961.

A summary was requested from the Department on 3rd March 2021. A response was received on 31st March 2021 from the Comptroller of Revenue and Competent Authority, who advised that the internal routes of review had not yet been exhausted and that once they were, if necessary, he believed that jurisdiction then lay with the Commissioners of Appeal (Revenue Administration Law 2019).

The Deputy Greffier wrote to the complainant on 8th April 2021, accordingly, advising them that the case fell outside of the remit of the Complaints Panel.

Status as at 31.12.2021:
CLOSED

(5) 1386.2.1.9(35)

Complaint against the Minister for Health and Social Services regarding the Covid-19 vaccination process

A statement of complaint was received on 24th February 2021.

The complaint concerned the vaccination of the complainant's disabled son.

A summary was requested from the Department on 3rd March 2021. The Department responded directly to the complainant on 19th March 2021.

The Deputy Greffier contacted the complainant on 8th April advising that the internal complaints process had to be exhausted before the matter could be progressed by the Panel.

On 12th April 2021, the Department sent a second response to the claimant directly clarifying the points raised. There was no further correspondence on this matter.

Status as at 31.12.2021:

RESOLVED

(6) 1386.2.1.8(13)

Complaint against the States Employment Board regarding the outcome of a grievance

A statement of complaint was received on 15th March 2021.

The complaint concerned the lack of response to a grievance that the complainant had submitted to the Human Resources Department in June 2020.

A summary was requested from the Department on 18th March 2021 and a response was received on 12th April 2021 from the Interim Chief Executive and Head of the Public Service.

On 20th April 2021, the Deputy Greffier received an e-mail from the complainant advising that the matter had been resolved.

Status as at 31.12.2021:

RESOLVED

(7) 1386.2.1.5(27)

Complaint against the Minister for Treasury and Resources regarding the alleged omission of the Tax Department to refund an overpayment of Income Tax

A statement of complaint was received on 21st March 2021.

The complaint concerned the alleged omission of Revenue Jersey to refund an overpayment of Income Tax due and a lack of response from the Department.

A summary was requested from the Department on 22nd March 2021.

On 9th April, the Deputy Greffier wrote to the complainant advising them that the Comptroller of Revenue had apologised for the delay in responding to their initial complaint and had advised that Revenue Jersey workloads had doubled in 2020 following the Covid-19 Pandemic and this had created large backlogs of work. A review of the complainant's tax file had now been requested by the Comptroller in response to the complaint.

On 23rd May 2021, the complainant advised the Deputy Greffier that they wished to progress their complaint.

On 7th June 2021 papers were sent to the Chair and an independent member of the Panel.

The Deputy Greffier wrote to the complainant on 12th July 2021 advising them that the Chair had decided that this was not a matter for the Panel, but hoped that the complainant would be able to resolve the matter through the Revenue Appeals Process.

Status as at 31.12.2021: CLOSED

(8) 1386.2.1.23(3)

Complaint against the Chief Minister regarding the administration of an Historic Redress Scheme Application

A statement of complaint was received on 1st April 2021.

The complaint concerned the administration of the complainant's application to the Historic Redress Scheme.

A summary was requested from the Department on 15th April 2021 and a response was received on 16th April 2021. The papers were sent to the Chair and an independent member of the Panel.

Having read the documents, the Chair could not see that either the policy in general or its application in this case satisfied the test of illegality, discrimination, inequity or unfairness. There was no doubt that the complainant had suffered enormously and lastingly as a consequence of their time in Care. However, within the strictures of the Redress scheme, they appeared to have been treated fairly and the Chair could not see that the complainant had been wronged by any failure of administration of the scheme.

On 5th May 2021, the Deputy Greffier advised the complainant that the Chair had decided that a review of this case was not justified. There was no further correspondence in this matter.

**Status as at 31.12.2021:
CLOSED**

(9) 1386.2.1.22(8)**Complaint against the States Employment Board regarding the Government's Recruitment Process and lack of a route of appeal**

A statement of complaint was received on 30th April 2021.

The complaint concerned the Government's failure to shortlist the complainant for a position despite them having fulfilled similar roles within the Government of Jersey and the fact that there was no appeal route within the recruitment process

The Deputy Greffier contacted the Department and it was agreed that an internal 'administrative review' would be undertaken.

On 10th June 2021 the Department contacted the complainant directly. The review had identified that the Government's best practice in recruitment had not been followed in relation to materials available to candidates and this had led to deficiencies in the scoring and decision-making process in this instance.

The Group Director of People and Corporate Services decision was that the recruitment process should be recommenced in its entirety, with the correct materials available for candidates to ensure they were able to submit their applications understanding the criteria for selection. The complainant would also have the opportunity to resubmit their application for consideration. The complainant was advised of this accordingly

Status as at 31.12.2021:

RESOLVED

(10) 1386.2.1.5(28)**Complaint against the Population Office regarding an Application for residential and employment status under Regulation 4(2) (a) of the Control of Housing and Work (Residential and Employment Status) (Jersey) Regulations 2013**

A statement of complaint was received on 26th April 2021.

A resumé was requested and the bundle was submitted to the Chair and an independent member on 13th May 2021. It was decided that the case did warrant further review and a hearing was arranged which took place on 28th July 2021 (findings published 31st August 2021 - R.137/2021 refers)

The complainant had relocated to Jersey from Scotland with his wife and family in 2015, to take up licensed employment. On 27th August 2018, he had taken a period of unpaid leave from work to travel to Pakistan to care for his mother, who had suffered a stroke. He had returned to the Island on 1st February 2019. Whilst he had been unable to continue renting a property in the Island during this period of absence (due to the fact that he was not earning) his employer had kept his position open and the some of his mail had been redirected to the offices during his absence. The complainant had also made arrangements for his child to access the 'Other than at School programme', which

was administered by the Children, Young People, Education and Skills (CYPES) Department and which allowed children to be home schooled.

The complainant stated that when he had contacted Customer and Local Services (CLS) in October 2020, with a view to establishing Entitled for Work status, he had been advised that the Department considered his period of ordinary residence to have commenced in February 2019, when he had returned to the Island from Pakistan. As such, he was advised that he did not qualify for the Entitled for Work status as he had not completed 5 years continuous ordinary residency in Jersey, a decision which he considered to be unreasonable.

The complainant had followed the appeals route, which had maintained the Department's decision.

The Board accepted that the policies in place were designed to protect the Island from over population, to ensure that those with strong connexions with Jersey were able to access optimum employment opportunities and sought to represent the 'best interests of the community', but in this case the Board saw no public benefit in requiring the complainant to have the calculation of his period of ordinary residence reset to zero from the date of his return.

The Board considered that during his absence, the complainant's 'settled purpose in the Island' had remained unchanged; although he had taken unpaid leave, he was still employed and his job had been held open until his return on 1st February 2019. His personal situation was such that he had no choice in having to leave the Island – his mother was in a critical condition and needed her family to care for her – but it was clear that his intention had always been to return to Jersey when he could. It simply was not financially viable for him to maintain an empty home in Jersey during the time he and his wife and child were away, given that he was on unpaid leave and therefore had no income.

The Board was mindful that the Island had to manage its population effectively and, in the absence of a Population Strategy, the existing Law provided the only means of doing so. Whilst accepting that exceptions could set precedents, the Board nonetheless considered that discretion should not be applied discriminately if it was to be fair.

The Board upheld the complaint in accordance with the Articles 9(2)(b) and (e) of the Administrative Decisions (Review) (Jersey) Law 1982, in that it believed that the decision made by the Deputy Chief Minister and Housing and Work Advisory Group (HAWAG) –

(b) was unjust, oppressive or improperly discriminatory, or was in accordance with a provision of any enactment or practice which is or might be unjust, oppressive or improperly discriminatory;

(e) was contrary to the generally accepted principles of natural justice.

The Board requested that the decision to maintain refusal not to grant the complainant Entitled for Work status be reviewed and that he be given the opportunity of presenting his case in person to HAWAG.

The Deputy Chief Minister met with the complainant on 12th October 2021, along with his political colleagues on HAWAG and the decision was made to grant his Entitled for Work status.

A formal response to the Board's findings was presented (R.137/2021-res) and a statement made in the Assembly on 23rd November 2021, in which the Deputy Chief Minister stated that the case had "highlighted an inconsistency in our policy, which we have addressed."

"I just wanted to once again echo my immense thanks to everyone for taking the time to go through the hearing. I feel very proud to be part of the Island where everyone is granted the right to appeal and there is a proper system in place to be heard."

Status as at 31.12.2021:

CLOSED: FINDINGS PUBLISHED - COMPLAINT UPHELD

(11) 1386.2.1.9(36)

Complaint against the Minister for Health and Social Services for failings of medical care

A statement of complaint was received on 16th March 2021.

The complaint concerned the way in which the complainant alleged they had been treated by the Health and Social Services Department since an operational procedure had been performed in Jersey in 2014.

A summary was requested from the Department on 2nd June 2021 and a response was received on 18th June 2021. The papers were sent to the Chair and an independent member of the Panel.

The Chair concluded that this was not an appropriate case for a hearing by a Board as the complaints had arisen through clinical decisions rather than administrative ones and that a claim for professional negligence (whether in respect of the original treatment or the subsequent care or both) was the appropriate avenue to pursue. The complainant was advised of this decision in August 2021.

Status as at 31.12.2021:

CLOSED

(12) 1386.2.1.7(30)

Complaint against the Minister for Social Security regarding the determination of an overpayment of Income Support and allegations of Benefit Fraud

A statement of complaint was received on 17th June 2021.

The complaint related to allegations that officers from Customer and Local Services had decided on the balance of probability that the complainant and her partner had been cohabiting from March 2020 and had consequently demanded repayment of £31,000 in Income Support. Pending a second determination, which the complainant had requested, access to any evidence that the Department claimed it had, had been denied, and the right to subject access (SAR) to her file had also been refused.

A summary was requested from the Department on 21st June 2021 and a response received on 2nd July 2021, providing a copy of a redetermination record in relation to the complainant's Income Support claim and requesting an extension to provide a Departmental résumé. In September the claimant was advised that the redetermination decision had been rescinded and on 9th November 2021, the Department advised the Deputy Greffier that the case had been closed internally and that no further action would be taken against the complainant.

**Status as at 31.12.2021:
RESOLVED**

(13) 1386.2.1.3(29)

Complaint against the Minister for Children and Education regarding the provision of education during the pandemic and the expectation of full fees payment

A statement of complaint was received on 29th June 2021.

The complaint concerned the payment of private school fees during the Covid-19 lockdown.

A summary was requested from the Department on 5th July 2021 and a response received on 12th July 2021. The papers were sent to the Chair and an independent member of the Panel.

The Chair concluded that this was not an appropriate case for a hearing by a Board. The Chair and independent member considered that the suspension of normal school had been lawful and was not discriminatory or contrary to policy. Any suggestion that as a parent the complainant had not been provided with the educational services they had been asked to pay for was a contractual issue, not an administrative one.

The complainant was advised of this decision on 10th August 2021.

**Status as at 31.12.2021:
CLOSED**

(14) 1386.2.1.5(28)

Complaint against Revenue Jersey regarding a tax rate change

A statement of complaint was received on 30th August 2021.

The complaint concerned a decision by the Revenue Jersey to change the complainant's tax instalment rate, which the complainant considered to be ultra vires and disproportionate.

A summary was requested from the Department on 29th September 2021 and a response received on 1st October 2021.

On 8th October 2021, the Deputy Greffier wrote to the complainant advising them that the Treasury Department had dealt with their complaint, but if the complainant remained dissatisfied with the outcome, then they should write directly to the Comptroller of Revenue requesting an internal review of the matter. The complainant was advised that the complaint fell outside of the remit of the Complaints Panel.

**Status as at 31.12.2021:
CLOSED**

(15) 1386.2.1.23(5)

Complaint against the Population Office regarding residential rights and the granting of Entitled status under Regulation 2(1)(e)

A statement of complaint was received on 3rd September 2021.

The complaint concerned an application for 2(1)(e) status being rejected solely on the grounds that the complainant had not previously been 'resident' in the Island. The complainant claimed they had indeed been resident in Jersey since January 1999, living in a lodging house which they owned.

A summary was requested from the Department and a response received on 4th October 2021. The papers were sent to the Chair and an independent member of the Panel.

The Chair, having studied the complaint submitted by the complainant and the Departmental report, concluded that the circumstances of the complaint justified further review and a Hearing date was set for 8th December 2021.

The Department contacted the Deputy Greffier on 3rd November advising that they were in discussion with the complainant with a view to them submitting further evidence to demonstrate continuous ordinary residence. The Deputy Greffier subsequently postponed the Hearing and was advised by the complainant that he had been granted Entitled status.

"I have now been granted Entitled Status so my case has been resolved satisfactorily. I would like to thank you for your help, work and attention to my case."

**Status as at 31.12.2021:
RESOLVED**

(16) 1386.2.1.3(30)

Complaint against the Minister for Children and Education regarding the services provided by the Children's Service

A statement of complaint was received on 29th September 2021.

The complaint concerned the provision of support services to the parent of an adopted child by the Children's Service.

A summary was requested from the Department on 4th October 2021 and a response received on 22nd October 2021. The papers were sent to the Chair and an independent member of the Panel. The Chair advised the Deputy Greffier that he was conflicted, so the papers were passed to the Deputy Chair for review.

Following review of the papers, the Deputy Chair requested more information from the Department, which responded to this request on 10th December 2021.

Having studied the report submitted by the complainant and the Departmental correspondence, the Deputy Chair of the States of Jersey Complaints Panel concluded that the circumstances of the complaint did justify a review and a Hearing was arranged for 22nd March 2022.

**Status as at 31.12.2021:
ONGOING**

(17) 1386.2.1.23(6)

Complaint against the Population Office regarding residential rights and the granting of entitled status under Regulation 2(1)(e)

A statement of complaint was received on 30th September 2021.

The complaint concerned the granting of entitled status under Regulation 2(1)(e).

A summary was requested from the Department on 8th October 2021 and a response was received on 22nd October 2021.

On 22nd November 2021, the Department advised the Deputy Greffier that the Deputy Chief Minister had completed his review and having reflected on the background circumstances and had advised the complainant that they had completed a sufficient period of continuous ordinary residence to be granted Entitled for Work status. The claimant had been informed of this decision and had expressed their gratitude.

“What fantastic news on a Friday morning! Can't thank you enough for your patience and help during this process. This favourable decision will definitely help me moving on. Wish you all the best and once again a big and sincere Thank You.”

**Status as at 31.12.2021:
RESOLVED**

(18) 1386.2.1.2(346)

Complaint against the States Employment Board regarding the administration of an application for Ill Health Retirement

A statement of complaint was received on 26th September 2021.

The complaint concerned an application by the complainant to be considered for an ill health retirement pension.

A summary was requested from the Department on 11th October 2021 and a response received on 20th October 2021.

The Chair requested further clarification from the Department and on its receipt confirmed that the Panel did not have jurisdiction in this case given that the decision taken by the Director was not delegated by the Minister, but by the Pension Trustees. The Chair suggested that this could instead be a matter for the Financial Services Ombudsman.

The claimant requested that the case was reviewed by the Deputy Chairmen. The Deputy Chairmen concurred with the Chairman's judgement and the complainant was advised of this accordingly.

**Status as at 31.12.2021:
CLOSED**

(19) 1386.2.1.2(20)

Complaint against the Minister for Treasury and Resources regarding failings in the administration of the complainant's tax liability

A statement of complaint was received on 16th November 2021.

The complaint concerned an increase in the complainant's tax assessment.

A summary was requested from the Department on 23rd November 2021 and a response received on 25th November 2021.

The Deputy Greffier advised the complainant that the Department were undertaking an investigation into the complaint and that the Panel could not get involved until the internal processes had been exhausted.

On 17th December 2021, the Department advised the Deputy Greffier that they would engage with the complainant directly to address the concerns raised.

**Status as at 31.12.2021:
RESOLVED**

(20) 1386.2.1.2(347)

Complaint against the Minister for the Environment regarding the process of the public consultation underpinning the formulation of the Island Bridging Plan strategy

A statement of complaint was received on 4th November 2021.

The complaint concerned the process of the public consultation which had underpinned the formulation of the Island Bridging Plan strategy.

A summary was requested from the Department on 25th November 2021 and a response received on 13th December 2021.

The Department advised that the complainant had not raised the complaint directly with them and therefore no internal complaints process has been either initiated or concluded. The Deputy Greffier advised the complainant that the complaint would therefore be paused.

**Status as at 31.12.2021:
ONGOING (PAUSED)**

(21) 1386.2.1.2(25)

Complaint against the Minister for Social Security regarding the way in which a Social Security classification was administered

A statement of complaint was received on 12th December 2021.

The complaint concerned the complainant's request to the Social Security Department to review their employment status.

A summary was requested from the Department on 21st December 2021.

**Status as at 31.12.2021:
ONGOING**

(22) 1386.2.1.2(348)

Complaint against the Minister for the Environment regarding the administration of the Planning application for the installation of Padel Tennis Courts at St. Clements Golf and Sports Centre directly adjacent to residents' properties

A statement of complaint was received on 23rd December 2021.

The complaint concerned the erection of floodlit, canopied Padel Tennis courts directly adjacent to the complainant's property at St Clement.

A summary was requested from the Department on 24th December 2021.

Status as at 31.12.2021:
ONGOING

13 COMPLAINTS WERE OUTSTANDING AT THE END OF 2020 AND CARRIED FORWARD INTO 2021

(1) 1386.2.1.9(17)

Complaint against the Health and Community Services Department regarding the way in which a complaint was processed

The Report associated with this case was published in early January 2019 ([R.4/2019](#) refers).

The Board made a number of recommendations and asked the Minister for Health and Social Services for a response before the end of March 2019. This was published on 22nd March 2019 (R.4/2019 Res.).

The States Employment Board then engaged Jonathan Cooper OBE to conduct a review and he recommended that the complainant be given an ex-gratia payment by way of compensation for the anxiety and stress she had experienced. He also recommended that she receive an official apology and that efforts be made to re-engage with her and provide a care plan.

Throughout 2020 and then again in 2021 the complainant experienced lengthy delays and deadlines were missed whilst she awaited the three recommendations made within the Cooper Report to be actioned. She and the Deputy Greffier made various attempts throughout the year for responses from both the Minister for Health and Social Services and the Chief Minister.

The Chief Minister gave assurances that this matter would be resolved before the elections in June 2022.

Status as at 31.12.2021:

ONGOING: REPORT PUBLISHED: STILL AWAITING FORMAL APOLOGY AND RESOLUTION (3 years since Report published)

(2) 1386.2.1.9(19)

Complaint by the residents of Ville du Bocage, St. Peter against the Infrastructure and Planning Departments (now Growth, Housing and the Environment (GHE)) regarding the management of the Hospital catering relocation project by Jersey Property Holdings and ongoing operational issues within St. Peter's Technical Park

A statement of complaint was received on 2nd October 2018, and the Department was contacted for a résumé, which was then referred to the Chairman and another independent Panel member for consideration. The Chairman concluded that this was not an appropriate case for a hearing by a Board.

Having reviewed the papers sent to them, the Deputy Chairmen concurred with the Chairman's view, but one of the Deputy Chairman then offered to chair an informal

meeting, bringing all those involved around a table to discuss a way in which the various problems associated with the development and the ongoing use of St. Peter's Technical Park could be resolved.

Three meetings were convened with all of the main stakeholders throughout 2019, at which various assurances were given. In 2020 the residents of the area were offered mediation. In July 2020, the complainant revived the complaint, this time focusing on the lack of enforcement action in relation to the external operations at St. Peter's Technical Park by two particular companies, but it was not taken forward by the Panel.

During 2021, the complainants were supported by former Senator Nigel Querée, who raised a number of questions about the vires of the ongoing use of the Park with the Department. The Panel acknowledged its inability to assist further with this complaint and accordingly the case was closed.

**Status as at 31.12.2021:
CLOSED**

(3) 1386.2.1.9(27)

Complaint against the Health and Community Services Department regarding standard of care, failure to address concerns and poor communication

A statement of complaint was received on 18th February 2019.

The complaint related to the care that the complainant's late mother had received whilst in a care home. The Department had investigated the complaints and the findings were sent to her in February 2019. Procedurally the next step was the commissioning of an external independent review by Guernsey, and this was progressed during 2019 and the findings of that Review were received by the complainant in October 2019. She remained dissatisfied and subsequently had meetings arranged with the Group Medical Director. She also submitted a complaint about the Feedback Team and the poor communication she had experienced.

During 2020 the complainant was advised that the external review from Guernsey's Committee for Health and Social Care had been completed and she was given a summary of the findings. In February 2020 she met with the Interim Hospital Director and this was followed up in April, but, despite repeated requests, the complainant still was not provided with the actual evidence upon which Guernsey had based its findings.

The complainant's original complaints from May 2018 remained unaddressed. In late 2021 the complainant submitted a further complaint about the way in which the matter had been handled by the Feedback Team.

"It seems to me that nobody will apologise or take responsibility for anything these days."

Status as at 31.12.2021:
ONGOING: AWAITING RESPONSE FROM HEALTH

(4) 1386.2.1.9(28)

Complaint against the Health and Community Services Department regarding the administration of a patient's treatment plan

A statement of complaint was received on 15th May 2019.

The complaint spanned over 23 years of interaction with healthcare in Jersey and elsewhere and following contact with the Department by the Deputy Greffier, a review was undertaken by a senior experienced doctor working in the Quality and Safety Team. The report from this review was shared with the complainant on 19th August 2019. A meeting was subsequently convened between the complainant and the Hospital Director which eventually took place in November and he was advised in December 2019, that consideration would be given to the large amount of documentation he had presented at that meeting and there would be further contact once that information had been absorbed. It should be noted that this was the same documentation which had been submitted by the Deputy Greffier to the Department in May 2019.

Some nine months later, a submission was received from the Health Department on 14th September 2020 and this was subsequently sent on to the Chairman and another independent Panel member. In November 2020 the complainant was advised that, having carefully reviewed the papers submitted, the Chair had concluded that this was not an appropriate case for a hearing by a Board. Both members were very sympathetic to the complainant's situation, especially given the length of time he had experienced difficulties with the Department. Whilst they accepted that Health could have dealt with the case in a more efficient manner, they could not see anything within the submissions which demonstrated a failure in the administrative process of the complainant's care and treatment, or a departure from policy which would justify the Panel's involvement.

The case was subsequently reviewed by the Deputy Chairmen and they were sent the papers in early December 2020. Having looked through the papers supplied, they too consider that much of the complaint focused on the competence and professionalism of medical staff, which fell outside of the Panel's jurisdiction and more appropriately addressed in a professional conduct hearing by the appropriate regulatory body or via the General Medical Council. The complainant was advised of this decision in early 2021.

Status as at 31.12.2021:
CLOSED

(5) 1386.2.1.22(5)

Complaint against the Treasury/States Employment Board regarding the administration of transfer valuations and subsequent calculation of pension benefits in respect of a former employee

The findings of the Complaints Board hearing, which took place on 10th September 2020, were published on 9th December 2020 (R.139/2020 refers).

The complainant had worked for the States for 28 years as a firefighter and had taken a year's sabbatical in South Africa in December 2017 to care for his mother. While in South Africa, he started to plan for early retirement. In February 2018, he had sought pension advice and had subsequently emailed his line manager, the Chief Fire Officer, to obtain a valuation of his pension on his behalf. Advice received in early April 2018 had been that no valuations were being undertaken until 'post 15th or mid-May' as a result of changes being made to the Public Employees Contributory Retirement Scheme ('the Scheme').

Previous changes to the Scheme had always been subject to consultation with members. This did not happen in 2018. The Scheme's Committee of Management had decided to place all requests for valuations received in March 2018 on hold until 1st May 2018, because the Scheme was undergoing a re-evaluation exercise and they did not wish for members to receive 'inaccurate transfer quotations whilst the changes were being implemented'. This process was changed later in 2018 when it was decided to revalue pensions on the basis of the criteria applicable before 1st May 2018, in those cases where the person concerned had requested a valuation before that date. The complainant's request for such a revaluation was rejected. The determining factor had been that the Department had no record of any phone calls relating to his case made before 29th May 2018 and therefore had assessed him at the post evaluation rate which had resulted in him receiving a pension some 25% lower than it would have been.

In its findings, the Board made a number of recommendations, including that there should be clear guidance provided to Members in future outlining the difference in approach to active and inactive employees in respect of the service delivery, and that there should be clear communication and consultation whenever changes are proposed. It also recommended that the complainant's case should be re-evaluated according to the actuarial principles applicable prior to 1st May 2018.

A response to the Report was presented in 2021 and, following a change to Standing Orders, the Minister concerned was required to make a statement in the States Assembly. In that statement, made on 8th June 2021, the Minister advised that a Working Group of the Committee of Management had been established to review findings. The group, comprising employer and member representatives had concluded that no new or material evidence had been presented which would cause the Committee to alter its original decision.

The Deputy Chair of the Panel, who had chaired the hearing, subsequently wrote to the Minister for Treasury and Resources in August and November of 2021 urging reconsideration of this decision and seeking further information regarding the way in which the 'review' had been undertaken. Consideration was then given to taking the unusual step of reconvening the Board hearing in relation to this matter in 2022.

**Status as at 31.12.2021:
ONGOING**

(6) 1386.2.1.7(29)**Complaint against the Minister for Social Security regarding the administration of an Income Support claim**

A statement of complaint was received on 28th January 2020.

The complaint concerned the administration of an Income Support claim where deductions had been made in relation to alleged overpayments, but the complainant had claimed that related correspondence had not been received due to a change of address. A request for a summary from the Department flagged that this case had not exhausted the internal complaints process and the complaint was deferred.

In October 2021, the complainant made contact to revive the case. A summary was requested from the Department and the papers were sent to the Chairman and an independent member of the Panel on 23rd November 2020. The Chair very much regretted that he could not see a prima facie ground for this matter to be considered further. In his view, the Department had administered the case in accordance with the Law. However, he was concerned that the Law was flawed and appeared to penalise the vulnerable and allowed for no discretion or compassion and this was communicated to the Department.

The complainant requested that her case be reviewed by the two Deputy Chairmen and was advised in May 2021 that they agreed with the Chair's decision.

Status as at 31.12.2021:

CLOSED

(7) Our ref: 1386.2.1.22(6)**Complaint against the States Employment Board regarding the withdrawal of a job offer with the States of Jersey Police for a Civilian position**

A statement of complaint was received on 3rd March 2020.

The complaint concerned the complainant's dissatisfaction with the recruitment process followed in respect of a civilian role with the States of Jersey Police. The complainant had submitted a complaint via the Feedback system on 13th December 2019 but had received no response.

A summary was requested but this was not forthcoming. Whilst accepting that the demands of the Covid pandemic had impacted upon Departments, the Deputy Greffier allowed for some delay, but eventually had to write to the Department on 1st July 2020 seeking confirmation as to when the summary would be made available and was advised that, having reviewed the complaint, the Department had recognised that there was an element of conflict, and decided to undertake a review by an independent Department.

There then followed some further delays as the Department had mistakenly paused their internal investigation when advised of the complainant's approach to the Complaints Panel.

In early October 2020 the Department advised that the independent review was underway and would be completed by 30th October. On 16th October they advised that there would be a further delay as one of the key people to be interviewed was absent from work until December 2020.

On 18th February 2021 the complainant advised the Deputy Greffier that they had been contacted in relation to the outcome of the complaint and discussions were now in train with JACS. In April 2021, the Deputy Greffier was advised that the matter had been settled.

“Just to advise that today I agreed a settlement with the States through JACS. In addition they are updating procedures in relation to HR & re-employment following our discussions. These are awaiting final verification but will hopefully avoid anyone else having to endure this. Thank you for your efforts.”

Status as at 31.12.2021

RESOLVED

(8) 1386.2.1.7(28)

Complaint against the Customer and Local Services Department regarding the administration of Income Support claims and the application of overpayments

A statement of complaint was received on 14th October 2020.

The complaint concerned the way in which the complainant’s Income Support claims had been administered which had resulted in alleged overpayments which the Department now sought to recover.

A summary was requested from the Department and the case sent to the Chair and an independent member to consider. On 3rd December 2020 the complainant was advised that the Chair agreed that the Income Support Law was drawn very much in terms that favour the Department. These included very tight timelines on the recipient to appeal or to notify changes of circumstances for example, whilst the Department could let overpayments roll over and have far more latitude to review cases retrospectively. However, the fact remained that was the Law that was enacted and which the Department appeared to have followed. The Chair considered that the complainant had had opportunity to appeal any mistakes which might have been made in calculating Income Support payments which led to the overpayments, but he had not. The Complaints Panel did not have the capability to carry out a forensic review of the complainant’s entitlements over the years, and thus how overpayments had reached their current level; that is what an appeal would have achieved.

The Chair wondered whether the Department would agree to carry out a full review of the payment history as a way of resolving this complaint informally. Whilst he had missed the opportunity for an appeal (because the Law stipulated the time within which

an appeal had to be requested) it was suggested that a review would have a similar effect. The complainant requested that the matter be considered by the two Deputy Chairs and the case was sent to them on 4th December 2020.

In January 2021, the complainant was advised that the Deputy Chairs, whilst agreeing with the Chair that the matter did not justify a Hearing, considered that the situation could benefit from some kind of facilitated discussion which one of them was willing to Chair. This subsequently took place on 2nd February and the complainant was supported by 2 States Members. Some practical assistance was offered to the complainant as a consequence.

**Status as at 31.12.2021:
CLOSED**

(9) 1386.2.1.2.9(34)

Complaint against the Health and Community Services Department regarding the administration of respite provision for a child

A statement of complaint was received on 12th October 2020.

The complaint concerned the provision of respite care for the complainant's child. A summary was requested and on 16th October 2020 the Deputy Greffier was advised by the Department that a meeting was to be arranged between the complainant and the Interim Head of Standards and Quality, Principal Social Worker for children. On 1st December 2020, the Deputy Greffier received further notification from the Department advising that they would be writing to apologise for not allowing the complainant the chance to escalate the complaint and to offer a meeting with the Director General to discuss the case. The complainant agreed to pause the complaint in the interim.

The complainant contacted the Deputy Greffier on 6th January 2021 to advise that a letter of apology had been received and respite care had been arranged. The complainant was happy to close the case.

**Status as at 31.12.2021:
RESOLVED**

(10) 1386.2.1.3(28)

Complaint against the Minister for Education regarding the way in which an application for a student maintenance grant was administered

A statement of complaint was received on 10th November 2020.

The complaint concerned the administration of a student maintenance grant. A summary was requested from the Department and sent to the Chair and an independent member to consider on 3rd December 2020.

The Chair and member concluded that this was not an appropriate case for a hearing by a Board as they were of opinion that the correct policies and procedures had been applied. Whilst very sympathetic to the complainant's situation, ultimately the Chair

considered that the Department had followed the provisions of the existing Law. The policy also seemed to be clearly set out in the Student Finance Booklet.

The complainant was advised of the Chair's decision on 10th December 2020 and informed that this could be reviewed by the Deputy Chairs if a request for this was made within a month.

The complainant did not request a review by the end of the deadline.

**Status as at 31.12.2021:
CLOSED**

(11) 1386.2.1.9(24)

Complaint against the Minister for Health and Community Services regarding her family's involvement with staff within the Children's Service and failings to provide accurate and timely records of meetings

A statement of complaint was received on 17th December 2020.

This sought to revive a case which had been placed on hold in late 2018 pending the completion of the internal complaints process. A request for a summary was sent out on 17th December 2020. The Deputy Greffier sent another letter to the Department on 1st March 2021 asking whether a response would be forthcoming. The Department responded on 5th March 2021 advising the Deputy Greffier that they were working on the brief summary.

The Department wrote directly to the complainant on 15th March 2021 to apologise.

**Status as at 31.12.2021:
RESOLVED**

(12) 1386.2.1.17(7)

Complaint against the Minister for Home Affairs regarding the administration of a disciplinary complaint

A statement of complaint was received on 16th December 2020 and a summary requested from the Department. The complaint, insofar as it fell within the jurisdiction of the Complaints Panel, concerned the constitution of an investigatory panel formed to look into a disciplinary matter (additional elements of the complaint which related to criminal aspects were deemed outside of the Panel's remit by the Chair).

A summary was requested from the Department on 17th December 2020 and a response received on 22nd January 2021. On 25th January 2021 papers were sent to the Chair and an independent member of the Panel.

The Deputy Greffier wrote to the complainant on 2nd March 2021 to advise that the Chair of the Complaints Panel could not find any grounds for the complaint to be considered by the Panel.

The complainant wished to appeal the Chair's decision and the Deputy Greffier sent the complaint to the Deputy Chairmen.

The Deputy Greffier wrote to the complainant on 30th June 2021 advising that the Deputy Chairmen were both in agreement that this was not a matter for the Complaints Panel.

**Status as at 31.12.2021:
CLOSED**

(13) 1386.2.1.9(33)

Complaint against the Health and Community Services Department regarding the care provided to the complainant following an accident and the subsequent administration of their complaint

A statement of complaint was received on 22nd December 2020; the complainants having contacted the Deputy Greffier earlier that month to outline their case, which concerned the administration of a complaint made to the Hospital Feedback system relating to the way they were dealt with following an accident.

On 15th January 2021, a request for a summary was sent to the Department requesting a response. On 25th January, the Department advised the Deputy Greffier that the complainant had not completed their internal process, and that they were due to meet with them.

On 6th March 2021, the complainant contacted the Deputy Greffier to advise that they had met with the Department and now considered that they had been listened to and had received an apology.

“I feel we can let this go now – we had our say, were listened to and received an apology. I hope that they learn from this and that it makes for a better patient outcome for the next person. I would maintain that the actual Feedback process did not work for us and it seems that only by bringing it to you was anything further done about it.”

**Status as at 31.12.2021:
RESOLVED**

10 ENQUIRIES WERE LOGGED DURING 2021 WHICH DID NOT TRANSITION INTO FORMAL COMPLAINTS

5 x Health and Social Services

- Complaint regarding the internal complaints' procedure
- Complaint regarding poor administration practices
- Complaint regarding care home staff
- Complaint regarding social care workers and doctors failing in their responsibility to provide adequate care
- Complaint regarding treatment received from the Accident & Emergency Department

3 x Customer and Local Services

- Complaint regarding not responding to any communication
- Complaint regarding Covid processing and testing
- Complaint regarding rejection of Income Support application

1 x States Greffe

- Complaint regarding the "All States Members" e-mail link not working

1 x Home Affairs

- Complaint regarding a police investigation