
STATES OF JERSEY



STATES OF JERSEY COMPLAINTS PANEL REPORT 2023

**Presented to the States on 28th May 2024
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 2023 Annual Report of the Complaints Panel.

The members of the Panel in 2023 were –

Mr. Geoffrey Crill (Chair)
Mr. Chris Beirne (Deputy Chair)
Mr. Stuart Catchpole, K.C. (Deputy Chair)
Mrs. Christine Blackwood
Ms. Penny Chapman
Ms. Tina Chatterley
Ms. Sue Cuming
Mr. David Curran
Mr. Gavin Fraser
Mr. Andrew Hunter
Miss. Kerry Leadbetter
Mr. John Moulin
Mr. Damian Warman

The Privileges and Procedures Committee would like to place on record its sincere thanks to the Chair, Deputy Chairs and all of the members of the Panel for the work they have undertaken during 2023.

Since the decision was made in the States Assembly in 2018 to introduce a Public Sector Ombudsman, the Panel have continued to provide a stellar complaints service for Islanders, despite having no certainty regarding their future. Indeed, at times they have faced opposition to their findings and had their jurisdiction challenged, but they have remained committed to investigating Islanders' complaints and improving service provision across the public sector.

The Ombudsman role has yet to be implemented, and it may be that ultimately a different approach will instead be adopted which builds on the fantastic work which the Panel has undertaken. In the meantime, we should be incredibly grateful that the Panel continues to provide an independent and unbiased complaints process for those who feel they have not been treated fairly when accessing public services. It should not be forgotten that they undertake this work for free. Our Island owes them a debt of thanks.

Connétable Karen Shenton Stone
Chair of the Privileges and Procedures Committee

**STATES OF JERSEY COMPLAINTS PANEL
REPORT FOR 2023**

Dear Chair,

I have pleasure in presenting the Panel's Annual Report for 2023. The year saw 12 new cases submitted for review by the Panel, along with 9 cases still ongoing from 2022 and 9 informal enquiries.

The Panel held two hearings in 2023 and also convened as a Board under Article 3(3) of the Administrative Decisions (Review) (Jersey) Law 1982, when, as Chair, I determined that a review by a Board was justified but that the documentation presented was sufficient to determine that a complaint was founded. In all three cases the complaints were upheld. One of the hearings was unprecedented as it represented a third time that the Board had convened to resolve a case relating to a retired firefighter's pension evaluation following changes to the policy. The case is detailed in this report in section 2. It was heartening that common sense prevailed and the complainant finally received the justice which had been withheld for so long. What was disappointing was that it took his tenacity and the persistence of the Board to achieve this outcome. It should not be the case that justice is only served when someone fights doggedly against the system and that a Minister has to be told something three times before findings are accepted.

Whilst it may not bear the name, the States Complaints Panel IS an Ombudsman within the criteria of the Ombudsman Association (the Panel is a Complaint Handler Member of that Association). It is independent; it alone determines whether a complaint falls within its jurisdiction and is accountable to the States Assembly, not the Government. At the same time, whilst those investigated may not be bound by the decisions or recommendations of a Complaints Board, there should be a "reasonable expectation the [Board's] decisions or recommendations will be complied with" (as per Section B3(e) of the Terms and Rules of the Ombudsman Association).

It is this absence of 'reasonable expectation' that was demonstrated vividly in this particular case, even to the extent of a refusal to accept findings of fact. If an Ombudsman's findings are not to be binding (and we do not suggest they should be) then Government must address its persistent reluctance to accept that 'reasonable expectation' that it will comply with the findings of a Board.

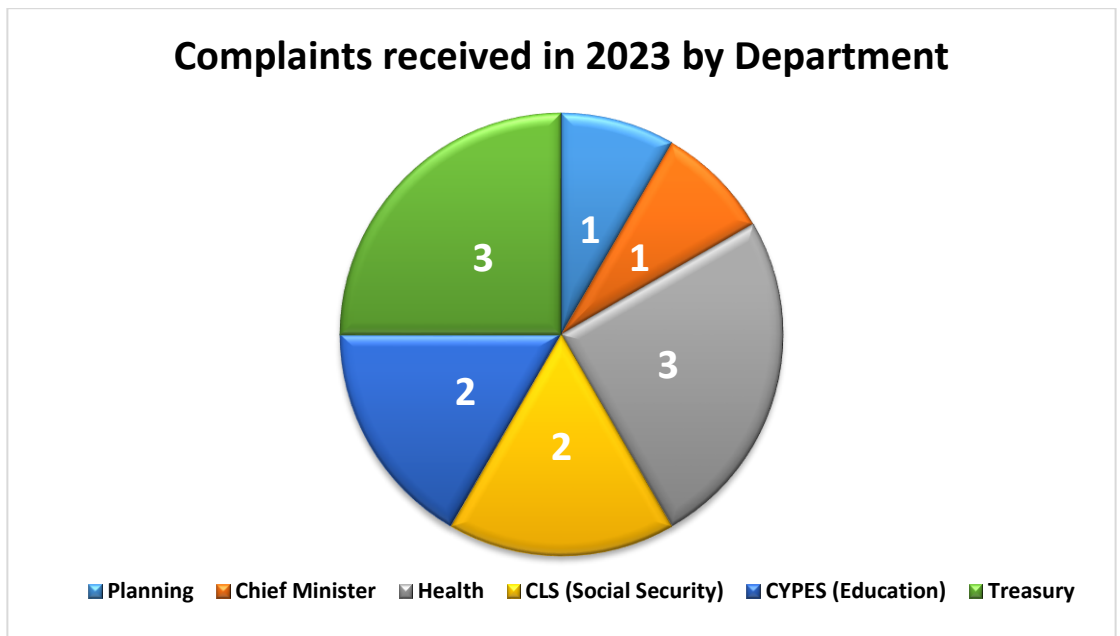
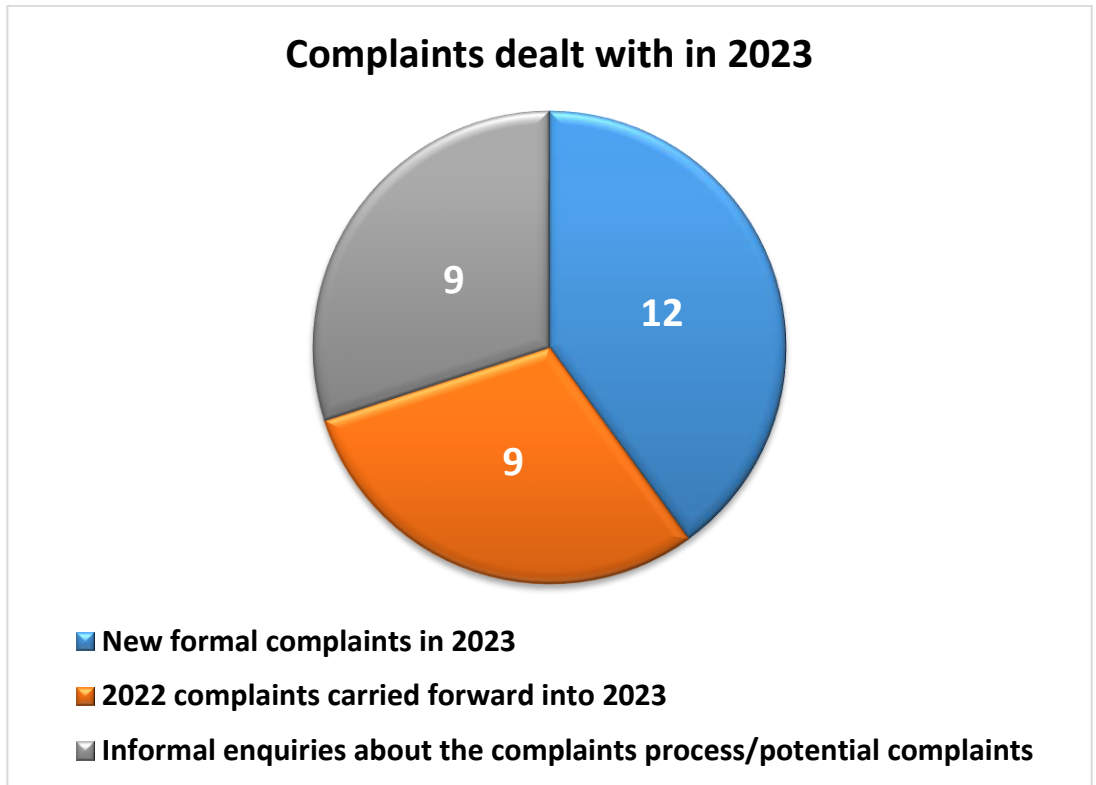
The other hearing centred around the Co-funded Payroll Scheme established by the Government in March 2020, in response to the impact on the economy of the COVID-19 Pandemic and is detailed in section 2. Those involved in establishing the Scheme should take considerable and justifiable pride in the speedy and effective support that was provided. However, the Board found that inadequate steps had been taken to ensure that the application process and the difference between the eligibility criteria and the amount that could be claimed, was fully understood by all applicants.

Ten of the cases dealt with in 2023 were able to be resolved informally and the Panel is very grateful for the positive and swift manner in which most Departments responded to the complaints submitted. There are many across the public sector who recognise that complaints provide an opportunity to improve service delivery and customer relations.

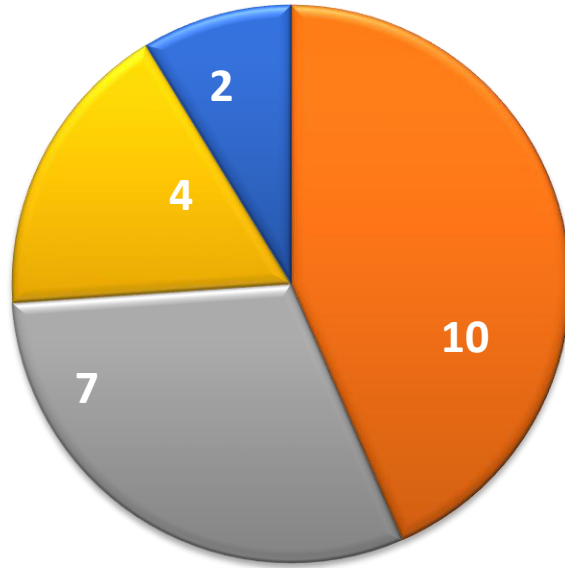
However, poor communication remains a theme of most complaints and that has repeatedly exacerbated situations where there has already been a breakdown of trust. The Government really must do better. It is just not good enough to blame a misunderstanding amongst officials as the reason for someone being ignored for months. There should be adequate and robust communications protocols in place and recognition that when cases come to the Complaints Panel, the complainants have already been on a difficult journey through the internal complaints system. We appreciate that Ministers are exceptionally busy people, but they do have a number of staff dedicated to supporting them in their endeavours. It should go without saying that timely and reliable responses to the public are critical in establishing and maintaining trust in Government by the public, and where members of the public are unwitting victims of Government actions or shortcomings, that should be an absolute and overriding priority.

Geoffrey Crill
Chair, States of Jersey Complaints Panel

2023 IN SUMMARY

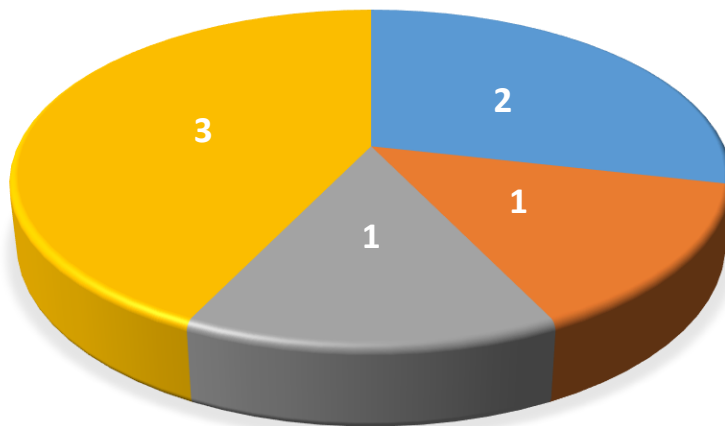


Complaint outcomes 2023 (including those carried forward from 2022)



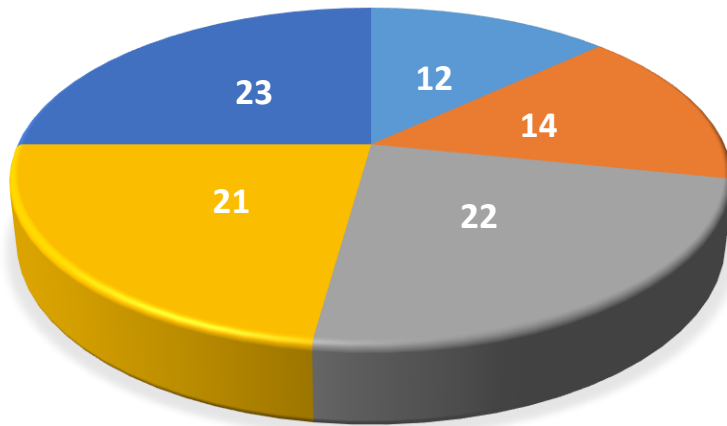
Resolved through Complaints Panel involvement Ongoing Case closed Hearing (resolved)

HEARINGS



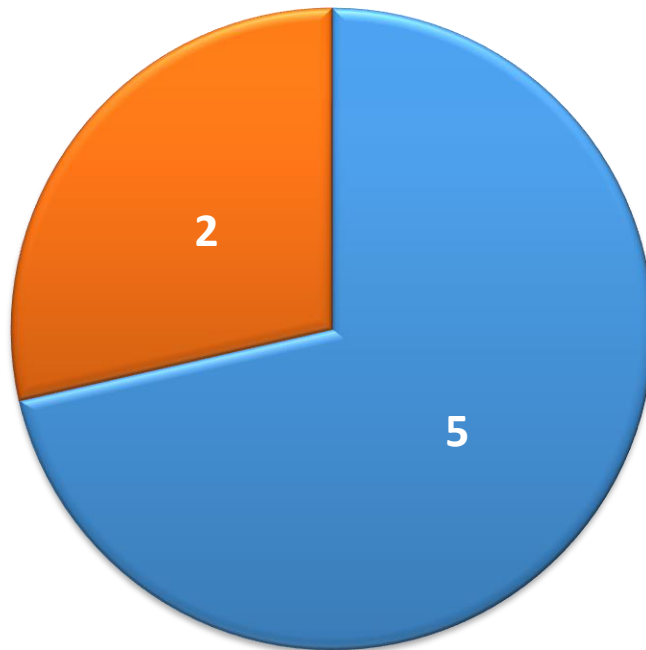
2023 2022 2021 2020

NEW COMPLAINTS RECEIVED



■ 2023 ■ 2022 ■ 2021 ■ 2020 ■ 2019 ■

Ongoing complaints carried into 2024



■ Paused/awaiting Departmental response
■ Hearing arranged in 2024

SECTION 1 – 2023 COMPLAINTS
12 NEW FORMAL COMPLAINTS WERE RECEIVED IN 2023

(1) 1386.2.1.9(40)

Complaint against the Minister for Health and Social Services regarding a complaint logged with the hospital feedback team in September 2021

A statement of complaint was received on 10th January 2023.

The complaint related to a medical procedure and subsequent feedback made by the complainant in September 2021.

A summary received from the Department on 27th January 2023 advised that the case was still progressing through their internal complaints process and was subject to an internal investigation. The complaint was therefore paused.

Contact was made with the complainant on 30th October 2023 to enquire if the issue had been resolved or if indeed the complainant wished to progress the complaint, given the delays in the completion of the internal Three stage process. No response was received from the complainant and the case was therefore closed.

Status as at 31.12.2023:

CLOSED – NO FURTHER RESPONSE FROM COMPLAINANT

(2) 1386.2.1.2(32)

Complaint against the Minister for Treasury and Resources regarding the treatment the complainant received from the Tax Office in connection with a penalty over the submission of their 2021 Tax Return

A statement of complaint was received on 15th January 2023.

The complaint related to the way in which the complainant had been dealt with following accusations that they had falsified their tax submission for the year 2021.

A summary was requested from the Department and a response received on 31st January 2023. The papers were sent to the Chair and an independent member of the Panel for review.

On 2nd May 2023, the Greffier of the States wrote to the complainant and advised that, although the Chair did not consider that the case justified a review by a Complaints Board, he had attempted to resolve this matter informally. He had asked the Comptroller of Income Tax to consider whether the penalty imposed could be mitigated. The response received had been favourable and the Comptroller had agreed to review the penalty which was imposed upon the complainant, providing that they undertook to file future tax returns correctly and in the way his officers had previously directed.

Status as at 31.12.2023:

CLOSED – RESOLVED INFORMALLY

(3) 1386.2.1.7(34)**Complaint against the Minister for Social Security regarding loss of carer's allowance for adult children with Cystic Fibrosis**

A statement of complaint was received on 16th January 2023.

The complaint related to a decision to cease the complainant's carer's allowance for her adult children, despite them having ongoing complex medical needs.

A summary was requested from the Department on 29th January 2023 and a response received on 7th February 2023. The Department advised that they had been in contact with the complainant and had redetermined the claims and backdated the funds outstanding.

On 17th February 2023, the complainant advised the Greffier of the States that they wished to withdraw the complaint.

Status as at 31.12.2023:

CLOSED – RESOLVED INFORMALLY

(4) 1386.2.1.9(41)**Complaint against the Minister for Health and Social Services regarding access to tertiary care, communication by health care providers and the subsequent administration of the complaint by the Patient Experience Team**

A statement of complaint was received on 12th April 2023.

The complaint related to the administration process around the provision of tertiary care and the handling of the associated complaint by the Patient Experience Team.

A summary was requested from the Department on 24th May 2023 and a response received on 13th July 2023. The papers were sent to the Chair and an independent member of the Panel. The Chair considered that the complaint justified review.

A Complaints Board Hearing was initially arranged for Friday 1st December 2023, but was postponed until 25th January 2024.

Status as at 31.12.2023:

ONGOING – HEARING SCHEDULED

(5) 1386.2.1.2(33)**Complaint against the Minister for Treasury and Resources regarding the administration of the Co-Funding scheme**

A statement of complaint was received on 8th June 2023.

The complaint related to the administration of the Co-Funding scheme, established to support businesses during the Covid lockdown periods. The complainant alleged that the advice given by the Department had been ambiguous and misleading.

A summary was requested from the Department on 21st June 2023 and a response received on 20th July 2023, which included an undertaking to reduce the overpayment sum and extend the period for repayment over 7.5 years. The papers were sent to the Chair and an independent member of the Panel for review.

The Chair considered the case and asked the Greffier to contact the complainant to ascertain whether they were content with the outcome or wished to pursue their case on the basis of delay and the subsequent poor administration of the appeal process.

The complainant advised the Greffier on 4th August 2023 that they wished to withdraw their complaint.

**Status as at 31.12.2023:
CLOSED – RESOLVED INFORMALLY**

(6) 1386.2.1.9(42)

Complaint against the Minister for Health and Social Services regarding the administration of appointments with the eye clinic and the subsequent handling of the complaint by the Patient Experience Team

A statement of complaint was received on 22nd June 2023.

The complaint related to the administration of appointments at the eye clinic and the subsequent handling of the complainant's case by the Patient Experience Team.

A summary was requested from the Department on 26th June 2023 and a response received on 28th June 2023, advising that the complaint was currently still at Stage One of the internal complaints process. The department sent another e-mail to the Greffier on 27th July advising that Stage One had been completed and the appropriate clinical actions and necessary appointments had been made and support was being provided to the complainant by the relevant department.

The complaint was closed on 27th July 2023.

**Status as at 31.12.2023:
CLOSED – RESOLVED INFORMALLY**

(7) 1386.2.1.2(353)

Complaint against the Minister for the Environment regarding approval of P/2023/0229 granted to La Mare Vineyard

A statement of complaint was received on 31st July 2023.

The complaint related to the decision by Planning on the approval of P/2023/0229 granted to La Mare Vineyard to erect a marquee for events which was extremely close to the boundary with neighbours.

A summary was requested from the Department on 2nd August 2023 and a response was received on 24th August 2023. The papers were sent to the Chair and an independent member of the Panel for review. The Chair declared a conflict of interest; therefore the papers were sent to one of the Deputy Chairmen for review.

On 1st November 2023, the Greffier wrote to the Minister for the Environment advising that having studied the report submitted by the complainant together with the departments resumé, the Deputy Chair was minded that the circumstances of the complaint justified further review.

Rather than convening a Complaints Board Hearing, the Deputy Chair asked, in the first instance, to see if the matter could be addressed informally.

On 9th November 2023, the department responded, advising that, as the appeals process rested with the Judicial Greffe, it had been sent to them for review before the Department replied.

On 29th November, the Department advised that, following officer advice from the Judicial Greffe, it was now seeking legal advice from the Law Officers Department.

As at 31st December 2023 a response was still awaited from the Department.

Status as at 31.12.2023:

ONGOING – AWAITING RESPONSE FROM DEPARTMENT

(8) 1386.2.1.3(32)

Complaint against the Minister for Children and Education regarding a Student Finance Application Appeal

A statement of complaint was received on 9th August 2023.

The complaint related to a Student Finance application appeal rejection.

A summary was requested from the Department on 9th August 2023 and a response received on 30th August 2023. The papers were sent to the Chair and an independent member of the Panel for review.

The Chair considered that the ultimate decision made by the Department had been the correct one. However, he agreed that the complainant should not have had their expectations raised by the officer concerned. The Chair undertook to write to the Minister for Children and Education highlighting the disparity between the advice the complainant received and the maximum grant that was legally available to them.

The complainant wished to appeal against the decision of the Chair that this was not an appropriate case for a hearing by a Board. Therefore, the complaint was sent to the two Deputy Chairs for review.

Following review of the case by the Deputy Chairs, the Greffier advised the complainant on 11th December 2023 that on the basis of the documents submitted, the decision in

relation to the level of maintenance to which they would be entitled had been made in accordance with the relevant policy in force at the time and was one which the Minister could lawfully make. There were therefore no grounds for a review by a Complaints Board.

**Status as at 31.12.2023:
CLOSED**

(9) 1386.2.1.3(32)

Complaint against the Minister for Children and Education regarding the process by which places were allocated at Les Quennevais Secondary School

A statement of complaint was received on 14th August 2023.

The complaint related to the process by which places were allocated at Les Quennevais Secondary School for the Year 7 intake and the way in which the process had been administered by the Department.

A summary was requested from the Department on 16th August 2023 and a response received on 7th September 2023. The papers were sent to the Chair and an independent member of the Panel for review.

The Chair felt that the ultimate decision not to grant a place at Les Quennevais, appeared to have been consistent with stated policy and criteria on the allocation process, and that consequently there was no prima facie basis of complaint. However, the Chair undertook to write to the Minister for Children and Education expressing his concern that there was no check of a child's actual residence, when places were allocated largely on the basis of place of residence and that this appeared to be a fundamental failing in the system.

On 30th November 2023, the complainant wrote to the Greffier advising that they wished to appeal against the decision of the Chair.

On 4th December 2023, the papers were sent to the two Deputy Chairs for review and as at 31st December 2023 a response was awaited.

**Status as at 31.12.2023:
ONGOING – RESPONSE FROM DEPUTY CHAIRS AWAITED**

(10) 1386.2.1.2(34)

Complaint against the Minister for Treasury and Resources regarding a request for election to joint taxation for 2019 to account for the retrospective changes in tax payment arrangements for that year

A statement of complaint was received on 21st August 2023.

The complaint related to a request for election to joint taxation for 2019 to account for retrospective changes in tax payment arrangements for that year.

A summary was requested from the Department on 23rd August 2023 and a response received on 24th August 2023. At that point the Greffier wrote to the complainant advising that the complaint fell within the administrative authority of the Comptroller. The decision not to allow a retrospective application to revoke an election was a “tax dispute” and fell within the purview of the Commissioners of Appeal for Taxes and was not a matter for the Complaints Panel.

On 13th November 2023, the complainant wrote to the Greffier advising that they wished to appeal against this decision.

On 28th November, the complaint was sent to the Chair for review. On 5th December 2023, the Chair advised the Greffier that he agreed that the complaint was not within the Panel’s jurisdiction and the complainant was advised accordingly.

Status as at 31.12.2023:
CLOSED

(11) 1386.2.1.7(35)

Complaint against the Minister for Social Security regarding the way in which an Income Support overpayment was administered

A statement of complaint was received on 10th September 2023.

The complaint related to the way in which an alleged overpayment of Income Support was administered.

A summary was requested from the Department on 13th September 2023 and a response received on 14th September 2023. The Department advised the Greffier that the case was still under investigation.

On 14th September 2023, the Greffier wrote to the complainant advising them that the Complaints Panel’s process could not run parallel to any other investigation and therefore could not be progressed until the reviews being undertaken by Social Security had been concluded.

Status as at 31.12.2023:
PAUSED

(12) 1386.2.1.23(6)

Complaint against the Chief Minister regarding the handling of the investigation following the explosion at Haut du Mont

A statement of complaint was received on 22nd November 2023.

The complainant sought a review of the way in which the ongoing investigation into the explosion at Haut du Mont and the death of a family member had been handled.

A summary was requested from the Department on 11th December 2023 and a response received on 21st December 2023. The Chief Minister advised the Greffier that the Police and Health and Safety investigation into the Haut du Mont incident was still underway. Taking this into consideration, the Minister could not comment on whether or not such an inquiry should be instigated in relation to the complaint.

On 21st December 2023, the Greffier of the States sent the letter from the Chief Minister to the complainant advising them that she hoped that it addressed some of the concerns raised.

Status as at 31.12.2023:

PAUSED

**SECTION 2 – COMPLAINTS CARRIED FORWARD
9 COMPLAINTS WERE OUTSTANDING FROM 2022 AND CARRIED FORWARD INTO 2023**

(1) 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

This was an unprecedented case as three hearings were held before the matter was resolved. The findings of the original 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. There then followed challenges from the PECRS Committee of Management that the Board had no jurisdiction over the case. Eventually the reconvened Board hearing took place on 9th March 2022.

At that hearing, the Board concluded that the Treasury and the Committee of Management should implement the findings and recommendations and, by whatever means was lawful, should provide the complainant with appropriate financial redress for the manifest injustice to which he had been subjected. The findings were published as R.110/2022 in August 2022.

The newly appointed Minister for Treasury and Resources did not present a formal response to the findings, but wrote to the Board on 9th December 2022, indicating that, following the publication of the findings, the PEPF Committee of Management had undertaken a further review involving new members of the Committee, as a consequence of which it maintained the view that it would be a breach of its primary fiduciary duty to the whole membership if it were to pay a further transfer value to the complainant. The Minister had also averred that the matter was at an end.

In a letter, dated 15th December 2022, the Board had written to the Minister for Treasury and Resources, indicating that two Complaints Boards had found that the complainant had been treated unjustly, unlawfully and unfairly by people for whom the Minister was responsible, namely the PEPF Committee of Management. The Minister had been reminded of the provisions of Article 9(6) of Administrative Decisions (Review) Law 1982, which enabled the Board to reconvene if it was of the opinion that a response justified further consideration and had invited him to attend a hearing on 20th January 2023.

The findings of that hearing, at which the complainant’s Line Manager had reinforced the evidence provided by the complainant at previous hearings and confirmed the Board’s findings of fact as set out in the preceding Reports, were subsequently published as R.31/2023. On 10th February 2023, the Committee of Management confirmed that the complainant’s pension would be revalued and paid on the basis of the criteria applicable prior to 1st May 2018.

The Complainant wrote to the Board –

“I wanted to write to thank you all for the time and effort that you put into my complaint regarding my PECRS pension valuation. I know the process became very protracted with an unprecedented amount of hearings and discussions, it was only your belief and determination that brought matters to a fair conclusion and this was very much appreciated. This was incredibly important to me and hugely impacted on the rest of my retirement so I cannot thank you all enough. It’s a shame that the public aren’t more aware of the service that you have provided to the community over the years, giving up

your free time in order to help people like myself receive justice in an otherwise closed environment.”

Status as at 31.12.2023:

CLOSED – COMPLAINT UPHELD AND DECISION REVERSED

(2) 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 originally 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 was received on 22nd October 2021. The papers were sent to the Chair and an independent member of the Panel. The Chair advised that he was conflicted, so the papers were passed to one of the Deputy Chairmen 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 concluded that the circumstances of the complaint did justify a review and a Hearing was arranged for 22nd March 2022. However, the Department advised that an independent investigation was to be undertaken and as a consequence the Board Hearing was adjourned, pending the outcome of that process.

In late September 2022 the report by the independent investigator was published and the complainant then submitted a number of challenges to some of the conclusions contained therein. However, the Deputy Chair found it difficult to see how a further hearing might lead to any alternative outcome, as the investigation had covered the areas on which a Board would have adjudicated and also determined that the later submissions were not matters on which a Board could make progress.

The complainant was advised of this decision in January 2023.

Status as at 31.12.2023:

CLOSED – RESOLVED INFORMALLY

(3) 1386.2.1.9(36)

Complaint against the Minister for Health and Social Services regarding the administration of the travel arrangements and support during medical treatment in 2021

A statement of complaint was originally received on 25th January 2022.

The complaint concerned the administration of the complainant's treatment plan, travel arrangements and support during medical treatment he had received in 2021. The complainant was due to undergo an operation by a specialist in Germany to remedy major health problems caused by an earlier medical procedure undertaken in the UK years earlier. The complainant was accompanied by a relative to provide support during his recovery. Contrary to the host Hospital's advice, the complainant's accommodation booked by the Department for outpatient treatment was many miles from the Hospital, in a rural location where no transport was available other than expensive private taxis and the costs of meals at the hotel were prohibitive. Due to Covid-19, the host government then put all non-natives on a mandatory quarantine and the operation was cancelled. The complainant and his relative were left in Germany in limbo until the operation could be re arranged, with little financial support and unable to leave the hotel. The operation was eventually rescheduled and, thanks to a neighbour's Go Fund Me initiative, the complainant was able to meet the soaring costs of his recuperation.

A summary was requested from the Department on 26th January 2022.

The Department advised the Greffier of the States on 7th April 2022 that the complainant had received a response directly from them on 23rd February and the complaint had been paused. However, the complainant remained dissatisfied with the response and on 3rd October 2022 revived the complaint, pending the outcome of meetings with officers from Health to ensure that learnings from the case could enhance future service provision. The Greffier wrote to the Department seeking an update.

On 14th April 2023 the complainant advised the Greffier of the States that the Hospital had offered them an ex-gratia payment and wrote the following -

"I have to say it's good news about the monies, but I'd much rather return it if it would bring about change so that no one else gets into this position ever again. I at least have made some headway to try and show that support for off island patients is a must. With great hope and prayers I wish no one ever faces this scenario. Thank you for all the help and guidance you have given me, you really have been fantastic and I cannot praise you enough for it all."

**Status as at 31.12.2023:
CLOSED - RESOLVED**

(4) 1386.2.1.9(37)

Complaint against the Minister for Health and Social Services regarding the treatment provided to the complainant's son by the Adult Special Needs Service

A statement of complaint was originally received on 22nd March 2022.

The complaint concerned the treatment that the complainant's son had received within the Adult Special Needs Services. The Greffier of the States sent an e-mail to the Feedback Team on 27th April 2022 asking them for an update on the case. The

Feedback Team advised that no formal complaint had been logged and advised that they would open one so the matter could be investigated.

On 24th June 2022, the Greffier of the States was advised by the Feedback Team that a response had been sent to the complainant on 22nd June 2022. The complainant advised they remained dissatisfied, and an update was subsequently requested on 25th July 2022. On 2nd August 2022, the Feedback Team advised that the matter had been progressed to the second stage and they would advise the Greffier of the States as soon as they had any further information.

Further contact was made in November 2022 and again in March 2023 to the Feedback Team asking for an update. A letter was then sent to the Minister on 29th March 2023 asking for a formal summary. No response was received until 23rd May 2023, when the Department apologised for delays and advised that the matter was being reviewed by the Director of Mental Health and Adult Social Services. An extended deadline for the summary was then missed. At the end of October 2023, the Greffier made contact again with the Department and was eventually advised that the outcome of the Stage 3 review had been shared with the complainant on 9th November 2023. The complainant confirmed on 10th November 2023 that she would re-engage with the service and hoped that the matter was now resolved.

**Status as at 31.12.2023:
CLOSED - RESOLVED**

(5) 1386.2.1.2(31)

Complaint against the Minister for Treasury and Resources regarding the administration of the Co-Funding scheme

A statement of complaint was originally received on 6th May 2022.

The complaint concerned the administration of the Co-funded Payroll Scheme, established by the Government of Jersey in March 2020, in response to the impact on the economy of the COVID-19 Pandemic. The scheme provided a percentage support of up to 90 per cent of total income to a maximum of £2,500. The complainant, who was self-employed, had accessed funds from the Scheme for a total period of 6 months. Having read the guidance carefully, she had spoken with other people in a similar position, rung the helpline to check that she was claiming the correct amount and had taken all possible steps to seek clarity with regard to the meaning of 'monthly gross income' for a sole trader under the Scheme. In January 2022, the complainant was advised that checks had identified a discrepancy in her submission and it transpired she had erroneously claimed in relation to business turnover, as opposed to actual earnings. She contended that there had been a lack of clarity in the information provided by the Government in relation to the guidelines associated with the Scheme and this had led to a number of individuals, including her, making claims in good faith and later being pursued for monies owed, through the Department's debt recovery system, with threats of legal action against those in default of repayment.

A summary was received from the Department on 10th June 2022 and the papers were sent to the Chair and an independent member of the Panel for consideration. The Chair

concluded that the circumstances of the complaint justified review and asked that a Complaints Board Hearing be scheduled. This was provisionally set for January 2023, but subsequently rescheduled to 8th March 2023 and the Findings were published as R.94/2023. The Board upheld the complaint on the basis that the decision of the Treasury and Exchequer had been contrary to the generally accepted principles of natural justice (paragraph 9(2)(e) of the Administrative Decisions (Review) (Jersey) Law 1982).

It acknowledged that the COVID-19 pandemic had been an unprecedented event and that the introduction of the Scheme a bold and brave initiative by Government, which provided invaluable and speedy support to many Islanders and small businesses. It was recognised that the use of self-assessment to determine claims had enabled assistance to be processed quickly, but it had always been made clear that applications would be checked retrospectively and where any overpayment was found to have been made, the Department would seek to recover the amount overpaid. However, the Board found that there had been poor communication by the Department and an expectation by staff that the guidance notes and FAQs gave sufficient explanation of the scheme, when it was evident that the difference between the eligibility criteria and the amount that could be claimed had not been clear to some applicants. Whilst the Department clearly intended that different criteria would be used to determine eligibility, the Board did not consider that adequate steps had been taken to ensure that the distinction was fully understood. Applicants appeared to have been dealt with in a binary manner rather than receiving advice tailored to their relevant personal situation.

The Board was also concerned that as soon as an overpayment had been identified, its retrieval was put into the Department's debt recovery system, with threats of legal action in default of repayment. Given that in the vast majority of cases - and certainly in the case of this Complainant - any overpayment was the result of genuine mistake or misunderstanding, this was insensitive, excessive and deeply distressing for people who were suffering considerable financial hardship even with the benefit of the assistance provided under the Scheme.

The Board concluded that the complainant had received more money than she was entitled and should be required to make a repayment, but the overpayment had been the result of the Department's failure to adequately explain the detail of the scheme. Accordingly, the Board considered that Department should accept some responsibility and suggested that an ex-gratia reduction in the repayment amount sought from the Complainant should be forthcoming.

The Complainant wrote as follows -

"Thank you very much, that is a big relief indeed! I am very appreciative of your handling of the matter, and that this process is in existence."

**Status as at 31.12.2023:
CLOSED – COMPLAINT UPHeld**

(6) 1386.2.1.2(351)**Complaint against the Minister for the Environment regarding the unapproved development of agricultural land over the past 12 months**

A statement of complaint was originally received on 21st June 2022. The complaint concerned the redevelopment and use of a glasshouse site which did not appear to have been subject to planning permission.

A summary was requested from the Department on 22nd June 2022 and the Department advised that the matter had been discussed with the complainant, but not taken forward as a formal complaint. The matter then was considered as part of the Department's internal complaints process, but the complainant remained dissatisfied and on 12th October requested that her complaint be revived. A summary response was received on 2nd November 2022 and the papers were then sent to the Chair and an independent member of the Panel on 3rd November 2022.

The Chair was very sympathetic to the complainant's situation, but did not consider that the matter should go to a Board Hearing. There were no specific conditions attaching to the 2007 permit that would restrict the use or development of the glasshouse. There was also no restriction on internal alterations, so the concreting of the internal area of the glasshouse, obscuring of the glass and the creation of internal partitions did not require prior consent. The Chair therefore could not see any prima facie basis to take this complaint further.

The Greffier wrote to the complainant on 15th November 2022 advising of the Chair's decision. On 12th December 2022, the complainant advised the Greffier of the States that she wished to appeal against the decision of the Chair and details of the case were sent to the two Deputy Chairs to undertake a review and in early 2023 the complainant was advised that after careful review of the case they concurred with the Chair's opinion that a hearing was not appropriate. Neither felt that they could legitimately consider legal compliance in planning matters – that rightfully fell within the remit of the Minister for Planning. In March 2023, the complainant had sought to redefine the complaint to address the specific administrative error of allowing the sale of agricultural land to non-agriculturalists. On 10th May 2023, the complainant was advised that the Deputy Chairmen had determined that a Board hearing was not the most appropriate vehicle for her concerns to be addressed.

**Status as at 31.12.2023:
CLOSED**

(7) 1386.2.1.5(29)**Complaint against the Chief Minister regarding the illegal suspension of a voluntary organisation (Jersey Lifeboat Association)**

A statement of complaint was originally received on 7th August 2022 and concerned the suspension of the Jersey Lifeboat Association as a Search and Rescue asset. The initial complaint had been made directly to the Chief Minister in March 2022, but had not been acknowledged.

A summary was requested from the Department on 9th August 2022 and a response received on 26th August 2022, advising that a meeting with the key stakeholders was to be arranged in order to build relationships and the complaint was effectively paused.

However, at the end of July 2023, the complainant asked to revive his complaint, advising that he had not had any contact from the Chief Minister in the intervening period. The Greffier wrote to the Chief Minister and received no response. At the end of September the complainant again made contact, following the publication of R.144/2023 and the matter was again referred to the Chair of the Complaints Panel. The Chair found this position totally unacceptable and on 20th November 2023, decided that a Hearing of the Complaints Panel should be arranged in 2024.

**Status as at 31.12.2023:
ONGOING – HEARING IN 2024**

(8) 1386.2.1.9(39)

Complaint against the Minister for Health and Social Services regarding a complaint logged with the hospital on 21st February 2022

A statement of complaint was originally received on 24th October 2022.

A summary was requested from the Department on 3rd November 2022. On 17th November 2022, the Department advised that following a protracted length of time, Stage 1 of the complaint had been responded to and closed on 7th November 2022.

The Greffier advised the complainant on 22nd November 2022 that the Complaints Board would pause the progression of the complaint, until the complainant had exhausted the internal process with Health and Social Services.

On 24th January 2023 the Greffier of the States was advised by the complainant that they had received Stage 2 documents and they were going to progress these with Health and had asked for financial compensation. On 26th January 2023, the Head of Patient Experience had acknowledged the complaint, but no further contact had been made.

On 14th June 2023 the complainant had raised a letter of claim. On 21st November 2023 and again on 13th December 2023, the complainant had contacted the Legal Services Manager, but had received no response at all.

**Status as at 31.12.2023:
PAUSED – AWAITING OUTCOME OF INTERNAL COMPLAINTS PROCESS**

(9) 1386.2.1.23(5)

Complaint against the Chief Minister regarding the administration of the complainant's complaint on PFAS poisoning

A statement of complaint was originally received on 7th December 2022.

The complainant participated in a blood test study in Autumn 2022, along with other residents of the St. Ouen's Aquifer area contaminated by the discharge of PFAS by the Airport Fire Service in the 1990's and early 2000's. The complainant was told they would receive the results via their GPs before there was a public statement made, but the media received and reported on them first. Before a meeting scheduled with residents in December, the complainant emailed the Chief Minister twice expressing disquiet at the choice of venue, the timing of the meeting and referencing the release of residents' test results. The complainant received no reply to her emails.

A summary was requested from the Department on 12th December 2022. The Chief Minister responded on 21st February 2023. The papers were sent to the Chair and an independent member of the Panel on 27th February 2023 and it was agreed that the matter justified further review by a Board.

A letter was sent to the Chief Minister on 21st April 2023 advising that although the normal process would be for a full Hearing to be convened at which both parties would be called upon to participate, on the face of the initial written submissions made by both parties, administrative failures appeared to have been made.

Under Article 3(3) of the Administrative Decisions (Review) (Jersey) Law 1982, the Chair, having determined that a review by a Board was justified, was able to use whatever means that he considered reasonable to achieve a resolution. Having convened to consider a way forward, the Board decided to write to the Chief Minister to advise that it considered the complaint to be well founded, particularly in accordance with Article (e) of the aforementioned Law, in that the treatment of the complainant and the other people involved had been contrary to the generally accepted principles of natural justice.

The Board proposed that, if its findings were accepted, and the Chief Minister was prepared to apologise for the administrative failings in this case, then the Board would simply issue its findings in a Report to the Privileges and Procedures Committee which would negate the need for a Hearing. The Board requested that such an apology should be made by Friday 12th May 2023 and should refer to the fact that –

- a) blood test results were disclosed to the media before they were given to the individuals concerned;
- b) there was a mismanagement of the timing and location of the meetings with those concerned, who should have been the main focus and were not;
- c) there was a failure to respond to the concerns raised as a consequence of (a) and (b) in a timely and respectful way.

On 10th May 2023 the Chief Minister responded to the Board with a full and unreserved apology to the complainant and the others affected by this complaint. The Board was content that the case had been mitigated by the apology and its findings were published as R105/2023. In that Report, the Board expressed its disappointment with the way in which the complainant and other residents had been treated. For a Government which purported at its onset to be 'responsive and compassionate' it was neither in this case. Islanders affected by the PFAS matter should have been and should continue to be first

and foremost in the Government's priorities in the management and conclusion of this matter. The Board did not consider that this was the case in this instance.

Status as at 31.12.2023:

CLOSED – COMPLAINT UPHELD AND APOLOGY RECEIVED

9 INFORMAL ENQUIRIES WERE LOGGED DURING 2023

3 x Health and Community Services

- Complaint regarding Social Services
- Complaint regarding concerns regarding hospital appointments at the Ophthalmology Department
- Complaint regarding the vulnerable adult clinic

1 x Customer and Local Services

- Complaint regarding no response from Social Security regarding a change to LTIA

1 x Children's Service

- Complaint about being ignored

1 x Planning

- Complaint regarding service levels

1 x Environment

- Complaint regarding Jersey Carbon Neutral roadmap

1 x Treasury

- Complaint regarding CFPS Appeals Scheme

1 x Home Affairs

- Complaint regarding period of residence in prison