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# STATES OF JERSEY



## STATES OF JERSEY COMPLAINTS BOARD: FINDINGS – COMPLAINT BY MR. S. NEWMAN AGAINST THE TREASURY AND EXCHEQUER DEPARTMENT, REGARDING THE VALUATION AND CALCULATION OF PENSION ENTITLEMENTS

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Presented to the States on 27th February 2023  
by the Privileges and Procedures Committee

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STATES GREFFE

## REPORT

### Foreword

In accordance with Article 9(9) of the [Administrative Decisions \(Review\) \(Jersey\) Law 1982](#), the Privileges and Procedures Committee presents the findings of the Complaints Board constituted under the above Law to consider a complaint against the Treasury and Exchequer Department regarding the valuation and calculation of pension entitlements.

Chairman, Privileges and Procedures Committee

**STATES OF JERSEY COMPLAINTS BOARD**

**20th January 2023**

**Complaint by Mr. S. Newman against the Treasury and Exchequer Department,  
regarding the valuation and calculation of pension entitlements.**

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

**Present**

**Board members –**

S. Catchpole, K.C.,

C. Beirne

G. Crill

**Complainant –**

S. Newman (via video link from South Africa)

M. Galvin

**On behalf of the Minister for Treasury and Resources –**

A. Le Breton - observer

**On behalf of the Committee of Management**

J. Currie, Carey Olsen – observer

**States Greffe –**

L.M. Hart, Greffier of the States

K.L. Slack, Specialist Secretariat Officer, States Greffe

The Hearing was held in public at 9.30 a.m. on 20th January 2023, in Le Capelain Room,  
States Building.

## 1. Opening

- 1.1 The Chairman opened the hearing by introducing the members of the Board and outlining the process which would be followed. Mr. C. Beirne declared he was a member of the Committee of Management for the Jersey Teachers' Superannuation Fund, which had a link with the Common Investment Fund and, by extension, the Public Employees' Pension Fund ('PEPF'). The Chairman thanked Mr. M. Galvin for attending, noting that his account of whether, or not, he had made contact with the Pensions Department with respect to Mr. S. Newman's pension had assumed importance in this case.

## 2. Background

- 2.1 It was recalled that the Board had upheld a complaint made by Mr. Newman, a former Firefighter, who had received an optional transfer payment from the Public Employees Contributory Retirement Scheme ('PECRS') calculated on the basis of factors and assumptions applicable with effect from 1st May 2018. Mr. Newman believed that he was entitled to have his transfer payment calculated on the basis of factors and assumptions prior to 1st May 2018. The Privileges and Procedures Committee ('PPC') had published the Board's findings (as set out within R.139/2020) and the response of the Minister for Treasury and Resources had been published thereafter (R.103/2021 referred).
- 2.2 In R.103/2021, it had been stated that the Treasury and Exchequer Department, which was the administrator of the PEPF, would be unable to increase the transfer value payment to Mr. Newman, as this would 'constitute a Special Payment under the Public Finances Manual' and the Treasurer of the States did not believe that there was a proper legal basis upon which to make such a payment. The Minister had also disputed the jurisdiction of the Board in relation to the decision and actions of the Committee of Management of the PEPF.
- 2.3 The Chairman of the Board, Mr. S. Catchpole, K.C., had written to the then Minister after publication of her response, indicating *inter alia* that the Board found the same to be 'deeply unsatisfactory' and that it had made a clear finding that Mr. Newman had valid grounds for his complaint and had been adversely impacted financially as a consequence of the decisions and actions of the Committee of Management of the PEPF.
- 2.4 Under Article 9(6) of the Administrative Decisions (Review) Law 1982 ('the Law'), the Board had the ability to reconvene, of its own motion or following a request from the complainant, if it believed that the information provided in the formal response from the Minister justified further consideration. The Board had been so dissatisfied with the response of the Minister that it had taken the unusual step of reconvening the hearing on 9th March 2022, in order to hear from her directly. PPC published the findings of the Board on 4th August 2022 (R.110/2022 referred). The newly appointed Minister for Treasury and Resources had not presented a formal response to the findings, but had written to Mr. Catchpole 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 Mr. Newman. The Minister had also averred that the matter was at an end.

- 2.5 In a letter, dated 15th December 2022, Mr. Catchpole had written to the Minister for Treasury and Resources, indicating that both Complaints Boards had found that Mr. Newman had been treated unjustly, unlawfully and unfairly by people for whom the Minister was responsible, *viz* the PEPF Committee of Management. He had reminded the Minister of the provisions of the aforementioned Article 9(6) of the Law, 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.
- 2.6 Despite repeated offers, neither the Minister, nor anyone from the PEPF Committee of Management actively participated in the hearing, albeit a lawyer responsible for advising the Committee and an employee of the Treasury and Exchequer Department attended to observe.

### **3. Evidence of Mr. Galvin**

- 3.1 Mr. Galvin informed the Board that Mr. Newman was a good friend and had been one of his senior managers at the time that he had been the Chief Fire Officer for Ports of Jersey. Mr Newman effectively deputised for Mr. Galvin when required. Mr. Galvin welcomed the opportunity to give his account of what had happened as he had been very upset by Mr. Pollock's statement in which he had inferred he was a liar and felt it important that he have the chance to respond. Mr. Newman had taken a sabbatical to travel to South Africa and the 2 men had kept in occasional contact. In January 2018 Mr. Newman had telephoned Mr. Galvin and had requested that he obtain a valuation for his pension. Mr. Newman had followed this up with an email. Mr. Galvin acknowledged that he had been busy with work and had not acted with sufficient alacrity, for which he had later apologised to Mr. Newman. He recalled having taken a snowboarding holiday in the February half term with his son and then being recontacted by Mr. Newman on his return in early March, which had then prompted him to make contact with the Pensions team. In answer to questions from the Chairman, Mr. Newman confirmed that it was when his wife had come to South Africa before their wedding anniversary (which was on 11th March) that she had asked whether he had heard back from Mr. Galvin and he had made further contact with him.
- 3.2 Mr. Galvin indicated that he had made 2 telephone calls to the Pensions Department in or around late March / early April. Mr. Galvin informed the Board that he would routinely have contacted Mrs Byron, as she was the 'go to' person in the Pensions Department. Normally pensions were regarded as a 'personal matter' and left to the individual member of staff to attend to, but as Mr. Newman was his friend and currently on a sabbatical, Mr. Galvin had undertaken to contact Pensions on his behalf. He expressly confirmed to the Board that he knew which Department to call and would normally ask to speak with Mrs M. Byron, Project Director, Pensions, who was widely regarded as the Pensions expert and was known to Mr. Galvin. 'She knew her stuff' he stated. Mr. Galvin informed the Board that, during that first call on behalf of Mr. Newman, he had been 'passed around' and transferred from one person to another before speaking to a lady whom he did not know in the Pensions Department as Mrs. Byron had been on holiday. The lady had informed Mr. Galvin that no transfer valuation requests were being accepted until after 15th May 2018. Mr. Galvin confirmed that this was the first time he had been made aware of the forthcoming policy change. He further confirmed that he had not taken the lady's name. He had then contacted Mr. Newman and relayed that information to him.

- 3.3 On the second occasion that Mr. Galvin had telephoned the Department, it had been to address his own pension situation and he had had spoken with a gentleman, whom he knew, but declined to name. This individual had confirmed what Mr. Galvin had been told in the first call and had suggested that there would be ‘repercussions’ as (in his view) the Board of Management were acting ‘unfairly’.
- 3.4 In mid-May, Mr. Newman contacted Mr. Galvin again, explaining that he was returning to Jersey and asking him to contact the pensions team again to obtain the valuation of Mr. Newman’s behalf. Mr Galvin contacted the Pensions Department for the second time on behalf of Mr. Newman. He was told that a forecast could not be produced for a third party unless they provided written permission, and it was noted that Mr. Newman had subsequently provided a letter of authority so that Mr. Galvin could take this matter forward. In answer to questions from the Chairman, Mr. Newman confirmed that this request to Mr. Galvin for a valuation had been made before Mr. Newman returned to Jersey and before he spoke to the Financial Adviser at Alexander Forbes at the end of May 2018. Both he and Mr. Newman referred to a breakdown in trust between the members and the Pensions Team, with Mr. Galvin alluding to other (unspecified) members who were dissatisfied. No further details of those specific complaints were sought or given.
- 3.5 Mr. Galvin advised that the process in dealing with the Pensions Team had become more formalised since 2018, but he was of the opinion that mistakes were still being made. He outlined his experiences in dealing with the Pensions Appeal process in relation to his own pension and advised that he had been declined something to which he had rightfully not been entitled, yet was aware that it had subsequently been received by another manager. He considered that mistakes were still being made and that he had little confidence in the current structure.
- 3.6 Mr. Catchpole referenced those in the room who were present as observers for the Minister for Treasury and Resources and the Committee of Management and invited them to pose any questions they might have to Mr. Galvin, but neither was forthcoming. Mr. Catchpole thanked Mr. Galvin for attending and advised that the Board took a very dim view of a public body which would question the veracity of the evidence given by a senior officer without giving them the opportunity to defend themselves. This had the potential to be particularly damaging to reputations in a small community like Jersey.
- 3.7 Mr. Catchpole advised that he and Mr. Crill, together with the Greffier of the States, had attended an informal meeting on 16th January 2023 with the Minister and Mr. G. Chidlow at which the appropriateness of the Minister giving evidence at the present hearing had been discussed. It had been agreed sensible to hear Mr. Galvin’s evidence first. Mr. Catchpole advised that an intermediate view of Mr. Galvin’s evidence would be provided to everyone in writing, following which a timeframe would be set for the Minister to review the previous findings reports and responses and then attend a further hearing, as the Board was anxious to conclude this matter. The meeting was further advised that all interested parties would be written to in due course and invited to attend a future hearing. Mr. Catchpole reminded those present that an invitation to the meeting was an invitation to participate in the proceedings and it would be helpful to have participation from all parties when the hearing was reconvened.

**Outcome from this Third Hearing**

- 4.1 The Board's conclusions following the hearing are set out a letter from Mr. Catchpole KC to the Minister dated 20th January 2023, a copy of which is at Appendix A hereto.
- 4.2 As will be apparent from the letter of 20th January 2023, at that stage it was envisaged that there would be further submissions and an additional hearing as part of the on-going consideration of Mr. Newman's complaint. Following the hearing, however, the Board was notified that, while (we infer) still disputing the jurisdiction of the Complaints Board, the Committee of Management had considered the evidence of Mr. Galvin and, in the light of that evidence, had upheld Mr. Newman's complaint. A copy of the letter to Mr. Newman dated 10th February 2023 confirming that the Committee of Management has accepted that Mr. Newman's pension will be revalued and paid on the basis of the criteria applicable prior to 1st May 2018 is attached hereto at Appendix B.
- 4.3 In the light of the Committee of Management's decision to uphold Mr. Newman's complaint and reverse its previous decision, save as set out below, it is not necessary or appropriate for the Board to convene any further hearings or make any findings or recommendations in relation to the matters set out in Mr. Catchpole KC's letter of 20th January 2023. The only observations that the Board would wish to make are as follows:
- The Board would like to acknowledge and record the positive and proactive involvement of the current Minister in assisting to resolve Mr. Newman's complaint. His commitment to finding a solution to what was undoubtedly a difficult case and his willingness to work with the Board to identify potential issues and how best to resolve them was very much appreciated.
  - Similarly, the Board would like to acknowledge and thank the Chair of the Privileges and Procedures Committee (PPC) for her positive support in the resolution of Mr. Newman's complaint. We have no doubt that it assisted in achieving what we believe is the right result for Mr. Newman.
  - Although the Committee of Management's letter to Mr. Newman does not say so expressly, it follows from the content of that letter that it has accepted that the evidence Mr. Galvin has given is, as the Board has consistently found, an entirely truthful account of the events relevant to Mr. Newman's request for a transfer value for his pension. We draw attention to our specific findings recorded in Mr. Catchpole KC's letter of 20th January 2023 and, in particular, that we found Mr. Galvin to be an honest and straightforward witness who gave balanced evidence which reinforced the evidence adduced by Mr. Newman at the previous hearings and confirmed that the Board's findings of fact as set out in our previous Reports were correct. The Board is grateful to Mr. Galvin for volunteering to attend to give evidence before us.
  - While Mr. Newman's complaint has now been resolved, a number of the Board's more general recommendations in our previous two Reports (R.139/2020 presented by the PPC on 9th December 2020 and R.110/2022 presented on 4th August 2020) have not, as far as the Board is aware, been considered or acted upon. In particular, we repeat the findings and recommendations in paragraph 6.24, 7.2, and 7.13 of R.139/2020 and paragraph 66.2 of R.110/2022.

**G. Crill**, Chairman

**S. Catchpole K.C.**, Deputy Chairman\*

**C. Beirne**, Deputy Chairman

\*It should be noted that Mr. Catchpole K.C. chaired the three hearings in relation to this complaint.



**Appendix A**

Our ref: 1386.2.1.22(5)

Deputy I. Gorst, Minister for Treasury and Resources

20th January 2023

Dear Minister

**Administrative Decisions (Review) (Jersey) Law 1982****Complaint against the Chief Minister/States Employment Board regarding the administration of transfer valuations and subsequent calculation of pension benefits in respect of Mr. Stuart Newman**

As you are aware, the Board reconvened today to hear from Mr. M. Galvin, who was Mr. Newman's Line Manager in 2018. This is an interim statement following that hearing, summarising the Board's conclusions on Mr. Galvin's evidence, identifying some potential recommendations that we are minded to make and setting a timetable for further consideration of the issues arising out Mr. Newman's complaint.

The Complaints Board found Mr. Galvin to be an honest and straightforward witness who gave balanced evidence which reinforced the evidence adduced by Mr. Newman at the previous hearings and confirmed that the Board's findings of fact as set out in our previous Reports were correct.

Mr. Galvin explained that he had initially been contacted by Mr. Newman in January 2018. At that time, the latter was on sabbatical in South Africa, looking after his mother. Mr. Newman explained to Mr. Galvin that he was intending to retire at the end of his sabbatical and asked Mr. Galvin to seek a valuation on his behalf. Mr. Galvin explained that, because pressures of work, he had not acted immediately. He confirmed that he had been contacted again by Mr. Newman in late February 2018 (after Mr Galvin had been on a snowboarding trip with his son during the school half term) and again, probably in early March 2018, although he was unsure of the exact date. This accorded with Mr. Newman's previous evidence including that he had been prompted to chase Mr. Galvin by his wife who had come to South Africa for their wedding anniversary in early March. Mr. Galvin said that he explained to Mr. Newman that he had not contacted the Pensions' Department and apologised to him for not doing so. Subject to the evidence of the additional contact in January 2018, that accorded with Mr. Newman's previous evidence: see paragraphs 3.1 to 3.2 and 7.4 to 7.9 of our first report.

Mr. Galvin advised the Board that he had made two calls to the Department in relation to Mr. Newman's case. Normally he would have spoken to Mrs M. Byron, Project Director, Pensions, who was widely regarded as the Pensions expert and was known to Mr. Galvin. Mrs Byron had not, however, been available on either call and he had spoken to different officers on each call. He volunteered that it had been difficult to get through to the Pensions Department and that he was "passed around" internally (i.e. put through to one person before being put on to another). He explained that it was a lady in the Pensions Department in or around late March / early April 2018 who had provided him with the information that they were not accepting transfer valuation requests. His

recollection was that he was given a specific date at which such requests would once again be accepted, namely 15th May 2018. That accorded with Mr. Newman's previous evidence that Mr. Galvin had told him that he had been told by a lady in the Pensions Department that such requests would not be accepted until mid-May 2018: see paragraph 3.2 of our first report. Mr. Galvin confirmed that he could only have obtained that information from the Pensions Department and had no other means of acquiring it. We accept that evidence: indeed, given that (as set out in our first report at paragraph 7.6) that policy had only been introduced on 28th March 2018 and was not widely publicised, there would not appear to be any other source from which accurate details of the new policy could have been obtained. Mr. Galvin then accurately relayed details of the (new) policy to Mr. Newman in a subsequent telephone call. That accorded with the evidence previously before the Complaints Board and reinforced its previous findings as set out in paragraphs 7.4 to 7.9 of our first report and paragraphs 12 to 15, 24 to 26, 38.6, and 39.3 to 39.4 of our Second Report.

Further, Mr. Galvin confirmed other facts as set out in paragraph 3.2 of our first report. He explained that there had been a further exchange with Mr. Newman in mid-May 2018. As set out in paragraphs 7.5 to 7.8 of our first report, Mr. Newman was intending to return to Jersey in mid-May 2018. In the light of the information received from Mr. Galvin that the Pensions Department would not accept requests for transfer valuations until after 15th May 2018, he decided not to make such a request until after that date and to deal with it when he returned. As set out in paragraphs 3.2 and 7.8 of our first report, when he knew the date of his planned return, Mr. Newman contacted Mr. Galvin again. Mr. Galvin and Mr. Newman explained that Mr. Newman had requested Mr. Galvin to seek the valuation which Mr. Galvin did, only to be told that they needed written confirmation from Mr. Newman that Mr. Galvin was authorised to act on his behalf. That prompted Mr. Newman to contact the Pensions Department directly and then to send over a formal confirmation authorising Mr. Galvin to act on his behalf on 21st May 2018, shortly before Mr. Galvin returned to Jersey on 26th May 2018.

That evidence supported the conclusion that Mr. Newman was aware of the mid-May 2018 date as the time at which requests for valuations would once again be accepted and that the only possible source for that information was Mr. Galvin in their earlier discussions. Further, Mr. Newman cannot have been made aware of the policy of the Committee of Management at that stage by either of the two pensions advisers that he consulted: he consulted the first in January 2018, some months before the policy in question had been formulated and announced; he consulted the second at the end of May 2018 on his return to Jersey *after* had already authorised Mr. Galvin to obtain the valuation from the Pensions Team on 21st May 2018.

As a result of Mr. Galvin's evidence, the Complaints Board is satisfied that its previous findings of fact are correct as set out in paragraph 3.2 and 7.9 of our first Report. Indeed, we would go as far as to say that the evidence is overwhelming: it cannot seriously be doubted that Mr. Galvin spoke to the Pensions Department to request a transfer valuation on behalf of Mr. Newman at or around the beginning of April 2018, that he was (correctly at the time) advised by an officer in the Pensions Department that they were not accepting new requests for transfer valuations until mid-May, that he reported that information to Mr. Newman at the beginning of April 2018, and that Mr. Newman acted on the basis of the advice that had been given to him.

It also follows that the decisions of the Committee of Management and the responses to Mr. Newman's complaint and our previous reports both by the Committee of Management and now at least two Ministers are flawed for a large number of reasons which include the fact that they are premised on a fundamental mistake of fact. As we have now repeatedly said, once that simple error is correct, there is only one conclusion that can be reached: in accordance with the revised policy of the Committee of Management, Mr. Newman is and was always entitled to have his pension valuation assessed by reference to the criteria applicable prior to 1st May 2018: see, for example, paragraphs 38.5 and 38.6 of our second Report.

It follows that, on the facts of this exceptional case, the Committee of Management should reassess Mr. Newman's pension entitlement on the basis of the criteria that were applicable prior to 1st May 2018 and that the Minister should take steps to ensure that this is done. Any other conclusion would be perverse (using that term in the public law sense). We are also minded to recommend that Mr. Newman is compensated if and to the extent that he suffers any additional loss even after that reassessment as a result of the unlawful, unfair and discriminatory delay of (now) some four and a half years in having his pension entitlement properly assessed.

It was disappointing and inappropriate that, despite repeated offers, no one from the Committee of Management actively participated in the Hearing. For future reference any invitation extended is intended to be an invitation to participate. The Complaints Board process provides an open forum for all sides to discuss a complaints case, seek clarification or clarity and the process is far more likely to reach a satisfactory outcome for all concerned when all parties engage.

The Board would also like to reiterate that it maintains its view that it is wholly inappropriate for the Committee of Management to continue to repudiate the veracity of Mr. Galvin's evidence. As set out in paragraph 24 of our second report that it is not proper for public officials to cast doubt on Mr. Galvin's integrity in circumstances where they had taken literally no steps to engage with him or to test his evidence. That was only underlined by the fact that it was clear that Mr. Galvin was personally distressed and justifiably upset that doubts should be cast on his truthfulness without the officials and entity in question affording him the opportunity for him to answer the allegations directly, something that can have a particularly damaging effect in a small community such as Jersey. We anticipate that we will be repeating our observation that the conduct of the Committee of Management, and any persons who advised them to adopt the aforesaid approach or who condone it, should be a matter of express censure: it should not have happened and the suggestion should be withdrawn, with an appropriate public apology to Mr. Galvin.

It is hoped that the statement by Ms. J Ward in her letter to the Deputy Chair of the Complaints Board dated 18th January 2023 that

*"We wish to clarify that the Committee of Management's non-attendance at the hearing does not mean that Mr. Galvin's account is accepted to be correct, regardless of what it might turn out to be."*

is not trailing the intention of Committee of Management to continue to refuse to take account of Mr Galvin's evidence and/or our findings in relation to it. As I hope will be apparent from our previous reports, if such a course of action is taken, the Board would expect not only to conclude that the actions of the Committee of Management are (yet again) deeply flawed but that the actions of the Committee of Management and any entity supporting them, whether the Minister or public servants, would be acting unlawfully and should be the subject of serious criticism.

Given the foregoing is our preliminary view, if any party to this letter believes that such criticism should not be made, it should make written submissions to us on the point by the deadline given below. For the avoidance of doubt, that invitation is specifically extended to the Committee of Management.

The Board would like to reiterate that, at its heart, this should be a simple case. On the basis of Mr. Newman and Mr. Galvin's evidence, and as found now (on a number of occasions) by differently constituted Complaints Boards, in accordance with the policy of the Committee of Management, Mr. Newman is and always was entitled to have the transfer value of his pension valued on the basis of the criteria applicable prior to 1st May 2018. It really is as simple as that. The Board sincerely hopes that the Committee of Management (finally) recognises that and acts accordingly.

On a related issue, I would also note that Mr. Galvin raised a serious point that should be considered by the States, namely that there has been a breakdown in trust between the members of the public sector pensions scheme and those charged with administering it in Jersey, a feeling that Mr. Newman shares. For obvious reasons, it is outside our remit to enquire into that broader question and it would be inappropriate for us to make any comments or findings in relation to it.

What we can say, however, is that, based on the evidence that we have heard in relation to Mr. Newman's complaint over a long period of time, we are very concerned about the current administration and management of the public sector pensions scheme in Jersey. On any view, our previous reports make grim reading which should sound clear alarm bells to those responsible. The number and extent of the flaws in the process adopted by or on behalf of the Committee of Management and in the decisions that it has taken in this case is truly remarkable. As we have explained in great detail, the process and decisions of the Committee of Management and the relevant officials has been arbitrary, capricious, unlawful, unfair, obstructive, doggedly determined to not accept even the possibility that they had made a mistake of fact, and determined to avoid any public or independent oversight of their processes. That is compounded by the Committee of Management maintaining that it is not subject to any independent scrutiny, whether by the Complaints Board or the Royal Court (in the exercise of its prerogative jurisdiction) or even in a private law claim by Mr. Newman. It is further compounded by the fact that as we understand it, successive Ministers have adopted the position that they have no control over or powers in relation to the actions of the Committee of Management and the Pensions Department with the result that there cannot be any proper political accountability and they are not prepared (it seems) to do anything to change the position.

As we have said previously, the Board believes that the foregoing is unacceptable in a modern democracy which professes to be subject to the rule of law. It should certainly be a matter of very considerable concern to any member of the public service pension fund.

We put all recipients of this letter on notice that it is our provisional intention to recommend that, as a minimum, there should be an enquiry into the organisation and administration of the public sector pensions fund in Jersey. That should not be conducted by those who are involved, whether on the Committee of Management or as part of the administrative and support team. Although it is unusual to have to spell this out in such stark terms, on the basis of our findings in the current complaint, we have serious doubts as to whether they are or could be the appropriate persons to conduct such a review. On the basis of the evidence we have seen, the systems and processes that are currently in place, introduced and/or implemented by the Committee of Management / Pensions Department are so inadequate, and the decisions made are so fundamentally flawed in so many respects, that it gives rise to the legitimate concern that those involved are not capable, for whatever reason, of understanding how a public sector function should be properly administered or as to how rational, lawful and fair decisions should be made.

The foregoing is obviously a serious criticism of the current organisation and administration of the public sector pensions fund in Jersey and, potentially, of the individuals involved in it. It is one, however, that, at present, we would feel compelled to make. As we have reported at length before, the extent and seriousness of the failures in the case of Mr. Newman are remarkable only because it is actually quite difficult to believe that any competent public body or officials could have made so many of them in a single case. When that is coupled with an attitude that seeks to ensure that multiple flaws in the processes are never subjected to public or independent scrutiny, that should be very worrying indeed. Again, if any party – including, for the avoidance of doubt, the Committee of Management – wishes to make written submissions specifically on any of the foregoing points for our consideration before we make any formal recommendations, they should do so by the dates set out below.

As was indicated at the hearing, rather than produce a formal third report from the Hearing today, the Board propose to convene again as soon as practicable following receipt of the outstanding response from the Minister to the questions included in Mr. Catchpole's letter to you of 15th December 2022. In addition, the Board anticipates that the Minister will be personally reviewing the Board's previous reports and the contents of this letter. We would, therefore, be grateful for an explanation of his conclusions and actual/proposed course of action. Further, we expressly invite the Committee of Management and the Minister to make any submissions that they wish in relation to any of the matters raised above so that we can consider them same.

The Board therefore requests that the Minister's response to Mr. Catchpole's letter of 15th December 2022, the updates on the steps taken or proposed to be take (if any) by the Minister and the Committee of Management in the light of this letter, and any further written submissions by any party are submitted by **Friday 10th February 2023**, following which a date will be set for a further Hearing to be convened as a matter of urgency, as it is anxious to conclude this matter. I confirm that it is anticipated that the

further hearing the Board will review the Ministerial responses to its two previous findings and the contents of your letter of 9th December 2022.

Yours sincerely

**Stuart Catchpole KC , Deputy Chair of the States of Jersey Complaints Panel**

cc Treasurer of the States, Chair of the PECRS Committee of Management, Chair of PPC, Mr. S. Newman

**Appendix B**

**Public Employees' Pension Fund**

PO Box 535, 19-21 Broad Street

St Helier

Jersey

JE2 3RR

Tel: +44 (0) 1534 440227

Mr Stuart Newman

**Issued by email only**

10 February 2023

Dear Mr Newman

**Public Employees' Pension Fund (the "PEPF")**

I write in my capacity as Chairman of the Committee of Management of the PEPF (the "**Committee**").

As you may be aware, a special meeting of the Committee was held on 6 February 2023 to discuss your complaint in light of new and additional information which has emerged in recent weeks.

At that meeting, the Committee considered (amongst other things) the following:

- the timing of the call which Mr Galvin made to the Public Employees Pensions Team (the "**PEPT**") (which is different to the date notified to the Committee by you and your lawyers when the complaint was raised);
- the fact that Mr Galvin elected to provide the revised information in the public manner that he did, which will form a matter of public record.

The Committee considers, given the new, additional and revised information available to it, that the relevant considerations which led to the original decision in respect of the complaint have changed somewhat.

In light of this, the Committee has decided that your complaint is upheld.

We propose that, subject to the completion of any procedural requirements (in particular the completion of transfer forms and any necessary requirements of the Comptroller of Revenue) a further transfer payment shall be made in respect of you to the same pension arrangement as received your original transfer payment.

The value of the transfer payment is being determined by the PEPF's Actuary and increased for late payment. The Committee is not directly involved in the administration of the transfer payment, however the PEPT will contact you in due course in this regard.

Whilst we stand by our original decision based on the information available to the Committee at the relevant time, we have been able to reach a revised decision on the basis of the further information we have received.

We regret that this has undoubtedly been a distressing and difficult period for you.

Please be assured that the Committee takes its responsibility in relation to its decisions extremely seriously. The Committee strives to achieve consistent decisions on the basis of the evidence available to it and does not take decisions of the type which arose in your complaint lightly.

We confirm that we will inform the States of Jersey Complaints Panel of this revised decision.

We wish you all the best.

Yours sincerely

Gordon Pollock

Chairman of the Public Employees' Pension Fund