
STATES OF JERSEY



STATES OF JERSEY COMPLAINTS BOARD: FINDINGS – COMPLAINT BY MS. CABOT AGAINST THE CHIEF MINISTER REGARDING THE RELEASE OF HER BLOOD TEST RESULTS TO THE PUBLIC AND THE ADMINISTRATION OF HER SUBSEQUENT COMPLAINT

**Presented to the States on 13th June 2023
by the Privileges and Procedures Committee**

STATES GREFFE

REPORT

Foreword

In accordance with Article 9(9) of the Administrative Decisions (Review) (Jersey) Law 1982, the Privileges and Procedures Committee presents the findings of the Complaints Board constituted under the above Law to consider a complaint by Ms. Cabot against the Chief Minister regarding the release of her blood test results to the public and the administration of her subsequent complaint.

Chair, Privileges and Procedures Committee

LMH/

STATES OF JERSEY COMPLAINTS BOARD

21st April 2023

Complaint by Ms. L. Cabot against the Chief Minister regarding the release of her blood test results to the public and the administration of her subsequent complaint

Hearing convened and constituted under the Administrative

Decisions (Review) (Jersey) Law 1982

Present

Board members –

G. C. Crill, Chair

T. Chatterley

A. Hunter

States Greffe –

L-M. Hart, Greffier of the States

The Hearing was held in private at 10.00 a.m. on 21st April 2023, in Le Capelain Room, States Building.

1. Opening

- 1.1 The Chair opened the Hearing by outlining the basis of the complaint, recognising the Board would only uphold a complaint if it felt that the decision, which had given rise to the complaint, was contrary to law, was unjust, oppressive or improperly discriminatory, was based wholly or partly on a mistake of law or fact, could not have been made by a reasonable body of persons after proper consideration of all the facts, or was contrary to the generally accepted principles of natural justice (Article 9 of the Administrative Decisions (Review) (Jersey) Law 1982).

1.2 Mr. Crill indicated that the hearing had been convened to determine a way forward in relation to the complaint, which had been submitted by Ms. Cabot on 7th December 2022. Although the normal process was for a full Hearing to be convened at which both parties would be called upon to participate, the Board determined that, on the face of the initial written submissions made by both parties, administrative failures appeared to have been made and acknowledged by the Chief Minister in her submissions in response to the present Complaint. The Board did not consider that a public hearing would generate any new information and decided to try and find an alternative way to resolve this complaint.

2. Complainant's case

- 2.1 Ms. Cabot, along with other residents who used water from the St. Ouen's Aquifer which was contaminated by the discharge of fire-retardant foam containing PFAS by the Airport Fire Service in the 1990's and early 2000's, participated in a blood test study in Autumn 2022. The participants were advised by Government officials that the results would be made available to residents' respective GP's from 17th October 2022, to allow discussions to take prior to there being any media statements made. Neither Ms. Cabot nor any of the other residents received their results on that date and she had contacted the Health Department to question when they would be forthcoming. The residents awoke on 18th October 2022 to full media coverage of the results, including the news that 72 of them had higher than expected PFAS levels in their blood.
- 2.2. On 9th November 2022, Ms. Cabot spoke on the phone with the Deputy Director of Public Health, Strategic Policy, Planning and Performance, who advised that the Government had timed the media release to pre-empt anybody posting on social media. Whilst it was acknowledged that the press release did not include specific test results but confirmed that "the results of the blood testing show that some people who have received testing have higher levels of PFAS in their blood than might be expected" the decision to publish the release to the media was contrary to the previous messaging that the results would be with the residents first. Although individual test results were not published, the public notification of potentially adverse test results before individuals

(including the Complainant) had received their own personal results was both distressing and extremely stressful.

- 2.3 A meeting was convened with residents and was held at 9 am at the Pomme d'Or Hotel on 8th December 2022. In advance of that meeting, on 20th November 2022 and again on 5th December 2022, Ms. Cabot emailed the Chief Minister expressing disquiet at the choice of venue, the timing of the meeting and referencing the release of residents' test results. Ms. Cabot argued that as the poisoning had impacted on residents of St. Peter, it was inappropriate to expect all of them to attend a meeting in Town, particularly when many were elderly and would have to leave home very early to contend with the rush-hour traffic and secure parking near the venue. She suggested that a more appropriate alternative would have been St Peter's Parish Hall and that the meeting should have been held outside of the working day to allow as many residents as possible to attend. Ms. Cabot received no reply to her emails.
- 2.4 On 7th December 2022 she submitted a formal complaint to the Complaints Panel and this was duly processed and a letter sent to the Chief Minister on 12th December 2022 seeking a summary of events by 6th January 2023. This was not forthcoming and a reminder was sent on 16th January. This was then followed up by an email to the Chief Minister from the Greffier on 14th February extending the submission deadline to 22nd February 2023, failing which the matter would be automatically passed to the Chair of the Complaints Panel. An email was received from the Chief Minister's Private Secretary on 21st February 2023, responding to the Panel in respect of Ms. Cabot's complaint, a version of which was also sent to Ms. Cabot on 23rd February. In that email, the failure to respond in a timely way was acknowledged and attributed to a misunderstanding between officials. An apology was also given for the unsuitability of the arrangements for the December meeting with residents and assurances made that future gatherings would be held in St. Peter and at a more appropriate time. However, no mention was made of the release of the blood tests to the media. Ms. Cabot remained dissatisfied and had asked that the Complaints Panel continue with her complaint.

3. Findings

3.1 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 Ms. Cabot and the other people involved had been contrary to the generally accepted principles of natural justice.

3.2 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.

In the event that the Chief Minister did not concur with the Board's proposals then it was agreed that the Complaint would be heard and considered at a public hearing in the normal way.

3.3 On 10th May 2023 the Chief Minister responded to the Board with a full and unreserved apology to Ms. Cabot and the others affected by this complaint (attached as Appendix A). We understand that a personal letter was to be sent by the Chief Minister to Ms. Cabot in the same terms.

3.4 The Board was content that the case had been mitigated by the apology to Ms. Cabot and the others concerned. However, it was disappointed by 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 does not consider that this was the case in this instance.

- 3.5 Yet again, poor communication exacerbated a situation where there had 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, particularly as the Complainant and those in a similar position to her, are victims in this matter. The Board appreciates that Ministers are exceptionally busy people, but they do have a number of staff dedicated to supporting them in their endeavours, including a sizeable communications unit. 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.

G. Crill, Chairman

T. Chatterley

A. Hunter

19-21 Broad Street | St Helier
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Mrs Lisa Hart
Greffier of the States
Morier House
St Helier, JE1 1DD

10 May 2023

Dear Greffier

**Re: Administrative Decisions (Review) (Jersey) Law 1982
Complaint against the Chief Minister from Ms. Lisa Cabot regarding the administration
of her complaint on PFAS poisoning and the release of her blood test results to the
media**

Thank you for your letter of 21st April 2023. I am grateful for the information you have provided, and for the determination of the Board, with which I concur.

For completeness, I note that notice of this complaint was first given by you in writing to me on 12th December 2022, and that you followed up in writing on 16th January 2023 and in an email on 14th February 2023. I apologise for the delay in replying to this correspondence.

In response to your email of 14th February, my Private Secretary emailed you on 21st February 2023 with a response to the Panel in respect of Ms Cabot's complaint, which I enclose. My Private Secretary then responded directly to Ms Cabot on 23rd February 2023, which I also enclose.

I am happy to re-state, for the reasons previously set out to the Panel on 21st February and to Ms Cabot on 23rd February, that there was a failure to respond in a timely way to Ms Cabot's emails of 20th November 2022 and 5th December 2022. I would like to re-state my apology to Ms Cabot for this.

I do wish to emphasise that this was an inadvertent error, and a result of a misunderstanding between officials, as has been previously explained. Nevertheless, my office has recognised that a written reply should have in any event been sent to Ms Cabot's emails, even if we thought the matter had been resolved over the telephone with an officer. The result was that Ms Cabot was shown discourtesy, which we regret.

Ms Cabot responded to my Private Secretary on 23rd February 2023, an email to which the Greffier was copied and I enclose. In this email, Ms Cabot made clear that her complaint primarily related to "the sharing of our blood test results to the media prior to us being able to receive them." I am aware that a press release (enclosed) was issued, under Ministerial instruction, on 18th October 2022. This did mean, regrettably, that the press release entered the public domain before all impacted Islanders were given the opportunity to receive their results. I note that the press release did not include specific test results but did confirm that

“the results of the blood testing show that some people who have received testing have higher levels of PFAS in their blood than might be expected.”

As Ministers, we were conscious of a delicate balance between publishing information that we were aware of, and ensuring individual Islanders had time to receive their individual results. I was conscious that Government had been criticised for a lack of openness on this subject, and that is something I wanted to avoid in future. I was therefore keen to put this information into the public domain without undue delay. On reflection, it is clear that we didn't get the balance or the timing quite right. I can fully appreciate that it will have been very distressing for impacted Islanders to read the information that was included in the press release (and specifically that which I have quoted above) before they had received their own individual results. I apologise to Ms Cabot, and anyone else who was affected.

Following the public meeting held on 8th December, and subsequent communications and developments, I hope we are now moving forward together and more positively in respect of this subject. We have reflected and learned from the issues raised by Ms Cabot, we recognise the errors made, and will endeavour not to repeat them in future.

I hope this satisfactorily addresses your letter of 21st April.

Yours sincerely

Deputy Kristina Moore
Chief Minister