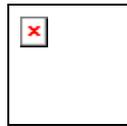


**ADMINISTRATIVE DECISIONS (REVIEW) (JERSEY) LAW 1982, AS AMENDED: REPORT OF THE
ADMINISTRATIVE APPEALS PANEL REGARDING COMPLAINTS RECEIVED BETWEEN 1ST JANUARY
AND 31ST DECEMBER 1999**

**Presented to the States on 8th February 2000
by the Special Committee to consider the relationship between Committees and the States**



STATES OF JERSEY

STATES GREFFE

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**ADMINISTRATIVE DECISIONS (REVIEW) (JERSEY) LAW 1982, AS AMENDED: REPORT OF THE
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Foreword by Chairman of the Appeals Panel

Dear Mr. President,

I am pleased to send herewith a copy of the Report of the Panels convened under the Law relating to Administrative Appeals.

You will see from the Report that nine complaints were received by the Greffier of the States. Of that number two went to a full Hearing, whilst three Appeal Boards have been deferred until 2000 (including one complaint carried forward from the end of 1998). Of the two Hearings, the appropriate Board upheld the Committee's decision on one occasion and requested a reconsideration of the other.

From time to time there are those who say that Administrative Appeal Boards, or an equivalent ombudsman, should be given more teeth.

I have to record that in the United Kingdom a recommendation is generally found acceptable as the appropriate authority almost always accepts the ruling of the ombudsman. Unfortunately such is not always the case in Jersey. I would point to the matter referred to under (b) below where the Planning and Environment Committee agrees with the recommendation and accepts the justice of the Board's findings; but over a year has passed since the Board gave its decision and nothing has happened. This is a disgraceful state of affairs.

Article 9(4) of the Law provides that where a Board, having requested reconsideration by the Committee, Department or person concerned, is of the opinion that the findings of the Board have been insufficiently considered or implemented, it may present a report of the matter to the Special Committee to consider the relationship between Committees and the States, which shall refer the matter to the States. In 1999, for the first time since the Law was enacted, two Boards reported to the States as they did not consider that their findings has been sufficiently considered or implemented.

The administrative appeals arrangement works well and in some ways is an improvement on the ombudsman situation in the United Kingdom because it is held in public and consists of three lay independent people. However, it does need the support and encouragement of the States and the various Committees whose decisions are subject to review. It is also necessary that, when an application is made and a Committee is asked to respond with its answer, that such answer should be forthcoming with a minimum of delay, but I have to say that such has not always been the situation so far.

I have no doubt that the existence of the Administrative Appeals Panel is very necessary and persons should be encouraged to use this cheap and hopefully speedy means of a public exposure of a possible grievance.

The States of Jersey is an associate member of the British and Irish Ombudsman Association and the Greffier of the States and I attended a two day Conference of the Association at Warwick University in November 1999, which was both extremely interesting and helpful.

I would like to thank the members of the Panel for all the interest they have shown throughout their three year term of office, which expired on 31st December 1999. I would particularly like to express my appreciation to Geoffrey Allo, who retired as a member in May 1999 when he was appointed a Jurat of the Royal Court. I also wish to thank the Greffier of the States, Deputy Greffier of the States and Committee Clerks for their continued assistance both to myself and the Panels.

R.R. Jeune

The following is a summary of the complaints received during 1997 and 1998, which were not resolved during those years, and those received in 1999 -

Planning and Environment Committee

Complaints referred to in 1998 report (R.C.31/99) -

- (a) Statement of complaint received on 4th August 1997 about development by the Housing Committee on land in Grouville.
This complaint relates to matters that have also been considered by the States, and means are still being sought, in consultation with the complainants, to resolve the matter.
- (b) Hearing held on 25th November 1998 about the rejection of an application to construct three bungalows on Field 248A, St. Brelade. The Board upheld the complaint and requested the Committee to reconsider and to seek a States decision on the rezoning of land.
The Committee agreed. Awaiting presentation of report and proposition to the States.
- (c) Hearing held on 16th October 1998 about the refusal of planning permission for the construction of a dwelling on site occupied by disused greenhouses on land adjoining La Biarderie, Trinity. The complaint was upheld and the Committee requested to reconsider within three months.
The Committee decided that it was not prepared to vary its decision.
The Panel presented to the States a report in the matter on 28th September 1999, in accordance with Article 9(4) of the Law (R.C.35/99).
- (d) Hearing held on 30th November 1998, about the rejection of an application to construct two dwellings on Field 588, St. Ouen. The complaint was upheld and the Committee was requested to reconsider within three months.
The Committee decided that it could not accept the recommendation of the Board, and the Panel presented to the States on 7th September 1999 a report in accordance with Article 9(4) of the Law (R.C.33/99).
A proposition was presented to the States (P.116/99) and the States, on 28th September 1999, adopted the proposition and advised the Committee that they supported a proposal by the Parish of St. Ouen to establish a village green on part of Field 588 and also expressed their support for the grant of permission by that Committee for an application by Mrs. M. Langlois (the owner of Field 588) to construct two dwellings in the north-eastern corner of that same field.
Subsequently, the Committee invited applications from both the Parish and Mrs. Langlois.
- (e) Statement of complaint received on 7th December 1998, about rejection of retrospective application.
Appeal Board to be convened but because of the general elections and additional States' Meetings in the autumn of 1999, the Hearing will be held in 2000.

Complaints received during 1999 -

Finance and Economics Committee

- (f) Statement of complaint received on 4th November 1999, requesting a review of a licence granted under the Regulation of Undertakings and Development (Jersey) Law 1973, as amended, to a United Kingdom firm.
Under consideration at the end of 1999.
- (g) Statement of complaint received on 8th February 1999, about the rejection of an application under the Regulation of Undertakings and Development (Jersey) Law 1973, as amended, for the employment of a full-time hairdresser.
Application withdrawn as the Committee granted consent.

Housing Committee

- (h) Statement of complaint received on 20th January 1999 about a decision to reject an application for consent under Regulation 1(1)(g) of the Housing (General Provisions) (Jersey) Regulations 1970.
Hearing held on 21st April and 4th May 1999. Board upheld the complaint but the Housing Committee maintained its decision. The complainant referred the matter to the Royal Court.
Copy of findings **attached at Appendix A.**
- (i) Statement of complaint about refusal of permission for Manageress to live in guest house (a-h) accommodation was referred to the Housing Department on 18th March 1999.

Under consideration at the end of 1999.

- (j) Statement of complaint received on 27th April 1999 about the refusal of consent under Regulation 1(1)(g) of the Housing (General Provisions) (Jersey) Regulations 1973.
Hearing held on 17th June 1999 and upheld the Committee's decision.
Copy of findings **attached at Appendix B**

Planning and Environment Committee

- (k) Statement of complaint received on 27th January 1999 about the refusal of an application for change of use of shed from agricultural use to dry storage.
Appeal Board to be convened but because of the general elections and additional States' Meetings in the autumn of 1999, the hearing will be held in 2000.
- (l) Statement of complaint received on 9th March 1999 about the rejection of an application for the change of use of part of a field in St. Saviour to provide a right of way.
Application withdrawn as Committee granted consent.
- (m) Statement of complaint received on 27th August 1999 about the rejection of an application to demolish a double garage and to construct a dwelling in the garden of a property at St. Brelade.
Board to be convened, but because of general elections and additional States' Meetings in the autumn of 1999, the hearing will be held in 2000.

Public Services Committee

- (n) Statement of complaint received on 12th August 1999, about proceedings regarding the grant of a road service licence.
Matter currently under investigation at the end of 1999.

BOARD OF ADMINISTRATIVE APPEAL**21st April 1999****Complaint by Mrs. C.A. Glazebrook against a decision
of the Housing Committee****Hearing constituted under the Administrative
Decisions (Review) (Jersey) Law 1982**

1. Present -

Board Members

R.R. Jeune C.B.E., Chairman
G.C. Allo
Miss C. Vibert

Complainant

Senator R.J. Shenton, O.B.E., representing Mrs. C.A. Glazebrook
Deputy F.J. Hill, B.E.M. (the applicant's father)

Committee

Deputy S.M. Baudains, President, Housing Committee
E.H. Le Ruez, Chief Executive Officer, Housing Department
P. Connew, Law and Loans Manager, Housing Department

States Greffe

Peter Monamy, Committee Clerk
M. de la Haye, Assistant Greffier of the States

The Hearing was held in public in the New Committee Room (first floor), States Building, Royal Square, St. Helier. The Board requested a meeting with the complainant, Mrs. Glazebrook, and subsequently met her in the presence of the President of the Housing Committee and the Chief Executive Officer, Housing Department.

2. Summary of the dispute

The Hearing had been convened to consider a complaint by Mrs. Catherine Adele Glazebrook of Catel Cottage, L₂ Rue du Catel, Trinity, JE3 5HA, against the decision of the Housing Committee not to grant her consent under Regulation 1(1)(g) of the Housing (General Provisions) (Jersey) Regulations 1970, as amended.

3. Summary of Complainant's case

- 3.1 The Board heard from Senator Shenton that Mrs. Glazebrook, who does not have full residential qualifications, had been living in the United Kingdom but was now divorced from her husband. She maintained her son, Matthew (aged nine), the child of her former marriage and they had both moved to the Island in July 1997 in order to receive support from Mrs. Glazebrook's family. Mrs. Glazebrook had initially lodged with her parents (Mr. and Mrs. F.J. Hill) at their house, Catel Cottage, Trinity, and then had occupied another house owned by Mr. and Mrs. Hill, Church End, St. Martin, as a lodger of their tenant (a person with residential qualifications).
- 3.2 In October 1998, the tenant had left Church End and Mrs. Glazebrook and her son were required to vacate the premises, having been advised by officers of the Housing Department that Mr. and Mrs. Hill, Mrs. Glazebrook and any tenant would be in contravention of the Housing (Jersey) Law 1949, as amended, in the event that Mrs. Glazebrook and her son were again to lodge in that property as a condition of a tenancy arrangement. At that point, Mrs. Glazebrook and her son moved back with Mr. and Mrs. Hill in their principal residence.
- 3.3 During his time in Jersey, Matthew has attended St. Martin's Primary School and, because of the concerns of his mother and his Headteacher regarding his emotional stability and behaviour, he was referred to Dr. C. Cloverley, Consultant Child and Adolescent Psychiatrist. Both School and Dr. Cloverley considered it essential that for

Matthew's continued emotional well-being and stability he should continue to receive support from his immediate family and remain at St. Martin's School where he was making progress. Consequently, Mrs. Glazebrook and her son required two-bedroom accommodation in the east of the Island. (The Board received a further letter, dated 16th April 1999, from Dr. Cloverley which reiterated that Matthew's central needs were now for security and consistency, suggesting that Jersey was an ideal environment for this in that it provided the support of the wider family and enabled him to continue with the progress he was making at school and with friends, and that for Matthew to have to leave the Island would have a direct detrimental emotional effect upon him).

3.4 Unfortunately, Mrs. Hill was diagnosed as suffering from Multiple Sclerosis (MS) and was advised by her Consultant Neurologist that it was essential for her to avoid stress and tension. Consequently, it became inevitable that, with mother and child living with the mother's parents, stress and tension within the home could not be avoided. Despite many enquiries, it had not proved possible for Mrs. Glazebrook to find suitable lodging accommodation.

3.5 Mrs. Glazebrook had, therefore, made application to the Housing Committee for consent to occupy property in her own right under Regulation 1(1)(g) of the Housing (General Provisions) (Jersey) Regulations 1970, as amended.

3.6 Senator Shenton contended that insufficient weight had been given by the Housing Committee to the hardship which its decision would cause. Here was a child of a well-established Jersey family who had returned to her parents in order to receive support at a most difficult time for her, whilst at the same time caring for her son who was experiencing emotional difficulties following the break-up of his parents' marriage which had resulted in his separation from his father (with whom he no longer had any contact). Not only had the Committee failed to take adequate account of the situation in respect of Mrs. Glazebrook's child's health problems, but it had also not taken sufficiently into consideration the mounting deleterious effect that the continued sharing of the family home would have on Mrs. Hill.

3.7 Senator Shenton suggested that the situation had not been improved by virtue of the fact that, believing to be acting on advice from an officer of the Housing Department (although this was disputed by Mr. Connew), an apparently acceptable solution had been identified. Mr. and Mrs. Hill, had acquired a second property (Church End, St. Martin) for occupation by Mrs. Glazebrook and her son as lodgers of a residentially qualified person, only for that possibility to be subsequently denied.

3.8 It was contended that the effect of Mrs. Glazebrook's occupation of Church End on the Island's current housing problems would be nil, as Mr. and Mrs. Hill did not wish to lease that property unless their situation, and that of their daughter and grandchild were to improve as a result.

3.9 Senator Shenton summarised the position as being that, whilst the difficulties faced by the Housing Committee were recognised and sympathised with, the granting of consent to Mrs. Glazebrook should not be withheld in view of the particularly difficult circumstances in which she, a single parent, as a child of a well-established Jersey family, found herself in, to which factors adequate importance had not been given by the Housing Committee.

4. Summary of Housing Committee's case

4.1 Mr. Connew emphasised the points which had been made in the Committee's written submission regarding the extreme difficulties faced on a regular basis by the Committee in considering a large number of individual cases involving 'hardship'. In particular, the Board's attention was drawn to the findings of a previously constituted Board concerning an unrelated case, whereby it had been considered that "an application for consent under Regulation 1(1)(g) is an extremely difficult matter of judgement for the Housing Committee. This Regulation applies to a person who does not qualify under any of the Regulations as such, but who would experience hardship (other than financial hardship) in the view of the Committee if consent were not granted. The Committee has to satisfy itself that the degree of hardship which the applicant would suffer is sufficient to outweigh the fact that he has no residential status in his own right. Hence, unlike some of the other regulations, the applicant has no automatic right to a consent - it is granted solely at the discretion of the Committee which considers each case on its merits." The decision of that previous Board had gone on to say that "The Board does not have to substitute its own opinion for that of the Housing Committee, it has to consider whether, in all the circumstances, the Housing Committee could reasonably have come to the decision it did and that it gave proper consideration to all the facts."

4.2 Mr. Connew confirmed that, other than the letter dated 16th April 1999 from Dr. Cloverley, the Housing Committee had had available to it all the relevant information when it had arrived at its decision not to grant consent to Mrs. Glazebrook.

- 4.3 The Board was informed that the Housing Committee was aware from a copy of correspondence which had been made available to it relating to advice which had previously been given to Senator Shenton by a former Attorney General, that "Regulation 1(1)(g) confers a wide discretion upon the Housing Committee. The exercise of that discretion is, generally speaking, a matter for the Committee and the Royal Court has made it clear that in a long line of cases that it will not substitute its own view for that of the Committee even if it disagrees with the Committee unless it could be said that the Committee has acted unreasonably. 'Reasonableness' is at the core of the exercise of discretion. It would be unreasonable for a Committee to exercise discretionary powers inconsistently or capriciously. The discretion must be exercised within defined limits, even if the Committee is, to an extent, responsible for defining those limits."
- 4.4 In connexion with Mrs. Glazebrook's case, the Board was also informed that the Committee had applied a general policy that, where the Regulations required a specified period of residence in the Island, unless there were specific extenuating circumstances, then that period should be served before consent was granted. It was recognised that Mrs. Glazebrook had accumulated just over four years' residency (on an aggregate basis).
- 4.5 Mr. Connew went on to confirm that the Committee had considered, at some length, the various issues which had been raised in the submissions which had been made in respect of Mrs. Glazebrook's application. It had been considered that, quite clearly, a single parent would find it difficult to find unqualified accommodation and would also be likely to find family difficulties in taking up residence en famille with either set of parents. However, the Committee believed that these factors must have been taken into consideration by Mrs. Glazebrook before she decided to move to the Island and, for its part, the Committee had taken into account each and every aspect of the submissions which had been made, including the circumstances of Mrs. Hill's illness. The system in place provided an opportunity for applicants to appeal directly to a Sub-Committee of the Housing Committee at which all the relevant factors could be discussed in detail.
- 4.6 Mr. Connew referred to a matter which had been raised by Senator Shenton in his correspondence with the President of the Housing Committee, relating to local families who, separated from their children or grandchildren, might suffer even greater hardship than families with no links to the Island. It was stated that, whilst successive Housing Committees had strongly supported the family as an institution in its overall policies, that factor alone had never persuaded the Committee to grant consent in discretionary cases.
- 4.7 With regard to the contention that the grant of consent to Mrs. Glazebrook to occupy Church End would have no impact on the Island's current housing problems, Mr. Le Ruez commented that the effect would be that another unit of accommodation would be effectively 'lost' to the general population.
- 4.8 Mr. Le Ruez also referred to the 'weighting' applied to factors associated with health aspects. Whereas the involvement of a child might well represent a significantly greater level of hardship, this was not unique to Mrs. Glazebrook's situation but applied to hundreds of other cases. In addition, it was suggested that whilst on the one hand the circumstances surrounding Mrs. Hill's unfortunate illness might be said to be a positive factor in Mrs. Glazebrook's favour, the presence of the support of a local family could be said to be a negative factor in the Housing Committee's thinking, insofar as other applicants without the benefit of local family connexions might be said to be relatively disadvantaged.
- 4.9 Mr. Le Ruez assured the meeting that the current standard of lodging accommodation in the Island was high - the majority now being self-contained - although it was acknowledged that such accommodation tended to be relatively expensive. However, this did represent a reasonable alternative to the current situation in Mrs. Glazebrook's case whereby living with her parents was not considered to be appropriate on the grounds of Mrs. Hill's ill health.
- 4.10 Deputy Baudains summarised that whereas the Housing Committee readily accepted that Mrs. Glazebrook faced difficulties associated with her current circumstances, such was the case for hundreds of other people in the Island. Mrs. Glazebrook was at least able to remain in Jersey and, sadly, there appeared to the Committee to be no extenuating circumstances over and above the situation which many others found themselves in which would justify its granting consent in her case.
5. The Board's findings
- 5.1 The Board recognises that the Housing Committee faced an unenviable task in considering a large number of applications from persons with individual circumstances, some representing cases of greater hardship than others, which prevented them from residing in the Island. Whereas the Board has taken note of the 'tests of balance' which were applied to each case by the Housing Committee, it now falls to the Board to decide on the facts of this particular case whether the Committee's decision was unreasonable and would subject the Complainant to an

excessive hardship.

- 5.2 The Board, having resolved to divorce itself from the earlier history of this matter, has based its decision only on the current facts as they affect Mrs. Glazebrook and the long-term well-being of her son. Having noted that the Chief Executive Officer of the Housing Department had accepted that a child might well represent a significantly greater level of hardship in any given case, the Board believes that this must apply to an even greater degree when a 'disruptive' emotionally and behaviourally disturbed child is involved - a factor which whilst possibly not unique to Mrs. Glazebrook's situation was unlikely to apply in "hundreds of other cases."
- 5.3 The Board has also noted from information provided by the Housing Department that it appears that many cases which involved medical circumstances have hitherto been granted consent by the Committee.
- 5.4 The Board considers that, in Mrs. Glazebrook's case, it would be more appropriate for her as a member of a Jersey family to be granted consent than it would be for a person without local connexions to be allowed to gain residential qualifications. In the present case Mrs. Glazebrook has no other relatives other than in Jersey to whom she could call upon for assistance. Mrs. Glazebrook finding herself in great difficulty was, in effect, 'coming home' to the support of her parents. A further factor in Mrs. Glazebrook's favour is that whilst, in normal circumstances, it would have been appropriate for her to live with her parents, Mrs. Hill's unfortunate illness rendered it detrimental to the well-being of the family as a whole when taken into consideration with Matthew's own emotional and behavioural difficulties.
- 5.5 Whilst the Board recognises that it could be said that Mrs. Glazebrook's occupation of lodging accommodation would enable her and her son to live in the Island in premises other than those of her parents, the Board has noted that Matthew Glazebrook would then be required to spend his formative years in such accommodation and it might not be possible to find appropriate accommodation so that Matthew could continue at his present school.
- 5.6 The Board, taking into account the family's Jersey background, the fact that there are no other close relatives living in the United Kingdom, and that Mrs. Glazebrook, now a single mother, is bringing up a child with emotional and behavioural difficulties in the Island where her parents, one of whom is potentially seriously ill, reside, believes that the Housing Committee has been unduly oppressive and unreasonable in its decision not to grant consent to Mrs. Glazebrook, and that an excessive hardship would result.
- 5.7 The Board, in conclusion and in line with Article 9 of the Administrative Decisions (Review) (Jersey) Law 1982, as amended, having found in favour of Mrs. Glazebrook, urges the Housing Committee to reconsider its decision and requests that the Committee undertakes such reconsideration within three months from the date of these findings.

Signed and dated by -

.....
R.R. Jeune, Esq., C.B.E., Chairman

.....
G.C. Allo, Esq.

.....
Miss C. Vibert

MM/168.99

BOARD OF ADMINISTRATIVE APPEAL**17th June 1999****Complaint by Mrs. T. Sculthorp against a decision
of the Housing Committee****Hearing constituted under the Administrative
Decisions (Review) (Jersey) Law 1982, as amended.**

1. Present -

Board Members

R.R. Jeune C.B.E., Chairman
 Mrs. C.E. Canavan
 Miss C. Vibert

Complainant

Deputy T.J. Le Main, representing Mrs. T. Sculthorp

Committee

Deputy S.M. Baudains, President, Housing Committee
 E.H. Le Ruez, Chief Executive Officer, Housing Department
 P. Connew, Law and Loans Manager, Housing Department

States Greffe

M. Marquis, Committee Clerk

The Hearing was held in public in the No. 3 Committee Room, States Building, Royal Square, St. Helier.

2. Summary of the dispute

The Hearing had been convened to consider a complaint by Mrs. Tracey Ann Sculthorp, née Chapman, formerly of 67 Miladi Farm Estate, Longueville, St. Saviour, and now living at Elizabeth House, Castle Street, St. Helier, against the decision of the Housing Committee not to grant her consent under Regulation 1(1)(g) of the Housing (General Provisions) (Jersey) Regulations 1970, as amended.

3. Summary of Complainant's case

- 3.1 The Board heard from Deputy Le Main that Mrs. Sculthorp, who does not have residential qualifications, had met her husband in the United Kingdom where the couple were married 16 years ago and continued to live until 1996. There were three children of the marriage, born in the United Kingdom in 1983, 1985 and 1989. Mr. Paul Philip Sculthorp was born and educated in the Island and possessed full residential qualifications.
- 3.2 Mr. Sculthorp completed professional training in the United Kingdom and, in 1996, responded to an advertisement in the United Kingdom by the States Treasury inviting applications from people with Jersey connections to work in the Island. Mr. Sculthorp was ideally placed and, having met the criteria for employment, decided that it would be in the family's best interests to move to Jersey. Mr. Sculthorp secured rented accommodation at No. 67 Miladi Farm Estate, Longueville, St. Saviour in his name.
- 3.3 The family lived in a stable environment until September 1997 when the marriage started to break down and Mr. Sculthorp began to stay out late, arriving home in the early hours. It was at that time that Mrs. Sculthorp first applied to the Housing Committee for consent to be allowed to lease accommodation in her own name under Regulation 1 (1)(g) of the Housing Regulations which was rejected by the Housing Committee as previously constituted owing to Mrs. Sculthorp's short period of residence in the Island. Following an attempted reconciliation, Mr. Sculthorp left the marital home in September 1998 and remains in the Island. He now occupies a senior managerial position in the

employment of the States.

- 3.4 Deputy Le Main contended that Mrs. Sculthorp had already suffered hardship having been abandoned by her husband and, in addition, the children would suffer if they were forced to disrupt their education in Jersey and re-locate to the United Kingdom. The eldest child, aged 15, was currently studying for GCSE examinations and all the children were exceptionally intelligent and progressing well with their education.
- 3.5 Mrs. Sculthorp had been forced to move out of the accommodation at Miladi Farm, fearing prosecution, and was now living in expensive rented accommodation in a lodging house with the three children. It was pointed out that, if the three children remained in the Island until 2006, they would gain housing qualifications in their own right, as the children of a Jersey-born parent having resided in Jersey for an aggregate period of 10 years. Mr. Sculthorp continued to contribute towards the maintenance of his wife and children.
- 3.6 The Board noted that, some time following their marriage in London, Mr. and Mrs. Sculthorp had left London to live in Suffolk in order for Mr. Sculthorp to pursue a job opportunity, where they had lived for five years before moving to Jersey. Mrs. Sculthorp no longer had any contact with anyone in that area. Her parents were elderly and occupied a bungalow in London but it was not possible for her to join them.
- 3.7 Deputy Le Main was of the opinion that the Housing Committee was in breach of international human rights legislation by not granting permission for Mrs. Sculthorp to occupy accommodation on the grounds of hardship.
- 3.8 Deputy Le Main, having investigated previous decisions of the Housing Committee, contended that this application did not compare with others which the Committee had rejected for the following reasons -
- (a) Mr. and Mrs. Sculthorp had been married for 16 years before the relationship broke down;
 - (b) Mrs. Sculthorp was living in inferior accommodation with the three children;
 - (c) the children had suffered considerable hardship because of the failure of the parents' marriage and would suffer further if their education was disrupted by re-locating to the United Kingdom.
4. Summary of Housing Committee's case
- 4.1 The Housing Committee had considered Mrs. Sculthorp's application in accordance with Regulation 1(1)(g) of the Housing (Jersey) Regulations 1970, which state -
- “The Committee is satisfied that the hardship (other than financial hardship) which would be caused to the purchaser, transferee or lessee, or to persons ordinarily resident in the Island, if consent were to be granted outweighs the fact that he does not fall within any sub-paragraph of this paragraph.”.
- 4.2 The balance which the Housing Committee was required to make when considering a 1(1)(g) application was, therefore, between the hardship caused by refusal on the one hand, and the fact that the granting of the consent would lessen the accommodation available for those who the States thought should have first claim upon it.
- 4.3 Deputy Baudains emphasised the points which had been made in the Committee's written submission regarding the extreme difficulties faced on a regular basis by the Committee in considering a large number of individual cases involving hardship. Sadly, an increase in the incidence of marriage breakdown had led to more and more applications from people seeking residential status under paragraph 1(1)(g) of the Housing Regulations. Whilst the Committee had great sympathy with all 'hardship' applications, each case was considered on its merit and this one had in fact been considered twice.
- 4.4 Mr. Le Ruez informed the Board that the Housing Committee's policy with regard to deserted spouses allowed for the unqualified spouse to be granted residential status if the couple had been married and had been living together in the Island for a minimum period of five years and the unqualified spouse had been continuously resident in the Island for at least the previous ten years and had care and control of the children of the marriage. Mrs. Sculthorp had only lived in the Island for approximately 14 months when she first made application to the Committee in August 1997. Any other cases continued to be considered on an individual basis and particular regard was given to the welfare of any children involved.
- 4.5 Mr. Connew informed the Board that the Housing Department dealt with many queries relating to residential status, few of which were considered by the Committee, having been determined by interview at the Department and not

pursued further. Mrs. Sculthorp had made enquiries at the Department herself and had been informed of the legal position.

4.6 The Board noted that Mrs. Sculthorp had been reluctant to leave Suffolk to come to Jersey as she had had to give up everything at the time but that she had since lost touch with the contacts.

4.7 Deputy Le Main was of the view that the Sub-Committee which had first considered Mrs. Sculthorp's application had not been in possession of all the facts and at the time of her application in March 1999, Mrs. Sculthorp's marital problems were causing great distress which were not disclosed by her in an attempt to protect her children.

4.8 Mr. Sculthorp continued to contribute towards the maintenance of his wife and children, spoke to the children on the telephone most days and visited them several times a week.

5. The Board's findings

5.1 The members of the Board were told by the representatives of the Housing Committee of the many cases under '(g)' category applications which came before them and sadly an increasing number related to the break-up of marriages.

5.2 The Board understands the great difficulty and responsibility placed upon the Housing Committee in such cases. Likewise, it understands the sadness surrounding many of the applications.

5.3 In the present case of Mrs. Sculthorp, the Board is conscious of the fact that the matter has been heard and the application refused by the present Committee and the previous Committee and, having heard the parties and their arguments set out by Deputy Le Main for the application, has decided that the Committee has not been unreasonable in its decision and the Board will not recommend the Committee to change its decision.

5.4 In reaching the decision, the Board has borne in mind that the Sculthorp family has been in Jersey only a short time, that Mrs. Sculthorp's base is very much that of England, where her family reside, for example her mother and father in London. The three children who are not Jersey-born are bright and should be able to adapt without difficulty to a change of school, and that contact between their father who has left the matrimonial home and his children (if he wishes so to do) should not be overly difficult.

Signed and dated by -

.....
R.R. Jeune, Esq., C.B.E., Chairman

.....
Mrs. C. Canavan

.....
Miss C. Vibert