

STATES OF JERSEY



ACCESS TO JUSTICE IN JERSEY: REVIEW

Lodged au Greffe on 2nd December 2013
by the Chief Minister

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

- (a) to agree the proposed Terms of Reference, Methodology and Membership for a Review of Access to Justice in Jersey, as detailed in section 2 of the accompanying Report of the Chief Minister dated 2nd December 2013;
- (b) to agree, that immediately following the adoption of this proposition, the States should appoint by open ballot as members of the Advisory Panel (through separate ballots as required) –
 - (i) one member who is a Minister or Assistant Minister;
 - (ii) one Connétable;
 - (iii) 2 elected members who are not Ministers or Assistant Ministers

CHIEF MINISTER

REPORT

1. Background

1.1 Justice policy and resources: responsibility (P.92/2013)

The Chief Minister lodged a Proposition regarding *Justice policy and resources: responsibility* (P.92/2013) on 31st July 2013. The Proposition clarified that the Chief Minister is responsible within the executive branch of government for policy and resources in relation to the overall justice system, the Legislation Advisory Panel, safeguarding human rights, data protection, legal services, constitutional reform, and strengthening democracy. The Proposition was debated by the States Assembly on 25th September 2013 and was adopted (39 votes *pour*; 4 votes *contre*; and 0 abstentions).

1.2 Access to justice review

During the debate in the States Assembly on 25th September 2013 regarding *Justice policy and resources: responsibility* (P.92/2013), the Chief Minister stated his intention to commission a review into access to justice in Jersey, and his belief that this was likely to be a lengthy but important piece of work.

1.3 Developing a draft terms of reference

Following some initial exchanges between the Chief Minister's Department and the Law Officers' Department, a meeting was convened on 11th October 2013 involving a number of the people now proposed as members of the Expert Group, in order to seek their views on the development of a draft terms of reference and methodology. In addition, the Chief Minister held an informal discussion on this topic on 25th October 2013 with Deputies M. Tadier and J.H. Young of St. Brelade, who had requested a meeting in order to convey their thoughts regarding the terms of reference. This resulted in an initial draft terms of reference, which were considered by the Council of Ministers on 27th November 2013. The Council agreed that the draft terms of reference should be presented by the Chief Minister for consideration by the States Assembly and that the members of the Advisory Panel who will work with the Chair should be proposed for election by open ballot.

2. Draft Terms of Reference, Methodology and Membership

2.1 Terms of Reference

To undertake a review of access to justice in Jersey, including a review of legal aid, which will –

- (a) provide a comprehensive and factual description of the current legal aid scheme;
- (b) examine the scope for alternative approaches;
- (c) make proposals for developing further an efficient and effective legal system, which would improve access to justice and the resolution of complaints, whilst delivering value for money in the use of public funds;

- (d) result in an interim report being submitted to the Chief Minister within 6 months of the work commencing, and a final report being presented to the Chief Minister within 12 months of the date of the interim report.

2.2 Methodology

In undertaking the review, those participating, with assistance as required, will –

- (a) take a broad interpretation of access to justice so as to include general advice through to court representation in criminal and civil matters, including child care proceedings;
- (b) consult widely, gather evidence from the public and interested parties, and compare Jersey's legal system, including the use of alternative dispute resolution and tribunals, and the jurisdiction of the courts, with comparable systems;
- (c) consider issues in relation to the affordability of access to justice and different models of funding litigation and providing legal representation;
- (d) be mindful that the availability of a high-quality, efficient and independent legal profession, accompanied by an effective system to handle complaints, is of critical importance in sustaining access to justice and the rule of law;
- (e) have regard to the potential impact of any recommendations on the users of legal services, public funds, the legal profession and the tradition of honorary service in Jersey;
- (f) consider competition, price, and other market-based factors as they affect affordability, access to justice and the provision of legal aid in Jersey; and
- (g) ensure that proposals would provide public confidence in legal aid in terms of eligibility, human rights compatibility, and public expenditure.

2.3 Membership of the Advisory Panel

The Advisory Panel will be chaired by Senator P.F. Routier, M.B.E., and will comprise 4 other Members of the States Assembly (in addition to the Chair), to include those holding both executive and non-executive roles, at least one of whom will hold the position of Connétable.

2.4 Membership of the Expert Group

The Expert Group will be chaired by the Chief Minister's Department and will consist of one or more representatives from the following, or as otherwise agreed by the Chief Minister –

- Law Officers' Department
- Judicial Greffe
- The Law Society of Jersey
- The offices of the Bâtonnier and Acting Bâtonnier
- Jersey Chamber of Commerce

- Citizens Advice Bureau
- Jersey Consumer Council.

3. Chief Minister's nominees for the Advisory Panel

The Chief Minister's nominees for the Advisory Panel to be chaired by Senator P.F. Routier, M.B.E., are as follows –

- Senator L.J. Farnham
- Connétable J. Gallichan of St. Mary
- Deputy M. Tadier of St. Brelade
- Deputy J.H. Young of St. Brelade.

4. Financial and manpower implications

There are no additional financial or manpower implications at this initial stage. There may be a need to engage some external support in due course to assist with the production of the interim report, but this would be funded from within existing limits set by the Medium Term Financial Plan, as would other costs associated with the initial stage of the review.

Once the interim report has been submitted within 6 months of the work commencing, then the possible financial and manpower implications of options for future change should become clearer. The terms of reference proposed include the requirement to consider the delivery of value for money in the use of public funds.

2nd December 2013.