

STATES OF JERSEY



PUBLIC SERVICES OMBUDSMAN: ESTABLISHMENT OF OFFICE (P.32/2018) – AMENDMENT

**Lodged au Greffe on 19th March 2018
by Senator P.F.C. Ozouf**

STATES GREFFE

PUBLIC SERVICES OMBUDSMAN: ESTABLISHMENT OF OFFICE
(P.32/2018) – AMENDMENT

1 PAGE 2, PARAGRAPH (b) –

Before the words “to agree” insert the words “subject to the findings of the research set out in paragraph (c), ”.

2 PAGE 2, PARAGRAPH (d) –

Before the words “Public Services Ombudsman” insert the word “proposed”.

3 PAGE 2, PARAGRAPH (e) –

Before the words “to request” insert the words “subject to the findings of the research set out in paragraph (c), ”.

4 PAGE 2, PARAGRAPH (f) –

Before the words “to request” insert the words “subject to the findings of the research set out in paragraph (c), ”.

5 PAGE 2, PARAGRAPH (g) –

Before the words “Public Services Ombudsman” insert the word “proposed”.

6 PAGE 3, PARAGRAPH (i) –

Before the words “to request” insert the words “subject to the findings of the research set out in paragraph (c), ”.

SENATOR P.F.C. OZOUF

Note: After this amendment, the proposition would read as follows –

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

- (a) that the recommendations from the Clothier Report on the Machinery of Government in Jersey and the Jersey Law Commission that “An Ombudsman should be appointed to hear and determine complaints of maladministration” should be progressed as a matter of priority;
- (b) subject to the findings of the research set out in paragraph (c), to agree that the scope of a Jersey Public Services Ombudsman should include –

- (i) the departments of the States of Jersey; and
 - (ii) regulatory bodies appointed by the States of Jersey, except for the Jersey Financial Services Commission;
- (c) to request the Chief Minister to commission research on the costs of introducing a Public Services Ombudsman scheme in Jersey, which should encompass the matters for research set out in **Appendix 1** to the accompanying Report;
- (d) to request the Chief Minister to consult widely on the design of the proposed Public Services Ombudsman scheme, including with the members of the Jersey Complaints Board, which was established by the Administrative Decisions (Review) (Jersey) Law 1982, in order that the best elements of the Complaints Panel scheme are retained within the new system;
- (e) subject to the findings of the research set out in paragraph (c), to request the Chief Minister to bring forward primary legislation to establish the office of a Public Services Ombudsman, to replace the States of Jersey Complaints Board, as soon as is practicable, and to agree that the primary Law will include provisions for the detail and scope of the Ombudsman arrangements to be set out in Regulations and, where appropriate, Order-making powers;
- (f) subject to the findings of the research set out in paragraph (c), to request the Chief Minister to establish, and appoint with the concurrence of the Jersey Appointments Commission, a minimum of 3 suitably qualified individuals to act as a Shadow Board to oversee and drive the tasks set out in this proposition and, as soon as is practicable, for this Board to assume the role of a Shadow Public Services Ombudsman;
- (g) to request relevant Ministers to ensure that there is good co-ordination between the work of the newly-appointed Children's Commissioner and the proposed Public Services Ombudsman;
- (h) to request that the Ombudsman Board, as described in paragraph (f), should work in close co-operation with the Financial Services Ombudsman, with a view to assessing the desirability of creating a single Ombudsman Service for Jersey, if there are tangible benefits for complainants, service providers and the 2 Ombudsman functions;
- (i) subject to the findings of the research set out in paragraph (c), to request the Chief Minister to set out a timetable for bringing such primary legislation and Regulations to the States for approval, and for appointing a Shadow Ombudsman Board and bringing an Ombudsman service into operation.

REPORT

This amendment is lodged following consultation with the Chief Minister who, in turn, I have been advised, has consulted the Chairman of the Legislation Advisory Panel.

The Panel had previously been asked by the Chief Minister to consider all recommendations arising from the Jersey Law Commission (“the Commission”) report on “Improving Administrative Redress in Jersey” (1/2017/TR)¹.

The Commission’s report sets out a compelling case for detailed consideration of the establishment of a Public Sector Ombudsman; one which resonates with the Jersey Independent Care Inquiry’s statement that we must ensure: *“the Island’s children and young people will be looked after in a caring and compassionate system that is underpinned by a system of governance in which there is utmost confidence amongst all the Island’s citizens.*

It is clear that, as set out in paragraph (c) of my proposition as lodged in February 2018, that we must, as a matter of priority, respond to the Commission’s recommendations by undertaking more detailed research into the potential scope and costs of an Ombudsman. That research should encompass all the matters set out in Appendix 1 to [P.32/2018](#), including consideration of a possible pan-Island Ombudsman.

Furthermore, as set out in paragraph (d) of my proposition, we must undertake detailed consultation with key stakeholders, including members of the States of Jersey Complaints Board, in order to ensure we build upon the best elements of their work.

I understand that the Legislation Advisory Panel is already engaged in this initial research. This includes lending its support to a funding application submitted by Professor Andrew Le Sueur (the author of the Law Commission’s report on improving administrative redress) to the University of Essex, which will allow further academic research to be undertaken into different potential models for an Ombudsman. That research will include –

- an analysis of complaints data in Jersey; and
- quantitative research on the design and operation of different forms of public service ombudsmen in small jurisdictions.

The Chief Minister and the Chairman of the Legislation Advisory Panel were notified on Wednesday 14th March – after P.32/2018 was lodged – that the funding application had been successful and that the research phase could commence. It is anticipated that the findings of that research, which will be cost-neutral to government, will be available in September 2018.

I am also informed that the Legislation Advisory Panel has undertaken initial consultation. A number of stakeholders have been written to, and the Panel is currently compiling responses before commissioning more detailed consultation. All further consultation should be considered in light of the work which will commence later this year, on considering the scope and remit of public engagement programmes designed

¹ The Chief Minister’s initial response to the Commission’s report was presented to the States Assembly on 2nd January 2018 ([R.1/2018](#)). This initial response sets out the Chief Minister’s request that the Legislation Advisory Panel consider the Commission’s recommendations and, having done so, bring forward policy recommendations.

to help improve confidence in Jersey's system of governance through enhanced openness, transparency and accountability. This work forms a key action in our response² to Recommendation 7 of the Independent Jersey Care Inquiry.

The research and consultation phases are essential to informing the shape of any future legislation. It is for this reason that I have lodged this amendment to P.32/2018. My amendment clarifies that it must be a prerequisite of any legislative proposals, that those proposals have been developed subject to research and consultation.

In the meantime, I note that work is already progressing with regard to ensuring that government adopts a consistent and transparent approach to the management of complaints.

The new Chief Operating Officer is engaged in a process of reviewing the way in which complaints are handled across States departments in order to improve customer satisfaction. This work will, I hope, provide a basis for dialogue with other public bodies, and will help inform any political decision-making that might be made in relation to complaints handling.

It is imperative that the future States Assembly considers matters relating to the establishment of a Public Sector Ombudsman.

The issue is one which is too important to ignore.

At the same time, it is accepted that further work needs to be undertaken to support an informed decision on the detailed implementation.

It is for this reason that I propose that the original proposition is amended.

Financial and manpower implications

There are no additional financial or manpower implications for the States arising from the adoption of this amendment.

² [P.108/2017: Independent Jersey Care Inquiry Report: implementation of recommendations.](#)