

COMPLAINTS



How to complain to the
States of Jersey
Complaints Board

This booklet explains how to send in a complaint to the States of Jersey Complaints Board. It gives an outline of how we will handle your complaint.

The basic process is as follows –

- **You send your complaint to the Deputy Greffier of the States**
- **The Deputy Greffier requests a summary of the case from the Minister/department**
- **The Deputy Greffier sends the summary to the Chairman to decide if a hearing should be convened**
- **A public hearing is held – both the complainant and Minister/department present their case**
- **The Board presents its findings to the States**
- **If the Board upholds your complaint, it will ask the Minister concerned to reconsider the original decision**

We make every effort to hold a hearing within 14 weeks of the receipt of your complaint. However, there may be times when the process is more lengthy and involved. This is particularly the case if the Board refuses your request for a hearing and you pursue an appeal.

The complaint should be in writing and should be sent to –

**Mrs Lisa Hart
Deputy Greffier of the States
States Greffe
Morier House
Halkett Place
St. Helier
JE1 1DD**

You can get a copy of the Administrative Decisions (Review) (Jersey) Law 1982, as amended, from the States Assembly Information Centre, Morier House, Halkett Place, St. Helier, JE1 1DD. Or you can view it on the Jersey Legal Information Board website (www.jerseylaw.je)

The Administrative Decisions (Review) (Jersey) Law 1982 established the States of Jersey Complaints Board. Its role is to look into complaints by members of the public. The complaint may be about any matter of administration by any Minister or department of the States, or by any person acting on their behalf.

This does not mean that the Board can overturn a decision made by a particular Minister. However, it can decide whether that decision, act or omission, about which you have complained –

(a) was contrary to law;

(b) was unjust, oppressive or improperly discriminatory;

(c) was based wholly or partly on a mistake of law or fact;

(d) could not have been made by a reasonable body of persons after proper consideration of all the facts; or

(e) was contrary to the generally accepted principles of natural justice.

If the Board believes that your complaint should be upheld, it can ask the Minister, Department or person concerned to reconsider the matter. It is then for the Minister, Department or person concerned, to decide whether to act on those findings.

The members of the Complaints Panel (from which Boards are made up) are not States members, and are all completely independent. They give their services on a voluntary basis. If the Chairman, Deputy Chairmen, or members of the Panel, have a conflict of interest, they will not take part in a Board. In this way, the public can be sure that all Board members are completely unbiased and impartial.

We make every effort to hold a hearing within 14 weeks of the receipt of your complaint. However, there may be times when there are unavoidable delays. As an example, the Chairman may have a conflict of interest and the Deputy Chairmen would then have to decide whether to hold the hearing. Or, as mentioned above, you may appeal a decision.

How to complain – what you need to do

Send in a letter explaining the problem. This will be about a decision, an act, or an omission by any Minister or department of the States. It may also be about any person acting on their behalf. Unless there are special reasons, the thing that you wish to complain about should have happened less than 12 months ago. If it happened more than 12 months ago, we will ask you to explain why you did not take action within the 12 month period.

Remember: the Board will not be able to say whether the decision itself was *wrong*. It can only determine whether the Minister or Department dealt with you under the relevant policies and procedures. If the Board decides to uphold your complaint, it can ask the Minister or Department to reconsider the matter.

You should send the complaint to Mrs. Lisa Hart, Deputy Greffier of the States, States Greffe, Morier House, Halkett Place, St. Helier, JE1 1DD.

Attach any relevant papers and if you know of any cases that you think are similar, point them out now. The Chairman will decide whether to hold a hearing, so it is important that you provide us early on with any papers relating to the complaint. This may include photographs, location maps or technical reports. You will not be able to add any more papers or details of other similar cases later on, or at the hearing.

Tell the Deputy Greffier if someone will be representing you at the hearing. This may be a States' member or other person. If you wish, you may represent yourself. If you think you will need a technical adviser at the hearing, such as an architect, then you should say so as soon as possible.

Let the Deputy Greffier know of any dates in the next 3 months that you are not available.

NOTE: Before you send in a complaint you should have tried to sort out the problem using the department's internal appeal process. You should feel that you have done everything possible to reach a satisfactory conclusion. The only exception to this is if the decision, act or omission happened almost 12 months ago. In this case there may be the risk that if you do not complain now it may be too late because of the 12 month rule.

What happens when a complaint is received?

The Deputy Greffier will check the papers that you have sent in with your complaint, to make sure that everything seems to be there. She may ask you for more papers, if she thinks that something relevant is missing.

The Deputy Greffier will send your papers to the Minister and department concerned. She will ask them for a brief response to the case which is enough for the Chairman to decide if the Board should consider your complaint. Their response will be confidential and must be provided within 2 weeks. She will also ask the department to confirm that it has dealt with the complaint as far as it can under its own complaints procedure.

The Chairman, or Deputy Chairman, will consider the papers that you have sent in and also the response of the Minister or department. On the basis of these, they will decide whether the matter should be reviewed by the Board.

The Chairman or Deputy Chairman may try to sort out the issue informally before they arrange a hearing before the Board. This could involve an exchange of telephone calls or letters in the first instance. Some complaints can be resolved more quickly and simply in this way.

If it has not been appropriate to try informal resolution, or if it has failed, the Chairman will refer the matter to a Board. The Deputy Greffier will then arrange a hearing date for approximately 6 weeks later. She will contact the Minister and department and ask them to prepare a full report in response to your complaint. They have

to send this to the Deputy Greffier within 4 weeks. If they have any drawings or photographs, which they think are relevant, they should include them at this stage. Their report will contain a description of the policies under which they made their decision. If they do not present their report within 4 weeks, the hearing will proceed without it. It will not be possible for the Department or Minister to circulate papers later, or table papers at the hearing.

The Chairman of the Board may then ask you to produce further papers within 2 weeks. If this happens, the Deputy Greffier will direct the Minister or department to file a response to those papers, if necessary. After this time, neither party can submit any further papers. Nor can they refer to any cases or premises that have not already highlighted.

Any hearing should normally be held within 14 weeks of the receipt of the complaint.

- **If the Chairman decides ‘that the circumstances justify a review by the Board’, this does not mean that the outcome of the hearing has been decided. It only means that there is merit in holding a hearing.**
- **The Chairman may decide that the circumstances of your case do not justify a hearing if there is no reasonable likelihood of success.**

What can I do if my application for a review has been turned down?

If your application is refused, the Deputy Greffier will tell you the reasons why.

You may appeal this decision within one month, and ask for the decision to be reviewed.

If the Chairman refused the application, then both of the Deputy Chairmen will consider the appeal. If one of the Deputy Chairmen refused the application, then the other Deputy Chairman and the Chairman will review the decision.

If the two Chairmen reviewing the appeal do not agree with the original decision, the process will move first to informal resolution. If it is not resolved in this way, then it will go to a hearing.

NOTE: If your complaint is about the Deputy Greffier of the States, or the States Greffe, it will be immediately referred to the Chairman. The Deputy Greffier will not be involved in enquiring into the facts of the matter.

Arrangements for the hearing

At least 2 weeks before the hearing you should give to the Deputy Greffier the names of any people who will be attending on your behalf and who will be speaking at the hearing. You should also notify her of any special needs requirements, such as disabled access.

10 days before the hearing, you and your representatives will receive the bundle of papers. It will also be sent out to the appointed members of the Board, the Minister and department officers. This bundle will contain all the papers that you have submitted, including any further papers requested by the Chairman. It will also contain the report prepared by the Minister or department and any appendices.

The hearing is often held at a Parish Hall. A room is set out with 3 Board members at a table. This will face another table with you and your representative at one side, and the Minister and officer(s) at the other side. There are chairs set out for the public and the media to attend. There may be a notice board for plans etc. if required. (Please tell the Deputy Greffier if you need this)

Who can I bring with me? If you and another person, such as a spouse or partner, are joint complainants, then you may both come to the hearing. You can also bring a representative and a technical adviser, if required. You need to have given their names to the Deputy Greffier. A technical adviser may not present new information to the Board. However, they may answer questions of a technical nature on the documents that you sent in as part of your complaint. Because of this, if there are technical reports which are important, you must send them in with your initial complaint. If you need to bring different people to the hearing, you must tell the Deputy Greffier as soon as possible.

An officer and a technical adviser may attend with the Minister. Their names must also be given to the Deputy Greffier at least 2 weeks before the hearing. If the Minister needs to bring different people to the hearing, he or she must tell the Deputy Greffier as soon as possible

The Board may ask for specific persons to attend to answer questions.

No other person will be allowed to speak or to sit at the table with you, or with the Minister, but may attend as a member of the public.

What will happen during the hearing?

All hearings should be open to the public. For personal matters, in borderline cases, members of the media will be asked not to mention names or identifying material in their media reports. At the Chairman's discretion, the Board may hold the hearing in private. The report of any hearing held in private will have any names deleted. If you have any concerns about whether the hearing should be held in private, you should raise these when you submit your complaint.

At the beginning of the hearing the Chairman will declare the meeting open.

All the papers will be taken as read. None of the papers should be read out during the hearing.

The purpose of the hearing is for you to restate the points you made in your complaint. The Minister or department will do the same in relation to their response to your complaint. Members of the Board can then ask questions of both parties to help them reach their conclusions about the complaint.

You or your representative will explain the most important points of your complaint to the Board. You may refer to the papers, drawings, photographs etc. that have already been circulated. You may not table any new papers.

The Minister or officer of the department will then explain the important points of the position of the Minister. They too may only refer to documents that have already been circulated.

There will be a question and answer period. During this time, members of the Board will ask questions on the papers which have been taken as read, and any other questions which they wish to ask. You may ask a question of the Minister or officer concerned and vice versa, but the permission of the Chairman is needed to do this. There will not be a general debate, and the Chairman will draw the discussion to a close when the Board is satisfied that it has heard all it needs to hear. If you or the department have not presented a report at the appropriate time in the procedure and it is not included in the bundle, you will not be able provide all that information verbally.

The hearing will then close, and the Board will consider its findings in private.

What happens where a site visit is necessary?

For matters relating to property, there will generally be a site visit. After the Chairman has declared the meeting open, there will follow brief introductions. There may also be a brief statement giving information

that will be useful on the visit. The meeting will then be adjourned to make the site visit. The Board, Minister and you will travel to the site which is at the centre of the complaint.

The Board members will decide when they have spent enough time visiting the site.

At the site you may spend a short time explaining the problem that you have, but you may not present any new papers. Likewise, you may not offer any other cases for comparison either at the site or on the journey to or from the site. This is to ensure that everyone has had sight of all the relevant papers and has had time to prepare for the hearing.

The Minister or department may describe in brief the Minister's position.

The parties will then return to the Parish Hall / venue for the hearing and it will be re-convened.

What happens after the hearing?

The Board will consider its findings. The findings will be typed up, and the Board may have a business meeting to discuss the draft findings before it signs them and issues them.

The Deputy Greffier will send the findings to you and your representative as well as to the Minister, the department and the Privileges and Procedures Committee. A copy of the findings is also sent to the media, and they may publish extracts in the press.

The Board may find in your favour if it decides that the decision, act or omission which was the subject matter of your complaint –

- (a) was contrary to law;
- (b) was unjust, oppressive or improperly discriminatory, or was in accordance with a provision of any enactment or practice which is or might be unjust, oppressive or improperly discriminatory;
- (c) was based wholly or partly on a mistake of law or fact;
- (d) could not have been made by a reasonable body of persons after proper consideration of all the facts;
or
- (e) was contrary to the generally accepted principles of natural justice.

(Article 9 of the Administrative Decisions (Review) (Jersey) Law 1982)

If the Board finds in your favour for one of the reasons above, it may ask the Minister or Department to reconsider the matter.

Where a Board asks a Minister or Department to reconsider a decision, it will give them a set time within which to do so. The Minister or Department should then tell the Board what it has done to reconsider the matter and the result of that reconsideration. The Board will receive copies of the Minister's reconsideration.

If the Board members think that the Minister or Department have not given a matter enough reconsideration, they may prepare a further report. This report will also contain the Board's original findings and the response of the Minister or Department. The Board will forward its further report to the Minister and Department for information.

The Board must send this further report to the Privileges and Procedures Committee, which must then present it to the States. It will be published and copies will be sent to all States members. It is a matter for

the Committee, or any individual member of the States, to bring a proposition to the States about the decision, act or omission which was the subject of your complaint.

The Deputy Greffier will also send copies of the Board's findings to the Parish Secretaries, the States of Jersey Library and the Citizen's Advice Bureau. Copies are also held in the States' Bookshop, Morier House, Halkett Place, St. Helier, JE1 1DD. Any report presented to the States will be available on www.statesassembly.gov.je.

What if I am not satisfied with the outcome?

If you are not satisfied with the outcome you can ask the Board to consider reconvening. You need to make this request within one month of receiving the information. If requested, the same Board may reconvene, either of its own accord, or following a request from you, if it considers that this is justified. If so, it can ask for further papers or hear any person.

If you are still not satisfied once the Board has completed its findings, you may approach a States member or a legal representative to pursue alternative remedies.