

STATES OF JERSEY



STATES OF JERSEY COMPLAINTS PANEL: REPORT FOR 2007

**Presented to the States on 26th March 2008
by the Privileges and Procedures Committee**

STATES GREFFE

Chairman's Foreword

The Privileges and Procedures Committee is pleased to present the report of the States of Jersey Complaints Panel for 2007, and would like to place on record its thanks to the Chairman, Deputy Chairmen and all of the members of the Panel (listed below) for their honorary work dealing with complaints during this period.

Chairman

Mrs. C.E. Canavan

Deputy Chairmen

Mr. N.P.E. Le Gresley

Advocate R.J. Renouf

Members

Mr. P.E. Freeley

Miss C. Vibert

Mr. D.J. Watkins

Mr. J.G. Davies

Mr. P.G. Farley

Mr. T.S. Perchard

Mrs. M. Le Gresley

Connétable D. Gray

Chairman, Privileges and Procedures Committee

REPORT

Dear Mr. Chairman,

I have pleasure in forwarding to you the report for 2007, which includes the resolution of matters outstanding as at the end of 2006. The following statistics show the work undertaken by the States of Jersey Complaints Panel during this period –

	<i>Application rejected</i>	<i>Appeal against Refusal by Deputy Chairmen</i>		<i>Application deferred pending further action</i>	<i>Matter resolved before hearing held</i>	<i>Complaint upheld</i>	<i>Report to the States</i>	<i>Minister's decision upheld</i>	<i>Withdrawn</i>
		<i>Previous decision: Upheld</i>	<i>Reversed</i>						
rd	0	0	0	1*	1	0	0	0	0
	6	1	0	1	2	2	1	0	0
	6	1	0	2	3	2	1	0	0
3 matters were outstanding at the end of 2007.									

* subsequently withdrawn

One of the hearings was chaired by a Deputy Chairman, and one decision that a complaint should not be reviewed was referred as an appeal to the Deputy Chairmen in accordance with the new procedure adopted in 2006. The Chairman's decision was upheld in that instance.

Mrs. C.E. Canavan,
Chairman, Complaints Panel

The following is a summary of the outcome of the complaints which were outstanding in the 2006 Annual Report and of new complaints received in 2007 –

Outcome of complaints that were outstanding at the end of 2006 and which were referred to in the Annual Report for 2006 (R.21/2007) –

Planning and Environment

- (a) A Statement of complaint was received on 16th November 2006 against a decision of the Minister for Planning and Environment to refuse planning permission to redevelop First Tower Hotel, La Route de St. Aubin, St. Helier.

Consideration of the complaint was deferred pending the outcome of an Appeal under Part 7 of the Planning and Building (Jersey) Law 2002 to the Royal Court. This was held on 19th April 2007, and was dismissed. However, as a result of certain observations made by the Royal Court, procedures for the review/reconsideration of the registration of buildings on the Historic Building Register have been altered. Consideration of the complaint was subsequently deemed to have been withdrawn.

- (b) A statement of complaint was received on 20th December 2006 relating to a decision of the Minister for Planning and Environment to refuse permission for development plans for La Briqueterie and Cherry Wood.

The application for a review was held in abeyance, pending the determination of a revised planning application. A revised planning application was approved in December 2007 and no further action is required.

New complaints received in 2007

Education, Sport and Culture

- (c) A statement of complaint was received on 28th February 2007 relating to the bullying of a child at school and the manner in which this had been handled by employees of Plat Douet School and the Education Department.

The Chairman determined that the decisions the applicant wished to have considered were difficult to define and that the Administrative Decisions (Review) (Jersey) Law 1982, as amended was not the right vehicle to resolve the problem. She accordingly rejected the application for a review. The Chairman informed the applicant that if individual decisions were identified for review, then she would be prepared to reconsider this decision.

- (d) A statement of complaint was received on 15th June 2007 regarding a decision to refuse a place at St. Martin's Nursery School for the Complainant's daughter.

A hearing was held on 29th August 2007 and the Board upheld the complaint as the Board concluded that it could be said that the decision of the Minister for Education, Sport and Culture was not made after proper consideration of all the facts.

The findings were presented to the States by the Privileges and Procedures Committee on 21st September 2007 (R.92/2007).

Health and Social Services

- (e) A statement of complaint was received on 28th February 2007 relating to a complaint against the Child and Adolescent Mental Health Service due to premature closure of child access. The Chairman concluded

that a Board would be unable to consider this case in a meaningful way because a Complaints Board is: (i) unable to deal with the award of compensation; and (ii) not qualified to challenge a doctor's professional opinion.

The Complainant exercised his right of appeal and the case was referred to the two Deputy Chairmen for their views. The Deputy Chairmen upheld the decision of the Chairman that the Administrative Decisions route was not the correct way to address the difficulties encountered.

Planning and Environment

- (f) A statement of complaint was received on 14th March 2007 relating to a decision of the Minister for Planning and Environment to refuse planning permission for the erection of a pair of gates at the entrance to the property "La Tourelle", La Rue de la Sergente, St. Brelade.

The Minister reconsidered his earlier decision and decided to approve the proposal for the entrance gates subject to a regularization of the existing planning permission on the site.

- (g) A statement of complaint was received on 10th April 2007 relating to a decision of the Minister for Planning and Environment to refuse planning permission for the change of use from storage and maintenance of agricultural machinery to storage and repair of plant machinery in connection with the building industry at Les Goues, Le Câtillon, Grouville.

A hearing was held on 18th September 2007, and the Board upheld the complaint which it agreed –

- (i) was based wholly or partly on a mistake of law or fact by reason of the omission to consult with other relevant States departments and a failure to take into consideration Policy C19; and
- (ii) was contrary to the generally accepted principles of natural justice in that the applicant could reasonably have expected the Assistant Minister to have consulted as appropriate and taken into consideration the policy most relevant to the application.

The Board concluded that the Minister for Planning and Environment should be requested to reconsider the matter. The Board was awaiting the Minister's report at the end of 2007.

- (h) A statement of complaint was received on 19th June 2007 relating to a decision of the Minister for Planning and Environment to refuse planning permission to build 2 houses on a redundant greenhouse at Les Nouettes Nurseries, Rue des Nouettes, St. Clement.

The application was refused by the Chairman as she considered that this was not an appropriate case for a hearing by a Board as the department had followed the necessary procedures and the Minister's decision was consistent with approved and published policy. Accordingly, there was no reasonable prospect of the outcome of the complaint being successful.

- (i) A statement of complaint was received on 25th July 2007 relating to a decision of the Minister for Planning and Environment to refuse planning permission to build a house at Rosedale Farm, La Route des Issues, St. John.

The Chairman having a conflict of interest, the matter was referred to one of the Deputy Chairmen for consideration, and he agreed that a hearing should be held. Prior to the hearing, further negotiations took place, and the matter was not yet resolved at the end of 2007.

- (j) A statement of complaint was received on 25th October 2007 against a decision of the Minister for Planning and Environment to refuse retrospective planning permission to erect a chimney at Brookvale Farm, St. Martin.

The Minister reconsidered the case in November 2007 and granted permission before the case was referred

to a Board.

- (k) A statement of complaint was received on 1st November 2007 against a decision of the Minister for Planning and Environment to refuse planning permission to construct a storage shed at Mandorey Villa, La Grande Route de St. Jean (Field 1007).

The Chairman concluded that this was not an appropriate case for a hearing by a Board as she did not believe the Board would be able to consider the case in a meaningful way. An appeal to the Deputy Chairmen against the Chairman's decision was outstanding at the end of 2007.

Social Security

- (l) A statement of complaint was received on 4th July 2007 against the decision of the Minister for Social Security regarding entitlement to an old age pension.

The Chairman concluded that this is not an appropriate case for a hearing by a Board as she did not believe the Board would be able to consider the case in a meaningful way. The basic requirements to receive an old age pension are set out in Article 25 of the Social Security (Jersey) Law 1974, and the provisions relating to married women are set out at paragraph (3). As the Law is quite clear, there is no room for the Minister to exercise discretion. The Chairman has therefore decided, in accordance with Article 3(5) of the Administrative Decisions (Review) (Jersey) Law 1982 that a review of this case is not justified.