

# STATES OF JERSEY



**STATES OF JERSEY COMPLAINTS BOARD:  
FINDINGS – COMPLAINT AGAINST A DECISION OF  
THE MINISTER FOR HOUSING  
RELATING TO UNDUE DELAYS THROUGHOUT 2007  
IN THE PROCESSING OF RENT  
ABATEMENT/REBATE CLAIMS UNDER THE  
HOUSING DEPARTMENT SCHEME**

---

**Presented to the States on 23rd July 2008  
by the Privileges and Procedures Committee**

---

**STATES GREFFE**

## **REPORT**

### **Foreword**

In accordance with Article 9(9) of the Administrative Decisions (Review) (Jersey) Law 1982 as amended, the Privileges and Procedures Committee presents the findings of the Complaints Board constituted under the above Law to consider a complaint against the Minister for Housing regarding undue delays throughout 2007 in the processing of rent abatement/rebate claims under the Housing Department scheme.

Connétable D.F. Gray,  
Chairman, Privileges and Procedures Committee.

**Findings of the Complaints Board constituted under the Administrative Decisions (Review) (Jersey) Law 1982 to consider a complaint by Mrs. E.P. Gallichan against the Minister for Housing regarding undue delays throughout 2007 in the processing of rent abatement/rebate claims under the Housing Department scheme**

**1. The Review Board was composed as follows –**

Mrs. C. Canavan (Chairman)  
Mr. P. Farley  
Mr. T. Perchard

The parties were heard in public at St. Martin's Public Hall on 14th July 2008.

The complainant, Mrs. E.P. Gallichan, attended the hearing and was represented by Deputy G.P. Southern  
Senator T.J. Le Main, Minister for Housing, was accompanied by M. Porter, Tenant Services Manager and G. Greenwood, Compliance Officer, Housing Department.

**2. Hearing**

Summary of the complainant's case

- 2.1 The Board had received a full written summary of the complainant's case before the hearing and had taken note of the submissions made on her behalf.
- 2.2 Deputy Southern outlined the circumstances of the complainant's appeal against the levying of that proportion of arrears in the sum of £2,527.02, which had arisen owing to the absence of action by the Housing Department and which he maintained were not the responsibility of the complainant. It was contended that the Housing Department had failed to provide the complainant with a satisfactory standard of customer service, in that she had suffered 2 separate delays of an extended and unwarranted length in the processing of rent abatement claims under the now defunct abatement scheme following her changes of circumstance. The Department had subsequently declined to compensate the complainant by dissolving all or part of the resulting backdated debt accrued following the delays. This position was regarded by the complainant as less than equitable and was symptomatic of a marked absence of reasonable obligations on the Department in its rôle as landlord and administrator of the previous rent abatement scheme. Moreover, and having noted that in September 2008 the States Assembly would be considering whether to adopt the Draft Supply of Goods and Services (Jersey) Law 200-, the provisions of which would extend to include the activities of any public administration, it was suggested that the Board might wish to reflect on whether the circumstances of the complainant's case would give rise to the possibility of redress under that Law, were it to be adopted.
- 2.3 The Board heard that on 5th February 2007, Mrs. Gallichan, a States tenant and at that time the sole carer of her 2 children, had returned to work as a delivery driver for a St. Helier florist. On 7th March 2007, she had submitted a rent abatement form to the Department advising of her change in circumstances, together with an accompanying letter from her employer. The delay in notifying the Department was attributed to the fact that she had commenced work in the period immediately prior to St. Valentine's Day, which was the busiest time of the year for her employer. Numerous telephone calls to the Department had subsequently been made by the complainant in an attempt to establish the effect of her change in circumstances on her total weekly rent due. Mrs. Gallichan had elected not to write to the Department as English was her second language and she felt more confident in the standard of her oral English.
- 2.4 Mrs. Gallichan did not receive a response from the Department until the final week in May 2007, when she was instructed to submit a form known as RR1. This form constituted a formal declaration by the employer of the complainant's earnings. Although it was contended that the complainant's original

application had included a correctly completed form RR1, a duplicate was nevertheless completed by the employer on 11th June 2007 and was duly submitted.

- 2.5 On 6th July 2007 the Department wrote to the complainant advising that her weekly rent and charges had been reassessed and that a backdated debt of £1,889.16 had been added to her rent account, representing the change in her rent abatement entitlement following her return to work. She had subsequently been encouraged to amend her direct debit payment to the Department in order to clear the outstanding debt at the rate of £130 per month. Although this rate was, in the opinion of the complainant, fairly high, she had nevertheless agreed to the change and an amended direct debit had been duly authorized.
- 2.6 On 29th September 2007 the complainant's husband returned to the family home, whereupon the complainant had informed the Department immediately of the change in circumstances. The necessary application and RR1 declarations were submitted the following week. It was contended that both the complainant and the complainant's husband had then contacted the Department regularly in an attempt to clarify the effect of the change in circumstances on the total weekly rent due. Both the complainant and her husband reportedly received oral reassurances from staff that the matter would be determined within 7 days.
- 2.7 By December 2007 the second revised application had still not been determined. In frustration the complainant had contacted Deputy Southern and had sought his assistance. Deputy Southern had recommended that the complainant refrain from making any further repayments against the backdated debt until such time as the Department had determined her revised entitlement under the rent abatement scheme. The complainant had agreed and had requested that the Department cease drawing the additional payments from her account. This request was apparently ignored; however, on 29th December 2007 a letter was sent to the complainant advising that her application had been determined.
- 2.8 In early 2008 the complainant appealed to the Assistant Minister for Housing and then to the Minister for Housing against the decision of the Department to apply combined backdated rent arrears of £2,527.02 to her account. Both appeals were rejected. It was alleged that excessive pressure had subsequently been applied to the complainant by the Department in an attempt to secure payments against the outstanding amount. This pressure culminated in correspondence, dated 6th May 2008, in which the Department had indicated that it was considering taking the complainant to Petty Debts Court for her apparent failure to engage with the compliance section of the Department. In fact the complainant had been preparing her submission to the Board with the assistance of Deputy Southern. In the intervening period, the domestic and financial position of the complainant had been further complicated by the decision of the complainant's husband to leave the family home once more.
- 2.9 Having been invited to clarify why she had not set aside a proportion of her income in recognition of an anticipated reduction in her rent abatement entitlement, the complainant explained that in each case she had believed that she could manage a retrospective reduction of approximately one month. She had not expected to suffer extended delays. In any event, the complainant maintained that both she, and later her husband, had recognized the problem and had repeatedly contacted the Department offering to make limited additional payments against her account. These offers were declined and were accompanied by further assurances from staff that the application would be determined promptly; consequently the complainant's attempts to act responsibly had been frustrated.
- 2.10 The complainant noted that the Bassetlaw District Council in the United Kingdom administered a quantity of housing stock similar to that of the Housing Department in Jersey for a district of broadly similar size. That Council had also published a commitment to respond to written correspondence within 15 working days.

#### Summary of the Minister's case

- 2.11 The Board had received a full written summary of the Minister's case before the hearing and had taken note of the submissions made on his behalf.

- 2.12 The Minister for Housing accepted that the delays endured by the complainant were excessive. For that reason both the Minister and the Assistant Minister had written to the applicant previously and had apologized sincerely. It was nevertheless submitted that the complainant had not suffered unduly. On the contrary, she had benefited from a subsidy to which she was not entitled. Moreover, extenuating circumstances had affected the delivery of the rent abatement and rent rebate services in 2007. Although these circumstances were not sufficient to excuse the delayed response of the Department, it was contended that they were relevant mitigating factors to be taken into account.
- 2.13 It was explained that the rent abatement and rent rebate schemes operated by the Housing Department had not been constituted on a statutory basis. Both had been superseded by the introduction, on 28th January 2008, of the Income Support scheme, which operated in accordance with the Income Support (Jersey) Law 2007. Throughout 2007, the Housing Department had engaged with the Social Security Department to manage the transition to the new scheme, which would provide a fully integrated and more effectively targeted system of financial support for low income households. As part of that transition, all new or revised applications for rent abatement or rent rebate made in 2007 were processed by the Social Security Department, albeit that ultimate political responsibility for those schemes remained with the Minister for Housing. In order to assist with the management of Income Support, and also with the significant administrative burden arising during the preceding transition period, 5 members of staff within the Housing Department had transferred permanently to the Social Security Department in January 2007.
- 2.14 The inherently complex nature of the transition to Income Support had meant that the Housing Department had, on occasion, been unable to maintain rent abatement and rent rebate services at the desired standard; however, the Minister had previously concluded, and remained of the view, that the need to secure the medium and longer-term benefits of the Income Support scheme for the wider public outweighed the short-term risk to individual applicants of isolated delays, notwithstanding that any such delays were regrettable.
- 2.15 Although the Minister accepted that the complainant had suffered 2 unfortunate delays, the specific periods of delay outlined by the complainant were not accepted. In particular the Board was invited to note that the complainant had declared in her submission that she had started work on 5th February 2007, one week earlier than the date she had given to the Department. Notwithstanding the foregoing, the Department had refrained from taking the additional week into account when calculating the overall debt of £2,527.02 to be repaid. It was further contended that a certain number of days within the first period were not the fault of the Department. These included the period from 12th February to 7th March 2007 inclusive, representing the period before the Department was advised of the complainant's change in circumstances, and the period 23rd May to the final week of June 2007, when the Department received the necessary form RR1. Furthermore, it was clear that the employer had signed the required declaration form RR1 on 11th June 2007; accordingly the complainant had been in a position to submit the necessary paperwork to the Department at least 2 weeks earlier. Taking the foregoing into account, the first notification of a change in circumstances had been processed within 12 weeks— a similar period to that which had followed the second notification.
- 2.16 The Minister noted that the complainant had advised the Board that she sought a reduction in the combined backdated debt equivalent to that which had been charged for the periods when her revised applications had been held in abeyance at the Department, as opposed to the full dissolution of the combined debt of £2,527.02. It was clarified that earlier appeals had been conducted on the basis that full dissolution of the debt was sought. The Department had hitherto been unaware of the complainant's revised position.
- 2.17 On the matter of whether a 12 week period determination period was appropriate in the circumstances, the attention of the Board was drawn to a report produced in 2001 by the United Kingdom Audit Commission. The Audit Commission had recognized that the ordinary response times of local authorities ranged from approximately 10 days to well over 100 days. It had also made certain recommendation with a view to delivering improvements in service delivery, one of which had been to encourage the introduction of 'one-stop shops' to deliver better access for claimants. This had been delivered in Jersey

following the transition to the new Income Support scheme during the period under consideration. Taken in context, the delays experienced by the complainant were not considered sufficiently unreasonable as to warrant compensation. In any event, the Minister did not have available to him a budget from which such compensation could be paid, particularly as the scheme had closed in January 2008.

2.18 The Board was advised that, although the Housing Department did not operate in accordance with a single established policy and procedures manual, it did operate in accordance with a number of distinct policies. These included a strict policy on the management of arrears. It was accepted that a number of tenants had genuine reasons for incurring arrears and, to that end, early intervention was considered critical for both parties. Negotiations were progressed on a cautious, prudent and non-confrontational basis. More aggressive approaches to arrears management were considered wholly counterproductive and were avoided. Cases were only taken to the Petty Debts Court when tenants repeatedly and wilfully declined to engage with the Department. In this particular case the Minister remained committed to resolving the matter by negotiation. The Department would willingly commit to negotiations mediated by either the Citizens Advice Bureau or another suitable third party in an effort to arrive at a mutually agreeable repayment schedule, which could be progressed by standing order. Nevertheless, and having regard to Article 38 of the Public Finances (Jersey) Law 2005, it was not considered appropriate to write off all or part of the debt in this case, particularly as to do so might set a precedent which could be cited by other persons owing monies to the Department.

### **3. The Board's findings**

3.1 During its deliberations on this matter, the Board observed with regret that relations between the Department and the complainant had clearly deteriorated markedly. The Board considers that in fact sufficient common ground exists between the 2 parties to allow for sensible negotiation in this case. To that end it encourages both parties to pursue a mediated settlement.

3.2 The Board notes that the complainant has not sought to challenge the determination of the total weekly rent and charges due following the 2 changes in circumstance experienced by the complainant and the subsequent rent abatement claims submitted by the complainant under the rent abatement scheme; accordingly the Board accepts that the combined backdated debt in the sum of £2,527.02 has been calculated correctly.

3.3 The Board recognises that the 2 separate applications for rent abatement were processed during the transitional period pending the launch of the new Income Support scheme and that the administration of the scheme was complicated during that period by necessary preparatory work for the introduction of Income Support. While the Board is mindful of the foregoing, it nevertheless invites the Minister to reflect on whether the resources allocated or transferred by the Minister to manage the rent abatement service in this transitional period were sufficient to allow for that important scheme to continue, without individual beneficiaries having to experience an unreasonable reduction in the overall quality of the service offered.

3.4 Although the Board acknowledges that the existence of the combined backdated debt represents a public subsidy to which the complainant was not strictly entitled, and that the complainant's initial declaration of a change in circumstances should have been submitted more promptly, it also notes the complainant's assertion that she made vigorous attempts to obtain early clarification of her financial position and that her offers to make early additional repayments were not acted upon by staff. Furthermore, the Department has not presented any evidence to contradict these assertions.

3.5 The Board was somewhat surprised to discover a lack of clarity regarding the existence of an established policy and procedures manual for staff within the Housing Department. It had assumed that staff concerned in the management of claims submitted under schemes operated by the Department would have been issued with such a manual in order to ensure that they were suitably aware of relevant expectations and obligations in respect of their operational duties. The Board respectfully invites the Minister either to reassure the Board that such a manual does exist or to confirm that one will be compiled

and issued to staff in early course.

- 3.6 The Board, having carefully considered all the circumstances of the case as presented by both parties, concludes that insufficient grounds exist to uphold the complaint in accordance with Article 9(2) of the Administrative Decisions (Jersey) Law 1982, as amended. In particular the Board considers that the actions and inactions of the Housing Department fall short of conduct which could be described as unjust or oppressive. It nevertheless concludes that there has been an element of inequity and inflexibility in the position adopted by the Department to the processing of the 2 applications and to subsequent negotiations, both in person and over the telephone, concerning repayment of the outstanding arrears. It therefore invites the Minister to consider adopting a more lenient approach, without precedent, in respect of any repayment schedules it might expect the complainant to comply with.
- 3.7 The Board asks the Minister to consider the above comments, and to advise it within 28 days of any action he proposes to take.

Signed and dated by: .....  
Mrs. C. Canavan, Chairman

.....  
Mr. P. Farley

.....  
Mr. T. Perchard