
STATES OF JERSEY



STATES OF JERSEY COMPLAINTS BOARD: FINDINGS – COMPLAINT AGAINST A DECISION OF THE MINISTER FOR SOCIAL SECURITY (R.142/2013) – RESPONSE OF THE MINISTER

**Presented to the States on 18th December 2013
by the Privileges and Procedures Committee**

STATES GREFFE

FOREWORD

Article 9(9) of the Administrative Decisions (Review) (Jersey) Law 1982 requires the Privileges and Procedures Committee [PPC] to present to the States the findings of every Complaints Board hearing and the response of the Minister when a Board has asked a Minister to reconsider a decision. On 15th November 2013, PPC presented to the States the findings of a Complaints Board held on 16th October 2013 to review a decision of the Minister for Social Security ([R.142/2013](#)). The Minister has now reconsidered the decision as required by the Board, and the Committee is therefore presenting his response to the States as required by Article 9(9).

**Social Security Department
Minister**

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Chairman
States of Jersey Complaints Board
c/o States Greffe
Morier House, St Helier
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13th December 2013

Dear Chairman

Findings of the Complaints Board constituted under the Administrative Decisions (Review) (Jersey) Law 1982 to consider a complaint by Mr. P. Bellas against the Minister for Social Security and the Department for Social Security regarding the handling of an application for Income Support

I am grateful to the Complaints Board for the detailed consideration that they gave to the complaint made by Mr P Bellas. I would summarise the main points relating to the complaint and set out my response to the Board's findings as follows:

a) Professionalism of Social Security Staff

Firstly I am pleased to note the Board commends (6.2) the service provided by staff at my Department. The Board also acknowledges that they work in "a difficult environment". I am also pleased that the Board concludes that the members of staff who had attended the hearing had been "professional and responded to the questions put to them honestly, openly, thoroughly and proficiently".

b) Mr & Mrs Bellas did not provide the letter dated 26th April to the Department on 2nd May.

I note that the Board agrees (6.3) with the Department that there was inconclusive proof that Mr & Mrs Bellas provided the letter at the core of the complaint to the Department on 2nd May.

c) Social Security assessed Mr & Mrs Bellas' claim correctly

The Board also agrees (6.6) that Mr & Mrs Bellas' claim for Income Support was correctly assessed in accordance with our current guidelines for assessing Income Support claims.

As is standard procedure, Mr & Mrs Bellas were given an opportunity to appeal this decision with the Social Security Tribunal. Mr Bellas initially lodged an appeal but stated to the Registrar that he was not disputing the way the

Department had calculated his Income Support claim. He was in fact disputing the statement that the Department had not received his former employer's letter on the date that he said he had provided it. He was therefore advised by the Registrar that his appeal did not fall under the remit of the Social Security Tribunal as this was an administrative issue rather than a legislative one.

Further to this he withdrew his appeal request and submitted his complaint to the States of Jersey Complaints Board instead.

Had Mr Bellas advised the Registrar at the time of submission of the original appeal that he was disagreeing with the Income Support Guidelines regarding the treatment of his payment this matter would have been open to consideration by the Social Security Tribunal.

For the avoidance of any doubt, the Department correctly assessed Mr & Mrs Bellas' claim and will not be reviewing this decision any further.

d) Income Support Guidelines were applied correctly

Having confirmed that the claim has been accurately assessed within the Income Support Guidelines, the Board suggests (6.6) that perhaps the Guidelines are inadequate to cover the circumstances of Mr Bellas' termination from his employer.

Income Support Guidelines are based on the Income Support legislation which requires a household's total income to be taken into account unless the legislation allows for certain aspects to be disregarded or treated differently i.e. income as capital. Article 7 Income Support (Jersey) Law.

Income Support Guidelines require that these funds are treated as income and the £6000 payment that Mr Bellas received from his employer is therefore attributed over the same period as if Mr Bellas had been paid his current weekly wage, which in this case was 13 weeks.

Therefore this payment was classed as income for the first 13 weeks in the assessment of Mr & Mrs Bellas' claim. This income was sufficient that they would not receive any Income Support for this period. Mr & Mrs Bellas were then able to claim Income Support at the end of this period.

It is reasonable to expect a household to utilise the receipt of such a payment prior to claiming Income Support. It is financially responsible for a household to utilise a large payment over a number of weeks, particularly when having just lost employment.

If the payment was not treated as earnings in this way then Mr & Mrs Bellas would have received approximately £2,960 of Income Support whilst retaining £6000 of earnings.

It is important to note that Mr & Mrs Bellas did not seek any advice from the Department prior to Mr Bellas leaving the employer.

The Income Support Guidelines, agreed by the Minister, do currently make an exception when a claimant has been made redundant. Any redundancy pay is

not treated as earning and is disregarded. In essence the Guidelines confirm that redundancy payments are treated as capital and that all other remuneration from an employer, at the end of employment, as income.

I am satisfied that the current Income Support Guidelines are just and will remain unchanged.

e) The Department correctly established that Mr Bellas was not made redundant

The Complaints Board suggests (6.8) that the Department could have done more to clarify the basis of Mr Bellas' termination and that it may have been unjust in its actions.

To confirm, the Department was informed verbally (June 5th) by the employer that Mr Bellas was not made redundant and this was sufficient to assess the claim which the Complaints Board agrees was correctly actioned by the Department.

I had also personally confirmed (June 26th) with the employer verbally that Mr Bellas had not been made redundant.

In response to the Complaints Board's comments the Department has sought and now received written confirmation from the employer that Mr Bellas was not made redundant.

This further confirms that the claim was assessed correctly.

f) Complaints Board recommendation

The Complaints Board recommends that the Department seek legal advice in relation to the letter dated 26th April. As requested, legal advice has been sought and the Department remains satisfied that the claim has been assessed in accordance with Income Support Guidelines.

g) Mr & Mrs Bellas did not act on advice from the Department

On May 2nd the Department recommended to Mr & Mrs Bellas that they (5.6) should seek advice from JACS in relation to the termination of employment, however, they did not act upon this advice.

Mr & Mrs Bellas did not seek any advice from the Department prior to Mr Bellas leaving the employer on April 26th.

Whilst presenting the case (3.1), Deputy Southern stated that Mr Bellas had only sought financial assistance from the Department once before in 2004. In fact he was party to an Income Support claim between August 2009 and January 2011.

h) The Department's policy on recording interactions with customers is robust

I am pleased that the Board applauds (6.10) the existing policy within the Department of obliging all staff to record notes on customer interactions within the Department's computer system. As in the evidence supplied by the

Department on this case, all notes recorded on our system were provided and consistent with our decision on this case.

The Board then recommends (6.10) that in the circumstances of two members of staff dealing with a customer that they both make notes onto the Department's computer system. Whilst the rationale of the recommendation in relation to this particular case is understood, the existing procedures are robust and the Department will not be adopting this recommendation at this time.

Yours sincerely



Senator Francis Le Gresley
Minister

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