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# STATES OF JERSEY



## ACCESS TO JUSTICE REVIEW: SECOND INTERIM REPORT

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Presented to the States on 29th July 2015  
by the Chief Minister

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STATES GREFFE

## REPORT

### Introduction

1. A Proposition relating to a review of access to justice in Jersey (the “Review”) was lodged *au Greffe* by the Chief Minister on 2nd December 2013 (P.158/2013<sup>1</sup>). The Proposition included the terms of reference, methodology and membership for the Review. The Proposition received the unanimous approval of the States Assembly on 23rd January 2014.
2. An interim report was presented to the States Assembly on 23rd July 2014 (R.107/2014<sup>2</sup>). The interim report set out a summary of written comments received up to that date, and identified principal areas of interest within the written comments.
3. The Advisory Panel is chaired by Senator P.F. Routier, M.B.E., and has the following members –
  - Connétable J. Gallichan of St. Mary;
  - Deputy M. Tadier of St. Brelade;
  - Connétable D.W. Mezbourian of St. Lawrence (who replaced Senator LJ. Farnham following the 2014 Elections); and
  - Deputy J.A. Hilton of St. Helier (who replaced Deputy J.H. Young of St. Brelade following the 2014 Elections)<sup>3</sup>.
4. The Panel is supported by an Expert Group, chaired by the Chief Officer responsible for justice policy, which consists of one or more representatives from the following –
  - Law Officers’ Department;
  - Judicial Greffe;
  - The Law Society of Jersey;
  - Bâtonnier and Acting Bâtonnier;
  - Jersey Chamber of Commerce;
  - Citizen’s Advice Bureau; and
  - Jersey Consumer Council.

### Second Interim Report

5. In P.158/2013, the Chief Minister indicated to the States Assembly that the Review was likely to be a lengthy but important piece of work. The Advisory Panel began its work in March 2014 and, following the re-establishment of the Panel following the Elections, it has continued to work with the wide variety of stakeholders across the justice system (many of whom are represented on the Expert Group) to provide a co-ordinating focus for improvements to access to justice.

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<sup>1</sup> <http://www.statesassembly.gov.je/AssemblyPropositions/2013/P.158-2013.pdf>

<sup>2</sup> <http://www.statesassembly.gov.je/AssemblyReports/2014/R.107-2014.pdf>

<sup>3</sup> [http://www.gov.je/Government/PlanningPerformance/Pages/MinisterialDecisions.aspx?docid=cb6a2df8f9ef1cd51befa5b250c44d25\\_MDs2013](http://www.gov.je/Government/PlanningPerformance/Pages/MinisterialDecisions.aspx?docid=cb6a2df8f9ef1cd51befa5b250c44d25_MDs2013)

6. As the Review has progressed, it has become clear that stakeholders need sufficient time to develop and implement improvements highlighted during the work of the Panel. The Panel wishes to provide all stakeholders with the opportunity to complete this work. For this reason the Panel has advised the Chief Minister that the States Assembly should be provided with this update. It is anticipated that the final report will be provided to the States Assembly by the end of July 2016. The Panel will continue to work with stakeholders and to monitor the implementation and impact of the changes made.
7. The Chief Minister therefore desires to keep the States Assembly updated as to progress with this important initiative by way of a second interim report.

#### **Transparency, Written Submissions and Public Hearings**

8. The methodology for the Review included an undertaking to consult widely and gather evidence from the Public and interested parties. As a result, an invitation was issued on 12th May 2014 for members of the Public and the legal profession to provide written comments.
9. The invitation to comment particularly encouraged those with relevant expertise, experience or an interest in access to justice to respond. Comments were invited on any aspect of this topic.
10. Although it had initially been intended that the consultation would take place for a limited period only, the Advisory Panel have agreed, in view of the broad, important and ongoing nature of the Review, that the consultation should remain open to allow further comment by the Public. A further public hearing will also take place as detailed below.
11. The Chief Minister continues to encourage members of the Public to provide comments for consideration as part of the Review, so that everyone has the opportunity to give their views.

#### **Update and Interim Recommendations**

12. The first interim report identified and summarised the submissions received, using a number of themes which could be grouped together, namely –
  - The legal aid system, affordability and the legal profession;
  - The Courts, Tribunals, Panels and other adjudicatory bodies and alternative dispute resolution/non-judicial redress mechanisms;
  - Information, languages and plain English; and
  - Simplification and reform of Laws.
13. This Report sets out below an update on the Review and the work of the Advisory Panel and the Expert Group. The Chief Minister continues to support the Review and appreciates the very valuable ongoing work of all those involved.

### **Legal Aid System, Affordability and the Legal Profession**

14. The Law Society of Jersey has engaged with the Access to Justice Review since its inception. This positive involvement has included submitting written comments, meeting with the Advisory Panel, and active participation as members of the Expert Group. As the system of legal aid is central to the Review, this participation is recognised and commended.
15. The Advisory Panel is also grateful for the commitment by the legal profession to serving the local community through maintaining the legal aid service in the Island, so that those that cannot afford the full cost are supported through the provision of free or reduced cost legal representation in key areas of personal law.
16. It is clear that the legal aid system was designed many years ago, and the Advisory Panel consider that it now merits a careful review in order to ensure that it remains fit for purpose. The Panel therefore welcomes the comprehensive review of the legal aid scheme which is currently being undertaken by the Law Society, in consultation with its members and with the Judicial Greffe.
17. The purpose of the review is to develop a sustainable legal aid model that maintains access to justice through the provision of legal representation for individuals with a legitimate need, but who do not have the means to meet the full costs of representation, and which enhances simplicity and transparency for all concerned. It is understood that it is the intention of the Law Society of Jersey to complete this work by June 2016.
18. The Advisory Panel have therefore requested that representatives of the Law Society attend a Public Hearing in early autumn 2015 in order to receive an update on the progress of that review and to provide input as necessary.
19. The Advisory Panel have also invited other stakeholders, including the Consumer Council, to attend the Public Hearing in early autumn 2015 in order to receive further expert input into the Review.

### **The Courts, Tribunals, Panels and other adjudicatory bodies and alternative dispute resolution/non-judicial redress mechanisms**

20. In June 2015 the Panel received a very useful and informative presentation and tour of the Family Courts by the Registrars of the Family Courts and the Judicial Greffier. The Advisory Panel has arranged further visits to the Royal Court, Magistrate's Court and Tribunals in September 2015. This will enable the Panel to gain a greater understanding of the work of the Courts and Tribunals. It will also allow the Panel to consider how best to engage, given the importance of the independence of the judiciary, with the Courts and Tribunals, in order to achieve positive change for all users of the Courts and Tribunals system.

21. The Panel has also noted that the Bailiff has initiated 2 reviews relating to access to justice –
- (a) A review of the Royal Court Rules carried out by the Royal Court Rules Review Group, which is chaired by the Bailiff. This Group has carried out a consultation process, the results of which, it is understood, are currently being considered. The Panel has requested that it be updated on the results of the Royal Court Rules Review and any actions arising in due course.
  - (b) A review of access to justice in family cases from a procedural perspective. It is understood that this review is at an early stage.
22. The Panel welcomes both of these initiatives and will work with the Bailiff in order to share and take forward ideas relating to access to justice during autumn 2015.
23. The Expert Group has established a Sub-Group comprising representatives from the Law Society of Jersey, the Citizen’s Advice Bureau, the Judicial Greffe and the Jersey Legal Information Board, in order to consider in detail how the use of mediation (for example, community mediation and family mediation) might be increased and the impact of this on access to justice. The Sub-Group will provide a report on its findings to the Advisory Panel in September 2015.

#### **Information, Languages and Plain English**

24. The Advisory Panel commends and supports the continuing work of the Jersey Legal Information Board (“JLIB”), which involves representatives of the Government of Jersey, the judiciary, States Greffe, Judicial Greffe, Citizen’s Advice Bureau and Law Society of Jersey, to improve co-ordination of legal advice notes; the availability of legislation, case law and other legal information; and in ensuring that English translations of Jersey legislation and authoritative Jersey legal texts, currently written in French, are prepared and freely available.
25. The Advisory Panel understands that the objects of JLIB include –
- “... the promotion of the accessibility of the written law and legal processes to the public and of an integrated and efficient legal system, through the use of information technology and by other means”<sup>4</sup>.*
26. The Panel understands that JLIB is currently considering how best to achieve those objectives in the future, and looks forward to being updated on JLIB’s future work plan in autumn 2015 so that it can consider the impact of such work on this aspect of access to justice.

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<sup>4</sup> Jersey Legal Information Board (Incorporation) Law 2004, Article 4 – [http://www.jerseylaw.je/Law/display.aspx?url=lawsinforce%2fconsolidated%2f16%2f16.335\\_JerseyLegalInformationBoard\(Incorporation\)Law2004\\_RevisedEdition\\_1January2006.htm](http://www.jerseylaw.je/Law/display.aspx?url=lawsinforce%2fconsolidated%2f16%2f16.335_JerseyLegalInformationBoard(Incorporation)Law2004_RevisedEdition_1January2006.htm)

## Simplification and Reform of Laws

27. The Advisory Panel has noted that since the first interim Report, the following items of legislation have been approved by the States Assembly, which are expected to have a positive impact on access to justice –
- (a) Criminal Justice (Insane Persons) (Amendment) (Jersey) Law 2015<sup>5</sup> ([L.4/2015](#)) – which is intended to improve the time taken for determinations of fitness to plead in criminal proceedings to take place; and
  - (b) Criminal Procedure (Miscellaneous Amendments) (Jersey) Law 2015<sup>6</sup> ([L.11/2015](#)) – which deals with the use of live television links in criminal proceedings.
28. The Advisory Panel has also noted the following work of stakeholders, which it is anticipated will also have a positive impact on access to justice –
- (a) Jersey Law Commission review of divorce law expected by the end of July 2015.
  - (b) Jersey Law Commission review of Administrative Justice expected by autumn 2015.
  - (c) A Sub-Group of the Criminal Justice Working Group’s review of Jersey’s criminal procedure law is expected to be completed by the end of 2016, although this is a very large and complex piece of work.
  - (d) Jersey Legal Information Board to continue translations of French Laws. Officers to report back on future JLIB initiatives with regard to access to justice.
  - (e) Legislation Advisory Panel work on restatement of contract law to begin in Q3 of 2015.
29. The Advisory Panel will continue to monitor developments in respect of each of these initiatives, and give consideration to their impact on access to justice as they progress.

## Next update

30. The Chief Minister will continue to keep the States Assembly updated as to progress with the Review, and will provide a further report to the States Assembly by the end of July 2016.

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<sup>5</sup> <http://www.statesassembly.gov.je/AssemblyPropositions/2014/P.160-2014.pdf>

<http://www.statesassembly.gov.je/AssemblyPropositions/2014/P.160-2014Amd.pdf>

<sup>6</sup> <http://www.statesassembly.gov.je/AssemblyPropositions/2015/P.43-2015.pdf>

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