
STATES OF JERSEY



JERSEY LAW COMMISSION TOPIC REPORT ‘IMPROVING ADMINISTRATIVE REDRESS IN JERSEY’: INITIAL RESPONSE

Presented to the States on 2nd January 2018
by the Chief Minister

STATES GREFFE

REPORT

Introduction

1. On 18th October 2017 the Jersey Law Commission published a Topic Report, entitled ‘Improving Administrative Redress in Jersey’ (No.1/2017/TR) (“the Topic Report”). The Topic Report is publically available from the Jersey Law Commission website¹.
2. The Topic Report is the product of a Jersey Law Commission project which had 2 principal aims –
 - a. To answer the research question: “In Jersey, what procedures and institutions are available to people who need to challenge the correctness of administrative decisions”?
 - b. To evaluate the procedures and institutions in order to generate policy recommendations for improving the quality of administrative redress in Jersey².
3. The author of the Topic Report for the Jersey Law Commission is Andrew Le Sueur, Professor of Constitutional Justice at the University of Essex, United Kingdom.
4. The Topic Report was produced following lengthy and detailed research, interviews and the publication by the Jersey Law Commission in April 2016 of a consultation paper, ‘Improving Administrative Redress in Jersey: Consultation Report’ (No.1/2016/CP)³ which was the subject of public consultation.
5. The recommendations in the Topic Report cover the following areas: oversight of administrative redress processes; complaints procedures; the administrative justice system; the States of Jersey Complaints Panel; the establishment of a Public Services Ombudsman for Jersey (also recommended by the Clothier Review); judicial review; and the use of alternative dispute resolution.
6. The Chief Minister, Senator Ian Gorst and Chair of the Legislation Advisory Panel, Senator Sir Philip Bailhache have welcomed the publication of the Topic Report by the Jersey Law Commission. It is an important and substantial piece of work which aims to contribute to the wider project of building trust and confidence in the processes for complaining about public administration.

¹https://jerseylawcommission.files.wordpress.com/2016/04/jsylawcom_topicreport_adminredress_final.pdf

² See Annex D of the Topic Report

³https://jerseylawcommission.files.wordpress.com/2016/04/jsylawcom_improvingadminredress_final.pdf

Initial Response

P.108/2017 Independent Jersey Care Inquiry: Implementation of Recommendations

7. On 16th January 2018, the States Assembly will consider P.108/2017 – ‘Independent Jersey Care Inquiry Report: implementation of recommendations’⁴ which has been lodged by the Council of Ministers.
8. Recommendation 7 of the Independent Jersey Care Inquiry (IJCI) Report identified that action should be taken to “*Ensure that the Island’s children and young people will be looked after in a caring and compassionate system that is underpinned by a system of governance in which there is the utmost confidence among all of the Island’s citizens*” (ICJI Para. 13.43: p.64: Vol. 3 of 3: Recommendations and Appendices).
9. P.108/2017 provides that, in respect of –
 - a. Administrative Redress – the recommendations set out in the Topic Report will need to be considered by the Chief Minister in the context of the Independent Jersey Care Inquiry 2017 (Recommendation 7) as they relate to the system of checks and balances and accountability by which government and public institutions are held to account, and are intended to contribute to the wider project of building trust and confidence in processes for complaining about public administration.
 - b. Engaging the Community – in order to better understand the views, concerns and needs of the whole community, it is proposed that the Chief Minister co-ordinates work to develop policy priorities aimed at building public engagement and transparency in government deliberation and decision-making.
10. In order to achieve this, P.108/2017 proposes that, in order to improve accountability, integration, openness and confidence in our system of governance, the Chief Minister co-ordinate work to –
 - a. develop proposals for improved governance structures that will enhance accountability and integration, and will enable the effective and ongoing delivery of the Care Inquiry recommendations;
 - b. review best practice approaches and available benchmarks in respect of accountability, integration, openness and generally improving confidence in government and, using those indicators, review Jersey’s current performance and set future objectives; and
 - c. review the recommendations of the Jersey Law Commission Review on administrative redress and the administrative justice system, and Clothier recommendations in respect of the establishment of a Jersey Public Services Ombudsman and develop proposals to implement those recommendations.

⁴ <http://www.statesassembly.gov.je/assemblypropositions/2017/p.108-2017.pdf>

11. P.108/2017 also sets out the following key deliverables and timeline in respect of this work –

Actions	Key Milestone	Lead Agency
Initial response to the Jersey Law Commission Report on Improving Administrative Redress in Jersey	December 2017	Community and Constitutional Affairs
Complete scoping exercise and planning for projects on – (i) public engagement; (ii) openness, transparency, checks and balances, accountability and confidence in our system of governance; (iii) administrative redress and the administrative justice system	September 2018	Community and Constitutional Affairs
Obtain Ministerial approval for project implementation	December 2018	Community and Constitutional Affairs
Begin phased project implementation	January 2019	Community and Constitutional Affairs

Actions

12. It is clear that reviewing and, if agreed, delivering and implementing the recommendations made in the Topic Report will be a significant piece of work, involve a number of different stakeholders, including Ministers, Departments, the States Assembly, the Judiciary and non-Ministerial Departments. It is also clear that substantial legislative, organisational and procedural change would be required if the Topic Report recommendations are to be implemented. Further, a number of recommendations would be contingent on the delivery of other projects and resourcing.
13. The Chief Minister has requested that officers from the Department for Community and Constitutional Affairs report to him in co-ordinating and delivering the project as set out in the timeline above. The Department for Community and Constitutional Affairs is in the process of identifying sustainable resource to be able to carry out this work as detailed at page 50 of P.108/2017.
14. The Chief Minister has also requested the Legislation Advisory Panel (LAP), in its advisory role to the Chief Minister, to consider the recommendations made in the Topic Report and make policy recommendations to him. This is advantageous, not only because LAP undertakes the role of the link with the Jersey Law Commission on behalf of the Chief Minister and, as such, has sponsored the Jersey Law Commission work in respect of administrative redress since its inception, but also because this will enable a broader number of States Members (executive and non-executive) to be involved in considering the wide ranging recommendations made in the Topic Report. LAP will also be supported by the Department for Community and Constitutional Affairs in carrying out this work in order to ensure a coordinated approach.

15. LAP has started initial work in order to consider whether the recommendations made in the Topic Report should be accepted and has requested officers to –
- a. Identify those recommendations made within the Topic Report which –
 - i. subject to agreement, could be progressed during 2018 (i.e. because they would not require legislative change or on which a decision would be required during 2018 in order to progress more substantial resourcing, organisational or procedural change); or
 - ii. subject to agreement, would be for phased implementation during 2019 (i.e. because they would require legislative or more substantial resourcing, organisational and procedural change).
 - b. Ascertain the preliminary views of public sector stakeholders who would be impacted if the recommendations were to be accepted and progressed.
16. The tables at the Appendix set out –
- a. The Recommendations, Method of Implementation and Costs, Benefits and Risks identified in the Topic Report;
 - b. In respect of each Recommendation, a preliminary list of public sector stakeholders who may be impacted if the recommendations were to be accepted and progressed; and
 - c. In respect of each Recommendation, an indication of whether the recommendation, subject to agreement, could be progressed during 2018 or would be for phased implementation from 2019.

Scrutiny – Care of Children in Jersey Review Panel

17. The Chairmen’s Committee has established the Care of Children in Jersey Review Panel (the Review Panel)⁵ to examine the policies, legislation and actions of the Council of Ministers as a result of the recommendations made by the IJCI. The Review Panel has been established to make sure that these recommendations are implemented correctly and that any proposals put forward to achieve them are adequately examined.
18. Membership of the Panel includes: Deputy S.Y. Mézec of St. Helier (Chairman); Deputy T.A. Vallois of St. John (Vice-Chairman); Deputy J.A. Hilton of St. Helier; Deputy M.R. Higgins of St. Helier and Senator S.C. Ferguson.
19. The Chief Minister appeared at a public hearing with the Review Panel on 8th December 2017. At that hearing the Review Panel enquired about progress on the Topic Report, and in particular in respect to the recommendation to establish

⁵ <http://www.scrutiny.gov.je/Pages/Review.aspx?ReviewId=276>

a Public Services Ombudsman, complaints systems and tribunals. It was agreed that a copy of this Initial Response would be provided to the Review Panel when available⁶. It is anticipated that the Review Panel will continue to review progress on the response to the Topic Report.

⁶ <http://www.statesassembly.gov.je/scrutinyreviewtranscripts/2017/transcript%20-%20care%20of%20children%20in%20jersey%20review%20panel%20-%20chief%20minister%20-%208%20december%202017.pdf>

Summary of Recommendations

The tables below set out –

- The Recommendations, Method of Implementation and Costs, Benefits and Risks identified in the Topic Report;
- In respect of each Recommendation, a preliminary list of public sector stakeholders who may be impacted if the recommendations were to be accepted and progressed; and
- In respect of each Recommendation, although all Recommendations will be considered during 2018, an indication of whether the recommendation:
 - Subject to agreement, could be progressed during 2018 (“2018”) – i.e. it would not require legislative change or a decision would be required during 2018 in order to progress more substantial resourcing, organisational or procedural change; or
 - Subject to agreement, would be for phased implementation from 2019 (“2019”) – i.e. it would require legislative or more substantial resourcing, organisational and procedural change.

Key:

AJL	Administrative Justice (Jersey) Law. Many of the recommendations contained in the Topic report would need to be implemented through a new Law. The Topic Report uses the working title “Administrative Justice (Jersey) Law”.
ADJL	Administrative Decisions (Jersey) Law 1982
BC	Bailiff’s Chambers
CCA	Community and Constitutional Affairs
CMD	Chief Minister’s Department
DPC	Data Protection Commissioner
EDU	Education
EDTSC	Economic Development, Tourism, Sport and Culture
ENV	Environment
HSS	Health and Social Services
INF	Infrastructure
JG	Judicial Greffe
LOD	Law Officers’ Department
Panel	States of Jersey Complaints Panel
SCR	Scrutiny
SEB	States Employment Board
SPBs	Scheduled Public Bodies. The Topic Report proposes that the public authorities to which the AJL applies should be listed in a Schedule.
SS	Social Security
TR	Treasury and Resources
VD	Viscount’s Department

Chapter 2: Overarching Issues in Administrative Justice in Jersey

Recommendation	Method of Implementation	Costs, Benefits, Risk	Public Sector Stakeholders	2018/2019
<p>Recommendation 2.1</p> <p>Create a legal duty on the CM to issue guidance to public bodies about fair and effective handling of complaints</p>	<p>Article in AJJL creates duty</p> <p>CM issues non-statutory guidance (and keeps under review); consideration to be given to the mechanisms by which the States Assembly can best scrutinise this guidance.</p>	<p><u>Costs</u></p> <ul style="list-style-type: none"> - One-off cost of drafting duty in article in AJJL (cost to Government of Jersey) and scrutiny of the projet de loi (cost to States Assembly) - One-off cost of developing a first draft of the non-statutory guidance, including external advisers, and carrying out consultation (cost to Government of Jersey); the Jersey Law Commission could contribute to this work - One-off cost of scrutinising the draft guidance by States Assembly e.g. through a Scrutiny Panel (cost to States Assembly) - Ongoing cost of operationalising the guidance, including reviews of complaint handling process by SPBs, training for staff, and publishing information about internal complaints through websites and leaflets (cost to Government of Jersey and other SPBs) <p><u>Benefits</u></p> <ul style="list-style-type: none"> - Individual users of public services in Jersey will benefit from improved complaints handling - The process of developing and consulting on the contents of the guidance will encourage sharing of good practice across SPBs - Guidance will help SPBs to improve the quality of complaint handling - Guidance will encourage greater transparency in handling of complaints by SPBs - Guidance will encourage a more consistent approach to 	All	2018

Recommendation	Method of Implementation	Costs, Benefits, Risk	Public Sector Stakeholders	2018/2019
		<p>handling of complaints across public services</p> <ul style="list-style-type: none"> - Requirements in the guidance to publish information about complaint handling will improve public understanding of rights to complain <p><u>Risks</u></p> <ul style="list-style-type: none"> - Risk that SPBs may fail to comply with the guidance or view it as a “paper exercise”, leading to patchy improvements across the public sector 		
<p>Recommendation 2.2</p> <p>Create a legal duty on the CM to present an annual report to the States Assembly on administrative redress across the Government of Jersey and other public bodies</p>	<p>Article in AJJL creates duty</p> <p>CM prepares and presents annual report</p>	<p><u>Costs</u></p> <ul style="list-style-type: none"> - One-off cost of drafting article in AJJL (cost to Government of Jersey) and scrutiny of projet de loi (cost to States Assembly) - Annual cost to SPBs of staff time and other resources needed to collect and report data to the CM (cost to SPBs) - Annual cost to CM of analysing data, preparing and publishing report (cost to Government of Jersey) - Annual cost of providing political scrutiny and accountability in relation to CM’s report (cost to States Assembly) <p><u>Benefits</u></p> <ul style="list-style-type: none"> - Annual report provides good quality information to support evidence-led policy-making and actions by Government - Annual report will enable members of the States Assembly to provide more systematic accountability over the administrative justice system - Ultimately, individuals, business and organisations using public services in Jersey will benefit from more effective coordination and improvements in the operation of the 	<p>CMD, CCA</p>	<p>2019</p>

Recommendation	Method of Implementation	Costs, Benefits, Risk	Public Sector Stakeholders	2018/2019
		<p>administrative justice system</p> <p><u>Risks</u></p> <ul style="list-style-type: none"> - SPBs may fail to collect and report accurate data to the CM - The CM and officials may adopt an insufficiently reflective and critical approach to evaluating data, lesson learning and taking remedial action where systematic problems arise - States Members may not regard scrutiny of the annual report as a political priority and will fail to provide independent challenge and accountability to Government 		
<p>Recommendation 2.3</p> <p>The States Assembly should scrutinise the CM's annual report on administrative justice</p>	<p>Scrutiny Chairmen's Committee to consider how best to provide scrutiny of the CM's annual reports (e.g. through a committee or scrutiny panel)</p>	<p><u>Costs</u></p> <ul style="list-style-type: none"> - Ongoing costs of activity in States Assembly in conducting scrutiny of CM's annual report, including Members' time, administrative support for a committee/scrutiny panel and appointment of external specialist advisers as needed (cost to States Assembly) <p><u>Benefits</u></p> <ul style="list-style-type: none"> - Annual report will enable States Members to have an overview of where problems are arising across the whole administrative redress system and make strategic decisions about how best to scrutinise those problems - Annual report subject to public scrutiny will provide an incentive for SPBs to engage in continuous improvement and address systematic problems openly - Ultimately, individuals, business and organisations using public services in Jersey will benefit from more effective coordination and improvements in the operation of the 	SCR	2019

Recommendation	Method of Implementation	Costs, Benefits, Risk	Public Sector Stakeholders	2018/2019
		<p>administrative justice system</p> <p><u>Risks</u></p> <ul style="list-style-type: none"> - States Members may not regard scrutiny of annual report as a political priority and will fail to provide independent challenge and accountability to Government - The CM's annual report and subsequent scrutiny may yield insufficient practical improvement in the quality of public services and administrative redress 		
<p>Recommendation 2.4</p> <p>CM and Minister for Health and Social Services should commission a study of complaints handling relating to health and social services decision-making and services, with a remit to make recommendations</p>	<p>Ministerial decision</p>	<p><u>Costs</u></p> <p>One-off cost of a study involving desk-based research, research interviews, and review of files, which we estimate will be achievable for £15,000 (cost to Government of Jersey).</p> <p><u>Benefits</u></p> <ul style="list-style-type: none"> - An independent review will provide basis for evidence-led policy making by the Government of Jersey in the area that produces the largest number of internal complaints - Ultimately, individuals using health and social services in Jersey will benefit from improvements in the operation of the administrative justice system <p><u>Risks</u></p> <p>The independent study may make recommendations that are not acceptable to Government of Jersey or the States Assembly</p>	<p>CMD, CCA, HSS</p>	<p>2018</p>
<p>Recommendation 2.5</p> <p>Create a legal "right to good administration" based on models developed in some other jurisdictions</p>	<p>Article in AJJL</p>	<p><u>Costs</u></p> <ul style="list-style-type: none"> - One-off cost of drafting article in AJJL (cost to Government of Jersey) and scrutiny of projet de loi (cost to States Assembly) <p><u>Benefits</u></p> <ul style="list-style-type: none"> - Existence of the right benefiting individuals will become a point of reference 	<p>CMD, CCA</p>	<p>2019</p>

Recommendation	Method of Implementation	Costs, Benefits, Risk	Public Sector Stakeholders	2018/2019
		<p>for the Government of Jersey, the States Assembly and the judiciary when developing and applying rules relating to administrative justice and redress</p> <ul style="list-style-type: none"> - Reputational benefit to the Island of signalling to the world Jersey's commitment to the rule of law in public administration - Ultimately, individuals, business and organisations using public services in Jersey will benefit from a commitment by the Government of Jersey and States Assembly to respect and uphold a right to just administration <p><u>Risks</u></p> <ul style="list-style-type: none"> - The new right may have little practical impact on improving quality of administrative justice and redress 		

Chapter 3: Modernising Jersey's Tribunals System

Recommendation	Method of Implementation	Costs, Benefits, Risk	Public Sector Stakeholders	2018/2019
<p>Recommendation 3.1</p> <p>Create a new tribunal (the Jersey Administrative Appeals Tribunal) with a broad jurisdiction to hear appeals against administrative decisions</p>	Articles in AJJL	<p><u>Costs</u></p> <ul style="list-style-type: none"> - One-off cost of drafting article in AJJL (cost to Government of Jersey) and scrutiny of projet de loi (cost to States Assembly) - Ongoing costs of running JAAT (cost to the Judicial Greffe, with resources provided by the CM); this will be off-set by savings from no longer running the tribunals that will be abolished <p><u>Benefits</u></p> <ul style="list-style-type: none"> - The creation of a single tribunal will eliminate anomalies, reduce the number of separate legislative provisions relating to tribunals, and 	CCA BC, JG, VD, LOD	2019

Recommendation	Method of Implementation	Costs, Benefits, Risk	Public Sector Stakeholders	2018/2019
		<p>simplify and modernise the law relating to tribunals in Jersey</p> <ul style="list-style-type: none"> - Efficiency gains and cost savings from running one tribunal rather than 8 separate tribunals - When in future new administrative decision-making functions are created in Law by the States Assembly, it will be straightforward to have a right of appeal to JAAT (rather than having to create a new tribunal or specify a right of appeal to the Royal Court, which may be disproportionate) - Ultimately, users of the appeal process will benefit from a better coordinated and more effective tribunal appeal system <p><u>Risks</u></p> <ul style="list-style-type: none"> - Perception that expertise and experience of existing tribunals may diminish (but see Recommendation 3.20.a) 		
<p>Recommendation 3.2</p> <p>Transfer jurisdiction of the following tribunals to JAAT and abolish them:</p> <ol style="list-style-type: none"> 1. Commissioners of Appeal for Taxes 2. Social Security Tribunal 3. Social Security and Medical Tribunal 4. Income Support Medical Appeal Tribunal 5. Mental Health Review Tribunal 6. Health and Safely Appeal Tribunal 	<p>Articles in AJJL</p> <p>Amendments and repeals to existing Laws</p>	<p><u>Costs</u></p> <ul style="list-style-type: none"> - One-off cost of drafting article in AJJL (cost to Government of Jersey) and scrutiny of projet de loi (cost to States Assembly) - Ongoing costs of running the JAAT (cost to Judicial Greffe); this will be off-set by savings from no longer running the tribunals that will be abolished - Additional costs may arise during a transitional period if the some of the existing tribunals and JAAT operate simultaneously (cost to Judicial Greffe and some SPBs) <p><u>Benefits</u></p> <ul style="list-style-type: none"> - The creation of a single tribunal will eliminate anomalies, reduce the number of separate legislative provisions relating to tribunals, and 	<p>CMD, CCA, SS, TR, HSS, EDU</p> <p>JG, BC, VD, DPC, LOD</p>	<p>2019</p>

Recommendation	Method of Implementation	Costs, Benefits, Risk	Public Sector Stakeholders	2018/2019
7. Data Protection Tribunal 8. Rate Support Board		simplify and modernise the law relating to tribunals in Jersey <ul style="list-style-type: none"> - Efficiency gains and cost savings from running one tribunal rather than 8 separate tribunals - Ultimately, users of the appeal process will benefit from a better coordinated and more effective tribunal appeal system <u>Risks</u> Perception that expertise and experience of existing tribunals may be lost (but see Recommendation 3.20.a)		
Recommendation contained in Chapter 4 Amend legislation to transfer rights of appeal from Ministers to JAAT	Amendments and repeals to existing Laws and Orders	Cross-refer to Recommendations 4.1, 4.2, 4.3, 4.4 and 4.5.	CMD, CCA, SS, TR, HSS, EDU JG, BC, VD, DPC, LOD	2019
Recommendation contained in Chapter 7 Amend approximately 54 Laws to transfer right of appeal from Royal Court to JAAT.	AJJL will make amendments and repeals to existing Laws	Cross-refer to Recommendation 7.1	CCA JG, BC, VD, LOD	2019
Recommendation 3.3 Create new judicial post of “Chairman of the Jersey Administrative Appeal Tribunal”	Article in AJJL	<u>Costs</u> <ul style="list-style-type: none"> - One-off cost of drafting article in AJJL (cost to Government of Jersey) and scrutiny of projet de loi (cost to States Assembly) - On-going part-time salary and on-costs for judicial post; this will be off-set by savings in daily sitting fees paid to a legally qualified tribunal member in the previous system <u>Benefits</u> <ul style="list-style-type: none"> - Post will provide judicial leadership capacity in new tribunal system - Ultimately, users of the appeal process will benefit from a better coordinated 	CCA JG, BC, VD	2019

Recommendation	Method of Implementation	Costs, Benefits, Risk	Public Sector Stakeholders	2018/2019
		<p>and more effective tribunal appeals system</p> <p><u>Risks</u></p> <ul style="list-style-type: none"> - It may be difficult to recruit and retain suitable candidates for the role 		
<p>Recommendation 3.4</p> <p>Create new judicial office of “Deputy Chairman of the Jersey Administrative Appeal Tribunal”.</p>	<p>Article in AJJL</p>	<p><u>Costs</u></p> <ul style="list-style-type: none"> - One-off cost of drafting article in AJJL (cost to Government of Jersey) and scrutiny of projet de loi (cost to States Assembly) - Ongoing daily fees for this judicial post; fees are paid to a legally qualified tribunal members in the current system but additional days may be worked by the Deputy Chairman in carrying out leadership functions <p><u>Benefits</u></p> <ul style="list-style-type: none"> - Post will provide judicial leadership capacity in new tribunal system - Designated Deputy Chairman role will enable efficient decision-making by JAAT when the Chairman is unavailable or conflicted from deciding - Ultimately, users of the appeal process will benefit from a better coordinated and more effective tribunal appeals system <p><u>Risks</u></p> <ul style="list-style-type: none"> - It may be difficult to recruit and retain a suitable person for the role 	<p>CCA JG, BC, VD</p>	<p>2019</p>
<p>Recommendation 3.5</p> <p>Include all members of JAAT within the definition of members of the “judiciary of Jersey”, including</p> <ol style="list-style-type: none"> 1. Chairman of JAAT 2. Deputy Chairman of JAAT 	<p>Depending on the sequencing of the legislation, this would either be in the AJJL or included the projet de loi implementing CM’s proposals on “Judicial Independence and the Establishment of a Judicial and Legal Services Commission” (published in July 2017)</p>	<p><u>Costs</u></p> <ul style="list-style-type: none"> - No significant additional costs <p><u>Benefits</u></p> <ul style="list-style-type: none"> - Will ensure all members of JAAT benefit from the proposed “guarantee of judicial independence” and are subject to the responsibilities of members of the Jersey judiciary - Will enhance the status of JAAT as an independent and impartial judicial body, 	<p>CCA JG, BC, VD</p>	<p>2019</p>

Recommendation	Method of Implementation	Costs, Benefits, Risk	Public Sector Stakeholders	2018/2019
3. Other legal members 4. Expert members 5. Lay members		to the benefit of users of tribunal appeals		
Recommendation 3.6 Members of JAAT should be appointed by the proposed Judicial and Legal Services Commission (JLSC)	Depending on the sequencing of the legislation, this would either be in the AJJL or included in the projet de loi implementing CM's proposals on "Judicial Independence and the Establishment of a Judicial and Legal Services Commission"	<u>Costs</u> - Tribunal appointments, including lay members, are likely to be a significant part of the JLSC's annual workload (cost to the JLSC); the cost of the JLSC making the appointments will be offset by the savings from the previous appointment procedures (savings to the Government of Jersey and States Assembly). <u>Benefits</u> - Appointments by the JLSC will enhance the independence of the JAAT compared to existing appointments procedures, to the benefit of users of tribunal appeals <u>Risks</u> - It may be difficult to recruit and retain members of JAAT	CCA JG, BC, VD	2019
Recommendation 3.7 The proposed JLSC should have legal duty to "have regard to the need to encourage diversity in the range of persons available for selection for appointments" to JAAT.	Depending on the sequencing of the legislation, this would either be in the AJJL or included in the projet de loi implementing CM's proposals on "Judicial Independence and the Establishment of a Judicial and Legal Services Commission"	<u>Costs</u> - JLSC would need sufficient resources to take practical steps to encourage interest in serving (especially as lay members) from individuals from diverse backgrounds (cost to JLSC) <u>Benefits</u> - Diverse panels of JAAT will increase and maintain public confidence in the independence and impartiality of hearings - Panels of JAAT composed of members with diverse life experiences will make better decisions than homogenous panels, to the benefit of users of tribunal appeals - Placing a diversity duty on the JLSC will contribute to	CCA JG, BC, VD	2019

Recommendation	Method of Implementation	Costs, Benefits, Risk	Public Sector Stakeholders	2018/2019
		<p>the realisation of an “effective island diversity strategy ... essential in addressing the challenges of an increasingly diverse community” recommended by the Report of the Independent Jersey Care Inquiry 2017.</p> <p><u>Risks</u></p> <ul style="list-style-type: none"> - The JLSC may lack commitment to achieving diverse appointments in JAAT appointments - It may be difficult to attract people from diverse backgrounds to apply to serve as members of JAAT 		
<p>Recommendation 3.8</p> <p>The professional eligibility criterion for appointment as Chairman and Deputy Chairman of JAAT should be 7 years relevant legal experience</p>	Article in AJJL	<p><u>Costs</u></p> <p>One-off cost of drafting article in AJJL (cost to Government of Jersey) and scrutiny of projet de loi (cost to States Assembly)</p> <p><u>Benefits</u></p> <ul style="list-style-type: none"> - This will simplify and remove anomalies seen in the criteria for appointments to the existing tribunals - Will ensure that the Chairman and Deputy Chairman have sufficient legal experience to carry out their functions effectively - Criteria for senior legal membership of JAAT will be brought into in line with those of the Chairman and Deputy Chairman of the Jersey Employment and Discrimination Tribunal 	CCA JG, BC, VD	2019
<p>Recommendation 3.9</p> <p>The professional eligibility criterion for appointment as a “legal member” of JAAT should be 5 years relevant legal experience</p>	Article in AJJL	<p><u>Costs</u></p> <p>One-off cost of drafting article in AJJL (Government of Jersey) and scrutiny of projet de loi (States Assembly)</p> <p><u>Benefits</u></p> <ul style="list-style-type: none"> - This will simplify and remove anomalies seen in the criteria for appointments to the existing tribunals - Will ensure that legally qualified members of 	CCA JG, BC, VD	2019

Recommendation	Method of Implementation	Costs, Benefits, Risk	Public Sector Stakeholders	2018/2019
		<p>JAAT have sufficient experience to carry out their functions effectively</p> <p><u>Risks</u></p> <ul style="list-style-type: none"> - It may be difficult to recruit and retain suitable persons for the role 		
<p>Recommendation 3.10</p> <p>Appointment as a judge to JAAT should be on a permanent basis. Open-ended terms of office should be able to be brought to an end by resignation, reaching a mandatory retirement age of 72 years, or removal from office on the same basis as other judges</p>	<p>Article in AJJL</p>	<p><u>Costs</u></p> <ul style="list-style-type: none"> - One-off cost of drafting article in AJJL (Government of Jersey) and scrutiny of projet de loi (States Assembly) - A move from fixed terms to open ended appointments may affect the frequency with which appointments are made by the JLSC; if it reduces, this will yield a cost saving <p><u>Benefits</u></p> <ul style="list-style-type: none"> - Open-ended appointments will enhance the independence and impartiality of JAAT <p><u>Risks</u></p> <ul style="list-style-type: none"> - A move from fixed terms to open ended appointments may have an adverse impact on achieving a more diverse tribunal judiciary if the rate of renewal of membership slows 	<p>CCA JG, BC, VD</p>	<p>2019</p>
<p>Recommendation 3.11</p> <p>The Chairman of JAAT should have a legal duty to prepare an annual report on the operation of the Tribunal and submit it to the CM</p> <p>The CM should have a legal duty to present a copy of report to the States Assembly</p>	<p>Article in AJJL</p> <p>Annual Ministerial decision to present a copy of report before the States Assembly</p>	<p><u>Costs</u></p> <ul style="list-style-type: none"> - One-off cost of drafting article in AJJL (cost to Government of Jersey) and scrutiny of projet de loi (cost to States Assembly) - Ongoing cost of time of Chairman and staff in Judicial Greffe in preparing the annual report (cost to the Judicial Greffe) <p><u>Benefits</u></p> <ul style="list-style-type: none"> - Annual report will provide transparency about the work of JAAT <p><u>Risks</u></p> <ul style="list-style-type: none"> - States Members may not regard scrutiny of JAAT Chairman's annual report as a political priority, 	<p>CCA JG, BC, VD</p>	<p>2019</p>

Recommendation	Method of Implementation	Costs, Benefits, Risk	Public Sector Stakeholders	2018/2019
		<p>diminishing its usefulness as a means of accountability</p> <ul style="list-style-type: none"> - The JAAT Chairman's report may attract little attention from the news media, civil society organisations or the general public, diminishing its usefulness as a means of accountability 		
<p>Recommendation 3.12</p> <p>The Chairman of JAAT and the Judicial Greffe should have a legal duty to make arrangements for the training of all JAAT members</p>	<p>Article in AJJL</p>	<p><u>Costs</u></p> <ul style="list-style-type: none"> - One-off cost of drafting article in AJJL (Government of Jersey) and scrutiny of projet de loi (States Assembly) - Ongoing cost of fees for external trainers; as well as training in general aspects of tribunal work, members focusing on particular areas (e.g. mental health) will require specialist training (cost to the Judicial Greffe) - Ongoing cost of daily sitting fee to be paid to fee-paid tribunal members attending training events (cost to the Judicial Greffe) <p><u>Benefits</u></p> <ul style="list-style-type: none"> - Will address unmet need expressed by current tribunal members for training opportunities - Will improve the efficiency, fairness and quality of judgments made by JAAT by having better trained members 	<p>CCA JG, BC, VD</p>	<p>2019</p>
<p>Recommendation 3.13</p> <p>Create a legal duty on the Superior Number of the Royal Court, with the advice and assistance of a Rules Committee, to make JAAT Rules to regulate the conduct of appeals</p>	<p>Article in AJJL conferring rule-making power on Royal Court</p> <p>Royal Court will adopt rules (and revise from time to time as needs be)</p>	<p><u>Costs</u></p> <ul style="list-style-type: none"> - One-off cost of drafting article in AJJL (cost to Government of Jersey) and scrutiny of projet de loi (cost to States Assembly) - One-off cost of drafting the JAAT Rules and consulting on them (cost to Judicial Greffe); we envisage that a "JAAT Rules Committee" would be established, including an external adviser with experience of developing 	<p>CCA JG, BC, VD</p>	<p>2019</p>

Recommendation	Method of Implementation	Costs, Benefits, Risk	Public Sector Stakeholders	2018/2019
		<p>tribunal rules in another jurisdiction</p> <ul style="list-style-type: none"> - Ongoing cost of reviewing and revising JAAT Rules as needs be (cost to Judicial Greffe/Royal Court); this will be off-set by the cost savings of no longer having to revise several sets of procedural rules currently applicable to different tribunals <p><u>Benefits</u></p> <ul style="list-style-type: none"> - Some current tribunals do not have any or sufficiently detailed rules of procedure; the JAAT Rules will ensure there is procedural guidance for all administrative appeals - Simplification of rules applicable to tribunal hearings will assist appellants (especially those without legal advice and representation) to use the appeal process - A single set of rules will simplify the law and remove unjustified anomalies in current rules for different tribunals (though procedural differences in different types of appeal can be justified within a common framework) - Moving responsibility for making rules from the departments against which appeals are made (Government of Jersey) to a judiciary-led body (a Rules Committee/Royal Court) will lead to better adherence to the constitutional principles of separation of powers and judicial independence. - Ultimately, users of the appeal process will benefit from a better coordinated and more effective tribunal appeals system <p><u>Risks</u></p> <ul style="list-style-type: none"> - The JAAT Rules may be insufficiently focused on the needs of tribunal users, 		

Recommendation	Method of Implementation	Costs, Benefits, Risk	Public Sector Stakeholders	2018/2019
		<p>especially those who do not have access to legal advice and representation</p> <ul style="list-style-type: none"> - Individual appellants without legal advice and representation may find the JAAT Rules complex and confusing 		
<p>Recommendation 3.14 on content and style of the JAAT Rules</p> <p>The JAAT Rules should be designed and written with appellants' needs in mind and expressed in user-friendly style</p>	<p>Detail to be developed by Rules Committee having regard to Jersey Law Commission proposals</p>	<p><u>Costs</u></p> <ul style="list-style-type: none"> - One-off cost of providing resources to the Rules Committee to develop the rule (cost to the Judicial Greffe) <p><u>Benefits</u></p> <ul style="list-style-type: none"> - Will help accessibility of tribunal system - Ultimately, users of the appeal process will benefit from a better coordinated and more effective tribunal appeals system 	<p>CCA JG, BC, VD</p>	<p>2019</p>
<p>Recommendation 3.14 on content and style of the JAAT Rules (continued)</p> <p>The JAAT Rules should include provision for determining the composition of panels to hear different types of appeals;</p> <p>this should include provision that the Chairman of JAAT, the Deputy Chairman or another legally qualified member should preside over any panel</p>	<p>Detail to be developed by Rules Committee having regard to Jersey Law Commission proposals</p>	<p><u>Costs</u></p> <ul style="list-style-type: none"> - One-off cost of providing resources to the Rules Committee to develop the rule (cost to the Judicial Greffe) - Ongoing cost – as an aspect of Recommendation 3.1, the overall membership of JAAT will need to be sufficient in number to provide the range of expertise from which panels may be drawn. It is possible, however, that this number will be less than the overall number of members serving the existing tribunals. <p><u>Benefits</u></p> <ul style="list-style-type: none"> - This provision in the JAAT Rules will enable panel members to be assigned to cases in light of their expertise and training to ensure appropriate composition of panels - An express requirement that the presiding member of any panel is legally qualified will ensure better adherence to the 	<p>CCA JG, BC, VD</p>	<p>2019</p>

Recommendation	Method of Implementation	Costs, Benefits, Risk	Public Sector Stakeholders	2018/2019
		<p>constitutional principle of the rule of law</p> <ul style="list-style-type: none"> - Ultimately, users of the appeal process will benefit from a better coordinated and more effective tribunal appeals system <p><u>Risks</u></p> <ul style="list-style-type: none"> - If the Rules are not sufficiently transparent, some appellants may perceive the panel hearing their appeals as “fixed” 		
<p>Recommendation 3.14 on content and style of the JAAT Rules (continued)</p> <p>The JAAT Rules should include an “overriding objective” of enabling JAAT to deal with cases fairly and justly</p>	<p>Detail to be developed by Rules Committee having regard to Jersey Law Commission proposals</p>	<p><u>Costs</u></p> <ul style="list-style-type: none"> - One-off cost of providing resources to the Rules Committee to develop the rule (cost to the Judicial Greffe) <p><u>Benefits</u></p> <ul style="list-style-type: none"> - The use of an “overriding objective” in procedural rules is well-established; in relation to the operation of the JAAT it will assist as a point of reference in the development of the JAAT Rules and in their application by panels in particular cases - Ultimately, users of the appeal process will benefit from a better coordinated and more effective tribunal appeals system 	<p>CCA JG, BC, VD</p>	<p>2019</p>
<p>Recommendation 3.14 on content and style of the JAAT Rules (continued)</p> <p>The JAAT Rules should include a power for appeals to be transferred between JAAT and the Royal Court and vice versa</p>	<p>Detail to be developed by Rules Committee having regard to Jersey Law Commission proposals</p>	<p><u>Costs</u></p> <ul style="list-style-type: none"> - One-off cost of providing resources to the Rules Committee to develop the rule (cost to the Judicial Greffe) <p><u>Benefits</u></p> <ul style="list-style-type: none"> - This will facilitate flexibility in hearing appeals, to ensure that each appeal can be heard by the most appropriate judicial body - Ultimately, users of the appeal process will benefit from a better coordinated and more effective tribunal appeals system 	<p>CCA JG, BC, VD</p>	

Recommendation	Method of Implementation	Costs, Benefits, Risk	Public Sector Stakeholders	2018/2019
<p>Recommendation 3.14 on content and style of the JAAT Rules (continued)</p> <p>The JAAT Rules should include power for the Chairman of JAAT to regulate the publication of judgments and other documents relating to appeals</p>	<p>Detail to be developed by Rules Committee having regard to Jersey Law Commission proposals</p>	<p><u>Costs</u></p> <ul style="list-style-type: none"> - One-off cost of providing resources to the Rules Committee to develop the rule (cost to the Judicial Greffe) - The ongoing cost will depend on the framework adopted by the Rules Committee. If this involves redacting private information from JAAC judgments or preparing summaries of cases, this will require resources in the Judicial Greffe <p><u>Benefits</u></p> <ul style="list-style-type: none"> - More systematic publication of tribunal judgments, or summaries of judgments, will increase transparency and open justice - Better dissemination of judgments will improve the knowledge of all tribunal members of decisions taken by panels on which they do not sit - Appellants' advisers and representatives will have access to previous tribunal judgments as an aid to preparing their cases - A publication scheme will assist in ensuring that JAAT satisfies the requirements of Article 6 of the European Convention of Human Rights (incorporated into Island law by the Human Rights (Jersey) Law 2000) on fair trials - Ultimately, users of the appeal process will benefit from a better coordinated and more effective tribunal appeals system 	<p>CCA JG, BC, VD</p>	<p>2019</p>
<p>Recommendation 3.14 on content and style of the JAAT Rules (continued)</p> <p>The JAAT Rules should state that a</p>	<p>Detail to be developed by Rules Committee having regard to Jersey Law Commission proposals</p>	<p><u>Costs</u></p> <ul style="list-style-type: none"> - One-off cost of providing resources to the JATT Rules Committee to develop the rule (cost to the Judicial Greffe) 	<p>CCA JG, BC, VD</p>	<p>2019</p>

Recommendation	Method of Implementation	Costs, Benefits, Risk	Public Sector Stakeholders	2018/2019
party may appoint a legally qualified or lay representative		<u>Benefits</u> <ul style="list-style-type: none"> - Will provide clarity on the issue - Ultimately, users of the appeal process will benefit from a better coordinated and more effective tribunal appeals system 		
Recommendation 3.15 The Chairman/Deputy Chairman of JAAT should have power to order that an appellant receives legal advice and representation paid for by public funds where this is necessary to ensure a fair hearing	Article in AJJL CM to make resources available via the Judicial Greffe	<u>Costs</u> <ul style="list-style-type: none"> - One-off cost of drafting article in AJJL (cost to Government of Jersey) and scrutinising it during the legislative process (cost to States Assembly) - Ongoing cost in a small number of cases each year of providing legal advice and representation to an appellant by a member of the Jersey Bar paid for from public funds (cost to the Judicial Greffe) <u>Benefits</u> <ul style="list-style-type: none"> - JAAT hearings will comply with requirements of Article 6 of the European Convention of Human Rights (incorporated into Island law by the Human Rights (Jersey) Law 2000) on fair trials - Ultimately, users of the appeal process will benefit from a better coordinated and more effective tribunal appeals system 	CCA JG, BC, VD, LOD	2019
Recommendation 3.16 There should be a right of appeal on a question of law from JAAT to the Royal Court	Article in AJJL	<u>Costs</u> <ul style="list-style-type: none"> - One-off cost of drafting article in AJJL (cost to Government of Jersey) and scrutinising it during the legislative process (cost to States Assembly) - No significant additional cost is identified as such a right of appeal already exists from most of the existing tribunals <u>Benefits</u> <ul style="list-style-type: none"> - Will ensure senior-level judicial supervision of the legality of decisions made by JAAT 	CCA JG, BC, VD, LOD	2019

Chapter 4: Appeals and reviews determined by Connétables and Ministers

Recommendation	Method of Implementation	Costs, Benefits, Risk	Public Sector Stakeholders	2018/2019
<p>Recommendation 4.1</p> <p>JAAT should hear appeals from property owners about Connétables' administrative decisions relating to wedding and civil partnership venues instead of the Minister for Home Affairs</p>	<p>Amendment and Civil Status (Approved Premises) (Jersey) Order 2002 and Civil Partnership (Approved Premises) (Jersey) Order 2012</p>	<p><u>Costs</u></p> <ul style="list-style-type: none"> - One-off costs of drafting amendment to Order (cost to Government of Jersey) - Ongoing occasional costs to JAAT of hearing appeals (cost to Judicial Greffe) but off-set by saving of costs to Connétables <p><u>Benefits</u></p> <ul style="list-style-type: none"> - Appellants will have more specialist, expert and structured adjudication by JAAT than can typically be provided by Connétables - Simplification of administrative appeals system will help people better understand their rights of appeal - Better adherence to the constitutional principles of the rule of law and separation of powers by ensuring that disputes are adjudicated on by an independent and impartial judicial body <p><u>Risks</u></p> <p>None have been identified</p>	<p>CCA, LOD</p>	<p>2019</p>
<p>Recommendation 4.2</p> <p>JAAT should hear appeals relating to decisions of Agent of the Impôt instead of the Minister for Treasury and Resources</p>	<p>Amend Article 68 of the Customs and Excise (Jersey) Law 1999</p> <p>This can be done in the AJJL</p>	<p><u>Costs</u></p> <ul style="list-style-type: none"> - One-off cost of drafting article in AJJL (cost to Government of Jersey) and scrutinising it during the legislative process (cost to States Assembly) - Ongoing occasional costs to JAAT of hearing appeals (cost to Judicial Greffe) but off-set by saving of costs to Minister's department (cost savings to Government of Jersey) <p><u>Benefits</u></p> <ul style="list-style-type: none"> - Appellants will have more specialist, expert and structured adjudication by JAAT than can typically be 	<p>TR, LOD</p>	<p>2019</p>

		<p>provided by the Minister and officials</p> <ul style="list-style-type: none"> - Simplification of administrative appeals system will help people better understand their rights of appeal - Better adherence to the constitutional principles of the rule of law and separation of powers by ensuring that disputes are adjudicated on by an independent and impartial judicial body 		
<p>Recommendation 4.3</p> <p>JAAT should hear appeals relating to assessment of children's special education needs instead of the Minister for Education</p>	<p>Amend Article 31 of the Education (Jersey) Law 1999</p> <p>This can be done in the AJJL</p>	<p><u>Costs</u></p> <ul style="list-style-type: none"> - One-off cost of drafting article in AJJL (cost to Government of Jersey) and scrutinising it during the legislative process (cost to States Assembly) - Ongoing occasional costs to JAAT of hearing appeals (cost to Judicial Greffe) but off-set by saving of costs to Minister's department (cost saving to Government of Jersey) - The current tribunal system does not deal with education matters whereas it is proposed that JAAT will; specialist training will need to be provided to JAAT members available to sit on panels hearing SEN appeals (cost to Judicial Greffe) <p><u>Benefits</u></p> <ul style="list-style-type: none"> - Appellants will have more specialist, expert and structured adjudication by JAAT than can typically be provided by the Minister and officials - Simplification of administrative appeals system will help people better understand their rights of appeal - Better adherence to the constitutional principles of the rule of law and separation of powers by ensuring that disputes are adjudicated on by an 	EDU, LOD	2019

		independent and impartial judicial body		
<p>Recommendation 4.4</p> <p>JAAT should hear appeals about decisions of the Inspector under the Motor Vehicle Registration (Jersey) Law 1993</p>	<p>Amend Article 8 of the Motor Vehicle Registration (Jersey) Law 1993</p> <p>This can be done in the AJJL</p>	<p><u>Costs</u></p> <ul style="list-style-type: none"> - One-off cost of drafting article in AJJL (cost to Government of Jersey) and scrutinising it during the legislative process (cost to States Assembly) - Ongoing occasional costs to JAAT of hearing appeals (cost to Judicial Greffe) but off-set by saving of costs to Minister's department (savings to Government of Jersey) <p><u>Benefits</u></p> <ul style="list-style-type: none"> - Appellants will have more specialist, expert and structured adjudication by JAAT than can typically be provided by the Minister and officials - Simplification of administrative appeals system will help people better understand their rights of appeal - Better adherence to the constitutional principles of the rule of law and separation of powers by ensuring that disputes are adjudicated on by an independent and impartial judicial body 	INF, LOD	2019
<p>Recommendation 4.5</p> <p>JAAT should hear appeals about disciplinary matters at H.M. Prison La Moye instead of the Minister for Home Affairs</p>	<p>Amend Prison (Jersey) Rules 2007</p>	<p><u>Costs</u></p> <ul style="list-style-type: none"> - One-off cost of redrafting rule in Prison (Jersey) Rules 2007 - Ongoing costs to JAAT of hearing appeals (cost to Judicial Greffe) but off-set by savings of costs to Minister's department (Government of Jersey) <p><u>Benefits</u></p> <ul style="list-style-type: none"> - Better adherence to the constitutional principles of the rule of law and separation of powers by ensuring that disputes are adjudicated on by an independent and impartial judicial body - Appellants will have more specialist, expert and 	CCA, LOD	2019

		<p>structured adjudication by JAAT than can typically be provided by the Minister and officials</p> <ul style="list-style-type: none"> - Simplification of administrative appeals system will help people better understand their rights of appeal 		
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Chapter 5: Ending the role of the States of Jersey Complaints Panel

Recommendation	Method of Implementation	Costs, Benefits, Risk	Public Sector Stakeholders	2018/2019
<p>Recommendation 5.1</p> <p>The States of Jersey Complaints Panel should be replaced by a Jersey Public Services Ombudsman</p> <p>Note: Chapter 5 contains alternative recommendations for improving the Complaints Panel if our principal recommendation is rejected by the CM; these are also listed in Annex B.</p>	<p>Repeal of the Administrative Decisions (Review) (Jersey) Law 1982 by article in AJJL or in separate legislation creating the Jersey Public Services Ombudsman</p>	<p><u>Costs</u></p> <ul style="list-style-type: none"> - One-off cost of drafting article in AJJL (cost to Government of Jersey) and scrutinising it during the legislative process (cost to States Assembly) - Recommendation 6.1 envisages replacing the States of Jersey Complaints Panel with a Jersey Public Services Ombudsman. <p><u>Benefits</u></p> <ul style="list-style-type: none"> - Replacing the States of Jersey Complaints Panel would enable the creation of a Jersey Public Services Ombudsman. 	<p>CCA, CMD, EDU, SEB, INF, EDTSC, TR, ENV, SS</p> <p>SG, Panel, LOD</p>	<p>2019 (contingent on Recommendation 6.1)</p>

Chapter 6: Creating a Public Services Ombudsman for Jersey

Recommendation	Method of Implementation	Costs, Benefits, Risk	Public Sector Stakeholders	2018/2019
<p>Recommendation 6.1</p> <p>The Government of Jersey should make an “in principle” decision to support next steps in the creation of a Jersey Public Services Ombudsman (JPSO)</p>	<p>Ministerial decision</p> <p>Creation of the JPSO would require legislation, either as part of the AJJL or in separate legislation</p>	<p><u>Costs</u></p> <ul style="list-style-type: none"> - One-off cost of drafting legislation to create the JPSO (cost to Government of Jersey) and scrutinising it during the legislative process (cost to States Assembly) - Ongoing costs of operating the office of the JPSO. This will be off-set to some extent by savings from the abolition of the States of Jersey 	<p>CCA, CMD, EDU, SEB, INF, EDTSC, TR, ENV, SS</p> <p>SG, Panel, LOD</p>	<p>2018</p>

Recommendation	Method of Implementation	Costs, Benefits, Risk	Public Sector Stakeholders	2018/2019
		<p>Complaints Panel. Clearly, however, the costs of running the JPSO's office will be greater than the costs of running the States of Jersey Complaints Panel</p> <p><u>Benefits</u></p> <ul style="list-style-type: none"> - The JPSO will provide a more accessible and effective redress service than is provided by the States of Jersey Complaints Panel - The JPSO will contribute to systemic improvements in the quality of administrative decision-making, redress of grievances, and quality of public administration - Creation of the PSOJ will help complete the package of recommendations made by the Clothier report in 2000 <p><u>Risks</u></p> <ul style="list-style-type: none"> - The creation of the JPSO may not lead to significantly more people using its services compared to the States of Jersey Complaints Panel - The JPSO may encounter resistance within the Government of Jersey and other SPBs to implementing recommendations in particular cases and on broader systematic issues 		
<p>Recommendation 6.2</p> <p>The Government of Jersey should request the Jersey Law Commission to develop institutional design options for the JPSO</p>	<p>Ministerial decision</p>	<p><u>Costs</u></p> <p>This work could be carried out within the existing resources allocated to the Jersey Law Commission; we estimate the cost to be approximately £10,000 (cost to the Jersey Law Commission)</p> <p><u>Benefits</u></p> <p>Developing more detailed proposals will enable Ministers, officials and States Members to evaluate different options for the PSOJ, drawing on published research, analysis</p>	<p>CCA</p>	<p>2018</p>

Recommendation	Method of Implementation	Costs, Benefits, Risk	Public Sector Stakeholders	2018/2019
		of the local context, and lesson learning from other ombudsman systems <u>Risks</u> The detailed proposals for a JPSO may not receive support from the Government of Jersey or the States Assembly		

Chapter 7: The role of the Royal Court in Jersey's administrative redress system

Recommendation	Method of Implementation	Costs, Benefits, Risk	Public Sector Stakeholders	2018/2019
Recommendation 7.1 Amend 54 Laws that currently provide a right of appeal from an administrative decision to the Royal Court to provide instead for the appeal to be heard by the JAAT	Amendment of Laws. This can be done in the proposed AJJL		CCA JG, BC, VD, LOD	2019
(unnumbered recommendation because no change in law proposed) Retain approximately 19 rights of appeal from administrative decision-making to the Royal Court	No action needed	No change is proposed	CCA JG, BC, VD, LOD	2019
Recommendation 7.2 Amend the Royal Court Rules to enable the Royal Court to transfer the hearing of a case from the Royal Court to JAAT, and vice versa (See also Recommendation 3.16, which proposes a counterpart of this	Amendment of the Royal Court Rules by the Superior Number of the Royal Court under powers from Article 11 of the Royal Court (Jersey) Law 1948	<u>Costs</u> – One-off costs of drafting amendment to Royal Court Rules (cost to Judicial Greffe); a similar provision will be contained in the new JAAT Rules to enable transfer from JAAT to the Royal Court <u>Benefits</u> – This will facilitate flexibility in hearing particular cases, to ensure that each appeal can be heard by the most appropriate judicial body	CCA JG, BC, VD	2019

Recommendation	Method of Implementation	Costs, Benefits, Risk	Public Sector Stakeholders	2018/2019
provision in the JAAT Rules)		<ul style="list-style-type: none"> - Ultimately, users of the appeal process will benefit from a better coordinated and more effective tribunal appeals system 		
<p>Recommendation 7.3</p> <p>There should be a standard time limit for making administrative appeals (unless there is a strong public interest in specifying a different limit in a law). The standard time limit should be 28 days from the appellant receiving notice of the decision appealed against</p>	<p>Amendment of Laws.</p> <p>This can be done in the proposed AJJL</p>	<p><u>Costs</u></p> <ul style="list-style-type: none"> - One-off cost of drafting article in AJJL (cost to Government of Jersey) and scrutiny of projet de loi (cost to States Assembly) <p><u>Benefits</u></p> <ul style="list-style-type: none"> - Simplification of administrative appeals will help people better understand the system and their rights of appeal - Reduce unfairness to individuals of unjustified differences in time limits for appealing against different administrative decisions 	<p>CCA JG, BC, VD, LOD</p>	<p>2019</p>
<p>Recommendation 7.4</p> <p>A Royal Court Rules Review Group should consider reviewing Part 16 of the Royal Court Rules (Applications for Judicial Review in Civil Proceedings)</p>	<p>Decision of the Bailiff</p>	<p><u>Costs</u></p> <ul style="list-style-type: none"> - One-off costs of work by the Royal Court Rules Review Group in reviewing operation of Part 16 in light of experience in Jersey and developments in other jurisdictions on which Part 16 was originally modelled (cost to the Judicial Greffe) <p><u>Benefits</u></p> <ul style="list-style-type: none"> - Opportunity to identify improvements in the Part 16 procedure 	<p>CCA JG, BC, VD</p>	<p>2018</p>

Chapter 8: Using Alternative Dispute Resolution (ADR)

Recommendation	Method of Implementation	Costs, Benefits, Risk	Public Sector Stakeholders	2018/2019
Recommendation 8.1 Further research should be carried out to develop proposals for mediation and other forms of ADR related to disagreements about administrative decision-making in the Island	Detail to be developed by a Rules Committee having regard to Jersey Law Commission proposals	<u>Costs</u> <ul style="list-style-type: none"> - One-off cost of providing resources to a Rules Committee to develop the rule (cost to the Judicial Greffe) <u>Benefits</u> <ul style="list-style-type: none"> - The rule will provide flexibility to JAAT to dispose of cases other than by a formal hearing, where this is appropriate and the parties agree - Ultimately, users of the appeal process will benefit from a better coordinated and more effective administrative redress appeals system 	CCA JG, BC, VD, LOD	2018

List of Alternative Recommendation relating to the States of Jersey Complaints Panel

The Topic Report, at Chapters 5 and 6, set out principal recommendations for improving the external complaint handling provision in Jersey. Its primary recommendation is that the States of Jersey Complaints Panel (Chapter 5) should be replaced by a Jersey Public Services Ombudsman (Chapter 6). The Topic Report proposed that should its primary recommendation not be accepted by the Government of Jersey or the States Assembly, it has developed a set of alternative proposals designed to improve the functioning of the States of Jersey Complaints Panel: these are explained and analysed in Chapter 5.

Alternative Recommendation	Method of Implementation	Costs, Benefits, Risk	Public Sector Stakeholders	2018/2019
Alternative recommendation 5.2 The States Greffe should have a legal duty to provide a programme of training to members of the Panel	Amendment to ADJL	<u>Costs</u> <ul style="list-style-type: none"> - One-off cost of drafting amendment to ADJL (cost to Government of Jersey) and scrutinising it during the legislative process (cost to States Assembly) - Ongoing resources sufficient to provide induction to new members and continuing professional development 	CCA, CMD SG, Panel	Contingent on Recommendations 5.1 and 6.1

Alternative Recommendation	Method of Implementation	Costs, Benefits, Risk	Public Sector Stakeholders	2018/2019
		<p>to all Panel members to address currently unmet training needs (cost to States Assembly)</p> <p><u>Benefits</u></p> <ul style="list-style-type: none"> - Panel members will be better equipped to fulfil their role - Ultimately, users of the complaints process (complainants and public bodies) will benefit from improved quality of complaint resolution 		
<p>Alternative recommendation 5.3</p> <p>The States Greffe should invest resources in developing a website and other material to explain and publicise how the Panel can help aggrieved people</p>	<p>Decision of the States Assembly</p>	<p><u>Costs</u></p> <ul style="list-style-type: none"> - Ongoing resources sufficient to provide better information to the public about how the Panel can help with complaints about provision of public services and administrative decision-making (cost to States Assembly) <p><u>Benefits</u></p> <ul style="list-style-type: none"> - Members of the public will gain greater awareness of the existence and role of the Panel - More people with complaints will use the Panel <p><u>Risks</u></p> <ul style="list-style-type: none"> - Better public information may not lead to significantly better public awareness of the Panel - Better public information may not generate significantly greater demand for use of the Panel as a form of redress from people with complaints 	<p>CCA, CMD SG, Panel</p>	<p>Contingent on Recommendations 5.1 and 6.1</p>
<p>Alternative recommendation 5.4</p> <p>The remit of the Panel should be widened beyond Ministers and States of Jersey</p>	<p>Amendment to ADJL</p>	<p><u>Costs</u></p> <ul style="list-style-type: none"> - One-off cost of drafting amendment to ADJL (cost to Government of Jersey) and scrutinising it during the legislative process (cost to States Assembly) 	<p>CCA, CMD SG, Panel, LOD</p>	<p>Contingent on Recommendations 5.1 and 6.1</p>

Alternative Recommendation	Method of Implementation	Costs, Benefits, Risk	Public Sector Stakeholders	2018/2019
Departments to cover all SPBs		<ul style="list-style-type: none"> - The States Greffe and Chairman of the Panel will need to develop and deliver induction and training to key personnel in SPBs not currently within the Panel's remit about the role of the Panel and the implications of being brought within it remit (cost to States Assembly) <p><u>Benefits</u></p> <ul style="list-style-type: none"> - Will create a better match between (a) the Panel's remit and (b) how public services are delivered and the bodies making administrative decisions 		
<p>Alternative recommendation 5.5</p> <p>The grounds on which people can complain to the Panel should be reformulated</p>	Amendment to ADJL	<p><u>Costs</u></p> <ul style="list-style-type: none"> - One-off cost of drafting amendment to ADJL (cost to Government of Jersey) and scrutinising it during the legislative process (cost to States Assembly) <p><u>Benefits</u></p> <ul style="list-style-type: none"> - The Panel's work will be better aligned to the techniques, skills, and membership of a Panel consisting mainly of non-legally qualified members - Ultimately, users of the complaints process (complainants and public bodies) will benefit from improved quality of complaint resolution 	CCA, CMD SG, Panel, LOD	Contingent on Recommendations 5.1 and 6.1
<p>Alternative recommendation 5.6</p> <p>The Panel should not accept complaints where the aggrieved person has or had</p> <ol style="list-style-type: none"> 1. a right of appeal to JAAT; or 2. a right of appeal to the Royal Court; or 	Amendment to ADJL	<p><u>Costs</u></p> <ul style="list-style-type: none"> - One-off cost of drafting amendment to ADJL (cost to Government of Jersey) and scrutinising it during the legislative process (cost to States Assembly) <p><u>Benefits</u></p> <ul style="list-style-type: none"> - The Panel's work will be better aligned to the techniques, skills, and membership of a Panel consisting mainly of non- 	CCA, CMD SG, Panel, LOD	Contingent on Recommendations 5.1 and 6.1

Alternative Recommendation	Method of Implementation	Costs, Benefits, Risk	Public Sector Stakeholders	2018/2019
3. it would be reasonable for the person to challenge the legality of the administrative decision by making an application for judicial review to the Royal Court.		<p>legally qualified members</p> <ul style="list-style-type: none"> - Ultimately, users of the complaints process (complainants and public bodies) will benefit from improved quality of complaint resolution 		
<p>Alternative recommendation 5.7</p> <p>All members of the Panel (not only the Chairman and Deputy Chairman) should have power to attempt informal resolution of complaints</p>	Amendment to ADJL	<p><u>Costs</u></p> <ul style="list-style-type: none"> - One-off cost of drafting amendment to ADJL (cost to Government of Jersey) and scrutinising it during the legislative process (cost to States Assembly) - Ongoing cost of training on informal resolution for all Panel members (cost to States Assembly) <p><u>Benefits</u></p> <ul style="list-style-type: none"> - The Panel's capacity to offer informal resolution of complaints will be increased - The reform will improve efficiency and effectiveness of the Panel (e.g. preventing the Chairman or Deputy Chairman from presiding at a hearing after he has attempted informal resolution, which has failed, because this would create a conflict) <p><u>Risks</u></p> <ul style="list-style-type: none"> - Too few people may continue to use the Panel to justify a full training programme for all Panel members on informal resolution 	CCA, CMD SG, Panel, LOD	Contingent on Recommendations 5.1 and 6.1
<p>Alternative recommendation 5.8</p> <p>The Chief Minister should prepare a report reviewing responses to Panel recommendations since October 2011</p>	Ministerial decision	<p><u>Costs</u></p> <ul style="list-style-type: none"> - One-off cost of Ministers', officials' and Law Officers' time in conducting the review (cost to the Government of Jersey) 	CCA, CMD SG, Panel, LOD	Contingent on Recommendations 5.1 and 6.1

Alternative Recommendation	Method of Implementation	Costs, Benefits, Risk	Public Sector Stakeholders	2018/2019
and making proposals for the Government of Jersey's future working relationship with the Panel		<u>Benefits</u> <ul style="list-style-type: none"> <li data-bbox="608 344 879 533">- Review and report will provide greater transparency about Government of Jersey thinking about its past and future relationship with the Panel <li data-bbox="608 551 879 678">- Review and report will contribute to evidence-base for policy-making about the future of the Panel. 		