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# STATES OF JERSEY



## STATES OF JERSEY COMPLAINTS PANEL: REPORT FOR 2017

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Presented to the States on 12th February 2018  
by the Privileges and Procedures Committee

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STATES GREFFE

## FOREWORD BY THE CHAIRMAN OF THE PRIVILEGES AND PROCEDURES COMMITTEE

The Privileges and Procedures Committee would like to place on record its sincere thanks to the Chairman, Deputy Chairmen and all of the members of the Panel for their honorary work dealing with complaints during this period.

The Committee recognises that they are extremely busy people and generously give their time freely to serve the community, for which the Committee is very appreciative. Their work mirrors that of an Ombudsman and is of great value to the Island, but has no cost to the taxpayer.

The Panel's aim is to ensure that public services are administered in accordance with accepted policies and procedures. Complaints are only taken forward by the Panel once a complainant has exhausted the internal complaints procedures available. It is therefore vital that every Department has a complaints procedure, which is accessible and readily publicised, and maintains a register of complaints. The Privileges and Procedures Committee is very pleased to see that informal resolution has played a greater part in the Panel's work over the last few years. It also supports the Panel's efforts to strengthen its relationship with the Executive, in order to work together to enhance complaint handling and improve the provision of public services in the Island.

2017 saw 4 new members join the Panel, and we have in place a very strong team who have proven themselves to be extremely measured, dedicated, reasonable and fair-minded.

Whilst the Committee considers that it is important to appoint new members, it is also vital to maintain some continuity, which is crucial on a Panel of this nature, where experience in dealing with complaints is built up over time.

Following appointments in 2017, the Panel now consists of 12 members. This provides a broad base from which Boards can be convened, avoids any conflicts of interest which are understandably common in an Island community, and ensures that complaints are assessed impartially and without bias.

The following have been members since 2009 –

Mr. Bob Bonney  
Mr. Chris Beirne (*Deputy Chairman*).

These members were first appointed in 2012 –

Mr. David McGrath  
Mr. Graeme Marett.

The following 4 members joined the Panel in 2013 –

Mr. Stuart Catchpole, Q.C. (*Deputy Chairman*)  
Mr. Geoffrey George Crill (*Chairman*)  
Mrs. Janice Eden  
Mr. John Moulin.

These are the 4 new members of the Panel who joined in 2017 –

Mrs. Sue Cuming  
Mr. David Greenwood  
Mr. Gavin Fraser  
Mr. Gwyn Llewelin.

The Privileges and Procedures Committee is pleased to present the report of the States of Jersey Complaints Panel for 2017.

## REPORT

### ADMINISTRATIVE DECISIONS (REVIEW) (JERSEY) LAW 1982: REPORT OF THE STATES OF JERSEY COMPLAINTS PANEL FOR 2017

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Dear Chairman,

I have pleasure in forwarding to you the report for 2017, which also includes the resolution of the 3 matters outstanding at the end of 2016.

The Complaints Panel provides a service to the Public by undertaking independent investigations into complaints relating to Ministers and States Departments where it is alleged they have not acted properly or fairly, or have provided poor service.

Everyone has a right to expect a good standard of service from public bodies and to have things put right if they go wrong. When an interested party believes that something has gone wrong in a decision-making process, public bodies should manage complaints properly to ensure that customers' concerns are dealt with appropriately. Good complaint handling is important because it is a fundamental part of the service which customers are entitled to expect. Good complaint handling is a fundamental part of good administration.

Complaints are a valuable source of feedback for the States: they provide an audit trail and can be an early warning of failures in service delivery. When handled well, complaints provide an opportunity for the States to improve their services and their reputation. Moreover, prompt and efficient complaint handling and learning from complaints, can save the States time and money, by preventing a complaint from escalating unnecessarily and by reducing the number of complaints received in the future.

The Complaints Panel deals with complaints from across the whole States administration, whose complaints processes are quite varied. However, certain principles should be common to all. Good complaint handling should be led from the top, focused on outcomes, fair and proportionate and sensitive to complainants' needs. The process should be clear and straightforward and readily accessible to customers. It should be well-managed so that decisions are taken quickly, things put right where necessary, and lessons learned for service improvement.

Good complaint handling means –

**Getting it right** – acting in accordance with the law and relevant guidelines; having clear governance arrangements; developing an organisational culture that values complaints and including complaint handling as an integral part of service design.

**Being customer focused** – having clear and simple procedures; dealing with complaints promptly and sensitively; listening to complainants to understand the complaint and the outcome sought and responding flexibly where appropriate.

**Being open and accountable** – publishing clear, accurate and complete information about complaints procedures; providing honest, evidence-based explanations and reasons for decisions, and keeping full and accurate records.

**Acting fairly and proportionately** – treating each complaint impartially; ensuring complaints are investigated thoroughly and fairly to establish the facts; acting fairly towards both the staff and the complainant.

**Putting things right** – acknowledging mistakes and apologising where appropriate; providing prompt and proportionate remedies as applicable.

**Seeking continuous improvement** – using all feedback and lessons learned from complaints to improve service design and delivery; having a system in place to record, analyse and report on the learning from complaints; regularly reviewing lessons learnt from complaints and advising the public of changes made to services, guidance or policy as a consequence of a complaint.

This report provides information about the work undertaken by the States of Jersey Complaints Panel during 2017.

Three complaints were carried forward into 2017, and there were 18 new complaints received during the year. This was the most received in one year since 2013.

The Panel noted that the complaints received in 2017 related to decisions made by a wide variety of Ministers. The majority of complaints received were considered not to relate to matters of maladministration, and therefore had not justified a hearing being convened. It should also be noted that complainants – save in exceptional circumstances – can only make a formal complaint to the Panel when they have exhausted the appeals or complaints process within the Department concerned. As well as the 18 formal complaints, the Deputy Greffier of the States received 11 enquiries regarding complaints which were not taken forward. As in 2016, these calls were logged during 2017, in order to provide a more accurate indication of the level of work undertaken by the Panel. There were a number of matters resolved informally, through the minor intervention of either the Chairman or Executive Officer.

Two hearings were convened during 2017.

The first was Chaired by Mr. Chris Beirne, one of the Deputy Chairmen, accompanied by Mr. Bob Bonney and Mr. John Moulin, and is documented in greater detail later in this Report ([R.53/2017](#) refers). The Board upheld the complaint and made a number of recommendations. The Panel was disappointed that these were roundly ignored by the States Employment Board in its Response to the Report ([R.53/2017 Res.](#)). The Board took the unusual step of responding to that response ([R.53/2017 Res.Res.](#)), in order to express its disquiet that SEB appeared to imply that there had been no fault found in the execution of the decision in relation to Mrs. X, when in fact the Board had been **very** critical of the lack of duty of care afforded her, and had challenged the way that she had been supported by Human Resources.

The second hearing was chaired by myself, supported by Mr. Graeme Marett and new member Mrs. Sue Cuming, and concerned the payment of higher education grants ([R.108/2017](#) refers). Although the complaint was not upheld, the Board made a number of recommendations for improvements to the existing system. On 23rd November 2017, the Minister for Education published a response to R.108/2017 in which the actions taken in relation to these recommendations were outlined ([R.108/2017 Res.](#)). In contrast

to the first hearing, the Minister for Education and his officers had considered the recommendations and had used them as a basis for improving the current grants system.

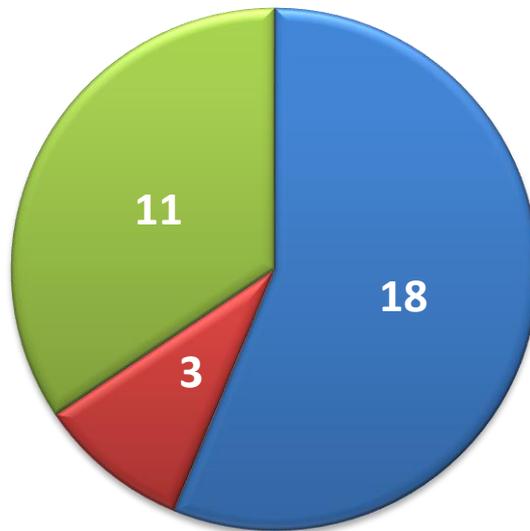
The Panel recognised the sterling work undertaken across States Departments, and is pleased that in many of the complaints cases dealt with during 2017, Departments have adhered to best practice in complaint-handling processes, and in particular have acknowledged mistakes, apologised and sought to remedy guidelines and policies to ensure that such complaints are not duplicated in the future. However, there does remain a sense, in certain Departments, that the Complaints Panel's findings are not supportable unless they uphold the Department's position.

It is our hope that under the leadership of the new Chief Executive, States Departments will see the Panel not as an adversary, but as a critical friend, and there will be greater appreciation of the honorary service it provides to both the Public and public bodies, in seeking to improve public administration.

Although the Complaints Panel did not agree with the majority of the recommendations contained within the recent Jersey Law Commission topic report entitled 'Improving Administrative Redress in Jersey', it does accept that some amendment to the legislation which underpins its work would help deliver greater effectiveness. To this end, the Panel will be urging the Privileges and Procedures Committee to bring forward amendments to the Administrative Decisions (Review) (Jersey) Law 1982 during 2018, in order to ensure that its procedures and scope are adequately defined.

Mr. Geoffrey Crill  
Chairman, Complaints Panel

### Complaints dealt with in 2017



■ New formal complaints 2016

■ 2016 formal complaints carried forward

■ Informal enquiries about the complaints process/potential complaints

### Complaints received in 2017 by Department



■ Planning

■ Infrastructure

■ Health & Social Services

■ Social Security

■ Education

■ SEB

■ Home Affairs

■ Population Office

### Complaint outcomes 2017

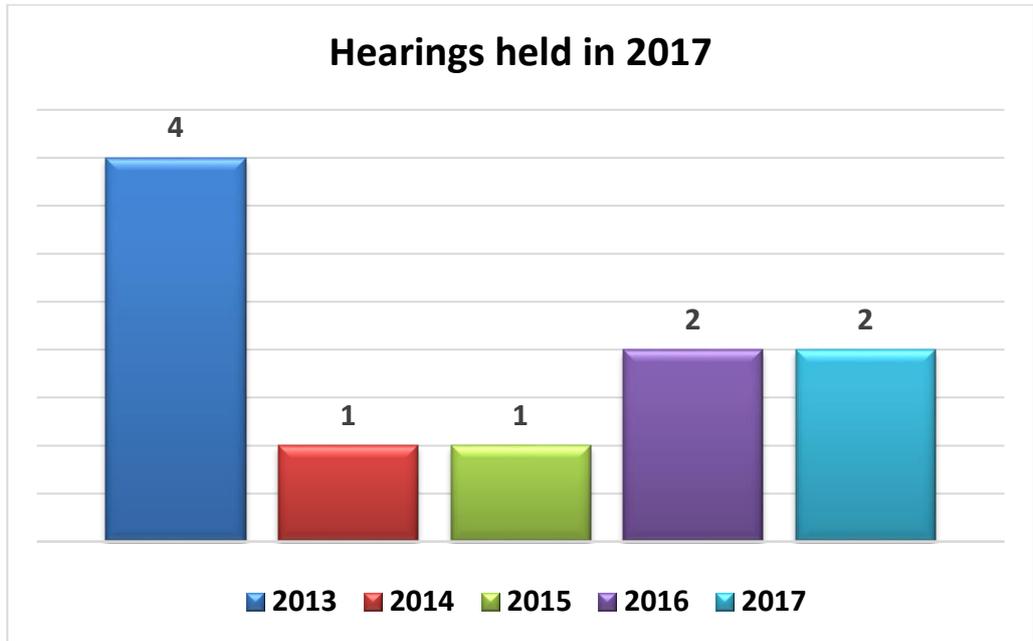


- Hearing - complaint not upheld but recommendations made to the Department
- Resolved through Complaints Panel involvement
- Ongoing
- Case closed

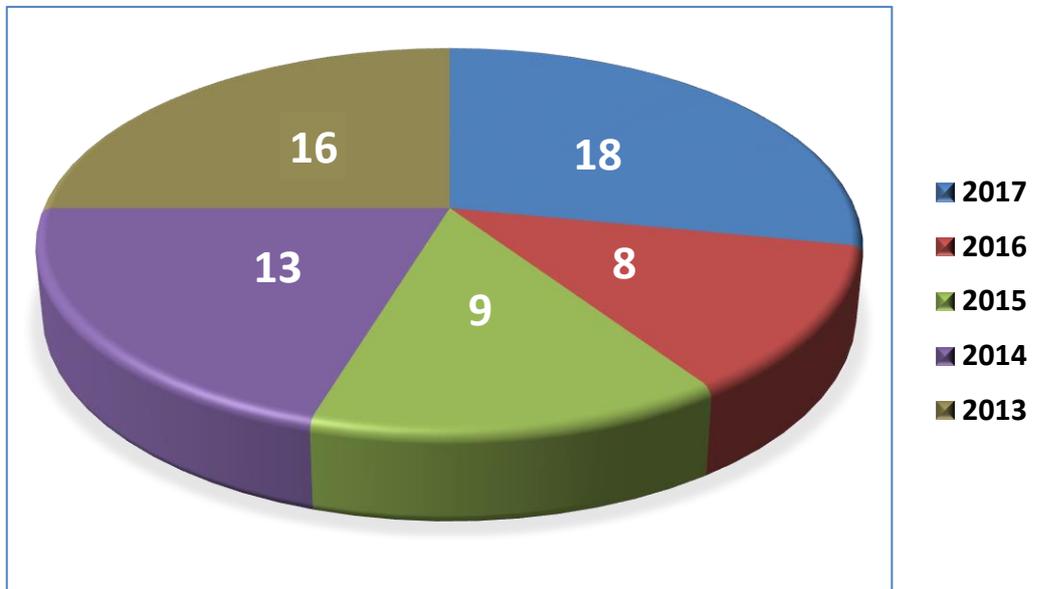
### Ongoing complaints into 2018



- Hearing scheduled
- Being processed - awaiting responses
- Informal resolution in progress



### NEW COMPLAINTS RECEIVED ANNUALLY



**THREE COMPLAINTS WERE OUTSTANDING AT THE END OF 2016 AND  
CARRIED FORWARD INTO 2017**

**(i) 1386/2/1/2(329) vs. Planning**

A statement of complaint was received on 6th December 2016 against the Planning Department regarding inconsistent application of the Building Bye-laws (Jersey) 2007 (“the Building Bye-laws”).

A résumé was received from the Department on 10th January 2017 and referred to the Chairman, in order that he could consider whether the matter justified a Complaints Board hearing.

The Chairman was sympathetic to the complainant’s situation, but did not see that the complaint could be upheld, as it was a matter for the Department and the Law Officers to decide what action if any should be taken in the event of a breach of the Planning and Building (Jersey) Law 2002 (“the Planning Law”) or the Building Bye-laws, and they had decided that it was not in the public interest to prosecute the original developer of the property.

Whilst the Panel may, strictly speaking, only make recommendations after hearing a complaint, the Chairman considered that the complaint could be satisfactorily resolved if the Department were to create a standard letter of comfort to an owner whereby it confirmed that, notwithstanding that unauthorized works had been carried out, the Department would not require an application for retrospective approval, and would not be taking any action in respect of the works. This should provide comfort to the owner, without providing any representation by the Department that the unauthorised works were carried out in accordance with the Planning Law or Building Bye-Laws. The Chairman asked the Deputy Greffier to write to the Department in those terms, and they responded by saying that a letter, as outlined above, had been sent to the complainant.

**Status as at 31.12.2017: CLOSED**

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**(ii) 1386.2.1.22(2) vs. States Employment Board**

A statement of complaint was received on 17th January 2016 relating to the refusal of the States Employment Board to grant Ill-Health Retirement when Mrs. X left the employment of the States of Jersey.

A résumé was received from the SEB on 17th February 2016 and the matter was referred to the Chairman. He agreed that the case should be heard by a Board and a date was set for 7th June 2016. Following a request by the Law Officers representing SEB, the date of the hearing was postponed and then attempts were made by the Chairman to resolve the matter informally by seeking a review by AXA of the records. This process took place and Mrs. X was informed of the outcome. She remained dissatisfied and the Chairman agreed that the Complaints Board hearing should therefore take place as planned. The hearing took place on 3rd April 2017. The findings were subsequently published as a Report to the States ([R.53/2017](#) refers).

Mrs. X, had worked as a science laboratory technician in Jersey schools for 25 years, most recently at a secondary school from which she departed at the end of 2012 (hereinafter referred to as “the school”). Mrs. X had been employed at the school on a full-time basis which was rare, as ancillary posts were more often term-time only. During the period from 2008 to 2012, Mrs. X had attended 66 medical consultations, predominantly for acute respiratory infections and asthma. Accordingly, on 12th October 2012, Mrs. X had written to the head-teacher of the school (who, it was

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noted, was no longer in the employ of the Education Department), in the following terms – “Please accept this letter as my formal application for early retirement on ill-health grounds which I wish to be effective from 1st January 2013”. The head-teacher responded to Mrs. X on 15th October 2012 to accept her “resignation”. Mrs. X had not resigned, but had sought ill-health retirement. She had not wanted to leave her post, but felt that she had no option but to do so, because she was concerned that her ill-health was affecting her ability to perform her role in a safe manner.

Mrs. X’s case had been referred to AXA but had not been recommended for retirement on ill-health grounds. Mrs. X left the school at the end of December 2012, and in April 2014 was diagnosed with hypersensitivity pneumonitis which was caused by exposure to hazardous materials, and was a progressive disease which developed over a long period of time, the early symptoms of which included fatigue, weakness, cough, pain, swelling of joints, asthma and shortness of breath. Whilst the Board agreed that the decision not to grant ill-health retirement to Mrs. X, had been appropriate given the information available at the time, it considered that there had been a failing in the duty of care towards her. The head-teacher and the Education HR team should have given her appropriate advice and ensured that she was adequately informed of the various options available and the processes to be followed, from the moment she began to experience difficulties in the workplace, and particularly when she initiated the ill-health retirement application. This was especially important because Mrs. X was very unwell with an (as then) undiagnosed condition, which left her vulnerable and unable to make an informed decision without support and guidance.

The Board considered that the Employer had an opportunity to remedy the situation by acknowledging its failings and reviewing its processes to ensure that those like Mrs. X who were dedicated, stoical and tried to endure, were not adversely affected or unfairly prejudiced in the future, and that sufficient compassion and support was given to those applying for ill-health retirement. Furthermore, the Board requested that Mrs. X’s case be subject to a retrospective review, in order to remedy the fact that a loyal and respected employee, after years of unbroken service and having developed demonstrable ill-health, was treated so improperly and without thought to her welfare. In summary, the Board supported the complaint made by Mrs. X in relation to the way in which her ill-health retirement was assessed. It believed that Mrs. X received insufficient guidance and support from the Employer, who had a responsibility to provide an appropriate level of care.

*“Many Thanks for issuing the report so promptly. If I may be permitted to say, the Board has been very thorough, objective and fair in its handling of the complaint and has been very well supported. The public clearly have an excellent team in place.”.*

Mrs. X’s representative.

The SEB, having reconsidered the decision as required by the Board under Article 9(9) of the Law, presented their response to the States on 24th July 2017 (see [R.53/2017 Res.](#)).

On 21st September 2017, the Complaints Board issued a response to that document ([R.53/2017 Res.Res.](#)) in which the Chairman expressed disappointment with the reply provided by SEB, which he considered to be poorly-balanced, highly selective, and ignored the context of the events surrounding the decision.

Moreover, the Board felt SEB sought to imply that there had been no fault found in the execution of the decision in relation to Mrs. X, when in fact the Board had been very

critical of the lack of duty of care afforded her, and had challenged the way that she had been supported by Human Resources.

Furthermore, it was acknowledged during the Hearing that there was scope within the PECRS procedures for there to be a retrospective review if new facts were presented or a definitive diagnosis was revealed. However, no such discretion was extended in relation to Mrs. X, who had a chronic long-term disease of unknown origin which had damaging effects on her ability to remain in her job.

The Board did not consider that such a rigid approach reflected well on the States as an employer, especially when the employee concerned had worked tirelessly for the States and demonstrated a strong work ethic. The reward for her 'going the extra mile' was to be penalised by the system and, as a final insult, not even to be considered for a retrospective review. Such a review, whilst potentially producing a modest adjustment in income for Mrs. X, would be an entirely appropriate response by the SEB in acknowledging her dedication and years of service, and would go some way towards redressing the poor duty of care she was given by the States as an employer.

The Board urged the SEB to reconsider its response, but received no further comment.

**Status as at 31.12.2017: CLOSED**

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**(iii) 1386.2.1.7(16) vs. Social Security**

A statement of complaint was received on 3rd November 2015 relating to the Social Security Department regarding the lack of payment of benefits to a claimant during his treatment for cancer (JY103391B).

A résumé was received from the Minister and Department on 25th November 2015 and the matter was referred to the Chairman. The Chairman was extremely sympathetic of the complainant's situation, but did not see any evidence that the Department had acted outside its established procedures and policies. The complainant was advised of this decision on 12th December 2015 and requested that the matter be reviewed by the Deputy Chairmen.

The Deputy Chairmen did consider that there were sufficient grounds for a hearing. However, the Deputy Chairmen were mindful that that it was not within the power of the Minister for Social Security to make discretionary decisions over the payment of contributory benefits. It was therefore difficult to see what outcome a hearing could achieve, given that there were no grounds for complaint regarding the service that the complainant received from officers in the Department, and that Social Security legislation had been applied correctly when processing the benefit claims in question. The hearing was therefore postponed.

One of the Deputy Chairmen decided to convene a meeting between the parties in order to explore the possibilities of an informal resolution and this was held on 6th December 2016. It was noted that the Department planned a review of the Social Security scheme, and that the issues surrounding the classification of 'employment' for those paying Class 2 contributions, when they were the corporate sole, would be addressed. The complainant was advised accordingly.

**Status as at 31.12.2017: CLOSED**

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**EIGHTEEN FORMAL COMPLAINTS WERE RECEIVED IN 2017**

**(1) 1386.2.1.2(331) vs. Planning**

**Complaint against the Planning Department regarding a change of use on a business property**

A statement of complaint was received on 12th January 2017.

A résumé was received from the Department on 20th February 2017 and referred to the Chairman, in order that he could consider whether the matter justified a Complaints Board hearing. In accordance with the Panel's procedures, the papers were also sent to a member of the Panel for consideration. Having discussed the matter with his colleague, the Chairman decided that there was no justification for a hearing.

The complainant sought further review by the 2 Deputy Chairmen and the case was referred to them on 28th March 2017. They were very sympathetic to the complainant's situation, but could see no justification for a hearing. They considered that the initial response given by Planning was lawful, as it was based on the information presented at that time. The processing of the complainant's retrospective application was followed correctly by Planning, and although there was a delay in the Department making the decision, the Deputy Chairmen did not consider that this was extraordinary, and reasoned that the only recommendation a Board could have made, if it was to uphold the contention that the delay was excessive, would be for Planning to try harder to deal with applications in a shorter timescale in future.

The complainant was informed accordingly.

**Status as at 31.12.2017: CLOSED**

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**(2) 1386.2.1.2(330) vs. Planning**

**Complaint against the Planning Department regarding the processing of a planning application**

A statement of complaint was received on 12th January 2017.

The complaint was intrinsically linked to similar complaints which the complainant had brought in the past and which had been the subject of much deliberation by successive Complaints Panels. Given that there existed a comprehensive bundle of documents relative to this case, including responses from the Planning Department, the Deputy Greffier did not seek a résumé from the Department, but forwarded the documents to the Chairman, in order that he could make a decision relating to the timescale of the complaint, which extended back to the 1970s. Since the Complaints Panel was established, there had been many instances where complaints had been refused on the basis that they were 'out of time' (having been submitted outside of the 12 month time limit), just as there have also been cases where the Chairman had exercised a degree of flexibility if he was satisfied that there was sufficient justification or 'special circumstances' so to do. Neither the Chairman nor the Deputy Chairmen (to whom the matter was subsequently referred) considered this to be applicable in this case.

The complainant was informed accordingly.

**Status as at 31.12.2017: CLOSED**

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**(3) 1386.2.1.9(16) vs. Health and Social Services****Complaint against the Health and Social Services Department in respect of CAMHS**

A statement of complaint was received on 2nd February 2017.

The Deputy Greffier contacted the Department as she was uncertain whether the internal appeals process had been exhausted. Following the informal involvement of the Complaints Panel, the Chief Executive of Health and Social Services wrote to advise that the complaint would be reviewed under the second stage of the Health and Social Services Department Complaints Policy. This was an external review conducted by the Guernsey Health and Social Services Department. The Deputy Greffier wrote to the complainant on 6th March 2017 to advise that if, following the external review, she remained dissatisfied with the way in which her case had been handled, she should get back in touch and the Complaints Panel process would be continued.

There was no further contact from the complainant.

**Status as at 31.12.2017: CLOSED**

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**(4) 1386.2.1.7(19) vs. Social Security****Complaint against the Social Security Department regarding pension payments**

A statement of complaint was received on 6th April 2017 regarding the continued deduction of pension payments from his salary after his 65th birthday.

A résumé was received from the Department on 16th May 2017 and referred to the Chairman, in order that he could consider whether the matter justified a Complaints Board hearing. In accordance with the Panel's procedures, the papers were also sent to a member of the Panel for consideration. Having discussed the matter with his colleague, on 9th June 2017, the Chairman asked the Deputy Greffier to contact the Social Security Department as he had some concerns about the way in which the complainant had been treated, and wished to ascertain whether Old Age Pension, as prescribed in Article 25 of the Social Security (Jersey) Law 1974, should be regarded as an 'entitlement' rather than a 'benefit'.

Advice was subsequently received from the Law Officers' Department which clarified that the correct categorisation of the 'entitlement' to old age pension had been applied. Although very sympathetic to the complainant's situation, it appeared to the Chairman that the appropriate procedure had been followed by the Department when processing the pensions claim and he therefore decided, in accordance with Article 3(5) of the Administrative Decisions (Review) (Jersey) Law 1982 that a review of this case was not justified. The complainant was advised of this accordingly.

However, although there was no hearing, the intervention by the Panel resulted in improvements being made to the existing system to ensure that the situation should not arise again. The Department advised that it had introduced a reporting mechanism which cross-checked an individual's pension age against receipt of primary contributions so that if such a situation occurred in the future it would be identified earlier. Social Security had also advised that all of the contributions which had been paid after pensionable age by the complainant had been refunded in full.

**Status as at 31.12.2017: CLOSED**

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**(5) 1386.2.1.3(23) vs. Education**

**Complaint against the Education Department regarding the allocation of the maintenance component of a student grant**

A statement of complaint was received on 19th April 2017.

A résumé was received from the Department on 17th May 2017 and referred to the Chairman, in order that he could consider whether the matter justified a Complaints Board hearing. In accordance with the Panel's procedures, the papers were also sent to a member of the Panel for consideration. Having discussed the matter with his colleague, the Chairman agreed that a hearing was justified and it took place on 26th July 2017. The findings were subsequently published as a Report to the States ([R.108/2017](#) refers).

The Complainants' case was that their son, Mr. A. (Junior), applied in March 2013 to start a 3 year BSc Paramedic Practice course in September 2013 at [X] University. When the Education Department processed his application for a grant, it had initially awarded him a maintenance grant at Band 2, as set out in Article 2 of the [Education \(Discretionary Grants – Amounts\) \(Jersey\) Order 2008](#) (“the Amounts Order”). Band 2 was defined in the Amounts Order as relating to ‘a paramedical’ course. However, the Complainants argued that their son should have been awarded a maintenance grant at Band 4, which was defined in the Amounts Order as ‘Any course in medicine, dentistry or nursing that consists of a period of study by way of clinical training at a hospital or other premises other than the institution at which the person is a student’.

Mr. A. (Junior) was required to undertake various placements during his university course and he incurred significant costs, estimated at £3,000 per academic year, in travelling to and from these placements. The Complainants had challenged the level of the maintenance grant awarded to Mr. A. (Junior), and the Education Department had subsequently increased the award to Band 3, which was defined as ‘a course at Buckingham University’. It should be noted that Mr. A. (Junior) was not a student at Buckingham University.

The Complainants indicated that when, in late 2014, they further challenged the level of grant, maintaining that Mr. A. (Junior) should be awarded Band 4, they had been informed that the Education Department allocated the maintenance grants purely on the length of the course being undertaken by a student. The Complainants contended that, until this point, they had been unaware that the duration of a student's course was a relevant factor when decisions were made on the level of maintenance grant. Mr. A. argued that this did not correspond with the wording contained within the Amounts Order, which (at the time relevant to the complaint) stated that a student was entitled to receive a maintenance grant where the degree course for which he, or she, was enrolled fell within one of the 4 specified Bands, with Band 1 being the default Band; Band 2 exclusively for paramedical courses; Band 3 exclusively for courses at Buckingham University, and Band 4 for medical courses, where there was a significant period of the course taken up with clinical placement. The Amounts Order did not give the Department any discretion. If a course fell within the description appropriate to a particular Band, then that was the Band that would determine the level of maintenance grant.

The officers of the Department were completely frank and open in their admission that the sole criterion for determining the appropriate Band for a given course was the duration of its academic year. The Board accepted that, for the sake of ease of administration and general fairness amongst applicants, it was not unreasonable to adopt this simple and simplistic approach in awarding maintenance grants, even though (or

perhaps because) it took no account of the limitless variables between the maintenance cost for one student as against another, whether that be regional cost of living, cost and availability of public transport.

While the Board considered that the Department was at fault in the manner in which it applied the Amounts Order, it did not feel that it could uphold the complaint. First, the Board was satisfied that the Department had applied its own system fairly and even-handedly, and secondly that Mr. A. (Junior) actually benefitted against a strict application of the Amounts Order (by which he should undoubtedly have been restricted to a grant under Band 2). The Board did not accept the Complainants' argument that their son's course comprised a sufficient degree of 'placement' to warrant that course being regarded as falling within Band 4. The Board was satisfied that placements under Band 4 required a student, as part of the course, having to take a placement outside and beyond the scope of the duration of the academic year of the course, which was not the case (or at least not materially the case) for Mr. A. (Junior).

However, the Board was strongly of the view that the information provided by the Department to the Public was unclear and ambiguous. If, as it appeared, it was the Department's policy to award maintenance grants solely on the length of the course in each academic year, the Board felt that this should be absolutely clear, both in the legislation and in any guidance issued for students.

The Board was critical of the Department's lack of policy in respect of the application of Article 16A of the [Education \(Discretionary Grants – General\) \(Jersey\) Order 2008](#), which related to field trip allowances. Article 16A clearly envisaged that persons in receipt of a maintenance grant could be faced with extraordinary expenditure arising out of essential travel, or placements, which could fall outside the anticipated cost of the student's course. The Article's heading refers to 'Field trips', but was specifically targeted at any sort of placement, or study, at a location other than the institution where the degree course was based.

Although the complaint was not upheld, the Board made a number of recommendations for improvements to the existing system. On 23rd November 2017, the Minister for Education published a response to the Report ([R.108/2017 Res.](#)) in which the actions taken in relation to these recommendations were outlined.

Most notably, following discussions with the Law Draftsman's Office, the Department had accepted that it was necessary to re-write the Orders completely in order to reflect the specific nature of the Student Finance grants. The aim was to have this in place for the new academic year 2018/19.

<b>Board's Recommendations</b>	<b>Department's Response</b>
6(xi) Information provided to Public is unclear and ambiguous	The Department is currently going through the process of comparing the 2 Discretionary Grants Orders listed above with the advice in the Guide to Higher Education Awards and the gov.je website. We will endeavour to make the documentation that supports our students, under-graduates and post-graduates as simple as it can possibly be.
6(xii) The Department's policy to awarding maintenance grants is based solely on the length of the course, and the Board feel that this should be clear in the legislation and the guidance	The Amounts Order has been changed to reflect a more time-based approach to maintenance calculation. We accept that mentioning a specific course in the legislation could be confusing, and will look to change that as part of the fundamental review of the Orders mentioned above. We will change the narrative around the maintenance bands to make the principles even clearer.
6(xiii) Award maintenance grants on a set weekly amount	This will not be possible, due firstly to the time it would take to get verification from the universities (which would cause delay in getting funding to students), and secondly the significant resource implications this would have for the Education Department.
6(xiv) The Board is critical of the Department's application of Article 16A of the Education (Discretionary Grants – General) (Jersey) Order 2008 – Field Trips	We accept that Article 16A is open to interpretation. We will discuss this further with the Law Officers, take advice, and look to amend if necessary.
6(xv) Lack of knowledge of Article and reimbursement for travel	The Department does have detailed knowledge of this Article, but felt that it was not appropriate to use it in this case. On 2 occasions the complainant was offered the opportunity to have travel costs reimbursed, and was required to provide evidence that peers had received this funding from the NHS. Student Finance did not receive any reply.  We will ensure that this option is clearly advertised on the website.
6(xvi) Including STIA and LTIA in assessments	The Department does consider STIA and LTIA as income in relation to the assessment, even though they are not taxable income under Article 77AA of the <a href="#">Income Tax (Jersey) Law 1961</a> (“the Income Tax Law”).  The rules applied by the Social Security and Education Departments in relation to income assessments are separate, and it is appropriate that the definition of income for income/income support purposes is wider than that used in the Income Tax Law.

**Status as at 31.12.2017: CLOSED**

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**(6) 1386.2.1.2(333) vs. Planning****Complaint against the Minister for the Environment regarding the dismissal of the recommendations of the Planning Inspector**

A statement of complaint was received on 1st June 2017.

A résumé was received from the Department on 29th June 2017 and referred to the Chairman, in order that he could consider whether the matter justified a Complaints Board hearing. In accordance with the Panel's procedures, the papers were also sent to a member of the Panel for consideration. Having discussed the matter with his colleague, the Chairman concluded that the case did not justify further investigation.

The complainant sought further review by the 2 Deputy Chairmen and the case was referred to them on 16th August 2017. After careful consideration, they concurred with the Chairman's view that there was insufficient justification to pursue the matter further. The complainant was informed accordingly.

**Status as at 31.12.2017: CLOSED**

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**(7) 1386.2.1.17(5) vs. Customs****Complaint against the Minister for Home Affairs regarding the actions taken by a Customs Officer**

A statement of complaint was received on 11th June 2017.

A résumé was received from the Department on 29th June 2017 and referred to the Chairman, in order that he could consider whether the matter justified a Complaints Board hearing. In accordance with the Panel's procedures, the papers were also sent to a member of the Panel for consideration. Having discussed the matter with his colleague, the Chairman decided that that the case did not justify further investigation.

The complainant sought further review by the 2 Deputy Chairmen and the case was referred to them on 10th July 2017. Having reviewed all of the paperwork, they indicated that there were no grounds that might warrant a hearing, as the Department did not apply an unsustainable policy or act in a manner with regard to the complainant which was discriminatory, unlawful or contrary to established policy. The complainant was informed accordingly.

**Status as at 31.12.2017: CLOSED**

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**(8) 1386.2.1.21(10) vs. Infrastructure****Complaint against the Minister for Infrastructure regarding changes to fares, charges and tariffs under R&O.62/2017 and proposals for a mandatory 'Despatching Entity'**

A statement of complaint was received 17th July 2017.

A résumé was received from the Department on 9th August 2017 and referred to the Chairman, in order that he could consider whether the matter justified a Complaints Board hearing. In accordance with the Panel's procedures, the papers were also sent to a member of the Panel for consideration. Having discussed the matter with his colleague, the Chairman decided that the case did not justify further investigation.

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The complainant sought further review by the 2 Deputy Chairmen and the case was referred to them on 19th September 2017. After careful consideration, they concurred with the Chairman's view that there was insufficient justification to pursue the matter further. The complainant was informed accordingly.

**Status as at 31.12.2017: CLOSED**

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**(9) 1386.2.1.32(2) vs. Population Office**

**Complaint against the Population Office regarding the application of the Control of Housing and Work (Residential and Employment Status (Jersey) Regulations 2013 in relation to Mr. X**

A statement of complaint was received on 24th July 2017.

The Deputy Greffier wrote to the complainant on 31st July 2017 seeking further information, as she was unclear whether the Departmental appeals procedure had been exhausted and also whether the complaint fell within the Panel's jurisdiction. No response was ever received.

**Status as at 31.12.2017: CLOSED**

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**(10) 1386.21.22(3) vs. SEB/Education**

**Complaint against the Education Department/States Employment Board regarding the way in which Mr. X's dismissal from the Youth Service was handled**

A statement of complaint was received on 19th September 2017.

A résumé was received from the Department on 12th October 2017 and referred to the Chairman, in order that he could consider whether the matter justified a Complaints Board hearing. In accordance with the Panel's procedures, the papers were also sent to a member of the Panel for consideration. Having discussed the matter with his colleague, the Chairman decided that the circumstances surrounding the case justified the setting-up of a Board to hear the complaint. The date of the hearing was set for 22nd January 2018.

**Status as at 31.12.2017: ONGOING**

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**(11) 1386.2.1.2(334) vs. Planning**

**Complaint against the Minister and Department for the Environment regarding a decision relating to the use of land at a property**

A statement of complaint was received on 27th September 2017. A résumé was received from the Department on 24th October 2017 and referred to the Chairman, in order that he could consider whether the matter justified a Complaints Board hearing. As the complainant was known to the Chairman, he declared a conflict of interest and therefore the case was referred to one of the Deputy Chairmen and another Panel member. They met to discuss the matter on 1st December 2017 and decided to seek an informal resolution of the case in the first instance, failing which a hearing would be convened.

The Deputy Greffier contacted the Department and discussed the case with officers. A positive formal response was received on 15th December 2017 and referred to the Deputy Chairman for further consideration. On 29th December 2017 the Deputy Greffier contacted the Department to confirm the Panel's stance and seek an agreement

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as to the way forward. It was anticipated that the matter would be resolved to both sides' satisfaction without necessitating a hearing.

**Status as at 31.12.2017: AWAITING RESPONSE FROM DEPARTMENT**

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**(12) 1386.2.1.7(20) vs. Social Security**

**Complaint against Social Security Department regarding an Income Support claim**

A statement of complaint was received on 19th October 2017 from Deputy G.P. Southern of St. Helier acting on the complainant's behalf.

A résumé was requested from the Department by 10th November 2017, but in the meantime Deputy Southern and the complainant met with Departmental officers. Unfortunately the outcome was not satisfactory to the complainant, and therefore the case was referred on to the Chairman on 5th December 2017, in order that he could consider whether the matter justified a Complaints Board hearing. In accordance with the Panel's procedures, the papers were also sent to a member of the Panel for consideration.

Having discussed the matter with his colleague, the Chairman decided to contact the Department to seek an informal resolution to the matter.

**Status as at 31.12.2017: DISCUSSIONS WITH SOCIAL SECURITY WITH A VIEW TO INFORMAL RESOLUTION ARE CONTINUING**

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**(13) 1386.2.1.2(335) vs. Planning**

A statement of complaint was received on 17th November 2017 against the Planning Department regarding the administration of a planning application.

A résumé was received from the Department on 15th December 2017 and referred to the Chairman, in order that he could consider whether the matter justified a Complaints Board hearing. In accordance with the Panel's procedures, the papers were also sent to a member of the Panel for consideration.

**Status as at 31.12.2017: AWAITING RESPONSE FROM CHAIRMAN AND MEMBER**

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**(14) 1386.2.1.3(24) vs. Education**

A statement of complaint was received on 21st November 2017 against the Education Department regarding the over payment of student fees.

A résumé was received from the Department on 15th December 2017 and referred to the Chairman, in order that he could consider whether the matter justified a Complaints Board hearing. In accordance with the Panel's procedures, the papers were also sent to a member of the Panel for consideration.

The Chairman was extremely sympathetic of the complainant's situation, but did not see any evidence that the Department had acted outside its established procedures and policies. However, although the Chairman did not feel there is sufficient justification for a hearing, he expressed disappointed that there appeared to have been a complete lack of any dialogue from either Education or the Treasury as to how the repayment might be effected. Whilst the Treasury referred to payment by instalments and sent a

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direct debit form, no consideration was given to the fact that the complainant was in receipt of Long-Term Invalidity Allowance, and it should have been obvious that repayment was going to be difficult. The Chairman, mindful that a sympathetic and understanding approach to devising a viable repayment programme might have eased the complainant's concerns even before the formal invoice was raised, requested that the Deputy Greffier write to the Education Department to highlight this.

The complainant was advised of this decision on 29th December 2017 and given the option to request that the matter be reviewed by the Deputy Chairmen.

**Status as at 31.12.2017: AWAITING RESPONSE FROM COMPLAINANT**

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**(15) 1386.2(93) vs. Planning Department**

A statement of complaint was received on 25th November 2017 against the Planning Department regarding the exclusion of relevant parties in the consultation period before the debate on the future Hospital development.

The Deputy Greffier wrote to the complainant on 28th November 2017, seeking further details, as she was unsure whether the complaint fell within the Panel's jurisdiction or should be referred instead to the Chief Executive of the States as a staff conduct issue. A further e-mail was sent on 22nd December 2017 outlining the alternative routes available to the complainant to progress his complaint.

**Status as at 31.12.2017: AWAITING RESPONSE FROM COMPLAINANT**

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**(16) 1386.2.1.25(1) vs. Minister for Health and Social Services**

A statement of complaint was received on 28th November 2017 against the Minister for Health and Social Services and the Minister for Infrastructure regarding actions taken before the debate on the future Hospital development.

The Deputy Greffier wrote to the complainant seeking further details, as she was unsure whether the complaint fell within the Panel's jurisdiction. A response was received on 21st December 2017 and as a result the complaint was referred to the Commissioner for Standards.

**Status as at 31.12.2017: CLOSED (REFERRED TO COMMISSIONER FOR STANDARDS)**

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**(17) 1386.2.1.20(4) vs. Minister for Infrastructure/Property Holdings**

**Complaint against the Minister for Infrastructure/Jersey Property Holdings regarding the handling of a foreshore encroachment claim**

A statement of complaint was received on 15th December 2017 and a résumé was requested from the Department.

**Status as at 31.12.2017: ONGOING**

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**(18) 1386.2.1.20(5) vs. Minister for Infrastructure/Property Holdings**

**Complaint against the Minister for Infrastructure/Jersey Property Holdings regarding the handling of a foreshore encroachment claim**

A statement of complaint was received on 21st December 2017 and a résumé was requested from the Department.

**Status as at 31.12.2017: ONGOING**

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**ELEVEN ENQUIRIES WERE LOGGED DURING 2017 WHICH DID NOT  
TRANSITION INTO FORMAL COMPLAINTS**

These related to the following Ministers/Departments –

- 2 x States Employment Board**
- 2 x Health and Social Services**
- 2 x Planning (Minister for the Environment)**
- 2 x Social Security**
- 1 x Population Office**
- 1 x Viscount's Department**
- 1 x Department for Infrastructure.**