
STATES OF JERSEY



STATES OF JERSEY COMPLAINTS BOARD: FINDINGS – COMPLAINT BY MR. R. AHMAD AGAINST THE DEPUTY CHIEF MINISTER REGARDING AN APPLICATION FOR RESIDENTIAL AND EMPLOYMENT STATUS (R.137/2021) - RESPONSE OF THE DEPUTY CHIEF MINISTER

**Presented to the States on 11th November 2021
by the Chief Minister**

STATES GREFFE

REPORT**A complaint by Mr Rizwan Ahmad Against The Chief Minister (Deputy Chief Minister with delegated responsibility for the Control of Housing and Work (Jersey) Law 2012 regarding an Application for residential and employment status under Regulation 4(2) (a) of the Control of Housing and Work (Residential and Employment Status) (Jersey) Regulations 2013**

**Response of the Department to the findings of the States of Jersey Complaints Board further to the hearing constituted under the Administrative Decisions (Review) (Jersey) Law 1982 on 28 July 2021
States Greffe Ref: [1386/2/1/23(4)]**

The Deputy Chief Minister, together with his political colleagues on the Housing and Work Advisory Group (“HAWAG”), have considered the findings of the States of Jersey Complaints Board and reviewed the decision not to grant Mr Ahmad Entitled for Work status.

Mr Ahmad was given the opportunity to present his case in person to the Deputy Chief Minister and HAWAG members on 12 October 2021.

Control of Housing and Work (Jersey) Law 2012 Residential and Employment Status Policy Guidance - May 2019 (“Policy Guidance”)

The Deputy Chief Minister is aware of the discretion afforded to him in terms of determining whether or not there has been a continuous period of ordinary residence in any particular case. In Mr Ahmad’s case, it is accepted that this discretion extended to his treatment as a person with Licensed status under Paragraph 65 of the policy guidance; and secondly, in deciding whether or not he had maintained a settled purpose in Jersey during the period of his extended absence to care for his ill mother.

The Deputy Chief Minister and HAWAG members note the findings of the Board in respect of the remit of Paragraph 65 of the policy guidance, specifically that the need for a person to be absent from the Island to care for a family member should be the same whatever the residential and employment status of the person, and it is that need which should form the basis of assessment as to whether ordinary residence has been maintained.

This does not mean that the treatment of Entitled for Work only and Entitled status individuals should be the same as Licensed and Registered individuals in every circumstance under the guidance - as the longer a person is in Jersey, the less reasonable it becomes to be restrictive in their treatment (as the Law and Policy is fundamentally based on length of residence). However, in the case of caring for a family member, enhancements in guidance and policy to apply the same treatment to people of all categories of residential status are considered appropriate and reasonable.

Paragraph 65 of the policy guidance has accordingly been amended in order that the policy will now be applicable across all categories of residential and employment status.

On the related finding of the Board at paragraph 4.10 of its Report regarding reference to a particular relationship, Paragraph 65 of the policy guidance does already state that “Absences whilst caring for a person other than a parent or child may be considered on a discretionary basis, subject to the provision of sufficient information regarding the relationship between the person and the other person for whom they intend to care”.

Ordinary residence/ settled purpose

The Deputy Chief Minister and HAWAG members, having met Mr Ahmad and reviewed his case, accept that Mr Ahmad falls within the criteria set out in the revised Paragraph 65 of the policy guidance and is therefore deemed to have remained continuously ordinarily resident in Jersey from October 2015 to date. The fact that he retained employment in Jersey and was on unpaid leave in the knowledge that his job was retained for him when he returned to the Island at the end of the fixed 6-month period was a key factor, as was the specifics of why he felt the need to travel to Pakistan in the circumstances.

This decision has been communicated to Mr Ahmad and he has been informed of his eligibility for Entitled for Work Only status.

Appeals Process

The findings of the Board in relation to the Appeals Process as set out at Paragraph 4.9 of the Findings Report are duly noted and acknowledged.

As part of a current review of the Control of Housing and Work (Jersey) Law 2012, proposed amendments to the appeals process are already in draft.

Team Manager

Customer and Local Services

05/11/2021