
STATES OF JERSEY



STATES OF JERSEY COMPLAINTS PANEL: REPORT FOR 2020

Presented to the States on 28th October 2021
by the Privileges and Procedures Committee

STATES GREFFE

FOREWORD BY THE CHAIR 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 very active period. They have been most impressive.

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. By providing the opportunity for independent oversight of government administration, their work mirrors that of an Ombudsman and is of great value to the Island, but has no cost to the taxpayer.

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.

The Complaints Panel's aim is to ensure that public services are administered in accordance with accepted policies and procedures. Complaints are generally only taken forward by the Panel once a complainant has exhausted the internal complaints procedures available. However, this should not be used as a method of prolonging the processing of complaints by Departments. 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, yet again, informal resolution has played large part in the Panel's work throughout the year. 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.

What was disappointing in 2020, was that several Departments disrespected the complaints process itself and sought to challenge the Panel's jurisdiction. In some cases this simply took the form of delays in responding to the deadlines given for submissions, which required reminders from the Deputy Greffier. However, in a couple of cases this resulted in approaches from the Law Officers' Department, just days before the scheduled hearing dates, seeking to postpone or cancel and claiming that the matters were not within the Complaints Panel's remit and the hearings should never have been arranged.

Claiming that some decisions, such as those relating to the pension entitlement of a public sector employee, are subject to literally no independent oversight whether that be by the Court (either in its public or private law jurisdiction) or a Complaints Board, removes the ability for proper scrutiny of those decisions and potentially leaves people who have been seriously adversely affected by unlawful decisions without a remedy.

What is clear is that if there is to be an Ombudsman, then it is imperative that the role has sufficient powers, otherwise, it will just be Government paying lip service to oversight. I do not think the Ombudsman should be able to impose his or her own

decision on Ministers, but the current situation whereby there can be an absolute rejection of the Board's findings on the basis of jurisdiction, with no agreement to review the situation, despite the Board upholding the complaint and finding fault in the process followed, is wholly inappropriate and completely unfair to Islanders.

In 2020 the Panel increased its membership to 17 members. This provided a broad base from which Boards could be convened, avoided any conflicts of interest which can understandably be common in an Island community and ensured that complaints were assessed impartially and without bias.

In July 2020 the Assembly approved the re-appointment of Geoff Crill as Chair of the Complaints Panel and also agreed that there should be a recruitment drive to increase the diversity of the Panel membership. Following the receipt of 23 applications to join the Panel, 14 candidates were selected for interview, which were conducted over 2 days on 13th and 20th August 2020, by the Chairman, Deputy Chairmen and one other Panel member, supported by the Deputy Greffier. The Interview Panel considered that the 8 successful candidates demonstrated possession of the key skills and knowledge required to make a positive contribution to the work of the Panel and they all have had experience of hearing conflicting evidence and reaching a reasoned conclusion through consensus. During the selection process, the Panel sought to appoint a balanced group of people in terms of gender, ethnicity, age, disability, sexual orientation, socio-economic status, experience and skills. The new recruits come from a varied background; some are established Island residents with a wealth of public and private administration experience whilst others are relatively new to Jersey and are a great reflection of Jersey's community. The tenure of the two Deputy Chairs was also renewed so that, whatever the future holds for the Panel, it retains the leadership team until the demise of the Panel and its replacement with an Ombudsman (likely to be early 2023).

The members of the Panel in the first half of 2020 were –

Geoffrey George Crill (Chairman)
 Chris Beirne (Deputy Chairman)
 Stuart Catchpole, Q.C. (Deputy Chairman)
 Sue Cuming
 Gavin Fraser
 David Greenwood
 Gwyn Llewellyn
 Graeme Marett
 John Moulin

They were then joined for the latter half of the year by the following new recruits -

Christine Blackwood
 Penny Chapman
 Tina Chatterley
 David Curren
 Andrew Hunter
 Kerry Leadbetter
 David Le Heuzé
 Damian Warman

The Panel's work in 2020 has been impressive. Its findings reports have contained a number of recommendations which, if adopted by the Departments concerned, will improve administration across the Island's government services and ultimately be of great benefit to Islanders.

The Privileges and Procedures Committee is pleased to present the report of the States of Jersey Complaints Panel for 2020.

Deputy Carina Alves, Chair of PPC

STATES OF JERSEY COMPLAINTS PANEL: REPORT FOR 2020

Dear Chair and Members of the Privileges and Procedures Committee,

I have pleasure in forwarding to you the report for 2020, which also includes the resolution of the matters outstanding at the end of 2019.

The Complaints Panel deals with complaints from across the whole Government 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 learnt for service improvement.

This report provides information about the work undertaken by the States Complaints Panel during 2020. It was another exceptionally busy year for the Panel. 10 complaints were carried forward into 2020 and there were 21 new formal complaints received during the year. There were also 3 hearings convened during 2020, at which the complaints heard were all upheld and the findings reports included recommendations for modifications to be made to existing processes to avoid a repetition in the future.

In addition to the 21 formal complaints, the Deputy Greffier received 18 enquiries regarding complaints which were not taken forward. These calls have been logged since 2016, 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 intervention of either the Chairman, one of the Deputy Chairmen or the Deputy Greffier.

The Panel recognises the sterling work undertaken across Government departments and is pleased that in many of the cases dealt with during 2020, Departments have demonstrated best practice in complaint handling processes and have acknowledged mistakes, apologised and sought to amend guidelines and policies to ensure such complaints are not replicated in the future. We have seen exceptional complaint handling responses from Departments, but sadly there have been incidents of poor performance too.

We also take this opportunity to commend the number of officers in various departments who have been receptive to approaches from the Panel with a view to informal resolution of complaints. Whilst appreciating the constraints on these officers, the Panel appreciates their willingness to understand the position of complainants, to consider the views expressed by Panel members and to revisit decisions as appropriate. Matters which come to the Complaints Panel are seldom clear-cut or black and white, and therefore the readiness of all parties to remain open-minded in the application of policy and regulation is critical for good and effective administration, as well as minimising officer time spent in the more formal dealing with complaints

Once again, I feel obliged to report a perception by the Panel that it is not taken seriously by Ministers, that is to say that the findings of Complaints Panels - and by extension,

the Administrative Decisions (Review)(Jersey)Law 1982 - are not an integral part of the Island's administration and core in the continual improvement of service delivery to Islanders. This is evidenced by the persistent failure of some departments to adhere to timetables for submissions, by challenges to the jurisdiction of the Board, and the failure of Ministers to give due consideration to a Board's findings and/or recommendations.

In its report in relation to the establishment of a Jersey Public Service Ombudsman, the Jersey Law Commission referred to a "worrying pattern in relationships with Ministers, with many findings and recommendations rejected and an atmosphere of mutual distrust". It may be that if Ministers had been more willing to give proper and non-defensive consideration to certain of the Boards' findings, considerable Ministerial time and public expense could have been saved. The decisions in relation to the Alwitry and the foreshore complaints spring easily to mind.

The Panel has repeatedly and consistently stated that it sees its function as essentially constructive, seeking to work alongside the Island's administration, to make that administration more efficient and more understandable to its users, the general public. I have to say that I cannot see that being a view shared by Ministers. Ministers never attend hearings to justify their decisions or support their officers, and in exceptional cases an Assistant Minister has appeared. Our hearings are few and far between, but are one of the rare opportunities members of the public have to speak directly to those making decisions which affect them directly.

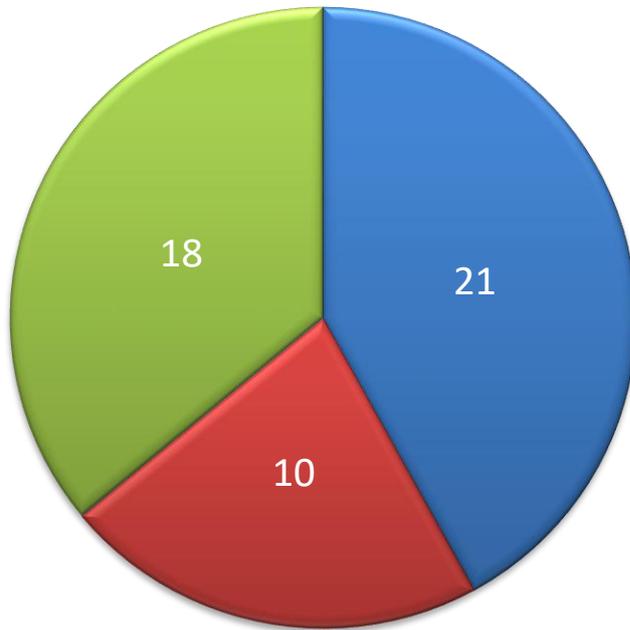
The findings and recommendations of Complaints Boards not only serve to address an individual's concern over a decision affecting them directly and frequently to highlight inefficiency or inequity in a policy or process, but they are a clarion call to States Members to pick up where a Board has left off. By requiring a Minister to respond to a Board's findings in the Chamber and be subject to questions without notice, an opportunity arises for shortcomings highlighted by a Board's decision to be kept under scrutiny. States Members are therefore as essential a part of the complaints process as the Complaints Panel itself.

It was extremely disappointing that 2020 saw no progress made in relation to some historical complaints, in some cases years after the Board hearing at which the complaint was upheld. The Panel remains in contact with several complainants who continue to seek the redress recommended by Complaints Boards, ranging from compensation to a simple, but genuine, apology. That anyone should be waiting years for the resolution of their complaint, should be a matter of great concern to the Chief Minister, his Council of Ministers and to all States Members.

Hearings really should be the very last option. Most complainants simply want an apology and an acknowledgement that efforts will be made to avoid repetition of any mistakes made. I hope we can continue to work with Ministers and Departments to improve processes and procedures across the Public Sector and ensure Islanders receive the best service possible.

Geoffrey Crill
Chairman, Complaints Panel

Complaints dealt with in 2020



- New formal complaints in 2020
- 2019 formal complaints carried forward
- Informal enquiries about the complaints process/potential complaints

Complaints received in 2020 by Department



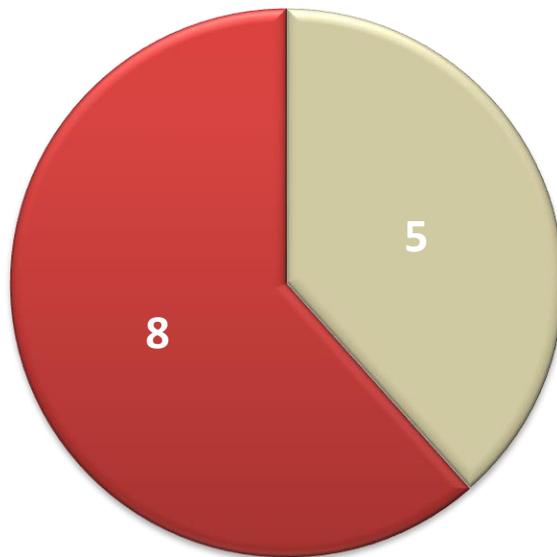
- GHE (Planning)
- SEB
- Health
- CLS (Social Security)
- CYPES (Education)
- Other
- HAF
- EDTSC

Complaint outcomes 2020 (including those carried forward from 2019)

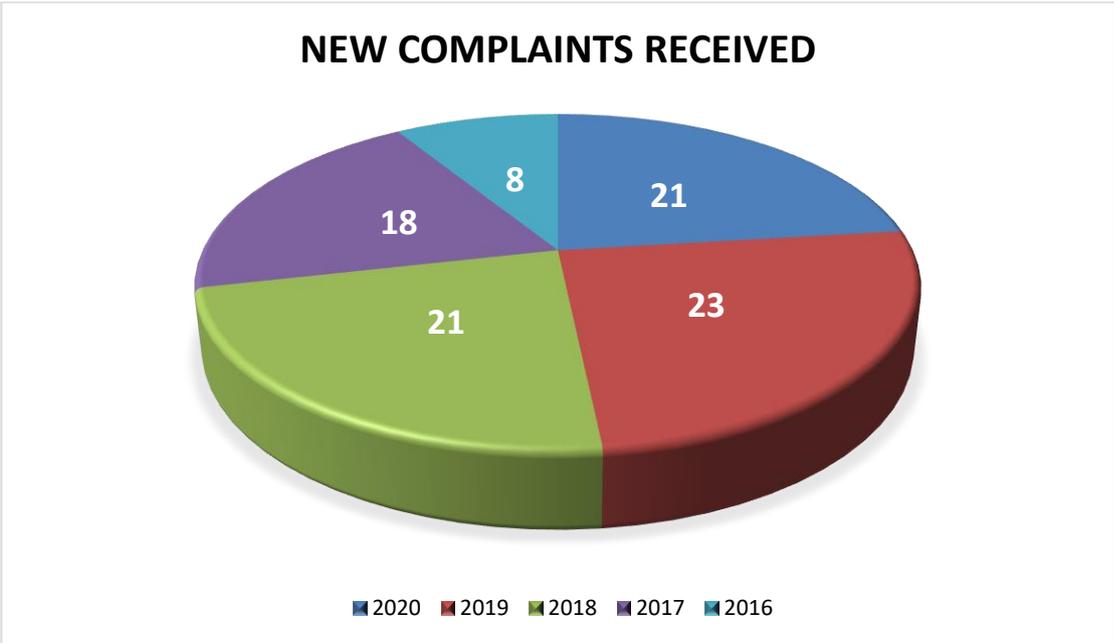
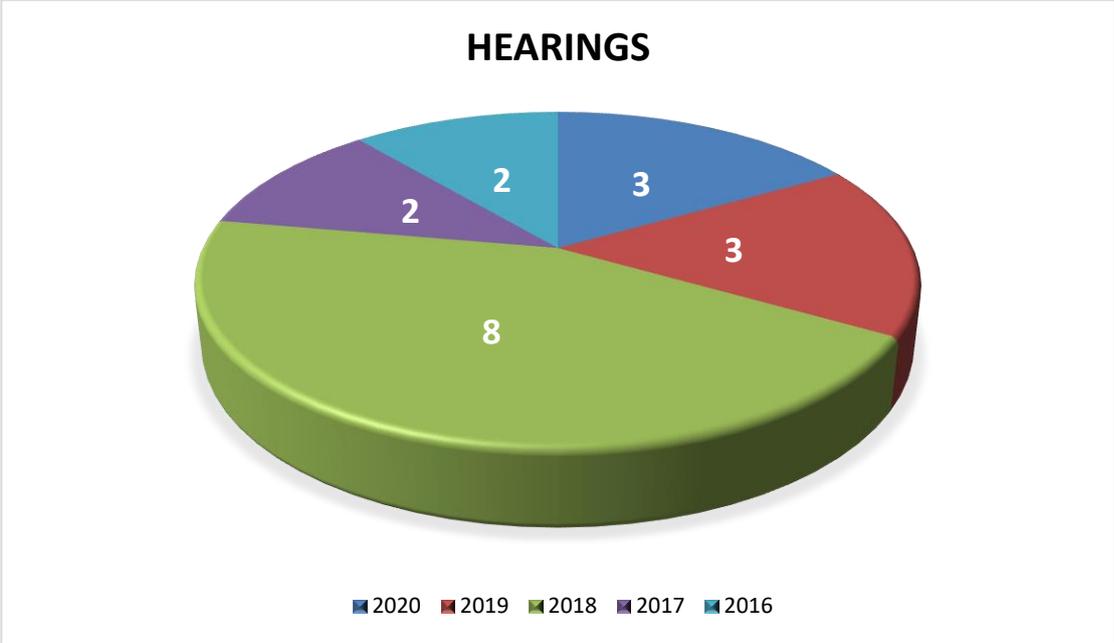


- Resolved through Complaints Panel involvement
- Ongoing
- Case closed
- Hearing -complaint upheld

Ongoing complaints carried into 2021



- Referred to Department to complete internal complaints process
- Being processed - awaiting responses



21 NEW FORMAL COMPLAINTS WERE RECEIVED IN 2020

(1) 1386.2.1.7(29)

Complaint against the Minister for Social Security regarding the administration of an Income Support claim

A statement of complaint was received on 28th January 2020

The complaint concerned the administration of an Income Support claim where deductions had been made in relation to alleged overpayments, but the complainant had claimed that related correspondence had not been received due to her having changed address. A request for a summary from the Department flagged that this case had not exhausted the internal complaints process and the complaint was deferred.

In October the complainant made contact to revive the case as she remained dissatisfied with the outcome. A summary was requested from the Department and the papers were sent to the Chairman and an independent member of the Panel on 23rd November 2020. The Chair very much regretted that he could not see a prima facie ground for this matter to be considered further. In his view, the Department had administered the case in accordance with the Law. However, he was concerned that the Law was flawed and appeared to penalise the vulnerable and allowed for no discretion or compassion and this was communicated to the Department.

The complainant was given a month to decide if she wanted the matter to be considered by the two Deputy Chairmen.

STATUS AS AT 31ST DECEMBER 2020: ONGOING

(2) 1386/2/1/7(27)

Complaint against the Customer and Local Service Department (Back to Work) regarding the administration of an incapacity benefit.

A statement of complaint was received on 3rd February 2020.

The complaint concerned the administration of an Income Support claim for incapacity benefit. A request for a summary from the Department flagged that this case had not exhausted the internal complaints process and the complaint was deferred.

The Department undertook to investigate the complaint and make contact with the complainant directly to address the points raised. Despite efforts of officers to engage, the complainant did not submit a complaint and, given the lack of contact, the case was deemed closed in May 2020.

STATUS AS AT 31ST DECEMBER 2020: CLOSED (NO FURTHER CONTACT MADE)

(3) 1386/2.1.2(25)**Complaint against the Economic Development, Tourism, Sport and Culture Minister regarding parking arrangements imposed by the Harbour Master.**

A statement of complaint was received on 5th February 2020 and a summary request sent to the Department. The complaint concerned the imposition of a new parking fines system by the Harbour Master at the Ports of Jersey. Following an internal investigation, the Department wrote to the complainant on 18th February 2020 advising that as a result of his complaint Ports of Jersey were to undertake an review of signage issues and also consideration would be given to a review of the Harbours (administration) Jersey Law 1961 regarding the levying of fines.

STATUS AS AT 31ST DECEMBER 2020: CLOSED (INFORMALLY RESOLVED)

(4) 1386/2/1/22(6)**Complaint against the States Employment Board regarding the withdrawal of a job offer with the States of Jersey Police for a civilian position**

A statement of complaint was received on 3rd March 2020.

The complaint concerned the complainant's dissatisfaction with the recruitment process followed in respect of a civilian role with the States of Jersey Police. The complainant had submitted a complaint via the Feedback system on 13th December 2019, but had received no response.

A summary was requested but this was not forthcoming. Whilst accepting that the demands of the Covid pandemic had impacted upon Departments, the Deputy Greffier allowed for some delay, but eventually had to write to the Department on 1st July 2020 seeking confirmation as to when the summary would be made available and was advised that, having reviewed the complaint, the Department had recognised that there was an element of conflict, and decided to undertake a review by an independent department.

There then followed some further delays as the Department had mistakenly paused their internal investigation when advised of the complainant's approach to the Complaints Panel.

In early October 2020 the Department advised that the independent review was underway and would be completed by 30th October. On 16th October they advised that there would be a further delay as one of the key people to be interviewed was absent from work until December 2020.

STATUS AS AT 31ST DECEMBER 2020: ONGOING

(5) 1386/2.1.22(7)**Complaint against the Chief Operating Office in respect of the recruitment process applied by the Health and Community Services Department and the subsequent handling of a complaint**

A statement of complaint was received on 18th March 2020.

The initial complaint to the Department, which the complainant had made in November 2019, had related to the administration of an interview process by the Health and Community Services Department. However, following the submission of his complaint to the Customer Feedback portal on the gov.je website, the complainant had received no acknowledgement and despite repeated requests had been unable to obtain any information from the Department. He had subsequently made a complaint to the Complaints Panel.

A summary from the Department was requested in March 2020, but this was not forthcoming. Whilst accepting that the demands of the Covid pandemic had impacted upon Departments, the Deputy Greffier allowed for some delay, but eventually had to write to the Department on 1st July 2020 seeking confirmation as to when the summary would be made available. Eventually the complainant advised that he had received a summary document back in May (but this had not been sent to the Panel, despite numerous further requests for information) and in October 2020 a letter was sent to the Department advising that the Chair of the Panel had determined that a hearing was justified. The Department had repeatedly failed to fully engage with the complaints process and made no submissions despite having been afforded many more opportunities to do so than was normally the case.

There then followed some correspondence between the Chair and the Chief Operating Officer regarding the Panel's jurisdiction. The Chair did not agree with the COO's view that the process of employment by the States was a private matter; the Chair considered that only the terms of any employment contract would be 'private' and that as the complainant was alleging possible maladministration this was very much within the scope of the Panel.

These exchanges culminated in submissions being received the day before the hearing, which took place on 26th November 2020 (**R.45/2021 refers**).

Chairman of the Complaints Panel Geoffrey Crill said "Such lack of engagement was unacceptable and unprecedented. The Department also questioned whether this matter was within our remit to investigate. This was raised for the first time very late in the proceedings, many months after the complaint had first been made." Mr. Crill expressed concern that this was not the first time this had happened in recent times and it appeared that some public servants and Departments were trying to avoid public scrutiny of their actions by the Complaints Panel. "The Department's refusal to cooperate and submit documents for the hearing was of great concern to us. It goes without saying that it was both discourteous and disrespectful to the Complaints Panel, but also to the complainant who had already waited many months for a resolution of the case."

On a more practical note, the refusal to engage could have resulted in the Chief Minister, as Chair of the States Employment Board, having no representation at what was a public meeting. The Board considered that the lack of engagement was a challenge to the proper

oversight of public administration by a body charged by the States of Jersey to ensure open and fair administration by Departments and Ministers, and an attempt to avoid any scrutiny of actions taken. “That is not good governance consistent with effective and transparent administration and we were pleased that eventually a decision was taken for officers to attend” said Mr. Crill.

The Board upheld the complaint on the grounds that the Department’s actions were oppressive and contrary to the generally accepted principles of natural justice.

They considered there was a failure to deal adequately with the complaint, the process was flawed and the time taken to respond was unacceptable.

The Board recommended that changes be made to the Government’s Feedback complaints process to ensure a clear timetable was in place with a ‘stop the clock’ provision, in the event of any delay in the handling of the grievance; there should be an appeal process available; the complaint should automatically be escalated to the next stage of the process if timescales are not met and an annual report relating to complaints should be published.

The Board members for this hearing were the Chairman of the Complaints Panel, Mr. Geoffrey Crill, Mr. John Moulin and Mr. Andy Hunter.

“Thanks for your support in facilitating the meeting today. Although I personally could not reasonably expect to achieve very much more, I am confident that the meeting sent a very clear message to GoJ that such a handling of a complaint is unacceptable. I think that it is good that this will be in the public domain”

STATUS AS AT 31ST DECEMBER 2020: CLOSED (COMPLAINT UPHELD)

(6) 1386/2.1.18(7)

Complaint against the Minister for Home Affairs regarding a decision to reduce wages after a period of absence through ill health

A statement of complaint was received on 18th March 2020.

The complaint concerned an officer who had been absent from work since July 2019 awaiting an operation and whose wages had been reduced to half pay from December 2019 due to his length of absence. The complainant maintained that the delays in the health system were completely beyond his control and he was being penalised by one department because of the delays in another.

As the case was pending a discrimination claim via the Jersey Employment and Discrimination Tribunal, the complaint was paused, but revived in May 2020, when that claim was withdrawn. The complainant had asked the Minister for Home Affairs to consider exercising discretion, which the latter claimed had been extended to others in similar predicaments in the past. Although the tribunal was withdrawn, a grievance had also been lodged with the Police Standards Department and accordingly the Panel was unable to take the case forward until this had been concluded.

STATUS AS AT 31ST DECEMBER 2020: ONGOING (PAUSED)

(7) 1386/2.1.9(33)

Complaints against the Minister for Health and Social Services regarding the delay in providing a surgical procedure

A statement of complaint was received on 18th March 2020.

The complaint concerned delays in providing the complainant with an operation which had prevented him returning to work and was now impacting upon him financially as well as physically. He claimed that administrative failings had caused the most recent delays and would now necessitate more complicated surgery to be performed off Island.

A summary was requested but on 31st March 2020, the Feedback team contacted the Deputy Greffier to advise that the complainant had not logged an initial complaint with them.

The complainant was advised to complete the internal complaints process within Health and that, should he remain dissatisfied, he could then revive his complaint with the Panel at a later date.

STATUS AS AT 31ST DECEMBER 2020: ONGOING (PAUSED)

(8) 1386/2.1.2(342)

Complaint against the Minister for the Environment regarding the lack of enforcement action relating to the use of land by a scaffolding company

A statement of complaint was received on 27th May 2020.

The complaint concerned the lack of enforcement action undertaken by the Planning Department in relation to the unauthorised use of land adjacent to the complainant's home.

A summary was requested and forwarded to the Chair and another member for consideration on 1st July 2021 and the Chair indicated that the case justified further review. However, before a hearing was able to be convened, Planning advised that the company had vacated the site. Given that the use of the site had ceased, the Chair suggested that the complainant defer further consideration of the case for three months, during which time the reinstatement of the land would be accomplished, and the renewal of the planning permit considered.

The complainant subsequently responded and advised that she was happy to put her complaint on hold for the time being. The Chair was keen to avoid a repetition of the issues regarding the site use in the future and therefore wrote to the Department on 20th July 2020 suggesting that Planning approach the agents currently advertising the site to advise of the permitted uses for it, thereby avoiding any new owner unwittingly establishing commercial operations on the site which could subsequently cause the neighbours the same disturbance as previously and result in the complaint being revived.

STATUS AS AT 31ST DECEMBER 2020: CLOSED (RESOLVED INFORMALLY)

(9) 1386/2.1.2(341)**Complaint against the Minister for the Environment regarding the lack of enforcement action relating to the operation by an online retailer within St. Peter's Industrial Estate**

A statement of complaint was received on 27th May 2020.

The complainant lived adjacent to St. Peter's Technical Park and had suffered a major deterioration in his quality of life during increasingly expanded operations by an online retailer who leased a Unit by his home. The company had substantially increased its external activities on the parking area associated with the Unit and the noise and disruption had been significant and almost continuous seven days a week. The company's use of the hardstanding area was a breach of the conditions of its permit. The complainant had initially complained to the Environmental Health Team in August 2019 and because of the limited response, had lodged a formal complaint in November 2019. Having received very little by way of update in the intervening period, he had lodged a second formal complaint at the beginning of May 2020, but when he received no response or acknowledgment, he had approached the Complaints Panel at the end of that month for assistance.

A summary was requested and forwarded to the Chair and another member for consideration on 1st July 2021 and the Chair indicated that the case justified further review. However, before a hearing was able to be convened, Planning advised that the 5 steel storage containers had been removed from the site and it was hoped that their removal would alleviate some of the problems experienced.

Mindful of that, the Chair had asked the complainant whether he was willing to delay further action for two months, in order to see whether the removal of the containers had sufficiently improved the quality of life for the residents. However, irrespective of the impact of the action taken, the complainant wished for the handling of his complaint to be addressed and a Board hearing took place on 15th October 2020 (**R.1/2021 refers**).

The Board found that the Department's actions had been contrary to the generally accepted principles of natural justice. It considered that the complainant had a reasonable expectation that his complaint should have been heard, yet no action had been taken at all to respond.

The Board was disappointed that, yet again, the case centred on poor communication during the complaints process.

The Chair of the Complaints Panel said "This case was avoidable. The Department had addressed many of the issues which had given rise to this gentleman's complaint, but the lack of contact and the fact that no clear process and timetable was made available to him inevitably led to him feeling as if his complaint had essentially been ignored and this had been compounded by the fact that his second complaint received no response whatsoever from the Department."

During the hearing, the Board was advised that the Department had followed the Government's new Feedback complaints process. Mr. Crill stated "Clearly the centralised complaints system requires some 'fine tuning' and we recommend that there should be

someone designated as a point of contact who can support a complainant through the procedure and provide regular updates”.

In its findings, the Board made a number of recommendations, including that changes were made to the Departmental complaints process to make certain that clear and regular feedback with complainants was an automatic and integral element. It also urged Planning to consider how it might in future impose conditions relating to the operations within a permitted use of land that may be time-limited or otherwise subject to review, in order that the lessons of hindsight and experience could be carried forward.

The Board members for this hearing were Geoffrey Crill, Chair of the Complaints Panel, Susan Cuming and Graeme Marett.

STATUS AS AT 31ST DECEMBER 2020: CLOSED (COMPLAINT UPHELD)

(10) 1386/2.1.2(343)

Complaint against the Minister for the Environment regarding lack of enforcement action in relation to Retreat Farm/Tamba Park/ Northern Leaf

A statement of complaint was received on 6th July 2020.

The complaint concerned the lack of enforcement of ongoing breaches at the above-mentioned location by the Planning Department. A summary was requested and this was sent to the Chair and another member of the Panel on 3rd August 2020. Having considered the history of the site, the Chair advised the complainant that her complaint would be ‘paused’ until the end of the year, given the efforts of the Department to address the various issues she had raised. However, on 6th October 2020, she had submitted some additional paperwork and requested that it be reconsidered by the Chair for a hearing. Conscious that there might be new elements not previously covered in the initial submission sent a few months earlier, the Deputy Greffier restarted the process, and sought an additional summary from the Department.

The second summary and submissions were sent to the Chair and another member on 23rd October 2020. Having looked at the complaint and the Minister’s response, their view was that the Department had acted reasonably and appropriately in this case to date. The Department was in discussion with the site owner, but to back up those discussions they had issued enforcement notices and demanded retrospective applications. The Chair suggested that if the complainant wished to take issue on the Department’s interpretation of the Law, then a Judicial Review was the appropriate route, not the Complaints Panel.

The complainant requested that the case be reviewed by the two Deputy Chairs and they were sent the submissions on 25th November 2020. On 10th December 2020, the two Deputy Chairs advised that they considered that a hearing before the Board would simply delay matters. They were of the view that this was one of those relatively rare cases where both the interest of proper public administration and the interest of the individual complainant would be best served by a prompt application for judicial review by the Royal

Court without going through the Complaints Panel process. The complainant was advised of the outcome and given information regarding the Judicial Review process.

STATUS AS AT 31ST DECEMBER 2020: CLOSED (ADVISED TO SEEK JUDICIAL REVIEW)

(11) 1386/2.1.2(344)

Complaint against the Minister for the Environment regarding lack of enforcement action in relation to two companies' external operations at St Peter's Technical Park

A statement of complaint was received on 6th July 2020, although there had been informal involvement in this case for some time, an initial complaint having been submitted in October 2018 in respect of the building works associated with the hospital catering unit at the Technical Park (detailed later in this report). Although at that time the Chair had not considered this an appropriate case for a hearing by a Board, a subsequent referral for review by the Deputy Chairs had resulted in one of them offering to Chair an informal meeting bringing all those involved around a table to discuss a way in which the various problems associated with the development and the ongoing use of St. Peter's Technical Park could be resolved. Three such meetings had taken place prior to the extant submission (25th March and 12th July 2019 and 23rd January 2020 respectively).

This complaint concerned ongoing issues between companies operating at the Technical Park and their neighbours in the adjacent residential areas. The complainant wished for her case to be combined with that of another resident (1386/2.1.2(341) case 9 detailed above). The Chair and another member received a summary on 3rd August 2020 and on 24th August, after lengthy consideration, the complainant was advised that a hearing was not warranted. This was also the view of the other Deputy Chair. It was considered that the complainant's issues were being dealt with through the appropriate mechanism of monitoring and, where necessary, enforcement. In addition, her complaints were more wide-ranging than the ones raised in the other case, which centred on the way in which the complaint had been administered by the Department and its current complaint handling process. The complainant was advised on 8th October 2020 that her case would be reviewed in the light of any published findings/recommendations made in respect of the other case and it would be open to her to make a further complaint in the light of those findings.

STATUS AS AT 31ST DECEMBER 2020: CLOSED

(12) 1386/2/1/9(28)

Complaint against the Minister for Health and Community Services regarding the administration of a treatment plan (10601958)

A statement of complaint was originally received on 15th May 2019, but was paused as the complainant had not exhausted the internal complaints process with the Department. In August 2020 he asked for his case to be revived.

The complaint concerned the treatment plan followed in order to address the complainant's medical needs. Having carefully reviewed the papers submitted, the Chair and independent

member concluded that this was not an appropriate case for a hearing by a Board. Both were very sympathetic to the complainant's situation, especially given the length of time he had experienced difficulties with the Department, but they could not see anything within the submissions which demonstrated a failure in the administrative process of his care and treatment, or a departure from policy which would justify the Panel's involvement. The complainant was advised of this outcome in November 2020 and requested that the matter be considered by the two Deputy Chairs. It was referred to them on 5th December 2020

STATUS AS AT 31ST DECEMBER 2020: ONGOING (REFERRED TO DEPUTY CHAIRS FOR CONSIDERATION)

(13) 1386/2.1.2(345)

Complaint against the Minister for the Environment regarding lack of enforcement of planning conditions in relation to the construction of a first-floor terrace at 24 Union Street.

A statement of complaint was received on 1st September 2020.

The complaint concerned the lack of enforcement of planning permission in relation to the construction of a car port and first-floor terrace in the car park at 24 Union Street. The Deputy Greffier wrote to the Department to request a summary and on 25th September a response from Planning was sent to the complainant, advising that the matter had been duly investigated by a Planning Case Officer and the assessment as of 2nd April 2019, was that the development had indeed been constructed in accordance with the relevant planning permission and approved drawings and the case had been closed. What the Department did not undertake then was to notify the complainant of its findings and to advise that the case was being closed. Planning wished to convey sincere apologies for this oversight.

The complainant responded to Planning on 3rd October asking for confirmation as to how the actual build complied with the anomalies highlighted, and on what basis the officers had established that these differences were in accordance with the agreed plan. On 8th November he contacted the Deputy Greffier asking to revive the complaint as he had not received a response. She forwarded this request to Planning and on 17th November 2020 the complainant was advised by Planning that a further site visit had been conducted to assess whether or not the constructed balcony over the existing car parking area complied with the details indicated on the drawing no. 3817-13C and which was approved as part of the development under P/2017/1004. Planning's assessment of this structure remained the same in that it had been constructed in accordance with the details indicated on the aforementioned (and approved) drawing and as such the case was closed.

STATUS AS AT 31ST DECEMBER 2020: CLOSED (COMPLAINT RESOLVED INFORMALLY)

(14) 1386.2.1.7(1)**Complaint against the States Greffe, Scrutiny Support and Bailiff's Office regarding the incorrect application of Standing Orders**

A statement of complaint was received on 15th September 2020.

The complaint concerned the application of Standing Order 106 during a debate on P.106/2019 (Draft Public Health and Safety (Rented Dwellings) (Licensing) (Jersey) Regulations 201-) in the States Chamber on 8th September 2020.

The Greffier approached the Chair of the Panel to determine whether or not the complaint was admissible under the Administrative Decisions (Review)(Jersey) Law 1982. The complaint raised a matter of concern with regard to the interpretation and application of Standing Orders which deserved consideration, but the Chair did not consider that the ruling of the President of the States as to the interpretation of a particular Standing Order could be deemed a decision of either a Minister or a States Department and therefore fell outside of the remit of the Panel. The complainant was advised of this decision on 23rd September and he requested that it be reviewed by the Deputy Chairs.

On 6th November the complainant was advised that the Deputy Chairs, having carefully considered the papers submitted, had decided to uphold the decision of the Chair that the matter fell outside the Panel's jurisdiction. They both were of opinion that it was not appropriate that a Body comprised of laypeople arbitrate over the proceedings of the elected States Assembly and that to do so would offend against the principle that the States was sovereign. As such, it was the combined view of the Chair and Deputy Chairs, that the complaint should be raised with the Bailiff directly. The Greffier offered to meet the complainant to discuss how Standing Order 106 worked and the options available for making changes to that. The complainant was also invited to make a submission to the Commissioner for Standards in relation to another strand of his complaint which related to the declarations made by States Members in Scrutiny hearings.

STATUS AS AT 31ST DECEMBER 2020: CLOSED**(15) 1386/2.1.7(27)****Complaint against the Customer and Local Services Department regarding the administration of Income Support claims and the application of overpayments**

A statement of complaint was received on 14th October 2020.

The complaint concerned the way in which the complainant's Income Support claims were administered which had resulted in alleged overpayments which the Department now sought to recover.

A summary was requested from the Department and the case sent to the Chair and an independent member to consider on 11th November. On 3rd December 2020 the complainant was advised that the Chair agreed that the Income Support Law was drawn very much in terms that favour the Department. These included very tight timelines on the recipient to appeal or to notify changes of circumstances for example, whilst the Department could let overpayments roll over and have far more latitude to review cases

retrospectively. However, the fact remained that was the Law that was enacted and which the Department appeared to have followed. The Chair considered that the complainant had had opportunity to appeal any mistakes which might have been made in calculating Income Support payments which led to the overpayments, but he had not. The Complaints Panel did not have the capability to carry out a forensic review of the complainant's entitlements over the years, and thus how overpayments had reached their current level; that is what an appeal would have achieved.

The Chair wondered whether the Department would agree to carry out a full review of the payment history as a way of resolving this complaint informally. Whilst he had missed the opportunity for an appeal (because the Law stipulated the time within which an appeal had to be requested) it was suggested that a review would have a similar effect. The complainant requested that the matter be considered by the two Deputy Chairs and the case was sent to them on 4th December 2020.

STATUS AS AT 31ST DECEMBER 2020: ONGOING (REFERRED TO DEPUTY CHAIRS)

(16) 1386/2.1.2.9(34)

Complaint against the Health and Community Services Department regarding the administration of respite provision for a child

A statement of complaint was received on 16th October 2020.

The complaint concerned the provision of respite care for the complainant's child. A summary was requested and on 26th October 2020 the Deputy Greffier was advised that a meeting was to be arranged between the complainant and the Interim Head of Standards and Quality, Principal Social Worker for children. On 1st December 2020, the Deputy Greffier received further notification from the Department advising that they would be writing to apologise for not allowing the complainant the chance to escalate the complaint and to offer a meeting with the Director General to discuss the case. The complainant agreed to pause the complaint in the interim.

STATUS AS AT 31ST DECEMBER 2020: ONGOING (PAUSED AWAITING OUTCOME OF MEETING WITH DEPARTMENT)

(17) 1386.2.1.3(28)

Complaint against the Minister for Education regarding the way in which an application for a student maintenance grant was administered

A statement of complaint was received on 12th November 2020.

The complaint concerned the administration of a student maintenance grant. A summary was requested from the Department and sent to the Chair and an independent member to consider on 30th November 2020.

The Chair and member concluded that this was not an appropriate case for a hearing by a Board as they were of opinion that the correct policies and procedures had been applied. Whilst very sympathetic to the complainant's situation, ultimately the Chair considered that the Department had followed the provisions of the existing Law. The policy also seemed to be made pretty clear in the Student Finance Booklet.

The complainant was advised of the Chair's decision on 10th December 2020 and informed that this could be reviewed by the Deputy Chairs if a request for this was made within a month.

STATUS AS AT 31ST DECEMBER 2020: ONGOING (AWAITING DEADLINE FOR APPEAL)

(18) 1386/2.1(19)

Complaint against the Health & Community Service Department regarding the 'unsafe discharge' of a patient and subsequent administration of complaint

A statement of complaint was received on 10th December 2020.

The complaint concerned the complainant's recent discharge from the Hospital and the subsequent administration of her complaint. A summary was requested from the Department

STATUS AS AT 31ST DECEMBER 2020: ONGOING (AWAITING SUMMARY FROM DEPARTMENT)

(19) 1386/2/1/9(24)

Complaint against the Minister for Health and Community Services regarding her family's involvement with staff within the Children's Service and failings to provide accurate and timely records of meetings

A statement of complaint was received on 17th December 2020. This sought to revive a case which had been placed on hold in late 2018 pending the completion of the internal complaints process. A request for a summary was sent out on 17th December 2020.

STATUS AS AT 31ST DECEMBER 2020: ONGOING (AWAITING DEPARTMENTAL SUMMARY)

(20) 1386/2/1/17 (7)

Complaint against the Minister for Home Affairs regarding the administration of a disciplinary complaint

A statement of complaint was received on 17th December 2020 and a summary requested from the Department. The complaint, insofar as it fell within the jurisdiction of the Complaints Panel, concerned the constitution of an investigatory panel formed to look into a disciplinary matter (additional elements of the complaint which related to criminal aspects were deemed outside of the Panel's remit by the Chair)

STATUS AS AT 31ST DECEMBER 2020: ONGOING (AWAITING SUMMARY FROM DEPARTMENT)

(21) 1386/2.1.9(33)

Complaint against the Health and Community Services Department regarding the care provided to the complainant following an accident and the subsequent administration of their complaint

A statement of complaint was received on 22nd December 2020; the complainants having contacted the Deputy Greffier earlier that month to outline their case, which concerned the administration of a complaint made to the Hospital Feedback system relating to the way they were dealt with following an accident.

A request for a summary was sent to the Department requesting a response.

STATUS AS AT 31ST DECEMBER 2020: ONGOING (AWAITING SUMMARY FROM DEPARTMENT)

**10 COMPLAINTS WERE OUTSTANDING AT THE END OF 2019 AND
CARRIED
FORWARD INTO 2020**

(I) 1386/2/1/9(17)

Complaint against the Health and Community Services Department regarding the way in which a complaint was processed

A statement of complaint was received on 12th February 2018.

A résumé was received from the Department and referred to the Chairman. It was decided that there was justification for a hearing, and this took place on 4th October 2018. The Report associated with this case was published in early January 2019 ([R.4/2019](#) refers).

Mrs. X had been awaiting further treatment following an operation in the UK. During her initial time in the UK she had experienced both physical difficulties as a consequence of the travel requirements, and financial difficulties in meeting additional travel costs, which had not been covered by the Department. She had made it clear to the Department that she would not be able to consider further treatment outside of the Island unless full financial support was given. Furthermore, the timing of any treatment would need to take into consideration her childcare needs.

After the hearing, the Department issued an apology and provided Mrs. X with funding, equivalent to the cost of the treatment in the UK and associated travel and accommodation, to enable her to source her own treatment. Whilst a cash payment may have provided some sort of resolution to Mrs. X's situation, the Board was surprised and concerned that the Department should, to all intents and purposes, 'buy off' the problem which was of its own making.

The Board made a number of recommendations and asked the Minister for Health and Social Services for a response before the end of March 2019. This was published on 22nd March 2019 (<https://statesassembly.gov.je/assemblyreports/2019/r.4-2019res.pdf>). Since that date Mrs X has met several times with the Chief Minister, the Minister for Health and Social Services and the Group Director, People and Corporate Services, in order to resolve matters and allow her to move forward. Yet again she has experienced lengthy delays and deadlines missed.

The States Employment Board engaged Jonathan Cooper OBE to conduct a review and he recommended that Mrs X be given an ex-gratia payment by way of compensation for the anxiety and stress she had experienced. He also recommended that she receive an official apology and that efforts be made to re-engage with her and provide a care plan. On 17th December 2019, Mrs X and the Deputy Greffier met very briefly with the Minister for Health and Social Services at which he offered an apology, but admitted that he did not know the details of the case and therefore was not sure what the apology related to. He gave an undertaking that a response to Mrs X's specific questions about her case would be forthcoming. Mrs X was also assured at that brief meeting that her access to further treatment in Jersey would be regarded as a priority. A few days later she received a letter advising that her appointment with a Consultant would be 29th

April 2020. Following an intervention by the Chief Minister this was then brought forward to 29th January 2020.

Throughout 2020, Mrs X awaited for the three recommendations made within the Cooper Report to be actioned. She and the Deputy Greffier made various attempts throughout the year for responses from both the Minister for Health and Social Services and the Chief Minister/SEB. This case remained unresolved in 2020 and was carried forward into 2021.

Status as at 31.12.2020:

ONGOING: STILL AWAITING FORMAL APOLOGY AND RESOLUTION (2 YEARS SINCE REPORT PUBLISHED)

(II) 1386/2/1/9(19)

Complaint by the residents of Ville du Bocage, St. Peter against the Infrastructure and Planning Departments (now Growth, Housing and the Environment (GHE)) regarding the management of the Hospital catering relocation project by Jersey Property Holdings

A statement of complaint was received on 2nd October 2018, and the Department was contacted for a résumé, which was then referred to the Chairman and another independent Panel member for consideration. The Chairman concluded that this was not an appropriate case for a hearing by a Board. Whilst he and the independent member appreciated that the development of the Hospital catering unit was causing considerable disturbance and, indeed, distress to neighbouring residents, the Panel was only able to consider complaints against executive decisions and administration. They considered that the complainants were essentially complaining that JPH were not managing the redevelopment contract in a manner that adequately took into account the interests of the residential neighbours. The Chairman was of opinion that there was nothing material in the manner of the administration of the building contract by JPH, on behalf of the Minister, that warranted a hearing under the Administrative Decisions legislation.

However, this view was unacceptable to the complainants, who requested that the matter be considered by the Deputy Chairmen. Having reviewed the papers sent to them, the Deputy Chairmen concurred with the Chairman's view, but one of the Deputy Chairman then offered to chair an informal meeting, bringing all those involved around a table to discuss a way in which the various problems associated with the development and the ongoing use of St. Peter's Technical Park could be resolved.

The Deputy Chairman convened three meetings with all of the main stakeholders throughout 2019, at which various assurances were given. In 2020 the residents of the area were offered mediation. This went ahead despite the fact that the complainants had expressed concerns about the validity and impartiality of the process and did not engage with it. In July 2020, the complainant revived the complaint, this time focusing on the lack of enforcement action in relation to the external operations at St. Peter's Technical Park by two particular companies and this is detailed as item 11 in the previous section.

Status as at 31.12.2020: ONGOING: INFORMAL RESOLUTION BEING PROGRESSED

(III) 1386/2/1/9(27)

Complaint against the Health and Community Services Department regarding standard of care, failure to address concerns and poor communication

A statement of complaint was received on 18th February 2019.

The complaint related to the care that the complainant's now deceased mother had received whilst in a care home. The Department had investigated the complaints and the findings were sent to her in February 2019. Procedurally the next step was the commissioning of an external independent review by Guernsey, and this was progressed during 2019 and the findings of that Review were received by the complainant in October 2019. She remained dissatisfied and subsequently had meetings arranged with the Group Medical Director. She also had a complaint about the Feedback Team and the poor communication she had experienced.

During 2020 the complainant was advised that the external review from Guernsey's Committee for Health and Social Care had been completed and she was given a summary of the findings. In February 2020 she met with the Interim Hospital Director and this was followed up in April, but, despite repeated requests, the complainant still has not been provided with the actual evidence upon which Guernsey had based its findings.

“It seems to me that nobody will apologise or take responsibility for anything these days.”

The complainant's original complaints from May 2018 have still yet to be addressed and her subsequent complaint about the way in which the complaints had been handled by the Feedback Team has not been actioned in any way.

Status as at 31.12.2020:

ONGOING: AWAITING FURTHER RESPONSE FROM HEALTH

(IV) 1386/2/1/9(28)

Complaint against the Health and Community Services Department regarding the administration of a patient's treatment plan (10601958)

A statement of complaint was received on 15th May 2019.

The complaint spanned over 23 years of interaction with healthcare in Jersey and elsewhere. The Deputy Greffier wrote to the Department that day requesting a summary of the case and was advised by the Feedback Team that the complaint was still under investigation and the internal complaints process had not been exhausted. She followed up on the case in July to see what progress had been made. She was advised that given the timeframe and because he outlined continued health issues, the Hospital Director had requested a review of the care provided to the complainant from his medical records. This

was undertaken from the records in the absence of being able to speak to key officers named in his complaint who were no longer working in the Department.

The review covered 1986 to present day and was undertaken by a senior experienced doctor working in the Quality and Safety Team. The report from this review was shared with the complainant on 19th August 2019 via email. The Deputy Greffier was advised that a meeting was subsequently to be convened between the complainant and the Hospital Director. This eventually took place in November (the reason for the delay was due in equal part to the complainant) and he was advised in December 2019, that consideration would be given to the large amount of documentation he had presented at that meeting and there would be further contact once that information had been absorbed. It should be noted that this was the same documentation which had been submitted by the Deputy Greffier to the Department in May 2019.

Some nine months later, a submission was received from the Health Department on 14th September 2020 and this was subsequently sent on to the Chairman and another independent Panel member. In November 2020 the complainant was advised that, having carefully reviewed the papers submitted, the Chair had concluded that this was not an appropriate case for a hearing by a Board. Both members were very sympathetic to the complainant's situation, especially given the length of time he had experienced difficulties with the Department. However, they did not consider that there had been absolute 'negligence'. Whilst they accepted that Health could have dealt with the case in a more efficient manner, they could not see anything within the submissions which demonstrated a failure in the administrative process of the complainant's care and treatment, or a departure from policy which would justify the Panel's involvement. He requested that this decision be reviewed by the Deputy Chairmen and they were sent the papers in early December 2020.

Status as at 31.12.2020: ONGOING (AWAITING REVIEW BY DEPUTY CHAIRMEN)

(V) 1386/2/1/9(30)

Complaint against the Health and Social Services Department regarding the administration of Ms. X's granddaughter's care by the Children's Service

An initial statement of complaint was received on 20th August 2019, but further information was requested before the formal process could be progressed. This was eventually received on 6th December 2019 and a letter was then sent to the Department seeking a case summary.

The submissions were sent to the Chairman and another Panel member on 28th January 2020. Having carefully considered the papers submitted, the Chairman concluded that this was not an appropriate case for a hearing by a Board. The Chairman advised that he could see nothing within the case which indicated a departure by the Department from existing policy in relation to their handling of the case. He acknowledged that the complainant had raised issues about the conduct of an individual officer, but this was not something upon which the Panel could adjudicate, especially as that person had now left the employment of the organisation. The Chairman had 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 complaint requested that this decision be reviewed by the two Deputy Chairs as she was concerned that she was not the only person who had experienced this approach by the Children's Service and she feared their 'defensive' stance could deter people from seeking help from them in the future. She had lodged a complaint with the Data Protection Authority in relation to her Subject Access Request.

On 5th February 2020, the complainant was advised that the Deputy Chairmen, whilst both very sympathetic, could not see that there was a specific administrative element which could be reviewed by a Complaints Board. They suggested that the complainant's dissatisfaction with the way in which her data was handled would be better progressed by the Office of the Information Commissioner.

Status as at 31.12.2020: CASE CLOSED

(VI) 1386/2/1/9(31)

Complaint against the Health and Social Services Department regarding procedural failures

A statement of complaint was received on 27th September 2019.

The complaint concerned failures by staff to follow suicide watch procedures and delays in providing the necessary documentation for the inquest into the circumstances surrounding the death of the complainant's father.

A letter was sent on 30th September 2019 to the Department and the Feedback Team e-mailed to flag up the fact that the complaint into the administration of this matter had not been registered with them.

On 14th October 2019 the Deputy Greffier wrote to advise the complainant that the Panel was only able to investigate a matter once the internal complaints process within the Department concerned had been exhausted. However, she was keen to avoid the complainant being caught in another bureaucratic tangle, so had asked them to accept his letter to her, which she had forwarded to them as part of the process, as his formal submission. She had also urged them to expedite their investigation into his complaint as quickly as possible and asked them to provide an update in a month's time. An e-mail was sent to the Feedback Team on 22nd November 2019 seeking an update, but nothing was forthcoming.

When reviewing files from 2019, the Deputy Greffier wrote to the complainant to establish whether he had resolved the situation with the Health Department in relation to his case, which had been placed on hold, pending investigation by the Health Department. She did not receive a response.

Status as at 31.12.2020: CASE CLOSED (NO CONTACT)

(VII) 1386.2.1.17(6)**Complaint against the States of Jersey Police regarding a failure to investigate a case fully**

A statement of complaint was received on 8th November 2019.

The complaint related to a complainant's concerns that her allegations against an individual were not properly investigated by either the police or the Police Standards or the Police Complaints Authority. Whilst recognising this was not normally an area for the Complaints Panel, the Deputy Greffier wrote to the Minister for Home Affairs and the Chief of Police to request that they conduct a review of the case and give consideration to the neutrality of the current police complaints process when there were perceived conflicts of interest.

During 2020 the complainant, accompanied by the Deputy Greffier and supported by several States Members, met with the Chief of Police, who undertook to review the case and ensure all of the available evidence proffered was included in the bundle to be presented to the Law Officers Department.

Status as at 31.12.2020: ONGOING

(VIII) 1386/2/1/7(28)**Complaint against the Customer and Local Services Department regarding the way in which changes to benefit entitlement was communicated**

A statement of complaint was received on 5th November 2019.

The complaint concerned the way in which changes to benefit entitlement was communicated.

Having carefully considered the papers submitted, the Chairman and independent member concluded that this was not an appropriate case for a hearing by a Board. The Chairman advised that, other than the failure of the Department to respond according to the "feedback" process, there appeared to be no breach of policy or the Law in the way the complainant's benefits were determined.

The Chairman acknowledged that the Customer and Local Services Department did not appear to have properly implemented its Complaints Policy and believes the complainant should have received a full response from them. The Chairman wrote to the Department to express his concern that this process was not followed but did not consider that this justified a full review of the case.

The complainant was sent a letter outlining the Chairman's decision on 16th December 2019 and offered the opportunity of appealing this outcome. The Deputy Chairmen considered the submissions and upheld the decision of the Chairman that the circumstances did not justify review by a Complaints Board. They considered that the Department had made it clear that the application for benefit was made after the cut-off date for new Disablement Benefit claims. It was therefore their opinion that the

Department had correctly assessed the complainant's case in relation to Long Term Invalidity Benefit.

Status as at 31.12.2020: CASE CLOSED

(IX) 1386/2/1/22(5)

Complaint against the Treasury/States Employment Board regarding the administration of transfer valuations and subsequent calculation of pension benefits in respect of a former employee

A statement of complaint was received on 11th November 2019.

The findings of the Complaints Board hearing, which took place on 10th September 2020, were published on 9th December 2020 (**R.139/2020 refers**).

The complainant had worked for the States for 28 years as a firefighter and had taken a year's sabbatical in South Africa in December 2017 to care for his mother. While in South Africa, he started to plan for early retirement. In February 2018, he had sought pension advice and had subsequently emailed his line manager, the Chief Fire Officer, to obtain a valuation of his pension on his behalf. Advice received in early April 2018 had been that no valuations were being undertaken until 'post 15th or mid-May' as a result of changes being made to the Public Employees Contributory Retirement Scheme ('the Scheme').

Previous changes to the Scheme had always been subject to consultation with members. This did not happen in 2018. The Scheme's Committee of Management had decided to place all requests for valuations received in March 2018 on hold until 1st May 2018, because the Scheme was undergoing a re-evaluation exercise and they did not wish for members to receive 'inaccurate transfer quotations whilst the changes were being implemented'. This process was changed later in 2018 when it was decided to revalue pensions on the basis of the criteria applicable before 1st May 2018, in those cases where the person concerned had requested a valuation before that date. Mr. Newman's request for such a revaluation was rejected. The determining factor in Mr. Newman's case had been that the Department had no record of any phone calls relating to his case made before 29th May 2018 and therefore had assessed him at the post evaluation rate which had resulted in him receiving a pension some 10 to 20% lower than it would have been.

Mr. Chris Beirne, one of the two Deputy Chairmen of the Complaints Panel said "It was clear to the Board that, contrary to the Department's conclusion, contact had been made prior to this date and the complainant's account was entirely credible." He went on to say "We were surprised that such a significant change to the pensions process could have been implemented without there having been a notice period communicated widely to the Fund members. We were also concerned that there were no written procedures, or a Service Level Agreement, which could be applied to valuations, or indeed any detail of the procedure to be followed whenever that service was altered."

As well as upholding the complaint, the Complaints Board also hit back at a suggestion made by the Department at the eleventh hour that pensions matters were outside of its remit. Deputy Chairman Stuart Catchpole QC said "This is not the only case where issues of jurisdiction have been (belatedly) raised, or where Departments have not fully engaged

with the Complaints Panel process. It is to be hoped that in future, Departments will continue to engage fully with the Panel, given its role in helping to ensure public confidence in decision -making by asking those responsible to justify their actions in public before impartial members of the community. We certainly do not agree that public employees like this complainant should be left without any form of redress in circumstances such as the present case, nor do we agree that it was the intention of the States when establishing the Panel, to leave those charged with administering and making decisions in relation to the pensions of States employees to do so without being accountable to anyone or to have their decisions and actions protected from appropriate, independent public scrutiny”.

In its findings, the Board made a number of recommendations, including that there should be clear guidance provided to Members in future outlining the difference in approach to active and inactive employees in respect of the service delivery, and that there should be clear communication and consultation whenever changes are proposed. It also recommended that the complainant’s case should be re-evaluated according to the actuarial principles applicable prior to 1st May 2018.

The Board members for this hearing were the two Deputy Chairmen of the Complaints Panel, Stuart Catchpole QC and Chris Beirne and Panel member David Greenwood.

Status as at 31.12.2020:

ONGOING: COMPLAINT UPHeld – AWAITING RESPONSE FROM MINISTER

(X) 1386/2/1/21(16)

Complaint against the Department for Infrastructure (now Growth, Housing and the Environment (GHE)) regarding the recent suspension of a driver’s taxi licence

A statement of complaint was received on 25th November 2019.

The complaint related to an allegation made by the complainant, a taxi driver, that the reasons given for his recent suspension were not founded.

A summary of the case was requested from the Department. It was determined that there were no grounds for further review of this case, as the Department had acted correctly in accordance with its policies and procedures. The complainant was advised of this outcome in January 2020 and did not appeal the decision.

Status as at 31.12.2020: CLOSED

**18 ENQUIRIES WERE LOGGED DURING 2020 WHICH DID NOT
TRANSITION INTO FORMAL COMPLAINTS.**

4 x Customer and Local Services

- Complaint regarding Income Support claim – advised to contact CLS directly
- Complaint regarding Income Support claim – advised to contact CLS directly
- Complaint about -Income Support – no submission made
- Complaint about -Income Support – no submission made

2 x Health and Social Services

- Complaint regarding treatment by Children’s Services – no submission made
- Complaint about noise – referred to Environmental Health

3 x Education

- Complaint regarding Student Funding –no submission made
- Complaint regarding Student Funding –no submission made
- Complaint regarding a secondary school transfer – advised of appeal route

3 x Planning

- Complaint regarding outcome of Planning application process – advised to consider a Third Party Appeal and referred onwards
- Complaint regarding outcome of Planning application process – advised to consider a Third Party Appeal and referred onwards
- Complaint about lack of enforcement – no submission made

1 x Housing

- Complaint regarding behaviour of neighbours – referred to Andium Homes

2 x Law system in Jersey

- Both concerning failure to prosecute cases - advised not within Panel’s remit and suggested should seek legal advice/follow LOD complaints process.

3 x Feedback system –

- 1 x complaint about Hospital feedback system – advised to submit papers
- 1 x complaint about Hospital feedback system – awaiting submission
- 1 x complaint about Feedback system (planning complaint) – advised to submit papers.