
STATES OF JERSEY



REDRESS AND ACCOUNTABILITY SYSTEMS IN JERSEY (S.R.22/2021): RESPONSE OF THE CHIEF MINISTER

Presented to the States on 10th May 2022
by the Chief Minister

STATES GREFFE

**REDRESS AND ACCOUNTABILITY SYSTEMS IN JERSEY (S.R.22/2021):
RESPONSE OF THE CHIEF MINISTER**

Ministerial Response to:	S.R.22/2021
Ministerial Response required by:	7th April 2022
Review title:	Redress and Accountability Systems in Jersey
Scrutiny Panel:	Care of Children in Jersey Review Panel

FINDINGS

	Findings	Comments
1	The Government of Jersey launched a new Customer Feedback Policy in September 2019 which sets out the expectations of the complaints procedure and timescales for resolution of issues. At this stage it is not possible for the Panel to state whether or not the policy is effective.	Agreed.
2	The Government of Jersey Customer Feedback Policy contains a three-stage model for the resolution of complaints. The policy places a focus on early resolution of a complaint where possible, with the option for the complaint to be escalated if required. Should a complaint reach the third stage of the policy then this is ultimately escalated to the Director General of the respective department who may in turn refer the complaint to another Director General to resolve.	Agreed. For clarification, at the third stage, the Director General can refer the complaint to another Director General or an independent third party, if it is considered to be more appropriate.
3	The Government of Jersey is able to collect substantial data in relation to the new Customer Feedback Policy which tracks complaint numbers across the various departments. Since the introduction of the policy, the number of recorded complaints has increased. The Government sees this as being a result of the policy providing more	Current data reporting includes volumes of complaints by department and stage. Data relating to complaints will be improved when planned system enhancements are delivered.

	Findings	Comments
	accurate data and highlights one of the potential deficiencies of the previous policy not being as effective.	
4	The Government of Jersey launched a new, non-statutory redress scheme in 2019 to provide ex-gratia payments to people, who as children, were abused or suffered harm between 9 th May 1945 and 31 st December 2005 while a resident in a Government of Jersey children's home, Government of Jersey foster care placement or while accommodated at the Les Chênes secure residential unit. The closing report on the scheme was presented on 6 th October 2021.	The Closing Report is available on www.gov.je
5	Applicants that settled a claim as part of the Government of Jersey's redress scheme must confirm acceptance of payment as full and final settlement of their claim and cannot, therefore subsequently seek further compensation for abuse or harm suffered through the courts system.	Applicants cannot seek further compensation for the harm or abuse for which they have received a redress payment. This does not extend to any other harm or abuse. This is standard across all schemes of this nature.
6	The Government of Jersey disciplinary policy is an internal document which, as far as the Panel can establish, is not available to the general public on the gov.je website. The policy itself, sets out clearly the processes to be followed in the event of a disciplinary procedure.	We are currently exploring the technical solution to make all policies and procedures accessible online as we roll out the new policy framework. Members of the public who wish to complain about employees should do so through the Customer Feedback mechanisms. The Disciplinary Policy and procedure is an internal reference document.
7	The Code of Conduct for States of Jersey Employees which is available on the gov.je website is dated May 2002. This is significantly out of date and the document itself does not take into account changes in working practices (e.g., the use of modern systems such as social media) which require direction and expectations in relation to staff conduct with the Government of Jersey and non-ministerial departments.	Agreed. The Code of Conduct was superseded by the Standards in Public Service in 2021. The suite of documents related to this, including whistleblowing, disciplinary and bullying and harassment will be reissued in May 2022, having recently been updated to reflect modern working practices.

	Findings	Comments
8	The design and feel of the Code of Conduct document available on the gov.je website is outdated and is not in keeping with a modern organisation or advances made by the Government in its own communication and branding initiatives.	Agreed. This has been superseded by the Standards in Public Service Code of Practice issued by the SEB in 2021.
9	The Jersey Court Service Staff (Judicial Greffe and Viscount's) are bound by broadly the same complaints procedure as the Government of Jersey. The Code of Conduct for members of staff working within these services is also the same as that for other Government of Jersey employees.	Agreed. The SEB are issuing new Codes of Practice for all employees and office holders. The local policies may be adapted as necessary to reflect legal, professional standards or regulatory requirements for non-Government bodies.
17	Staff working with the Jersey Court Service are bound by the same disciplinary procedures as Government of Jersey employees. Similarly, the code of conduct for employees utilised by the Government of Jersey also applies to staff working within the Court Service.	Agreed. All employees under the responsibility of the States Employment board are bound by the same Codes of Practice.
19	All staff within the Law Officers' Department are subject to the same disciplinary procedure and code of conduct as Government of Jersey Employees. Lawyers within the department are, however, also subject to a separate code of conduct specific to that role which is overseen by the Attorney General.	Agreed: The SEB are issuing new Codes of Practice for all employees and office holders. The local policies may be adapted as necessary to reflect legal, professional standards or regulatory requirements for non-Government bodies.
29	Ministers and Assistant Ministers are also bound by a separate code of conduct specific to their roles. Complaints against Ministers or Assistant Ministers may also be referred to the Commissioner for Standards who in turn will report their findings to the Privileges and Procedures Committee. Unlike reports in relation to States Members, the Committee may simply choose to publish a report and leave the matter to the Chief Minister to determine whether	<p>Agreed.</p> <p>It is reasonable for some matters of conduct to be presented to the Chief Minister for decisions as to how to proceed, for example, if the complaint relates to a Minister's adherence to government policy or executive administrative processes.</p> <p>Consideration is also being given as to whether the availability of intermediate processes before a full complaint under the Code would be beneficial, for example, to support relationship</p>

	Findings	Comments
	the Code of Conduct for Ministers and Assistant Ministers has been breached.	management or development. This will be a matter for the next government.
30	The States Complaints Board is established to investigate complaints into any matter of administration by a Minister or a department. The members of the Board are independent and provide their services on a voluntary basis. The Board does not have the power to overturn a decision made by a Minister, but it can come to a conclusion as to whether the basis of the complaint should be upheld and suggest any further actions to remedy it.	Agreed.
34	Despite updated complaints processes being in place since September 2019, which have been stated as following best practice as per the Comptroller and Auditor General's report on Handling Complaints, the Panel has found that some historical complaints prior to the policy introduction do not appear to have been dealt with and remain outstanding. The new policy does not seek to address these issues.	The scope of Customer Feedback Policy (introduced in 2019) means feedback about services that were provided within the 12 months prior to the feedback being received are covered. In the annual review of the policy, we are planning to update the policy to include the wording 'This time limit may be extended should there be good reasons for not providing feedback sooner, and it's possible to complete a fair investigation.' With regard to the historical complaints referenced, please see response to Finding 51.
35	From the submissions received by the Panel, there appears to be a significant level of distrust in relation the Government of Jersey's complaints processes. This may be partly due to the absence of a previous complaints policy and this new policy should be monitored to ensure it is delivering on the improvement it intends. This does, however, require further promotion to ensure Islanders are aware of it.	Work is ongoing to keep improving our complaints handling, increase trust and promote the Customer Feedback Policy, showing we actively encourage feedback and will learn from when we have got things wrong.
36	The customer feedback form on the gov.je website appears to be accessible and easy to understand, with clear outlines of the timescale for a response and details about how the persons complaint will be handled. However, the use of the word feedback rather than complaint has been identified as	Feedback covers complaints, compliments, suggestions and comments. Our customer research has shown that they wanted to have a clear way they could recognise great service, or give a suggestion for improvement – without it being a complaint.

	Findings	Comments
	confusing for members of the public accessing this online.	
37	The Panel has been unable to identify training courses that exist for all States employees specifically in relation to the handling and management of complaints. It is noted that this is also not included in the My Welcome virtual training for new employees. This is a vital component of ensuring any new policy is implemented correctly.	Complaints handling is now included within the corporate My Welcome induction within the Customer Feedback module and is available for all staff to complete on joining or as a refresher. In addition, a new hard copy and on-line brochure for inducting Volunteers has been produced that includes full information on complaints handling. NB a review and refresh of all of the My Welcome induction materials is scheduled for Q2 in 2022
40	The issues of separation of powers in relation to the dual role of the Bailiff and the Attorney General is a topic of debate that is seen as being at the centre of the negative perception relating to the 'Jersey Way'. Since the publication of the Independent Jersey Care Inquiry report and subsequent two-year follow up report, there have been propositions taken to the States Assembly in regard to electing a speaker for the States Assembly, none of which have been adopted by the Assembly. The Panel considers that the spirit of the Care Inquiry recommendation that consideration on how to address the negative perception of the Jersey Way involving the whole community has yet to be taken forward in this regard.	<p>Taking the spirit of the Care Inquiry recommendation 7, Government has during its term of office, begun to build its experience and knowledge in deliberative processes. These approaches have been applied to a range of policy areas which cut across government and provoke high levels of public interest.</p> <p>The recent PAC Report 'Use and Operation of of Citizens' Panels, Assemblies and Juries in Jersey' (2022) describes the work in this area as exercises in public engagement....increasingly important to our democracy...overall PAC welcomes the way participants of Jersey's deliberative practises have engaged with the critical issues being discussed.</p> <p>The arrangements surrounding the dual role of the Bailiff remain a contested political matter and have been subject to several propositions since the publication of the P.108/2017. It is democratically right and proper that if any future change should be agreed this should be arrived at through political debate by elected members in the States Assembly.</p>
41	Concerns were raised in relation to the support that is available for complainants both during and after making a complaint, with some feeling that barely any support was provided at all and a defensive attitude was often taken in response to them raising a complaint.	A revised policy for handling complaints from employees is to be introduced in June 2022. This provides more support. Where necessary, the investigation will be undertaken from outside the originating department. Every complainant has a named contact. Every complaint is now logged centrally and monitored.

	Findings	Comments
42	The Chief Minister outlined that, as of March 2021, of the 28 recommendations made by the HR Lounge report on bullying and harassment in relation to the Government of Jersey, 20 have been implemented, 7 are in progress and 1 has yet to be started. The Director General of Strategic Policy, Planning and Performance, explained that a number of the recommendations also relate to a person making a complaint more broadly.	We have completed the roll out of the actions for the first report and a recently updated Dignity at Work Policy, reaching beyond the Bullying and Harassment Policy is due in Quarter 2 of 2022, alongside further training materials and enhanced toolkits. All B&H complaints are now managed centrally.
43	The ethos of the Customer Feedback Policy within the Government of Jersey is about learning from feedback, especially in relation to complaints. There is, however, an acknowledgment that the policy is still relatively new, and questions remain from the submissions raised as to whether this has been embedded sufficiently. This in itself will take time to resolve.	Agreed
44	There is an acknowledgement that in order for a complaint to be dealt with to satisfaction, staff must seek to understand what the ideal outcomes look like for a person making a complaint. There is, however, also an acknowledgment that this is not always something that services get right all of the time but is being addressed through staff training.	Agreed
45	The Customer Feedback Policy does not currently record the outcomes or redress that are applied in the event a complaint is upheld. It is, however, acknowledged that this will form one of the enhancements to the overall system.	The Customer Feedback Management System records the steps taken to resolve and the outcome for each complaint when it is closed. As this is free text, it is not currently in a reportable or measurable format. The planned system enhancements will allow better reporting.
46	A number of submissions gave examples where staff were not held accountable for conduct arising from a variety of forms of complaints or issues. The Government of Jersey has reiterated that it has robust disciplinary	Accept: All complaints against employees must be reviewed or investigated in line with the Customer Feedback policy and/or internal procedures for conduct.

	Findings	Comments
	procedures in place to manage this, however, the Panel is not convinced that this is correct, and this issue must be addressed as a matter of priority.	
47	There was a mixed view from the evidence received as to the necessity for a Jersey Public Service Ombudsman. On balance, however, given the information received in some of the private submissions to the Panel, it finds that the need to introduce an Ombudsman is required and should be brought forward as soon as possible.	It is envisaged that draft legislation establishing an Ombuds will be brought forward in late 2022.
49	The States Assembly has agreed an Appointed Day Act which brings into force certain parts of the Access to Justice (Jersey) Law 2019, specifically the formation of a Legal Aid Guidelines Committee which is tasked with presenting a preferred scheme to the Chief Minister within six months of July 2021. Once the scheme is presented, the Chief Minister will lay the guidelines before the States Assembly. This will not be debated as a proposition, but States Members can bring a proposition requesting that the guidelines be rescinded.	Agreed.
50	Poorly managed complaints processes can in turn lead to significant issues affecting a person's wellbeing. In some instances, people have been significantly financially and/or emotionally affected. It is the view of the Panel that this is often not acknowledged by the organisation involved and should be.	Noted.
51	Concern has been raised that historic cases that have yet to be resolved are not intended to be addressed through the new complaints policy. The Panel believes that serious consideration must be given to a mechanism in order to address these issues once and for all. A suggestion has been made through submissions of a further public inquiry	It is correct that the new Customer Feedback Policy does not provide a mechanism through which to address historic or legacy complaints. The Panel, in para 105 of their report reference having received submissions that made reference to 'legacy' complaints. In para 164, the Panel make reference to legacy complaints involving

	Findings	Comments
	in order to manage and resolve these cases.	former States Members and employees. It is not clear whether those legacy complaints are: a) complaints which are unresolved because they have not been investigated, or b) complaints which have not been resolved to the satisfaction of the person making the complaint. Whilst it is accepted that there will, regrettably, be complaints that fall into both a) and b) above the Minister would require more information from the Panel about the nature and details of those complaints in order to be able to respond with any degree of accuracy to the Panel's finding
52	There are a number of pieces of work ongoing within the Government of Jersey in order to address the findings of the Independent Jersey Care Inquiry in relation to instances of administrative redress. These include bringing forward a Public Services Ombudsman, a new public inquiries law and addressing the findings of the Comptroller and Auditor General's Thinkpiece on Governance.	Agreed.

RECOMMENDATIONS

	Recommendations	To	Accept/Reject	Comments	Target date of action/ completion
1	In order to enhance openness and transparency with the general public as to the disciplinary procedures for Government of Jersey employees, the Chief Minister should seek to publish the policy on the Government website by the end of January 2022.	CM	Accept in part	We are currently looking into the most appropriate platform to publish these policies. Different pay groups have different policies and at present publishing and maintaining them is cumbersome. We anticipate a new solution in place with updated and refreshed policies in place by June 2022.	
2	The Chief Minister should, by the end of 2022, ensure that the code	CM	Neither accept	The Code of Practice for Standards in Public Service replaced the Code of Conduct in 2021. the relevant policies	

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	of conduct for States of Jersey employees is updated to include specific reference to changing working practices of employees in 2021. It should also contain specific expectations of staff when engaging with social media platforms.		nor reject	are being revised in line with the new code already.	
5	The Chief Minister, as Minister for Justice, should seek to establish a document, to be published on the gov.je website, which sets out in plain English, the process by which a person may appeal a judicial decision made against them. This should be completed by the end of Q4 2022.	CM	Accept	<p>Agreed. If the purpose of the proposed project is to provide an easily understandable one stop shop for Litigants in Person (LIP who are interested in appealing a decision, the task should not be underestimated. Such appeals cover a wide range of scenarios which include (amongst others):</p> <ul style="list-style-type: none"> • Appeals from the Mags Court • Appeals from the Petty Debts Court • Appeals from Administrative decisions under RCR 15 • Appeals to the Court of Appeal • Appeals from the Commissioner of Appeal for Taxes • Appeals from the Jersey Employment and Discrimination Tribunal • Appeals from the Court of Appeal to the Privy Council <p>Each of these is governed by different legislation and rules.</p> <p>Moreover, any LIP wishing to appeal a matter to the Royal Court/Court of Appeal/Privy Council is provided with direct assistance from one of the Greffiers of the Royal Court. That guidance includes the provision of crib documentation for the LIP to populate,</p>	

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
				confirmation of the deadlines and general procedural advice throughout.	
6	The Qualified Persons that comprise a Panel to undertake an inquiry into disciplinary matters within the Judiciary has the possibility of being comprised solely of current or former Jersey judges. The Panel would suggest that this definition is revised in order to ensure that all disciplinary investigations are undertaken by external and independent judges. This would assist in removing the negative perception of the 'Jersey Way'.	The Bailiff	-	To this extent that this is intended to be a process for the discipline of members of the judiciary (and not members of staff within the Judicial Greffe), this is a matter that falls within the ambit of the Bailiff and should be brought to the attention of the Bailiff's Chambers.	
9	The Chief Minister should ensure a campaign raising awareness of the new complaints system is conducted prior to the 2022 election to ensure that members of the public are fully aware of the new process. This should include reference and recognition to that fact that the Government has not always addressed things as well as it could so as to be open and transparent to the public in relation to the new policy and its requirement.	CM	Accept	Work is underway to design, plan and relaunch 'customer feedback' and the importance of it, both internally and externally prior to the elections in 2022. There will be an element of the campaign which focuses on 'you said, we did' to show that we recognise we have not always got things right, but we are learning from feedback.	June 2022
10	The Chief Minister should ensure that, as a matter of urgency,	CM	Accept	Training is available on how to use the Complaints Handling manual and 'How to log feedback on CFMS' for all staff in	December 2022

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
	mandatory training is provided to all States employees through the Virtual College portal in relation to the handling and management of complaints. This should also be included in the My Welcome training on the Virtual College for all new employees going forward.			Virtual College. All new starters undertake training as part of the mandatory 'My Welcome' induction. New/refreshed training is being designed as part of the relaunch which will be mandatory for all colleagues. There are also bespoke training available in Early Resolution of Complaints, and Complex Complaints Handling.	
11	The Chief Minister should revisit the response to P.108/2017 in respect of Recommendation Seven (The 'Jersey Way') and bring forward proposals and consultation, that genuinely involves the whole community, that consider how best to deal with the negative perception of the 'Jersey Way' on a lasting basis. The Panel shall continue to review this matter as part of its ongoing work programme.	CM	Neither accept nor reject	<p>There are a range of measures that have been progressed since P.108/2017 (listed but not limited to below) that have contributed to improving transparency in Government and the Assembly work to represent the electorate of the Island.</p> <ul style="list-style-type: none"> - Ability to raise issues via petition - Increased use of deliberative approaches - Policy Development Boards - Public Sector Ombudsman – Consultation - Increase number of independent public - entities holding Government to account - Implementing reform in the democratic system - Establishment of a Youth Parliament - Media campaign to promote voter turnout - Establishing a generic government wide approach to feedback <p>The arrangements surrounding the dual role of the Bailiff remain a contested political matter and have been subject to several propositions since the publication of the P.108/2017.</p>	

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
				It is democratically right and proper that if any future change should be agreed this should be arrived at through political debate by elected members in the States Assembly.	
12	The Chief Minister should ensure that, as a matter of priority, any outstanding recommendations from the HR lounge report which relate to the support provided to a complainant and associated ‘aftercare’, are implemented as soon as possible. This should also be applied to the overall complaints policy and procedure for members of the public who are raising a complaint.	CM	Neither accept nor reject	The HR Lounge report referred to the Government of Jersey’s internal complaints procedures. 1:1 counselling support is in place for staff needing support during and after the complaints procedure. We also have in place 24/7 wellbeing support (Besupported) provided by our Occupational Health Advisers. During a complaints procedure the Case Manager is able to signpost and make referrals should an employee like to access these services. These remain private and confidential. Mediation and facilitated meetings are also offered within the 14 day resolution period and after any formal procedure, this is to provide further support and resolution to the parties involved.	
13	The Chief Minister should ensure that, in developing training in relation to the handling and management of complaints for States of Jersey employees, it contains information on how to best support a person both throughout the complaints process and afterwards.	CM	Accept	Agreed. The corporate induction, My Welcome, emphasises the need to provide excellent customer services and how to handle complaints sensitively. The Espresso training session on Customer Experience highlights the need to think about the customer ‘sentiment’ and how they are feeling to be integral to how we serve customers. Current Customer Feedback training and the Complaints Handling Manual, all focus on the use of empathy when dealing with complaints and underline the importance of supporting a customer throughout the complaints process.	
14	The Chief Minister should ensure that the necessary enhancements are made to the customer	CM	Accept action /reject	Planned enhancements to the Customer Feedback Management System will ensure outcomes and any redress are recordable. Although we share the	December 2022

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
	feedback policy and system to ensure that outcomes of complaints and any associated redress is recorded on the system. This should be completed prior to the 2022 election.		timeframe	desire to get these system enhancements in as soon as possible, the Modernisation & Digital resource required for this work to be completed is spread across a number of competing priorities - full completion of this work is due by the end of 2022.	
15	The Chief Minister should ensure that the necessary legislation to give effect to the Jersey Public Service Ombudsman is brought forward for lodging so that the debate can take place in the States Assembly prior to the 2022 election.	CM	Accept principle / reject timeframe	Whilst is accepted that the work on the Ombuds should be brought forward, delays have been experienced due to the pandemic. It is anticipated that the legislation will brought forward before end 2022	End 2022
16	The Chief Minister should ensure that the points raised by the Legal Aid Review Panel in its comments on P.63/2021 are actioned as a matter of priority. Furthermore, an updated Legal Aid Scheme should be implemented by the Chief Minister by the 1 st January 2022.	CM	Accept principle / reject timeframe	Further to the presentation of R.191/2021, a new Legal Aid Scheme came into effect on 1 April 2022. In addition, work is ongoing to prepare draft Regulations, under the Costs in Criminal Cases (Jersey) Law 1961, which would remove the payment of costs to lawyers in criminal legal aid cases (as is consistent with the new publicly funded criminal legal aid scheme where lawyers now receive fixed fee payments for criminal legal aid work) and place a cap on costs that could be paid in non-legal aid cases of £200,000 per defendant, after which legal aid rates would be paid. This latter measure is intended to ensure the taxpayer is protected, to some extent, from large costs payments to wealthy defendants. It is expected that these draft Regulations will be ready in time for consideration early in the term of the new Council of Ministers.	

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
17	The Chief Minister should, prior to the 2022 election, bring forward Terms of Reference in respect of a public inquiry for the resolution of outstanding complaints against the Government of Jersey.	CM	Accept principle / reject timeframe	<p>Legislation is being brought forward to provide for public inquiries in Jersey. It is anticipated that this will be presented to the Assembly by end of 2022.</p> <p>Public inquiries are very high cost and should only be instigated where:</p> <ul style="list-style-type: none"> • there is no more suitable way to investigate a matter • legal force is needed to compel people to give evidence • the matter is of public concern • the value to public can be justified. <p>It is not clear that these criteria could be met in relation to individual legacy complaints, as distinct from multiple complaints about a potential systemic failure, even if the Public Inquiries legislation were in place.</p> <p>As the Panel rightly identify, unresolved complaints can have a significant impact on people's wellbeing. If, however, the Assembly should determine to establish an independent non-statutory inquiry, or a Committee of Inquiry under Standing Orders, to investigate such complaints consideration would need to be given to:</p> <ul style="list-style-type: none"> • the extent to which it is possible to investigate legacy complaints (ie. is the necessary information still available?) • criteria (complaints that have not been investigated; complaints not managed in accordance with policy; complaints not resolved to satisfaction of individual who made the complaint) and 	N/A

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
				<p>complexity associated with assessment against criteria</p> <ul style="list-style-type: none"> • whether such an inquiry was in the wider public interest - as distinct from the interest of the individuals who made the complaints – and hence whether the cost to the wider public could be justify. <p>Notwithstanding this, should the C&AG consider that there are outstanding items of a material nature by the end of 2023, consideration should be given to establishing a public enquiry for the resolution of outstanding complaints against the Government of Jersey.</p>	