



# Care of Children in Jersey Review Panel

## Public Hearing

### Witness: The Judicial Greffier

Tuesday, 9th March 2021

**Panel:**

Deputy R.J. Ward of St. Helier (Chairman)

Deputy K.G. Pamplin of St. Saviour (Vice-Chairman)

Deputy M. Tadier of St. Brelade

Deputy M.R. Higgins of St. Helier

**Witness:**

Advocate A. J. Clarke, The Judicial Greffier

[10:00]

**Deputy R.J. Ward of St. Helier (Chairman):**

Good morning, everybody, and welcome to what is the first public hearing from the Care of Children Review Panel regards redress and accountability systems in Jersey. We have published our terms of reference; they have been on the website for a long time. We are looking to examine and gather views on the complaints processes, on redress systems and accessibility to those systems. Today we start by meeting with the Judicial Greffe. If we just introduce ourselves briefly, I am Deputy Robert Ward and I chair the Care of Children Review Panel. Members of the panel.

**Deputy K.G. Pamplin of St. Saviour (Vice-Chairman):**

Good morning, everybody. I am Deputy Kevin Pamplin of St. Saviour District 1 and I am the Vice-Chair of this panel.

**Deputy M.R. Higgins of St. Helier:**

I am Deputy Mike Higgins for St. Helier 3 and 4 and I am a member of the panel.

**Deputy R.J. Ward:**

I will introduce Deputy Tadier, who is having some sound issues. I have said already I really do not like doing hearings this way and it is one of the reasons. Deputy Tadier is there as well. If you would like to introduce yourself just briefly.

**The Judicial Greffier:**

I am Advocate Adam Clarke. I am the Judicial Greffier, a post that I have held now since July 2018.

**Deputy R.J. Ward:**

Excellent, thanks very much. If we get started, the first thing then I suppose is to say to you what is the role of the Judicial Greffe, i.e. what do you do? What do you think the public understands of your role?

**The Judicial Greffier:**

Two very different questions there. The first one is easier to answer. The Judicial Greffe's role is predominantly to be the administration arm of the judiciary, so the department's responsibility is to ensure that all things run smoothly within the courts and tribunals that are in effect in the Island. There are some ancillary roles in regard to the Judicial Greffe, such as the registration of professional medical people and then oversight on public elections, for example. As to what the public perceive the Judicial Greffe to do, my experience tells me that that is shrouded in mystery all too much. They are not entirely sure what we do sometimes and they often confuse us with providing legal advice, which is something that we cannot do. I would probably answer that question by saying it is a moot point as to exactly whether or not people understand the role of the Judicial Greffe sufficiently.

**Deputy R.J. Ward:**

Thank you. That is a very honest answer. I think that is one of the things that we would pick up. You have said that there is not a public understanding of your role. What do you think is there so that the public can access the information about what happens easily? What exists at present is the first question.

**The Judicial Greffier:**

The Judicial Greffe has a presence on the gov.je website, which means that if you were to go to that website and put in "Judicial Greffe" you would receive a page which gives you some information regarding what the Judicial Greffe does. It is a little limited and I understand that it has been a desire of the Judicial Greffe for some time to have its own dedicated website which would give information to users about the more frequently asked questions about what the Judicial Greffe does. There has

been some movement in this regard. I know I am jumping ahead of ourselves a little, but it is worth mentioning that during COVID, for example, efforts have been made to make more information available to those who are involved in court proceedings. We have weekly updates and court lists that are published to ensure that people know what is going on in the courts and also the results of those hearings are also published so people know what is going on in the court. Also - and I am sure we will come back to this - there is a much larger project going on called Courts Digital. What Courts Digital hopes to do is to bring the courts very much into the 21st century, make much better use of technology and move away from being a very paper-based system. Part of the project landscape is to include what would be described as a user information website. This would be a separate webpage which would answer those questions, would give information about how users will use the court digital system and hopefully have a full system of frequently asked questions and even potentially a more direct opportunity to produce complaints or compliments for the system that we provide.

**Deputy R.J. Ward:**

Do you think that sort of development is a vehicle for assisting people who may have a misconception about what to expect from the Judicial Greffe? Because the systems are mysterious to many, myself included, to be honest, and I have learnt an enormous amount from going through this review. Do you think that is an important vehicle for making that distinction as to what is happening there? Also in terms of accountability, who would you say you are accountable to and how would the public know about that?

**The Judicial Greffier:**

I will see if I can cover all those questions, if I can. The first is to say whether or not that will be a good vehicle to ensure better information is available. Absolutely, I think we live in a society and we have got to recognise we live in a society where technology is everything. The next generation of Islanders are entirely expecting to have everything at a touch of a button and preferably on their phone. It is our desire to be able to produce a system which will allow them access to that information as simply as I have described there. Is that the best vehicle? I am absolutely sure it is. If the portal provides what I hope it does, which is allows people to file documentation electronically and therefore also file complaints - should it come to that - electronically in a swifter method, then again that facilitates greater redress and accountability for what we are doing. Again, I think that is a positive thing. Forgive me, I cannot remember the third of the questions.

**Deputy R.J. Ward:**

It is slightly unlinked, but I suppose there are 2 things from what you have said there. Would that give a greater record of those submissions and so on? Because one of the problems with any paper-based system is when things go missing and then the accountability of why it went missing is a huge

issue. Are you hoping that that electronic system, that electronic signature, if you like, that would go with any of those things would address that? I will come to Deputy Tadier afterwards.

**The Judicial Greffier:**

Surely. I am not the technical person, so it would be dangerous of me to speak to technology in regard to this, but it is certainly my aspiration that a system that allows people to enter things electronically, whether it is documents for court or whether it is complaints or compliments, would naturally have an audit trail attached to them, so the moment the document is filed on the system that says: "I would like to tell you how wonderful your system was" or: "I would like to complain about something" the system would automatically trail that, have a record of it and you would not have the situation where people are saying: "I sent something in and it was never received" or: "I never got a response to things." Also just if I could add one of the desires of the system would also be to have trigger entries and diary reminders, so timescales in regard to responses would also be triggered as well.

**Deputy R.J. Ward:**

Thank you. Deputy Tadier, did you have a question you wanted to chip in there?

**Deputy M. Tadier of St. Brelade:**

I do, yes. Can you hear me all right? Is the sound coming in?

**Deputy R.J. Ward:**

Yes, that is good. We can see you as well, which is great. Thanks.

**Deputy M. Tadier:**

I am not sure if that is so good, but I am glad the sound is all right. Good morning. To go back to the question about the understanding of the role, I was going to ask if you think that one of the reasons for some of the mystery, so to speak, is that half of the title of Judicial Greffe is written in French. I do not know if "Greffe" is even a widely understood word in French, let alone in what has become an almost entirely English-speaking Island as the first language.

**The Judicial Greffier:**

Not really, simply because whatever title they choose to give my department or whatever title they choose to give me, the more important thing is that people understand what I do. I think the difficulty that arises here is there is a lack of available information about what the department does and what I am asked to do as a role. I am certainly not against improving that. There is no mystery, as far as I am concerned, and I would be a lot happier if people understood my role better and therefore it would be better to signpost people's needs rather than coming through me.

**Deputy M. Tadier:**

That is fine. I thought I was just repeating your words when you said your role was shrouded in mystery for some, but maybe I misheard that. Do you think it is important that we do have signage that is in English, for example, in an English-speaking Island? You could still call it the Judicial Greffe and then say: "This is the office of the court clerks" in a similar way to what we might do for the States. That would signpost people literally to what you do.

**The Judicial Greffier:**

I do not have a strong view one way or the other in regards to that matter. Obviously the title that I hold and the department I hold is one that is presently embedded into legislature as well, so I have always treated it as being the appropriate name, but it is not something that I express a strong view on one way or the other.

**Deputy R.J. Ward:**

Thank you, Deputy. Can I just ask then one final question in terms of generalities? Who are you accountable to? Because one of the things we are looking at is accountability and trying to track that accountability system. Who would you say is your accountable line, so to speak?

**The Judicial Greffier:**

There is only one person I am accountable to and that is the Bailiff. My role falls within those defined as being Crown appointments, so I am part of the judiciary. I am not an employee of the States of Jersey, I am excluded from that under the Employment of States of Jersey Employees (Jersey) Law in the first schedule. My only role or my only line manager is the Bailiff, who has conduct and control over the whole of the judiciary in the Island, and we are obliged to act in accordance with the judicial code of conduct.

**Deputy R.J. Ward:**

So talking about complaints handling, how do you describe the way in which a member of the public can make a complaint in relation to the court system, should that be necessary?

**The Judicial Greffier:**

You wish me to describe the actual process by which they do that?

**Deputy R.J. Ward:**

Yes. If I was a member of the public and said: "Okay, how do I make a complaint?" one of the things we are talking about is that communication and how it is understood at all levels of our society. Just a general question on that, yes.

**The Judicial Greffier:**

Fine. The process is prescribed under the gov.je website page that I referred you to, which provides for people to make complaints. We have a series of documents, complaint forms and other documents internally, to ensure that the system is followed. There are strict timetables in regard to that complaint. We have an obligation to acknowledge the relevant complaint letters and respond to them and investigate them within certain time periods, but I will pause there for one second to say we are by no means prescriptive in regard to insisting that people fill out forms. I would say in my time here we have had very few complaints, but the complaints that we have had have almost entirely been generated from emails. I will come in of a morning, open up my inbox and there might be a letter there from someone saying: "I am very unhappy about something and here are all the reasons I am unhappy." I do not at that particular point, unless there is a complete lack of clarity, insist that they fill out a form. In my view, if someone writes me an email and says: "I am unhappy about something" I treat that as being a complaint and we get on with the process. I do not look to delay matters unnecessarily; it needs to be done as soon as possible. We have a process that involves investigation by the team leader of wherever that complaint lies, not initially me, it will be the team leader of that area. They are also under an obligation to contact the complaine and say to them: "Would you like to come in for a meeting? Would you like to have a telephone call to discuss the nature of your complaint?" The reason I have brought that into policy is that my experience, both in the States and in private practice, is that complaints are very often as a result of miscommunications or misunderstanding of what people need. When someone complains, it is very important to understand what it is exactly they are talking about, what is causing them angst, what has gone wrong. So I would rather have a conversation very early in the piece to be exactly very clear about what it is they are complaining about to see whether we can deal with it very swiftly. We have also found that meeting with people or communicating with people often goes a long way to mediating what can become a bit of a standoff if it is just dealt with in letters and emails. That is the process, get to speak to people as soon as possible and then see whether there is something that can be dealt with amicably between the parties. If the complainant is unhappy at that point, a formal investigation takes place and a written result or conclusion to the investigation is provided to the complainer. If they are not happy with that, it can be escalated to a more senior manager, which is usually myself or my chief operating officer. Again, I will investigate and I will write written explanations for my outcome. Again, if they are unhappy about that, the ultimate sanction is for the matter to go up to the Bailiff. There is quite a lot of opportunity for things to be resolved.

[10:15]

**Deputy R.J. Ward:**

I have got some more questions, but Deputy Higgins, do you want to ask something there?

**Deputy M.R. Higgins:**

Yes, if I may. Advocate Clarke, can you give us some indications of the type of complaints you get? Are they concerned with procedures or faults or what?

**The Judicial Greffier:**

Certainly. Without going into any specifics, because obviously there are confidential matters in regard to these, the 2 major areas of complaints that we receive will be either that a member of staff ... sorry, I will pause for a second. That sounds like there is plenty of them. There are not plenty of complaints, but the 2 that I recognise are that, one, a member of staff has acted in a manner which is below the professional standard expected, whether that is in an interaction with an individual or in their work, or the second type of complaint is that there has a breakdown of procedural administration, i.e. something has not gone in the right place at the right time and it has affected the individuals. Those are the 2 main areas of complaint.

**Deputy R.J. Ward:**

Have you finished there, Mike? Okay, thank you. In terms of the channels that are open, it is mainly the websites, but also people can pick up the phone and contact the department, yourself or your staff. Do you think that is known well enough? Not that you are trying to court - if you will excuse the pun - complaints, but so that there is a real openness with the accessibility to voice a concern. I know this has been a long question, but there is a really specific reason, because when you talk about dealing with things very early before mistakes grow and expand outwards, exponentially at times, do you think that that is perhaps one of the most important parts there? Is that done well enough or do you want to see that improve?

**The Judicial Greffier:**

In my time here, which has been relatively limited, I have not come across someone saying that they were inhibited or prohibited from raising a concern or a complaint. I have been in the legal world now for some 25 years on the Island and when I first started, the vast majority of communication was by letter. It is now email and it is instant. I have a vast array of communications on a daily basis from members of the public all the way through to senior politicians that arrive immediately into my inbox. There is no delay in the process and there is nothing stopping people getting in contact with us, so I do not think that the present system prohibits complaints or issues of redress coming to my attention. I am not sure that that necessarily is a concern. That said, I still recognise the point you made earlier, which is having a system in place which ensures that the correct record of those is held, and automatically held, so that there is a proper data library of the information.

**Deputy R.J. Ward:**

That is great. In terms of the decision to proceed with a complaint, what is the mechanism for that? Who would make that decision to proceed with a complaint? Is it the complainer? Is it yourself, is it a member of your staff? I am trying to uncover the processes as much as anything.

**The Judicial Greffier:**

I understand that entirely. It is a bit of a joint issue. If a complaint comes in and we reach out to the individual and ask them for a meeting, one of the purposes of that meeting is to find out exactly what it is they are concerned about and also to see what they want to get by way of redress. If the matter is something quite simple and they really just want an acknowledgement that something has gone wrong and an apology and we have deemed ourselves to be liable in that regard, then we will offer an apology and the matter will be dealt with relatively quickly. If it cannot be dealt with amicably in the first instance, I will not filter it to the extent of saying: "That is it. I am not going to deal with the matter." I feel that we have an obligation to investigate the complaint and therefore if a complaint comes in, I will have it investigated and then the outcome of that investigation will either be that there is something that needs to be dealt with or we find they have not brought something that needs to be investigated. That is the only filter system as to whether or not there is any merit in the actual complaint itself.

**Deputy R.J. Ward:**

Would that be yourself who makes that call?

**The Judicial Greffier:**

Ultimately, as I said to you before, the team leader would do the first investigation, if necessary, but they would bring their investigation and outcomes to me to ensure that I am happy that the thing has been dealt with appropriately.

**Deputy R.J. Ward:**

What assistance is there for people who are making the complaint? Because it could well be that when you are trying to navigate a system that is foreign to you really that your complaint could be badly worded or put in a way which is easily said: "Well, it is not a complaint, so go away", not that that would happen, but you know what I mean. We are talking extremes here. What assistance is given to say: "Okay, this is addressable, this is something that can be looked at in a meaningful way"?

**The Judicial Greffier:**

Again, I go back to why I insist upon there being a meeting. One of the major things that happens is that often people will raise their unhappiness about things that have taken place in court. We basically have a number of different issues that come before us on a regular basis, one of which will

be: "I am not happy with the outcome of my hearing" which clearly is not something that the Judicial Greffe can deal with. That is a matter for an appeal if they are unhappy with the outcome of their hearing, so we have to explain to them: "That is not a complaint. You need to appeal, if you wish to appeal" and we give them advice in regard to the process, as to how they might appeal that decision. The next port of call might be: "I am not happy with the way that the judge, the presiding judge, dealt with my case." Again, that might be an appeal topic or it might be a judicial complaint. A judicial complaint is not something I deal with. That goes to the Bailiff. If someone comes to me and says: "I felt the judge did not treat me appropriately and professionally in accordance with their duties" I would direct them to the Bailiff and explain what they need to say to the Bailiff for that matter to go ahead. Then finally, we are back to the complaints that I can deal with, so: "I am not happy with a member of your staff. I am not happy with what one of your staff did administratively." In that case, I would ensure that at that first meeting we have understood what the complaint is, exactly what they are after and the particulars that they say went wrong. That is how we would start the process.

**Deputy R.J. Ward:**

Do you track how many of those "complaints" come in, even the ones where you say: "That is not for us to deal with"? Because I thought that would be a very useful record, so you can go to the Bailiff and say: "By the way, we are dealing with lots of things that are nothing to do with us, they are to do with you." It might be a difficult conversation, but in terms of tracking what is a complaint and what is not would be equally as important, as I would imagine. Do you track that?

**The Judicial Greffier:**

I do not think it is fair to say that we keep a close track on those that do not constitute complaints. If they constitute a complaint, then obviously they are tracked and every complaint we have a file for and we keep a database in regard to that information, so we have information regarding the number of complaints that we have during the previous number of years, but those that come in that are patently not something that we can deal with, I do not think it is fair to say that we keep a record of those. We usually redirect the individuals and give them assistance as to how they can take forward their concerns.

**Deputy R.J. Ward:**

So there is not a central register of everything that you get with a red, amber, green rating system to say red, a complaint, or something like that?

**The Judicial Greffier:**

It is not a R.A.G. (red, amber green) system or anything like that, no.

**Deputy R.J. Ward:**

I think you may already have answered this, but in terms of escalating a complaint that is not dealt with at source, what processes are in place to enable that to happen, should someone be particularly unhappy and not be pleased with your response to it, so to speak? Would they have to go to the Bailiff as your immediate line manager, so to speak?

**The Judicial Greffier:**

We sort of need to differentiate between 2 areas here. If a complaint comes in and a team leader who is supposed to be investigating it is not investigating it swiftly enough, that is something that we ought to catch at source because we have a checklist which identifies the timelines and the speed at which matters should be dealt with. If a complaint has come in and one of my department heads has been dealing with the matter and I have not heard anything for more than the requisite 5 days, then I would be notified of that and I would want to be speaking to them to see if I can put that right. The other part of your question is what if someone is basically not happy with the outcome of the whole process. Again, if it reaches as far as myself and I investigate it and I reach a conclusion that this is not something that I think is justified and they are unhappy with it, then again their ultimate sanction is to bring the matter up to the Bailiff and he would have a review oversight - the Bailiff or the Deputy Bailiff - of that investigation.

**Deputy R.J. Ward:**

How many in your team? I meant to ask you that earlier.

**The Judicial Greffier:**

The whole of the Judicial Greffe? It is approximately 50 members of staff. I say approximately because there are a few movements at the moment.

**Deputy R.J. Ward:**

How many of those department heads might be looking at these cases if they come in?

**The Judicial Greffier:**

Our senior management team is made up of 10 people and we would have department heads for 6 different areas.

**Deputy R.J. Ward:**

That was a good test of your knowledge there. How is that process communicated, do you think, to the complainant? Are they sent a letter detailing the timelines and so on? Are they referred to the website? Is there a process that takes them into account as a complaine?

**The Judicial Greffier:**

The timescale is set out on the website page that I have referred to straight away. I would expect that when we get a complaint in, the first thing we do is acknowledge it and I would expect that that communication that goes back to the complainant would also indicate when the next time limit is and who it is that is going to be looking at it. So you would go back in the first instance and say: "The matter has been taken up by the head of the department for the department you are complaining about and they will be investigating it over the next 5 days" and also at the same time inviting them for that communication, that meeting or telephone call.

**Deputy R.J. Ward:**

Do you track the outcomes of those to track consistency of that complaints process in terms of if you had, to put it in its simplest form, one head of department, every single complaint they have had has been dismissed, whereas another one every single complaint ... it may have just been unlucky, but I would have thought you would look at that and have some sort of interaction to say: "Right, what is happening here?"

**The Judicial Greffier:**

The answer to that is no, but let me explain why. In order for you to have reasonable, consistent tracking of what is going on, you need to have a large enough sample number and the trouble is - the good thing is - the Judicial Greffe does not have a vast number of complaints to deal with, so there will often be cases in a year that a department has no complaints levied at them, which is a wonderful thing. It is very difficult to have a realistic statistical analysis of such a low sample number.

**Deputy R.J. Ward:**

The outcomes then are communicated. Would they be communicated in a one to one meeting with the person? Would that be by letter, by email?

**The Judicial Greffier:**

Traditionally by letter. Whether that is emailed to the complainant these days is another matter, but we like to have a formal record of the findings of that particular investigation.

**Deputy R.J. Ward:**

If they are not satisfied, what support is given? Because it may be that people are not feeling particularly satisfied, but they do not want to take it any further and you are left with that ground in the middle of dissatisfaction. What support do you offer in those situations? Yes, I suppose that is it really.

[10:30]

**The Judicial Greffier:**

It is a tricky one. The reason I say it is a tricky one is that there are occasions when we have had people who have chosen to complain which, with the greatest will in the world, there really was not merit for so doing. It is always very difficult in those circumstances to be able to feel that you have completed the process and that the complainer is satisfied with the outcome, because they obviously take a different view or misunderstood the circumstances. That is why I take some effort in stressing the need for communication with the person complaining. It is often a case of managing expectations and understanding the areas that we can deal with and the areas that we cannot deal with and also advising on what are they looking for, because as I said previously, often it can really just be acknowledgement that something has gone wrong and they do not want that to happen to another person. I have heard that said previously. Other times it can simply be: "I just want an apology because I felt that person did not treat me professionally" and these things can be dealt with relatively simply and lessons learnt from it. Some other people have different views and we have to deal with them, but that early meeting gives us a much better understanding of what the likely outcome is going to be or how we might be able to satisfy the complainer.

**Deputy R.J. Ward:**

A final thing in this area then. How do you learn from those things? Particularly in that middle ground where somebody does not want to take it any further, but this is an obvious dissatisfaction, short of issuing the apology with staff - and I do not want to tread on Deputy Pamplin's questions that are coming next - do you think you have a process of learning from errors in that way?

**The Judicial Greffier:**

Yes. My attitude to it is that if a complaint comes through the door, a justified complaint that comes through the door is not something that I welcome. I do not want lots of justified complaints, because that means we are not doing something right, but when a justified complaint comes through, it is an opportunity to improve because something is being highlighted, either as to an individual's behaviour or a policy or a practice that needs to be amended. My attitude is if we do not learn from it, if we do not take it, if we do not improve, if we do not highlight procedural change or highlight appropriate training, we are not making best use of the opportunity. That is where the lessons are learned, by taking the complaints, not being overtly defensive about them, but recognising where we have been short of where we should be and improving it.

**Deputy R.J. Ward:**

I am conscious I have taken 30 minutes on the first section. Deputy Pamplin, do you want to take over and talk about some of the areas of accountability? I will pass over to you.

**Deputy K.G. Pamplin:**

Thanks, Chair. Thank you for this. This is really helpful and insightful and thank you again for your honesty. Before I get into that, picking up what you said at the very beginning of you coming into this role, when anybody new comes into any role it is an opportunity to bring a fresh pair of eyes and see the good and the things that need work on. The question really is that: in your short time there, what are the things that you have looked at and go: "Okay, considering where we are in 2021, these things are okay, but where is there room for improvement"? What is your assessment in your short time, basically?

**The Judicial Greffier:**

Internally it was quite clear to me that there were certain structures within the department which did not lend themselves to best use of knowledge and best procedures. I think I have alluded to that in my submissions, that I looked at the managerial position that we had taken. The department, prior to my arrival, had worked on very much a hub and spoke process. Just by way of explanation, what that basically means is that my predecessor was the recipient of everything. Everybody in the department, all 50 members of the department, came directly to my predecessor in regard to anything from complaints to stationery orders. It was all very much a key man moment at the middle and relied upon his individual knowledge and expertise, which was vast, but that was just one man. I wanted to change the process so that we had far more structural management and a senior management team because I recognised that there were a lot of very capable individuals at managerial level in my department. Bringing them into the process of decision-making and consideration meant that we had a broader range of information and knowledge. Now, applying that to what we are talking about, for example, in redress and accountability, it would be ludicrous of me to suggest that I had all the answers to everything, so moving into a managerial team situation allowed me to use the knowledge and information those other managers had and raise with them issues of redress and concern and complaints that arose so that we learnt across the board about things that we could do better. Furthermore, I had a broader range of knowledge coming back to me, suggesting ways that we could improve. It was that managerial change that I think has helped matters and it means that - moving on slightly - when a complaint comes in or when an issue arises which is justified and we have upheld it, we can disseminate that throughout the department much quicker via the managers, who themselves can implement changes into their department to recognise if those failings are repeated elsewhere. That information is cascaded down to the staff and they are given an opportunity to upload information back through their manager into the senior management team. It was making better use of the depth of knowledge that we had.

**Deputy K.G. Pamplin:**

That makes perfect sense. Having one person who has - with the best intent - too much power or say can cause issues. That leads me on to policies and procedures, because that is what you have alluded to a little bit. What have you got now in place in terms of holding that new structure in place

and all staff in place to account for their actions and the new processes and the outcomes you want to seek from the change?

**The Judicial Greffier:**

First and foremost, there are monthly senior management team meetings, so there is a regular discourse between myself and the management team to ensure that the policies that I want to be in place are being put in place or that the sensible discussions are being had about amendments to those policies to ensure that they take place. We have also introduced an appraisal system for the staff, which is a combination of regular informal chats with their line managers, through periodic appraisals, through annual appraisals, the point being is that there is a regular catch-up. There is not a member of my team that is not speaking to their line manager on a regular basis and therefore the opportunities to highlight concerns, pick up failings, pick up areas that could be improved, recognise potential training opportunities, all of these would be picked up very quickly and therefore that will ensure that people are acting appropriately and picking up areas where they are falling slightly short.

**Deputy K.G. Pamplin:**

When somebody is falling short or is in the process of needing something to be looked at or a breach of the policy you were just outlining, what processes are in place currently to deal with this and how can you ensure that is done consistently?

**The Judicial Greffier:**

If that is merely a case of someone just needing to be picked up and reminded of their obligations, this is not something that is a disciplinary matter, then that is dealt with via the line manager and ensuring that those things are kept in place. If that is struggling to take place, it is escalated up to me and I would speak to the individual myself. However, as soon as it crosses the line and we start concerning ourselves in regard to whether or not this is someone who is in breach of their obligations and the disciplinary codes and so on, it becomes a matter of H.R. (human resources) policy. The Judicial Greffe, while non-ministerial, does comply with the States of Jersey disciplinary policy and therefore if we had a member of staff who was acting in a manner that needed to be dealt with, that needed to be redressed for the way that they were dealing and we felt it had reached that point, in tandem with our business partner for H.R. we would apply those processes.

**Deputy K.G. Pamplin:**

You said a business partner for H.R. Just very briefly, can you outline how that relationship works, without giving too much, obviously?

**The Judicial Greffier:**

Yes, sure. I will not go into details. The non-ministerial departments have been allocated an H.R. business partner, which is a senior member of the H.R. resources team, who are available and meet with us on a regular basis. They are a sounding board for issues. They are a conduit through to the higher levels of H.R. and they give us advice in regard to matters pertaining to central policies in H.R.

**Deputy K.G. Pamplin:**

That is really helpful. From what you have just outlined over the past year or so, has there been any occasion where any of this has been needed or have you noticed something: “Oh, maybe we could have done that differently to get a better outcome”?

**The Judicial Greffier:**

Yes. In the time I have been here, which is now almost heading on for 3 years, I think, there have been 2 occasions when discipline procedures had to be invoked. They were both internal matters, so they were not matters pertaining to complaints from the public, but we have had to have cause to resort to that and deal with it appropriately.

**Deputy K.G. Pamplin:**

Let us move on to redress. What forms of redress are there for a member of the public that makes a complaint which is upheld in relation to the services that you are outlining today?

**The Judicial Greffier:**

The redress available is clearly that if someone is upset about the manner that something has taken place, the process, we would obviously ... if that is upheld, we would seek to offer our apologies in regard to what has taken place first and foremost. If it has caused them distress and so on, that is not acceptable and we want them to appreciate this is something that we want to get right and get right straight away. If it becomes a matter that falls into the disciplinary area, that they are raising a concern about a member of staff that falls into disciplinary, then we take the disciplinary process through, but that is not necessarily redress to the individual complainer. What that is is highlighting is something that our internal H.R. needs to deal with. There are few redress available to the complainer, other than ask them at the start: “What do you want?” If it is an apology, then obviously we are more than happy to accept an apology. I would certainly give an undertaking to that individual that matters have changed and improved so that it would not be repeated, if it at all possible. Obviously from a policy point of view, if it is a procedural issue I would want safeguards put in place going forward to ensure that they are not repeated. A mistake repeated is a bit of a failure, I think, in my part.

**Deputy K.G. Pamplin:**

Often in terms of those processes, obviously they are delicate and obviously certain things do have to be confidential and private, but one way of showing your openness and transparency in taking these things seriously and making it more open is showing how you have handled a complaint. It is the biggest point of customer service, it is better to show that you are listening and dealing with stuff. What tools do you have at your disposal? I know you have talked about the limited gov.je website, which we are aware of, that it falls short in many ways, but how could you demonstrate to bring the faith required that people are ... because it is great that we talk about it now, but in terms of the public interest to say: "Okay, that is how they take care of things"?

**The Judicial Greffier:**

It is a very difficult thing. When it comes to individuals within the department, we have certain obligations in regard to confidentiality for members of staff. All I could say to an individual is that if I upheld a complaint from an individual and it was about the behaviour of an individual member of staff, I would have no hesitation in advising that individual that disciplinary proceedings were being dealt with for that member of staff. But I am not sure that it is appropriate that I would be disclosing the outcome of those particularly in those circumstances because that is a very private individual matter.

**Deputy K.G. Pamplin:**

I guess a bit more like a review of services, like at the end of the year the States Assembly publishes a review of everything it has gone through and if there has been a procedures look-through, like a year-to-year basis of what has happened in the year that you could show that: "This is what we have done in this year. This is the problem we identified. This is how we dealt with it" and obviously redacting and protecting them confidentially, if that makes sense.

**The Judicial Greffier:**

You will probably be aware from the documentation that I filed and the submissions that we have an annual report, a business plan and annual report that is produced, although it has to be said that there was a delay because of COVID so we are going to be doing a duplicate, a 2019 and 2020 very shortly. It seems to me that if we had specific things in there, we would certainly wish to advertise beneficial changes to policy and make sure that people are aware of what changes are taking place. That would be the obvious forum within which to express changes and show that recognition has been had to issues of concern.

**Deputy K.G. Pamplin:**

Helpful. I have got a couple of other questions, but I see Deputy Tadier wants to ask a question, then I will return back to the Chair, but thank you.

**Deputy R.J. Ward:**

Yes, Deputy Tadier, have you got a question?

**Deputy M. Tadier:**

It is just obviously to follow on from one of the areas. So if a complaint is made, for example, against a member of staff and you decide that there is something that needs to be investigated or indeed you uphold the complaint and there is an outcome, for example, it could be I guess words of advice or a more formal discipline, are you saying that the person who made the complaint is not told about what that action was?

**The Judicial Greffier:**

At this present stage, they would not be told about what that action is because there would be concerns about the confidentiality issues that are attached to it.

**Deputy M. Tadier:**

I think we understand that, but how can you assure the complainant that it has been dealt with correctly rather than brushed under the carpet, which is what they might allege?

**The Judicial Greffier:**

The only thing that I could reasonably do in those circumstances, which is I think what I said in my previous answer, would be to say that if the matter had gone to a disciplinary proceeding, I would advise the complainant that that is what had taken place, that is to say that a formal disciplinary action had been commenced. I do not think there is a great deal more I can say at that particular point. Obviously at the end of that disciplinary procedure, it would be inappropriate for me to advise a third party about the outcome of a disciplinary matter involving a member of my staff.

**Deputy R.J. Ward:**

Deputy Pamplin, have you got some more to ask?

**Deputy K.G. Pamplin:**

No. If we have got time at the end, so we had better crack on. Thanks, though.

**Deputy R.J. Ward:**

I have got some general questions, a few that you have answered. Just a quick question on training that is identified and undertaken. How do you do that and how do you access training for your staff in order to improve outcomes that you might uncover through whatever systems have happened?

[10:45]

**The Judicial Greffier:**

I was thinking about this prior to coming in today. I think probably the best way of saying it is there is 3 areas that I would use and identify for additional training. The first would be receipt of an upheld complaint, which we have just described, so if I have got a member of staff who the complaint is being made against and it is upheld, that to me is a flag for are there refresher or new training that needs to be utilised. Secondly is the appraisal system and the tool that we use therein. Our appraisal system is very much based upon identifying areas for improvement or training. Again, that would take us into the training area. Thirdly is the discussions within the senior management team. If we can see motifs in the discussions being brought before the senior management team, then that is going to be a flag for potential training. Those are my 3 obvious areas for why I would bring training in. As to where training would be obtained from, we have got a fair old suite of different opportunities to us. We have got the virtual college, which is available to those within the States of Jersey, so online training available. There is also the Team Jersey training, which is taking place at both managerial and slightly lower levels. We have also used external contributors, third party entities who have given specific training for certain things. There is also, for the judicial side of things - not something I necessarily would get involved with, but certainly would support - we use something like the Judicial College in the U.K. (United Kingdom), which gives training for the judiciary on the Island. We have also used local institutions such as J.A.C.S. (Jersey Advisory and Conciliatory Service) to provide discrimination training. We did a department-wide refresher on discrimination training to ensure that all our staff were aware of the things they need to look out for.

**Deputy R.J. Ward:**

I suppose what I am asking, as much as anything, is the training or understanding of the accessibility of your department and the systems to members of the public. How often do you review that accessibility and train staff in modern ways to get information out there and so on? We certainly within Scrutiny have looked at a number of different ways to engage with the public. It has changed rapidly over the last couple of years. What sort of accessibility do you think would be useful for yourselves, particularly as you have mentioned yourself that there is some misunderstanding on perhaps what your role is within the department and you may get complaints about things that you will say: "It is not to do with us"?

**The Judicial Greffier:**

What I would say is that so far as redress and accountability is concerned, although the system that we presently utilise and the manner in which people can contact us is not broadly advertised, it is available and people, as I said earlier, do not appear to be saying that they are struggling to get concerns through to us. Having said all of that, I go back to my points I made about the Courts Digital system, about making use of that project to ensure that all that the Judicial Greffe has to offer,

its remit and parameters in the roles that it gives needs to be explained, as do other departments within the judiciary and elsewhere involved in the court system, so it is not just us, but that will be the obvious forum going forward for making better use and being able to advertise better. As to my staff training to make that information available, I am not sure I necessarily understand how that would work. People, whatever level they are, if they are involved in the courts or need to come to the courts know that the courts exist and they can contact us and they can simply ask questions about what they need to do. That applies both to the Royal Court and to the Magistrates' Court. One of our roles is to assist litigants in person in regard to procedural matters, so anyone who has a concern or a question in regard to anything to do with what they are doing in court, they are entitled to contact us and ask us and we deal with those on a numerous basis every day of the week. I am not sure about how getting information out would be achieved.

**Deputy R.J. Ward:**

In your submission you said that you investigated customer engagement and feedback surveys, but they are not taken forward. It was noted that in similar surveys undertaken in the U.K. it was not comprehensive, indicating a number of issues in relation to obtaining cost effectiveness really for service users. What can be done to manage this in Jersey? Particularly we do have a smaller demographic and perhaps it is to some extent more accessible to get feedback.

**The Judicial Greffier:**

I agree with that. Again, I am sounding like a bit of a broken record, but I want the user information website attached to the court digital system to give that greater push so that anyone who has any experience of dealing with the court system ... and many of us have some reason to deal with the court system, even if it is on a totally amicable basis of passing court on a Friday afternoon. Some of us will have some contact with it. I want them to have a relatively easy and accessible ability to comment and that will be the obvious way. That will be the feedback that we want. What we are dealing with - and we have to be honest about this - is that most people's involvement with the court system is not necessarily at their own desire. People get dragged into the court system. They want to get out of the court system as soon as possible. Their time spent in the court system is not a pleasant one, it is a stressful one and it is an emotional one. Often at the end of the process, the last thing they want to do is hang around in the system and start filling in forms saying how much they enjoyed or did not enjoy it. So there is a natural disinclination towards being involved in customer feedback. The only way I think we are going to overcome that is if we can make it so accessible and in a manner and a mode that people that are used to doing. People are used to leaving small comments on TripAdvisor and such. We need something of a similar ilk, so people can express their views and their sensible comments about how the process could be improved or what they enjoyed about the process.

**Deputy R.J. Ward:**

Deputy Higgins, I think you have got some questions coming up now. Do you want to lead with those?

**Deputy M.R. Higgins:**

Yes, thank you. Could I ask how accessible do you think our justice system is for most members of the public?

**The Judicial Greffier:**

That is a very broad question. Can people get the necessary information? Yes, I believe people can get the necessary information, but your question is also potentially laced with comments about the affordability of the process as well. There are many debates about how affordable getting involved in the court process is and whether that is reasonable presently.

**Deputy M.R. Higgins:**

Can I ask your opinion on that? Do you think it is affordable for people at the present time?

**The Judicial Greffier:**

I think there are some natural difficulties with the process. We are trying to improve that. I think it is generally accepted that it is an expensive process, being involved in the courts in Jersey or litigating in the courts in Jersey, and therefore for some people it may be financially beyond their reach. That is the difficulty that we face.

**Deputy M.R. Higgins:**

In addition to cost, what other hurdles do you see people having with the court system?

**The Judicial Greffier:**

This again feeds back to what we are trying to do with the courts digital system or the Courts Digital project. Because we are paper-based at the moment - and I am talking about things like litigation - you are required presently to complete documents and file them with the court in order to progress your matter and there are certain legal technicalities about the manner in which the forms are produced and what the contents of them are to ensure that matters can progress. We hope going forward that the Courts Digital project, in tandem with the access to justice legislation, will allow people to be able to have greater access to justice and be able to participate without needing necessarily always to be incurring the costs of legal representation.

**Deputy M.R. Higgins:**

Do you feel that people have got problems with the procedures? We know there is the Royal Court rules, for example. We know that filings have to be made at certain times and in a particular way and that litigants in person in particular find it very difficult to deal with this. In fact, many cases have been tripped up by the fact that they have failed to file either in the correct way or in the correct time.

**The Judicial Greffier:**

My response to that is to say that when litigants in person are involved, my department goes out of its way to assist as much as possible, so we are regularly in ongoing discussions with litigants in person to ensure that they understand the procedures, they understand what they need to do and when they need to do it by. My department cannot give legal advice, it can only give procedural advice. We ensure that people are not tripped up in the manner to which you refer or should avoid being tripped in that manner. I am also aware that the courts also are certainly open to the difficulties that litigants in person have. I think it is fair to say that most courts would do their best to ensure that people were not precluded from advancing cases merely because of a slightly procedural oversight when they are litigants in person, but obviously each case stands on its own facts.

**Deputy M.R. Higgins:**

I think I can give a personal observation there. I have been a McKenzie friend in a number of cases with people going forward and I do not think that is necessarily the case. Many people have been tripped up by procedural matters. Can I ask you as well, in terms of assisting litigants in person, very often they would like to get access to the transcripts or to hear the tapes of the trial. Can you tell me what the process is for that?

**The Judicial Greffier:**

Yes. The process for that is firstly that you apply to the Judicial Greffe. There is a form that we ask you to complete. The reason we ask you to complete the form is it explains what you need the information for and also confirm which hearing it was, then that particular application is delivered to the presiding judge. The presiding judge then considers whether or not it is appropriate in the circumstances for either a copy of the recording to be made available or alternatively the cost of the transcription to be incurred. If they are happy with both of those, they sign off on the form and we make the necessary arrangements for that transcription or recording to be made available.

**Deputy M.R. Higgins:**

I am going to allow my colleague to step in a moment. He has got a question on this. Could you tell me, what is the cost? First of all, before I get into the cost of getting a transcript or listening to a tape, why should the judge have to rule on whether it is applicable for someone to see it? I can understand it in child care proceedings, but for an ordinary run of the mill case, why should the judge have to sign off on giving access?

**The Judicial Greffier:**

We ask the presiding judge to have a look at it purely because there may be issues within that that are sensitive. Even excluding children's matters, there can be sensitive information within particular hearings. We also wish to confirm with the judge that the hearing was not in private or any aspects of it were in private. It is merely a confirmatory issue from the judge to ensure that we are not missing something, because if a transcript or a recording was given of something which was in private, the damage to the parties would be substantial.

**Deputy M.R. Higgins:**

Before I hand over to Deputy Tadier for a second, can I ask you what is the cost of getting a transcript?

**The Judicial Greffier:**

It depends whether it is done internally or whether it is done externally. Sometimes the number of transcripts that are required are far greater than our own transcription team can provide and often they are required at very short notice, so we will use external third party contractors who charge at an hourly rate for the work that they do. So the cost will be an hourly rate based upon the length of the transcription. Obviously that will differ from a one-hour hearing through to a 2-week trial.

**Deputy M.R. Higgins:**

Does that mean to say then that the courts do not automatically transcribe all the cases that are heard before them?

**The Judicial Greffier:**

Correct. They do not automatically transcribe them. They are all digitally recorded.

**Deputy M.R. Higgins:**

I see. The digital recordings, how accurate are they?

**The Judicial Greffier:**

There is no reason for them to be inaccurate. They are a recording of what has taken place contemporaneously within the court.

**Deputy M.R. Higgins:**

You see, it has been alleged in the past that sometimes they have been doctored. Would you accept that or refute it?

**The Judicial Greffier:**

Absolutely refute it, but one of the concerns about providing copies or recordings of hearings and allowing them outside of the control of the court is that with technology these days, it is open to people to then doctor them on receipt of them. So we would not want that to take place or for copies of them to be edited and published in a way that be misrepresenting what took place in court. But so far as doctoring them within the court system themselves, I have absolutely no evidence to suggest that takes place.

**Deputy M.R. Higgins:**

With the transcripts, are they ever modified? For example, if an advocate makes a mess of a statement, are they ever basically tidied up to make it sound sensible, rather than show his glaring errors?

**The Judicial Greffier:**

Having read several transcripts - and sadly, some of my own when I was appearing - no, they do not edit them. Often reading back makes you slightly blush, so they are verbatim.

**Deputy M.R. Higgins:**

I might add that is the same with States transcripts as well, some of our speeches. Deputy Tadier, would you like to step in and ask your question?

[11:00]

**Deputy M. Tadier:**

Two questions arising from that. So the first one was to ask why you would ask what reason somebody wants the transcript for.

**The Judicial Greffier:**

Simply because ordinarily access to transcripts or a hearing is the same equivalent as access to the court file. We have a practice direction in place. There is a policy in regard to who can have access to the court file, extant the parties to the proceedings, and when and in what circumstances they should do so. When someone applies who is not, for example, a party to the proceedings, we would want to know what it is that they want that particular transcript for, so we would see whether or not they fall within the auspice of the practice direction.

**Deputy M. Tadier:**

I have trouble getting my head around that. Do you accept that the starting point for the courts, unless there is a reason to hold private hearings for whatever reason, that the courts ... ultimately the proceedings take place in public and are open to public scrutiny?

**The Judicial Greffier:**

Unless they are in private, they are public hearings, correct.

**Deputy M. Tadier:**

I guess the question is - and maybe this is a naïve comparison - but I understand how the States Assembly works in the sense that we have public hearings and very occasionally have to meet privately, but anyone can come up to the States to watch. If somebody can sit during a Royal Court session because they have time free, then presumably they can record all that in their brain anyway and if they had a very good brain they could just recite it. It seems to me that it is strange that you do not have a presumption of making those recordings available first-hand to people without needing to make them jump through hoops. Is that fair?

**The Judicial Greffier:**

I am not sure jumping through hoops is really a fair classification. We want to ensure that if information on the court file is distributed outside of the court that it is not done so in breach of any orders that the court have made. That is why it goes back to the judge to ensure there is nothing in there that is going to cause difficulty for either of the parties or any third parties that are referenced within the proceedings. It is really just a filter and protection to ensure that is not inappropriate disclosure of information. I do not think that is necessarily jumping through too many hoops. Applications for transcripts are dealt with pretty swiftly.

**Deputy M. Tadier:**

We might differ on our definition of jumping through hoops, but I think charging a fee and asking questions as to why you want the information and then having to transcribe things, that is a hoop for you as well, of course. The next question is why you do not just automatically broadcast any hearings that are not sensitive or private in the same way that we do. I hear what you say about people doctoring footage. Of course they can doctor footage of us now, they could put big noses on us and fake glasses and change our words around and make us sing if they wanted to. I think that could be an offence if it happened in the court, and in the same way that when we sit in the States Assembly, these are public hearings which are open to the public, so why is that not done routinely? You talked about wanting to modernise and living in the 21st century, so a point of view.

**The Judicial Greffier:**

The difficulty here is that is outside of my remit. What takes place within the court and what is recorded and what is shown within the court falls squarely within the responsibility of the presiding judge and therefore the judiciary. If the presiding judge or the judiciary were of the view that they wanted to have this publicised, then that would be entirely their decision and not mine. That is perhaps something you might wish to take up with the Bailiff, I think, when you are speaking with him.

**Deputy M. Tadier:**

From a procedural point of view, as an officer, do you think that might cut out some of your workload and avoid any of these needs for people to apply so that people do not need to make accusations?

**The Judicial Greffier:**

No, seriously, I doubt it, because many of the applications that are requested for transcripts, for example, are from people who were in the court at the time of the hearing, so the mere fact that they have watched it or otherwise will not prevent them from requesting further transcripts. Generally speaking, the requirement to ensure the technology is in place to provide contemporaneous live broadcasts of the hearing is just a further degree of admin that we would have to do. It is not beyond the wit of man to achieve it, absolutely agree with that one, but it is not ultimately my decision as to whether that should take place.

**Deputy M.R. Higgins:**

Deputy Tadier, you have got more questions?

**Deputy M. Tadier:**

I will leave it there for now, Mike, thank you.

**Deputy M.R. Higgins:**

Can I ask, going back to the cost of the transcript, you mentioned it depends on the size of the transcript itself, how many pages and so on. What are you charging the member of the public who asks for a transcript?

**The Judicial Greffier:**

You mean in regard to one that does not go to a third party user? You are talking about a transcript that does not get sent out to a transcription company outside of the Island?

**Deputy M.R. Higgins:**

What I am trying to come to is if I am a litigant in person and I have been attending a session and let us say, for example, I do not think I have been treated properly or I want to appeal the decision. If I want a copy of the transcript of the trial, what will that cost me?

**The Judicial Greffier:**

I think we charge an administrative fee for that, if it is done internally. As I say, if it goes externally it is charged on an hourly basis because we have to recover our disbursement costs for using the external user. I do not have the figure exactly available to me but I am happy to provide that after this sitting, if that would assist.

**Deputy M.R. Higgins:**

If you could, it would be helpful, because I think in the past it may have been £30 or £60, which for someone who cannot afford a lawyer and is taking the case on themselves is not an inconsiderable burden. If there are costs associated with going outside, and it could be let us say hundreds of pounds, then surely it is an impediment to them getting justice and would prevent them perhaps appealing against the decision or making a complaint. Would you not agree?

**The Judicial Greffier:**

I do not think it would necessarily prevent them from making a complaint. If they felt something had been done inappropriately at the hearing, I am sure they would go ahead and make that complaint and leave the investigation up to the Judicial Greffe to investigate or the Bailiff's chambers to investigate. So far as an appeal is concerned, transcripts are automatically produced on appeals, certainly in criminal matters if the matter is going forward, but I take the point you make. Allow me to get you the information in regard to how much it will cost, because that might assist you in your consideration.

**Deputy M.R. Higgins:**

In fact, do the law firms also pay for the transcripts or do they get them as a matter of right because of the amount of court attendances they make?

**The Judicial Greffier:**

No. Everyone is treated the same in regard to the payment for the transcripts.

**Deputy M.R. Higgins:**

At least the lawyers can pass it on to their clients, the cost.

**The Judicial Greffier:**

I suspect that is the case.

**Deputy M.R. Higgins:**

Can you tell me, in terms of judgments as well, not all court cases are public judgments in the sense that there is unreported judgments. Why is that the case?

**The Judicial Greffier:**

The decision as to how the judgment is ultimately to be dealt with is again the decision for the presiding judge, based upon the nature of the proceedings and the contents of the judgment. Again, that is sort of outside of my parameters to comment upon that.

**Deputy M.R. Higgins:**

Is there a standard document that explains the circumstances in which the judge can decide not to report the case?

**The Judicial Greffier:**

Not that I am aware of.

**Deputy M.R. Higgins:**

Can I ask another one too? A number of years ago there was a case which caused annoyance within the States when a former Member of the States was tried on data protection grounds and basically we learnt that there was an injunction preventing him from speaking out on it at all. When we asked questions in the States, we could not even find out the cost of the case or who brought it and all the rest of it, so we had a big battle. Is it normal to prevent the public and even States Members getting access to transcripts, court cases, judgments and so on?

**The Judicial Greffier:**

It is not normal. I refer back to the point I made in regard to the practice direction that exists in regards to accessing the court file. The practice direction refers to what can be made available to the parties of the court file, also what can be made available to accredited media and what can be made available for third parties, i.e. people who were not party to the proceedings, just members of the public. Each of those characterised parties are entitled to access to certain parts of the court documentation, so I am not entirely sure about the case to which you refer. It is not one that I am apprised of.

**Deputy M.R. Higgins:**

It was before your time, I will accept.

**The Judicial Greffier:**

Thank you. The general principle that people are not given access to the court file is perhaps an overstatement. They do have access, but we do ask them to confirm certain things before providing the information.

**Deputy M.R. Higgins:**

Can I ask another one? Obviously it is a fundamental right, if we think of the European Convention on Human Rights, about the right to a fair trial. Justice, it is said, is not only supposed to be done, but seen to be done. Again, is there any reason why States Members or members of the public should be denied rights to information regarding cases that maybe have been held in secret, which do not apply to child protection? A data protection case, I find remarkable that it could be withheld.

**The Judicial Greffier:**

Again, this is outside of my remit. I am unable to comment on that particular case or indeed what the judge was considering when he reached that conclusion. I am unable to assist the panel.

**Deputy M.R. Higgins:**

Can I ask one other question too? A number of years ago I brought a proposition to try and get the Laws that are written in French translated into English. Although I lost the proposition, the Bailiff of the time, Sir Michael Birt, instructed basically the Greffe to start translating the Laws and I think an advocate was employed to do it. Are you still continuing with that process?

**The Judicial Greffier:**

I believe so. The work is predominantly being undertaken through the Jersey Legal Information Board, so the J.L.I.B. website. If you on to the J.L.I.B. website, there is a fairly sizeable library of translations of French Laws. I believe the work is continuing, but obviously what was done initially was to identify those Laws which were most pertinent and most regularly used. I think that is being undertaken, but my understanding of it is that there were lawyers from the Law Officers' Department who were still undertaking that work periodically.

**Deputy M.R. Higgins:**

I think you would agree then that having quite a body of our Law still written in French is an impediment for people getting access to justice, because unless they can employ a lawyer or someone to do the translations for them, they are at a disadvantage in the same way that States Members, if a Law was brought in French and we do not speak or understand the written language, that we are at a disadvantage. Would you accept that?

**The Judicial Greffier:**

As a non-fluent French speaker, I can understand the basis of your comments, but again, I have to be careful. These are decisions that are not within my remit to make or comments to make. Ultimately I understand the point you are making, but I would perhaps suggest that that is a discussion that might be taken up with the Bailiff.

**Deputy M.R. Higgins:**

Do not worry, I shall do. Anyway, thank you for your answers. You have probably answered this. I was scrabbling around behind the scenes trying to get the question plan and write some notes. The digital project that you launched last year, what progress has been made on it and how is it going to make it easier for non-legally trained people to function?

**The Judicial Greffier:**

Progress has been constant. We are just about to release the first stage of it, which was the e-bundling or e-presentation software, which means that the courts will be presented with documents electronically within court, so evidence will be produced electronically. The next stage is to move on to the procurement of an electronic court management system, so that is, for all intents and purposes, the database upon which all electronic documentation will be held and viewed by those stakeholders, judges, parties, lawyers, whomever, third party interests. Then there will be the portal website, which I referred to, about filing documentation and also the user information website, which I have referred to on a number of occasions about providing information to people as to how they can do it. How is it going to help people with access to justice? Firstly, the medium by which you will be able to access the courts will move to electronic instead of paper and the manner in which you can do so will be expedited. Also we are planning to try and achieve a method which walks people through the process, so rather than leaving them in a darkened room with a pen and paper and expecting them to draft an order of justice, we are going to try to help them through the process with some prompted facility. In many areas, it will be a situation of completing fields to produce a final document, so that will assist people in getting to a final document that they can file.

[11:15]

**Deputy M.R. Higgins:**

How about extending it further? Obviously there is the J.L.I.B., which lists all the court cases or most of the court cases. To assist litigants in person, is it not possible to have a database that will group them on particular topics to enable members of the public on say, for example, dégrèvement, which is a very obscure topic which has been in the news of late? In fact, one could argue that it is feudal and has no place in our system, but how can anybody get access to the court cases, let us say the judgments, and fully understand them? Some are written in French, some are not. How can that be made easier for members of the public?

**The Judicial Greffier:**

There were a number of questions in there, but if I can just try and pick my way through those. There is work being undertaken at the moment within the J.L.I.B. to improve the search engine facilities to allow for topical searching, so that will be able to filter down searches to ensure that, for example, if you wish to find a case that was in regard to dégrèvement and you happened to know that it was before Bailiff Bailhache, these will be filter systems that you will be able to put in which would identify that case quicker than it is presently available. We are working to achieve that. That I should stress is outside of the Judicial Greffe. That is the J.L.I.B. and what they are doing. I think that will assist matters considerably in regard to improving things. As to the language of the judgments and the legislation, again I am afraid that is outside of my control as to the language. It is a difficulty, but we would not have the resources to translate all the old French judgments.

**Deputy M.R. Higgins:**

I have got one final question for you. Well, no, 2 questions. One is definitely within your remit. Taxation of costs: when there is a dispute between a client and a solicitor and he feels he has been overcharged, I believe that he can make representations to yourself and you review the charging and decide whether it is reasonable. Is that correct?

**The Judicial Greffier:**

No, that is not correct. The taxation of costs relates to orders that are made by the court that one party should pay the costs of the other. That is what the taxation of costs means. In civil proceedings, if the plaintiff is successful, the chances are that the court will order that the defendant has to pay a proportion of the plaintiff's costs. When the plaintiff's lawyer then produces what is called a bill of costs, saying: "This is what you should be paying my client" that can then be in dispute. When that is in dispute, my department taxes that bill of costs and decides what it is that the other party should pay the successful party. If there is a dispute between a party and his lawyer in regard to the fees that he is being charged, that is something that falls under the remit of the Law Society.

**Deputy M.R. Higgins:**

Thank you for clarifying that one.

**The Judicial Greffier:**

No problems.

**Deputy M.R. Higgins:**

Can I ask as well, you mentioned you have 50 staff and you have obviously department heads. One of them is probate. Is that correct?

**The Judicial Greffier:**

Correct, probate and protection.

**Deputy M.R. Higgins:**

Now, in terms of probate, many people obviously go to a lawyer because they feel that they have got to, but is it not the case that a person can - and I think it is with immovable property at least, anyway - that they can in themselves go forward and ask for a grant of probate and take the actions and do what is necessary rather than employ a lawyer? Is that correct?

**The Judicial Greffier:**

They can apply for a grant of probate on their own. They do not need to have legal representation for that.

**Deputy M.R. Higgins:**

In fact, I will hand back to the Chairman then. I think that covers most of my questions, unless I think of one at the last minute. Thank you very much.

**Deputy R.J. Ward:**

We are coming to the end of the hour and a half soon, so we have covered a great deal, thank you. I must say, we usually sit here with a whole gamut of officers and so on, and you have answered everything yourself, so very good. One final thing from me. You identified a number of areas within your submission in relation to how the court system is seeking to address the findings of the Independent Jersey Care Inquiry, specifically in relation to how children are protected within the legal system. You further stated that oversight of this rests with the Bailiff. What involvement do you have in regards this matter and how are you ensuring that feedback is given to various services and improvements recommended are enacted upon? Because you are in, if you like, the front administrative line of this process.

**The Judicial Greffier:**

What I identified in my submissions, because obviously your panel was coming out with the recommendations from the inquiry, so I went through the recommendations to identify what areas specifically related to the court system that I might be able to assist you with. I think in my submissions I identified 3 particular areas that I thought might be at the forefront of what you might ask me about. Obviously one of those is in regard to amendments to the criminal justice legislation so far as it affects the youth offenders, and again, I think I highlighted that is really something that falls more in your court than mine. It is a legislative issue and it is something that the States need to consider whether they wish to amend. The others I think related more directly to what is

happening in court. It is the desire for an understanding that youth offenders should be treated first as children and secondly as offenders and therefore that welfare should be at the front of matters and also what training is available in regard to judicial appointees and understanding best practice so far as children are concerned in courts. Again, both of those fall squarely within the Bailiff's remit insofar as anything in regard to the oversight and the manner in which judges act or are trained falls within the Bailiff's remit. However, that said, obviously if the Bailiff were to say: "Well, we need more training" or: "We need to do X, Y and Z" the chances are he might call upon me to facilitate that. I would be responding to the request of the Bailiff in regard to what might be needed. I took the opportunity before responding to you to speak to the Magistrate, who obviously has the greatest input in regard to youth criminal justice issues, to see what her stance was. She was fully aware of the criminal justice review in October 2018 and was keen to stress that they have always taken the view that the welfare of the child is paramount, but they did want to just emphasise the fact that ultimately the Youth Court is first and foremost a court and therefore the criminal justice legislation does require that justice be done between the parties. One should recognise almost regularly that young offenders are often involved in offending against other youngsters, so we must consider victims in these circumstances as well. There is a balance to be struck between the 2. That is a very longwinded answer to your question, to say that I do not have a huge amount of input into it. I would be in communication and discussion with the Bailiff if issues were to arise and the Magistrate would likewise feed back to me if she had any concerns or proposals that might improve matters in regard to children.

**Deputy R.J. Ward:**

Just to add, is that partly we are back to the communication and the sort of accessibility for young people as well? I think we are all, thankfully, growing awareness of the need for young people to have a voice and accessibility to all of our systems, regardless of how formal they are. Do you think that is another thing that we are all learning and perhaps we need to need to move forward, which is accessibility for children as well to the courts?

**The Judicial Greffier:**

Yes, I do. I think it is also understanding what children need and experience within courts. As a department, we have got on board with the children's rights awareness training, which you will no doubt be aware of, that has been very front and centre of the States at the moment. We also have within the court system a lot of referrals and a lot of relationships with some of the third party agencies that involve themselves with the children, for example, J.F.C.A.S. (Jersey Family Court Advisory Service) and C.A.M.H.S. (Child and Adolescent Mental Health Service) as well, so things that affect children and affect courts we do have some liaison with and it is very much at the forefront of our thinking. Certainly the family judges, for example, go the extra mile to ensure that the welfare of the children is understood and paramount in regard to the decision-making that takes

place. We do have some interaction through the Greffe but I would say that again it still ultimately flows down from the direction that is given by the Bailiff.

**Deputy R.J. Ward:**

I imagine that would include development of the notion of corporate parenting, which I think is being learnt about across all of our institutions and organisations. It is certainly an important area for us to look at.

**The Judicial Greffier:**

Surely.

**Deputy R.J. Ward:**

That is all the questions that I have covered. Is there anything that anyone else from the panel wants to ask? We have a couple of minutes of the allotted time. We do not have to take all of that time. You have sat there for an hour and half answering our questions, which is really good. Deputy Pamplin, Deputy Tadier, Deputy Higgins, do you have anything that you want to perhaps add? No, okay.

**Deputy K.G. Pamplin:**

Just very briefly picking up on what you were just alluding to there with Family Court and children, I think it is fair to say we are all limited by the shared building that we have here as the court system and the States Assembly building. I know it has come up in other areas and you see it in your day to day, yet you are right, what you said earlier, that at the end of the day the court has got to be the court and it has got to be treated as such, but it is also a very scary and daunting process if you are dragged into it for any reason. How are you limited in that and the impact that that can have on the emotional wellbeing of especially young people at any time? How do you see this?

**The Judicial Greffier:**

The majority of young people's interaction with courts is the Youth Court. It is fairly rare I think to say that youngsters are obliged to attend family matters, so it is predominantly Youth Court. In the very, very rare occasions, Youth Court appeals come up to the Magistrates' Court, but they are very, very few. So their interaction is predominantly down at the Magistrates' Court, down at the building opposite Cyril Le Marquand. It is a slightly more modern building. It is slightly less imposing, shall we say, than the Royal Court and therefore the way that they deal with the Youth Court is to try and make it slightly less daunting, to recognise that these are children, they are trying to make their way in life and the mistakes they make as youngsters should not necessarily concrete their path going forward. They do not want them to leave the process scarred by what they have to go through, so we recognise all of that and we try and make our best endeavours. But there are also other people.

We talk about just general access to the courts and how that impacts. In the family division itself, the Family Courts, we have recognised some of the concerns that have been raised in regard to the facilities that we have. People have spoken on a number of occasions about how not fit for purpose the Family Courts are at present, simply because of space, a lack of appropriate privacy for the people who are involved in that process. You will all be aware, I imagine, that the Government Plan has identified capital funds for us to undertake some work to provide a fit for purpose development for the Family Courts so that they will be in a manner that is better, more appropriate privacy and hopefully that will be for the benefit of those using it and ultimately for the benefit of the children who are affected by it.

**Deputy K.G. Pamplin:**

Yes, of course. Just finally, quickly, what do you want to see at the end of your term here, when you want to look back at it and what changes have been made, what will you deem as a successful term in the role that you have now?

**The Judicial Greffier:**

I think this is a very interesting time to be in the role, because I think there are major changes coming. I think there are major changes in regard to the way that people access justice and I think there is major changes in regard to the way that we process it. The digital court system has already ... if nothing else, the digital court system has been one of the few things that has benefited from COVID insofar as we have been forced to undertake changes to processes, which otherwise I suspect there would have been a great deal of resistance to. Now we have proven over the last 12 months that we can in fact do a large amount of things electronically and more appropriately. We are also investigating our present processes to see whether they can be improved as well. When I look back in many years from now, I hope, at my tenure, I hope it will be that I have been the Judicial Greffier in place as we have brought these changes in to allow greater access to justice and possibly change the landscape of court proceedings and how they take place. Perhaps in the future there will be even more remote activity. I hear what Deputy Ward said at the start of this meeting about his perhaps dislike, to some degree, of these meetings online, but I suspect the future is that we will be doing a lot of this in a lot of different areas. It may even be the courts on a regular basis as well.

**Deputy R.J. Ward:**

That is in part because I failed to put the heating on in my house, so I am freezing here, to be honest. Deputy Higgins, you have got a final question?

**Deputy M.R. Higgins:**

Yes, I do, thank you. I would like to ask the Greffier, I mentioned earlier *dégrévement*, which is a feudal Law which has no place, I think, in the Island at the present time because even the Law

Commission says it should be repealed. What would you like to see repealed in terms of Laws? There must be a number of antiquated ones or even processes that you might want to see changed. For example, I still find it strange that when I bought my house, standing up the Royal Court when everything was in French, and if it was not for the lawyer saying: "Put your hand up and take it down" I would have bought 5 houses in the interval. What sort of procedures would you change and what Laws do you think should be changed?

**The Judicial Greffier:**

That is a very interesting question, but perhaps one that I will decline to comment upon, other than to say to you that when you come around to passing your contracts these days, you will be delighted to know that they are written in English and so you will not be passing 5 contracts the next time round. But I think in the circumstances I will leave that to the legislature.

**Deputy R.J. Ward:**

That is an interesting one to explain from somebody who is not in Jersey, I have got to say, the process of buying a house. Are you finished there, Mike? Are we done, because I am conscious of ...

[11:30]

**Deputy M.R. Higgins:**

I am. I would like to thank the Greffier for his answers. You have been as open as you can be and diplomatic where you need to be, but thank you.

**The Judicial Greffier:**

It is a pleasure.

**Deputy R.J. Ward:**

I would just reiterate that as well, to sit there for an hour and a half as well is great. Thank you for your time. It really does help us with the work we are undertaking to get as full a report together as we can because this has taken time and we know this is a very difficult area as well. Just to say thanks from us all on the panel. Unless there is anything else, we will call the hearing to an end, smack bang on 11.30 a.m., which is always nice as well. Thank you very much, unless there is anything you want to ask us.

**The Judicial Greffier:**

Not at all. Thank you for your time.

**Deputy R.J. Ward:**

Great. I will call the hearing to an end. Thanks very much.

[11:31]