

**REPLY BY THE PRESIDENT OF THE POLICY & RESOURCES COMMITTEE  
TO QUESTIONS ASKED PURSUANT TO RULE 14 OF THE  
RULES OF PROCEDURE BY DEPUTY LAURIE QUERIPEL**

**Question 1**

Have further discussions taken place at Policy & Resources Committee- level in regard to the idea of establishing an Ombudsman/independent body to which complaints against the States, in the first instance, can be addressed, and if so what has been the outcome? If there has been no progress please explain why?

**Answer**

Although the Policy & Resources Committee (the “**Committee**”) has most recently sponsored and discussed the reform of our Island’s existing *quasi-ombud* system, known as the “**Review Board**”, operating under The Administrative (Decisions) Review (Guernsey) Law, 1986 (the “**Law**”), these discussions did not specifically include “an Ombudsman/independent body” to which you refer. Detailed discussions would have been both premature and disproportionate for the reasons that follow.

Firstly, as you have kindly noted, the Committee’s focus and project resources have to date targeted the reform of the Review Board system, affording it greater independence (from the executive) and a better fit for its intended purpose. The enabling revised Law came into force only in June 2019, much later than originally expected. Following the States’ decision on 25<sup>th</sup> September 2019, to appoint the independent members of the Panel, this project has entered its final stage. This Panel will operate completely independently, much in the same way that a typical ombud service would operate, albeit with limited powers. Its legislative powers enable it to independently and impartially investigate cases and determine whether there are grounds for a hearing by a Review Board. Additionally, a panel of independent members to each Review Board at the second stage of the process is already in place, which gives additional independence to the system.

Secondly, the Committee is mindful that the bodies within the Review Board system operate as arm’s length bodies of the States of Deliberation. In line with the Principles of Good Governance as adopted by the States of Deliberation in 2011, any future committee-level discussions for further changes will be informed by any recommendations concerning the Review Board system which arises from the ongoing review commissioned by the Committee into the governance arrangements of the States of Guernsey’s arm’s length bodies.

Thirdly, only a small number of cases (albeit often complex) have been investigated and determined (free of charge to users) within the Review Board system each year to date. These decisions have not been judicially reviewed. With minimal administration costs, the system has represented excellent value for money to date. The Committee is of the

view that the system has worked as well as it could during this interim period, with its former statutory office holders and their officers acting as impartially and as independently as possible. Two officers have administered the system while working on the reform project. Both also undertake other roles. Commencing a second non-urgent project for an “Ombudsman/independent body” without completing the first would have required additional resources at additional and disproportionate cost at the time.

Finally, the recently revised Review Board system is yet to embed. The Complaints Panel comprising members of the public with diverse skills, including legal qualifications, working closely as a team to consider cases and make impartial consensus-style majority decisions may also prove to be a better model for the Island than a traditional single ombud. The Committee expects to gain valuable insight from the new Complaints Panel after it has functioned for a reasonable period of time. This learning will also inform the Committee as it determines the best form of redress for cases of purported maladministration.

The above represents the Committee’s rationale for not simultaneously directing a new project to put in place “an Ombudsman/independent body” to determine complaints prior to completing the existing project. Such action would have been disproportionate and premature under all of the circumstances. All of the work undertaken to date represents good progress in giving the public more confidence in the procedures in place for challenging relevant government actions and decisions.

## **Question 2**

Is the Policy & Resources Committee inclined to agree that without the existence of an ombudsman/ independent complaints body it is very difficult, perhaps impossible, for initial complaints (whether that be in connection with a decision, action, service area) against Committees of the States to be dealt with in a truly impartial manner?

## **Answer**

No, the Policy & Resources Committee does not agree fully with this view.

The public can rest assured that the new Complaints Panel will operate as a completely independent body under the revised Law to impartially consider and investigate the “initial complaints” brought by members of the public once their complaint has exhausted all States’ Committees complaints processes. The Panel will then decide whether the complaint merits further review by a Review Board.

Members of the Complaints Panel and members of the Review Board, guided by their Chairperson and officers, will continue to/adhere to a strict code of ethics whilst discharging their functions under the Law. This includes a rigorous conflict of interest check which will be undertaken prior to Panel members being appointed to a case.

Clearly, further reform of the system will be required to make the Review Board system completely independent by removing all States Members' involvement in the end-to-end process.

**Date of Receipt of the Questions:** 16 September 2019

**Date of Reply:** 30 September 2019