

**Review Board**  
The Administrative  
Decisions (Review)  
(Guernsey) Law, 1986

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**In the Matter of a complaint by James Collings  
Against the Development & Planning Authority of the States of Guernsey**

**Board:** [REDACTED]

**Complainant:** James Collings

**Respondent:** Development & Planning Authority represented by Jason Moriarty  
(Chief Operating Officer) assisted by Damon Hackley (Director of Operations) and  
Anita Walker (Operations Manager)

**Date of referral from Complaints Panel:** 20 July 2022

**Date of Sitting:** 15 August 2023

**Date of Findings:** 25 August 2023

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**FINDINGS**

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**Introduction**

1. These are the findings of the Review Board (the **Review Board**) in respect of a complaint by Mr J Collings (the **Complainant**) with regard to the conduct of the Development and Planning Authority (the **DPA**) between 28 November 2019 and 11 February 2020 (the **Complaint**), as referred to the Review Board by the

Complaints Panel on 20 July 2022. The Complaint related to two matters as set out below:

- i. The conduct of the investigation of Mr Collings' previous complaint by the Director of Operations (Mr D Hackley). This facet relates to the Director of Operations, amongst other things, appointing himself to investigate the internal complaint, failing to follow the applicable complaints procedure and failing to notify the complainant of his right to appeal any finding; and
- ii. The conduct of the Operations team member (Ms A Walker) in re-opening and re-investigating the complaint. This aspect relates to the Operations team member failing to follow the applicable complaints procedure.

The conduct above includes the various acts and decisions which, together, form the conduct complained of.

### **Legal background**

2. In determining its findings, the Review Board was mindful of the relevant provisions of the 1986 Law which are relevant to the sitting of the Review Board, and in particular:

#### **"Action by Board.**

7. (1) A Board shall, with the least possible delay, enquire into any complaint referred to it under this Law and for this purpose shall regulate its own procedure...

(2) After completing its enquiry, a Board shall report its findings in writing to the complainant and to the Committee, or person concerned.

(3) the Board must enquire into the matter referred to it by the Complaints Panel and consider whether it is of opinion that the decision, act or omission which was the subject matter of the complaint –

(a) was contrary to law, or

(b) was unjust, oppressive or improperly discriminatory, or was in accordance with a provision of any

enactment or practice which is or might be unjust, oppressive or improperly discriminatory, or

(c) was based wholly or partly on a mistake of law or fact, or

(d) could not have been made by a reasonable body of persons after proper consideration of all the facts, or

(e) was contrary to the generally accepted principles of natural justice,

the Board, in reporting its findings thereon to the Committee or person concerned, shall request that Committee or person to reconsider the matter.

(4) Where a Board requests reconsideration of any matter, it shall also request the Committee or person concerned to inform it within a specified time of the steps which have been taken to reconsider the matter and the result of that reconsideration.

(5) Where a Board, having requested reconsideration by the Committee, or person concerned, is of the opinion that the findings of the Board have been insufficiently considered or implemented, it shall refer the matter to the States of Deliberation."

## **Findings**

3. The unanimous decision of the Review Board is to uphold the Complaint. This is because, in the opinion of the Review Board, whilst there was no evidence of impropriety, the DPA acknowledged in its verbal and written submission that there was a justifiable perception of a conflict of interest in the selection of the DPA personnel to review the original complaints raised by Mr Collings. Furthermore, the DPA acknowledged procedural errors and the need to review all evidence available between the given dates for the complaint. The Review Board also acknowledges the comments made by Mr Moriarty that the DPA wishes to address Mr Collings' continuing concerns in a transparent and professional manner and to appoint a suitably independent and senior person to

achieve this goal. The Review Board is therefore of the opinion that the DPA should be requested to reconsider the matter under section 7(3)(e) of the Administrative Decisions (Review) (Guernsey) Law, 1986, as amended (the **1986 Law**).

In making this decision, the Review Board has considered the comprehensive bundle of materials submitted by Mr Collings and the DPA, as well as the written and verbal exchanges by them both in preparation for and during the sitting of the Review Board on 15 August 2023.

4. It should be noted that, in accordance with section 7(4) of the 1986 Law, the DPA are requested to inform the Review Board of the steps which have been taken to reconsider the matter and the result of that reconsideration and the Review Board requests this to be completed by 31 October 2023. The DPA is reminded that the Review Board must refer the matter to the States of Deliberation in accordance with section 7(5) of the 1986 Law, if in its opinion, this reconsideration has ‘insufficiently considered or implemented’ its findings.

### **Expectations**

5. In order to assist both parties' understanding regarding the consideration and implementation of the Review Board's findings in the light of section 7(5) of the 1986 Law, it has decided to state its expectations in respect of the reconsideration of the matter by the DPA.

In terms of scope, it should be remembered that the Complaint relates to the process of investigation into the decision making of the DPA in respect of the relevant Certificate of Lawful Use (the **CLU**) in relation to Mr Collings' property known as Bonamy House, not to the decision about the CLU itself. Therefore, the Review Board's expectations in respect of the reconsideration are as follows:

- i. the investigation will be carried out by an independent and impartial senior person with no prior involvement with this complaint or perceived conflicts, who has sufficient power to investigate this complaint appropriately (including the ability to call for all relevant documentation and interview all relevant officers), and

- ii. the investigation will consider all relevant matters directly relating to the decision of the DPA regarding the issue of the CLU to Mr Collings in the period of 28 November 2019 to 11 February 2020, whether raised in the original complaint, or subsequently presented in correspondence or at the Review Board's sitting on 15 August 2023.

**Conclusions and Way Forward**

- 6. The Review Board notes that the DPA intends to review its complaints procedures, particularly in respect of the definition of the appropriate person chosen to oversee such complaints and the definition of conflicts of interests. Inclusion of guidance on expected timescales for the handling of complaints would also be welcomed.



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Review Board Chairman

