

HUMAN RIGHTS (JERSEY) LAW 2000 - JUDICIAL GREFFE COMPLIANCE

SUMMARY OF RECOMMENDATIONS

These follows a summary of the recommendations contained in the opinion of the Master of the Royal Court dated 15th January, 2002.

Taxation of Costs

The Judicial Greffier should consider whether it would be appropriate to allow bills of costs to be taxed by agreement between the parties even when there is no Order of the Court requiring such taxation. This seems an eminently sensible approach especially as very often now parties resolve various matters with the issue of costs "to be taxed if not agreed".

Review procedures where there is a question of retrospective impact on an assessment of costs. The crucial matter is to ensure that the correct rates are applicable at all times.

Legal Aid Expenses

If the Law Society itself does not come forward with proposals early in the New Year then I think the Judicial Greffier should put forward his own proposals and send them to the Law Society via Advocate R. J. Renouf. Once the procedure has been agreed with the Law Society then it will be necessary also to introduce internal procedures to be followed by the Judicial Greffe. This will ensure that all applications are treated in the same way and should achieve a consistency of approach which has not always been present in the past.

Appeals from Magistrate's Court

The first concern is to ensure that the time taken for Appeals to be heard is as short as possible to avoid any criticism from the Royal Court. Secondly, it is necessary to ensure that there is in place a satisfactory system so that all relevant papers for an appeal are before the Royal Court in good time. These matters have been the subject of discussion for some

considerable time but should be brought to a satisfactory conclusion as quickly as possible to ensure that the whole Appeals procedure does not present any problems under the HRL.

Deeds Poll

It is necessary to agree a procedure where the Greffier does not feel it appropriate to register a deed poll without the consent or approval of the Royal Court. If that line is to be taken consultation should involve the Judicial Greffier, his Deputy or the Master who will assist in deciding whether there should be a formal refusal or merely a reference of the matter to the Royal Court. If a refusal is to be given by the Judicial Greffier then detailed written reasons will need to be given. I would suggest that a formal written procedure is implemented to ensure that what I propose is followed. I consider that the better approach to be adopted generally if the Greffier is concerned about the registration of a deed poll is to ensure that the matter is referred to the Royal Court for adjudication.

Reciprocal Registration of Judgments

The Judicial Greffe should prepare detailed internal procedures to ensure registration can be easily effected. Such procedures should include reference to appropriate time scales within which registration should take place (having regard to any statutory provisions applicable) as these are important in the light of Jersey's particular status. Such procedures should also ensure that there is no breach of applicable provisions of the Convention (e.g. Articles 5 & 6 and Article 1 of the First Protocol).

Postal Voting

The role of the Judicial Greffier in relation to postal voting is an important one. The right to vote is a fundamental right and the right to free elections is expressly referred to in Article 3 of the First Protocol to the Convention. Procedures laid down for postal voting must ensure the facilitation of that right. I recommend, therefore, that clear procedures be laid down internally and closely followed to ensure that this objective is achieved.

Licensing Assembly and Liquor Licences Generally

The role of the Judicial Greffe is largely administrative in providing services to the Licensing Assembly. In addition, the Judicial Greffe provides assistance to the Licensing Delegation of Jurats established for dealing with more non-contentious licensing matters. In terms of communication with the public the role of the Judicial Greffe should be to ensure that there is an appropriate dissemination of information of decisions made by the Licensing Assembly or the Delegation. That role should, however, be limited to providing a means of communication and it is not the role of the Judicial Greffe to give advice or answer questions of interpretation on the Licensing (Jersey) 1974 Law. The whole area of administration of the Licensing Law is one which could and should properly be addressed by the provision of written procedures so that all involved in the Judicial Greffe are fully aware of what needs to be done and how it is to be effected. I recommend that such written procedures, if not already in existence, should be introduced as soon as possible.

Gambling Licensing Authority

The Judicial Greffe has an important role to fulfil as it is responsible for liaising with the Jurats who comprise the Authority and ensuring that all necessary notices are placed in the Jersey Gazette in relation to sittings of the Authority. It is essential that full detailed written procedures are in existence so that the Judicial Greffe can carry out all of its obligations. In addition, a note should be kept of all policy statements etc. which may be issued by the Authority from time to time (covering such items as the issue of Betting Offices Licences etc.).

Human Rights Training

It would seem that all initial training requirements have been met. I would recommend, however, that consideration is given to appropriate levels of continuation training on the same basis. This would be particularly helpful bearing in mind that the Human Rights Act

1998 in the United Kingdom has now been operative for some time. There may well be, therefore, appropriate opportunities to take advantage of the UK experience.

Information Leaflets

I recommend that active consideration be given to whether translations of the leaflets should be produced in Portuguese to serve the large Portuguese community in Jersey. The viability of such a proposal should, at least, be carefully considered.

Taking of Evidence on behalf of Foreign Courts

The only recommendation I would make is that steps are taken to ensure that all applications for the taking of evidence are seen by the Judicial Greffier or Master so that they may satisfy themselves as to the request made and how the evidence is actually to be given.

Provision of Extracts from the Public Registry

One question of policy which might be considered is whether some restriction should be placed on the use which may be made of such information. This does raise some difficult questions but such an approach has been adopted in relation to company law - see e.g. Articles 45 and 46 and Article 71(3) of the Companies (Jersey) Law 1991. In my view, it is probably not necessary to seek to place a restriction on the use of information obtained from the Public Registry and there does not ever seem to have been a question of difficulty which has arisen. Nevertheless, it would be appropriate to address this issue of policy so that a formal decision may be taken on the subject. Consideration should also be given as to whether any formal copyright claim should be made (if it does not already exist) in relation to the Registry itself.

Disclosure of Pleadings to the Public and the Media

The Master is in the process of producing written guidelines relating to the disclosure of pleadings to third parties, members of the public and the media. Those guidelines will set

out standard procedures to be followed by the Department when any request for pleadings is received and should be followed at all times in the future.

Released on 19 Jun 2017 to Deputy Higgins