

STATES OF JERSEY



NON-MINISTERIAL DEPARTMENTS (R.148/2019): EXECUTIVE RESPONSE (R.148/2019 Res.) – COMMENTS

**Presented to the States on 26th February 2020
by the Public Accounts Committee**

STATES GREFFE

FOREWORD

In accordance with paragraphs 64–66 of P.56/2018, the [Code of Practice](#) for Engagement between ‘Scrutiny Panels and the Public Accounts Committee’ and ‘the Executive’ (February 2018), the Public Accounts Committee (“PAC”) presents comments on the [Executive Response \(R.148/2019 Res.\)](#) to the Comptroller and Auditor General’s (“C&AG”) Report on [Non-Ministerial Departments \(R.148/2019\)](#).

PAC COMMENTS ON THE EXECUTIVE RESPONSE TO THE C&AG’S REPORT ON NON-MINISTERIAL DEPARTMENTS

Background

The Comptroller and Auditor General’s [Report on Non-Ministerial Departments](#) was published in December 2019, and evaluated the arrangements for governance and accountability of Non-Ministerial Departments (“NMDs”) in their use of public funds, as well as the effectiveness of support services to them. The [Executive Response](#) (co-produced with the agreement of the NMDs) was received by the PAC on 11th February 2020 and presented to the States and published shortly thereafter. The PAC is supportive of initiatives to secure best value and improved services for the Public and is in agreement with the C&AG’s recommendations. Although the Government of Jersey (“GoJ”) and the NMDs accepted all of the recommendations contained in the C&AG’s report, the PAC seeks assurance from the Executive that they will be implemented in a timely and robust manner and sets out its comments below.

C&AG Findings and Recommendations

The C&AG’s main findings included –

- There was no common documented understanding of the relationship between the Government of Jersey and NMDs.
- There were significant cultural barriers to a new way of working between them.
- There were weaknesses in implementing the statutory relationship between the Treasurer of the States and NMDs.
- There were weaknesses in the internal governance of some NMDs.

To address these issues, the C&AG recommended –

- the adoption of strengthened arrangements for oversight of the governance of NMDs (whilst recognising and respecting their constitutional independence);
- establishing an advisory Audit Committee reporting to the Accountable Officers of Non-Ministerial Departments.

The C&AG considered that assurances on internal control could also be provided to the Treasurer of the States in the context of his wider responsibilities for the public finances of Jersey through this mechanism. She noted that the provision of support services to NMDs would present challenges, not least because of their diverse nature. However, she warned that failing to provide effective support could result in poor value for money and increased risk. She also warned that an effective business partnering model would require not just structural, but also cultural, change.

Non-Ministerial Departments

NMDs have distinct and important roles, with constitutional independence from Government. They include the Probation and After-Care Service, the Viscount's, Judicial Greffe, Law Officers', Bailiff's Chambers and the States Greffe, amongst others. The principal way a non-Ministerial Department differs from Ministerial Departments is in its accountability. Accountable Officers for Non-Ministerial Departments (usually the Head of the Department) are accountable directly to the States Assembly. This means that unlike Ministerial Departments, they do not answer to a Government Minister via the Office of the Chief Executive. The PAC considers that, notwithstanding that any oversight of the governance of Non-Ministerial Departments must recognise and respect their constitutional independence, it is the responsibility of all public services to use public resources in an effective and efficient manner.

Executive Response

The PAC was pleased to note that the action plan produced as part of the Executive Response had been co-produced with the Non-Ministerial Departments. It noted that they were fully supportive of the proposed activities contained within it. It also noted that the Non-Ministerial Departments' Forum had committed to monitoring the implementation of the plan. However, the PAC seeks clarification on aspects of the Executive and NMDs' combined response, including to specific recommendations, below.

The Chief Executive pointed out in the Executive Response summary that the Government already works closely with the Non-Ministerial Departments, and was committed to improving joint working arrangements whilst respecting their important constitutional independence. He accepted that more could be done to support colleagues across the public service to understand the relationship between the Government of Jersey and the Non-Ministerial Departments, to clarify the ways in which the corporate departments can support the Non-Ministerial Departments, and to agree what level of support should be expected. He confirmed that initial work on agreeing the partnership framework would be undertaken by the Chair and members of the Non-Ministerial Departments Forum in the coming months.

Recommendations to the Treasurer of the States under the heading of 'Governance and Accountability of NMDs:

Recommendation 3: Agree and adhere to standards for the time allowed for responses to requests for information from Non-Ministerial Departments.

The Executive Response indicates that improved levels of dedicated finance business partner support will assist in addressing this matter, and that Memoranda of Understanding ("MoUs") and Service Level Agreements ("SLAs") will be developed. However, the PAC note that the timescale for action by the Group Director of Strategic Finance is Quarter 3 of 2020, which could mean that improvements might not materialise until Quarter 4, the end of the year. The PAC considers that an interim set of simple of standards could be established and adhered to quickly.

Recommendation 4: Ensure that general requests to all departments are appropriately adapted for the specific circumstances of Non-Ministerial Departments.

The Executive Response states that for all communication from Treasury and Exchequer, additional attention will be given to terminology used and whether it has been correctly applied to the non-Ministerial Departments. Any general issues regarding terminology may also be raised by the NMD representatives at the Chief Executive's Executive Leadership Team meetings. The PAC welcomes the commitment to undertake the correction of wrong terminology immediately. However, its concerns are broader, in that there should be strenuous efforts made to ensure the accurate reflection of the status and requirements relating to NMDs in key documents such as the Public Finances Manual and the Annual Report and Accounts, both of which refer to NMDs as part of the Government of Jersey, which, of course, they are not. Furthermore, in some cases, certain provisions in the [Public Finances Manual](#) (which provides assurance that departments have implemented appropriate systems to ensure compliance with the [Public Finances Law](#)) have been applied inappropriately to NMDs. The PAC urges the Treasurer to correct these also.

Recommendations to the Non-Ministerial Departments and the Government of Jersey:

Recommendation 8: Establish arrangements to ensure that there are appropriate adaptations to corporate activities, including modernisation initiatives, necessary to ensure their relevance to Non-Ministerial Departments.

The Executive Response advises that the NMD representatives will be invited to attend all of the Executive Leadership Team standing meetings, and that a high-level statement is to be developed that properly reflects the relationship and respective responsibilities between the Accountable Officers for the NMDs and the wider public sector governance arrangements. Revised Terms of Reference will also be developed for the NMD Forum, which brings together the Accountable Officers from the NMDs with representatives from the Government. The PAC commends all of these actions to be undertaken by Quarter 2 of 2020; however, it is concerned that the officer responsible for this is the Chair of the NMDs. It urges the GoJ to provide appropriate administrative support to ensure that it is effective. Furthermore, the Executive states that initial work on agreeing a partnership framework with NMDs will take place in the coming months. No clear timescale is set for this and the PAC urges the Executive to fix a robust timescale with clear objectives.

Recommendation 15: In the context of an agreed high-level statement on business partnering and in light of the experience of developing the business partnering relationship for Finance, agree and implement Memoranda of Understanding and Service Level Agreements for other support services.

The PAC is pleased to note that on completion of the Statement, MOUs and SLAs for Finance support, work will begin to develop similar arrangements with other GoJ support services, e.g. People Services and Modernisation and Digital. However, because the services are also undergoing major modernisation and transformation processes similar to Finance, the Executive has planned a delivery date for June 2021, to be actioned by Chief Operating Officer. The PAC seeks assurances that the requirements of NMDs will be prioritised on the agenda during these initiatives, with a focus on agreeing MoUs and SLAs.

Recommendation to NMDs under the heading ‘Support services for Non-Ministerial Departments’:

Recommendation 10: Consider options for enhanced oversight of the governance of Non-Ministerial Departments that does not impinge on their operational independence, including through establishment of an advisory Audit Committee that –

- **reports to the Accountable Officers for Non-Ministerial Departments; and**
- **provides assurances on internal control to the Treasurer of the States in the context of his wider responsibilities for the public finances of Jersey.**

The PAC is concerned that the Executive Response includes the possibility of oversight by the GoJ Risk and Audit Committee (“RAC”), to be implemented by Quarter 3 by the Chair of the Non-Ministerial Departments Forum. The PAC notes that the RAC has an audit function internal to the GoJ and reports to the Principal Accounting Officer (the Chief Executive). Notwithstanding the RAC remit could be extended to incorporate the proposed oversight role, the PAC considers the reporting line of the RAC to be fundamentally and diametrically opposed to what the NMDs should be striving towards, that is, independent oversight.

Recommendation to Non-Ministerial Departments, Treasury and Exchequer and the Government of Jersey under the heading ‘Support services for Non-Ministerial Departments’.

Recommendation 11: Agree a high-level statement on the operation of business partnering that applies to all support services provided to Non-Ministerial Departments and reflects the specific circumstances of Non-Ministerial Departments and reflecting the principle of securing value for money across the States as a whole.

The Executive Response agrees that a high-level statement on business partnering will be developed in partnership with the NMDs working through the NMD Forum, by Quarter 3 of 2020. However, the PAC seeks clarification on how all corporate functions will be engaged in agreeing a high-level statement on the operation of business partnering that applies to all support services. The PAC stresses that in order for the business partnering to be meaningful, it will need the engagement of all relevant corporate functions.

Conclusion

Overall, the PAC welcomes the positive response to the recommendations of the C&AG; however, it cautions against complacency and paying lip service to strengthening the operation of the relationship between the Treasurer of the States and NMDs and clarifying, formalising and strengthening the relationship between the Government of Jersey and non-Ministerial Departments. It concludes there is a need for a series of documents to clarify and aid understanding of the relationships between them, including in relation to the provision of support services and to facilitate a genuine business partnering approach. The PAC will write to NMDs to seek further clarification on the views expressed through the Executive Response and will also take evidence from them in a series of briefings later this year. It will continue to assess progress throughout 2020.

Senator S.C. Ferguson
Chairman, Public Accounts Committee