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# STATES OF JERSEY



## JERSEY APPOINTMENTS COMMISSION: ANNUAL REPORT 2017

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Presented to the States on 5th March 2018  
by the Chief Minister

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STATES GREFFE



# **Annual Report**

## **2017**

## 1. Introduction

- 1.1 This is my fourth report as Chair of the Jersey Appointments Commission (JAC), covering the period of 1 January to 31 December 2017. Under the terms of reference set down in the Employment of States of Jersey Employees (Jersey) Law 2005, (The “Law”) it is the duty of the JAC to oversee the recruitment of certain States employees, appointees and members of independent bodies to ensure that as far as practicable:
- (a) the recruitment of persons as States employees, appointees or members of independent bodies is fair, efficient and conducted in accordance with best practice principles and procedures;
  - (b) States employees, appointees and members of independent bodies are appointed on merit;
  - (c) Members of the States are only involved in the recruitment of States employees, appointees and members of independent bodies in accordance with guidelines made under Article 24 of the Law or other circumstances where, in the opinion of the Commission, it is appropriate that they be involved.
- 1.2 The JAC published an interim set of recruitment guidelines in May 2016 and worked over the course of 2017 to produce a revised set of recruitment guidelines following consultation with the independent bodies and States wholly-owned bodies. The revised guidelines were published in February 2018 and are currently in effect.
- 1.3 The role of the JAC Commissioner is to oversee each step of the appointment process including:
- Development of the person specification criteria;
  - Development of advertising and executive search strategy;
  - Selection panel membership;
  - Participation in long- and short-listing of candidates;
  - Development of content of interview and assessment material;
  - Chairing the selection panel for the long- and short-listing of candidates and during candidate interviews.
- 1.4 The JAC Commissioner is required by Law to chair the selection panel but does not score, vote or otherwise engage in the assessment of candidates during the appointment process.
- 1.5 The Commissioners in post during 2016 were:
- Dame Janet Paraskeva, DBE. Dame Janet has been Chair of the JAC since September 2014. She was previously the First Civil Service Commissioner in the UK and has held a range of other senior posts including six years as Chief Executive of the Law Society of England and Wales.

- Professor Ed Sallis, OBE. Ed held senior leadership roles in colleges in the UK, before moving to Jersey to become the Principal of Highlands College. He is Chair of Jersey Heritage and works as an education consultant in the UK. Ed is a member of the Committee of Management of the Public Employees' Pension Scheme where he represents Admitted Bodies. Ed has already served as a commissioner for four years and was reappointed during the year and his term of appointment extended to 31 October 2019.
- Louise Read. Louise has an accountancy background and is currently a Director and Secretary to the Board of the Channel Islands Competition and Regulatory Authorities. Louise is a member of the States Members' Remuneration Review Board, the advisory panel that makes recommendations to the States, through the Privileges and Procedures Committee, on any matters relating to the remuneration and expenses of elected members. Louise was appointed as a Commissioner in May 2015 for a term that runs to 30 April 2019.
- Gailina Liew. Gailina is a lawyer, professional director and former listed company executive. Gailina currently serves as Vice Chair of the JAC and also holds positions as Director of the Jersey Policy Forum, non-executive board director of an LSE-listed investment trust and Digital Jersey, and as a board trustee of the Shelter Trust and ArtHouse Jersey. Gailina was appointed to the JAC in December 2015 for a term that runs to 31 December 2018.
- One Commissioner left us during the year. Richard Plaster resigned with effect from May 2017 and our thanks go to him for his support during the two years of his appointment.

1.6 Recruitment took place for additional Commissioners during the fourth quarter of 2017. Two candidates were identified, Jennifer Carnegie and Peter Charalambous. In the light of the volume of appointment activity and with the support of the Chair of the States Employment Board, a proposition was lodged to amend 17(2)(b) of the Employment of States of Jersey Employees (Jersey) Law 2005 to increase the number of Commissioners to five, in addition to the Chair. This proposition was debated and agreed at the States Assembly on 18 January 2018, and whilst technically out of scope for our 2017 annual report, it allows us to commence activity in 2018 with a full complement of Commissioners. Our two new commissioners are:

- Jennifer Carnegie. Jennifer is a senior director with experience in the development and management of talent across diverse geographies, cultures and businesses. She is currently a director and co-founder of Amicus Limited, a strategic leadership consultancy. She was previously the Chief People Officer for Digicel, a global telecommunications and entertainment provider and a director for Mars, Incorporated worldwide. Jennifer was appointed on 18 January 2018 for a term that runs until 31 January 2022.
- Peter Charalambous. Peter is an experienced financial services director with in depth involvement in global financial services. He was a JFSC Registered Principal/Key person for Banking and Investment Funds and

is a Chartered Fellow of the Chartered Securities Institute and a member of the IOD. He was an Executive Director with UBS AG and held Executive roles with HSBC. He is a Consultant with BDO Greenlight. Peter is a lay member of the Criminal Injuries Compensation Board and was appointed to the JAC on 18 January 2018 for a term that runs until 31 January 2022.

- 1.7. Our thanks go to Mireille Newington, particularly for her support during the recruitment process for the Chief Executive of the States of Jersey, and to Louise Ferns who provided secretarial support during the year. Continued thanks go to Jane Pollard who has provided significant executive support to the Commission. Discussion has begun with the Greffier of the States to establish an independent secretariat within his department to support the work of the JAC going forward.

## **2. General Remarks**

- 2.1 2017 has been a busy year during which we were involved in the oversight of 39 appointment processes. We also took part in the recruitment of the Chief Executive of the States of Jersey, a process that commenced in 2016 and concluded in July 2017.

- 2.2 Generally speaking, recruitment processes have been conducted well and the role of the JAC has been respected.

- 2.3 The JAC met on seven occasions to discuss progress and issues that arose over the course of the year.

### **2.4 Senior Recruitment in the Health and Social Services Department (HSSD)**

- 2.4.1 In my last annual report I commented on JAC's involvement in recruitment to senior posts in HSSD and identified areas where the JAC's involvement would be beneficial. Accordingly, JAC has been involved in all appointments at HSSD where the salary is £75,000 per annum and above. Recruitment has proceeded smoothly in these cases, and we would like to thank the HSSD Chief Officer and her team for their support. During 2018 we will review whether the benefit of this support can now be redefined.

### **2.5 Support to Independent Bodies**

- 2.5.1 During 2017 more than half of the work of JAC has been with the independent bodies. This has included appointments to shadow boards as well as to established boards and commissions. A number of new independent bodies and tribunals have been established, or are being established, during the year:

- Health and Social Services Care Commission
- Children's Commission
- Charities Commission
- Referendum Commission
- Commissioner for Standards
- Data Protection Authority
- Charities Tribunal

## 2.6 **Wholly-owned Bodies**

- 2.6.1 The States Employment Board (SEB) determines the list of bodies that are to be regulated by JAC. Its decision to include bodies which are wholly-owned by the States of Jersey on this list was confirmed at its meeting in June 2016. There are currently five independent bodies that fall into this category: Jersey Post Limited, Andium Homes Limited, Ports of Jersey Limited, Jersey Telecom Limited and Jersey Development Company Limited. Not all have followed the JAC guidelines for appointments to Board level posts. In particular, Andium Homes and Jersey Post have used processes that do not comply with the JAC guidelines. In the case of Andium Homes, there was no documented process for the appointment of the Chair and the JAC was notified after the person had been appointed. In the case of Jersey Post Ltd, the process of appointing the Chief Executive in 2014 from among the non-executive directors with no open recruitment was not consistent with the principles of openness and transparency and did not comply with the JAC guidelines. This came to our attention in 2017. The appointment of the Chair of Jersey Post Ltd raised similar concerns. The SEB have been separately notified of these transgressions.
- 2.6.2 The relationship between the States of Jersey and these bodies is the responsibility of the Shareholder Executive. Work is underway to identify a framework within which the Shareholder Executive can work with these bodies to comply with the required standards of governance and probity.

## 2.7 **States Appointments**

- 2.7.1 The Chair and two Commissioners of JAC undertook, together with the Chief Minister and an independent expert, the appointment of the new Chief Executive Officer, Charlie Parker. In order to ensure proper regulation of the changed role of the JAC to being the appointments panel for this post, oversight was undertaken by Isabel Doverty, UK Civil Service Commission, supported by Bill Brooke from the UK Commission for Public Appointments.
- 2.7.2 An exception to the normal role of the Commission is included in the published guidelines, following the adoption by the States Assembly of Amendment no 8 to the Employment of States of Jersey Employees (Jersey) Law 2005. Article 26AA of the Law applies when the recruitment is carried out for the Chief Executive Officer of the States of Jersey. This provides for the Commission to move from their normal role of oversight only to one of active participation. This process is overseen by an independent person to ensure that the process is fair, efficient and conducted in accordance with best principles, and that the successful candidate is appointed on merit.

## 2.8 **Children's Commissioner**

- 2.8.1 During the year, the Independent Care Inquiry report was published. Recommendations included the creation and appointment of a Children's Commissioner for Jersey. The Chief Minister asked the Chair of the JAC to establish a recruitment process and to chair the selection panel for the role. The process was concluded successfully in December 2017.

### **3. Operations and Recruitment**

- 3.1 During 2017 the Commission was involved in 39 key appointment processes as set out at Appendix 1.
- 3.2 Progress was slow in the case of the Information and Data Commissioner where a 'by exception' extension had been granted in 2015 for the then current post holder to extend her term of service to allow for the establishment of a Channel Islands shadow data protection board. The recruitment for a Chair of the shadow data protection board commenced in 2017 but did not result in an appointment due to policy differences between the islands and the resignation of the incumbent Information and Data Commissioner. A new recruitment for the Chair of a shadow data protection board for Jersey only is now in progress.
- 3.3 The JAC has been consulted on the extension of the term of office for a range of posts including a non-executive director for the Jersey Financial Services Commission. Although in a minority of cases an exception may be possible, the JAC guidelines stipulate that terms of service, as a standard practice, should not exceed nine years.
- 3.4 A good example of succession planning was demonstrated by the States of Jersey Police. It has in place a detailed succession plan mapping out routes into key senior roles within a 5 – 10 year time horizon.

### **4. Boards**

- 4.1 During 2017 about half the work of Commissioners has been with the boards of independent bodies.
- 4.2 The most common query that the Commission receives from independent bodies is about the term office of board members and non-executive directors, coupled with requests for incumbent individuals to rejoin committees for a further full term after a nominal break. In accordance with standard UK corporate governance best practice, the maximum length of appointment should not exceed nine years in total, including any period on a shadow board. The small island community is often quoted as making it more difficult to identify people with sufficient experience to take on honorary and unpaid roles. We encourage boards to search for candidates from a broader range of backgrounds to become involved in these appointments.
- 4.3 A continuing concern is the advice apparently given by key senior staff, sometimes suggesting that the retiring chair should be involved in appointing their successor or indeed that the CEO has a formal role in the selection of the chair to whom they will become accountable. The HR practices for the independent sector follow best practice in recruitment and have been published on our website pages.

### **5. Exceptions and Acting-Up Positions**

- 5.1 The JAC was again asked to approve an exception to open recruitment for a post in the Chief Minister's Department of Head of Information Services Procurement where it had already been made clear that this would not be acceptable. The conversion of a contractor or someone recruited through pro-



curement, however successful in their current role, is not open competition. Nor is the conversion of someone holding an acting position into a substantive appointment. However, JAC continues to be concerned about the length of some interim appointments, as is the case for the Law Draftsman, where the acting up position had been in place for 18 months.

## **6. Complaints**

- 6.1 One complaint was received during the year from a member of the public who was concerned about an appointment to an independent body which had taken place in 2013. This matter was considered and subsequently closed after correspondence with the complainant.

## **7. Issues of Concern**

- 7.1 In my 2016 report I repeated concerns from the previous year that required development and continue to remain of concern:

- The inexperience of some selection panel members during recruitment procedures;
- The need to ensure the separation of the responsibilities of senior executive staff from participation in appointments on boards;
- The expectation of extended lengths of service of board members beyond the generally accepted maximum term of service of nine years;
- The delay in, and sometimes hurried nature of, recruitment procedures;
- The insistence, in some cases, on adherence to historical convention in appointments which does not match best practice;
- The need for better and more timely communication with the Commission on interim as well as permanent posts.

- 7.2 In 2016 I added to that list and note that the following concerns have still not been addressed:

- The length of time between knowledge of a vacancy by the States and the start of a recruitment process;
- The reluctance of some boards to follow best practice in their recruitment of new members, requests for extensions to mask a lack of planning, and the desire to involve, inappropriately, the CEO or retiring Chair in the appointment of new Chairs;
- The continuing resistance by two of the five States wholly-owned bodies to regulation by the JAC. The JAC regulation of these wholly-owned bodies is determined by the SEB and reflects a policy requirement of their shareholder, the States of Jersey.

- 7.3 I also identified a number of additional areas for development and am pleased to report that some progress has been made on some items identified:

- The States of Jersey guidance for human resources professionals supporting the independent sector has been published;

- The need for the regulation of recruitment procedures in the States of Jersey Health and Social Services Department was reiterated as being within the remit of the JAC, and as an interim measure, the JAC was engaged in the overseeing recruitment to all posts over £75,000 per annum;
- There is some evidence that points to a need to attract a more diverse range of candidates for States' posts and senior positions in the independent sector;
- Procedures for Chief Officers, to certify compliance with recruitment principles and the JAC guidelines, have been implemented across the States and independent bodies;
  - Independent bodies include such confirmation as part of their grant assurance process;
  - Independent bodies not in receipt of grant funding (the wholly and majority owned) should have JAC oversight written into the corporate governance directions agreed with the States of Jersey;
  - Chief Officers / Accounting officers confirm compliance as part of their annual sign off process.
- Greater awareness and consistency is still needed on the role of the human resource business partner (HRBP) in the sponsor department (the department that is responsible for funding and managing the relationship) and the JAC's role. The discussion in progress to establish an independent secretariat to support the JAC should help to address this concern.
- Confused and not always consistent messages about policy and procedure for posts requiring licenses for a search wider than the Island remains an issue;
- The required involvement of the JAC in the appointment of the Chair of any shadow boards established by the States of Jersey is still not consistently understood;
- Poor and late communication with the JAC when some senior staff are asked for progress reports on compliance is an ongoing matter, however we were pleased to see that the number of breaches has reduced during 2017;
- Work with the Bailiff and his team to secure a more appropriate way to oversee the appointment of tribunal members and chairs. The JAC have participated in the consultation on the establishment of a Judicial and Legal Services Commission, and look forward to the establishment of that commission in 2018.

#### **7.4 Additional Concerns Raised during 2017**

- 7.4.1 The JAC was informed of the appointment of the Board Chair of Andium Homes after the decision had been made. No open competition was held and the appointment was made from among existing NEDs. Although the

appointment is time limited for two years, the JAC is concerned about the lack of an open and transparent process.

- 7.4.2 The appointment of the Chair and Chief Executive of Jersey Post were also confirmed without any identifiable process and again the JAC has brought this matter to the attention of the SEB.
- 7.4.3 A concern was raised to the JAC about the number of board appointments that a single individual holds at one time with particular concern expressed about the number of Board Chair roles. This matter has been raised with the Shareholder Executive who is drafting guidance on parameters for the wholly-owned bodies as conflict of interest, both actual and perceived, is of concern in a small Island community.
- 7.4.4 The extended period of acting up to the senior post in the Law Draftsman's office was also a matter of concern. The situation was exacerbated by the removal of a post during the previous year;
- 7.4.5 Delay in the recruitment for the Chief Economist;
- 7.4.6 A second request for an exception to open recruitment in the States of Jersey's Information Services Department was worrying. I had already given advice about the procedure to be followed, only to receive an identical request 10 months later.

## **8. Areas for development**

- 8.1 During 2018, the JAC looks forward to progress on the matters raised in the report and to working closely with the Shareholder Executive on those that relate to the wholly owned bodies.
- 8.2 The JAC will produce guidance on its' role in regulating succession planning.
- 8.3 The JAC is developing a RAG rating system to apply to all departments to reflect their recruitment practices.
- 8.4 There is a large body of evidence globally that highlights the importance of increasing the diversity of candidates and post-holders in the senior ranks of organisations and on boards. This will be an area of increasing focus for the JAC.

### **Rt Hon Dame Janet Paraskeva DBE Chair, Jersey Appointments Commission**

Dame Janet has been Chair of the JAC since September 2014. She was previously the First Civil Service Commissioner in the UK and has held a range of other senior posts including six years as Chief Executive of the Law Society of England and Wales.

February 2018

## Appendix 1

<b>Recruitment overseen by JAC that commenced or concluded in 2017</b>		
<i>Department</i>	<b>Role</b>	<b>Category</b>
<b><i>Bailiff's Chambers</i></b>	Judicial Greffier	States (office holder)
<b><i>Community and Constitutional Affairs</i></b>	Chairman and Commissioners, Health and Social Services Care Commission	Independent
	Local Service User representative, Health and Social Services Care Commission	Independent
	Commissioner, Charities Commission	Independent
	Chief of Police	States
	Chair, Charities Tribunal	Independent
	Chair, Police Authority	Independent
	Children's Commissioner	Independent
<b><i>Chief Minister's</i></b>	Chief Executive of States of Jersey	States
	Chair, Data Protection Board	Independent
	Chief Officer - Financial Services, Innovation and Digital	States
	Commissioner, Jersey Financial Services Commission	Independent
	Chair, Digital Jersey	Independent
	Member, Fiscal Policy Panel	Independent
	Director of Financial Services	States
	Head of Information Services Procurement	States
	Law Draftsman	States
	Senior Interim roles – Transition Team	States
	Commissioner, Jersey Appointments Commission	Independent
<b><i>Economic Development, Tourism, Sport and Culture</i></b>	Chief Executive, Sports Jersey	Independent
	Chair, Jersey Finance	Independent
	Head of Service	States
	Chair, Jersey Consumer Council	Independent
	Chair, Jersey Business	Independent
<b><i>Health and Social Services</i></b>	Operations Director - Community and Social Services	States
	Service Director - Children's Services	Independent
	Deputy Directors Service Redesign	States
	Chief Executive, Family Nursing and Homecare	Independent
	Managing Director	States
	Interim Director Quality Improvement	States
<b><i>Law Officers'</i></b>	Director, Criminal Division	States
	Senior Legal Adviser, Economic Crime and Confiscation Unit	States
	Senior Legal Adviser, Civil Division	States
	Senior Legal Adviser, Criminal Division	States
<b><i>Social Security</i></b>	Chair and Deputy Chair, Jersey Employment and Discrimination Tribunal	Independent
<b><i>States Greffe</i></b>	Commissioner for Standards	Independent
	Chair, Referendum Commission	Independent
	Member, States Members' Remuneration Body	Independent
<b><i>Treasury</i></b>	Deputy Directors, International Taxes and Tax Policy	States