
STATES OF JERSEY



REVIEW OF STATES ANNUAL REPORT AND ACCOUNTS 2020 (P.A.C.1/2021): EXECUTIVE RESPONSE (P.A.C.1/2021 RES.) – COMMENTS OF THE PUBLIC ACCOUNTS COMMITTEE

**Presented to the States on 21st October 2021
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 presents its comments on the [Executive Response](#) to its [Review](#) of the [States Annual Report and Accounts 2020](#).

Comments

1. The Public Accounts Committee (PAC) seeks to ensure that the expenditure of public finances is undertaken efficiently, effectively and economically, delivering value for money for the people of Jersey. The States Annual Report contains a breakdown of the activities and initiatives carried out by the different elements of the States of Jersey, including Government departments, non-Ministerial departments, funds, and subsidiary companies. The Annual Report provides information on how the States of Jersey has performed over the course of the year in the context of its objectives (‘the Performance Report’) and on how the States is governed (‘the Accountability Report’). The Annual Accounts provide information on the financial performance of the States of Jersey covering both assets and liabilities and income and expenditure. The public deserves accurate, timely and high- quality annual reports and accounts which present clearly the Government’s aims, activities, functions and performance and conform to the highest standards of accounting practice. This is crucial to allow the [Comptroller and Auditor General](#) and the PAC to challenge how well taxpayers’ money is being spent and public sector bodies are delivering services.

Purpose of the Comments

2. The PAC made 32 findings and 22 recommendations in its Review of the States Annual Report and Accounts 2020. The Committee was aware that the 2020 Annual Report and Accounts reflected two unusual circumstances and considered them both in great depth in its Review. The first related to the exit payment of the former Chief Executive and the Qualified Regulatory Opinion issued by the External Auditors appointed by the Comptroller and Auditor General, which was a direct consequence of the handling of the payment. The second circumstance was the COVID-19 Pandemic, although the Committee noted that it did not delay the production and audit of the 2020 Annual Report and Accounts. The Committee was also aware that another factor had the potential to impact adversely on the quality or timeliness of the 2020 Annual Report and Accounts, namely the appointment of new external auditors. However, at a private briefing with them in May 2021, the Committee noted that the External Auditors were positive about their working relationships with the Comptroller and Auditor General, Treasury and Exchequer (including the Treasurer of the States), and Senior Officers, and were satisfied by the arrangements embedded within the final accounts process. It concluded that their appointment at a late stage did not in fact delay the process.

Executive Response

3. Of the 22 recommendations made by the Public Accounts Committee to the Chief Executive, Treasurer of the States and the Chief Minister (as Chair of the

States Employment Board), four were rejected, one accepted only in part, two were deemed, although accepted, as needing no further action (or 'n/a', presumably meaning non- applicable), and another was 'neither accepted or rejected'. These, together with two recommendations that had been accepted but, in the Committee's opinion, did not have an adequately detailed response and warranted further action to be taken by the States Employment Board and/or the Government:

PAC Recommendation	Executive Response
<p>2: The provision of a Treasury Business Partner to provide advice on financial matters to the States Employment Board should be included within the Public Finances Manual.</p>	<p>Accept. As noted in the Committee's report, a new section of the Public Finances Manual (PFM) relating to the States Employment Board has been drafted and is expected to be published by the end of 2021. As well as requiring the Group Director of People and Corporate Services to consult with the Treasurer on certain matters, it will also require that Group Director to ensure that the Treasurer (or an alternative senior officer from Treasury and Exchequer nominated by the Treasurer) is invited to attend SEB meetings where either:</p> <ul style="list-style-type: none"> • any proposals are to be put to SEB which would result, or would be likely to result, in the amounts allocated, and approved, in a Government Plan to be exceeded; or • SEB are considering offering an employment contract with non- standard clauses that could expose the States of Jersey to future liabilities.

Further action required: The PAC requests that the Treasury representative also be present when, for example, SEB are considering a compromise agreement that exceeds an amount envisaged in an employment contract and any other situation (such as settlement of a court case) that may expose the States of Jersey to liabilities.

PAC Recommendation	Executive Response
<p>4: Performance Reporting for future Annual Report and Accounts should include comparative performance information from years prior to 2020, due to the anomalous data created as a result of (and the Government's response to) the COVID-19 pandemic.</p>	<p>Accept in part. The 'Delivering for Islanders' section of the 2020 Annual Report and Accounts included comparisons with 2019 data, commentary for each department and highlighted the impacts of Covid 19 on the 2020 Service Performance Measures. The 2021 service performance measures contain a baseline and/or target for the 150+ measures; out- turn data is being reported on quarterly Performance Measures 2021 (gov.je).</p>

	Service performance measures are intended to support improvements to in year performance; they are not intended to include long-run annual data in the reporting of service performance measures. The 2021 Annual Report and Accounts are unlikely to contain service performance data, as this will have been published elsewhere. As part of business-as-usual processes we will review with departments which service performance measures might benefit from a longer run of data, and how this might be handled in future. (target date 30 September 2022 by DG SPPP)
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Further action required: The Committee does not consider the Government response to be adequately addressing its recommendation. The Committee notes that the only way to undertake a meaningful comparison of performance against previous performance, is to first establish baselines. Accurate data should be inputted for each measure and key performance indicator (KPI). Developing statistically robust baselines and understanding when movements in the data become significant are prerequisites to other forms of performance comparison such as targets, standards and other jurisdictions. The performance metrics should then be linked to the accounts in a meaningful way, to ensure reporting ‘tells the story’ in a clear and comprehensive manner.

The main function of plotting prior year performance trends is to understand what is happening over time and therefore determine where improvements need to be made. Trend analysis is an important performance analysis tool.

The PAC seeks confirmation that there will be more clarity in the 2021 Annual Report and Accounts, showing performance measurements across previous years so that it can be seen whether services have improved or not compared to pre-pandemic levels.

PAC Recommendation	Executive Response
7: The process for recruiting and appointing the next Chief Executive Officer should be strengthened in line with the PAC’s recommendations in its letter of 19 July 2021 ¹ .	Accept – already implemented. The recruitment process has now been completed and the contract signed. The SEB undertook the actions recommended by the PAC and C&AG prior to contract signing. This included the ‘lessons learned report’ that addressed and set out the deficiencies in the previous recruitment process in 2017.

¹ [letter - PAC to Chair of States Employment Board re appointment process of new chief executive - 19 July 2021.pdf \(gov.je\)](#)

Further action required: The PAC would like to see the ‘lessons learned’ report and considers that it should also be made available to the public. It also seeks further detail as to how its recommendations were addressed in the recruitment process.

PAC Recommendation	Executive Response
<p>8: A document, which clearly sets out the scope of responsibilities of Ministers and their respective department(s), each Ministerial and departmental revenue income, expenditure budget lines, and other relevant information, should be published annually alongside the Government Plan.</p>	<p>Reject. The Chief Minister and Treasurer maintain the response to the original C&AG recommendation:</p> <p><i>The scope of responsibilities of each Minister and department is already clearly set out in:</i></p> <ul style="list-style-type: none"> • Ministerial responsibilities published by the Chief Minister. • The Government Plan Annex; and Departmental Operational Business Plans. • Taken together these form a sufficient basis for assessing whether expenditure has been undertaken for the purposes intended by the States Assembly. <p>The Government Plan already includes detailed information on departmental income expenditure, which aligns to Heads of Expenditure under the Public Finances Law. It also includes an indicative mapping of budgets to Ministers.</p>

Further action required: The PAC is disappointed that the Government will not produce a document aimed at providing greater clarity for States members and the public. It urges the Government to reconsider its rejection of this recommendation. Showing the information in one place and in one table would allow better understanding of these important matters.

PAC Recommendation	Executive Response
<p>9: The current advisory structure of the States Employment Board (SEB) should be reviewed to improve its regulatory framework, with consideration given to the scope of an advisor specialising in Jersey’s employment law.</p>	<p>Reject: the SEB have access to legal advisers specialised in Jersey employment law, health and safety law, contract law etc. when appropriate. This recommendation does not take into account the legal (not regulatory) framework of SEB.</p>

Further action required: The PAC is disappointed at the Government’s response. Article 6a of the [Employment of States of Jersey Employees \(Jersey\) Law 2005, as amended](#), allows for the States Employment Board to appoint ‘one or two advisors’. During its investigations the Committee could not be assured that the lone official employment/HR advisor to SEB had the necessary specialist understanding of the States’ employment law. The PAC seeks more transparency as to the appointment and term of office of external advisors. It urges the States Employment Board to reconsider its

rejection of this recommendation, and to consider utilising the services of another advisor with the requisite expertise to offer advice on these complex contracts.

PAC Recommendation	Executive Response (in part)
10: The announcement of the appointment of a new Chief Executive should not be made until contract negotiations have been completed and the contract signed.	Accept – already implemented. The announcement of the appointment was leaked ahead of the official announcement.

Further action required: The PAC urgently requests further information to understand how the ‘leak’ happened and what action has been taken to prevent similar issues in future.

PAC Recommendations	Executive Response (to both)
11: The line management of the Chief Executive should be reviewed and updated in time for the appointment of the next, permanent Chief Executive.	Accept – already implemented. A report was considered by SEB in September 2021.
12: A process dealing with conflicts for the Chief Executive (when the States Employment Board is dealing with disciplinary matters relating to him or her), should be documented as a matter of good governance.	

Further action required: The PAC requests copies of the report(s), on a confidential basis if necessary, but considers that they should also be made public.

PAC Recommendation	Executive Response
13: The Chair of the States Employment Board must inform the States Employment Board within two days of any approach by a Senior Officer requesting secondary employment, where the contract of that officer requires written permission from the employer.	Reject. Two days is an arbitrary timetable. The requirement is to consult with the Group Director for People and Corporate Services who will advise the SEB. This is only for the CEO. The DGs are delegated to the CEO. A revised scheme of delegation was put in place in September 2021.

Further action required: The PAC requests to view the scheme of delegation. It also urges the Government to reconsider its rejection of this recommendation. Whilst not accepting that its recommendation of two days for the Chair to inform SEB of an approach, is ‘arbitrary’, the Committee strongly recommends that the Chair of SEB should at least commit to advising SEB as soon as possible, within two weeks and before approval (or delegated approval) is given. This should also apply to the Chief Executive Officer.

PAC Recommendation	Executive Response
<p>17: Clear demarcation should be established to ensure that Civil Servants whose contracts have recently expired and are not employed by the States should not be permitted to access emails from their work account, should not have access to the building, and should not attend the meetings of boards where membership was held through their previous employment.</p>	<p>Neither accept or reject. Individual circumstances and risk assessments will be required in each situation.</p>

Further action required: The PAC considers this to be an inadequate response and urges the Government to reconsider its rejection of the recommendation.

The PAC had made the recommendation because it was discovered that the former Chief Executive had been working for and with the Government ‘between’ contracts and that very few people were aware of his uncertain status. No other public servant in similar circumstances, whose contract had ended, should or would have been afforded such access or been able to continue working with such unclear capacity parameters. There should be demonstrable parity for all colleagues to be afforded comfort that every colleague in Government meetings or conducting Government business is entitled to do so. Any exemptions should be clearly documented and communicated to all colleagues.

The PAC expects to see examples of risk assessments in place and managed (with, if necessary, any individual identifying details removed).

PAC Recommendation	Executive Response
<p>18: The Government of Jersey should adopt a policy on the appointment of individuals in unpaid roles who have access to States of Jersey information and should ensure that any such appointments are approved at an appropriate level and in writing.</p>	<p>Accept. A policy will be developed but the appointment of unpaid individuals with access to sensitive and confidential States of Jersey information is rare so other policies will take precedence (target date for completion 30 June 2022).</p>

Further action required: The PAC considers that everyone working for and with the Government should be held to the same standards as Government employees. All undocumented appointments of individuals in unpaid roles with access to States of Jersey information could be seen as increasing liability risks. Producing a contract stipulating confidentiality for such appointees need not be overly complex.

The PAC urges the Government and/or SEB to implement this recommendation by end of Q4 2021.

PAC Recommendation	Executive Response
<p>22: To ensure that the pay-out of large sums in Severance Payments does not become the norm, all contractual obligations such as alternative dispute resolutions should be exhausted before negotiating special payments.</p>	<p>Accept in part. The pay out of ‘large’ sums is not the norm. ADR² is not a contractual requirement (and should not be). Each circumstance is considered in relation to risk and liabilities by the appropriate body or Accountable Officer after receiving advice from People and Corporate Services and Law Officers as appropriate, and in consultation with Treasury and Exchequer as required under the PFM (Public Finances Manual).</p>

Further action required: The PAC requests clarification of which ‘part’ of the recommendation is accepted, which part is rejected and why. It also requests a more detailed response in respect of the Government’s stance on Alternative Dispute Resolutions.

4. In summary, the PAC intends to scrutinise the preparation for the 2021 Annual Report and Accounts, to ensure the improved practices are embedded. It reserves the right to seek evidence that its accepted recommendations have been implemented and ask for more information on those that have not and to this end, has written a letter raising all the points above and requesting further information by 5th November 2021. Given that this is the current PAC’s last term before new members are elected in 2022, it will be including a detailed ‘roadmap’ in its Legacy Report, to ensure that the next Annual Report and Accounts is scrutinised appropriately.

² Alternative dispute resolutions