

# **Report to the Corporate Services Scrutiny Panel**

## **People and Culture review**

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## Terms of Reference

Part 1. To conduct detailed scrutiny of the policies and procedures in place for the States Employment Board as an employer. This will include, but is not limited to consideration of:

- a) how bullying and harassment is handled:
- b) the effectiveness and impact of the disciplinary procedure:
- c) the effectiveness and impact of the employee exit interview process; and
- d) how the workplace culture is impacted by the employment policy and practice.

Part 2. To consider the effectiveness of the States Employment Board in implementing employment codes of practice, HR policy, and securing improvements for employee wellbeing. This will include, but is not limited to consideration of:

- a) The policy and procedural changes implemented, following the HR Lounge Report into Bullying and Harassment (February 2018).
- b) The findings of the HR Lounge Q4 2020 report.
- c) The action taken following the recommendations published in the report by the Comptroller and Auditor General, 'Role and Operation of the States Employment Board', (March 2019).

Part 3. To consider the culture within the Government of Jersey as a workplace. This will include, but is not limited to consideration of:

- a) how the implementation of employment policy affects employee morale and well-being.
- b) how restructuring has impacted employee morale and well-being.
- c) the turnover of staff employed, particularly in Revenue Jersey; and
- d) the wider impact of people management and the policy and procedure relating to employment practice.

## Definitions

<b>Be Heard Survey</b>	<b>A survey of public sector employees conducted between July 2020 and September 2020 by Best Companies Ltd.</b>
<b>Bullying</b>	<b>Offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the participant.</b>
<b>Harassment</b>	<b>Unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individuals dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.</b>
<b>Protected characteristic</b>	<b>Race, Sex, Sexual Orientation, Gender reassignment, Pregnancy and Maternity, Age and Disability.</b>
<b>HR Dashboard</b>	<b>The Government of Jersey People Dashboard created on a monthly basis and containing Key HR related data</b>
<b>The Panel</b>	<b>The Corporate Services Scrutiny Panel</b>
<b>SEB</b>	<b>States Employment Board</b>

## Introduction

Two reports from the HR Lounge, a report from the Comptroller and Auditor General and the outcome of the Be Heard staff survey have adequately reported on the issues SEB are facing regarding Bullying and Harassment, Policies, Culture and the way SEB meet its obligations.

This review for the Corporate Services Scrutiny Panel focuses on progress made to date, the SEB's future strategies and how the outcome of the Be Heard survey has provided an insight into the culture of the public service.

The recommendations and conclusions reflect the data received and the evidence of a number of interested parties and is presented to assist the Panel in its review and to assist SEB meet the requirements of the recently published People Strategy.

For SEB, the clarity of the new People Strategy provides a welcome and positive way forward, but also illustrates the size of the task ahead when comparing the commitments presented in the strategy and the actual reality within the organisation as described in the various reports and the Be Heard survey.

Due to the restricted budget available, which translated to the number of hours available for the review, the main focus of the review has been prioritised onto the policies, reports and the high-level outcomes of the Be Heard survey.

### **Part 1 - To conduct detailed scrutiny of the policies and procedures in place for the States Employment Board ("SEB") as an employer.**

#### **Summary**

I have approached this part of the report to examine the following principles;

1. Are the terms Bullying and Harassment understood?

The Bullying and Harassment Policy correctly defines both Bullying and Harassment and the organisation accurately signposts the behaviours which fall under these definitions. However beyond that there are examples where it appears the definitions are not fully understood.

2. Does the organisation have the tools in place to ensure procedures are required to be used as infrequently as possible?

At present, there is a lack of evidence that tools are actively being used by management to ensure issues are dealt with early, and that poor and sometimes illegal behaviour (harassment) is understood or challenged.

3. If they have to be used are the procedures fit for purpose?

It is recognised that the procedures require urgent review and there is a clear plan to put this into place. However early examples of reviewed policies are demonstrating a number of issues which require resolution.

4. In reality, are the procedures actually used?

There appears to be a reluctance to use the procedures, both from managers and employees.

5. Are the procedures consistently used?

There is a mismatch between the evidence received, reflecting an area where emphasis ought to be given.

## **Detailed review**

### **Overview – Policy Development**

In a report to the SEB dated 24 February 2021 titled Employment codes of Practice, and affirmed in the People Policy Framework dated March 2021, it was confirmed that six new Codes of Practice will be introduced to replace the current thirteen and a suite of employment policies will be introduced, replacing the current policies, with the five key policies being introduced “this side of summer”. (Disciplinary, Grievance, Capability, Formal Hearing and Appeal)

There was sustained criticism within both the HR lounge report and the Comptroller and Auditor General’s report on the current suite of policies, and the operation of these policies. There is little value in repeating their concerns or conducting any review of these policies, and my focus will therefore be on the current position and the progress on the recommendations made.

In the short term the department reissued the Bullying and Harassment policy on 1 March 2021. It is unclear as to what extent this policy has been reviewed or rewritten. This was described by the Group Director, People and Corporate Services as “really a tidying up and tightening of where we are before we move into a different atmosphere of consolidating even further”. Team briefing documents describe the policy as “a new policy (together with the whistleblowing policy) which together meet 24 of the 29 recommendations made by the HR Lounge report” while the policy itself describes the changes made on 17 January 2021 as “changes to a service provider and their contact details” and on 1 March 2021 as “an amend to Para 9.2 only”.

While it is understood that this policy is to undergo further review as part of the process explained above, as part of this review it has been technically reviewed in order to understand the challenges faced by the department in undertaking a rewrite of the complete suite of policies.

Note - Unfortunately the updated policy only includes the HR Lounge recommendations contained in the report dated 21 February 2018, and not the HR Lounge report dated February 2021 which contained an additional 40 policy recommendations, some of which are echoed in the technical review below.

### **Outcome of Technical Review.**

A copy of the reviewed document is attached as Appendix 2. Some of the more notable issues identified include;

1. there are numerous typographical, numbering and referencing errors.
2. the definition of Harassment is correct (Article 6.26 (2) of the Discrimination (Jersey) Law 2013, however it does not contain the full test against which an investigator has to compare the alleged actions against, before an outcome can be decided upon. The policy should therefore include the tests from Article 6.28 (3) of the Discrimination (Jersey) Law 2013, as follows:

In deciding whether conduct has the effect described each of the following must be taken into account:

- a. the perception of the subject;
  - b. the circumstances of the case; and
  - c. whether a reasonable person could regard the conduct as having that effect.
3. clause 2.2 – any complaints against a States Member will be dealt with by the Commissioner of Standards. Reviewing the Commissioner for Standards statement on the States Assembly website, it is unclear how this would meet standards either equivalent to the Bullying and Harassment Policy or the expectations of the islands employment legislation.
  4. there is a clear expectation that ALL complaints of bullying and harassment will go through an initial informal process (clauses 6.1, 6.8, 6.10). While this is a noble aim and wherever possible is the correct way forward, the reality is that it is difficult for some employees, especially younger, junior or vulnerable employees to make a complaint, particularly when a complaint if and when it is made, may expose a pattern of behaviour that has been ongoing for some time or is against someone older, more senior etc. In addition, some complaints will be cases of more serious Bullying or Harassment. In both cases, informal solutions may well be inappropriate, and if insisted upon could lead to the withdrawal of the complaint or cause distress to the complainant, yet there is no facility or signpost within the policy for how a serious complaint could be moved immediately into a formal process, bypassing the informal process. Further in cases of illegal behaviour (particularly those covered by the Discrimination legislation), the employer may want to know about this at the initial stage, rather than once an informal process route has occurred, especially as it may affect any defence.
  5. the line manager is required to facilitate an informal process and if the issue is not resolved and goes to the formal process, the line manager is then likely to be nominated as the Commissioning Manager, responsible for the final decision on the complaint. Under these circumstances, it would normally be a requirement for a person who has not been involved up to that point to be appointed so as to avoid allegations of bias or conflict of interest leading to complaints of an unfair process.
  6. clause 8.1 refers to instances where Harassment relates to a protected characteristic. Under the definition within the Discrimination (Jersey) Law 2013 and the policy itself, the issue HAS to relate to a protected characteristic to be classed as Harassment. If it is not, then the incident is not Harassment, although it could be a case of bullying. This is an important distinction as Harassment is legally defined as discrimination, which is covered by the Discrimination Legislation. If it does not relate to a protected characteristic, it is not Harassment.
  7. the same clause, 8.1 requires issues of Harassment to bypass the informal stages, contradicting clauses 6.1, 6.8. 6.10 etc.
  8. in serious cases, it is normally appropriate to consider suspension of the person being complained against. There is no guidance to the line manager on the availability of suspension or in what circumstances suspension should be considered. If this is covered in a separate policy, then there is no signposting within this policy to ensure it is considered at the appropriate time:
  9. clause 10 implies that the complainant will be removed from the workplace. There is no guidance to the line manager on providing a safe working environment to the complainant, or the issues raised in removing the complainant compared to removing the person being complained against.

## **Whistleblowing Policy**

The Whistleblowing policy has not been subject to the same review as the Bullying and Harassment policy due to time constraints, but an initial read of the policy supports the conclusions reached from the technical review of the Bullying and Harassment policy. For example, there are typographical errors in the index and the policy

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has only been partially updated to take into account the change of name of the employer from The States of Jersey to Government of Jersey, with both variations being used within the policy.

## **Timing issues**

On reviewing the Bullying and Harassment policy, it is clear that there are potentially long timescales in resolving a complaint, seemingly up to 21 weeks, and up to 23 where an appeal is made. Evidence was heard by the Panel that the potential timescales are a major deterrent to individuals using the policies, and where the policies are used, long timescales lead to increased experience of stress and time off work, which in itself then extends the period of the process even further.

Evidence was heard that reviews of the remaining policies will be seeking to make them less complex which should mean that if there are less stages or less complexity that issues can be dealt with quicker.

There appears to be a number of issues contributing to the lengthy timescales:

1. management of the case. There are numerous examples where an administrative stage of the process is given a period of days or a full week to be undertaken. Reducing these, has a direct impact on the length of time taken for the process.
2. managers have their day jobs to complete, with their own priorities, and therefore their responsibilities under the policies will be delayed. In regard to point one above, If there is a week to do a job, then it is more likely that the week will be used as more urgent issues take precedence.
3. evidence was heard that on average an investigation will take 6 weeks, albeit complex issues will be longer and some issues completed sooner. Direct comparisons with investigations undertaken in the private sector, suggests averages of around 3 weeks. Often this is due to specific resources being allocated to the task, rather than it being added to the workload of a manager who is already busy.
4. during the investigation stage, key individuals are not available due to absence from work. It was suggested that some of this is due to employees being absent due to stress at work as a result of the length of time taken to deal with the complaint, further reinforcing the need to reduce timescales.
5. other issues were included in the HR Lounge report published February 2021 which I would endorse, particularly the benefits of permanent investigators for serious complaints. Alternatively, it would be worth considering contracting with the private sector to undertake some investigations, therefore avoiding the use of internal resources but also bringing into the organisation specific experience and independence.

## **Avoiding the use of the Policies**

In an ideal world, polices such as Disciplinary, Bullying and Harassment, Grievance etc. would not be required. However we have to accept that there will be occasions where matters go wrong and in those circumstances there needs to be a structured and fair process to resolve the issue.

The People Policy properly recognises that these policies need to be reviewed and made fit for purpose. What I have been unable to find are adequate structures or a focus, to avoid the use of these policies being required. There are a number of strands to how this can be achieved, some of which are either in place or within one of the plans presented, but not a coherent strategy to focus on good performance, thereby reducing the likelihood of behaviours requiring the polices being utilised.

Such a strategy could have a number of strands.

1. Managers and Employees understand the behaviours expected.

Evidence was heard that there has not been systematic training on issues such as Harassment (Racial, Sexual, Disability etc.), behaviour which is illegal under the Discrimination legislation. Harassment can be conducted by employees and managers, with the most frequently seen being inappropriate banter. Training not only informs and enables individuals to reflect on their own behaviour, but in my experience also builds and creates a culture where wrong behaviour is quickly called out by colleagues, leading to changes in behaviour. We must not underestimate the power of peer pressure, and its effectiveness in preventing issues building into a problem where the policies are required.

Evidence was heard that training is available but is not mandatory. It is likely the case that those who opt for such training will have an interest in the subject and are going to be more open to change and a challenge to their own behaviour. Those who are not open to changing their behaviour, those who have a lack of awareness on how their behaviour might be affecting others and those who have attitudes which are no longer acceptable in the workplace are less likely to put themselves for this training.

In regard to Harassment which can create personal liabilities to the harasser as well as for the organisation, there are limited defences for the organisation where an employee is the harasser, other than policies and training. In my mind, the business case for mandatory training and refresher training is clear.

## 2. Performance management is effective.

While there are performance management structures in place, consistent evidence was received that they are not being used, followed or being effective. While evidence was received that the process is monitored, witnesses spoke of the process being given lip service by managers and not being seen as credible by employees. Poor performance is a driver for the use of the Policies. Good performance management and consistent management are some of the most effective tools for resolving issues at an early stage.

Evidence was heard that the performance management structures are being relied upon by the organisation to manage those employees who might knowingly or unknowingly create issues by their behaviour. This will rely on managers being able to understand and identify the circumstances where Bullying and Harassment is a risk, again underlying the need for mandatory training.

## **Consistent use of procedures**

From evidence provided by the Trade Unions there appears to be a strong view that senior staff receive a greater level of leniency and even maybe acceptance of bullying and unacceptable behaviour sometimes described as behaviour in breach of the stated values, compared to more junior staff showing similar behaviour. It was argued that this was part of an overall behaviour pattern demonstrated in the Be Heard survey (Senior Managers truly live the values of this organisation Score 3,24) and repeated in the HR Lounge report (paras 98 and 99) This was further reinforced by the HR Lounge report (Para 96) which urged the top leadership team to discuss this issue and determine a code of conduct amongst themselves.

Such behaviour leads to a number of risks to the organisation:

1. employees and Trade Unions lose faith in the procedures:



2. inconsistency can give rise to successful grounds for appeal and / or references to the Discrimination and Employment Tribunal:
3. behaviour seen as unfair is contrary to the organisations stated values and will compromise the organisations stated values and its valid efforts to promote and embed these within the organisation.

Evidence was heard from the employer that the procedures are fairly used, without favour, it is clear that there is a mismatch between the views of sections of the workforce and the views of the senior leadership team. This needs to be resolved.

## **Recommendations**

The department has a plan to review all of the employment policies. However, the initial review undertaken by the department (and it is accepted that this policy is to be reviewed again shortly), of the Bullying and Harassment policy highlights a number of recommendations.

Recommendation 1 - There should be a fresh focus on those steps that can be taken to reduce the likelihood that the Bullying and Harassment procedures will require use including mandatory training:

Recommendation 2 - All draft policies should undergo a full Technical Review by an experienced professional who has not been involved in the process up to that date, to bring a fresh mind to the policy, who is able to stress check and challenge a policy against the core values of the organisation, industry practice and appropriate legislation, and ensure it is consistent:

Recommendation 3 - A second element of the Technical Review should be to look at and compare against other associated policies, to ensure the policies are consistent with each other and where an issue has to move between policies, for example from Bullying and Harassment to Disciplinary, that it is clear where the links are, that they will work and there is no duplication of process.

Recommendation 4 - A review of timescales is undertaken to identify ways to significantly reduce the anticipated timescales within the procedures. This should include researching how the administration can be streamlined, or support given to managers to undertake, and the time periods allowed for investigation.

Recommendation 5 – Consideration should be given to allocating dedicated investigators for the investigation process within the procedures, and / or outsourcing some of the investigations, to enable timely resolution of issues.

Recommendation 6 – Consideration should be given to creating a code of conduct for the senior leadership team.

Recommendation 7 - Mandatory training should be implemented, along with regular refresher training in order to embed the appropriate level of behaviour required.

## **The effectiveness and impact of the disciplinary procedure.**

Evidence was provided that the current Disciplinary policy will be reviewed and reissued “this side of the summer”. It is clear and accepted by all parties that the current policy requires significant review, being currently made up of a number of separate documents, making the process cumbersome and not straightforward to navigate. Due to the impending work, there is no value in undertaking work in assessing this policy family.

It is understood that the new policy will follow the principles of the ACAS guidelines. If that is the case, this is to be welcomed as ACAS represents and presents well understood and accepted standards which are not overly complex, but allow for a proper and accepted route for determining and resolving issues.

## **The effectiveness and impact of the employee exit interview process.**

While there will always be some staff turnover, employees leaving the organisation present a high cost and disruption to the business as new employees are recruited and inducted. An effective exit interview process can provide the employer with vital feedback on the reasons for employees taking the major decision to leave the organisation. While feedback from employees can come from a number of sources, the leaver provides a dimension which is often (brutally) honest, and not available from those who still have an active relationship with the organisation. In addition, a robust exit interview process will give early indication if an employee is leaving with a grievance or possible reasons for a claim, sometimes enabling an early resolution.

For those who leave after a short period of employment, it is important to understand if changes are required in the recruitment, induction, or on boarding processes so that the journey for those joining the organisation is a positive one.

Our understanding of the process is that on leaving, employees are provided with an exit interview form which they can choose to respond to. Forms are reviewed to identify any areas of risk by the CMU.

Two data sets were provided, one for part of 2019 all of 2020 and part of 2021, and the second for the 12 months up to April 2021 taken from the HR dashboard.

### **Results of the top 4 reasons for leaving**

	<b>2019 – 2021</b>	<b>2021</b>
No of completed forms	182	221
<b>Career development</b>	<b>3%</b>	<b>15%</b>
<b>Change of Career</b>	<b>21%</b>	<b>12%</b>
<b>Dissatisfaction with leadership</b>	<b>3%</b>	<b>10%</b>
<b>Better pay and conditions</b>	<b>8%</b>	<b>10%</b>

It is notable how leadership and pay were two of the top issues within the Be Heard survey, suggesting that the staff turnover data, albeit completed by just 44% of leavers (2021 figures) does have validity.

Points to note –

1. The reasons for leaving are very generic and some descriptions are potentially overlapping (Career development & Change of Career).
2. Some helpful descriptors relating to workplace culture and environment are missing.
3. It is not possible to understand the deeper motives behind the reason for leaving. Any self-select option will not get to the root of an issue. There are several reasons why someone might want to change their career, some positive and some reflecting issues within the organisation, but it is not possible to determine these.

### **Recommendations.**

Recommendation 8 - A short policy paper containing the objectives for the exit interview process is drafted and agreed with SEB. While it is for the organisation to consider to what extent they wish to invest in the

process, to get the maximum return and organisational benefits from the process, a properly designed and considered policy could include the following (non-exclusive) points.

- expectation that as close to 100% of leavers as possible will be surveyed:
- while anonymity should be respected, leavers should be encouraged to allow the specifics of their experience to be used as part of the feedback and learning process:
- exit surveys are undertaken by a person independent to the department, so that the leaver is more likely to be open about the reasons for leaving, particularly where issues with managers or colleagues are the root cause:
- superficial reasons for leaving are not accepted but where possible, through questioning, the root causes for initially looking to move are explored:
- questions should have balance, therefore also seeking what was good about the organisation / role / team/ manager etc. not just the negative:
- for those leaving after only a short period of employment (2021 data is that 26% of leavers have less than one years' service), further specific questions should be asked, to understand if there is a gap between the employee's expectations of the role and the reality of the role or whether there are failings within the recruitment process:
- summary reporting titles for monitoring purposes are reviewed, ensuring the reason is clear:
- follow up process designed where the independent person provides learning-based feedback to appropriate persons, including the line manager:
- for accuracy, there should be separation of data between those employed into long term roles and those on short term fixed contracts:

**Part 2 - To consider the effectiveness of the States Employment Board in implementing employment codes of practice, HR policy, and securing improvements for employee wellbeing. This will include, but is not limited to consideration of:**

### **Standards in Public Service**

The Standards in Public Office (the "Code") is the first of six new and refreshed Codes of Practice described which will provide the structure for the implementation of the People Strategy to be issued by SEB, the others being Employee Rights, Talent Development, Engagement, Performance and Accountability and Reward and Benefits. The review only considered this Code as it was the only one available. A draft copy of the Code was provided to the Panel. (The code provided appears to have been written specifically for the Law Officers dept and States Greffe).

The importance of getting these codes right cannot be overestimated and therefore the first Code, albeit being a draft copy, has been reviewed focusing on the workability of the Code. (Whether the standards being set are appropriate and complete are outside the scope of the Terms of Reference)

- Bullying not mentioned. Evidence was received that this was an omission and would be included in future versions.

- There is a requirement for employees to participate fully and openly in any procedure or investigation (Page 5). While not stated, actions of employees not in line with the code would lay the employee open to Disciplinary Proceedings.  
This appears to be in contradiction to recommendations in the first HR Lounge report (Para 101), which recommended against requiring cooperation with an investigation as it was believed to be counterproductive. The suggestion in the HR Lounge report was that there should be a clear expectation to co-operate but not a requirement.
- The section on “your responsibility” (Page 3), does not entirely correlate to a duplicated section on Page 9, Part 4, titled “Accountabilities”. These should be read together and either match or one be removed, to ensure consistency.
- Consultants and Individual Contractors are “responsible for working within the Code of Practice when operating under a contract for the States Employment Board”. It is unclear why this requirement relating to the States Employment Board would be in a policy for the Law Officers Department and States Greffe, or why it does not apply across all departments. On a practical note, there is no information as to the extent Contractors are required to meet all the standards, for example the requirement to make disclosures or how such disclosures (Page 6, Part three), some of which would be “Special Category Data” under the Data Protection legislation, would be justified and managed.

### **Recommendations**

Recommendation 9 - For SEB to be able to monitor the progress towards meeting the new requirements of the new Codes of Practice, will require new measurables to be created and added to the HR Dashboard. For example, the Code requires attendance at Induction and Team Jersey sessions, and these should be reported on. A full review of the data available and a critical review of its accuracy, should be undertaken.

Recommendation 10 - A detailed review be undertaken to ensure each Code of Practice is fully fit for purpose before SEB sign off the Code.

Recommendation 11 - Future codes of Practice should be reviewed by the Panel, prior to being issued.

### **The policy and procedural changes implemented, following the HR Lounge Report into Bullying and Harassment (February 2018).**

The HR Lounge report dated February 2021 describes the progress of the recommendations made in the first report dated February 2018 in paragraph 15. Of the 29 recommendations, 20 have been fully implemented, 2 partly implemented or in planning and 7 either rejected or remain under consideration.

Minutes of SEB meetings were requested so as to review SEB’s decision making process and the reasons for 7 recommendations either being outstanding or rejected but were not supplied. It has therefore not been possible to fully assess the effectiveness of SEB in this area. A copy of the SEB action plan was requested, and although a copy of the action plan / tracker was provided for the actions of the Comptroller and Auditor General’s report below, one was not received for the HR lounge report.

It is clear that the report has been taken seriously and actions implemented. However, the report was presented in February 2018 yet there are some actions still outstanding. For example:

- the Bullying and Harassment Policy was updated in March 2021 some three years after the initial recommendation. This policy is not at this point satisfactory, and we understand is currently one of the policies being reviewed:

- important recommendations relating to the support of witnesses and complainants have not been addressed. These relate to the basic duty of care that the employer has:
- a post incident review has not been implemented. For the system to improve, this review is essential:
- HR Lounge appear to have been informed that the new Grievance Procedure would be launched in early 2021. At the time of writing this has yet to be launched.

It is to be hoped that the remaining recommendations will be included in the current review.

### **The policy and procedural changes implemented, following the HR Lounge Report into Bullying and Harassment (February 2021).**

No evidence has been received in relation to the timetable or completion of the recommendations contained within this report.

The report does make it clear that the position regarding Bullying and Harassment has significantly improved between the 2 reviews (Paras 14 and 15) and Para 37 states that “the signs are there are less claims of bullying”.

FOI evidence provided to the Panel actually indicates this is not the case.

2015 - 10

2016 – 28

2017 – 15

2018 – 11 (First HR Lounge report published)

2019 – 23

2020 – 38 9Second HR lounge report published)

It is unclear what data HR Lounge has relied upon, whether they were aware of the FOI data and what effect it might have had on their conclusions.

### **The actions taken following the recommendations published in the report by the Comptroller and Auditor General (“C&AG”) ‘Role and Operation of the States Employment Board’, (March 2019).**

An action plan / tracker was provided to the Panel as evidence. This indicates significant progress with the recommendations made. From this tracker, it appears that of the 20 recommendations, 18 are on the action plan with two recommendations relating to the People Hub not included. Of these, 10 are reported as being complete and 8 still to be completed, albeit all are in progress.

As minutes of SEB meetings have not been made available to the Panel, it is not possible to review how some of the recommendations have been achieved as they relate to the workings of SEB and the inter-relationships with senior officers etc. However, we have been able to review some of the output, for example:

- People Strategy – “Develop an overarching People Strategy that includes the States future workforce requirements, the assumptions, beliefs and aspirations which guide SEB as an employer, how SEB plans to discharge its statutory duties, linkages to key strategic HR policies and the respective roles of SEB, the Principal Accounting Officer and the Council of Ministers.” The People Strategy has been

developed and while stated to be a public document, evidence has been received that its existence is not widely known about. The Strategy provides an appropriate framework for HR to roll out. However, the size of the challenge faced by SEB and the department is clearly exposed by the amount of work identified in the Strategy.

- Transparency – “Enhance the transparency of SEB’s activities including, through an enhanced Annual Report, by placing more information in the public domain about the matters that SEB has considered and proactively disclosing the key terms and conditions for key staff”. The action plan reports that the Annual Report was due to be published in January 2021 and a search of Gov.je reveals no information in regard to greater transparency. In addition the reluctance / refusal to release to the Panel SEB minutes as part of their review, and the lack of awareness from third parties such as the trade Unions on matters such as the People Strategy also suggests that a culture of transparency has still to be fully developed.
- R.19 “Give Priority to finalising and implementing arrangements for monitoring compliance with the requirements of Employment Codes of Practice and supporting HR policies and guidance and routinely reporting the results of monitoring, including relevant KPI’s”. The Panel has been supplied with two data sets of KPI’s one as part of the Covid 19 – Wellbeing Recovery Plan, which included a data pack on Health and Wellbeing and secondly the GOJ People Dashboard (April 2021). The HR Lounge report Para 177 to 179) recognises the progress made and the commitment from the leadership team for meaningful data, but also expressed concern that sufficient attention was currently being given to the data and there was a lack of data about the mood of staff and there was no real discussion about the issues or the learning that should be derived and considered from the data.

My own observations of the data provided is as follows:

- the Health and Wellbeing Pack provides some data which does not look correct, especially around the cost of absence (the data suggests an average salary cost of £24,000, which is clearly incorrect):
- similar data reported in the two packs is significantly different, for example the Health and Wellbeing pack reports the number of days lost due to Mental Health, but the People Dashboard reports a figure nearly four times greater:
- data is reported without commentary so that it is not possible to understand the story that the data is telling. For example, the Health and Wellbeing pack describes the age bands of those seeking assistance under the Employee Assistance Programme suggesting that one particular age group is seeking assistance more than others. However, this needs to be compared to the demographics of the workforce, as if this is the largest age group in the workforce then that figure might be expected, but if it is the smallest then it identifies a particular issue which needs further investigation. (In this case demographics are provided in the dashboard, and it is possible to extrapolate the data to confirm that there is one age group that comprises 28% of the working population but is responsible for 40% of the referrals to the Employee Assistance Programme.):
- data does not cover issues of culture or some of the issues which arise from the Be Heard survey see also HR Lounge report (Para 180):

- the dashboard provides data at a point in time. With the exception of headcount and casework, there is no historical data provided, therefore it is not possible to understand whether a reported area is getting better or worse or for SEB to use this data to effectively monitor:
- while not included in the C&AG’s recommendations, Para 6.7 concludes “such change inevitably requires enhancement of the skills and resources to support SEB and the JAC in discharging their responsibilities” Evidence has been heard that advice to SEB is provided by the Group Director, People and Corporate Services and an independent, experienced NED, both of whom were referred to in very complimentary terms. However, based on the evidence seen there does appear to be a gap in the advice available to SEB. What has been seen throughout the review are issues of detail. SEB cannot be expected to understand the detail or be able to challenge on the detail of new policies, codes of practice etc. What they appear to need is an independent advisor who can focus on the detail of the data and the detail of proposed Policies and Codes of Practice so that they are able to properly engage with the process and the executive. This should avoid the situation explored earlier where the Bullying and Harassment Policy has been signed off by SEB despite it probably not being fit for purpose:

### **Recommendations**

Recommendation 12 - It is noted that there is a significant amount of policy work due to come to SEB over the coming months. Resources need to be made available to enable the current SEB board and probably extending into a new SEB Board who will be appointed following the elections next year to appoint an independent HR practitioner able to understand and focus on matters of detail and advise SEB accordingly.

Recommendation 13 - The Dashboard is reviewed to include issues of “mood” and culture as recommended by HR Lounge but also historical data and brief commentary, where justified, to enable SEB to understand the trends.

Recommendation 14 - The question of transparency around the workings of SEB arises on a number of occasions. This is a matter which the Panel may wish to address.

### **Part 3 - To consider the culture within the Government of Jersey as a workplace. This will include, but is not limited to consideration of:**

- a) **how the implementation of employment policy affects employee morale and well-being.**
- b) **how restructuring has impacted employee morale and well-being.**

With the data and evidence made available it is not possible to isolate how the employment policies or restructuring has impacted morale and wellbeing as there are a number of other reasons, not least the pandemic, which will have also had an effect. What is possible is to review the overall culture of the workplace, which will have been impacted by a number of issues including the employment policies, restructuring but also the pandemic, financial pressures, services pressures etc.

The Be Heard survey was undertaken between July and September 2020 and was completed by 56% of employees, ranging from 43% in Health and Community Services to 82% in the Office of the Chief Executive and not including schools, a not untypical response rate and seen as representative enough to draw conclusions from. Summary results were presented to Council of Ministers on 23 February 2021 and the results released to staff and unions on 1 March 2021. Evidence was heard from Trade Unions that the data for the Hospital had not been released. During the Hearing with the Chief Minister, HR department

representatives stated that there had been a short delay, but the report had now been released. This was latter the subject of significant press comments where Hospital staff were reported to be confirming that the report had not been issued.

For departments the value is in the detailed departmental results, and these have been released and should have been disseminated to staff, together with workshops to discuss the results and identify what steps can be taken to improve areas where the results are not in line with the employers' ambitions. However, it is noted that the workshops specifically excluded any comment on the Leadership or Fair Deal sections of the survey, which as reported below are the two lowest scoring sections.

The Assistant Chair of SEB has confirmed that the results of the Be Heard survey are recognised as an accurate picture of the organisation and therefore I have relied on the survey to extract some key messages. It was further confirmed that work is on-going to validate the results of the survey. In the absence of any validation data, I have taken the view of the Assistant Chair of the SEB and assumed the results are broadly correct and representative of the culture within the organisation.

An initial study of the results suggests that 15 specific questions were asked and 75 generic questions, totalling 90. However, the published summary and R.38 to the States Assembly reports on the same 15 specific questions but only 56 generic questions, totalling 71. Evidence was heard that it was an omission that the additional questions were not provided to States Assembly members, it did not affect the overall engagement role and the additional questions were provided in the staff feedback (the last point of which I am able to confirm). However, when looking at the survey results we need to move away from the engagement score which whilst a headline, is a numerical averaging over a significant number of responses, and move to the detail which reveals some very positive cultural traits but as should be expected, also areas where there are strong concerns expressed from employees.

In addition, there is one material difference between the text in R.38 and the graphical data. The text states "37% saw a positive change from the Team Jersey programme, 43% were neutral in their answers...18% were negative.

The graphical data provided with R.38 indicates that these percentages are not correct and are in fact the reverse, 37% negative, 43% neutral and 18% positive.

The data below is taken from the summary documents and therefore relates to the culture of the public sector as a whole. While data is available to show the culture within individual departments, some of which will vary considerably dependent on the circumstances within that area or department, the necessary research is outside the time budgets of this piece of work.

The survey reports across 8 factors of engagement. Each has an average score, described as follows.

Strongly Negative	mean score of 1
Negative	mean score of 2
Mildly Negative	mean score of 3
Neutral	mean score of 4
Mildly Positive	mean score of 5
Positive	mean score of 6
Strongly Positive	mean score of 7



Against each of the eight subject areas the scores were as follows.

#### **My Manager – 4.45**

This factor highlights that people work for people. A good manager will talk with confidence about the direction and vision of the organisation, take an interest in the personal growth of their people and build effective teams.

A score of 4.45 indicates that employees are, on average, neutral to mildly positive about their managers.

#### **Leadership – 3.48**

This factor relates to the Chief Executive, Director Generals, Group Directors and Heads of Service. The factor recognises that Leadership is a prime influence on employee engagement. Leadership needs to drive forward change while creating a balance between work and personal life.

A score of 3.48 indicates employees are mildly negative towards the leadership of the organisation. With a specific score of 2.94 (Negative) against the question “I am inspired by the person leading the organisation” and 3.07 (Negative to Mildly Negative) against the question “Senior Managers of this organisation do a lot of telling but not much listening, there is a clear suggestion that there is much work to do in this area.

#### **My Company (Government of Jersey) – 5.04**

This factor measures how much people value the organisation they work for, how proud they are to work there, and whether they feel they make a difference.

This was the highest scoring part of the survey and demonstrates a culture of pride in what they and their organisation deliver.

#### **Personal Growth – 4.45**

This factor tells us if people feel challenged in their jobs, if they feel their skills are used to the full and if they feel there are opportunities to advance.

Within this area, the lowest score was against the question “There are limited opportunities for me to learn and grow within this organisation” at 3.53

#### **My Team – 4.84**

My Team is important as friendship and support from your work colleagues can make all the difference to your day. And as any good employer knows, team spirit fosters productivity.

Across the 5 questions asked, 4 scored relatively highly, but the mean was brought down by the question “Power struggles within my team have a negative impact” at 3.81

#### **Wellbeing – 3.98**

Wellbeing measures stress and pressure and their impact on your health and performance.

It must be remembered that this survey took place during the pandemic. Wide variations in the results were reported depending on the type of work and location. In these particular circumstances a mean score is not so meaningful and will not properly reflect issues some groups of staff will be experiencing.

#### **Fair Deal – 3.74**

This factor tells us whether people feel their organisation values them and whether they feel pay and benefits compare well with those of counterparts in similar organisations.

### **Giving Something Back – 3.98**

Giving something back to the local and wider community involves how we think about our environment, and we think profit and budget concerns are the only things driving the organisation

### **Performance, Accounting and Reporting – mean score not available**

**For completeness, the missing questions are as follows together with their mean scores (manually calculated by Panel officers).**

I am excited about where this organisation is going	4.04
I feel I can tell my manager when work is going badly	5.17
I feel my job is secure	4.71
I have skills that my organisation could use but doesn't	3.4
Managers in my organisation would rather avoid conflict than deal with issues	3.83
My manager ensures that I have the resources I need to do my job	4.67
My manager takes an active interest in my wellbeing	4.74
My manager treats everyone fairly	4.49
My organisation makes a positive difference to the world we live in	4.99
Policies and procedures within this organisation are fair to everyone	4.35
Profit / budget concerns are the only things driving this organisation	3.99
Regardless of gender, people are paid fairly here	4.65
Senior Managers here are visible and approachable	4.58
Some departments / teams in this organisation don't work well with each other	2.91
Some people here use intimidation to get what they want	4.04
Sometimes I feel that my manager takes advantage of me	4.69
The leader has a plan that I believe in	3.93
This organisation feels more reactive than proactive	3.21
What is expected of me in my work is made completely clear to me	4.71

### **Bespoke questions**

**There were 15 bespoke questions asked within the survey.**

**I have grouped these into 4 sections**

- 1. Changes due to Covid 19**
- 2. One Gov and Team Jersey**
- 3. Management relationships**
- 4. Other**
- 5.**

**1, Changes due to Covid 19**

I feel that I am more able to work in different ways than before Covid 19 4.65

I feel that I am more trusted to do my work than before Covid 19 4.05

**2. One Gov and Team Jersey**

I understand the purpose of the Team Jersey programme 4.3

I have seen positive changes from the Team Jersey programme 4.52

I support the changes that are aligned to the One Gov vision 3.51

The One Gov vision is not clear to me 3.81

I have seen positive change in my department from being more One Gov 4.34

I understand the purpose of the Team Jersey programme 4.3

I feel that I have been able to have my say about change in my department 3.88

**3. Management relationships**

I feel that I actively support my manager during my working day 5.63

I understand the level of support I need to give to my manager... 5.45

**4. Other**

In working for the Government of Jersey, I am proud and committed to be part of Team Jersey 4.37

I believe the GOJ is committed to creating a diverse and inclusive workplace 4.36

My personal values and beliefs are treated with respect 4.43

Flexibility in my working practices such as how, when and where I work, is important to me 5.86

There are some real positives amongst these bespoke questions. The area of concern should be around the changes that are taking place. The shape of the answers suggests employees understand the changes, see some benefits but are less supportive and do not feel they have been adequately consulted. What is of particular note is the proportion of responses from those who were neutral in their view. Particular attention and strategies need to be directed to this group for if they move to being positive the changes are far more likely to embed, but if they become negative, the change process will likely struggle.

When taking employees through a change process, one strategy for all staff will not suffice. Those who are negative to the changes need a different approach compared to those who are neutral, as will those who are positive and who should be the employee ambassadors to the continuing changes.

## Summary of the Culture

Taking the above feedback, if we were to try and summarise the culture of the organisation, as described by the Be Heard survey, I might summarise as follows.

**We are proud of the organisation we work for, the team we work with and the contribution we make to our community. Our line managers are supportive, but we are not so positive about our senior leadership, and we are split between being positive, neutral or negative towards the current change programme, and want more information and to be more involved. Some of us are struggling with our wellbeing and we do not believe our total remuneration package is fair.**

## Response to the Survey.

While evidence has been heard about some of the issues identified, both positive and negative, the written evidence available suggests that some of the core messages have not been fully recognised. For example:

- some of the unreported questions such as the low scores being reported for the question “ The leader has a plan that I believe in”
- the report to the Council of Ministers (23 February 2021) does not mention feedback on leadership or pay.
- Little recognition of the overall low proportion of staff who are positive about the One Gov vision or the challenges this presents to the organisation.

As a consequence, it is unclear the extent to which the issues identified within the Be Heard survey are understood or being openly discussed within the organisation and therefore whether the necessary changes will receive the support needed.

The People Strategy presented to the Panel provides a comprehensive vision for the future. It should be welcomed by all parties in the way it features the vision, commitments and delivery plan. This strategy, in many respects, provides many of the answers to the challenges thrown up by the Be Heard survey. As always it will be the delivery that will determine its success.

For SEB there will be the need for considerable oversight if it is to meet its governance requirements and this will likely require greater resources be committed to the Board.

A recruitment process for the new Chief Executive is currently being undertaken. While the Panel has recommended that this be paused until after the election, the recruitment process enables a clear signal to be given to all employees that the new leader will be a person who has particular strengths in the areas highlighted by employees.

In evidence the Chief Minister described the leadership skills required by the new Chief Executive should focus on completing the change programme already commenced.

I would argue that the Chief Ministers valid requirement and the results of the Be Heard survey point to particular leaderships traits being required, which will be different to those required from the previous Chief Executive. It is not clear from the job description for the new role whether that focus has been either discussed or put forward to the Jersey Appointments Commission who are running the recruitment process. Even if this issue has been adequately resolved, there is a significant opportunity for the Chief Minister to be very public and open to employees making it clear that he is seeking a new Chief Executive who will have the leadership skills to change the culture of the organisation and meet the valid concerns raised by employees.

## **RECOMMENDATIONS**

Recommendation 15 - The People Strategy confirms that a Reward and Benefits Code of Practice will be introduced in 2021. With the Be Heard survey delivering a clear and strong message regarding Fair Pay, there needs to be clear communication on how this Code of Practice will deal with the realities and possible incorrect perceptions that are the realities of any pay debate. It is recommended that the Scrutiny Panel returns to this issue once the Code of Practice is available.

Recommendation 16 - SEB ensures it has sufficient resources to oversee the significant process of change that will be taking place as a consequence of the People Strategy.

## **Appendix 1**

### **Summary of recommendations.**

Recommendation 1 - There should be a fresh focus on those steps that can be taken to reduce the likelihood that the Bullying and Harassment procedures will require use including mandatory training.

Recommendation 2 - All draft policies should undergo a full Technical Review by an experienced professional who has not been involved in the process up to that date, to bring a fresh mind to the policy, who is able to stress check and challenge a policy against the core values of the organisation, industry practice and appropriate legislation, and ensure it is consistent.

Recommendation 3 - A second element of the Technical Review should be to look at and compare against other associated policies to ensure the policies are consistent with each other and where an issue has to move between policies, for example from Bullying and Harassment to Disciplinary, that it is clear where the links are, that they will work and there is no duplication of process.

Recommendation 4 - A review of timescales is undertaken to identify ways to significantly reduce the anticipated timescales within the procedures. This should include researching how the administration can be streamlined, or support given to managers to undertake, and the time periods allowed for investigation.

Recommendation 5 – Consideration should be given to allocating dedicated investigators for the investigation process within the procedures, and / or outsourcing some of the investigations, to enable timely resolution of issues.

Recommendation 6 – Consideration should be given to creating a code of conduct for the senior leadership team.

Recommendation 7 – Mandatory training should be implemented, along with regular refresher training in order to embed the appropriate levels of behaviour required.

Recommendation 8 - A short policy paper containing the objectives for the exit interview process is drafted and agreed with SEB. While it is for the organisation to consider to what extent they wish to invest in the process, to get the maximum return and organisational benefits from the process, a properly designed and considered policy could include the following (non-exclusive) points.

- Expectation that as close to 100% of leavers as possible will be surveyed.
- While anonymity should be respected, leavers should be encouraged to allow the specifics of their experience to be used as part of the feedback and learning process.
- Exit surveys are undertaken by a person independent to the department, so that the leaver is more likely to be open about the reasons for leaving, particularly where issues with managers or colleagues are the root cause.
- Superficial reasons for leaving are not accepted but where possible, through questioning, the root causes for initially looking to move are explored.
- Questions should have balance, therefore also seeking what was good about the organisation / role / team, not just the negative.

- For those leaving after only a short period of employment (2021 data is that 26% of leavers have less than one years' service), further specific questions should be asked, to understand if there is a gap between the employees expectations of the role and the reality of the role or whether there are failings within the recruitment process.
- Summary reporting titles for monitoring purposes are reviewed, ensuring the reason is clear.
- Follow up process designed where the independent person provides learning-based feedback to appropriate persons, including the line manager.
- For accuracy, there should be separation of data between those employed into long term roles and those on short term fixed contracts.

Recommendation 9 - For SEB to be able to monitor the progress towards meeting the new requirements of the new Codes of Practice, will require new measurables to be created and added to the HR Dashboard. For example, the Code requires attendance at Induction and Team Jersey sessions, and these should be reported on. A full review of the data available and a critical review of its accuracy, should be undertaken.

Recommendation 10 - A detailed review be undertaken to ensure each Code of Practice is fully fit for purpose before SEB sign off the Code.

Recommendation 11 - Future codes of Practice should be reviewed by the Panel, prior to being issued.

Recommendation 12 - It is noted that there is a significant amount of policy work due to come to SEB over the coming months. Resources need to be made available to enable the current SEB board and probably extending into a new SEB Board who will be appointed following the elections next year to appoint an independent HR practitioner able to understand and focus on matters of detail and advise SEB accordingly.

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