

Chief Minister (as Chair of SEB) and Treasurer’s Response to PAC Report: [PAC Review of States Annual Report and Accounts 2020](#): Executive Response to PAC by 21 September 2021 please.

Summary of response:

The Chief Minister (as Chair of SEB) and Treasurer welcome the report of the PAC. A number of improvements have already been put in place as a result of the report of the C&AG on the Employment of the former Chief Executive and these are reported in detail below. It is heartening that the PAC recognises general improvements in the processes for production and audit of the Annual Report and Accounts, despite an extraordinary year in two specific aspects – Covid-19 and the departure of the former Chief Executive. The Chief Minister, the Interim Chief Executive and the Treasurer welcome the constructive dialogue with, and challenge from, the PAC and share their objective of improved governance, as well as better management and reporting of performance. It can only be healthy for Islanders for the States and Government to be held to account in a balanced and co-operative manner. The majority of recommendations are accepted. Some have already been implemented. Target dates for the remaining accepted actions are included below.

Action Plan

Recommendations	Action	Target date	Responsible Officer
R1 In accordance with the Public Finances Manual, the States Employment Board should consult with, and obtain written advice from, the Treasury and Exchequer regarding significant payments for Senior Officers.	Accept – already implemented. As this is already a requirement of the PFM, no further action is required.	N/A	N/A
R2 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.	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	31 st December 2021	Treasurer of the States

	<p>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. <p>In accordance with the Public Finances Law, changes to the PFM must be approved by the Minister for Treasury and Resources.</p>		
<p>R3 The Government should include clearer key performance indicators and continue its work to unify the language of public-facing performance reporting to aid understanding and overall scrutiny of annual departmental performance.</p>	<p>Accept. Government Performance encompasses the Jersey Performance Framework, which measures Island Outcomes; alongside Service Performance Measures, which relate to the performance of departmental services. Placeholders already exist on the Government performance part of the Government of Jersey website.</p> <p>Service Performance Measures were introduced during 2020 to publicly identify how services provided by the Government of Jersey are performing. The Service Performance Measures were outlined in the 2020 Departmental Operational Business Plans (DOBPS) and were reported on for the first time in the 2020 Annual Report and Accounts.</p> <p>Quarterly reporting is to be introduced before the end of 2021, and the Government of Jersey website will be updated accordingly. Experience of operating the service performance measures framework during 2021 has already identified improvements to some measures that can be introduced into the system for 2022. This will be part of business-as-usual each year.</p>	<p>30th June 2022</p>	<p>Director General, Strategic Policy, Planning and Performance</p>

	<p>The intention is that annual reporting of service performance measures will happen alongside the Q4 data, with only highlights included in the Annual Report and Accounts – both of these will have happened by Q2 2022.</p>		
<p>R4 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.</p> <p>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). 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.</p> <p>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.</p>	<p>30th September 2022</p>	<p>Director General, Strategic Policy, Planning and Performance</p>
<p>R5 Future Annual Report and Accounts should separate spending made in response to COVID-19 or other non-recurrent expenditure from routine annual spend, to improve the monitoring of public spending.</p>	<p>Accept. The way in which the government responded to the COVID-19 pandemic by redeploying existing staff resources, mobilising additional resources, and prioritising activities made it more challenging to separate out the specific COVID-19 costs in 2020. However, as recognised in the C&AG's report 'Overall Management of Public Finances during the COVID-19 pandemic' (page 19) <i>'Officers put in place pragmatic and</i></p>	<p>30th April 2022</p>	<p>Treasurer of the States</p>

	<p><i>flexible arrangements to identify and monitor COVID-19 related expenditure.'</i></p> <p>The first page of the Financial Review section of the AR&A 2020 (page 112) provided a summary of the COVID-19 costs captured in 2020 with a full breakdown provided in the associated appendix on page 147.</p> <p>To help separate COVID-19 costs in 2021, a COVID-19 Response head of expenditure was created in the Government Plan 2021-2024.</p> <p>The net revenue expenditure by department reported in the Mid-year Review 2021 restated the 2020 numbers to remove the recorded COVID-19 costs and report them against the COVID-19 Response head of expenditure. This specific head of expenditure will also be used in the AR&A 2021 to separate the COVID-19 costs and provide clearer comparable financial performance.</p> <p>Consideration will also be given to separating the COVID-19 costs in other parts of the financial reporting within the AR&A 2021 to provide end users with a clear and transparent view of government financial performance.</p>		
<p>R6 Greater clarity should be provided to distinguish 'efficiency savings' from the deferral of growth and other rebalancing and savings measures within future Annual Reports and Accounts.</p>	<p>Accept. The Efficiencies Plan approved by the Council of Ministers for 2020 established the principle of reducing spend as an alternative to delivering the original efficiency proposal. This was subsequently described as Plan A, B and C as defined in the '6 Month Progress Review' (page 94) where Plan C is deferral of spend, typically Government Plan growth, or other one-off approaches.</p>	<p>30th April 2022</p>	<p>Treasurer of the States</p>

	<p>The AR&A 2020 continued this categorisation and provided a breakdown of how the £40million efficiencies target for 2020 was delivered in Section 4 (page 93).</p> <p>The Mid-year Review 2021 provided an update on the Rebalancing Programme (page 15) and how the targets are being achieved.</p> <p>The AR&A 2021 will provide an analysis of how the 2021 target and the brought forward amount to be delivered on a recurring basis has been delivered, including separating any delivery through non-recurrent measures.</p> <p>As reported in the Mid-year Review, there has been a shift to a broader set of rebalancing measures into which the efficiencies were subsumed.</p>		
<p>R7 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</p>	<p>Accept – already implemented. The recruitment process has now been completed and the contract signed.</p> <p>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.</p>	N/A	N/A
<p>R8 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</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>	N/A	N/A

¹ [letter - pac to chair of states employment board re appointment process of new chief executive - 19 july 2021.pdf \(gov.ie\)](#)

<p>published annually alongside the Government Plan.</p>	<ul style="list-style-type: none"> • <i>Ministerial responsibilities published by the Chief Minister.</i> • <i>The Government Plan Annex; and</i> • <i>Departmental Operational Business Plans.</i> <p><i>Taken together these form a sufficient basis for assessing whether expenditure has been undertaken for the purposes intended by the States Assembly.</i></p> <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>		
<p>R9 The current advisory structure of the States Employment Board 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 the SEB.</p>	N/A	N/A
<p>R10 The announcement of the appointment of a new Chief Executive should not be made until contract negotiations have been completed and the contract signed.</p>	<p>Accept – already implemented. The announcement of the appointment was leaked ahead of the official announcement, which was delayed as a courtesy to a States Member, Deputy Kirsten Morel, who lodged a proposition to halt the recruitment process. The proposition requested the SEB to do something which was unlawful and ultimately was withdrawn. It should be noted that Deputy Morel was informed of the position and impact on 27 August 2021 and then by the SEB on 8 September 2021, including regarding the legal position and ramifications.</p>	N/A	N/A
<p>R11 The line management of the Chief Executive should be reviewed and updated in time for the appointment of the next, permanent Chief Executive.</p>	<p>Accept – already implemented. A report was considered by SEB in September 2021.</p>	N/A	N/A

<p>R12 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.</p>	<p>Accept – already implemented. A report was considered by SEB in September 2021.</p>	<p>N/A</p>	<p>N/A</p>
<p>R13 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.</p>	<p>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.</p> <p>A revised scheme of delegation was put in place in September 2021.</p>	<p>N/A</p> <p>30th September 2021</p>	<p>N/A</p> <p>Group Director, People and Corporate Services</p>
<p>R14 All key agreements directly relating to Senior Officers, including secondary employment, advisory positions and membership of boards should be made in writing with a clear understanding that verbal approval is insufficient and does not imply or substitute formal approval</p>	<p>Accept – already implemented. This is already the case, so no further action is required.</p>	<p>N/A</p>	<p>N/A</p>
<p>R15 The States of Jersey should take the necessary steps to inform the workforce about the employment status of the Chief Executive should his or her original contract be terminated prior to the date of departure initially agreed, and more widely advise who is responsible for the positions occupied by the Chief Executive if no-one is in post.</p>	<p>Accept – already implemented. The Chief Minister after consulting with the States Employment Board and Council of Ministers, will take the necessary steps to inform the workforce about the employment status of the Chief Executive should his or her original contract be terminated prior to the date of departure initially agreed, and more widely advise who is responsible for the positions occupied by the Chief Executive if no-one is in post.</p>	<p>N/A</p>	<p>N/A</p>
<p>R16 The identity of the Chief Executive and Principal Accountable Officer, or the individual deputising in one or both of</p>	<p>Accept – already implemented.</p>	<p>N/A</p>	<p>N/A</p>

these roles, should be publicly available at all times.			
R17 – 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.	Neither accept or reject. Individual circumstances and risk assessments will be required in each situation.	N/A	N/A
R18 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.	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.	30 th June 2022	Group Director, People and Corporate Services
R19 A formal structure of deputising should be developed and published to identify clear continuity of business in the event of the Chief Executive Officer being incapacitated or otherwise unable to fulfil the functions of this role (including as Principal Accountable Officer and Head of Public Service).	Accept.	31 st December 2021	Chief of Staff
R20 The holder of the role of Chief Executive (and its attendant functions as Principal Accountable Officer and Head of Public Service) should be publicly clarified during periods where there are two employees with equal claim to the position (i.e., an outgoing and incoming Chief Executive).	Accept.	If and when it arises.	Group Director, People and Corporate Services

<p>R21 All due processes should be stringently followed and documented, in respect of every Special Payment, including consultation with Treasury and Exchequer, regardless of time pressures.</p>	<p>Accept – already implemented. The findings of the C&AG, reiterated by the PAC, have already been discussed at ELT (Executive Leadership Team). This has had the effect of raising the profile of Special Payments, and there is evidence that AOs are proactively contacting Treasury and Exchequer. There have been requests for briefings on the Public Finances Manual. Two have been delivered to People and Corporate Services, with a further briefing planned for September 2021. These briefings have generated useful discussions and a clearer understanding of the nature of Special Payments. There are good grounds for confidence that the example raised in this report is less likely to be repeated.</p>	<p>Immediate complete -</p>	<p>All Accountable Officers Group Director, People and Corporate Services (for SEB)</p>
<p>R22 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. ADR 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.</p>	<p>Immediate</p>	<p>Group Director, People and Corporate Services</p>

Recommendations not accepted

	Recommendation	Reason for rejection
R8	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.	This has already been rejected once with the reason that the Government Plan and financial statements accompanying it already do this.
R9	The current advisory structure of the States Employment Board should be reviewed to improve its regulatory framework, with consideration given to the scope of an advisor specialising in Jersey’s employment law.	Rejected: 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 the SEB

R13	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.	Not agreed. 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 will be in place September 2021.
R17	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.	Individual circumstances and risk assessments will be required in each situation.