

STATES OF JERSEY



OUTSOURCING POLICY: SAFEGUARDS

Lodged au Greffe on 14th June 2016
by Deputy G.P. Southern of St. Helier

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

- (a) to request the Chief Minister to ensure that the safeguards listed in paragraphs 17 and 20 of the report dated 4th May 1999 of the then Policy and Resources Committee, and adopted by the States on 22nd June 1999 in P.59/1999, Outsourcing Policy, shall apply to current and future outsourcing activity; and
- (b) to charge the Chief Minister, in consultation with the States Employment Board and employee representatives, to establish a common framework within which all departments should determine their outsourcing arrangements, based on the principles outlined in paragraphs (a) to (h) below.

DEPUTY G.P. SOUTHERN OF ST. HELIER

REPORT

Although the emphasis back in 1999 was on outsourcing as one of several mechanisms for the control of population, the report attached to P.59/1999, commissioned from Arthur Anderson, contained the following policy guidelines which remain relevant today to any outsourcing activity, as follows:

(a) Outsourcing as a potential tool for use by the States of Jersey needs to be accepted politically.

The sensitivity attached to outsourcing in the public sector requires that if outsourcing is to be successfully employed it must be accepted that it is a valid concept that can be considered alongside other accepted initiatives throughout the public sector. Without the political will and support of the States, Committees (*Ministers*) of the States, Chief Officers and employees, outsourcing is unlikely to work.

(b) Outsourcing should not be considered in isolation.

Outsourcing is one of several avenues available to the States to help it achieve its strategic objectives. Outsourcing should not be viewed as a separate activity, but should be integrated into the States' normal reviews of internal costs and efficiencies, including the use of information technology (IT).

(c) The functions and processes appropriate for outsourcing should be clearly determined.

Having embraced outsourcing as a concept and accepted that it should be adopted where applicable, the States need to require Ministers to consider which functions and processes, if any, should be outsourced. Moreover, the decisions to consider outsourcing should be based on "Best Value" to the States as a whole and not just on "Least Cost" to a particular Department.

(d) All outsourcing transactions contemplated by the States should follow a common framework.

In order to ensure that all outsourcing transactions are performed efficiently and consistently by all departments, a common framework should be utilised. Using a framework will ensure that a common approach is adopted, that appropriate experience is called upon, that risks are mitigated, and legal and fiscal implications are fully evaluated.

The common framework must not be too prescriptive, or overly bureaucratic, but it should include standard conditions to be incorporated into outsourcing contracts that ensure adequate safeguards for the resident workforce.

(e) Any outsourcing policy and its use should be monitored.

To ensure that there is a consistent framework of outsourcing, overall responsibility for control of outsourcing policy and the monitoring of its use should be in the hands of one body. It is proposed that this body should be led by the Policy and Resources Committee (*Chief Minister*), in conjunction with the Establishment Committee (*States Employment Board*), to maintain the quality of employment relationships. The body should be chaired by the Corporate Strategy Officer, and should be made up of a team of those representing the relevant Committees (*ministers*) of the States, and employee

representatives. Committees of the States (*Ministers*), however, should have the flexibility within the common framework to operate the outsourcing policy within their respective areas of responsibility, according to their individual needs.

(f) Day to day control of individual outsourcing arrangements should be in the hands of a project team, except where the outsourcing transaction can be considered to be *de minimis*.

The project team should include individuals with in-depth knowledge of the function or process being outsourced, and should also include representatives of all those on who the success of the outsourcing must ultimately depend.

(g) Cost and quality considerations must be balanced against the requirement to secure the more effective use of public sector resources.

The project team should make itself aware of the existing in-house costs and quality standards as a benchmark for judging external suppliers. Any potential improvements to the in-house operation should also be identified.

(h) Employees must be treated fairly and with sensitivity.

In order for an outsourcing transaction to progress smoothly, it is essential that human relations are properly handled. For every transaction, therefore, employees, and their Union representatives need to be fully informed of what is happening and how it will affect them personally. As such, a “partnership” approach is encouraged, rather than just a debate on individual transactions.

Members will have noted the relevance of many of these principles to the situation today. The need for political acceptance is paramount. The overarching policy of *Stop, Reduce or Outsource* to apply to all public services has yet to be specifically endorsed the Assembly.

Paragraph (c) is also a vital element, in that it insists that the widest perspective of outsourcing should be taken if it is to deliver “Best Value” to the States as a whole, and not just “Least Cost” to a particular Department. So far, this approach has yet to be seen in proposals under consideration by the Minister for Infrastructure; we have yet to see what the economic impact of large-scale redundancies might be.

Equally, we have also yet to see any evidence for a common framework for outsourcing as in paragraph (d). Instead, we see the most advanced reviews of service coming forward from the Department for Infrastructure with a mixture of VR, VER, compulsory redundancies, and transfers to other departments in an ad hoc manner. How will this approach be applied to areas of public service with markedly higher skills and specialisms? Where is the co-ordination or the monitoring suggested in paragraph (e)?

Most notably absent so far, is the requirement to treat the workforce fairly and with sensitivity. Consultation has been patchy, to say the least. The release of the pre-tender register of interest documents before meeting with the staff could not have been more badly timed, and increased anxiety levels significantly. That the process so far has been poorly managed is reflected in the ballot for action on the part of the Unite sections so far affected.

The proposition asks that the safeguards contained in paragraphs 17 and 20 shall be applied to outsourcing processes currently under consideration. I have included paragraphs 18 and 19 here to set the safeguards in the context of employee concerns, most of which are as relevant today as they were in 2000:

17. In consulting with the employees' representatives it has been made clear that fundamental to any outsourcing policy is the need for safeguards. Where outsourcing affects existing public sector employees, specific safeguards, possibly in the form of service level agreements developed in consultation with the employees' representatives should cover issues such as –

- **equity;**
- **standardisation of wages;**
- **job security;**
- **security of tenure;**
- **health and safety;**
- **terms and conditions of service;**
- **the employment of local labour.**

18. These safeguards touch on the natural concerns of those representing States employees. These concerns can be referred to as follows –

- Outsourcing is seen as privatisation.
- There is not a level playing field between blue and white collar workers. Outsourcing has been seen as predominantly concentrated on blue collar workers.
- Outsourcing has involved less favourable terms and conditions being offered to employees by private contractors.
- Lack of immigration control enables private contractors to employ people “off the boat”.
- Lack of training for blue collar workers to enable them to change jobs both internally and externally.
- Lack of safeguards for workers. The United Kingdom experience has shown that the so called TUPE safeguards have proved inadequate.
- There is a lack of other suitable employment for redundant public sector blue collar workers in the absence of any manufacturing base. By comparison, the white collar workers have the finance industry to fall back on.
- Concern that employees would not be fully consulted.
- Concern that outsourcing will be mandatory.
- Concern about whether the States has the expertise to manage outsourcing and ensure the safeguards are met.
- Concern that those with specialist skills would not be able to find employment in the private sector.
- Impact on public sector staff morale.

- Concern that there should be no reduction in public sector job opportunities, and in opportunities for promotion and career development.
- Problems of managing the supply of services, particularly if outsourcing is off-Island, in terms of quality and efficiency arising from a lack of knowledge and understanding of Jersey's laws, systems and conditions.
- Concern that the loss of the security of public sector employment, and a reduction in pay levels, would bring in its train social costs for the community.

19. In addressing these needs, therefore, it is incumbent on the States to not only ensure the incorporation of appropriate safeguards in any outsourcing policy, but also to encourage, develop, and implement training and skills enhancement programmes to all levels of States employees (e.g. IT training).

20. In addition to the foregoing, any outsourcing policy should also incorporate safeguards relating to “Best Value” covering: quality of service, cost, and the States’ Strategic Policies generally. For example –

- **where the States contract with external suppliers there needs to be proper regard for the effect of this on the revenue expenditure of the States, on the States policies on sustainability, and on the minimising of social and material deprivation;**
- **a condition of States contracts might be that any local supplier should employ a given proportion of persons who are residentially qualified or have been resident in the Island for five years or more, in line with the policies being pursued by the Finance and Economics Committee (Chief minister) in applying the Regulation of Undertakings and Developments Law (Control of Housing and Work Law – CHW).**

There can be little doubt that the process of outsourcing public sector jobs and services has not started well. Relations between employees, their representatives and the States’ Employment Board and Ministers are at or near breakdown. If we are not to compound these problems further, we have to adopt an inclusive approach to the process. Paragraph 17 of this proposition presents a minimum set of safeguards on which we should consult. Paragraph 20 points to “best value” across the States and minimising material deprivation. We have to address the concerns of public sector employees in order to make progress. Failure to do so will lead to months, if not years, of worsening employment relations and the prospect of further industrial action. This is a moderate proposal to seek a way forward; it simply asks the Chief Minister to consult.

Financial and manpower implications

There are no financial or manpower implications for the States arising from this proposition.