

STATES OF JERSEY



OUTSOURCING (P.29/2016): COMMENTS

Presented to the States on 23rd May 2016
by the States Employment Board

STATES GREFFE

COMMENTS

The States Employment Board (“SEB”) asks members to reject the proposition.

It is fundamental to draw a distinction between the role of the Assembly as the legislature, and the role of SEB as the employer.

SEB is the corporate employer of all public servants, under statute as governed by the Employment (Jersey) Law 2003 (the “Employment Law”) and the Employment of States of Jersey Employees (Jersey) Law 2005.

As an employer, it seeks to be an exemplary and good practice employer for its workforce, covering all aspects of public service provision from teaching, nursing, infrastructure, to legislative and policy development.

SEB comprises 3 Ministers and 2 members elected by the States Assembly, and it is therefore a partnership between the executive and the legislature. It ensures that it meets its statutory and good employer obligations by establishing a clear strategic framework of workforce policy, procedure, reward and terms and conditions, which are managed on a day-to-day basis under delegated authority by the Chief Executive Officer and departmental Chief Officers.

All aspects of workforce management and engagement are subject to regular review and scrutiny by SEB. This includes organisation change proposals, reward redesign, improvements/adjustments to policy and terms and conditions, etc.

The Board has a deep-rooted framework of collective bargaining and representation, covering all aspects of workforce with sophisticated and well-resourced Trade Unions such as Unite, Prospect, NUT, RCN and Nasuwt, who have many of our employees in their membership. Regular, almost daily consultation and negotiations occur between officers and trade union representatives, which are designed to explain, test, adapt and improve employer proposals which may involve changes in workforce structure, numbers and remuneration.

This rigorous approach ensures that the quality of planning, proposals and outcomes are fully tested to ensure that they are proportionate to the primary aim of having a public sector workforce which is sustainable, efficient, effective, agile and affordable for the Island.

The Board believes that this well-established governance, scrutiny and review framework already in place provides the Assembly with the absolute confidence that workforce decisions are well-planned, subject to active consultation and negotiation with employee representatives, who in turn are supported by professional and well-resourced Trade Unions, and are designed to deliver the outcomes that the Assembly, through its approval of MTFP2 and the £70 million of workforce savings requires.

Proposition 29/2016 at first sight appears to be innocuous, and it might be argued that it reinforces the good governance of workforce matters that already exist and hence should not be a concern.

However, that is far from the case. A strong argument can be presented that it undermines the role of SEB as the employer, as by definition the final decision on any reorganisation proposal does not rest with the Board, who is the employer in law, but with the Assembly when it involves compulsory redundancy of 12 or more employees in any change proposal. It undermines the collective bargaining and negotiating framework that is in place, which demonstrably has worked and continues to work effectively.

The proposition does not explain how the Assembly will reach a decision of what is a “good or bad” proposal. It forces the Assembly into a position where it is making day-to-day operational decisions on a basis which is unclear, when its role is to provide the strategic direction and outcomes for the Island and its citizens, and SEB is in fact the established employer in Law.

As indicated earlier, there is a clear distinction between role of the employer and the role of the legislature, and indeed, the role of the Council of Ministers as the government. This distinction is important, and P.29/2016 blurs the distinction between strategy and operational decisions and outcomes. Indeed, if implemented, the Assembly becomes part of the operational delivery framework of the employer, with all the consequences that might stem from such involvement.

One implication of P.29/2016 is that SEB and its officers cannot be trusted to make or take decisions affecting the workforce that underpin the delivery of the strategic outcomes the Assembly has determined. Indeed, there is an assumption that the employer is cavalier in its approach to the delivery of workforce change which can only be controlled by the Assembly. The day-to-day evidence belies that view. The Board has a framework to manage organisational change, which has been derived through detailed consultation with its workforce representatives. Examples of the approach are –

- In all possible circumstances, reducing staff as people leave naturally, through redeployment, and through voluntary redundancy. Compulsory Redundancy is a last, if sometimes necessary, resort.
- Any business awarded a contract to provide services will have binding requirements placed upon them – in particular, having to consider employment applications from existing staff and meeting a “responsible employer test” – which will include a track record of compliance with employment and other legislation, in particular health and safety, not being reliant on any new permissions for migrant workers, a commitment to deliver appropriate training and development, and providing terms and conditions commensurate with their sector.
- An outplacement service in the Social Security Department will act as a dedicated resource to support anyone who needs it, providing practical and emotional support, helping people work out the next steps based on their skills, helping them with applications, providing bespoke training and job-matching services, exploiting excellent links with local employers.
- The wider support provided by a specialist HR function to both managers and employees supports good quality decision-making, and safeguards are in place in any change proposals.

Since the start of 2015 to date, the headcount of public employees has been gradually reducing through controlled redesign of service, vacancy management, and voluntary redundancy, etc.

SEB will continue to use these and other measures to deliver the workforce savings and re-alignment required by MTFP2. However, the States Employment Board as an employer is no different from any other commercial or public sector body, and it may in the last resort have to use compulsory redundancy to achieve the redesign objectives and will of the Assembly as reflected in the approval of MTFP2 last autumn.

As a good employer, SEB has consistently said it will only use compulsory redundancy as a last resort, when no other alternative is available to deliver the outcomes expected. The governance described earlier provides the Assembly with the confidence that any such proposal will be subject to detailed review and scrutiny to ensure that the outcomes are proportionate, the workforce properly treated, and that statutory conditions are met.

Nevertheless, the Board is exploring the creation of a sub-group to advise it on any compulsory redundancies required to deliver the MTFP. This group could include the 2 existing non-Ministerial members, so as to provide the clear link to SEB, plus 2 additional States Members, providing the fullest consideration and assurance of individual schemes for the duration of the MTFP2 programme.

Finally, it should be noted that P.29/2016 will have headcount and financial implications which, whilst not yet quantified, will impact on existing workload, opportunity cost, sensitivity and costs of suppliers wishing to engage with the States of Jersey.