
STATES OF JERSEY



JERSEY APPOINTMENTS COMMISSION: ANNUAL REPORT FOR 2011

Presented to the States on 7th August 2012
by the Chief Minister

STATES GREFFE



Annual Report for 2011

CHAIRMAN'S REVIEW 2011

This is my second year as Chair of the Commission, and I wish to start by thanking my fellow Commissioners for the commitment they have demonstrated over the last year and for their support. In addition, I would like to thank the States Human Resources Department, which provides valuable support both directly to the Commission and in overseeing compliance with our recruitment standards.

In reviewing the year, it is important to take account of the significant challenges faced by both the States and the Island. The negative economic outlook looks certain to continue for sometime and the Island continues to be subject to increasing levels of external scrutiny and escalating complexity in global governance standards.

In that context, it is pleasing to report that there has been further improvement in the standard of recruitment processes and adherence to the recruitment codes, both within the States and in the Quangos.

However, it is important not to be complacent, to listen to feedback and to learn from the experience and lessons of the last few years. Accordingly, a full review was undertaken of the Recruitment Code and the 'guidance notes' that are issued by the Commission, which cover the recruitment of senior positions with the States, and Board members and senior executives in Quangos. This review started in the last quarter of the year and the revised codes were issued early in 2012. These have also been placed on the States website, to ensure that we meet the legal requirement of the Codes being readily accessible.

We have also re-established an Audit Programme to ensure that audits of recruitment processes are carried out on a planned basis. This will commence in the Autumn of 2012.

In reviewing the year it is important to draw a comparison with the previous year. The report for 2010 highlighted a number of key issues that the Commission felt needed to be addressed, namely:

- Manpower Planning: The need to have a detailed process which would assist in developing plans and budgets and, very importantly, in setting expectations in advance of senior appointments being made;
- Succession planning: This is a very important element of any Manpower Planning process. It is accepted that this is a very complex area but, in essence, the question is whether the States is able to 'grow its own' for all key positions and whether this is indeed desirable or realistic in all areas;
- On the same subject, the need to recognise the challenges involved in developing senior managers from within e.g. it takes time, it can be very expensive, the success rate can be low and whether the required development opportunities and experience can be gained on the Island;
- There is evidence that some talented people within the States decide not to apply for the more senior roles. The perception being that they see the 'risks' as being too high and elect to stay in their current posts. Apart from re-emphasising the issues mentioned above relating to succession planning, such reluctance amongst middle managers is also likely to create bottlenecks in career progression for those at levels below them;
- The issue of and recruiting 'off Island': I would like to stress that any decision to do so is not taken lightly within the States, and for all senior appointments the Commission is fully involved in the decision. It is our belief that, at the time a decision is taken that it is necessary to recruit 'off Island', then the States is essentially committing to all aspects of appointing a suitable candidate i.e. costs associated with the recruitment, the employment costs and the need to have a J category license in place.
- Performance Management: Is there a willingness and the freedom to tackle under-performance? There remains a need for more robust performance appraisal and development, and effective mechanisms to terminate employment where such a course of action is both appropriate and necessary. This is a point that has also been raised by others over the last few months;

These points have been raised in the Commission's Annual reports over the last few years and whilst they are not all within its remit, they do have a direct impact on the work of the Commission. I believe that all of these factors are closely interlinked and

that an integrated approach needs to be taken to address the combined impact of these issues. Resolving one in isolation is unlikely to have any long-term effect.

I recognise that there were a number of significant changes in the year e.g. the appointment of a new HR Director, the resignation of the CEO and, of course, the election in October. Nonetheless, the fact remains that the issues identified in my report (and accepted at the time by the States Employment Board) have not yet been addressed.

I have the benefit of writing this report in the first few months of 2012 and, in my view, the approach being taken to 'change' by the new government is very encouraging. I have a greater level of confidence that the issues raised in this and previous reports, will be addressed in the detailed plans that are currently being developed.

As commented on in the last two reports, there is evidence of an increase in the amount of interest being shown by politicians in senior appointments. There have been numerous examples of such interest reported in the press over the year. I comment on this only to highlight the impact it has on everyone involved in the recruitment process and on those who may apply for senior roles in the future.

In this context, it is impossible to complete this report without commenting on the recruitment process for the Board of States of Jersey Development Company and the subsequent Scrutiny Report into the process.

It is not the Commission's role to question the freedom that the States Assembly has in debating and making decisions in the best interests of the Island.

However, I do believe that there has to be some reflection on whether it could have been handled differently.

In summary, I understand that the appointment of the Board of SoJDC was referred to Scrutiny without there being a full debate on the nature of the concerns that were raised.

Scrutiny conducted a lengthy and detailed investigation, which confirmed that the Appointments Commission managed the process professionally and there were no factors that had a negative impact or influence on the outcome of the selection process. However, it was unable to investigate or come to any conclusions on the concerns that actually led to it being set up in the first place.

The net result of the above was that the SoJDC and Jersey lost a Chair who had excellent credentials along with another highly qualified member of the proposed Board. Not only did this have a negative impact on Jersey's reputation but there was also a significant financial cost.

The Commission is currently managing the process of recruiting a permanent Chair and a non-executive Director for the SoJDC. I estimate the direct cost of this 'duplicate' process to be a minimum of £30,000 and I suspect that the actual financial cost to the Island will be higher.

In addition, the States' decision to refer the matter to Scrutiny could be interpreted as a vote or 'no-confidence' in the Appointments Commission. I firmly believe that this was completely unintentional but, nonetheless, it does not reflect well on the basis on which the decision was taken.

However, this incident is now some time ago and my primary concern is to learn from this sequence of events and ensure that we all take accountability for ensuring that these circumstances are not repeated.

How may we avoid this happening again?

It has been suggested to me that, in circumstances where the Appointments Commission has signed off a selection process, the whole concept of appointments being voted on in the States should be reviewed.

In investigating this idea further, I was surprised to find out that a revised process was voted on and passed by the States early in 2010 but disappointed to discover that the necessary changes to legislation had not yet been brought forward because the matter had not been given adequate priority in the law drafting programme. I would

respectfully suggest that this is prioritised.(P.205/2009) The revised process would cover a wide range of appointments but it is unclear whether it would have applied to the SoJDC appointments.

Nonetheless, in any debate on appointments within the States, individuals are named as part of the process and this carries with it what I believe to be an unacceptable risk to individuals and their professional reputations. This concern was reflected in P.205/2009.

However, should some appointments still be required to be agreed by the States, I would propose an alternative approach for consideration:

In circumstances where a selection process and appointment have been signed off by the Appointments Commission then:

- The first course of action would be to refer the issue back to the Commission for further detail/explanation/comfort before any further debate takes place.
- Any concerns raised in the States should be capable of being fully debated by members. To protect the individual candidates who have not yet been appointed by the States, this should be done 'in camera' but I understand that this may go against the principle of openness within the States (Reputational damage to candidates could be considerable if there is an open States debate about an individual)

Had this been done at the time, any concerns would have very quickly been allayed and I am confident that the initial appointments to the SoJDC would have been confirmed by the States. Whilst I am hopeful that the second recruitment process for SoJDC will be successful, I am aware that some high quality candidates did not wish to be considered because of how it was handled last year.

This case highlights the Commission's view that, in these difficult circumstances, there is a continued need to be able to attract and retain people of the highest possible calibre. Jersey is subject to social, political and economic pressures not dissimilar to those in jurisdictions many times its size. This is a factor that often seems to be misunderstood locally. Many of the roles are much more complex than roles that might be deemed to be their equivalent in the UK, and it can therefore be more difficult to source candidates

with the required skills and experience and also to then attract them to come and live and work on the Island.

One of the Commission's greatest challenges continues to be striking a balance between firmness and flexibility in its regulatory approach. The Commission takes seriously its responsibility, jointly with the employing Ministries, for ensuring that off-Island recruitment is used only where there are no suitable local candidates. The Commission is fully cognisant of the level of concern over population control; nonetheless, in circumstances where the Commission along with those responsible for a particular recruitment process, have come to the conclusion that it is necessary to recruit 'off island' then I believe this should be supported by States policies and processes.

These circumstances arise less frequently than in previous years and, whilst we fully recognise the 'emotion' that is generated by such an important issue as population growth, it is critical that the States continues to be able to attract and appoint high quality candidates to key management roles. The failure to do so could, in the Commission's view, impact on the States' ability to deliver the level of change that is planned over the next few years.

This reinforces the requirement for the 'integrated approach' that is referred to earlier in this report. Such appointments would be much more straightforward if there was a manpower plan that highlighted the roles that are most likely to fall into this category, which could then be agreed in advance with all relevant departments.

Approximately 55% of the Commission's workload over the last year was in supporting Jersey's Quangos. More than 50 in number, they play a vital role in the Island's efficient administration, harnessing expertise and enthusiasm in sometimes demanding but often honorary service. They often command significant resources and some enjoy statutory powers. Whilst it has been sometimes difficult in the past for such organisations to adapt to the formalities of good recruitment governance, it is pleasing to report that in almost all cases, they have now fully adopted the recruitment processes laid out in the Code of Practice. A slimmer civil service will inevitably lead to the increasing use of Quangos to deliver non-core functions, and the Commission would anticipate the need for greater levels of support in the future.

It became clear last year that there was no central database of Quangos. This meant that there was no understanding of who the Board members were, the term they had been appointed for and the level, if any, of remuneration they receive.

The Commission instigated a data gathering exercise, which has led to the creation of a more comprehensive list of all Quangos and their members. However, it also highlighted a number of issues that need to be considered going forward:

- There are a number of bodies that are governed by legislation that was set before the Appointments Commission was established. There are examples where members have sat on these bodies for circa 20 years whereas, the accepted norm set by the Commission is that there should be a limit of 10 years.
 - I think that it would be inappropriate to impose the Commission's norms on these bodies as this may have a detrimental impact on their effectiveness (the Criminal Injuries Compensation Board is an example of this). They don't all fall into this category and each case needs to be reviewed on its individual merits. However, some discussion needs to take place to agree how to manage these cases in the future.
- Quangos and other independent bodies and Tribunals tend to be 'owned' by individual departments and not centrally within the States. One outcome of this is that there is little coordination of the 'terms' that apply to members of these bodies. My particular concern relates to remuneration. Some work was done at the time of the establishment of the SoJDC in order to establish some benchmarks. This has been useful but is now 18 months out of date and applies only to the more significant bodies.
- There is a wide range of terms in use across these bodies and I would suggest that some work is undertaken to establish current practice and recommend how this should be managed in the future.
- I accept that, by their very nature, these bodies are independent of the States and this poses some issues around how any recommendations could be implemented. However, many receive funding from the States and the current approach runs the risk of comparisons being drawn with nobody being in a position to explain any differences that may exist between bodies.

In summary, I feel that the Commission has made significant progress over the last two years. However, the full benefit of these changes will only be realised if the States is able to deliver the level of change that is planned by the Council of Ministers.

As stated in last year's report, I have formed a view that there are a great many talented and highly committed people within the States. The challenge lies in creating an environment where there is a common sense of purpose, one that offers opportunities and challenges and one in which those within the organisation are able to contribute fully. It is my belief that, within the States, the potential to take the first steps towards creating such an environment exists.

As I mentioned earlier, I have greater confidence that the plans that are being developed will begin to address these issues. However, they are just 'plans' and actual delivery of significant change will depend on the support and commitment from the majority of key people in the Civil Service and within the States assembly. It is hoped that the same level of support will be forthcoming when it comes to implementation.

Alan Merry
CHAIRMAN

April 2012

ACTIVITIES DURING 2011

The Commission

The Jersey Appointments Commission was established by an Act of the States in 2002 'to ensure that Senior Appointments to the Public Sector and to Autonomous and Quasi-Autonomous Public Bodies (Quangos) are properly made and to keep the appointments process as a whole, under review'. It was re-established in 2005 under new legislation.

The Commission met formally on four occasions in 2011 and in addition, engaged in 49 recruitment assignments, this number is a significant increase (29%) compared to 2010. Approximately 55% of those that involved a full Appointments process were Quango appointments with the balance being Civil Service appointments. Total expenditure on the Commission's activities for the year was £48,395, an increase from £33,000 in 2010. The increase has been driven by three factors: 1) the increase in the number of assignments, 2) the time spent on the review of Codes and Guidance Notes and 3) the time spent on the Scrutiny review of SoJDC. Details of these assignments are shown at Appendix A. A list of Quangos known to the Commission is shown at Appendix B.

The Commission's constitution provides for a Chairman and not more than four other Commissioners. Commissioners are appointed for periods of up to four years with re-appointments permitted up to a total term not exceeding eight years.

The Commissioners in 2011 were:-

Alan Merry (Chairman)

Brian Curtis MBE

James Morris

Julian Rogers

Ken Soar

The Commission receives advice from the States' Director of Human Resources. Senior Human Resources Manager, Sue Cuming is the Commission's Secretary.

Published Standards

The Commission publishes and keeps under review, Guidance and Codes of Practice which prescribe best practice in recruitment. That is, recruitment made on the basis of merit in an open, transparent process offering equal opportunity. The Commission relies on the implementation of these Codes and Guidance by public sector managers to ensure probity in public appointments. There is good evidence that those managers are sufficiently aware of the Commission's requirements and we remain satisfied that the States' Human Resources Department applies adequate controls to ensure compliance.

The Commission engages directly in the recruitment at the most senior levels in the Public Service and Quangos. Its involvement includes:-

- Agreeing the Job Description and Person Specification.
- Approving the Search Consultants, if the employer proposes to engage such resources (at the employer's cost).
- Approving the job advertisement, the media to be used and the scope of competition to be applied (e.g. open to overseas or limited to Jersey only or Jersey Civil Service only).
- Agreeing the candidate assessment methods to be used (e.g. Assessment Centres, psychometric profiling, and scenario exercises) and the constitution of the selection panels, including any Expert Assessors where necessary in highly specialist disciplines such as medicine or law.
- Participating as Chair or ordinary member of selection panels used for the long-listing, short-listing and final selection of candidates.
- Providing written endorsement of the appointment process, when complete.

The Commission has a broad range of professional experience amongst its Commissioners and also provides specific training for them in recruitment techniques.

Proportionality and Flexibility

The Appointment Commission's Guidance and Codes for Recruitment afford it flexibility to accommodate exceptional circumstances in which normal recruitment procedures are impractical or imprudent. For example, where organisational re-structuring takes place, redundancy and redeployment issues may make the limitation of competition a more

credible recruitment process when evidently suitable internal candidates are available. Similarly, in highly specialized areas of expertise, the 'slotting' without competition, of an internal candidate who meets the specified requirements is often a justifiable exception to normal practice. The Commission does however require formal evaluation of individuals in these circumstances.

During the year, among the most senior appointments in which the Commission participated, seven were from outside the Island and competition was restricted in eight recruitments at the middle and senior level.

Equal Opportunity

The Commission remains vigilant in ensuring that the principles of equal opportunity and diversity are upheld in public appointments and its Guidance and Codes demand care at every stage of selection not to discriminate either positively or negatively on the grounds of gender, race, age, religion, disability, marital status or sexual orientation. Women remain significantly under-represented among the candidates applying for senior public appointments. We can find no process-related reason for this situation and would recommend that Civil Service leaders examine whether there are any social or occupational barriers to the career development of women which the Service may be able to address.

Managing Expectations

The Commission has placed strong, continuous emphasis on the importance of good quality Job Descriptions and Person Specifications as the template against which the best fit can be assessed between roles and candidates. Just as important as ensuring the successful candidate is right for the job, is that the job is right for the candidate. Generally, there has been great improvement in the definition of roles and the use of specified criteria against which candidates can be rigorously assessed. Similarly, readily available assessment tools have become more sophisticated and reliable in profiling candidates' emotional and behavioural tendencies, which can be important indicators of fitness for the challenges involved at senior levels in the Public Service. This is particularly important when overseas candidates are being considered. The Commission

is grateful to a small group of politicians who assist in familiarizing candidates for senior roles with the nature of the political and public interfaces in Jersey.

Complaints

The Appointments Commission investigates all formal complaints of non-compliance with its Guidance and Codes of Practice for Recruitment. Although small in number, complaints most commonly arise among unsuccessful candidates for middle and junior management roles who have not been short-listed for interview. It is sometimes alleged that specified qualifications have been set higher than necessary but it is often found that this stems from misunderstandings relating to the specification for the roles, many of which are subject to increasing regulation, such as safety, aviation, environmental, health and finance.

APPENDIX A

JERSEY APPOINTMENTS COMMISSION 2011 ACTIVITIES

The Commission met formally on four occasions and Commissioners expended collectively 132 days in their duties. The Commission's total costs including day-rate fees paid to Commissioners were £48,395.

Senior Appointments completed

During 2011

Extent of Competition

Deputy Director Tax Policy	Local
General Manager, Air Traffic, Ports	Unrestricted
Group Chief Executive Officer, Ports	Unrestricted
Director of Resources, Ports	Local
Commercial Director, Ports	Local
Infrastructure Director, Ports	Local
Operations Director, Ports	Local
Director Human Resources	Unrestricted
Human Resources Director, HSS	Unrestricted
Director Employment Relations	Unrestricted
Acting Chief Executive	Local
Police Superintendants x2	Unrestricted
Director Children's Service	Local
Director Systems Redesign & Delivery, HSS	Local
Chief Inspector, Police	Local
Assistant Director-Finance, Education Sport Culture	Local

Quango appointments

Chair, Pharmaceutical & Benefits Advisory Committee	Local
Chair & NEDs, Jersey Development Company	Unrestricted
Member, Law Society Disciplinary Panel	Local
Board Members, Criminal Injuries Compensation	Local
Honorary Treasurer, Family Nursing & Homecare	Local
Member, Family Nursing & Homecare	Local
Chair, Jersey Products Promotion Board	Local
Finance Director, Jersey Heritage	Local
Head of Commercial Operations, Jersey Heritage	Local
Member, Police Complaints Authority	Local
Members x 3, Jersey Overseas Aid Committee	Local
Members, Health Disciplinary Panel (Re-appointments)	Local
Chair, Jersey Consumer Council	Local
Deputy Chair, Income Support Medical Appeals Panel	Local
Members, Rates Appeal Board (Re-appointments)	Local

Not completed by year end:

Members, Skills Jersey Board
Chair, Jersey Conference & Tourism Board
Commissioners of Appeal, Income Tax
Treasury Advisory Panel

Vice Chair, Tourism Development Board

Other Appointments subject to exception from full competition

Chief Fire Officer	Slot
Medical Officer of Health, HSS	Slot
Deputy Chief of Police	Slot
Interim Head of Nursing, HSS	Slot
Head of IT Services, Information services	Restricted Internal
Senior Systems Accountant/Engineer, IS	Slot
Team Manager – Independent Reviewing, HSS	Restricted Internal
Director GST, Taxes – 2 year appointment	Restricted UK
Programme Director, Taxes	Slot
Director of Transport, Transport & Technical Services	Restricted Internal
Services Directors Community & Social Services x3	Restricted Internal
Director of Finance, HSS - Secondment	Slot
Director of Community & Social Services, HSS	Slot

APPENDIX B

JERSEY QUANGOS, PUBLIC BODIES AND TRIBUNALS

Agricultural Loans & Guarantees Panel
Audit (Internal) Committee
Bailiff's Advisory Panel
Complaints (Administrative Appeals) Panel
Commissioners of Appeal for Income Tax
Criminal Injuries Compensation Board
Data Protection Commission
Data Protection Tribunal
Depositors Compensation Scheme Board
Ecology Fund
Electoral Reform Commission
Greville Bathe Fund – Trustees
Harbours & Airport Shadow Board
Haut de la Garenne Trust
Health Disciplinary Panel
Health & Safety Appeal Tribunal
Health Services Disciplinary Tribunal
Health & Social Services Ministerial Advisory Panel
Health Tribunal Panel
Jersey Arts Trust
Jersey Advisory and Conciliation Service
Jersey Appointments Commission
Jersey Enterprise/Business Ltd
Jersey Child Protection Committee
Jersey Child Care Trust
Jersey Community Relations Trust
Jersey Competition Regulatory Authority
Jersey Conference Bureau
Jersey Consumer Council
Jersey Council for Safety & Health at Work
Jersey Dental Fitness Scheme Panel
Jersey Employment Forum
Jersey Employment Tribunal
Jersey Employment Trust – Workforce Solutions Ltd
Jersey Family Nursing & Home Care
Jersey Financial Services Commission
Jersey Finance Ltd
Jersey Fostering and Adoption Agency
Jersey Heritage Trust
Jersey Law Commission
Jersey Law Society Disciplinary Panel
Jersey Overseas Aid Commission
Jersey Police Complaints Authority
Jersey Products Promotion Board
Jersey Skills Executive
Jersey Tourism Development Board

Jersey Tourism Marketing Panel
Medical Appeal Tribunal, Income Support
PACT User Group
Prison- Temporary Release Assessment Panel
Pharmaceutical Benefit Advisory Committee
Pharmaceutical Benefit Panel
Planning & Building Appeals Commission
Public Lotteries Board
Rates Appeal Board
Rent Control Tribunal
Social Security Advisory Council
Social Security Tribunal
Statistics User Group
States Members Remuneration Panel
States of Jersey Development Company Board
Statistics User Group
Westaway Trust