



Briefing Paper 1 | February 2024

The States Employment Board

Overview

This Briefing Paper looks at the role of the States Employment Board, including its formation, function, and proceedings.

Introduction

In 2005 a ministerial system of government was introduced in Jersey to replace the previous committee system. As a result, new arrangements were required to address the employment of civil servants – a function that was previously exercised by the Policy and Resources Committee.

The [Draft Employment of States of Jersey Employees \(Jersey\) Law 200-](#) (P.99/2005), lodged by the Policy and Resources Committee, was debated and adopted on 6th July 2005 with the report providing background for the legislation and the explanatory note detailing the purpose behind each article in the legislation.

The Regulations ([Draft Employment of States of Jersey Employees \(Consequential, Amendment, Repeal, Transitional and Savings provisions\) \(Jersey\) Regulations 200-](#) (P.243/2005)), necessary to deal with a number of consequential situations arising following the adoption of the law, were debated and adopted on 2nd November 2005 together with the [Draft Employment of States of Jersey Employees \(Jersey\) Law 2005 \(Appointed Day\) Act 200-](#) (P.242/2005).

Employment of States of Jersey Employees (Jersey) Law 2005 (“the Law”)

The Law established the States Employment Board (“SEB”) as the statutory body responsible for the employment of States employees. It details all aspects of the SEB including its composition, role and functions. The Law is divided into 7 parts and has 3 Schedules, with Part 2 dealing specifically with the SEB.

There are specific categories of persons who are not considered States employees under the Law –

- the holder of an office specified in Schedule 1
- appointment by the Crown
- a member of the States of Jersey Police Force or
- otherwise an officer of the Crown

By way of explanation regarding the above, the report accompanying P.99/2005 stated that -

“Action has also been taken to maintain the operational independence of the Departments of the Judiciary and Legislature, which remain outside of the executive arm of government. Provision has been made within the draft Law to ensure that officers employed within the Bailiff’s Department, Law Officers’ Department, Viscount’s Department, Judicial Greffe and States Greffe will not be appointed, dismissed or managed by the executive arm of the Island’s



government. This responsibility will remain with the relevant senior officer responsible for the department in question. This separation will reinforce the independence of the scrutiny function from the executive function. However, such employees will continue to be covered by the same policies and pay and terms and conditions of service as those provided for all States employees”.

Membership of the SEB

The membership of the SEB comprises –

- The Chief Minister, or another Minister who is nominated by the Chief Minister to be a member of the Board in his or her place;
- 2 members of the Executive (Ministers or Assistant Ministers) appointed in writing (Ministerial Decision) by the Chief Minister e.g. [Appointment of Executive Members \(MD-CM-2022-530\)](#); and
- 2 non-Executive members of the States nominated by the Chair of the SEB and appointed by the States Assembly through a secret ballot e.g. [Hansard 19 July 2022](#).

The term of office for members of the SEB is brought to an end with an ordinary election and the subsequent election of a new Chief Minister. The SEB is then re-constituted and a handover made from the previous board. It is to be noted that there is no additional remuneration for States members who sit on the SEB.

The Functions of the SEB

The functions of the SEB are wide ranging, covering matters of employment, pay, health and safety and the organisation of States employees; with the SEB issuing [Codes of Practice](#) to assist in the discharge of these functions. In response to [Written Question 100/2023](#) (13th March 2023), the Chief Minister confirmed that the SEB had introduced a new Code of Practice on Standards in Public Service which was applicable to all public service employees. The effective day-to-day management is delegated to the Head of the Public Service (i.e. the Chief Executive Officer) and responsibilities are then filtered down through department heads.

The Comptroller and Auditor General undertook a review of the [Role and Operation of the States Employment Board](#) in 2019 and the report described the key functions of the SEB as –

- Employing all States employees
- Ensuring that the public service conducts itself with economy, efficiency, probity and effectiveness
- Ensuring the health, safety and wellbeing of States employees

Further information regarding the functions of the SEB can be found in the reviews and reports referenced in the Further Reading section of this paper.

Minutes of the SEB

SEB Minutes are taken by an officer of the States Greff, but the SEB is not a scheduled authority under the Freedom of Information (Jersey) Law 2011 and the minutes are not available to the public.



Reporting

The SEB is required to present an annual report to the States within 3 months of the end of each calendar year to keep the States Assembly informed of its activities.

[P.107/2022](#) (States Employment Board – Annual Reporting) introduced enhanced reporting for States salary statistics. The comments on this proposition ([P.107/2022 com.](#)) confirmed that the annual report – as well as the Annual report and Accounts of the States – already included key workforce information such as headcount by department and fair pay ratios.

Advisors

One of the amendments to the Law introduced by [R&O.81/2015](#) (Employment of States of Jersey Employees (Amendment No.7) Regulations 2015) was a new provision for the appointment of up to two advisors to the SEB. The advisors are able to attend and speak at meetings but are unable to vote and their role was described in the report accompanying the proposition for the draft regulations [P.60/2015](#) as follows –

“Essentially the role is to provide objective challenge and constructive criticism. They bring independent expertise and judgment to bear on issues of strategy, performance and resources, including standards of conduct (governance). They may as required, advise on key appointments. They will be chosen for their knowledge, experience, calibre and personal qualities. They will have knowledge to provide valuable advice to SEB. Importantly, their independence will bring a degree of objectivity to SEB deliberations and monitoring of executive management.”

Legal Matters and the SEB

The SEB’s functions include instructing and responding on legal matters, both criminal and civil, that concern the Board.

Criminal

The SEB, as the employer, has been involved in a variety of prosecutions for breaches of the Health and Safety at Work Law 1989, as amended (see Further Reading section for examples).

[AG v States Employment Board 5-Oct-2010](#) [2010] JRC181 – incident on the vessel known as the “Duke of Normandy”. Pre-trial hearing dealt with whether it was a defence that the SEB delegated its functions to ensure the health and safety and well-being of employees [see the Law re delegation] as the following excerpt confirms –

“I conclude that Article 3 of the Health and Safety Law creates absolute criminal liability subject only to the qualification of reasonable practicability. The Health and Safety Law does not, on its true construction, provide that the duty imposed by Article 3 can be met by delegation and delegation by the SEB is not therefore a defence.”

“By giving the SEB the power to delegate, the legislature was not intending to affect its potential liability as a legal person under the customary law or legislation; in particular to enable it, uniquely, to avoid by delegation the absolute criminal liability that all employers have under the Health and Safety Law. Very clear wording would be required to achieve such an outcome and there is none”.



Civil

Civil claims against the SEB are heard before the Jersey Employment and Discrimination Tribunal. The different types of claims are shown in the [claim form](#) and may be discriminatory e.g. age related or work related e.g. unfair dismissal.

Questions in the States Assembly

Any States Member can hold the SEB to account by submitting questions (both oral and written) addressed to the Chair of the SEB when the States is in session in relation to any matter for which the SEB has official responsibility.

The topics are diverse, for example they include questions on the provision of electric pool cars for Government employees ([OQ.27/2023](#)), the living wage ([OQ.92/2022](#)), average monthly sea temperatures ([WQ.311/2023](#)) and pay talks with public sector ([WQ.336/2023](#)).

The Jersey Appointments Commission (“JAC”)

The JAC was established under the Law, at the same time as the SEB, as an independent body created to oversee the recruitment of States’ employees or States’ appointees, to advise on the SEB’s preparation of Codes of Practice, and to produce and review guidelines that apply to States’ appointees.

Whilst it is not the purpose of this briefing paper to provide details of the JAC, it is important to understand the differences between the JAC and the SEB which are shown on page 5, Exhibit 2 (The Functions of SEB and JAC) in the [Role and Operation of the States Employment Board Report](#) by the Audit Office.

Further reading:

Reports/Reviews

- [Role and Operation of the States Employment Board Report](#) (29th March 2019) Jersey Audit Office: the review evaluated the performance of the SEB, concluded that “*fundamental change is required so that SEB can demonstrate that it is exercising effective oversight of human resources across the States*” and made 20 recommendations.
- [People and Culture Review](#) (S.R.12/2021) Corporate Services Scrutiny Panel: the review was established to “*scrutinise the structure, strategy, policies and procedures of Government which significantly influence the culture of the public sector*”. 41 Key Findings and 24 Recommendations were made.
- [States Employment Board Response to the Corporate Services Scrutiny Panel: People and Culture Review](#) (S.R.12/2021 Res.) – provides a response to the recommendations and findings of the review by the Corporate Services Scrutiny Panel.
- [Democratic Accountability and Governance Sub-Committee](#) (R.23/2022) 18th February 2022: Chapter 9 The States Employment Board. Key Findings 17 & 18 and Recommendations 29 to 34 inclusive relate to SEB
- [States Employment Board Follow-up](#) (08 September 2022) Jersey Audit Office

Annual Reports

- [SEB Annual Report 2021](#) (R.55/2022)
- [SEB Annual Report 2022](#) (R.47/2023)

Health and Safety Cases (examples)

- [AG v States Employment Board 26-Mar-2021](#) – [2021]JRC094 – injury to patient at Orchard House – fine + costs
- [AG v States Employment Board 22-May-2020](#) – [2020]JRC089 – injury to a 7 year old pupil at Grouville School - Fine + costs



- [AG-v-States of Employment Board 18-Aug-2017](#) – [2017]JRC132 – injury to a patient in Oak Ward, Rosewood House – Fine + Costs (fell from bath hoist in Clinique Pinel)
- [AG-v-States Employment Board 27-Jun-2014](#) – [2014]JRC139 – CCF Victoria College incident

Civil cases

- Numerous judgments in relation to the sacked eye surgeon Mr Alwity. e.g. [Mr A Alwity v States Employment Board](#) Unrep.85/2013 provided the notification of the Jersey Employment Tribunal's decision.



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