

# STATES OF JERSEY



## CHIEF EXECUTIVE OFFICER – RECRUITMENT PROCESS (P.73/2021): COMMENTS

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Presented to the States on 9th September 2021  
by the Corporate Services Scrutiny Panel  
Earliest date for debate: 14th September 2021

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STATES GREFFE

## COMMENTS

1. Deputy Morel lodged the proposition Chief Executive Officer – Recruitment Process [P.73/2021] on 30 July 2021. If adopted the States Employment Board [SEB] would be asked to halt the recruitment process for the new Chief Executive Officer [CEO] of the Government of Jersey until a date after June 2022, pending the completion and publication of a review of the appointment process of the previous CEO.
2. This followed a reputationally damaging situation between the SEB and previous CEO which resulted in the departure of the former CEO in March 2021. It is clear that there is a high level of public interest and perception of the ongoing process to appoint a new Chief Executive, and the Panel notes that the role incorporates the position of Principal Accountable Officer, Head of the Public Service, and principal adviser to the States Employment Board and Council of Ministers. The Panel therefore perceives the correct recruitment of the next Chief Executive Officer as critical to the success of the Government of Jersey.
3. As the Panel holds the remit of scrutinising the actions of the States Employment Board, and is currently conducting reviews related to the topic, it has agreed to form these comments in relation to P.73/2021.
4. The Panel has concluded that it is emphatically supportive of P.73/2021.

### Previous Recruitment

5. The recruitment and appointment of the former CEO, undertaken in 2017, was carried out by the Jersey Appointments Commission.
6. A new Council of Ministers was formed in June 2018. It is clear that the policies developed regarding items such as the One Gov initiatives and Government restructuring changed little following the change in Chief Minister.
7. The Panel recalls that the former Chief Executive’s annual Independent Appraisal on Year One Performance – published January 2019 by Nicholson McBride – noted that the relationship between the former Chief Executive and the Chief Minister was “developing well”<sup>1</sup>, but recommended that he should work to “strengthen the relationship and rapport between himself and the Chief Minister.”<sup>2</sup> The Year Two report cites the COVID-19 Pandemic as the reason why no recommendations or commitments were produced for that year<sup>3</sup>.
8. As highlighted in P.73/2021, the Comptroller and Auditor General recommended a potential review into the appointment process of the previous CEO be undertaken as soon as is practicable and implement findings prior to

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<sup>1</sup> [Chief Executive Appraisal: Independent Assessor’s Report on Year One Performance – January 2019, p.4](#)

<sup>2</sup> [Chief Executive Appraisal: Independent Assessor’s Report on Year One Performance – January 2019, p.35](#)

<sup>3</sup> [Chief Executive Appraisal: Independent Assessor’s Report on Year Two Performance – 30 September 2020, p.42](#)

the appointment process for the new CEO.<sup>4</sup> The Executive response to this recommendation indicated that findings would be presented to the SEB by 31 July 2021<sup>5</sup> As far as the Panel are aware this exercise has not taken place.

9. As the Chief Minister stated in a Quarterly Hearing with the Panel on 25 June 2021:

*I am sure there is always room for improvement...to an extent I am still delicately trying to avoid stepping into the difficulties we had of last year and bearing in mind that obviously what we are looking at are the operational relationships, et cetera, which I think come out of the review of the work that is going on at the moment<sup>6</sup>*

It appears, however, that the SEB has progressed with the latest recruitment without the benefit of the full outcome of that work, including identifying mistakes previously made and implementing any learnings, which the Panel suggests risks repeating such errors.

### **Relevant Panel Work**

10. The Panel launched a review of the Government of Jersey's People and Culture in January 2021. As part of this review the Panel noted employee views within the results of the Be Heard survey ('the survey') which implied very low levels of confidence in leadership particularly in relation to the scores surrounding the "person leading the organisation".
11. Upon analysis of the CEO job description, being used in the recruitment of the new CEO, the Panel was concerned that it had no emphasis on public steer to that role and that it did not provide a clear signal that the new CEO should bring a different skill set, more suited to the current situation.
12. The Panel wrote to the Chief Minister on 8 June 2021 to highlight the concerns held, and to offer recommendations on ways that the job description could be improved to help ensure the success of the new CEO.<sup>7</sup>
13. The Panel identified in the letter that it was imperative to consider lessons learned, adapt practices and ensure that all employment matters are transparent and clear especially in relation to management and disciplinary matters for all parties. The Panel concluded that the adoption of this approach would increase the attraction, appointment, and retention of a suitably qualified permanent candidate.
14. A confidential response to the Panel's letter was received from the Chief Minister on the 29 July 2021. The Panel respects the status of that letter and will

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<sup>4</sup> [Comptroller and Auditor General - States Employment Board – follow up: Employment of the former Chief Executive – 20 May 2021](#)

<sup>5</sup> [R.88/2021](#)

<sup>6</sup> [Transcript - Corporate Services Scrutiny Panel Quarterly Hearing \(witness: Chief Minister\) - 25th June 2021](#)

<sup>7</sup> [Letter – Corporate Services Scrutiny Panel to Chief Minister re People and Culture Review Chief Executive Recruitment - 08 June 2021](#)

not disclose the specific points made. However, the Panel would highlight that the Chief Minister has indicated that although the suggestions were unable to be incorporated within the job description they were reflected in the assessments and deliberations conducted by the appointment panel.

### **Previous Recommendations to Improve the Line Management of the Next Chief Executive**

15. Due to elections taking place in June 2022 there is a risk that a new CEO may be appointed by the current Government in order to meet certain objectives, only to be succeeded during the first 6 months in office by a new Government with different aims and objectives.
16. The Panel is of the view that a new CEO should only be appointed following once the significant concerns regarding the current process of line management for the Chief Executive and related issues are addressed.
17. Concerns regarding the line management of the Chief Executive are recorded in the Comptroller and Auditor General's (C&AG) Follow-Up Report on the States Employment Board published 20th May 2021 in regarding the employment of the former Chief Executive and the Public Accounts Committee's (PAC) report on the Annual Report and Accounts 2020 (PAC.1/2021), which examined the departure of the previous Chief Executive and the exit payment provide to him.
18. In her report, the C&AG explicitly recommended that a "suitable disciplinary policy and supporting process" should be developed "specific to the post of Chief Executive", with formal documentation of their line management<sup>8</sup>. The C&AG expressed further concern that, due to the structure of the appeals process and line management hierarchy, alongside the number of SEB members of the Council of Ministers, there may be an insufficient number of remaining members of the SEB who are not conflicted to operate an effective appeals process<sup>9</sup>.
19. The PAC concurred with these findings and recommendations and offered the following finding and recommendations in its report:
  - a) "FINDING 15 – The contract of the former Chief Executive was not agreed until after his appointment was announced. This left the States Employment Board in a weaker bargaining position to negotiate a final contract with the former Chief Executive";
  - b) "RECOMMENDATION 7 – 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 18 July 2021";

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<sup>8</sup> [Report – States Employment Board – follow up: Employment of the former Chief Executive - 20 May 2021, p.31](#)

<sup>9</sup> [Report – States Employment Board – follow up: Employment of the former Chief Executive - 20 May 2021, p.17](#)

- c) “RECOMMENDATION 10 – The announcement of the appointment of a new Chief Executive should not be made until contract negotiations have been completed and the contract signed”;
- d) “RECOMMENDATION 11 – The line management of the Chief Executive should be reviewed and updated in time for the appointment of the next, permanent Chief Executive.”; and
- e) “RECOMMENDATION 12 – 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.”<sup>10</sup>

20. The PAC wrote to the Chief Minister in his capacity as Chair of the States Employment Board on 19th July 2021, and requested that he undertake the following actions:

- “Do not announce publicly the appointment until there is a robust binding contract in place.
- Implement a disciplinary procedure specific to the post of Chief Executive.
- Negotiated terms and conditions with the potential candidate should be independently verified as legally ‘robust’ by an independent HR specialist and employment lawyer.
- Ensure any disputes to his or her employment will be fully and finally settled by the Jersey Employment Tribunal.
- Update the scheme of delegation to formally document an unambiguous policy in respect of the line management of the Chief Executive Officer.
- Clarify and align the responsibilities of the candidate in his or her roles as Chief Executive Officer, Principle Accountable Officer and Head of the Public Service.
- Agree a stringent consistent, clear and robust understanding that undertaking any other role would be incompatible with his/her other responsibilities; and
- Where anomalies and inconsistencies exist between current Employment and Machinery of Government legislation, define and include specific, robust and legally binding terms and conditions for the incoming Chief Executive Officer”<sup>11</sup>.

21. A response was provided in confidence to the PAC on 29th July 2021 and the above actions were included as a recommendation in the PAC’s report<sup>12</sup>. The PAC further recommend in its report that the next Chief Executive’s line management should be reviewed and updated before they are appointed to the role.

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<sup>10</sup> [Report – Review of States Annual Report and Accounts 2020 - 16 August 2021, p.9](#)

<sup>11</sup> [Letter – PAC to Chair of the States Employment Board re Appointment Process of New Chief Executive – 19 July 2021](#)

<sup>12</sup> [Report – Review of States Annual Report and Accounts 2020 – 16 August 2021, p.9](#)

22. In its report on People and Culture ([SR.12/2021](#)), the Panel raised concern regarding the use of Nicholson McBride for the annual appraisal of the former Chief Executive, due to their previous involvement, and would consider this to form part of the wider concerns regarding the role's line management, as expressed in the previous paragraphs<sup>13</sup>.
23. The Panel also wishes to draw attention to the review of the Employment of States of Jersey Employees (Jersey) Law 2005 in 2019, which has been prioritised in the Strategic Policy, Planning and Performance Business Plan 2021, and includes amendments to clarify the functions of the Chief Executive/Head of the Public Service<sup>14</sup>, and notes the lack of detail currently presented in the Public Finances Law 2019 regarding the conduct of the Principal Accountable Officer/Chief Executive.
24. The Panel notes that the Privileges and Procedures Committee's Democratic Accountability and Governance Sub-Committee is currently examining the accountability and responsibilities of Ministers, and further recommends that the findings of this Sub-Committee, which is expected to be published by the end of 2021, should be considered prior to this appointment.
25. The Panel believes that the interim CEO, should he be willing to accept an extended contract, will be able to help guide the public service through any necessary policy changes directed by the next Council of Ministers at the start of its term, putting in place the initial work to form the Government Plan 2023-24, [which has received a reduced lodging period through adoption of [P.62/2021](#)] and in the initial formation of the new Common Strategic Priorities.

### **Panel Conclusions**

26. The recruitment of a new CEO for the Government of Jersey can be used to enable a positive culture to be further instilled at all levels of the organisation. As the Panel outlined in its report, "Leaders cultivate the foundations of culture and those at the highest level of the organisation have the collective responsibility to demonstrate the right beliefs of the public sector and reinforce behaviours that reflect those values"<sup>15</sup>. The Panel believes that this can only be achieved if the proper regulations and reforms are implemented.
27. The Panel is, therefore, of the conclusion that the implementation of the recommendations made by internal reviews, the PAC, the C&AG and the Panel itself, which may result in considerable changes to the structure of the role and are vital to ensure that the line management of this role is improved in time for the appointment of the next permanent Chief Executive. This would allow greater transparency with regards management style and certain objective setting.
28. The People & Culture review identified issues within the Government of Jersey that have been caused by the slow implantation of structural change and uninspiring leadership. Every opportunity to learn from past mistakes must be taken and correctly implemented, the Panel is therefore emphatically supportive of the Proposition.

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<sup>13</sup> [Report – People and Culture Review – 6 September 2021, p.66](#)

<sup>14</sup> [Report – People and Culture Review – 6 September 2021, p.64](#)

<sup>15</sup> [Report – People and Culture Review – 6 September 2021, p.62](#)