

**THE STATES' MANAGEMENT OF REMUNERATION FOR SENIOR POSTS**

**REVIEW BY THE COMPTROLLER & AUDITOR GENERAL**

**MARCH 2011**



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## **SECTION ONE – INTRODUCTION**

1. In February 2011, I announced that, in response to an invitation from the Public Accounts Committee, I had agreed to undertake a review of controls of senior management remuneration within the States of Jersey. The terms of reference for that review are set out in Appendix One.
2. In the course of the review, I have examined:
  - (1) the terms and conditions of senior management currently in post;
  - (2) appointments made in 2009 and 2010 on a permanent basis;
  - (3) payments made in respect of senior staff employed under interim arrangements and fixed term contracts during 2009 and 2010;
  - (4) appointments of senior staff under interim arrangements and fixed term contracts during 2009 and 2010.
3. Before setting out my findings and recommendations, I need to deal with two preliminary matters.

### **Senior management**

4. Firstly, I need to explain how I have interpreted the term 'senior management'.
5. Most of the 'civil servants' staff employed by the States are regarded by the Human Resources Department as falling into one of three groups.
6. The first group consists of almost all staff whose remuneration fits into one of fifteen grades. Grades are allocated according to a formal evaluation of the relative responsibilities and challenges of each position within the States. The process of evaluation is described more formally in Section Three of this report.
7. A second group, commonly called the 'A' grade list, consists of members of staff who are covered by the general staff negotiating process but are remunerated somewhat above the rates for grade fifteen (the highest grade).

8. The third group consists of almost all chief officers. These people are generally paid at rates which are allocated on the basis of the formal evaluation of the relative weightings of each of the posts. These post holders are employed under individual, separately negotiated contracts.
9. My review has concentrated upon chief officers and the 'A' group.
10. The States employ other people who receive salaries equivalent to those of the two groups on whom I have concentrated or, in some cases, higher. Such people include senior medical staff employed by the Health and Social Services Department and law officers. In the course of this review, I have collected information concerning the remuneration to all of these people. I have not however considered them to be within the scope of this review.

#### **Privacy**

11. Secondly, it is difficult to present evidence that the remuneration of senior management has been (or has not been) properly controlled without providing evidence of the amounts of the remuneration paid to particular people. Whilst providing this information may be in the public interest, against this must be set the right of individuals to an appropriate degree of privacy for their private circumstances.
12. As it happens, the question of the balance between the need for appropriate public disclosure and the right of individuals to appropriate privacy was considered at some length last year in the development of the Jersey Financial Reporting Manual (JFRoM) which now provides the basis on which the annual accounts for the States of Jersey are to be prepared. As a result of that consideration it was agreed that more information than previously would be included in the 2010 (and subsequent years') accounts. This change was agreed in order to reflect best practice in the public sector in England and to reflect best practice in the private sector generally. The precise rules for this were set out in the JFRoM which was approved by a ministerial decision of the Treasury and Resources Minister last autumn and then reported to the States.
13. For the purposes of this report I have adopted the approach of the JFRoM and set out the, as yet unaudited, information which it is proposed to include in the 2010 annual

accounts. For all other posts and position holders I have sought to avoid providing detailed financial data in respect of remuneration for individual positions.

14. Further, where appropriate, I will refer to positions and posts but not to names.
15. As the remuneration of the Comptroller & Auditor General is settled within the framework of controls that is considered in this report, I have thought it appropriate in this report to set out a detailed description of the remuneration which I receive in this post together with the basis on which I operate. This is set out in Appendix Two in the interests of full disclosure and transparency.

### **Structure of this report**

16. In Section Three of this report I will set out a description of the controls which govern the setting of remuneration for senior management. In Sections Four and Five I will deal with permanent holders of posts within the States and the work that I have done to ensure that the controls described in Section Three appear to have been properly applied to set the terms and conditions for all permanent post holders within the senior management of the States. In Section Seven of this report I will deal with temporary and interim post holders within senior management dealing with the work that I have done to establish whether the controls described in Section Three of this report have been properly applied to all of those people appointed on a temporary or interim basis. Finally, in Section Eight of this report I will set out my findings and recommendations in detail.
17. But first in Section Two I will summarise my findings and recommendations.

### **Acknowledgements**

18. In the course of this expedited review, I have necessarily relied upon the support and assistance of a number of people whose tolerance has been tried by my frequent requests for information. A list of those people who have contributed to this review is set out in Appendix Three.
19. I am grateful to them for the constructive support which they have provided.

## **SECTION TWO – SUMMARY OF FINDINGS AND RECOMMENDATIONS**

### **Summary of findings**

20. My findings may be summarised as follows:

- (1) I have found evidence that in the course of the past two years, there are instances of the States' rules concerning the setting of remuneration for senior posts being broken.
- (2) Those instances almost all relate to a single appointment.
- (3) In all other instances, for the appointments covered by my review, the States' rules and policies were followed in every particular.
- (4) Further, the evidence available to me suggests that the States' rules and policies concerning the amounts of remuneration paid and the relativities between remuneration for different posts have all been followed with the result that the system remains coherent in spite of the pressure caused by the need from time to time to recruit new senior officers.

21. In short, I have not found evidence that suggests that the States have lost control of the remuneration offered to senior management.

22. As the single appointment to which I have referred above (the appointment of the hospital director) is thus shown to be exceptional and the circumstances in which it was made should be understood, I have set out a description of those circumstances in Appendix Eight to this report.

### **Recommendations**

23. On the basis of the findings which I have summarised above, I have decided to make a small number of recommendations.

24. In my view, understanding of the issues covered by this review can only be assisted by appropriate disclosure of the remuneration paid to senior managers and post-holders by the States. I have provided some information in this report in the form in which (following agreement last autumn) it will appear in the States' 2010 and subsequent

accounts. Had this agreement not been reached, I would have made further recommendations concerning public disclosure.

25. My recommendations are set out below:

#### **Evaluation**

##### **Recommendation One**

The rules concerning post evaluation should be reviewed and revised to ensure that advertisements for posts quoting salaries cannot be placed before the jobs have been evaluated.

#### **Controls**

##### **Recommendation Two**

All controls and guidance should be reviewed to ensure that interim and contract appointments are explicitly included in those controls and guidance.

#### **Departmental responsibility**

##### **Recommendation Three**

All senior appointments (defined in accordance with the Jersey Appointments Commission guidance but including interim and contract appointments) should be managed by the central Human Resources Department (and thus not by departments).

##### **Recommendation Four**

The relevant controls and guidance should be amended to ensure that permanent posts may not be advertised until the posts have been evaluated.

#### **Jersey Appointments Commission**

##### **Recommendation Five**

The Jersey Appointments Commission's guidance should be reviewed to ensure that the Commission maintains effective oversight of all 'interim appointments' (including decisions to appoint an interim appointee on a fixed term contract).

**Head count**

**Recommendation Six**

**The headcount control currently applied by the Treasury should be re-considered.**

**Mentoring**

**Recommendation Seven**

**The Chief Executive should consider whether formal mentoring arrangements should be established for all newly recruited senior officers (including interim appointees).**

### **SECTION THREE – DESCRIPTION OF CONTROLS**

#### **Appointed bodies**

##### *States Employment Board*

26. Employment of staff is a function of the States Employment Board (SEB).<sup>1</sup>
27. The SEB consists of the Chief Minister (or a member of the Council of Ministers nominated by the Chief Minister), two other persons each of whom is to be a minister or assistant minister and is appointed by the Chief Minister, and two elected members of the States each of whom is not a minister or an assistant minister and is elected by the States to be a member of the SEB.<sup>2</sup> The Chief Minister or his nominee is to be the Chairman of the SEB.<sup>3</sup>
28. The functions of the SEB include:
- (1) determining policy in relation to the employment of and terms and conditions of employment of States employees other than procedures for recruitment.
  - (2) ensuring that the public service operates with economy, efficiency and effectiveness,
  - (3) ensuring the health and safety of States' employees,
  - (4) employing persons on behalf of the States,
  - (5) consulting or negotiating with States' employees or their representatives on collective agreements as to terms and conditions of employment of States' employees,
  - (6) determining the employee training and development needs of States' employees,
  - (7) disciplining, suspending or terminating the employment of States' employees,

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<sup>1</sup> Created by the Employment of States of Jersey Employees (Jersey) Law 2005 (the 2005 Law): Article 4.

<sup>2</sup> Article 5(1) of the 2005 Law as amended by R&O 44/2010.

<sup>3</sup> Article 5(2) of the 2005 Law. Currently, the members of the SEB are: Senator Le Sueur (Chief Minister and Chairman), Connétable Jackson (Vice Chairman), Connétable Réfault, Connétable Mezbourian, and Deputy De Sousa.

- (8) determining salaries, allowances, pensions and gratuities as required under the Departments of the Judiciary and the Legislature (Jersey) Law 1965.
29. Only the SEB may enter into contracts of employment with persons on behalf of the States.<sup>4</sup>
30. Under the 2005 Law, the SEB has the power to delegate its functions<sup>5</sup> and in fact has delegated the function of employing persons on behalf of the States and administrations of the States to the member of the Corporate Management Board with responsibility for a particular department or the relevant head of administration of the States in the case of a non executive department. The scope of the delegation provides that any action taken by a member of the Corporate Management Board or the head of administration of a non executive department must fall within the scope of the policies, guidelines and procedures that are enforced at any time. It is this provision that obliges Chief Officers to ensure that staffing decisions within their departments comply with the policies adopted by the SEB.

*Jersey Appointments Commission*

31. The Jersey Appointments Commission was created under an Act of the States on 28 May 2002 which was reaffirmed in the 2005 Law.<sup>6</sup>
32. The function of the Commission as set out in that Law<sup>7</sup> is to ensure that, as far as is practicable:
- (1) The recruitment of persons as States employees or States appointees is as fair, efficient and conducted in accordance with best practice principles and procedures.
  - (2) States employees or States appointees are appointed on merit.
  - (3) Members of the States are only involved in the recruitment of States employees or States appointees in accordance with guidelines issued by the Commission or otherwise in circumstances where, in the opinion of the Commission, it is appropriate that they be involved.

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<sup>4</sup> Article 12 of the 2005 Law.  
<sup>5</sup> Article 10 of the 2005 Law.  
<sup>6</sup> Article 17 of the 2005 Law.  
<sup>7</sup> Article 23 of the 2005 Law.

33. The Law also provides that the Commission shall from time to time issue guidelines to apply in relation to the recruitment of States' employees or States appointees.<sup>8</sup>

34. It is important to note that the Commission's function is to oversee the States' recruitment process for senior posts. It is not the Commission's function to review and approve the detailed terms and conditions for any particular appointment. For example, it is not the Commission's function to approve the remuneration to be paid for any post.

35. As far as concerns the recruitment for senior appointments, the Commission's guidance provides that the Commission is to be consulted at the earliest possible stage about the intention of a department to recruit to a senior position. For this purpose senior positions include all posts which fall within the following definition:

- (1) All posts where the post holder reports directly to a Minister.
- (2) All posts which have Hay scores or 826 or equivalent or above.<sup>9</sup>
- (3) All posts which command a salary which is equal to or in excess of (2) above.

36. In effect, this is generally taken to mean that the Commission should be consulted in respect of all appointments where the post holder reports directly to the Minister or to a person who reports directly to a Minister.

37. When the intention to recruit a senior position is referred to the Commission, a discussion will take place on the degree of involvement that the Commission requires. The Commission reserves the right to become involved in any recruitment and selection processes where because of the position it is deemed appropriate. The nature and extent of that involvement is decided by the Commission in the light of the circumstances of each case.

38. For senior posts the Commission normally:

- (1) Influences the drafting of the job and persons specification.

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<sup>8</sup> Article 24 of the 2005 Law.

<sup>9</sup> The process of Hay evaluation is described below.

- (2) Approves the advertisement, the media to be used and the extent of the arena from which competition is to be invited.
- (3) Approves, where appropriate, the search consultants to be employed.
- (4) Chairs the sift and final selection panels and take part in the selection process where deemed appropriate in other ways as well.
- (5) Determines the type of assessment processes to be applied.
- (6) Provides written approval for the appointment by the Chair of the Appointments Commission at the end of the competition.

### **Recruitment**

39. Where a post which is already established (i.e. included within the approved headcount of a department and evaluated) falls vacant, provided that the post does not fall within the ambit of the Jersey Appointments Commission, the Chief Officer may proceed to recruit someone to fill that vacancy. Having first established whether there is an existing employee of the States who has registered an interest in redeployment and who may be suitable for the vacancy, it is customary to seek applicants for positions by advertisement. For senior positions, it is also customary to supplement a public advertisement by an executive search using the services of an executive search agency.

### **Job Evaluation**

40. The States employ people with many different skills and aptitudes: matching the great breadth of the activities in which the States are involved. This poses a difficulty in ensuring that staff with broadly comparable responsibilities within the States are treated equitably and, in particular, receive broadly comparable remuneration. To deal with this difficulty, all posts within the States are evaluated.

41. Job evaluation is the process used for determining the relative value of jobs. Whilst the process is not a science it is based on the systematic analysis of different factors found within all jobs. The method used by the States was devised by Hay Management Consultants Limited and assesses three key areas common to most jobs:

- (1) Know How: The knowledge, skills experience/or training required in order to perform the duties and responsibilities attached to the job at an acceptable standard.
  - (2) Problem solving: The level and style of thinking required in order to get the job done.
  - (3) Accountability: The impact the post has on the business or service area and/or the constraints that apply on the taking of independent action.
42. Job evaluation is not automatically linked to pay. The States currently has a fifteen grade salary structure to encompass the vast majority of its employees. Consistent application helps to ensure equal pay for posts of equal value.
43. When it has been agreed that a job has significantly changed or where it is agreed that a new role has been established it is to be submitted for evaluation. The line manager, in conjunction with the post holder (where one exists) is expected to complete a job description questionnaire (JDQ), seeking advice if necessary, from an appropriate HR professional.
44. Once complete, the JDQ is sent to the HR Department which is accountable for ensuring that the JDQ is properly and fully completed. It is then sent for evaluation.
45. The post is considered by a job evaluation panel which typically meets each Wednesday.
46. Whilst there is not an automatic link between job evaluation and remuneration, once a post has been evaluated, the evaluation is used as a basis on which the post can be fitted into the States' remuneration scales.

### **Remuneration**

47. The remuneration for a post is fitted into the States' grading structure on the basis of the formal evaluation. For each grade there is a band of salaries and the normal practice would be to introduce a new recruit at the bottom of a band with annual increments elevating the recruit's position over a period.

48. The remuneration within grades would be reviewed on annual basis in negotiation with staff representatives and under the supervision of the SEB. Once agreement has been reached, the salaries appropriate to each grade would be revised in line with the agreement.
49. Any proposal to recruit a member of staff at a salary which is not consistent with the appropriate salary as indicated by the grading structure and evaluation score would require central agreement. In the case of senior staff, this would be a matter for the Chief Executive.
50. For posts which are not within the grading structure (e.g. Chief Officers), posts are evaluated and salaries are allocated in bands of evaluation points. The salaries are reviewed and revised annually subject to the agreement of the SEB and in the light of the general agreement concerning revision of staff salaries.
51. For recruits to vacant senior management positions, evidence will be sought on the salaries which are currently being offered for comparable positions within the market. Where this evidence suggests that it may prove difficult to recruit suitable candidates at salaries which are consistent with the existing framework, consideration will then be given to whether a salary can be offered outside the existing framework. Such a decision would require the agreement of the Chief Executive subject to the oversight of the SEB.
52. Periodically, the States commission a review to compare remuneration payable within the States with remuneration payable for equivalent positions within the private sector in the Island and the public sector in England. Both comparisons are important for the Island as for some positions (e.g. doctors, nurses, teachers, experienced managers of local services) the Island relies upon being able to recruit staff from the mainland.
53. Where those comparisons suggest that the Island is offering remuneration that is not sufficiently attractive to attract appropriate candidates, consideration is given by the SEB on the basis of recommendations and advice from the Chief Executive on ways in which the position can be corrected. From time to time, comparative reviews are commissioned when there is evidence that the terms and conditions offered by the States for particular skills are not competitive.

54. As the arrangements for public sector remuneration in England change (e.g. in relation to retirement age and pension arrangements for certain types of work), so the States have also commissioned reviews of those changes to ensure that, where appropriate, the changes are matched by changes in the Island's arrangements.

#### **Headcount**

55. In 1999, the States approved a proposition<sup>10</sup> which charged various committees to regulate the number of persons employed by the States of Jersey in any area of the States administration, excluding those States departments that reported to States trading operations in accordance with the principles contained within the Regulation of Undertakings Legislation and the policy statement issued by the then Finance and Economics Committee in respect of the application of the principles of regulation of undertakings to the private sector.
56. That authority is now discharged by the Minister for Treasury and Resources although it has been delegated to the Treasurer of the States (by delegations in February 2011).
57. In effect, a department wishing to seek increases in staff numbers is obliged to seek approval from the Treasury. Separately from the parallel process of seeking approval for departmental business plans which necessarily involve assumptions about headcount. This appears to be a duplication of effort.

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<sup>10</sup> P67/1999.

## **SECTION FOUR – SENIOR MANAGEMENT REMUNERATION**

### **Remuneration data**

58. Information about the remuneration of senior management is set out in two tables in Appendix Four. The tables are in the form in which they will appear in the 2010 annual accounts of the States, and are subject to audit.
59. The first table shows, for Accounting Officers, the remuneration actually paid during 2010 and this is affected by factors such as dates of joining and leaving the employment of the States.
60. The second table provides, for the same officials, information concerning their accrued pension entitlements.
61. A further table is set out in Appendix Five and shows for each of the principal Chief Officers the amount of salary as at 1 January 2011 (shown in the bands used in Appendix Four) together with the Hay evaluation points allocated to their posts.

## **SECTION FIVE – CONTROL OF SENIOR MANAGEMENT REMUNERATION**

### **Introduction**

62. In this section of the report I will set out my observations on the effectiveness of the States' controls over senior management remuneration which appear to have operated consistently.

63. But before setting out those observations, it is appropriate to consider the difficulty of assessing effectiveness in this context because the mere statement that controls have operated consistently does not mean that they have been effective.

64. The States' purpose in employing managers is to enable the organisation to achieve its objectives. One can consider remuneration in isolation, but most people will assess the appropriateness of remuneration in the light of the performance of staff and that of the organisation they are managing.

65. If people believe that the States as a whole are successful in achieving their objectives then they may be more likely to consider that managers are appropriately remunerated even if the success were unrelated to the managers' efforts. Conversely, if they believe that the States as whole are not achieving their objectives then they may be more likely to consider that managers are over-remunerated even if the problems which cause the States to fail were beyond the powers of managers to resolve.

66. I have attempted to avoid the subjective element of such judgements by looking for evidence that senior management remuneration has been controlled. This might for example lie in evidence that there is a coherent structure for remuneration or in comparisons with remuneration paid elsewhere. Even if that evidence shows that remuneration has been controlled successfully, it is possible that people will nonetheless believe that the remuneration paid was too high.

67. Of course, the search for comparisons is itself fraught with difficulty.

68. Jersey's constitution is quite different from the constitution of apparently similar authorities in the public sector of England. Consequently, the demands on its Chief Officers

are different from the demands on Chief Officers of apparently similar authorities in England where responsibility for policy analysis, planning legislation and then managing the delivery of services would often be divided between different organisations.

69. This is before one takes account of the financial and family cost of re-locating to Jersey and the higher cost of living (and particularly accommodation) in the Island.

70. These factors should be borne in mind when reading the following observations.

#### **Maintenance of structure**

71. The table set out in Appendix Five suggests that the States have been effective in maintaining the coherence of the framework for senior management remuneration. It is clear from the table that there is a reasonably close correspondence between the level of remuneration and the Hay evaluation points allocated to each post. In other words, the States have contained the pressure on salaries within the agreed framework.

72. If the controls had not been effective, one might have expected that the relationship between salary and evaluation points would have been less clear.

#### **Maintenance of levels**

73. It is more difficult to comment on whether the States have lost control of the level of remuneration.

74. It is clear from the evidence, a part of which is presented in the tables in Appendix Four, that the States have kept increases in senior management remuneration within the scale of increases agreed for States' employees generally.

75. If the States had lost control over senior management salary levels with the result that unduly generous salaries were being paid, then one might have expected that it would be possible to recruit Chief Officers at remuneration levels below those currently paid by the States.

76. As can be seen in table of recent senior appointments set out in Appendix Six, during the past two years two Chief Officer posts have been filled by recruitment of individuals

from outside the States (i.e. the Treasurer of the States and the Chief Officer, Health and Social Services).

77. It is clear that in one of these two cases, the appointment was made at a salary which fell outside the normal framework of relationships between salary and Hay evaluation points shown in Appendix Five. As I will show in Section Six of this report, I have checked that in making this recruitment the States had checked that the remuneration offered was similar to that which would be offered for similar posts in England. In other words, equivalent salaries in England would have been higher than the remuneration which one might have expected to fall within the States' normal framework as shown in Appendix Five. This is consistent with the States not having lost control of the levels of senior management remuneration.

78. In the other case, the agreed remuneration appears to be consistent with the States' normal framework as shown in Appendix Five. I have also checked that the level of remuneration agreed was consistent with the consultants' evidence-based advice concerning salaries for equivalent positions in England. This also is consistent with the States not having lost control of the levels of senior management remuneration.

### **Periodic comparisons**

79. As I described in Section Three of this report, it is the customary practice of the States to commission studies comparing staff remuneration within the States with remuneration in the private sector and the public sector in England. Those studies have consistently shown that senior management remuneration within the States is lower than would be expected within the private sector and within the public sector in England.

### **Cabinet Office controls**

80. In making these observations, I have considered whether the position would have been different had the States decided to implement the control of senior public salaries that has been applied during the past year by the Cabinet Office in London. In effect, within central government, proposals to award high salaries (i.e. in effect above £150,000) require separate justification and approval from the Cabinet Office with a presumption that such salaries would not normally be awarded.

81. I do not consider that within the Island such a control would make the current system more effective. Firstly, there are hardly any such salaries in any event. Secondly, it is already the case that a salary that is beyond the current framework would be considered by ministers. Thirdly, I am not convinced that an arbitrary threshold would be consistent with the need for the Island to retain some flexibility to attract suitable candidates.

**Conclusion**

82. In short, the evidence that I have gathered is consistent with the remuneration of senior management posts having been controlled effectively.

## **SECTION SIX – SENIOR MANAGEMENT RECRUITMENT**

### **Introduction**

83. Apart from considering the general controls on remuneration and their application, I have examined the records relating to the recruitment of senior managers including new Chief Officers during 2009 and 2010.

### **Application of controls**

84. In short, with a single exception, I am satisfied that the controls described in Section Three of this report have been consistently applied.

85. The exception relates to a single post which had been restructured but not evaluated before advertisements were placed seeking candidates. On enquiry, it became clear that the States' rules covering evaluation do not expressly prevent the publication of an advertisement before the relevant post has been evaluated.

86. The effect of the failure to evaluate the post at an early stage is that there can be no certainty that the salary offered would fit into the States' grading structure once the post has been evaluated. In the particular case I identified, it proved possible to reconcile the salary that had been offered to the States' grading structure once the post had been formally evaluated.

### **Comparable salaries**

87. In doing this work, I examined in particular the evidence for the States having checked thoroughly the evidence for market salaries for comparable salaries. Most executive search agencies maintain databases of comparable salaries for this eventuality and provide information from their databases as a background to any particular search for talent.

88. In short, I have established that for all senior positions it is the States customary practice to review detailed evidence for current salaries for comparable posts.

### **Findings and recommendations**

89. The controls over recruitment to senior positions appear to have been applied consistently and satisfactorily.

**Recommendation One**

**The rules concerning post evaluation should be reviewed and revised to ensure that advertisements for posts quoting salaries cannot be placed before the jobs have been evaluated.**

## **SECTION SEVEN - INTERIM AND FIXED TERM CONTRACT APPOINTMENTS**

### **Introduction**

90. In this section of the report I will set out the results of my review of interim and fixed term contract appointments during 2009 and 2010. The purpose of this review is to discover the processes which had been applied in making the appointments and to what extent the States controls in this area, as described in Section Three of this report have been properly applied.
91. At the beginning of this review, I requested the Treasurer of the States to provide me with information concerning payments made in respect of interim and fixed term contract appointments for senior staff. The purpose of this request was to provide a basis on which to review the controls that had been applied.
92. I will first describe the nature of the appointments reported to me and then will describe the outcome of my detailed examination of the terms of each of these appointments.

### **Appointments reported**

93. In Appendix Seven to this report, I set out a list of the principal appointments that were notified as a result of my invitation to the Treasurer of the States.
94. Unsurprisingly, it is apparent that the list includes appointments of widely differing types which raise differing control issues. I therefore decided that it would be helpful to group the appointments into a number of categories. I will describe each of these categories under the following headings:
- (1) Contracts for bundled services;
  - (2) Interim appointments; and
  - (3) Fixed term contracts.

#### *Contracts for bundled services*

95. In a small number of cases, the States may fill a post arranging for another organisation to take responsibility for providing the service that the individual is intended to provide. Under such arrangements, the other organisation would be responsible for managing the post-holder, taking care for his or her personal development and assuring the quality of the service he or she provides. It would also be responsible for providing appropriate cover in the event of illness or during holidays. In such a contract the States not only acquires the services of an individual but transfers to the other organisation a part of the management responsibility which would normally be held by the States.
96. Such an arrangement would be particularly appropriate where the services concerned are specialist in nature requiring specialist skills in any manager: skills that the States would not normally be expected to develop within its own work force.
97. The payments made under such an arrangement would include the remuneration of the person appointed to the post but would also include the cost of the management supervision and support. Further, the remuneration of the post-holder would be set by the other organisation according to that organisation's remuneration practices which will be different from the practices of the States. In principle, this approach seems justified by the general advantage that such an arrangement offers the States.

*Interim appointments*

98. For this purpose, I have defined interim appointments as appointments of a person for a limited period (probably not more than a year and often shorter) to a post which is vacant but intended to be permanent or which is being reconsidered for some reason. The post in question may have become vacant unexpectedly in circumstances where there is no obvious internal candidate who could 'act up' to fill the position temporarily. Alternatively, in exceptional circumstances, the States may have recognised a need to create a new post and to fill that post urgently.
99. It would be normal to seek candidates through agencies specialising in such appointments as specialist skills are likely to be required and the pool of people holding themselves available for such positions is limited.
100. The remuneration payable to the interim appointee would probably be higher than the remuneration which would be payable to a permanent appointee for a number of reasons:
- (1) depending on the circumstances, an interim appointment may be particularly challenging not least because of the responsibility of exercising management responsibility with little time for acclimatisation and briefing;
  - (2) in any area of activity, there is likely to be a limited pool of people with the appropriate skills to face such challenges who are prepared to work away from home for a limited period;
  - (3) people who accept interim appointments would expect that there would be periods of unemployment between interim appointments, so that the remuneration for any one appointment must provide financial cover for periods when the appointee would not receive an income; and
  - (4) an interim appointee would not be an established member of the employer's staff so would not benefit from all of the financial benefits available to permanent staff (e.g. an interim appointee would have to make private pension arrangements).

101. It is likely therefore that an interim appointee would receive a remuneration that includes a premium (which may be substantial) over the salary that would be considered appropriate for a permanent post-holder.
102. It is also probable that the remuneration package would provide for the appointee's travel and accommodation expenses to be covered by the employer either by the employer undertaking to pay all such expenses or by the employer paying remuneration which is calculated to be sufficient to cover the appointee's day rate and relevant expenses.
103. As would be the case for more junior temporary appointments, the appointees would normally be found through an agency specialising in such appointments: the agency receiving a fee calculated by reference to the remuneration paid to the appointee.
104. Also typically, the agreement with the agency would oblige the employer to make a payment to the agency in the event that subsequently the appointee is either reappointed on a temporary basis or appointed to the permanent position.
105. From the point of view of the employer considering making an interim appointment, it is important to weigh carefully the risks and advantages of any appointment. On the one hand, an interim appointment may offer a way of ensuring that the responsibilities of a key post are discharged when a permanent post holder is for whatever reason not available or until a more permanent appointment can be made.
106. On the other hand, such appointments are expensive and court the risk of a person operating without adequate understanding of the context in which he or she is in. Moreover, it may be the case that an interim appointee does not have the same commitment to the employer that one might expect of a permanent post-holder.
107. For all of these reasons, the risks and benefits of an interim appointment must be weighed carefully and the number and length of such appointments must be carefully monitored.

*Fixed term contracts*

108. Contracts of this sort provide for a person to work for a defined period (usually a number of years).

109. There are two situations in which the States may make employ someone on such a contract.

*Fixed term contracts: projects*

110. In some circumstances, the States may wish to undertake a defined project for which the resources do not exist within the States: e.g. the development of new procurement processes. In such cases, the alternatives available to the States might be to:

- (1) develop the skills within the States (i.e. employ permanent staff): which would only be cost-effective if there was a reasonable expectation that there would be a series of projects to which the skills could subsequently be applied;
- (2) employ consultants: which would have the advantage that the consultancy firm would provide some assurance of the quality of the work that would be done but would have the disadvantage of being considerably more expensive; or
- (3) employ short-term contract staff managed by the States: which may have the advantage of being less expensive but places responsibility on the States' management to ensure quality and effectiveness.

111. The length of such appointments would depend upon the time required to complete the project.

112. Again it would be normal to seek candidates for such appointments through agencies specialising in them.

113. The remuneration payable to project staff under short term contracts would be higher than that payable to permanent staff for reasons similar to those applying to interim appointments.

*Fixed term contracts: staff*

114. In some circumstances, it may be appropriate to fill what would otherwise be permanent posts by a fixed term appointment. This may, for example, be thought appropriate where it has proved difficult to make a permanent appointment.

115. In such cases, one would expect that the remuneration payable would be similar to that which would have been paid to a permanent appointee. However since a person appointed on a fixed term contract would not be eligible to be a member of the States' pension scheme and so would be responsible for making private pension arrangements, the States may agree to a higher level of remuneration by adding to the normal salary some proportion (or the whole) of the amount that the States would have otherwise paid by way of pension contributions (i.e. 13.6% of salary).

*Categorisation*

116. In Appendix Seven, I have indicated for all of the interim and contract appointees reported to me, into which of these types of appointment each fell.

### **Detailed examination of appointments made by the States**

117. Having identified a series of interim and contract appointments and grouped them into the three categories I have described above, I then examined each appointment to identify the process which had been followed and the extent to which States' controls were properly applied.

118. Only one of the appointments reported to me fell within the group which I describe as 'contracts for bundled services'. I have looked at the terms of this arrangement which appears sensible in every respect.

119. I will comment on the other appointments under the following headings:

- (1) Specification of position and risk analysis;
- (2) Identification of agency;
- (3) Identification and consideration of candidates;
- (4) Agreement of terms; and
- (5) Extension of arrangement.

120. As will be seen, in the course of this examination, I identified a number of instances of non-compliance with the States' policies and rules. In fact all of these instances arose from a single appointment. To assist in the understanding of the circumstances of that appointment, I set out in Appendix Eight a description of the way in which these instances of non-compliance arose.

### **Specification of position**

#### *Interim appointments*

121. In each of the appointments that I examined, there was a reasonably detailed specification of the position for which candidates were to be invited the period for which an appointment was intended and the exit route (e.g. whether the position was to be held pending a permanent appointment). In each case, the Jersey Appointments Commission was consulted appropriately.

122. It was also clear that careful management consideration had been given to the wisdom of making an interim appointment (as opposed to seeking a permanent appointment immediately) including the risks attaching to this approach and the adequacy of the arrangements for supervising an interim appointee.

*Fixed term contracts: projects*

123. In each of the appointments that I examined, there was a reasonably detailed specification of the position for which the candidates were to be invited, the time that the project was expected to take. The projects were reasonably defined and the internal management arrangements were clear.

*Fixed term contracts: staff*

124. There was one instance of such an appointment which concerned the appointment for a fixed period of a person who had previously been an interim appointee. I will deal with this appointment below.

**Identification of agency**

125. Although it is normal to seek candidates for interim and fixed term appointments through specialist agencies, during 2009 and 2010, the States had no framework agreements with suitable agencies. A Chief Officer seeking to make such an appointment would not therefore have been able to refer to, for example, a register held by the procurement function in the Resources Department to identify agencies which might be invited to nominate candidates. Moreover, an individual Chief Officer would be in a weak position when trying to ensure that the financial terms offered by agencies were the best that could be expected and in particular that the States take advantage of the best rates of commission available.

126. In most of the cases which I examined, it was clear that an attempt had been made to identify suitably specialist agencies (i.e. agencies with specialist skills in respect of the work area of the department concerned) to invite them to nominate suitable candidates. This had been done partly on the advice of the Human Resources Department or on the basis of experience of departmental officials.

127. In one instance, I was unable to find evidence that more than one agency had been contacted.

128. In my view, it would be normal practice to consult more than one agency and in the public sector in England it would be normal practice to do this on the basis of registers held centrally by, for example, the Office of Government Commerce. It would also be normal for organisations to have agreed standard terms with agencies so that full advantage is taken of whatever discounts can be negotiated and the most favourable terms available.

129. It is acknowledged that the absence of framework contracts with suitable agencies has been a weakness in the States' arrangements. A project is under way within the Procurement Department to correct this as a part of that department's transformation project. Once that project has been completed, one would expect that it would become a requirement that departments should make use of agencies which have agreed framework contracts with the States.

130. In one instance, I discovered that the human resources person within a department was himself an interim appointee introduced by an agency which had introduced another interim appointee within that department. Although the human resources person had not been responsible for arranging the appointment of the other interim appointee, he did find himself negotiating variations to that person's contract with the agency. Although I did not establish that this apparent conflict led to any misjudgements, in my view it would have been wiser for the human resources person to pass responsibility for negotiations with his agency to another member of the human resources department.

#### **Identification and consideration of candidates**

131. In all of the cases which I examined, it was possible to see that a number of candidates nominated by agencies had been considered.

132. In most cases, interview records had been retained which demonstrate that all of the candidates short-listed were carefully considered and assessed against criteria which had been agreed previously. In some cases, not all of the interview records had been retained

so it was not possible to check that a rational approach had been adopted by all members of the interviewing panel.

133. It was also evident that, where the Jersey Appointments Commission had chosen to be involved, representatives of the Commission had been involved in the interviews.

134. However in the instance in which only one agency had been involved, only two candidates had been considered of whom one was unsuitable and withdrew at an early stage so that the selection process was narrow and limited. This appointment was at a level which did not require the involvement of Jersey Appointments Commission.

#### **Agreement of terms**

135. There was no consistency in the States' approach to the agreement of terms with the chosen candidates.

136. In most cases, there was evidence that the recruiting department had challenged the day rates quoted by candidates. In some cases, I could not find evidence that there had been challenge. I could not establish whether the apparent lack of challenge resulted from a judgement that the quoted day rate was appropriate in all of the circumstances. Of course, one of the reasons for selecting candidates from a number of agencies is to provide the widest sample of day rates.

137. Neither was there consistency in the treatment of expenses. In some instances candidates quoted and were appointed on the basis of day rates including expenses and in other cases candidates quoted and were appointed on the basis of day rates excluding expenses. Using inclusive day rates make comparison of day rates more difficult.

138. Matters such as these should be covered by the framework agreements which the States should agree with relevant agencies so that a consistent approach is adopted.

#### **Extension of arrangement**

##### *Interim appointments*

139. In most cases, interim appointments ended as planned, with the appointment to a permanent position. Where appropriate the permanent appointments are considered elsewhere in this report.
140. In one instance, the interim appointment ended with the appointment of the interim appointee for a two year period under a fixed term contract.
141. In this instance, it had originally been planned that the interim appointment would end with the appointment of a permanent post-holder following an open competition. In the event, it was decided by the departmental management that the effect that the interim appointee had achieved was such that the States' interest would best be served by the appointee continuing in his role. That judgement was subsequently supported by independent consultants.
142. I understand that the appointee was not prepared to contemplate a permanent appointment. To achieve the objective of retaining the services of the interim appointee the department's management decided to explore the possibility of agreeing a fixed term contract with the appointee<sup>11</sup>.
143. This decision was discussed briefly with Jersey Appointments Commission which, on the basis of an outline briefing received from the department (through the Interim Director of Human Resources, HSSD), accepted the decision not to proceed to an open competition for a permanent appointment.
144. The decision to offer a fixed term contract to the interim appointee was however subject to agreement of appropriate financial terms. It would not in normal circumstances be appropriate simply to agree to an extension of the terms of an interim appointment for a lengthy period. As I have explained above, for well-understood reasons, interim appointments normally attract remuneration materially above that payable to a permanent appointment. The normal States' practice, as I have described, would be to settle fixed term contracts on the basis of remuneration that is similar to or can be closely

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<sup>11</sup> In effect it was accepted that the interim arrangement should end with the consequence that there would be no further payments to the agency through which the interim appointee had originally been introduced beyond the final payment in respect of the subsequent appointee of the person whom the agency had introduced. It would have been most exceptional to contemplate the extension of the interim contract for a further period as long as the planned fixed term contract.

related to the remuneration for a permanent appointment (subject to some limited flexibility to take account of market variations in salary).

145. In this case, the fixed term contract was agreed at the remuneration which the appointee had received under the interim contract.

146. The justification for the decision was that it was so important to retain the services of the appointee (because of the risk that his termination might endanger successful completion of the change programme for which he was responsible) that the additional cost of the proposed arrangement should be contemplated and accepted. However, the level of remuneration was exceptional and should, prudently, have been discussed with the Human Resources Department centrally at least to ensure that all issues of comparability and acceptability had been discussed and agreed. The circumstances in which this arose are described in Appendix Eight.

*Fixed term contracts: projects*

147. A number of these appointments were extended for limited periods. It was clear that careful management consideration was given to such extensions. The remuneration payable under the existing contracts was applied equally to the extension period.

*Fixed term contracts: staff*

148. In one of these appointments, the contract was extended for a short period after careful consideration. The contract was then ended and no permanent appointment was made, as the department concerned had decided that the post was no longer required. In this respect the States' processes operated successfully.

149. The remuneration payable under the original contract was applied equally to the extended period.

150. In the other appointment, the term of the contract has not yet ended.

## **SECTION EIGHT – FINDINGS AND RECOMMENDATIONS**

### **Introduction**

151. Whilst my examination has found that in general the States' processes have operated effectively, it is clear that, in a limited number of cases, there has been difficulty. In this section of the report, I will review the implications and make some suggestions about how the position could be improved.

### **Controls**

152. As I pointed out in Section Three of this report, the States' policies and controls do not explicitly refer to interim appointments. In practice, attempts have been made to apply the normal controls to all such appointments although in one or two cases this has caused difficulty.

153. I envisage that, among other matters, such guidance would specify that when an interim appointment is being considered, apart from specifying the role or post and the reasons for an interim appointment being considered appropriate, the department concerned should also specify how the appointment is expected to end. In many cases, it would be expected that an interim appointment would end with an open competition leading to a permanent appointment. Any decision to divert from that intention and to appoint on a different basis would require separate justification.

### **Recommendation Two**

**All controls and guidance should be reviewed to ensure that 'interim appointments' are explicitly included in those controls and guidance.**

### **Departmental responsibility**

154. The difficulty experienced in making certain appointments was exacerbated by a lack of communication between departments and the Human Resources Department and a lack of clarity over the responsibilities and duties of members of the central human resources team who were embedded within departments.

### **Recommendation Three**

**All senior appointments (defined in accordance with the Jersey Appointments Commission guidance but including interim and contract appointments) should be managed by the central Human Resources Department (and thus not by departments).**

### **Recommendation Four**

**The relevant controls and guidance should be amended to ensure that permanent posts may not be advertised until the posts have been evaluated.**

### **Jersey Appointments Commission**

155. As the general States guidance does not deal explicitly with 'interim appointments' neither does the Jersey Appointments Commission's guidance. It would be helpful if the Commission's guidance were also reviewed to ensure that 'interim appointments' are explicitly covered.

### **Recommendation Five**

**The Jersey Appointments Commission's guidance should be reviewed to ensure that the Commission maintains effective oversight of all 'interim appointments' (including decisions to appoint an interim appointee on a fixed term contract).**

### **Head count**

156. Under current arrangements, the Treasury is required to approve in mid year all proposals by departments to increase headcount. This practice derives from a decision by the States in 1999, and appears largely to have been superseded by other controls and in particular the annual business planning and business plan approval process.

### **Recommendation Six**

**The headcount control currently applied by the Treasury should be re-considered.**

### **Mentoring**

157. It should be recognised that constitution an organisation of the States are unlike mainland organisations which people tend to regard as equivalents. It should not be

assumed that a newly recruited senior officer without any previous experience of the Island will readily understand the practices of the States and the Island.

**Recommendation Seven**

**The Chief Executive should consider whether formal mentoring arrangements should be established for all newly recruited senior officers (including interim appointees).**

## **APPENDIX ONE – TERMS OF REFERENCE**

App1-1 This review is commissioned in accordance with the powers of the Comptroller & Auditor General as set out in the Public Finance (Jersey) Law 2005 to take place in the light of:

- (1) the States' need to be able to recruit senior staff and the related need to be able to pay competitive remuneration to attract candidates of suitable ability and experience;
- (2) the public concern that, notwithstanding this need, the States may have recruited staff at inappropriately high salaries and may have hired interim managers on inappropriately generous terms; and
- (3) the steps taken by the United Kingdom government to restrain and limit the remuneration of senior staff and interim managers in the United Kingdom public sector.

App1-2 The purpose of the review is to examine:

- (1) remuneration levels for senior staff in the States, the way in which levels have changed in recent years and the costs incurred by the States in this respect in recent years;
- (2) the number of senior managers appointed on short term or interim contracts, the level of the payments made for their services in any way and the costs incurred by the States in this respect in recent years;
- (3) the processes applied by the States to control the recruitment of senior staff, and to control the employment of interim senior managers;
- (4) the processes which are applied by the States to ensure that senior staff and interim managers are recruited or employed on terms that offer the greatest value for money;
- (5) any other related issues which come to attention in the course of this review.

App1-3 The outcome of the review will be a report prepared and published in accordance with the provisions of the Public Finance Jersey Law 2005 and the C&AG's normal practice.

**APPENDIX TWO – COMPTROLLER AND AUDITOR GENERAL**

<i>Issue</i>	<i>Terms and conditions</i>
Appointed	Appointed by the States with effect from 1 October 2005 following an open competition. Renewed for five years as from 1 October 2008.
Contractual arrangement	Terms agreed with the Chief Executive and the Chairman of the Public Accounts Committee in the form of a draft contract for services.
Remuneration	Currently £48,100 per annum (assumes a time commitment of two days each week at a rate of £481 per day).
Additional payments	The amount payable is varied when the number of days worked exceeds two days per week. The rate for additional days is £481 per day.
Annual revision of remuneration	The amount payable is varied with effect from 1 October in each year by reference to the annual increase in the Jersey RPI-X index to March in each year. This formula is used so that revision of remuneration does not depend on a decision of SEB so that independence is protected.
Other benefits	There are no other benefits (e.g. the position is not pensionable)
Expenses	Travel and accommodation expenses are paid by the States and reported on the Auditor General's website. The governing policy is displayed on the Auditor General's website.

**APPENDIX THREE – PEOPLE WHO CONTRIBUTED TO THIS REVIEW**

<i>Name</i>	<i>Title</i>
Brian Curtis	Member, Jersey Appointments Commission
Ruth Davies	(formerly) Director, Human Resources
Julie Garbutt	Chief Officer, Health and Social Services Department
Paul Jones	Interim Human Resources Director, Health and Social Services Department
Mike King	Chief Officer, Economic Development Department
Alan Merry	Chairman, Jersey appointments Commission
Bill Ogley	Chief Executive
Jane Pollard	Deputy Head, Human Resources
John Richardson	Deputy Chief Executive
Laura Rowley	Treasurer

## APPENDIX FOUR – ANNUAL ACCOUNTS DRAFT DISCLOSURES

*The tables set out in this Appendix have been prepared in accordance with the Jersey Financial Reporting Manual (which will apply for the first time to the 2010 accounts of the States) and with best practice in England. The information in these tables remains subject to audit but is believed to accurate in all material respects.*

### ACCOUNTING OFFICERS – SALARIES, ALLOWANCES AND TAXABLE BENEFITS

<i>Post</i>	<i>Department</i>	<i>Post holder</i>	<i>2010 Salary<sup>12</sup> £000</i>	<i>2009 Salary £000</i>
Chief Executive		Mr W Ogley	210-215	210-215
Chief Officer	Economic Development	Mr M King	125-130	120-125
Chief Officer	Education Sport and Culture	Mr M Lundy	130-135	125-130
Chief Officer	Health and Social Services	Mr R Jouault (acting until 31 May 2010)	45-50	25-30
		<i>Full year equivalent salary</i>	115-120	115-120
		Mrs J Garbutt (from 1 June 2010)	95-100	-
		<i>Full year equivalent salary</i>	170-175	-
Chief Officer	Home Affairs	Mr S Austin- Vautier	115-120	110-115
Chief Officer	Housing	Mr I Gallichan	100-105	100-105
Chief Officer	Planning and Environment	Mr A Scate	115-120	105-110
Chief Officer	Social Security	Mr R Bell	115-120	110-115
Chief Officer	Transport and Technical Services	Mr J Richardson (to 16 April 2009)	-	35-40
		<i>Full year equivalent salary</i>	-	125-130
		Mr J Rogers (from 17 April 2009)	125-130	80-85
		<i>Full year equivalent salary</i>	-	115-120
Treasurer of the States		Mr I Black (to 23 April 2010)	45-50	140-145
		<i>Full year equivalent salary</i>	140-145	-

<sup>12</sup> Salary includes, but may not necessarily be confined to: gross salaries, payable, overtime, recruitment or retention allowances, or other allowances and any ex gratia payments. It does not include amounts which are a reimbursement of expenses directly incurred in the performance of an individual's duties.

<i>Post</i>	<i>Department</i>	<i>Post holder</i>	<i>2010 Salary<sup>12</sup> £000</i>	<i>2009 Salary £000</i>
Deputy Chief Executive	Resources	Mr J Richardson	140-145	20-25
		<i>Full year equivalent salary</i>	-	140-145
Chief Officer	Bailiff's Chambers	Mr D Filippini	70-75	70-75
Chief Clerk	Law Officers	Mr T Allen	75-80	70-75
Judicial Greffier and Viscount		Mr M Wilkins	135-140	130-135
Chief Probation Officer		Mr B Heath	85-90	85-90
Greffier of the States		Mr M De La Haye	110-115	105-110
Airport Director		Mr J Green	120-125	120-125
Chief Officer	Jersey Harbours	Mr H Le Cornu	105-110	100-105

*No taxable benefits in kind were received by the officers above during 2010.*

*During the year (2010), payments totalling £193,000 were made to third parties for the services of Mr H McGarel-Groves in his role as Interim Treasurer (appointed on 23 April 2010).*

#### **ACCOUNTING OFFICERS – PENSION BENEFITS**

<i>Post</i>	<i>Department</i>	<i>Post holder</i>	<i>Total accrued pension at retirement as at 31 December 2010<sup>13</sup> £000</i>	<i>CETV<sup>14</sup></i>		
				<i>At 31 December 2009 (or appointment if later) £000</i>	<i>At 31 December 2010 £000</i>	<i>Real increase (decrease)<sup>15</sup> £000</i>
Chief Executive		Mr W Ogley	25-30 (pension)	341	414	62

<sup>13</sup> Members of PECRS can choose to exchange up to 35% of their pension for a lump sum on retirement. For every £1 of annual pension given up members will receive a cash sum of £13.50. As each individual may choose to exchange a different proportion, individual lump sums are not shown. Members of the HTSF (who joined the scheme before 1 April 2007) receive an automatic lump sum on retirement and this is included in the table.

<sup>14</sup> The Cash Equivalent transfer Value (CETV) represents the value of rights accrued in the scheme, and is calculated on the basis of a transfer to a private pension scheme.

<sup>15</sup> This increase is shown after deducting contributions by the individual, including and transfers into the scheme.

*The States' management of the remuneration of senior posts  
Review by the Comptroller & Auditor General  
March 2011*

Post	Department	Post holder	Total accrued pension at retirement as at 31 December 2010 <sup>13</sup> £000	CETV <sup>14</sup>		
				At 31 December 2009 (or appointment if later) £000	At 31 December 2010 £000	Real increase (decrease) <sup>15</sup> £000
			Increase of 2.5 – 5			
Chief Officer	Economic Development	Mr M King	5-10 (pension)  Increase of 0-2.5	95	125	24
Chief Officer	Education Sport and Culture	Mr M Lundy	55-60  Increase of 2.5-5  175-180 (lump sum)  Increase of 7.5-10	1,088	1,178	81
Chief Officer	Health and Social Services	Mr R Jouault (acting until 31 May 2010)	15-20 (pension)  Increase of 2.5-5	168	197	25
		Mrs J Garbutt (from 1 June 2010)	80-85 (pension)	892	909	12
Chief Officer	Home Affairs	Mr S Austin-Vautier	20-25 (pension)  Increase of 0-2.5	388	434	41
Chief Officer	Housing	Mr I Gallichan	20-25 (pension)  Increase of 0-2.5	300	333	28
Chief Officer	Planning and Environment	Mr A Scate	0-5 (pension)  Increase of 0-2.5	13	25	6
Chief Officer	Social Security	Mr R Bell	15-20 (pension)  Increase of 0-2.5	154	177	18
Chief Officer	Transport and Technical Services	Mr J Richardson (to 16 April 2009)	65-70 (pension)  Increase of	877	995	109

*The States' management of the remuneration of senior posts  
Review by the Comptroller & Auditor General  
March 2011*

Post	Department	Post holder	Total accrued pension at retirement as at 31 December 2010 <sup>13</sup> £000	CETV <sup>14</sup>		
				At 31 December 2009 (or appointment if later) £000	At 31 December 2010 £000	Real increase (decrease) <sup>15</sup> £000
			5-7.5			
		Mr J Rogers (from 17 April 2009)	10-15 (pension)  Increase of 2.5-5	77	134	50
Treasurer of the States		Mr I Black (to 23 April 2010)		1,043	-	-
Deputy Chief Executive	Resources	Mr J Richardson	As above			
Chief Officer	Bailiff's Chambers	Mr D Filippini	10-15 (pension)  Increase of 0-2.5	126	145	15
Chief Clerk	Law Officers	Mr T Allen	35-40 (pension)  Increase of 0-2.5	582	651	65
Judicial Greffier and Viscount		Mr M Wilkins	75-80 (pension)  Increase of 0-2.5	1,304	1,338	25
Chief Probation Officer		Mr B Heath	40-45 (pension)  Increase of 0-2.5	568	620	47
Greffier of the States		Mr M De La Haye	45-50 (pension)  Increase of 2.5-5	611	670	53
Airport Director		Mr J Green	5-10 (pension)  Increase fo 0-2.5	53	71	11
Chief Officer	Jersey Harbours	Mr H Le Cornu	10-15 (pension)  Increase of 0-2.5	144	170	20

**SENIOR EMPLOYEES**

Remuneration <sup>16</sup>	2010		2009	
	Non-traders	Traders	Non-traders	Traders
£70,000-£89,999	320	32	306	19
£90,000-£109,999	98	22	96	17
£110,000-£129,999	51	3	51	5
£130,000-£149,999	30	1	23	1
£150,000-£169,999	23	-	23	-
£170,000-£189,999	13	-	9	-
£190,000-£209,999	-	-	2	-
£210,000-£229,999	-	-	-	-
£230,000-£249,999	2	-	2	-
£250,000-£269,999	2	-	2	-
£270,000-£289,999	-	-	-	-
£290,000-£309,999	1	-	-	-
	540	58	514	42

<sup>16</sup> Remuneration includes salary and wages and pension contributions paid by the States.

## **APPENDIX FIVE – CHIEF OFFICERS' REMUNERATION AND EVALUATION POINTS**

*The table below shows the Chief Officers' full year equivalent remuneration as at 31 December 2010 shown on the same basis as in the draft annual accounts disclosures set out in Appendix Four, coupled with the Hay evaluation points for each post.*

*The Hay evaluation process and its purpose are described in Section Three of the report.*

	<i>Salary £000</i>	<i>Hay evaluation points</i>
Chief Executive	215-220	-
Deputy Chief Executive	145-150	1560
Treasurer of the States	140-145	1560
Chief Officer – Health and Social Services	170-175	1372
Chief Officer – Education Sport and Culture	130-135	1358
Chief Officer – Transport and Technical Services	125-130	1292
Chief Officer – Economic Development	130-135	1232
Chief Officer – Planning and Environment	120-125	1182
Chief Officer – Home Affairs	115-120	1142
Chief Officer – Social Security	115-120	1142
Chief Officer - Housing	100-105	994

### APPENDIX SIX – SENIOR APPOINTMENTS 2009-2010

*This list (provided by the Human Resources function within the Resources Department) sets out all of the permanent appointments made during 2009 and 2010 in which Jersey Appointments Commission were involved: and thus should include all of the senior management appointments made by the States in those years.*

*The list does not include the interim or contract appointments in which Jersey Appointments Commission were involved.*

<i>Post</i>	<i>Department</i>	<i>Non-States body</i>
<b>2009</b>		
Deputy Bailiff		
Attorney General	Law Officers	
Solicitor General	Law Officers	
Deputy/Designate Chief of Police	Home Affairs/Police	
Director of International Tax	Chief Minister's Department	
Director of International Affairs/Director of International Finance	Chief Minister's Department	
Director of Human Resources	Chief Minister's Department	
Deputy Chief Executive	Chief Minister's Department	
Chief Officer	Transport and Technical Services	
Chief Executive	Jersey Family Nursing and Homecare	Non-States body
<b>2010</b>		
Chief Officer	Health and Social Services	
Operations Director	Social Security	
Director of Environment	Planning and Environment	
Chief of Police designate	Home Affairs/ Police	
Chairman - JCRA	Economic Development	Non-States body
Non Executive Director - JCRA	Economic Development	Non-States body
Director General – Jersey Finance Limited	Economic Development	Non-States body
Executive Director - JCRA	Economic Development	Non-States body
Shadow Board – Harbours and Airport	Economic Development	
Treasurer	Treasury	
Chief of Police	Home of Affairs/Police	
Managing Director - Community	Health and Social Services	
Director of Accounting Services	Treasury	
Director of Financial Planning and Performance	Treasury	
Director and Deputy/Adviser – Brussels Office	Chief Minister's Department	

<i>Post</i>	<i>Department</i>	<i>Non-States body</i>
Board – Jersey Finance Limited	Economic Development	Non-States body
General Manager – Air Traffic	Economic Development/Airport	

## APPENDIX SEVEN – INTERIM AND TEMPORARY APPOINTMENTS

*This list of interim and other contract appointments is based on returns submitted by States departments as at February 2011 in response to a request for the purpose of this review. It is limited to posts that might be regarded as senior management or equivalent positions to which interim or contract appointments were made during the past two years (i.e. since the beginning of 2009). These posts then became the basis for a detailed review of procedures.*

*For this purpose, senior management or equivalent positions' was defined as posts regarded as equivalent to Grade 14 or above. This definition was intentionally broad.*

<i>Department</i>	<i>Posts</i>	<i>Period</i>	<i>Categories</i>
Treasury	Interim Finance Director/Interim Treasurer	2010	Interim appointment: initially to permit management re-construction and then to take over the duties of Treasurer until a permanent appointment could be made
	Interim heads of units	2010	Interim appointments: appointed during management re-construction to permit re-construction to proceed while permanent post-holders were being sought
	Fiscal Stimulus team member	2009	Project support
	Head of Financial Accounting and Control	2010-2011	Interim appointment: appointed to fill management gap caused extended absence of staff member
Resources: Human Resources	Interim directors (2)	2011	Interim appointments: appointed following resignation of director to permit time for successor to be sought
	Project Manager	2010-2011	Project support: appointed to re-design key human resource processes
Resources: Information Services	Deputy Director	2008-2009	Interim appointment: to permit consideration of permanent need
Resources: Procurement	Project Managers (7)	2010-2011	Project managers: to undertake the process design work necessary to permit achievement of projected Comprehensive Spending Review savings
Health and Social Services	Hospital Director	2011-2013	Interim appointment/short term contract: initially appointed to fill management gap pending permanent recruitment and then appointed for two years on contract basis
	Director, Community and	2010-2011	Interim appointment: appointed to

*The States' management of the remuneration of senior posts  
Review by the Comptroller & Auditor General  
March 2011*

<i>Department</i>	<i>Posts</i>	<i>Period</i>	<i>Categories</i>
	Social Services		fill management gap pending permanent recruitment (In fact appointed by the central human resources team, but embedded within the Health and Social Services Department).
	Human Resources Director	2010-2011	Interim appointment: appointed to fill management gap pending permanent recruitment
	Medical Staffing Officer	2011	Interim appointment: appointed to fill management gap pending decision about permanent appointment
	Interim case load manager	2010	Interim appointment: to fill management gap pending consideration of permanent need
CMD/HSSD	Lean process consultant	2011	Lean process development within HSSD. In fact employed by central CSR team and then allocated to HSSD.
Social Security	Finance Director	2010-2011	Interim appointment: appointed to fill management gap following resignation of predecessor
Airport	Air Traffic Control Manager	2007-2012	Contracted service: contract with NATS (Services) Limited for provision of a manager managed and supervised by NATS (i.e. for the provision of a comprehensive service)

## APPENDIX EIGHT – APPOINTMENT OF THE HOSPITAL DIRECTOR

### Introduction

App8-1 In this Appendix, I will set out a description of the circumstances surrounding the appointment which led to almost all of the instances of non-compliance identified in this report. This description has been prepared solely on the basis of documents provided to me by the Health and Social Services Department and, in some instances, information provided by others (e.g. Jersey Appointments Commission). The description is not intended to impugn either directly or indirectly the motives and actions of the person appointed to act as Hospital Director.

### Verita Report

App8-2 In January 2010, a team from Verita, a firm of independent consultants, completed a report following an investigation into the care, treatment and management of Mrs Elizabeth Rourke.<sup>17</sup> One of the principal recommendations of this review was as follows:

*“The chief officer should appoint a hospital director to manage the hospital day to day. This person would act as the focus for all hospital matters. There should be a clear separation of responsibilities between the chief officer (strategic) and the hospital director (operational). Urgent.”<sup>18</sup>*

App8-3 In an addendum to that report which was also completed in January 2010, the Verita team reported that:

*“Interviewees have provided many descriptions of the lack of common purpose between senior managers and senior clinical staff. Many people said there seemed to be little sense of a genuine shared view about the future of the hospital. This may partly be explained by the dual roles of senior management.*

*Much more than on the mainland, senior managers combined both the central policy making function with the hospital operational one. They have to look two ways at once, discharging in their overall role some of the equivalent responsibilities of the Department of Health, a Strategic Health Authority and an NHS Trust Board. This means that although the hospital is only of modest size, the managerial task is complex and makes unusual demands on senior staff.”<sup>19</sup>*

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<sup>17</sup> RC 11/2010.

<sup>18</sup> Paragraph 3.24 on page 18 and recommendation 14 on page 193.

<sup>19</sup> RC 12/2010. Paragraph 2.14 on page 7.

**April 2010**

App8-4 Perhaps unsurprisingly in view of the explanations given by the Verita team for this recommendation, the urgency of this recommendation was accepted by departmental management. Although the newly appointed Chief Officer had not yet taken up her post, she ensured that by the beginning of April 2010 agencies specialising in interim appointments had been contacted to invite them to nominate candidates for an interim appointment as hospital director. At this point, the department's management envisaged that an interim appointment would be followed after a period of months by a permanent appointment.

App8-5 In accordance with normal practice, the member of the human resources team who dealt with this appointment contacted the Jersey Appointments Commission to check whether the Commission wanted to be involved in the appointment. As it was envisaged that the interim appointment would be followed by an open competition for a permanent appointment, the Commission indicated that it did not wish to be involved in the interim appointment.

App8-6 The successful candidate was introduced by an agency called Fine Green Associates.

App8-7 The interview note of the successful candidate's interview recalled that during the interview he said that he would not be prepared to contemplate a permanent appointment within the Island giving the impression that he expected to be considered for a permanent appointment on the mainland later in 2010.

**Contract dated 27 April 2010**

App8-8 The interim appointment was confirmed in a contract between the States Employment Board and Fine Green Associates effectively dated 27 April 2010.

App8-9 The covering letter from Fine Green Associates enclosing the contract for signature records that:

*"The six months assignment will commence on Tuesday 4 May 2010 and the charge rate will be £142,350 inclusive of all expenses for the duration of the contract, for which you will be invoiced on a monthly basis.*

*"xxxxx will work a full working week, but compressed over four days. Payment will only be for actual days worked, and payment will not be received for any days of sick or holiday during the contract. The figure quoted above will be the maximum spend for the six month assignment and a reduction of that rate will take effect should any sick days occur and/or holiday days are agreed."*

App8-10 In fact, the contract appended to the covering letter was not quite as clear as the covering letter.

App8-11 Section 4 of the contract reads as follows:

*"The client agrees to pay the daily/hourly charges of the Employment Business. The charges are calculated according to the number of hours (to the nearest quarter hour) or days (to the nearest day) worked by the Supplier (as detailed in the assignment confirmation note). The charges comprise mainly the Supplier's pay but also include the Employment Business's commission calculated as a percentage of the Supplier's pay and any travel, hotel or other expenses as may have been agreed with the client or, if there is no such agreement, such expenses as are reasonable. VAT if applicable is payable on the entirety of these charges.*

*The charges are invoiced to the client on a weekly basis and are payable within seven days. The Employment Business reserves the right to charge interest on any overdue amounts at the rate of 4.25% per annum above the base rate from time to time of NatWest Bank from the due date until the date of payment.*

*There are no rebates payable in respect of the charges of the Employment Business".*

App8-12 Although not stated in the contract, I understand that the gross day rate payable to the agency was set at £1,095.00 per day and the effective rate payable to the successful appointee was £920.00 per day.

App8-13 The contract provided that in the event that the successful appointee was engaged by the Health and Social Services Department then a transfer fee would be payable to the agency.

*Commentary: The day rates payable under this contract are similar in scale to day rates payable under other interim agreements signed by the States during 2009 and 2010 and similar in being inclusive of expenses.*

*The figure quoted in the covering letter dated 27 April 2010 as the charge under the contract assumed the number of days that might be worked by the appointee taking account of days of absence through holidays and sickness.*

*The confusion between the covering letter and the draft contract over the basis on which payments would be calculated led to some problems in practice. The first invoices presented for payment were calculated on the basis of the number of hours worked by the appointee and an hourly rate of £136.88. This mistake was identified by the end of November 2010 and corrected by a credit note dated 25 November 2010 amounting to £6,980.88 which reduced the payments that had been claimed by that date.*

#### **August 2010**

App8-14 By the end of August 2010, the successful appointee had been in position for a period of more than three months. At this point the department's senior management considered a number of options for filling the hospital director post on a more permanent basis.

App8-15 At this point, the department's senior management formed the view that the best interests of the department and the hospital would be served by the successful appointee continuing in office for an extended period.

App8-16 Documents available to me do not provide contemporary evidence to support the judgement that senior management made in August 2010. However, the judgement can be assessed by reference to a progress review carried out by Verita subsequently leading to a report in January 2011.<sup>20</sup> That report commented:

*"We said in our original report that with a board remit covering all health and social services, the chief officer can devote only a proportion of his or her time to hospital operational matters. We suggested that the hospital was so large and complex that it deserved its own manager – and that the roles of the chief officer and the hospital director should each have a different focus.*

*We considered this one of our key and most urgent recommendations. A hospital director needed to focus exclusively on hospital matters leading the chief officer to focus on the strategic health and social needs of the Island and corporate issues across the breadth of the Health and Social Services Department (HSSD) agenda.*

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<sup>20</sup> The report has been published and is available on the States' website: [www.gov.je](http://www.gov.je)

*Without such a separation of responsibilities, it was difficult in our view, for the organisation to establish and maintain the grip needed over its many activities.*

*The top team looking after these two remits is now in place – xxxx, chief executive and xxxx, managing director of the hospital. Their impact on the organisation has been quickly seen and felt, both through their leadership style and through their proposals for the HSSD. The first – and perhaps largest – managerial building block is in place. The appointments are recent, but we heard and saw evidence to justify optimism about them.”<sup>21</sup>*

App8-17 These observations were supported by the following comments in the same report:

*“The appointment (on an interim basis initially) of xxxx to focus on the running of the hospital looks to have been successful in that he has quickly established a presence, developed good working relationships – particular with the medical staff – influenced behaviours and harnessed the skills of some capable individuals.*

*However, the organisation is bedding in and we have heard from a number of individuals that their continued support and commitment is to a very great degree dependent on the current leadership team remaining in post.”<sup>22</sup>*

*Commentary: These observations thoroughly support the view which management took in August 2010.*

App8-18 At some point after this, contact was made with Jersey Appointments Commission which indicated that it did not require involvement in the matter.

App8-19 There remained however the question of agreeing with the successful appointee a basis on which his services could continue to be available to the hospital. A briefing note prepared by the Interim Director of Human Resources (HSSD) and dated 8 September 2010 identified four possible options.

- (1) Extend the interim arrangements on the current terms.
- (2) Appoint on a two year fixed term contract.
- (3) Appoint permanently following a competitive advertisement.
- (4) Appoint permanently following executive search.

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<sup>21</sup> Paragraphs 2.8 – 2.10 on page 6.

<sup>22</sup> Paragraphs 4.11 and 4.13 on page 21.

*Commentary: In reality the successful appointee had not at any point given the impression that he would accept a permanent appointment. Thus if the department's management were to achieve their objective of retaining the appointee's services for an extended period, there were only two possible options: extension of the interim contract and agreement of a two year fixed term contract.*

*In practice however, agreement of a two year extension to an interim contract on the current terms was not a realistic proposition.*

*The original contract with the interim agency provided for the payment of commission to the agency for a period up to one year. It also provided that if the States then wished to engage the successful appointee for a further period then a transfer fee should be paid. From that point no further commission charges would be payable to the agency.*

*There was no provision in the contract for the payment for commission for a period longer than one year: for good reason. If the States wished to engage the appointee for a further period, it would not be achieved by a simple extension to the interim contract.*

*In short, assuming that the appointee could not be persuaded to accept a permanent appointment, the only realistic option was the agreement of a two year fixed term contract with the appointee.*

*It follows that to speak of agreement of a fixed term contract as leading to savings in cost or a reduction in cost to the States is at best misleading. There was no saving. The States made the payments that were agreed under the original contract: and no more.*

*I understand that the negotiations with the current appointee were undertaken principally by the Interim Director Human Resources HSSD who, by chance, had himself been introduced to the States by Fine Green Associates and whose services were provided under an interim contract with Fine Green Associates. He was appointed to this interim position by the States' Director of Human Resources and was formally a part of the central human resources team. He was given particular responsibility for staffing issues within the Health and Social Services Department. As such, the departmental management relied on him to make sure that the central human resources team was kept aware of decisions within the department and that those decisions complied with the policies of the States.*

*In retrospect, it appears that the Interim Director operated at a distance from the central human resources team and that the relationship was not satisfactory.*

App8-20 In the event, negotiations continued with the current appointee on the basis of a two year fixed term contract.

#### **December 2010**

App8-21 On 2 December 2010, the Interim Director of Human Resources, HSSD, prepared a further briefing note on the progress of negotiations with the current Hospital Director. It recorded that negotiations had proved to be 'more drawn out than originally expected'.

App8-22 The briefing note observed that:

*"It is believed the department can no longer proceed on the basis of a two year contract with consideration for travel and expenses as the total remuneration package would potentially be difficult to defend."*

App8-23 The briefing note also observed that in view of changed financial reporting standards there would have to be full disclosure of the benefit package for all senior staff in the States of Jersey creating presentational issues for the department.<sup>23</sup>

App8-24 The briefing note recorded that the following options were to be considered:

- "1. The offer of 2 year fixed term contract up to £150,000 basic salary, but with no consideration of travel and subsistence (other than that provided in the relocation policy up to a maximum of £8,000). . . .*
- 2. The offer of a 2 year interim contract, on current terms but with a 6 month notice period.*
- 3. If neither of the above can be concluded, proceed with permanent recruitment through executive search and extend the current interim contract to cover the recruitment period."*

*Commentary: I understand that the salary mentioned in Option One was that which it was believed could be reconciled with the general States' grading and salary structure on the basis described in Section Seven of the report (i.e. taking account of such factors as the fact that under a fixed term contract the position would not be pensionable).*

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<sup>23</sup> This appears to be a reference to the Jersey Financial Reporting Manual to which reference is made in Section One of the report.

## January 2011

App8-25 A further briefing note was prepared by the Interim Director of Human Resources, HSSD on 7 January 2011. This recorded that:

*“xxxx has accepted the offer of an extension of his existing contract for a further 2 years. The Chief Officer for the States of Jersey has accepted the longer term contractor status as there were other precedents on the Island. This provides continuity and additional assurance on delivering the change agenda in the hospital over the next two years.*

*The outline terms are as the existing contract but will, moving forward, include:*

- 1. A two year interim contract for service.*
- 2. Inclusion of a six month notice period into the contract.*
- 3. Commitment to participate in the hospital on-call rota.*
- 4. Reduction of £33,000 of the management fee negotiated with Fine Green over the contract period or*
- 5. Reduction of £104,000 in the management fee over the period if contracting directly with the interim.”*

*Commentary: I have established that the Chief Executive of the States was aware of the proposal that the Hospital Director should continue on a contract basis. In principle there was nothing exceptional about this.*

*The rate payable to the appointee under the contract was the same as that he received under the interim contract although in accordance with the interim contract after payment of the transfer fee all payments of commission to the agency ceased. At this level the remuneration was far outside the States' normal grading and salary structure. I have found no evidence that the central human resources team were aware of the rate payable before the contract was agreed. A fortiori, I have found no evidence that this rate of remuneration was approved centrally as it should have been as an exception to the States' normal policies.*

*As I have already demonstrated, continuation of the interim arrangement ( as opposed to agreement of a fixed term contract) was not realistic. The Interim Director of Human Resources, HSSD gave me to understand that the reference to a reduction of £33,000 in the management fee which would notionally have been payable to Fine Green Associates was based on an oral exchange with the agency. No documents could be provided to*

*corroborate this. In reality, it would have been foolish to do other than pay a final transfer fee to the agency to avoid any further liability. This is what was done: the payment was £28,000.*

**February 2011**

App8-26 The agreement with the successful appointee's company was signed by the Interim Human Resources Director, HSSD and the appointee on 1 February 2011.