

STATES OF JERSEY



STATES OF JERSEY DEVELOPMENT COMPANY (R.56/2020): EXECUTIVE RESPONSE (R.56/2020 RES.) - COMMENTS

Presented to the States on 24th August 2020
by the Public Accounts Committee

STATES GREFFE

COMMENTS

Foreword

In accordance with paragraphs 64-66 of the [Code of Practice](#) for engagement between ‘Scrutiny Panels and the Public Accounts Committee’ and ‘the Executive’, the Public Accounts Committee (“PAC”) presents comments on the [Executive Response](#) to the Comptroller and Auditor General’s (“C&AG”) [Report on the States of Jersey Development Company](#).

Background

The C&AG’s [Report on the States of Jersey Development Company](#) (“SoJDC”) was published in June 2020, and made recommendations to both the Government of Jersey (GoJ) and SoJDC. The PAC is supportive of improving the governance of SoJDC and is in agreement with the C&AG’s recommendations for improvement on shareholder functions, transfer of land and overall accountability. The C&AG’s report also considers the role of [P.73/2010](#) (henceforth “P.73”), which established the current functions of the SoJDC and provided the relevant Memorandum and Articles of Association for the Company’s operation, and examines whether the SoJDC are adhering to the requirements set out in this legislation and its appendices.

The [Executive Response](#), issued jointly by the Chief Executive and the Director General for the Department for Treasury and Exchequer (“DG”) (the Treasurer of the States), was received by the PAC on 24th July 2020 and presented to the States and published on 29th July 2020. In their response, they noted that the DG has engaged with SoJDC in relation to the findings that are directly related to the Company, and that the SoJDC’s responses to these findings have been included in the Executive Response. Although the Government of Jersey (“GoJ”) has accepted all of the recommendations contained in the C&AG’s report, the PAC seeks assurance from the Executive that they will be implemented in a timely and robust manner as set out in the PAC’s comments below.

C&AG Findings and Recommendations

The C&AG’s main findings included:

- The Government does not yet have an integrated strategic framework for asset management and regeneration;
- Since the establishment of SoJDC, the Government has not undertaken a formal review of the role of SoJDC to satisfy itself that the outcomes to date are meeting the objectives set out in the original proposition, and whether any changes could enhance delivery of Government property objectives;
- the Regeneration Steering Group (“RSG”) has not functioned as intended. It failed to meet for a year (which included a Government election period) and attendance was limited at other times;
- Despite the proposition stating that SoJDC will procure development schemes in conjunction with the private sector unless there are specific reasons for direct development, all but one of the developments to date have been undertaken directly by SoJDC;
- The Memorandum of Understanding (“MoU”) between the Government and SoJDC lacks clarity in places; and
- The shareholder function has developed and improved since SoJDC was established but requires further development.

To address these issues, the C&AG recommended that the Executive:

- Prepare a clear timetable for finalisation of the Estates Management Strategy and 5-year Asset Management Plan as soon as possible;
- Ensure that future plans are fully integrated across all areas of the Government, including States-owned entities;
- Undertake a strategic review of SoJDC to confirm that it remains the most appropriate vehicle and operating model to deliver Government regeneration objectives in the longer term;
- Clarify the respective roles and responsibilities of Director of Partnerships in the context of current monitoring and accountability arrangements;
- Finalise the revised draft MoU for discussion and agreement with SoJDC as soon as possible;
- Agree a process for a regular, structured review of the appropriateness of the MoU; and
- Ensure benefits realisation is reviewed at periodic shareholder meetings so that a balance is demonstrated between retention and distribution of profits in the context of the development programme and available reserves at the time.

The C&AG noted that, although the SoJDC had delivered a range of major projects for the Island, with profits available for future development, the Government has not systematically assessed or reported the benefits to the taxpayer arising from its relationship with, and investment in, the SoJDC, with the C&AG recommending that this should be done on an ongoing basis. The C&AG further suggested that the Government should undertake the strategic review of the SoJDC as proposed from the outset, which should seek to confirm whether it is meeting Government objectives and whether the current delivery model is most appropriate. The C&AG also concluded that the SoJDC should ensure greater clarity in remuneration policies, including bonus arrangements, whilst also providing greater transparency in reporting the results of SoJDC to reflect overall performance, including the impact of land provided by Government at no cost.

Executive Response and PAC Comments

Recommendations to the Government of Jersey

Recommendation 1: Prepare a clear timetable for finalisation of the Estates Management Strategy and 5-year Asset Management Plan as soon as possible.

The Executive Response states that a “clear timetable” for the finalisation of the Estates Management Strategy and 5-Year Asset Management Plan would be prepared “as soon as possible”. Although the PAC welcomes the commitment to complete work on the development of an Estates Management Strategy, the PAC notes that there has been a continued failure to deliver a comprehensive property strategy, alongside historic failings in managing land and buildings across the States. The former [Comptroller and Auditor General’s June 2018 report on Operational Land and Buildings](#) concluded that operational land and buildings had not been managed efficiently and effectively across the States, and that many of the objectives set when Jersey Property Holdings was established in [2005](#) had not been achieved.

During the PAC’s [Quarterly Public Hearing with the PAC on 27 July 2020](#), the Committee heard from the then-Director General that the GHE Target Operating Model

would be finalised shortly and the Estate Management Strategy would be made public by the end of February 2020. This did not happen, despite the PAC having access to the Strategy in draft form on a confidential basis at the private briefing in January 2020. The PAC delayed its follow-up review into Estate Management on the grounds that this Strategy would be imminently published or, at least, widely circulated for consultation, as outlined in the PAC's [February 2020 Comments Paper](#).

At the private briefing in January 2020, the PAC criticised the draft strategy's lack of assessing the key needs of the Island and prioritisation of sites, and was told that there were 'too many permutations' for that undertaking, for example because the site for the future hospital had not been decided and that would have a knock-on effect on the future use of other sites. At the Public Hearing in February 2020, the PAC reminded the Director General that he had previously assured the Committee the Estate Strategy would be drafted by July 2019, and that this was expected to be a comprehensive, high-level strategy to be adopted by all departments and used to direct asset management of the entire States Estate.

Furthermore, the PAC was not reassured by the Chief Executive's statement in the 27 July public hearing that an Estates Management Strategy existed which was later confirmed by email on 5th August 2020. The email confirmed that it was in fact the same Strategy that the PAC had seen on a strictly confidential basis on 20th January 2020, (in draft form), and that it was being adjusted to account for COVID-19. and contained technical language "aimed at professional property people" and was not user-friendly for the general public. The PAC were informed that a "plain English version" of the strategy would be imminent and could be expected in the Autumn. It considers there to be no reason for the ongoing delay of the Strategy's circulation.

In the Executive Response to the C&AG's Report on SOJDC, the Executive stated that the coherent Estates Management Strategy within Government would seek to address some of the factors that contributed to the findings of the C&AG's report. It was further confirmed that this would be delivered through a One Gov strategy approach and enabled by working between the shareholder function in Treasury & Exchequer and other departments with responsibility for policy development. Additional resources would be provided to the shareholder function as part of the implementation of the Treasury & Exchequer Target Operating Model to help address strategic matters. The PAC are concerned that there appears to be ever-increasing factors to consider before producing an Estates Management Strategy, which it was not advised of in July 2019, nor in February 2020 when it was assured the Strategy was 'imminent'.

Recommendation 2: Ensure that future plans are fully integrated across all areas of the Government, including States owned entities.

The PAC welcomes the commitment to integrate all future plans across all areas, including States owned entities. However, it notes that little information is publicly available on the Corporate Asset Management Board ("CAMB"), its remit and its composition, and it thereby urges the Chief Executive to ensure that information on the CAMB's structure and work programme is listed on a relevant webpage.

Recommendation 3: Undertake a strategic review of SoJDC to confirm that it remains the most appropriate vehicle and operating model to deliver Government regeneration objectives in the longer term.

The PAC is pleased to note the commitment to a strategic review of SoJDC and the Director General of GHE's commitment to a review of property management and construction activity across Government. However, as previously noted in the above Recommendation, the PAC wish to stress the need to ensure that information regarding this review is made publicly available, as should the membership, work programme and relevant minutes of the States Owned Entities and Larger Arms' Length Bodies Oversight Board.

The PAC further note that, in its Public Hearing with the Chief Executive dated 27 July 2020, he confirmed that a piece of work would also be undertaken to look at the relationship between SoJDC and the Property Division (formerly known as Jersey Property Holdings), in order to determine who would be better to deliver the operational requirements for managing the government's estate. He noted that this may include "creating more capability" in SoJDC to deliver results. The PAC advise in the strongest possible terms, that the SoJDC should be reviewed in line with the accepted recommendation of the C&AG to confirm it remains the most appropriate vehicle and operating model to deliver Government regeneration objectives in the longer-term, before taking on additional roles. It is also extremely concerned that this means an Estate Management Strategy will yet again be delayed.

Recommendation 4: Clarify the respective roles and responsibilities of Director of Partnerships in the context of current monitoring and accountability arrangements.

The PAC is pleased to note a commitment to ensuring greater clarity on senior roles responsible for stakeholder relationships. The PAC would like to recommend that this clarification is developed in partnership with the C&AG in order to ensure that independent approval is provided to these plans. The PAC also believes that this recommendation holds true for Recommendations 5, 6, 7, 8 and 9.

Recommendations to SoJDC

Recommendation 15: Review the recommendations from the external Board review after 12 months to confirm actions are completed and to evaluate improvement.

The PAC are welcoming of the commitment to consistent evaluations for improvement. However, the PAC wish to request that they and the C&AG are provided with copies of the respective reports arising from each review in order to independently monitor the progress made by SoJDC on these issues.

Recommendation 20: Consider reporting cumulative achievements in the Annual Report including more meaningful representations of the value added by SoJDC in developing sites, taking into account issues, such as:

- the value of land donated by the Government;
- return from developments;
- costs that would not normally be incurred by wholly commercial developers, such as improvements to the public realm;
- and the length of time the project has taken.

The PAC welcomes the efforts to improve Government understanding when it comes to meaningful representations of value in site development. However, the PAC would

request that any qualitative values and the methodology used to measure them are independent from SoJDC, in order to reduce unconscious bias.

Recommendation 22: Develop a consistent methodology and evidence model as required by P.73 to demonstrate that each development delivers the most appropriate risk profile and return.

The PAC are welcoming of a commitment to keep to the efforts required by P.73, but notes that this action should not be necessary, and that the senior leadership team should commit to examining whether their model of governance is sufficient for keeping to P.73.

In its Executive Response, the Executive advised that the recommendations made by the C&AG would be addressed as part of a review into the MoU of all States Owned Entities.

The Chief Executive and DG confirmed that the new MoU will include a focus on how States-Owned Companies contribute to Island outcomes by delivering Government policy objectives, and that policy documents for each Company will be expected to be part of the delivery and be identified and referenced within the MoU to clarify what is in scope for each entity, although it is noted that some policy documents have yet to be developed.

The Response also confirms that a process for setting Key Performance Indicators will be formalised as part of the MoU and monitoring will be included as part of the strengthened Strategic Business Plan agreement. The Key Performance Indicators will be used to monitor compliance within the terms of the MoU.

Through these monitoring arrangements, the shareholder function will have an overview of each States-Owned Entity's ("SOE") performance. This reflects the Government of Jersey Target Operating Model and the need for a more joined up 'One Government' approach to relationships with each SOE. In the response to the C&AG's review on Remuneration of Board Members, it was proposed to establish a new Arms' Length Body Oversight Board. This Board is in the process of being set up and is expected to be the main forum for the coordination of joint policy delivery.

Conclusion

Overall, the PAC welcomes the positive response made to the recommendations of the C&AG. However, it is clear that a significant amount of work remains before all concerns are adequately addressed by the Government of Jersey. Further, whilst the PAC are encouraged by the intention to undertake work to better-understand the relationship between SoJDC, its stakeholders and its partner companies, such as the Property Division (Jersey Property Holdings), it is clear that SoJDC have experienced continuous failings across its history that require urgent attention before the organisation is ready to undertake additional roles.

The PAC therefore welcomes the positive response from the Chief Executive and Director General for Treasury & Exchequer. However, it notes that many of these recommendations, such as a commitment to self-evaluation and remaining to the scope, as laid out in P.73, should have been implemented without the need for a C&AG report. It concludes there is a need for more work on SoJDC's governance and an ability to

demonstrate value in its services for the Government of Jersey. The PAC will continue to assess progress throughout 2020 and into 2021.