

STATES OF JERSEY



STATES OF JERSEY DEVELOPMENT COMPANY: SELECTION PROCESS (S.R.8/2011) – RESPONSE OF THE MINISTER FOR TREASURY AND RESOURCES

Presented to the States on 12th July 2011
by the Minister for Treasury and Resources

STATES GREFFE

**STATES OF JERSEY DEVELOPMENT COMPANY: SELECTION PROCESS
(S.R.8/2011) –
RESPONSE OF THE MINISTER FOR TREASURY AND RESOURCES**

Ministerial Response to: S.R.8/2011

Ministerial Response required by: 15th July 2011

Review title: Review into the States of Jersey
Development Company: Selection Process

Scrutiny Panel: Corporate Services

Introduction

The Minister is pleased to have the opportunity to respond to the findings and recommendations of the Scrutiny Sub-Panel. The Sub-Panel will note that the Minister has accepted many of the recommendations where they are within his power to do so.

The Minister is, however, disappointed at the general tone of the report and believes that the Sub-Panel were in a position to conclude that there were no material failings in the process to recruit the Chair and NEDs to the States of Jersey Development Company (S.o.J.D.C.) Board.

He is further disappointed that the end result of this process was the loss of 2 very valuable candidates, who he is of no doubt would have made a very valuable contribution to the Board of S.o.J.D.C. and the Island as a whole, through their work.

Findings

| | Findings | Comments |
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| 1 | By not providing access to information such as general correspondence, the Treasury and Resources Department failed to engage with the Sub-Panel in an open and transparent process. It is therefore difficult to see how any conclusion can be reached other than the process referred to is <u>not</u> “ <i>open and responsive to Scrutiny</i> ”. | The Treasury and Resources Department maintains that all requests for information from Scrutiny were responded to as expediently and as openly as possible, as evidenced by the numerous e-mails and phone calls that were fielded and responded to in the course of this review. It was also made clear, upon advice from the Data Protection Commissioner, advice that the Sub-Panel themselves received, that the Department would not be in a position to provide any information that would constitute a breach of Data Protection legislation. As a result of a complex recruitment process, there were numerous individual pieces of correspondence and e-mails |

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| | | <p>which contained sensitive personal data which under the Law could not be made available to Scrutiny. It would not have been possible for the Department to have collated and redacted all of this information within any reasonable timescales that Scrutiny were working to.</p> <p>With this in mind, Scrutiny were asked to be more specific about the information which they required, rather than a blanket request for all e-mails and correspondence. A specific request, for example, built around the perceived issues that the Deputy of St. John had confidentially advised the Sub-Panel of which have never been publicly aired or put to the Department would have been both helpful and worthwhile. However, the blanket request was maintained in all probability due to the fact that there were no issues of note to investigate.</p> |
| 2 | <p>Relevant documentation including the procedures and guidelines for the JAC was not readily available to the wider public. Furthermore, little information could be found electronically on the Internet and documents were not present at the States Greffe Information Centre. It therefore appears that this is not in keeping with Article 24(3) of the Employment of States of Jersey Employees (Jersey) Law 2005.</p> | <p>The Appointments Commission Code of Practice is widely available within the States of Jersey, and arrangements are in hand to ensure that it is available on the States of Jersey's external website.</p> |
| 3 | <p>The Law does not provide clarity, for example, whereby the JAC may find itself in the position of having concerns over an appointments process, having reported it to the States Employment Board, but the appointment is then maintained and possibly even presented to the States.</p> | <p>The Law gives the final authority on appointments to the States Employment Board. If the appointment is the subject of ratification by the States, and the Appointments Commission were not supporting the appointment, then this would be apparent in the debate and may affect the States decision to approve an appointment.</p> <p>This point is being considered by the Appointments Commission in conjunction with others.</p> |
| 4 | <p>The relationship between the JAC and the States of Jersey is unclear. The JAC's budget falls under the States Human Resources (HR) Department.</p> | <p>The budget for the Jersey Appointments Commission is included under the Human Resources Department's budget for administrative purposes only, which</p> |

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| | <p>However, this implies that the JAC report to the Human Resources Department, which is incorrect.</p> | <p>is also the case for many other independent bodies. Decisions on spend on this Budget still remain independently with the JAC, and it is therefore not reasonable to assume that the JAC report to the Human Resources Department.</p> <p>Although independent, the reporting relationship is to the States Employment Board, as set out in the Employment of States of Jersey Employees (Jersey) Law 2005.</p> |
| 5 | <p>Some meetings and interviews were not chaired by representatives of the JAC, which could have led to a negative perception as to the independence of the process.</p> | <p>The Code of Practice for Appointments to Autonomous and Quasi-autonomous Public Bodies and Tribunals is silent on the chairmanship of meetings and Panels, and so therefore the normal practice is to follow the Guidance on Senior Recruitment which requires the Jersey Appointments Commission to “chair the sift and final selection panels and take part in the selection process”.</p> <p>In the event that a meeting is chaired by another person, the Appointments Commission will always contribute fully to the discussion and debate.</p> <p>At no point has this been raised as an issue by the JAC as leading to a negative perception of the independence of the process.</p> |
| 6 | <p>During the advertising stage of the process, an advert was submitted to the Jersey Evening Post by the States Human Resources (HR) Department before the recruitment consultant “Odgers Berndtson” was sufficiently prepared. This resulted in a failure to provide individuals interested in the Chairman and NED posts with the appropriate information, and also resulted in a formal complaint being made. Although a relatively minor error, the Sub-Panel is of the view that this was unprofessional.</p> | <p>It is recognised that the ‘unprofessionalism’ is not levelled at the States of Jersey’s Human Resources Department; however it is recognised that there is a need to ensure that external agencies, when engaged, are able to meet their commitments. For clarification, the events are detailed below.</p> <p>The advertising plan was agreed with Odgers and allowed for the initial advert to appear in the JEP on Thursday 9th December 2010.</p> <p>The advert was prepared by Odgers and placed in the JEP by the States of Jersey’s HR Department, who confirmed in an e-mail to Odgers at midday on Monday 6th December 2010 that it would be appearing in the JEP 3 days</p> |

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| | | <p>later, on Thursday 9th December.</p> <p>At no point during the period from 6th December to 9th December did Odgers indicate that they would not be sufficiently prepared to receive responses, and the HR Department were not advised of this issue. If Odgers had advised that they were not ready to handle the responses, the advert could have been placed during the following week.</p> |
| 7 | <p>It is not appropriate that any persons (in this case States Members) who have been asked to participate in a recruitment process for an important position are not given the requisite paperwork (and/or Terms of Reference) sufficiently in advance of meetings. This is not only unprofessional, it is also unacceptable, as it does not allow such persons to be adequately prepared for such meetings.</p> | <p>Members of the Transition Advisory Panel were circulated the requisite papers by post before the meeting on 17th January. These were dispatched on Thursday 13th January from the Chief Minister's Department. However, the papers were not delivered by Jersey Post until the morning of the meeting. It is regrettable that members did not receive the papers in time and steps were taken to ensure it was not repeated.</p> |
| 8 | <p>The Sub-Panel consider it unacceptable to give any persons (in this case States Members) short notice of very important meetings, such as those relating to this particular recruitment process.</p> | <p>The dates for the interviews were provided to States Members some weeks before the interviews took place. These dates were agreed by the Panels at the time. It would not have been possible to provide dates earlier because the interview arrangements had not yet been confirmed.</p> <p>The interviews on 28th February were organised at short notice; but it should be noted that this was the only practical option given that the interviews needed to be arranged around the availability of the candidates and Panel members. Some of the candidates had other business commitments taking place during March, which is also true for Interview Panel members who had other meetings that could not be reorganised. It would have been unsatisfactory to leave more than a month between the NED interviews and a longer period from when candidates were short-listed, and therefore it was agreed on 21st February by all concerned to interview the following week.</p> |

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| 9 | The timetabling of interviews was inconsistent for the NED candidates. | The timetable for the interviews of the Non-Executive Directors needed to balance the commitments and travel arrangements of candidates and Panel members. One interview from 21st February also needed to be re-scheduled because the candidate had been ill. These issues needed to be considered when timetabling the interviews and, given that 28th February was the only feasible date for interviews, the order in which candidates saw each Panel was changed. There was no objection expressed by the Jersey Appointments Commission to the interviews being conducted in this order, and this finding is therefore not recognised as an issue which affected the process. |
| 10 | The Sub-Panel found that the Candidate Brief was inconsistent with the actual interview process. | The Candidate Brief was prepared in November 2010, following which there was at least 2 months until the final Non-Executive Director interviews took place. The exact format of the recruitment process could not have been foreseen at this early stage, particularly given that involving a political Panel was a new format. The inconsistency between the Candidate Brief and the interview process reflected an evolving process as discussion took place and plans were put together, which ensured that interviews were as robust and transparent as possible. This is not uncommon in recruitment processes undertaken in the private and public sectors. |
| 11 | Members of the TAP had reason to believe that they would be involved in the short-listing and in “signing off” the candidates for NEDs and Chairman. | It is not standard practice for a subsidiary Panel to be involved in the short-listing of candidates. This is set out in the Appointments Commission’s Code of Practice, which makes clear that a selection Panel should be responsible for all decisions in respect of the long- and short-listing of candidates. The implementation plan circulated to the Transition Advisory Panel clearly stated that the Recruitment Panel would be responsible for the short-listing and recruitment process, in line with the Code of Practice. Any misunderstanding |

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| | | <p>that the Transition Advisory Panel would be involved in the short-listing process was clearly dispelled early on, and is covered by the exchange of e-mails between members and the Appointments Commission from 25th January 2011.</p> <p>It would not have been expedient for 2 Panels to review the 61 candidates who applied for the roles of Chairman/NEDs in the short-listing process, and it was therefore agreed sufficient that the recruitment Panel would do this.</p> <p>Furthermore, the role of the TAP was confirmed by the Minister for Treasury and Resources and accepted by the Deputy of St. John (a member of TAP) in the States Sitting of 1st February 2011. The Deputy of St. John questioned the Bailiff on a perceived conflict of interest, stating he was ‘a Member of the shadow interview board for S.o.J.D.C., which is interviewing some candidates to do with shadow boards’, the Minister for Treasury and Resources interjected stating that ‘...with the greatest of respect to the Deputy of St. John, he is not on the interview board, he is on the Technical Advisory Panel, which is going to advise the Panel that is appointing the chairman’. The Deputy of St. John then confirmed his understanding by stating ‘Thank you. Yes, you are right’.</p> <p>It has been clearly stated and accepted in the States that the role would not entail ‘signing off’ of candidates. It is also of note that all but one of the States members of TAP were present at the vote on the proposition to which this exchange refers.</p> |
| 12 | <p>As it is noted elsewhere, Baroness Ford firstly took part in the short-listing process for NEDs and, in addition, chaired the second Recruitment Panel interview. The Sub-Panel considers that the States Assembly should have been given the opportunity to approve the successful candidate as Chairman before</p> | <p>Baroness Ford was involved in the appointment of the NEDs as an external, professional individual and it was in this capacity and her capacity as Chair designate that she joined the recruitment Panel. This is entirely normal practice when new Boards are formed and the JAC were fully behind this decision.</p> |

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| | allowing that individual to engage in the short-listing process for NEDs. | |
| 13 | The Sub-Panel highlights the administrative failure to notify 2 interviewees of the requirement to give a 5 minute presentation to the TAP. This was unprofessional and could have placed those candidates at an unfair disadvantage. | <p>It is accepted that one of the candidates interviewed for the role of Chairman was not notified of the requirement to give a 5 minute presentation to the Transition Advisory Panel. This is regrettable and was overlooked as other tasks were administered on the day. However, it is of note that in this case the candidate who was supposedly 'disadvantaged' was the successful candidate.</p> <p>It is however maintained that the other Non-Executive candidate was notified of the need to give a presentation, contrary to what the finding infers. The officer responsible for meeting candidates has confirmed that the individual was told of the need to give this presentation before meeting the Transition Advisory Panel. It should be emphasized that candidates were informed of this question only 5 minutes before the TAP interview began, which may explain for an apparent lack of preparedness.</p> |
| 14 | Personal data was not properly controlled at the end of the process. | <p>The Sub-Panel confirmed in the Public hearing that no States Department had breached the requirements placed upon it under the Data Protection Law.</p> <p>All individuals have a personal responsibility for ensuring that they are handling personal data in a secure and confidential way, and that it is used for the purposes intended. Officers and the JAC are aware of their requirements under the Data Protection Law; but to ensure that even higher standards are enforced, procedures will be reviewed for the control of personal data at the end of the recruitment process.</p> |
| 15 | The Sub-Panel has found that there were some shortcomings with regards to the administration concerning the wider process. The Sub-Panel stresses that these do not appear to have been the responsibility of the JAC, but originated from either the Human Resources Department or the Chief | The Sub-Panel's statement that there were "some shortcomings" in relation to the administrative process is misleading, particularly when these issues were not to an extent that would have rendered the appointment process invalid. The alleged shortcomings have been dealt with in previous comments, and it is the view of the Minister that no further |

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| | Minister's Department. | <p>evidence has been presented that would render this statement true.</p> <p>On the contrary, the Minister believes that the entire recruitment process was robust and carried out in a professional manner, and it is regrettable that the Sub-Panel's finding suggests there were some shortcomings, when in fact it fails to show any substantive evidence that this was in fact the case.</p> |
| 16 | <p>The purpose of the TAP was not only to see how candidates would react in a political environment, but also to give candidates the opportunity to question States Members. Provided it was clearly defined, the Sub-Panel concurs that this was a worthwhile approach. However, it is paramount that the way in which results of such a Panel are fed into and discussed with the main Recruitment Panel is clear from the outset.</p> | <p>Where senior appointments will be subject to political scrutiny, it is worthwhile to give candidates an opportunity to meet States Members and ask questions. Particularly when candidates are being interviewed with no previous experience of the Island, it is valuable for them to meet with States Members in order to better understand Jersey's political context and the concerns of Members and the wider community.</p> <p>It is also vital that the way in which results are fed into and discussed with the main Recruitment Panel is clear from the outset. In this case, TAP members were perhaps not entirely clear how their results would be utilised by the Recruitment Panel. However, there is a clear difference between being involved in the recruitment process and being involved in the decision-making process, and TAP members did receive very comprehensive briefings about this and their role on the day before the interviews took place.</p> |
| 17 | <p>There were inconsistencies between how the role of the TAP was defined in documentation, and what was provided to States Members regarding the interviews for the NEDs.</p> | <p>This finding is rejected. The brief/terms of reference provided to TAP members clearly stated that this Panel would "take a role in the appointments process itself through meeting with candidates" and would be "consulted on key parts of the process". In comparison, the Recruitment Panel would be "responsible for the recruitment... and the appointment to the individual roles". These roles would have been repeated and clarified to the TAP throughout the interview process, given that the Panel was briefed by the Chief Minister and</p> |

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| | | <p>the interviews were overseen by a member of the Appointments Commission whose job it was to ensure that the Panel was operating within the remit it had been asked to. An e-mail was also sent to the TAP on 25th January 2011 from the Appointments Commission, which clarified the Panel's role.</p> |
| 18 | <p>The role of the TAP, as envisaged by the JAC and the Recruitment Panel, was clearly that of a subsidiary Panel offering a political perspective on candidates and also answering questions from the candidates on political issues.</p> | <p>The Minister is glad to note that given the evidence provided that the Sub-Panel is of the view that 'the role of the TAP was, as envisaged by the JAC and the Recruitment Panel, was clearly that of a subsidiary Panel'.</p> <p>It was anticipated that the TAP would meet with candidates and offer a political perspective on their suitability for the roles, while also allowing the candidates to engage with the political interface of the Island. Clearly, S.o.J.D.C. will operate within a political environment, and it is important to ensure that senior appointments are assessed on their knowledge of Jersey, their ability to make the transition to the Island, and work effectively within the local context. This is just one area of competencies, but it is vital, and one which politicians should be involved.</p> |
| 19 | <p>The results of the TAP process were then to form a part of the deliberation of the Recruitment Panel in arriving at its decision.</p> | <p>The Recruitment Panel was relying on the TAP to focus on a particular area of competencies – engagement with the community, understanding of the political system, etc. – which would be fed back to the Panel in order to help make a final decision. The views of the TAP were taken very seriously and helped the Recruitment Panel in their deliberations. It was clear from the outset, as noted by the Sub-Panel, that the TAP, in its advisory capacity, would feed back to the Recruitment Panel with their scores, and this would form a factor in the final decision.</p> |
| 20 | <p>It is clear that there were a number of factors which were not properly understood which could have given rise to the initial misinterpretation by TAP members that their role was</p> | <p>As evidenced above, at least one member of the TAP agreed that their role was advising the Panel that is appointing the chairman and not as a member of the Interview Panel.</p> |

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| | <p>somewhat wider.</p> | <p>The Recruitment Panel wanted the process for selecting the S.o.J.D.C. Board to be completely robust and transparent, and it was made very clear at the beginning of the process that the TAP would be an advisory Panel. TAP members were provided with documents describing the TAP's role, and there were a number of meetings before the interviews where the Appointments Commission took members through questions and the interview process. It did, therefore, appear that the TAP was fully aware of their advisory role and the construct of the interviews.</p> <p>The 2 Panels were, for instance, unanimous in the choice of Baroness Ford as preferred Chairman, and had consistent views on 2 of the 3 NEDs. Nevertheless, there were inconsistencies in how 2 specific NED candidates were marked by the TAP and the Recruitment Panel. These candidates were seen by each Panel on the same day, and the experiences of the 2 candidates were completely juxtaposed, with one Panel marking the first candidate highly and the other giving a low mark, and vice-versa. This inconsistency led to considerable discussion, and ultimately the TAP's views were taken on board, but the Recruitment Panel arrived at a different conclusion.</p> |
| 21 | <p>It was unclear from the documentation the Sub-Panel received whether there was a formal list of declarations of conflicts of interest.</p> | <p>There was no formal list of declarations of conflict of interest. However, Panel members at all stages in the recruitment process declared whether they were conflicted and acted in an appropriate, professional manner. The JAC were fully supportive of the approach taken and will be consulted upon on how to strengthen this further.</p> |
| 22 | <p>It appears that declarations of conflict were known about by the individual Panels to which they were made, but not to any other Panels involved in the selection. Therefore, this could give rise to the perception (to any party interested in the process) that such issues were not properly dealt</p> | <p>The Minister is thankful for the Panel's finding that any issues relating to perceived conflicts of interest were dealt with.</p> <p>The Panels operated independently, and the subsidiary Panels made a report of their findings to the Recruitment Panel. It is unclear how the sharing of</p> |

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| | with, when in fact they had been. | declarations of interest between Panels would have affected the process or any of the decisions taken, particularly as the JAC did not find fault with how conflicts of interest were dealt with. |
| 23 | All of the short-listed candidates were considered to have significant achievements in their previous roles. | All the short-listed candidates were high-calibre individuals with significant skills, experience and technical knowledge appropriate to the needs of the States of Jersey Development Company. The Candidate Brief clearly set out the need to attract the right calibre of individuals to the roles, and those short-listed certainly met these expectations, bringing together a mix of skills, technical backgrounds, and on/off-Island experience that would bring significant strength to the Board of Directors. |
| 24 | As a result of questions by the Interview Panels, some candidates raised the issue of where master-planning and planning powers should sit. | The candidates who were interviewed had wide-ranging experience of property development and regeneration across a large spectrum of different types of development bodies. It is therefore only natural that questions about master-planning and planning powers would arise, given the different structures that candidates would have been used to working with in their previous roles. But once explained and clarified, all candidates were comfortable with the role and there was no misunderstanding from them. |
| 25 | The Recruitment Panel members were of the view that it was made very clear to candidates that it was not envisaged that S.o.J.D.C. would possess planning powers. | The remit of the States of Jersey Development Company was clearly explained to candidates. Each candidate was well challenged on these matters by the Recruitment Panel and was asked questions about how well they understood the role of S.o.J.D.C. and its relationship with other stakeholders. Candidates would also have had access to the States report and proposition (P.73/2010) that set out the structure and responsibilities of the States of Jersey Development Company. To this extent, it was made very clear to candidates that it was not envisaged that S.o.J.D.C. would possess planning powers, and there was no lack of clarity from any |

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| | | member of the Recruitment Panel that this was the case. |
| 26 | The preferred candidate of the Technical Panel was considered by them to be likely to “work in a more collaborative way”, but was not the candidate ultimately recommended for approval by the States. | <p>It is understandable that the Technical Panel came to a different conclusion to that of the other 2 Panels, given the calibre of all the candidates interviewed. The role of the Technical Panel was to explore the technical skills of each candidate and its views would have formed an important part of the Recruitment Panel’s final decision about who to appoint as Chairman.</p> <p>However, whether the candidate was likely to “work in a more collaborative way” was just one issue that the Recruitment Panel needed to take into consideration among the many different competencies required from candidates; they also needed, for example, to have experience of chairing a Board and be able to manage complex stakeholder relations.</p> <p>Although the Technical Panel’s views would therefore have been important, as would those of the Transition Advisory Panel, the Recruitment Panel ultimately had to make the decision who to appoint as Chairman based on who it thought was best suited to the role.</p> |
| 27 | The initial proposed composition of the Technical Panel did not originally include a senior member of the Planning Department, and this was only revised 4 working days before the interviews for the Chairman. | <p>The make-up of the Technical Panel evolved during the recruitment process. There was a clear intention from the outset that the Technical Panel would be comprised of individuals with relevant commercial and technical expertise, including planning experience.</p> <p>It was identified early on that a person with a good understanding of the local planning system would sit on this Panel. A U.K.-based individual with the appropriate background and experience was identified, but was unfortunately not able to attend on the date in question. The Chief Officer of Planning was therefore invited to sit on the Panel as his contribution was considered important in order for candidates to be challenged on local planning matters.</p> |

Recommendations

| | Recommendations | Comments |
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| 1 | The Sub-Panel recommends that the JAC should have its own page linked to a States of Jersey website, which should provide electronic links to all relevant JAC documentation. | Accept – arrangements are in hand to ensure that it is available on a States of Jersey external website. |
| 2 | A website would enable more up-to-date information about the JAC to be provided in a timely manner, including, for example, the recruitment roles in which it has been involved. | Accept – discussions are in hand with the JAC as to what information will be provided on the external website. |
| 3 | The Chief Minister or the States Employment Board must review the relationship between the JAC and States of Jersey to provide clarification with regard to Key Findings 3 and 4. | Reject – Although Key Finding 3 will be considered by the Appointments Commission in conjunction with others, the Minister cannot accept Key Finding 4 for the reasons set out in response to Key Finding 4. |
| 4 | The JAC should consider chairing every part of the process, to ensure that their independence is preserved and that there is no risk of a perception that it might have been compromised. | This issue is for the JAC to consider. |
| 5 | When different Interview Panels are involved, interviews must be scheduled in such a manner that candidates are interviewed by those Panels in the same order. | Accept – wherever possible and practicable, the sequencing of Interview Panels will remain constant in order to ensure that candidates are not disadvantaged. If, however, there are specific circumstances which require different sequencing, then this will be with the formal agreement of the Panel chairman. |
| 6 | Given the increasing use of Internet-based processes, protocols are required for the distribution, use and destruction of personal details and other relevant material. Where personal data is provided in hard copy to interviewers, it should be formally retrieved at the end of every recruitment process. | Accept – although noting that no States Department broke requirements under the Data Protection legislation, procedures will be reviewed to ensure that third parties are made aware of their requirements and to ensure personal data is dealt with appropriately at the end of an interview process. |
| 7 | The way in which the results of an Advisory Panel are fed into and discussed with a main Recruitment Panel must be clearly defined from the outset. | Accept – future recruitment processes will endeavour to ensure that the methodology of utilising results of Advisory Panels are set out and formally agreed at the outset. |

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| 8 | The method for declaring conflicts of interest should be reviewed in order for absolute clarity and transparency. This would ensure that the integrity of the independence of the process is maintained. | This issue is for the JAC to consider. The Minister is confident, however, that in this process conflicts of interest were declared in a completely transparent way as required by the JAC members. |
| 9 | A comprehensive list or register of declarations of conflicts of interest must be maintained (or a statement to the negative) for each recruitment process. | This issue is for the JAC to consider further, but the Minister accepts that this should be the case in all requirement processes. |
| 10 | A list of declarations of conflicts of interest should be circulated to all recruitment personnel (including States Members) involved in the process, and in advance of any interviews. | This issue if for the JAC to consider further. |

Conclusion

The Minister does not accept the Sub-Panel’s conclusion for the following reasons.

The Sub-Panel conclude that they are satisfied ‘that members of the Jersey Appointments Commission acted with the integrity and professionalism that one would expect of their role’ with the implication that States Officers did not. The Minister is confident that this is not the case and would like to state for the record that he fully supports the Officers involved in the process.

The statement that there were ‘shortcomings in the process’ is misleading, in part due to the fact that not one of the issues highlighted were of any magnitude that could be considered to have affected the integrity of the recruitment process in any way. Added to that, the evidence presented by the Sub-Panel is inconsistent with what has been confirmed as fact by the Department (in the case of the NED supposedly not being informed of the first interview question). The Minister was guided at all times by the JAC, and it is assumed that where recommendations relate to those upon which the Minister was guided by the JAC, that these are not reflected as administrative failings by States Departments including, but not limited to, those which relate to the handling of conflicts of interest.

Whilst it can be accepted that future recruitment processes must endeavor to ensure that the methodology of utilising results of Advisory Panels are set out and formally agreed at the outset, it was clearly accepted by at least one member of the Transition Advisory Panel (TAP) that their role was not to appoint members but to advise on their appointment. However, for the Sub-Panel to conclude with the statement that the TAP’s role was ‘*purely* advisory and to “meet” the candidates only’ does not tally with the fact that the TAP scored the candidates and their views were indeed taken into account, even if this was in contradiction to the Recruitment Panel’s final decision.

The Sub-Panel conclude that 'whilst there is no evidence to indicate any significant matters that might indicate any bias towards any individual candidate, it must remain very clear that we have not received all of the information or explanations we have requested'. This is not correct. The Department provided all information requested of it in a timely and transparent manner, but did so within the confines of Data Protection legislation and upon advice of the Data Protection Commissioner, which the Sub-Panel also received. It is unfortunate that the Sub-Panel have not concluded that statements made in the States Assembly by Members have been found to have no basis in fact, but rather have chosen to shift the emphasis for this onto the Department, stating that this is only due to information not being provided. The Minister is also not aware of any 'explanation requested' by the Sub-Panel not being provided to the Sub-Panel's satisfaction.

The Minister is of the view that it is unfortunate that the Deputy of St. John's evidence was provided to the Chairman in confidence; but if that evidence did indeed highlight any major failings in the process, then these would have been subject to specific requests by the Sub-Panel to the Department, which would have been dealt with. It is therefore apparent that no such major failing existed and that the Sub-Panel should have been able to conclude as such.