

States of Jersey
States Assembly



États de Jersey
Assemblée des États

Public Accounts Committee



The States Control of Senior Management Remuneration

Presented to the States on 19th May 2011

P.A.C. 2/2011

CONTENTS

1.	Terms of Reference	2
2.	Committee Membership	3
3.	Key Findings and Recommendations.....	4
4.	Introduction	5
5.	Report	6
6	Hay Evaluation System	10
7.	Human Resources Department.....	11
8.	Ministerial Accountability	12
	Appendix A	15
	Appendix B	16

1. Terms of Reference

- 1.1 To determine any breach in rules governing the setting of remuneration for senior posts.
- 1.2 To examine the value of the Hay evaluation system.
- 1.3 To consider the effectiveness of the Human Resources department structure.
- 1.4 To examine Ministerial accountability.
- 1.5 To examine any further issues relating to the topic that may arise in the course of the Scrutiny review that the Panel considers relevant.

2. Committee Membership

2.1 Elected Members

Senator Ben E. Shenton - Chairman

Senator Alan Breckon - Vice Chairman

Senator James L. Perchard

Deputy John Le Fondré

2.2 Non-elected members

Mr. Alexander Fearn

Mr. Kevin Keen

Mr. Martin P. Magee

3. Key Findings and Recommendations

- 3.1 The checks and balances, omitted when Clothier recommendations were implemented, need to be introduced with some urgency (4.1)

- 3.2 There must be controls placed on departments to prevent Ministers and Chief Executives ignoring the States Employment Board (SEB) delegations. The Code of Conduct for Ministers should be updated to include commitment to adhere to States policy. (4.2 & 8.5)

- 3.3 The Hay evaluation system may lead to both a disincentive to reduce staff numbers or manage pay. From the perspective of the PAC, the conclusions of the Comptroller and Auditor General (C&AG) whereby the public sector receive much higher remuneration than their private sector counterparts is a cause for concern.

“For some positions, the States pays most generously in comparison with the private sector.”

The PAC have requested the C&AG to further investigate the Hay evaluation system from both a cost and operational viewpoint. (6.1)

- 3.4 The Policy of employing interim managers should be discouraged. (7.4)

- 3.5 There should be an independent review of the current structure of management within the States, using the weaknesses identified within this and other PAC reports as a basis for the work.(8.12)

4. Introduction

- 4.1 This short report forms part of a series of reviews by the Public Accounts Committee covering the financial accounts and the control and management structure of the States of Jersey.
- 4.2 In the view of the Public Accounts Committee there are fundamental weaknesses in the current Ministerial Government-based structure that needs to be addressed with some urgency. Basic checks and balances, that formed part of the original Clothier recommendations, were either not implemented or adversely altered. There is no over-arching control of Ministers other than the nuclear option of dismissal.
- 4.3 The report uncovers a situation whereby a Minister and Chief Officer sanctioned a remuneration policy known to be contrary to the overall States policy without the agreement of either the centralised Human Resources Director, or the Chief Executive of the States of Jersey.
- 4.4 Yet what sanction should be appropriate for a breach of this nature by the Minister and Chief Officer? And what can be implemented, given the silo structure, to prevent a similar situation re-occurring?
- 4.5 The present system can be summed up in the words of the departing Chief Executive Officer:

“The current structure is not appropriate for a modern corporate organisation.”

- 4.6 It is the opinion of both the Public Accounts Committee and the Chief Executive of the States that the weaknesses of the current arrangement need to be addressed with some urgency.

5. Report

- 5.1 The Public Accounts Committee has considered the report on the review undertaken by the C&AG: '*The States management of remuneration for senior posts.*' dated March 2011.
- 5.2 The terms of reference of the report did not include comment on the general level of salaries. However, the Public Accounts Committee is cognisant of a previous report by the C&AG entitled; '*Emerging Issues 2008; States Spending Review.(R.48/2008)*' The following observations have been made:

57. Between January and March 2006, the Hay Group undertook a survey of the remuneration paid by the States of Jersey to their staff and compared that with remuneration paid to staff of similar grades within the private sector in the Island and within the public sector on the mainland.

58. As far as the survey of remuneration experience in the Island's private sector is concerned, the survey covered 32 organisations: 18 in the finance sector and 14 in the individual and service sector.

59. The States of Jersey provided the Hay Group with job descriptions for initial analysis. These roles were matched and grouped against the generic job descriptions currently used by Hay Group. This job of matching process ensured like for like comparisons to the survey participants' roles and enabled Hay Group to make a robust pay comparison based on job size. The survey concluded:

"Overall the private finance sector is the highest paid sector in Jersey, the average difference in basic paid is 21% higher than the private industrial and service sector. There is a substantial difference in total earnings where the earnings gap on average is 28%. The gap in total earnings between the finance sector and the industrial and service sector are mainly due to the mix in variable pay.

The market data suggests that finance organisations pay at least some type of bonus to their employees across all levels with the organisation and the scope for earning potential is much larger within finance companies.

The industrial and service sector appears to be some way behind the finance sector particularly at the graduate and professional levels. This indicates that roles at these levels in the finance sector tend to be more specialised and therefore attract a larger salary.

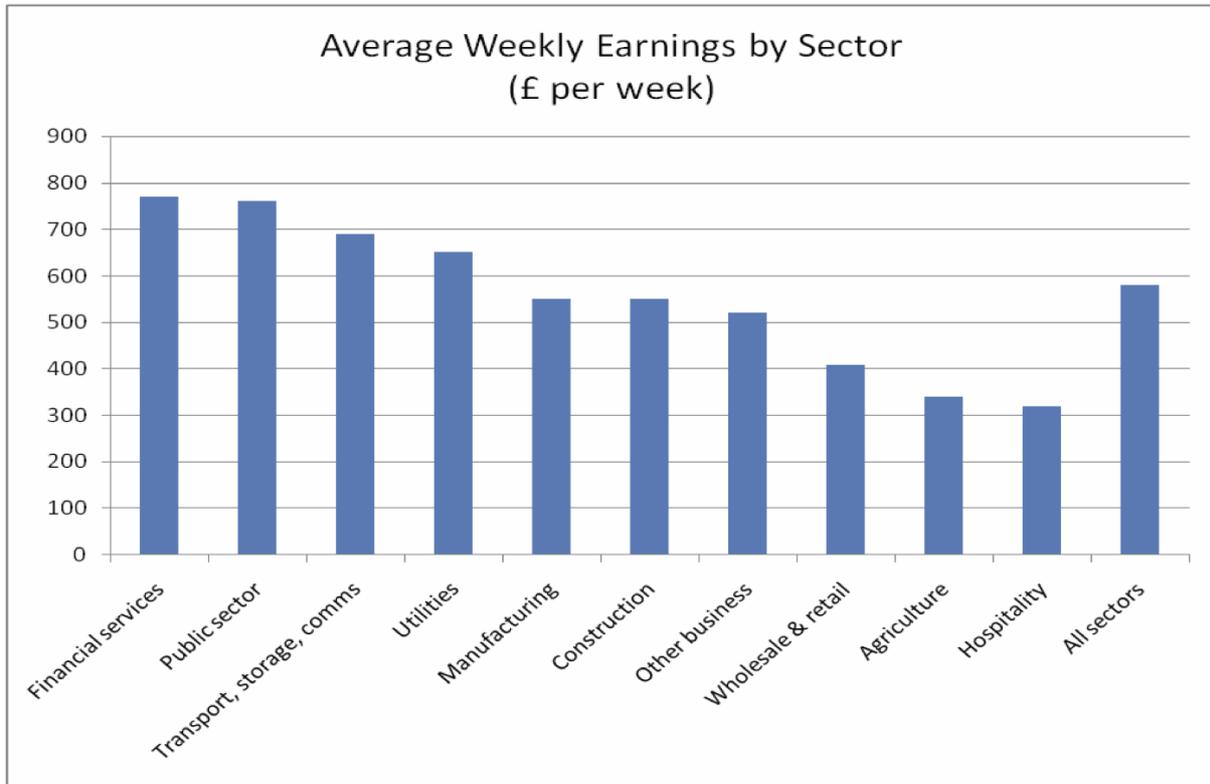
The public sector is 10% ahead of the market median and basic pay when compared to all organisations in the private sector and 3% above the market median in total earnings. This data suggests that the public sector is in a healthy basic pay position when compared against the private sector in Jersey. It will also suggest a very competitive position when comparing total earnings, although this is relative to economy and company performance and is due to the variable nature of a percentage of most private sector packages.

The public sector have an even healthier market position when compared against the private industrial and service sector with a 23% lead on the market median in pensionable pay and are 21% ahead of the market median in total earnings.

Although the private finance sector is the highest paying group in the private sector the public sector still have a lead on overall pensionable salary (4.1%). However, the finance sector is the highest payers when looking at total earnings (4% more than the public sector).

Although the data in the report suggests that the public sector overall are well placed in the pay market in Jersey, there are some pay groups which are behind, or specific positions in certain pay groups.”

60. This overall general analysis is consistent with the result of work carried out by the Island's Statistics Unit and published in June 2007. The Statistics Unit report included the following table comparing average weekly earnings in different sectors in the Island.



61. The significance of the Hay Group survey and of the Statistics Unit report is that they suggest that:

(1) average remuneration within the Island's public sector appears to be higher than in almost all of the Island's sectors. In its work, the Statistics Unit found that earnings of public sector employees amounted to £760 whereas the average earnings of financial services sector employees amounted to £770. By comparison, the average earnings for all sectors were £580 and in utility businesses £650. The information concerning the financial services sector is based on data recorded for the 2006 Survey of Financial Institutions, bonus payments increase the average earnings of FTE workers in the Finance sector by around £100 per week.

(2) the margin between public sector earnings and private sector earnings was greatest for the lowest paid grades.

(3) at the highest paid grades, public sector earnings were lower than comparable earnings in the private sector.

62. *The survey evidence about remuneration comparisons is consistent with anecdotal evidence. States' departments suggest that it is possible to recruit and train professional staff (i.e. that in early training grades the available remuneration is competitive with the private sector) but that once they have qualified and have gained experience, employees are vulnerable to recruitment offers from the private sector (i.e. at higher grades, the States' remuneration is not competitive).*

Implications

63. *From the point of view of the Spending Review, the significance of this information is twofold:*

(1) for some positions, the States pays most generously in comparison with the private sector. For some senior positions, the States remuneration systems is not competitive with remuneration offered by private sector employers and in consequence, the States are at risk of losing senior employees.

(2) the existing remuneration system does not appear sufficiently flexible to reward skill and experience appropriately.

5.3 The recent report of the C&AG concentrated on the issue of whether the controls on remuneration appear to have been applied consistently. In summary, the conclusion appears to be that this has been the case for the following reasons;

1. With one or two exemptions, which are explained in the report, the controls have been in place.
2. The relationship between Hay evaluation points and salary has been rigidly maintained.
3. There has been some difficulty in recruiting at the States normal salary levels during recent years.

6 Hay Evaluation System

- 6.1 The Public Accounts Committee has discussed the suitability of the Hay evaluation service with the C&AG as members of the Committee were concerned that the system discourages individual managers from reducing the number of staff for whom they are responsible. Thus the system may serve as an encouragement to increase rather than reduce States staff. The Hay system, whilst not perfect, is a necessary tool in the administration of employees within a large and complex organisation. The Public Accounts Committee has requested the C&AG to further examine the implementation of the Hay system.
- 6.2 It is the view of the Public Accounts Committee that employment values must be measured in a manner that goes beyond simple remuneration levels. Working conditions, job satisfaction, job security etc. are all equally important in determining the true value of a position. The Committee hopes that any evaluation of the Hay system will take into account these important employment attributes, which are more related to quality of life than simple financial remuneration.

7. Human Resources Department

- 7.1 Following a reorganisation in 2004, all Human Resources staff became members of the central Human Resources Department. Individual members of that department take responsibility for Human Resources issues affecting individual departments and in some cases (e.g. Health and Social Services) may be embedded in the department concerned.
- 7.2 To some extent, the problems experienced with certain appointments in the Health and Social Services department can be attributed partly to the fact that the relevant Human Resources professional was an interim appointment who may not have fully understood the States' practices. However, it is fair to suggest that the distance between the central Human Resources function and the Health and Social Services professional did not assist.
- 7.3 This leads to the suggestion that the working of the relationship may be worth examination; or at least the Human Resources Department's expectations of the way in which relationships will develop.
- 7.4 In addition, in view of the problems that have been experienced over the appointment of interim managers, there may be a point in asking what steps are to be taken to ensure that they do not recur. There is a danger in adopting a policy of making interim appointments as the incumbent may not be aware of local nuances in respect of policies and structures. The PAC believes that the States should be wary of making appointments of this nature.

8. Ministerial Accountability

8.1 The Public Accounts Committee note that every stage of the employment of the Interim Hospital Director was approved by the Minister for Health and Social Services. It also notes that the C&AG could find no evidence that the central Human Resources team were aware of the rate payable. This is of concern given that the Minister knew that the appointment was far outside the States normal grading and salary structure. Whether or not the appointed Interim Hospital Director was the right person for the job is irrelevant in the context of this report. The salient point is that by undermining the overall structure there is a risk of losing control of salaries generally.

8.2 The briefing note, prepared by the Health and Social Services Interim Director of Human Resources on 2nd December 2010 for the Minister, states;

“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.”

8.3 The C&AG could find no evidence that the rate of remuneration was approved centrally as it should have been as an exception to the States’ normal policies¹.

8.4 The fact that the Chief Officer of Health and Social Services was relatively new in the role and not familiar with States Policies may have been a contributing factor. However, a system with no central professional leadership and which relies on a reporting line to a politician that often has no professional competence in the role that they have been elected to is somewhat ludicrous.

8.5 The Public Accounts Committee requests that the Council of Ministers review this matter and determine whether the Code of Conduct for Ministers has been breached. The PAC is also concerned that SEB delegations were breached with such alacrity.

¹ Page 61 C&AG Report ‘The States’ Management of Remuneration for Senior Posts’

- 8.6 If it is their determination that there was no breach of the current Code, the Public Accounts Committee requests that the code is revised to include sanctions against Ministers that appear to deliberately act contrary to specific set guidelines.
- 8.7 The Public Accounts Committee report, 'States Spending Review. (P.A.C.2/2010)' presented to the States on 23rd April 2010, highlighted serious weaknesses in the current States management structure.
- 8.8 The Public Accounts Committee were pleased to note that the following statement was made in the States Assembly on Tuesday 3rd May 2011 by the Chief Minister;

"The Council of Ministers has reviewed the current Chief Executive's role and responsibilities and has decided that it would be appropriate to restructure the role. We have also considered the current structure of responsibilities of the Council of Ministers, Ministers and Accounting Officers. This is particularly relevant since the Public Accounts Committee has also reviewed the structure and published its report on the 16th March. The Council of Ministers believe that the current structure needs to be reviewed with the intention of creating greater clarity and accountability. We intend to lodge a report and proposition setting out draft terms of reference and a structure for this review with the intention of securing a debate in June or July. This will be a significant review and any changes would need to be thoroughly explored and enshrined in Law changes. It is therefore likely to take up to 3 years to review and implement."

- 8.9 A copy of the full statement is reproduced in Appendix A.
- 8.10 On the 21st April 2011, the Public Accounts Committee wrote to the Chief Executive to clarify a number of issues, including his observations about current structures and reporting lines. Under the current system, Chief Officers report directly to individual Ministers and there is no central control or leadership structure.

- 8.11 The reply of the Chief Executive is succinct and the final paragraph of his response, which has been reproduced in full in Appendix B, sums up the thoughts of the Public Accounts Committee on this matter;

“Turning to the wider issue of reporting lines. I have previously advised the Chairman of PAC that in my opinion the current structure of the executive is not appropriate for a modern corporate organisation. It is at best ambiguous and has the potential to allow inconsistencies such as this to occur.”

- 8.12 The issue here is whether Government should be structural like a corporation and, if not, what the alternative organisation should be. Individual departments are structures under the guidance of the Minister that is corporation sole and it could be argued that the Ministers operate a corporation structure at department level. However, there is no clear over-arching structure to Ministerial Government and it is difficult to understand the thinking behind the implementation of Ministerial Government in this respect.

Appendix A

STATEMENT MADE BY THE CHIEF MINISTER ON TUESDAY 3rd MAY 2011

I would like to take this opportunity to update Member on the programme for appointing a new Chief Executive to the Council of Ministers.

The Council of Ministers has reviewed the current Chief Executive's role and responsibilities and has decided that it would be appropriate to restructure the role. We have also considered the current structure of responsibilities of the Council of Ministers, Ministers and Accounting Officers. This is particularly relevant since the Public Accounts Committee has also reviewed the structure and published its report on the 16th March. The Council of Ministers believe that the current structure needs to be reviewed with the intention of creating greater clarity and accountability. We intend to lodge a report and proposition setting out draft terms of reference and a structure for this review with the intention of securing a debate in June or July. This will be a significant review and any changes would need to be thoroughly explored and enshrined in Law changes. It is therefore likely to take up to 3 years to review and implement.

The Council of Ministers therefore intends to appoint the new Chief Executive on a 3-year contract in order to mirror the likely length of the proposed review.

The current Chief Executive will be leaving at the end of May and I have therefore appointed John Richardson, who is the current Deputy Chief Executive, as the Interim Chief Executive in order to allow the appointment process of the 3-year Chief Executive post to proceed. I have every confidence in Mr. Richardson as the Interim Chief Executive and I thank him for agreeing to take on this role.

The States needs a top class Chief Executive to deal with the challenges of the next 3 years ; these include CSR, supporting a new Council of Ministers and maintaining performance. However I and the Council of Ministers believe that in the first instance the job should be advertised locally with the intention of appointing a Jersey person to be the Government's most senior official. The post will be advertised this week with the intention of completing the selection process by early July.

I should make it clear that whilst we are seeking a local candidate, we will only appoint someone who can meet all of the requirements of the role. The Appointments Commission will be participating and overseeing the process and the Chairman is determined to ensure that the appointed person is fully capable of fulfilling the role.

I will keep Members informed of progress.

Appendix B

I assume that you are referring to the following extract from the report:

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.

I believe the comment is very clear and self explanatory, but I will explain further. The first Verita report identified the shortcomings in the hospital management structure and the lack of a dedicated Hospital Director. I was therefore very strongly in favour of the move to appoint an interim Hospital Director and was pleased that someone of Andrew McLaughlin's experience and ability accepted the interim role. I followed his progress and was aware that he had made a very positive impact on the hospital. I was therefore very pleased to support his continued employment on a contract basis. This was reinforced by the follow up Verita review and the views of Ed Marsden from Verita.

Turning to the wider issue of reporting lines. I have previously advised the Chairman of PAC that in my opinion the current structure of the executive is not appropriate for a modern corporate organisation. It is at best ambiguous and has the potential to allow inconsistencies such as this to occur.

Yours Sincerely

Bill Ogley