

STATES OF JERSEY



£200,000 GRANT TO FILM COMPANY (P.A.C.2/2013): RESPONSE OF THE STATES EMPLOYMENT BOARD

**Presented to the States on 7th June 2013
by the States Employment Board**

STATES GREFFE

£200,000 GRANT TO FILM COMPANY (P.A.C.2/2013): RESPONSE OF THE STATES EMPLOYMENT BOARD

Response to: P.A.C.2/2013
Response required by: 6th June 2013
Review title: £200,000 Grant to Film Company

Introduction

The States Employment Board considered this report on 23rd May 2013. Particular consideration was given to the recommendation made at paragraph 10.46.

The Board is satisfied that suitable procedures are already in place to address incidents involving an alleged failure to comply with financial directions.

RECOMMENDATIONS

	Recommendations	To	Accept/Reject	Comments	Target date of action/ completion
10.46	SEB must put specific procedures in place to deal with those who fail to comply with Financial Directions.	CMD	Accept	The requirements set out in Financial Directions are a key part of the Financial Control Framework and compliance with them is mandatory. Not following the Directions may lead to an offence being committed under Part 7 of the Law. Any exemptions from the requirements must be approved by the Treasurer of the States. The Accounting Officer is personally accountable for the proper financial management of the resources of the body in accordance with the Law. Failure to comply with financial directions can be managed within the existing framework for disciplinary matters.	

The relevant disciplinary procedure which would be applied in the event of failure to comply is appended to this response.

STATES OF JERSEY

DISCIPLINARY PROCEDURE FOR CHIEF OFFICERS

1. APPLICATION AND PRINCIPLES

- 1.1 In the normal course of events, when issues become apparent which concern the performance, conduct, capability, etc., of a chief officer, the Chief Executive to the Council of Ministers (hereinafter referred to as the Chief Executive) and/or the Chief Officer's Minister will discuss and attempt to resolve those matters arising with the officer concerned on a personal basis. The procedure described in this Procedure will be used only where such informal efforts to resolve problems arising have failed.
- 1.2 All parties involved in the operation of this Procedure will maintain confidentiality while proceedings are being progressed. The outcome of any particular case arising under the Procedure will not as a general rule be publicised but it is accepted that following the outcome of a particular case the States Employment Board, and/or the Minister and/or the chief officer concerned might decide that public disclosure is appropriate.

2. DISCIPLINE PROCEDURE

2.1 Preliminary investigations

- 2.1.1 If circumstances arise where the Chief Executive considers it justified, he will notify in writing the chief officer of the complaints against him. At the discretion and facilitation of the Chief Executive, there may be a meeting between the Chief Executive and the chief officer, to determine the requirement and manner for the complaints to be pursued.
- 2.1.2 In the event that the complaints are pursued, the Chief Executive will order a preliminary investigation to be undertaken to establish the relevant facts. In normal circumstances the investigation will be undertaken by the Director of Human Resources (hereinafter referred to as the Investigating Officer). Facts will include statements from available witnesses and the chief officer involved. Following the investigation the Investigating Officer will produce a written report which will be given to the Chief Executive and the chief officer concerned. The results of the preliminary investigation will be discussed by the Chief Executive and the Chief Officer. The Chief Executive will keep the appropriate Minister fully informed of developments.
- 2.1.3 Where it is agreed that medical fitness is in question a separate procedure will apply to suit the circumstances.

2.2 **Minor Breaches of Discipline or Poor Performance/Capability**

2.2.1 Minor breaches of discipline or poor performance/capability will be dealt with by the Chief Executive. The chief officer will be given the opportunity to comment upon the complaint. If the chief officer considers it necessary, he/she will have the opportunity to be accompanied by a companion. In the event of the chief officer being accompanied, the Chief Executive may be accompanied by a senior officer from the Human Resources Department (other than the Director).

2.2.2 Minor breaches of discipline or poor performance/capability will be dealt with by recorded oral warning(s). These will give details of –

- i) the breach of discipline/poor performance/capability;
- ii) the required remedial action;
- iii) the period of review. In cases of poor performance/capability this will be of a sufficient time to allow the chief officer a reasonable opportunity to perform at the level required;
- iv) any assistance that may be given to the chief officer; and
- v) the likely outcome of further misconduct or shortfall in performance/capability,
- vi) or such of the above as shall be deemed appropriate in any particular case.

2.2.3 Appeals against the above may be made to the States Employment Board in accordance with Section 3 (below). The decision of the States Employment Board will be final.

2.3 **Continued or Serious Breach of Discipline/Poor Performance/Capability**

2.3.1 If the preliminary investigation indicates that a more serious breach of discipline/poor performance/capability has occurred, or if the chief officer fails to improve and/or maintain improvements in conduct or job performance following the issue of oral warning(s), the issue will be dealt with by the Chief Executive at a disciplinary hearing.

2.3.2 The chief officer will be provided with, in writing, the following:

- i) sufficient notice of the hearing;
- ii) full particulars of the complaint;
- iii) a statement of rights under these procedures; and
- iv) details for the procedure for the hearing.

- 2.3.3 In more serious circumstances the chief officer may be suspended from duty on full pay by the Chief Executive, pending the outcome of this procedure.
- 2.3.4 At the hearing the chief officer may be accompanied by a companion. In the event of the chief officer being accompanied, the Chief Executive may be accompanied by a senior officer from the Human Resources Department (other than the Director).
- 2.3.5 The evidence (including documents, statements and calling of witnesses) in support of the complaint will be presented to the Chief Executive by the Investigating Officer. The chief officer will be provided with the opportunity to present a response to the complaint (including the submission of documents, statements and calling of witnesses) and to respond to questions by the panel. Witnesses may be questioned by the other party.
- 2.3.6 The Chief Executive and the chief officer, or his/her companion will have the right to sum up at the end of the evidence.
- 2.3.7 Only in exceptional cases will the Chief Executive hear one party without the other being present.
- 2.3.8 The Chief Executive may choose to exonerate the chief officer or impose sanctions (see **Appendix**). The chief officer will be notified of the outcome in writing. The notification will state –
- i) details of the misconduct/poor performance/capability;
 - ii) details of any sanctions and, where appropriate the required remedial action for a period of review; and
 - iii) where appropriate, the likely outcome of further misconduct/poor performance/capability.

3. APPEALS PROCEDURE

- 3.1 In the event that the chief officer is dissatisfied with the decision reached in the process described in Sections 2.3 (above) he/she may appeal to the States Employment Board whose decision will be final. The conduct of the appeal hearing will be the same as for the hearing under Paragraphs 2.3.4 to 2.3.7 (above).

4. BREAKDOWN OF NORMAL RELATIONSHIPS

- 4.1 It is possible on rare occasions that there could be an irrevocable breakdown in the special relationship that normally exists between chief officers and their Minister.
- 4.2 In the event of a Minister feeling that the relationship with his chief officer is breaking down, it will bring it to the early notice of the chief officer and to the attention of the Chief Executive so that steps to

improve the relationship can occur, or alternative action be taken, in particular transfer to another post or termination of contract.

- 4.3 If the procedure described in Paragraph 4.2 fails to resolve the problem to the satisfaction of the Minister, the issue will be referred to a hearing chaired by the Chief Executive as laid down in Section 2.3 (above).
- 4.4 This hearing will determine the appropriate course of action. In the event of the chief officer being dissatisfied he/she may appeal against the decision using the procedure described in the Section 3 above.

5 APPLICATION OF DISCIPLINARY ACTION

With the exception of warnings, any disciplinary action against a chief officer taken in accordance with the above procedure must be notified to the States Employment Board.

DISCIPLINARY PROCEDURE FOR CHIEF OFFICERS

Whilst not exhaustive, the following forms of disciplinary action may be appropriate –

- Recorded oral warning
- Written warning
- Final written warning
- Alteration of duties and responsibilities
- Suspension of pay for a specified period
- Transfer to another post
- Demotion
- Dismissal with notice
- Dismissal without notice