

Chief Minister



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Deputy Sam Mézec
Chair, Corporate Services Scrutiny Panel

BY EMAIL

Thursday, 27 October 2022

Dear Chair,

I am responding on behalf of the Chief Minister in my capacity as an Assistant Chief Minister and Vice Chair of the States Employment Board. Further to your letter of 19 October, please see the answers below, following the Public Hearing on 13 October.

PUBLIC INQUIRIES LAW

1. Can you update us on the progress of the Public Inquiries Law and the timeline for lodging of the draft legislation?

Work to develop a Public Inquiries Law commenced in 2020. This was delayed due to COVID, with consultants engaged in late 2021 to progress law drafting instructions prior to elections. Work undertaken by consultants highlighted a number of contentious issues which could not be resolved pre-election.

Although drafting instructions have now been prepared, there are significant issues to resolve including:

- Access to documents – By their nature public inquiries are public (i.e., conducted in public, with public record of evidence and findings) but often engage non-public information. There is inherent tension where data/information is non-public e.g., potential impact on economy or security. Regulatory bodies have raised specific concerns about the management of records related to bodies they regulated which have not yet been resolved.
- Powers to establish an inquiry – It is currently proposed that Ministers or the Assembly could establish an inquiry. This two-route approach, which adds complexity, is supported by some stakeholders as flexible but creates challenge related to cost control.
- Legal fees – How far the legal fees of those called to provide evidence to an inquiry will be publicly funded has yet to be resolved.

Given these challenges, other legislative projects (including the Ombudsperson Law) have been prioritised ahead of the Inquiries Law and, at this stage, there is no timetable for lodging draft legislation.

2. Can you briefly explain the level consultation undertaken and the stakeholders involved in the process?

A stakeholder consultation on initial proposals took place in November 2020. This engaged key professional stakeholders, including the JFSC, Information Commissioner and the C&AG.

A full public consultation on detailed legislative proposals took place between 20 October and 20 December 2021¹. Key professional stakeholders plus expert technical advisors including UK public inquiry legal experts were also invited to comment.

3. Can you update us on the key outcomes of the consultation process and how the findings will be used to assist in the legislative development process?

Following the first, stakeholder consultation, initial legislative proposals were refined, incorporating comments from those stakeholders.

Comments arising from the public consultation were incorporated into the latest set of law drafting instructions, subject to the resolution of certain key issues which are described in answer to question 1, above.

4. Has the absence of a public inquiries law impacted the Independent Covid-19 Review and, if so, how?

This was not a public inquiry but an independent, time limited review. As it concluded on time and under the £500k budget allocated by the States it is not clear that the absence of a Public Inquiries Law had an impact on the independent Covid-19 review.

EMPLOYMENT OF SOJ EMPLOYEES LAW

5. Can you update us on the progress of Amendments to the Employment of States of Jersey Employees (Jersey) Law 2005 (what has been accomplished to date) and the anticipated lodging timeline in that regard?

A draft Jersey Public Appointments Commission Law had been prepared prior to the pre-election period. These proposals were consulted on publicly between 14 January and 14 February 2022. Work on the project was paused by the previous Government due to the proximity of the General Election.

We plan to lodge amendments to the Law in 2023 and this project is a priority in the Chief Minister's ministerial plan. It is anticipated that the SEB will consider the project before the end of 2022, after this we would be pleased to report back to CSSP with a revised timetable for delivery of the project in 2023.

¹ The proposals consulted upon can be found at: [Proposed new Public Inquiries Law \(gov.je\)](#)

6. Can you briefly update us on the outcomes of the consultation process for the Jersey Appointments Commission provisions?

- a) **At a previous hearing in April, it was noted that the next States Employment Board would consider the consultation feedback in relation to any changes being made to the Jersey Appointments Commission provisions, can you update us on any progress in this regard please?**

The SEB is yet to consider this matter, but it is anticipated that the SEB will consider the project before the end of 2022.

- b) **Has the drafting of the Jersey Appointments Commission provisions subsequently changed as a result of this?**

As noted above, the SEB has yet to consider the matter in detail.

7. What approach are you following to enact the required legislative changes – considering the numerous delays regarding this workstream during the previous Government term?

- a) **Is your approach different to that of the previous Government and, if so, how?**

The previous Government proposed to settle the project in distinct three phases:

- i. To establish the Jersey Appointments Commission as an independent body corporate known as the Jersey Public Appointments Commission
- ii. To amend the Law to clarify the appointments process for the CEO, as well as their performance review and departure, and responsibility for the proper stewardship of the public sector
- iii. To bring forward amendments to clarify how the SEB or an equivalent body should be constituted and its role and essential functions

Following further consideration of the project by SEB, we would be pleased to update CSSP on any amendments which the Government intends to make to this approach.

- b) **Are you considering it holistically or in smaller parts?**

A phased approach is likely to be taken. As stated above, CSSP will be updated when this has been finalised.

8. Do the concerns raised by the Comptroller and Auditor General in the report – ‘Role and Operation of the States Employment Board’ remain key and are they being factored into any amendments to the legislation?

The C&AG’s recommendations will be considered as part of any amendments which are made to the Law. This includes the way in which the project will be phased.

9. Given the concern expressed by the previous panel, can you explain what consideration has been given to the clarity of the Chief Executive’s roles, functions and lines of accountability and how will this be delivered within the legislation?

a) Can you confirm whether you have outlined an accountability and disciplinary framework with the Chief Executive Officer and, if so, provide a brief summary of this?

A single Formal Procedure for the Chief Executive was adopted by the States Employment Board. In line with the recommendations of the C&AG in her report, into the [Employment of the former Chief Executive \(May 2021\)](#) the SEB have recently confirmed the delegation of day-to-day line management of the Chief Executive to the Chief Minister.

b) Can you update us on the performance appraisals for the Chief Executive Officer – since this was not finalised at the previous CSP hearing in April?

I am working with the Chief Minister, (as the vice-Chair of the States Employment Board), on objectives for the Chief Executive Officer, focusing on strategic projects, leadership responsibilities and specific and measurable outcomes for the medium and long-term benefit of Jersey. These include, amongst other things, driving forward improvements in recruitment and retention for our workforce, delivery of the turnaround plan for our health service, and strengthened public sector governance and risk management.

These objectives will be published before the end of 2022, to support the delivery of the Common Strategic Policy and the 2023 Government Plan.

10. The previous Panel made a number of recommendations as a result of its People and Culture Review which were not adopted - are these being reconsidered at all by the new States Employment Board and, if so, do you know which recommendations would be prioritised?

The current Board has not considered the People & Culture Review since the election in June 2022. The previous Board had made comments and commitments to address the recommendations they accepted, and these are being delivered. The current Board is addressing its policy agenda for its term of office which will, consider the reports of the C&AG and the CSSP recommendations.

11. Recommendation 6 raised the need for historical and quality assured employee data to be incorporated in the People Dashboard that will be used for human resource monitoring purposes. The importance of this was accepted by the States Employment Board, however, it was noted that it was not achievable by the end of 2021. What progress, if any, has been made to improve data quality and is this a priority for the current Board?

The Board requires a dashboard to be presented each month for consideration. We have already reviewed the information and challenged some of the data, as it is important to the Board to have accurate and timely information to make informed decisions. A considerable amount of work has already gone into restructure data within the systems. With the integration of people and finance management systems (through the integrated technology solution) we will have a single version of core information on which to improve reporting.

12. The previous Panel recommended (Rec 7) that the Board enhance its skills and resources to ensure insight, knowledge and expertise extend beyond a single political cycle. Additionally, consideration should be given to the use of a second independent advisor as well as methods of utilising stakeholder expertise to strengthen the outcomes of the Board. This recommendation was rejected by the Board. Would this be a priority for the current Board?

The Board have already considered this and have agreed to appoint a second independent adviser with a focus on financial management and employment law expertise. We have agreed to stagger the recruitment to these roles with one being undertaken on a four-year term early in 2023, and the second recruited (to replace the current independent adviser) later in 2023 to ensure a handover is achieved.

The Board will consider as part of the legislative drafting instructions how it is constituted to allow for greater continuity as the employer outside of election cycles.

13. The previous Panel recommended that the Board should publish a policy Agenda which focuses on good performance and ensures managers and employees understand the behaviours expected of them. This was rejected by the Board. Is it anticipated that this will be addressed by the current Board at all?

. We have drafted a comprehensive new set of Codes which addresses this recommendation and these are out for Consultation. The Board will confirm its policy agenda following the consultation on the codes.

14. Are you of the opinion that training on discrimination including bullying and harassment should be made mandatory and thus considered a priority?

Yes.. Training in general is being reviewed and New training materials and revised policy is currently being drafted for this purpose

15. Can you update us on the whistleblowing policy and the associated communications campaign that was due to be undertaken by the end of 2021?

The revised whistleblowing policy was issued in 2021, with a further iteration (linked to the revised Codes of Practice) to be completed and issued for the start of 2023. This was communicated when we introduced the new 'speak up' line in January and March 2021. We also introduced a new reporting service, [NAVEX](#), that was more easily accessible for all employees, alongside the OneConnect number for reporting concerns. This is published on the intranet alongside the policies and procedures.

16. Can you updated us on the establishment of the Management Academy – since the intention was for this to be established in 2022?

The Board has sponsored the development of our management programme which consists of the World Class Manager modules (both online and facilitated action learning sets) - Espresso Shots, bite-size learning and development for managers, Chartered Institute of Management (CMI) Level 5 cohorts (for those who have completed the World Class Manager Programme), and toolkits for line managers to embed Our Values and building 'High Performing Teams'.

17. It was accepted that the One Gov initiatives must be quantified in time for the next Chief Minister to decide which direction the new programme should take and enable the Chief Executive to successfully deliver upon that political decision - was this actioned and can you update us in that regard (the target date was January 2022)?

The draft terms of reference were considered by the Board, and they requested re-drafting, however they did not commission the report by the end of their Term.

CONSULTANT USE BY THE GOVERNMENT OF JERSEY REPORT – RECRUITMENT WORKFORCE

18. It would appear that the latest consultant use report is dated 20th December 2021. Considering that the Assembly approved Deputy Morel's proposition for reports to be produced every 6 months why has this not happened?

a) When can we expect a further report?

Both the report for H2, 2021 (July – December) and H1, 2022 (January - June) will be published shortly. Both have been presented to the Minister for Treasury and Resources. The report for H2,2021 was not published during the pre-election period.

b) What is your view regarding the quality of the Report?

We understand that currently data for the P59 report is collected from a number legacy systems as well as data held in manual forms to fulfil the requirements of the Proposition. Therefore, this is manually intensive process; requiring significant data manipulation and data cleansing which means that the current process is not efficient or effective and would benefit from simplification. It is also hoped the move to a single system, ITS Connect, will facilitate reporting improvements (timeliness, quality, and consistency) in future.

The current SEB is challenging more robustly the use of interim and consultancy assignments and more timely information is required. SEB are looking at both the cost and the amount of time in detail of each request.

19. What consideration, if any, is being given to changes in 'consultant use' (for a more positive use of consultants and effective use of public funds) and how will these changes be delivered?

a) What is the assessment process to necessitate the use of a consultant?

It is worth highlighting that the Proposition 59 Reporting covers consultancy and Contingent labour - definitions for general use of each are set out in the table below.

Consultancy
Advice (often strategic) is provided outside the business-as-usual environment.
Skills / expertise are not available in-house
Access to data and information not available in-house.
Engagements are time limited.
Specific deliverable / outcomes are defined.
Supplier has responsibility to meet those deliverables or outcomes.
Contingent Labour
Operational expertise is not available in-house.

The role being filled exists within your organisation.
Specific named individuals are performing a role or function rather than delivering specific outcomes.
Client retains management responsibility for the day-to-day performance of individuals and is responsible for defining the role or tasks they will perform.

Consultancy services/ Project consultancy: This will usually be when a specific piece of work or advice is required, often requiring technical skills or specialist knowledge that is not available at that time or currently within the organisation. A procurement exercise should be undertaken, the level being dependent on financial value as set out in the PFM (and Procurement Policy). If a specific individual is required, then an exemption to the Public Finance Manual is required before contracting the individual.

Interim management: Covering a substantive vacancy, often at a senior level. Where this is required, the organisation should look internally in the first instance for internal development opportunities. If an internal opportunity is not found to be suitable for whatever reason, then the Board will consider a P.59 request from the hiring manager. This form is signed by the relevant Minister and contains information about why there is no internal candidate, what action is being taken for succession planning, and the future intention for recruitment.

Short-term capacity: Usually required when capacity is required for a project that is outside of business-as-usual activity. A procurement exercise is undertaken

b) What process is used to determine and justify the costs for using a consultant to demonstrate good value for money?

The Public Finance Manual requires all procurement to be undertaken to consider value for money. This current SEB intends to provide challenge to requests for consultants that do not demonstrate value for money, or how the route to market is justified. We have already declined requests for consultancy spend.

In relation to the procurement of consultants, officers have been making progress to introduce more robust processes. Some specific examples of developments progressed to improve VFM in procurement of consultants:

- Commercial Services have addressed previous Consultancy/Contractor services by developing a series of “tailored” Frameworks, as follows:
 - Policy Consultancy - rate cards and work packages based on rates – developed and agreed with SPPP.
 - Learning and Development - rate cards and work packages base on rates – developed and agreed with People Services.
 - Technology and Change* - rate cards, based on Skills Framework for a Digital Age Foundation – developed with M&D.
 - Professional Services Contract has been developed with LOD (Law Officers Department) – this brings legacy documents up to date and fit for purpose (Cyber/Data Protection). We are currently looking to step up further by also creating an “outcomes based” Contract which will drive a milestone led approach with for example, a critical path etc.

* The benchmarking tool used for M&D is globally recognised (The Skills Framework for the Information Age – or SFIA) and allows us to identify 7 different levels of competency which are valued and point towards the right skill level being engaged for the right requirement in any project).

Whilst none of the Frameworks are truly dynamic, new Suppliers have been added since agreeing the original Framework, where a new skills requirement has been identified.

Future developments are planned:

- In 2023, Commercial Services will be working with Departments to deliver further Frameworks across:
 - Construction Professional Services (Engineers /QS/Designer etc.)
 - Health
 - Regulation
- Changes are also being recommended to the PFM Committee to enable the use of Frameworks (not currently explicitly covered) which will generate improved efficiencies by way of “call-off” or “mini-competition” processes. It is felt the latter must remain a route to market as we wish to drive competitive tension for certain projects beyond simply rates provided.
- A suite of reporting requirements has been identified which will call on improved Contract and Project Management, to include:
 - Total spend through the framework
 - Average rates/ Spend vs rack rate medium, specialism, and SFIA grade.
 - Supplier on-frameworks spend
 - Supplier off-framework spend
 - Number of roles / packages pitch for/ won/ lost/ declined
 - Mini competition rates below rack rate
 - Resource offered and resource converted (quality measure)
 - Formal Assessment/ quality rating at the end of an assignment or project against areas, e.g. quality delivered on-time etc.

c) How is effective oversight ensured and how are performance and impact measured for consultant use?

When and where Departments need to engage consultants, performance indicators and outcomes should be formally set out in the contractual terms, providing a clear set of expectations and project/ progress management from the client-side of GoJ. Each of the Directors General are responsible for ensuring that VFM is achieved in the delivery of such contracts. Respective Ministers will be reviewing, with the departmental teams, the appropriate use of consultants and consultancy services in the delivery of agreed objectives.

We recognise this is a developing and improving area. Investment in the Commercial Services Team was previously agreed to support the introduction of more robust supplier performance management across the organisation and amongst our buyers/ commissioners.

The Commercial Service Team continues to progress improvements in governance and performance management in relation to consultancy engagement and contracts, working with Departments to ensure:

Further controls and oversight of consultancy spend will be introduced from 2023, under the new VFM programme, as set out in the Proposed Government Plan 2023-26. A Political Oversight Group will be established for the VFM programme; to review progress and provide assurance for the COM that expenditure is necessary and represents VFM for the GoJ.

- Those leading consultancy contracts will need to ensure there are clear and precise scopes/schedules of requirements matched to skills required with clear performance-based measures.
- Contract Change Control as a strict obligation on both parties.
- Follow the PFM – requirements are already set out in the PFM, which we plan to further enhance. Actions relating to breaches and exemptions to the PFM are already set out, a framework is in place for recording, reviewing and approval of such events, with oversight by T&E.
- On a wider commercial point, we will continue to develop and enhance our supplier engagement & management strategy; to create a streamlined, effective supply chain that will have a positive impact on spend/ ROI for the GOJ.

Additionally, the creation of the Delivery Unit will start to build an internal consultancy, drawing our talented workforce from across the public service into a team to gain experience and undertake short-term projects that may usually be passed to consultants.

The States Employment Board will work to implement the Ministerial Plans for value for money reviews. This includes ensuring that consultancy contracts are appropriately specified. The P.59 bi-annual report sets out whether the appropriate mechanisms are in place.

(See Q.23 response below for further details on VFM)

20. We note as part of your 100-day plan – the creation of a people and skills commission, will ‘consultant use’ be an area considered by this commission and, if so, in what context?

The Terms of reference for the Population and Skills Ministerial Group (the Group) state that:

The Group will rely on the existing resources of departments but may also seek independent advice as required to support its work. The terms of any such appointment will be time limited and determined by the Group.

As such, the Group may determine that it requires independent advice or consultancy but there is no ongoing consultancy associated with its work.

21. What steps are being taken to improve government processes to make them simpler and more efficient to help attract skilled workers and businesses to alleviate consultant use?

The new Delivery Unit has already undertaken research into both the experience of the hiring manager and the candidate throughout the recruitment process and made some helpful recommendations that are being put in place.

Alongside this, the ITS is being configured to allow individuals to create profiles to apply for multiple roles instead of submitting an application each time they wish to apply. This will allow the creation of ‘talent pools’ and a simpler and faster recruitment and onboarding process is currently being configured.

We have also developed a single public service brand, focussing on providing more knowledge about the range and breadth of roles and opportunities across the public sector in Jersey. This is an 'always on' campaign, allow us to be constantly present in the market with greater impact.

More work is being undertaken to develop career pathways and job families to better define the skills and development required and investing in those skills and development opportunities within the public service. Alongside this, workforce plans are being developed and matured to avoid unexpected skills shortages.

The new recruitment model will also give consideration to "silver medalists" candidates who were suitable but not successful. The recruiter will look for similar vacancies and try and match the candidate in these cases.

22. What steps are being taken to make the public service more focused, flexible, and productive in order to avoid the need for additional recruitment?

As set out in the proposed Government Plan 2023-26, under the new VFM Programme, we plan to launch a refreshed focus on improving productivity (Productivity Improvement Programme). The implementation of training and tools will enable staff to identify and remove wasteful and unproductive process which impact on services often creating delays and negatively impact of service user experience. The aim will be to improve how well we do things, how quickly and smoothly services are delivered, thus improving the use of resources (including staff time), customer experience as well as the work environment for staff.

In addition to the work in the previous answer (Q.21 above), we are developing core competency sets and career paths which allow for the identification of transferable skills across the public service. Each employee will be able to provide their own profile within Connect People that which should facilitate improved in-house recruitment and development opportunities.

23. What changes, if any, will be made with regard to how consultants are used (brought in) to assist with efficiencies and rebalancing and how better use of available skills within the work force can be utilised to prevent this from occurring?

a) What is the impact on the 'value-for-money' aspect?

See answers and comments above which refer to VFM (Qs.19, 21 & 22)

Furthermore, the proposed Government plan 2023-26 sets out cashable savings targets allocated to Departments as part of the Departmental Revenue Budgets and are detailed, for 2023. The targets previously included in Government Plan 2022-2025 have been reviewed by the Council of Ministers, and reprofiled across the coming 4-year period which is a more realistic plan.

Delivery plans including SMART targets will be tracked and monitored, with progress reported through the VFM programme governance to Council of Ministers with regular reporting to stakeholders for transparency and scrutiny.

The Council of Ministers will ensure that Departments have controls in place and rigorously validate their spend across their budgets and headcount. A series of thematic deep dives will be conducted to support departments in the delivery of their VFM targets. For example, in 2023 there will be 3 prioritised areas of focus; Health & Community Services; Infrastructure, Housing & Environment; and technology spending.

The Council of Ministers will look to simplify operations, stop services that are no longer required and improve efficiencies across government. This will allow funding to be reprioritised into areas

needing further investment, or further reduce overall spend. This work is part of the longer term VFM programme.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'AJ' followed by a long horizontal stroke.

Connétable Andy Jehan

Assistant Chief Minister & Vice Chair of the States Employment Board