

STATES OF JERSEY



USE AND OPERATION OF CITIZENS' PANELS, JURIES AND ASSEMBLIES IN JERSEY (P.A.C.1/2022): EXECUTIVE RESPONSE (P.A.C.1/2022 RES.) – COMMENTS

Presented to the States on 4th May 2022
by the Public Accounts Committee

STATES GREFFE

COMMENTS

In accordance with paragraphs 87-96 of the 'Scrutiny and Public Accounts Committee Proceedings: Code of Practice' (updated P.50/2022, March 2022), the Public Accounts Committee presents its comments on the [Executive Response](#) to its Report: [Use and Operation of Citizens' Panels, Assemblies and Juries in Jersey](#) (P.A.C.1/2022).

Comments

1. A substantial part of the Public Accounts Committee's (the Committee's) role, as set out in the **Standing Orders of the States of Jersey**, is to assess the use of public funds and whether sound financial practices have been applied. This includes understanding whether good governance and best practices have been applied in planning implementing and administrating projects undertaken by the Government of Jersey.

2. The Committee published its report on 14th February 2022 and received and presented the Executive Response to its report on 1st April 2022. The review considered the way deliberative bodies in Jersey had been established, facilitated, budgeted, and administrated. The Committee further sought to understand how members were selected for each body, and how feedback was obtained by the Government from both the facilitators and the members of each body.

Purpose of PAC's Comments

3. The Committee made 41 findings and 29 recommendations in its review of the Use and Operation of Citizens' Panels, Assemblies and Juries in Jersey. The Committee notes that, of its 29 recommendations, eight are only 'partially accepted' and three are 'rejected' outright. The Committee has considered the rationale provided by the Government through the Executive Response and has concluded that further action is required on specific areas as outlined below.

PAC Recommendation 6	Executive Response
<p>The Government of Jersey should publish the identity or background and experience of the External Facilitator for the Our Hospital Citizens' Panel now that its work has been completed.</p>	<p>(Partially Accept) The Government has previously confirmed that the external facilitator to the Our Hospital Citizens' Panel was appointed on the basis of appropriate qualifications and relevant experience; and that their identity was not shared with either the Senior Officers Steering Group or the Political Oversight Group in order to maintain their necessary independence.</p> <p>The recommendation to publish the facilitator's identity is accepted provided publication takes place once the relevant Our Hospital processes, including the successful award of planning consent, have completed.</p>

Further Action Required: The Committee is not satisfied with the response provided and is concerned that the decision to publish the identity of the External Facilitator only on the successful award of planning consent for the Our Hospital project implies that their identity will not be revealed in the event that it is unsuccessful. This approach does not sit well with the Government’s own commitment to discharging its duties “... in an open, transparent and accountable way” as part of the Common Strategic Policy 2018 – 2022, as agreed by the States Assembly.¹

The PAC understands that the work of the external facilitator has been completed and is of the view that the need for continued anonymity has not been made clear. The PAC would welcome the publication of the identity of the external facilitator, or the publication of an explanation as to why the identity of the facilitator will not be published.

Any external facilitator hired by the Government of Jersey to facilitate a project such as a deliberative body should possess the relevant experience and qualifications and the Committee would, therefore, request that this response be revised to guarantee the publication of the identity or background and experience of the facilitator for the Our Hospital Citizens’ Panel as soon as possible, irrespective of the success of the planning application.

PAC Recommendation 7	Executive Response
The external facilitator for all future deliberative body established by the Government of Jersey should be made public and carry sufficient and relevant experience in designing and facilitating deliberative bodies and practices. This should be included in the process outlined in Recommendation 1.	(Partially Accept) This will be established as an expectation in the technical guidance note. However, it will also be the case that there may be exceptional circumstances where providing this information may not be appropriate in the context of the wider policy making process. The guidance note will suggest criteria that might be used to determine whether an exception should be made.

Further Action Required: While it is accepted that there may be exceptional circumstances in which it may be difficult to publish the identity of a facilitator, if this is the case, the reasons for not publishing this information should be explained and published. Islanders can then be assured of the good governance for each deliberative body.

PAC Recommendation 8	Executive Response
Consideration should be given to how deliberative bodies are represented following the completion of their work, with a code of conduct to be developed for all participants, advisors, and those affiliated with a deliberative body.	(Partially Accept) The technical note will include a framework of guidance on the conduct of those involved in deliberative exercises. However, best practice provides that deliberative bodies should set their own

¹ [R.11/2019 - Common Strategic Policy 2018 - 2022, p.25](#)

	expectations, and a standing government defined code of conduct for participants may not be appropriate.
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Further Action Required: The Committee accepts the Government’s response and would request that the technical note (referred to elsewhere in the Executive Response as ‘technical guidance’) is published and a draft copy shared with the Committee and the Comptroller & Auditor General prior to its publication in order to provide assurances on quality and best practice.

PAC Recommendation 9	Executive Response
The Government of Jersey should ensure consistency across deliberative bodies regarding the remuneration of external support.	(Reject) Different bodies have different requirements and areas of focus. It is natural that some types of advice can be accessed at low or no cost, whereas other types of advice might be more readily marketable and where professionals might expect to secure a fee for their contribution. Focusing on consistency as an objective has the potential to over-pay in some circumstances or to under pay in others. A more flexible approach that consider the specifics of each deliberative exercise is more likely to achieve value for money.

Further Action Required: The Committee notes the response and would recommend that greater clarity is provided on the lines of accountability for external facilitators (remunerated and non-remunerated), the spend provided on remunerations, and the publication of full financial details following the completion of a deliberative body’s work. The Committee would therefore recommend that these actions are incorporated into the Government’s Technical Guidance on deliberative bodies, in order to maximise the transparency of remunerations made as part of a deliberative process. Where remuneration exceeds normal rates provided, clear reasoning for this exception should also be provided.

PAC Recommendation 10	Executive Response
Minutes of the meetings of deliberative bodies and their respective Advisory Panels should be published in an accessible location, even in redacted form, to improve transparency and public understanding of deliberative processes but should not identify individual members of deliberative bodies.	(Partly Accept) This is already the practice for Advisory Panels in all but exceptional circumstances and will be reflected as an on-going expectation in the technical guidance. As noted above, best practice provides that deliberative bodies should set their own expectations, and this should equally apply to expectations relating to the taking and publication of minutes.

Further Action Required: The explanation is noted; however, it is recommended that any exceptions are clearly published and presented, in order to provide the public with an understanding of why minutes have not published. A commitment to publishing these exceptions should be outlined in the Government’s Technical Guidance.

PAC Recommendation 13	Executive Response
<p>The Government of Jersey should undertake work to improve its accountability and quality of audit trails for the operation of and monitoring of budgets for deliberative practices such as Citizens’ Panel, Assemblies and Juries.</p>	<p>(Partially Accept) The accountability for all expenditure on deliberative exercises has been very clearly understood and recorded as part of standard management practices. Similarly, detailed and up to date financial monitoring information has been in place, as evidenced by the information shared with PAC. It is accepted that improvements can always be made to the quality of such information and the technical guidance will consider how future deliberative exercises might structure, plan, and monitor their budgets.</p>

Further Action Required: The Committee is not satisfied with the response provided. Evidence received on the Our Hospital Citizens’ Panel indicated that concerns remain over the accountability and quality of audit trails in relation to the operating and monitoring the budgets of deliberative practices when they are established outside a single department. The Committee would reiterate its request that a draft copy of the Technical Guidance is provided prior to its publication, in order to determine whether the guidance on accountability and quality of audit trails is satisfactory.

PAC Recommendation 20	Executive Response
<p>The Government of Jersey should incorporate all future deliberative bodies within the Department for Strategic Policy, Planning and Performance, to ensure consistent accountability, audit trails, and develop in-house expertise as the internal experts on the design and facilitation of deliberative bodies and practices, with the assistance of Government of Jersey Officers from other departments where required.</p>	<p>(Reject) The value of clear lines of accountability are recognised and the technical guidance will recommend that a single department holds clear responsibility for each deliberative body. However, deliberative exercises have an important role to play in a wide range of public service decision making, including policy making but also programme delivery and service design. To accept this recommendation would unduly restrict the work of other departments and ministers.</p>

Further Action Required: The Committee has considered the response provided. However, it is notable that the Department for Strategic Policy, Planning and

Performance possesses a considerably greater level of internal knowledge and experience in organising, designing, and facilitating deliberative bodies, compared to other departments.

The Committee recommends that the Department for Strategic Policy, Planning and Performance should provide oversight, either through a single accountable officer or a requirement to provide support and guidance to other departments when designing and delivering any future deliberative body. This expectation should be outlined in the Technical Guidance.

The Committee seeks further assurance that the lines of accountability of any future deliberative bodies will be clearly identified. The Committee reiterates its call for clear lines of accountability to be published and consistently followed across all deliberative bodies.

PAC Recommendation 21	Executive Response
The Government of Jersey should publish its evaluation report on the Citizens' Assembly on Climate Change and Assisted Dying Citizens' Jury and provide copies to members of the Citizens' Assembly and Citizens' Jury to provide opportunities for them to review and feedback on the report.	(Reject) The Government of Jersey does not have the means to contact participants of these deliberative exercises. In addition, the report was prepared as an internal document that reflects on management practices of which the participants were largely unaware and cannot be expected to have formed a view on.

Further Action Required: The response is noted; however, the Committee is of the view that Government should provide further opportunities for participants to engage in the evaluation of respective deliberative bodies by continuing to develop and improve the quality of feedback from participants in deliberative bodies. Feedback mechanisms should be outlined in the Technical Guidance to drive learning and best practice and followed for all future deliberative bodies

PAC Recommendation 24	Executive Response
The Government of Jersey should develop its internal expertise to reduce reliance on the knowledge of external facilitators to reduce costs and ensure value-for-money.	(Partially Accept) The practice of delivering the deliberative bodies that PAC have reviewed has already contributed to the development of internal expertise, both in the overall commissioning and management of such exercises and by providing investment in internal skills such as group facilitation. The value of this capability building is recognised, will be captured as learning in the technical guidance note and shared as part of the public service policy profession. However, even with further capability building there will remain requirements that can be best met by external resources for a range of reasons including the competing

	requirements of other ministerial priorities. In particular, use of external facilitators provides a clear indication of independence of process and a commitment to transparency.
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Further Action Required: The Committee welcomes the response to its recommendation. However, it seeks clarity and further evidence on how this will be delivered within the Technical Guidance that is expected in Q4 2022 and requests immediate notification of any delay to the proposed timetable. The Committee would also welcome clarity on how this information will be presented within the Technical Guidance and what decision-making processes will be used to decide whether external support is required.

PAC Recommendation 25	Executive Response
The Government of Jersey should work to increase the public’s understanding of deliberatively democratic measures through opportunities such as lectures, workshops, and other forms of public engagement.	(Partially Accept) It is recognised that public understanding of the practice of deliberative democracy has value in the island. However, it is not an issue for proactive government communications, rather one that should be considered as part of the design of future deliberative exercises. This expectation will be reflected in the technical guidance.

Further Action Required: Whilst the Committee accepts that enhanced communications should be considered as part of the design of future deliberative exercises, it has also concluded that, if the Government intends to support the use of deliberative practices as a function of its democratic engagement, it should provide Islanders with the opportunity to learn about the process and its impact on decision-making outside the operation of a specific body.

This is especially pertinent in light of the upcoming debate on the Carbon Neutral Roadmap and ongoing consultation on Assisted Dying, following the work of Citizens’ Assembly and Citizens’ Jury respectively. The Committee would therefore recommend that the ‘Citizens’ Bodies’ webpage on the www.gov.je – as accepted through the response to Recommendation 5 of the Committee’s report² – should incorporate information on deliberative bodies, their use, how they function, how the Government of Jersey uses them and what influence Islanders can have on them, in order to provide enhanced and public understanding and engagement.

PAC Recommendation 27	Executive Response
Follow-up reports should be published by the Government of Jersey detailing how the work and recommendations of each deliberative body have been implemented.	(Partially Accept) This is not always possible as not all deliberative bodies are formed to make recommendations, to make recommendations that require government action to implement; or action that requires an explanation.

² [P.A.C.1/2022 – Use and Operation of Citizens’ Panels, Assemblies and Juries in Jersey: Executive Response, p.4](#)

	<p>Where deliberative bodies, such as the Citizens Assembly on Climate Change, are established to make a range of recommendations, the importance of responding publicly and transparently to those recommendations is recognised. Such a response should be made as part of the primary policy making process which a body forms part of. Advice on this matter will be reflected as an on-going expectation in the technical guidance.</p>
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Further Action Required: The Committee accepts the rationale provided in the Executive Response. However, it would recommend that the varied output of deliberative bodies should not prohibit individual follow-up reports from being published to outline their impact and findings. The need for reporting and a clear demonstration of value should be outlined in the Technical Guidance.

Conclusion

4. The Public Accounts Committee remains committed to ensuring that the Government seeks to maximise the transparency and accountability of deliberative bodies, and it expects to see evidence that all of its (accepted, partly or partially accepted) recommendations have been added to the Recommendations Tracker so that their progress towards implementation can be monitored. The Committee will advise that its successor should seek further evidence to ensure that the accepted recommendations are implemented and that improved practices are embedded into the governance framework for future bodies.
5. The Committee has concluded that that the Technical Guidance should be shared with its members and the Comptroller and Auditor General in order to provide scrutiny of the good governance and best practices contained in the Guidance and to recommend improvements where necessary. Following this, the Technical Guidance should be published to maximise the transparency of the design and operation of future deliberative processes.
6. Furthermore, the Committee remains of the view that the identity, or the background and experience of the external facilitator used for the Our Hospital Citizens' Panel should be published in order to demonstrate a commitment towards making every deliberative body as transparent as possible.
7. The Committee is aware that it is currently in its final month of operation before States Assembly activities are suspended for the 2022 General Election. It will, therefore, include any further concerns and comments in its Legacy Report, to ensure that this work continues to be scrutinised as appropriate.