

**STATES OF JERSEY**  
**Public Accounts Committee**  
**Review into Comptroller and Auditor General**  
**Reports**

**MONDAY, 16th APRIL 2012**

**Panel:**

Deputy T.A. Vallois of St. Saviour (Chairman)  
Mr. C. Swinson, O.B.E. (Comptroller and Auditor General)  
Deputy S. Pitman of St. Helier  
Deputy R.J. Rondel of St. Helier  
Senator S.C. Ferguson

**Witness:**

Mr. F. Walker OBE (ex-Chief Minister)

**In Attendance:**

Mr. M. Robbins (Scrutiny Officer)  
Mr. C. Evans (Independent Member)

[11:33]

**Deputy T.A. Vallois of St. Saviour (Chairman):**

Today we are covering the Comptroller and Auditor General's reports on the utilisation of compromise agreements and the former Chief Executive's compromise agreements. We welcome former Senator Walker to the P.A.C. (Public Accounts Committee) hearing and I would just like to ask you to note the Notice of Privilege before you and ensure that you are happy?

**Mr. F. Walker:**

Yes, they are not exactly new to me.

**Deputy T.A. Vallois:**

Okay, just to make sure. Okay, so welcome to today's hearing. I think what we would like to set out on is to understand how it was that the former Chief Executive sent ... oh, sorry, I do apologise. I have not had the introductions. Could I just ask each member to mention their names for the purposes of the recording?

**Mr C. Swinson (Comptroller and Auditor General):**

Chris Swinson, Comptroller and Auditor General.

**Deputy S. Pitman of St. Helier:**

Deputy Shona Pitman.

**Deputy R.J. Rondel of St. Helier:**  
Deputy Richard Rondel, St. Helier 3 and 4.

**Senator S.C. Ferguson:**  
Senator Sarah Ferguson.

**Deputy T.A. Vallois:**  
Deputy Tracey Vallois.

**Mr. M. Robbins:**  
Mick Robbins, Scrutiny Officer.

**Mr. C. Evans:**  
Chris Evans, Independent Member.

**Mr. F. Walker:**  
I am Frank Walker, former Chief Minister and now relishing being a private citizen.

**Deputy T.A. Vallois:**  
Okay, thank you very much. To open up the hearing, how did it come about that the former Chief Executive sent the letter dated 2nd March to the Policy and Resources Committee?

**Mr. F. Walker:**  
I think that is made clear in the Comptroller and Auditor General's report, if we look at paragraph 18 of that report there is a very full extract in that paragraph from the Chief Executive's letter, and I think that spells out very clearly the situation that the then Chief Executive found himself in. I think we need to recall that this was 6 or 7 months before the introduction of Ministerial Government and before, therefore, the biggest changes in the structure of the States and not just politically but departmentally as well, that the States had ever seen. The situation therefore was quite unique and the Chief Executive found himself in a position where he and other senior officers were being criticised, were being attacked and you might even say verbally abused. Certainly the Chief Executive uses the description: "personal attacks and other blocking tactics" and quite importantly that soaked up so much of our time and energy and he felt exposed. There is no doubt about it, he felt exposed, not only for him but for his family. We have to I think also remember that he and his family made a very big decision in moving to Jersey. It meant uprooting of course from the U.K. (United Kingdom) county councils where he had been active previously. It meant uprooting their home, the children's education and so on. They were very nervous, or he was very nervous, on their behalf that things were not panning out as he had anticipated, I think as most of us had anticipated in that respect and found himself in a situation where he either felt he had to move on, and this again is clear from paragraph 18 of the report, that his 2 alternatives outlined in his letter were to start looking for an alternative job or to negotiate greater security into his contract. He did not want to leave Jersey. He did not want to leave the job, nor did his family want to leave Jersey and certainly the better option of the 2, the more favoured option from his perspective of those 2 alternatives, and they are pretty stark but that was the situation he felt he was in, the favoured option was to seek to negotiate greater

security into his contract. I would like to come back and perhaps now is not necessarily the right time, at some point about the situation of personal attacks and personal abuse by States Members of senior officers, because I believe it is perhaps more appropriate or it was, I think the situation has improved, but it was a very serious situation not just for Bill Ogley but for a number of other senior executives as well. It is something that if it has not already been addressed in my opinion needs to be addressed pretty quickly.

**Deputy T.A. Vallois:**

Well, if we could come back to the personal attacks area at the end, we are very aware of the letter and we are very aware of the C. and A.G.'s (Comptroller and Auditor General) report which we are following up on. Could you explain whether there were any informal conversations or confidential meetings with the Chief Executive and yourself or members of your committee before the production of this letter?

**Mr. F. Walker:**

Yes, there were. The Chief Executive had made his concerns known to me for some time, and I cannot be specific about what the time scale was, but he certainly had made his concerns known to me some time before writing the letter. I have to say I had a considerable amount of sympathy with the position he found himself in. He was looking to do a vitally important job to the best of his ability, and his ability was considerable, against a background of fairly continuous attacks and as he said personal attacks and other blocking tactics. He was a very frustrated and very worried man so yes, as I think as everyone would expect, we had discussions about his position.

**Deputy R.J. Rondel:**

Do you know roughly how long before he wrote that letter he brought it to light and had conversations with you?

**Mr. F. Walker:**

It would have been quite some time. It would have been a number of weeks because it was not any one event that led to him writing a letter, it was an accumulation of events over a period of time but I would be guessing, frankly, if I gave you any sort of period, but it was quite some weeks, certainly.

**Deputy R.J. Rondel:**

About a month before, something like that?

**Mr. F. Walker:**

I would say at least a month, yes.

**Deputy T.A. Vallois:**

Could I ask then, if you were so aware of the problems that were occurring at that point, why Policy and Resources saw it more fit for the Human Resources sub-committee to deal with this change in contract?

**Mr. F. Walker:**

Because that was the structure, that the Human Resources sub-committee was the body appointed to deal with such matters and that is exactly what it did. I am aware

from the Comptroller and Auditor General's report that there is no record of Policy and Resources having been informed of this. That is not consistent with my recollection. I am very, very confident that the Policy and Resources members of the day were all aware of the situation but it was not they who took the formal decision, that is true.

**Deputy T.A. Vallois:**

Okay. So were there any prior complaints from other Members to Policy and Resources about issues between relationships of Members and officers?

**Mr. F. Walker:**

I do not recall any formal complaint being made by any other Chief Officer. I certainly recall a very high level of concern, not just at that time but continuing for many months, indeed years, afterwards and I think the records clearly show the position that other senior officers found themselves in for one reason or another over a fairly prolonged period, but I am not aware of a formal complaint to Policy and Resources by another officer at that time. There certainly was a formal complaint I believe, and again I have no access to papers of course anymore and I am talking entirely from memory, so I may not be 100 per cent correct, but my recollection is that there were formal complaints to the Human Resources sub-committee by one, and I believe 2, other Chief Officers.

**Deputy T.A. Vallois:**

Going back to before the letter was produced to the Policy and Resources Committee, can I ask if you were aware whether the Chief Executive had sought any advice from outside the Island before writing that letter?

**Mr. F. Walker:**

No, I am not.

**Deputy S. Pitman:**

Just going back to the personal attacks on the former Chief Executive, what were these personal attacks?

**Mr. F. Walker:**

They are a matter of record, because they were nearly all made in the States by States Members under the cover of privilege, but certainly it became a major problem in my view, and I referred to it earlier, that a number of States Members were making completely uninhibited criticisms of senior officers, knowing 2 things. Knowing that they were protected by privilege and knowing that civil servants have no right of reply in any case, so in my view, and I stress this, in my view they were abusing their position and doing damage not just to the Chief Executive of the day but to other senior members of the States management teams as well.

**Deputy S. Pitman:**

What was the political environment in which these attacks were made?

**Mr. F. Walker:**

The political environment? By that you mean the climate, I guess, the mood of the day. It was pretty excitable, may be one way of describing it. Nervous, because we

were embarking on a massive change and no one at that juncture knew precisely what the change would entail, knew precisely what the effect would be on them and I am talking here about States Members and officers in the system. I think everyone was, how do I describe it? Wound up, perhaps. As one frequently is when faced with colossal change and I have no doubt that contributed to the environment. Of course we had no idea in March of 2005 who was going to be Chief Minister, we had no idea what the makeup of a Council of Ministers would be, we had no idea whether the whole new system was going to work and, not surprisingly, people were nervous.

[11:45]

**Deputy T.A. Vallois:**

Would you not see that as a major risk, then? If you are not knowing what is coming up and bearing in mind the change of Government every 3 years, that is a major risk, is it not?

**Mr. F. Walker:**

Yes.

**Deputy T.A. Vallois:**

So going on to the areas of risk, then was there any other ways other than changing a contract in order to help the Chief Executive with his concerns?

**Mr. F. Walker:**

Not really. I mean one could only talk to him personally but there was absolutely no control or very little control over the statements being made by States Members in the House and I do believe the situation has improved, thankfully. If it has not then I think either the rules need adhering to much more closely or new rules need to be introduced, because the damage that that environment did, not just to the Chief Executive but throughout the senior levels of the civil service, was considerable. That is not something that has been picked up, in my view, by the media or most people who have commented on this situation, not something they generally understood, but it was a very real factor and if perhaps I go on just a bit, there is much criticism, and not surprisingly, of the fact that the States over the years has not appointed more local people to the top jobs. One of the principal reasons, and there are more than one and I would not argue that our management development in the States has been up to speed because it most certainly has not over the years, but one of the other major contributing factors was local civil servants reading the *Evening Post*, listening to Radio Jersey or Channel Television or whatever were well aware of what was going on and simply in many cases, and you will never find this on the record, you will just have to take my word for it but I am personally aware of it, in many cases were simply not prepared to put their heads above the parapet. They were concerned not only for themselves but also for their families and there are a number of instances that I recall where there were very good local senior civil servants who were very promotable to the top jobs who just point blank refused to even consider that promotion. That is a major problem, and it is all part of the same problem I am alluding to.

**Deputy T.A. Vallois:**

You stated that the issue came about from attacks in the Assembly. Were you aware of any issues between officers and presidents of the committees at the time?

**Mr. F. Walker:**

Yes. Yes, there were. There were other issues within other departments between the presidents of the committees of the day and their Chief Officers. Yes, there were and some of those came to a head at a later stage.

**Deputy T.A. Vallois:**

If there was such an issue with regards to officers' relationships with Members, whether they be presidents or not, why was it only the Chief Executive's contract that was changed?

**Mr. F. Walker:**

It was the Chief Executive who requested it. I am not aware of any other such requests at that time. I think there may well have been similar requests at a later stage. I am not entirely sure about that, but first of all the Chief Executive was the principal target. Secondly, he was the individual who had responsibility for making the changes. Of course his management team had their own responsibilities, but he was the leader and the buck stopped with him in terms of how effective the changes were going to be. So he found himself in, I would say again, a unique position where not only was he the subject of personal attack and, as he said in his letter, other blocking tactics, but he found himself in a position where he was getting highly frustrated because his ability to do the job as he wanted to do it was being constrained.

**Deputy T.A. Vallois:**

But if you were to turn it around and say that he was accountable for implementing those changes as per the States at that point in time, in order for people to hold him to account could it not be seen as that was the way to hold him accountable or do you think that it was much, much worse than that?

**Mr. F. Walker:**

It was much worse than that. When you are holding someone to account you have to do it based on factual evidence and in a disciplined, structured way. You have to sit down with the individual and talk it through with them, and this is all encompassed in the States H.R. (Human Resources) rules, if you like. You have to do it in a disciplined and professional way. This was anything but disciplined and anything but professional. Just as a matter of interest, Bill Ogley had considerable experience in local government and indeed national government in the U.K. and he said that the situation he found himself in with the personal attacks and so on could not happen in the U.K. where of course they have party politics, but it could not happen. There was a code which was, generally speaking, well adhered to that senior civil servants were not attacked in public. They may well be attacked in private and they may well be disciplined in private. That is totally different but they were not named and attacked in public as we had in Jersey.

**Senator S.C. Ferguson:**

So why did you deem it necessary to change the contract rather than make the codes stronger?

**Mr. F. Walker:**

Make the case stronger?

**Senator S.C. Ferguson:**

Codes.

**Mr. F. Walker:**

It was too late for that. In any case, frankly and you have experience with the Privileges and Procedures Committee trying to get change through the States certainly at that time of that sort, when the States was faced with all sorts of other changes, was pretty impossible. I have no doubt that Bill Ogley found himself in a position, and I agreed with him, where he had 2 alternatives. Look for an alternative job, or seek, as he did, to achieve greater security into his contract.

**Deputy T.A. Vallois:**

What evidence did you have to suggest that he was looking for another job or he had been approached for another job?

**Mr. F. Walker:**

I saw a letter that he had from one of the biggest county councils in the U.K. offering him a job on much better terms than he had in Jersey.

**Deputy R.J. Rondel:**

Which county council was that?

**Mr. F. Walker:**

I cannot say that.

**Deputy R.J. Rondel:**

Did you seek any advice from outside the Island or from any other professional outside the Island?

**Mr. F. Walker:**

No. We did as I recall look at scenarios outside the Island but the advice was obtained pretty well entirely from within the States.

**Deputy R.J. Rondel:**

So were you comfortable with the 2.5 times payment agreement?

**Mr. F. Walker:**

No, I was not comfortable with it at all. It was not a situation that I had envisaged and not a situation that I welcomed, but I think Mr. Swinson poses a very good question in his report, was it the right balance between losing Bill Ogley and keeping him and I concluded, together with others, that sadly and reluctantly it was the right balance. It was necessary to keep him in the job at that time, and I have already said publicly but I say again, and this again is not picked up elsewhere to any great extent, I am very, very confident today, never mind then, that the cost of losing Bill Ogley at that particular time would have been far, far greater than the payoff he has received in recent times.

**Deputy R.J. Rondel:**

Could you just substantiate that a little bit more?

**Mr. F. Walker:**

Yes, I think so. I mean it is really the whole scenario with the 6 or 7 months prior to what I have already described as the biggest change in the history of the States in terms of its structure, departmental structures, reporting procedures, responsibilities and so on. We were in a period of huge and unprecedented change, and here was a man with a terrific track record in achieving change in the U.K. which was why he was hired in the first place, a man who was an acknowledged leader and a consummate professional. He was working with the Chief Officers leading every department. Part of the brief to him, both then and subsequently, was to reduce States expenditure and make the States more efficient and of course we have seen more recently that the States are on track, as I understand it, for achieving £63 million worth of savings in a year. Bill Ogley started that process and not only started it, but moved it along quite significantly. He did not finish it, of course, but he moved that process along very significantly and I cannot prove it but I am very confident that Bill Ogley was responsible for saving the States millions of pounds and had we lost him at that juncture I am not saying all of those savings would have been lost but I am saying that either a significant chunk of them would have been or they would have been delayed.

**Deputy R.J. Rondel:**

I am still trying to get to the root of how that figure, 2.5 times, did come up. Was it just himself that presented that or whether you checked it against something?

**Mr. F. Walker:**

Yes, we did. I honestly cannot tell you precisely at this juncture what we checked it against but I know we became satisfied. I am not going to use the word: "comfortable" because we were not, but we became satisfied that it was the figure we needed to go to and my understanding is it is not out of kilter with some situations in the U.K. but it was the figure we needed to go to, to retain his services and as I have already said on balance we believed that retaining his services was in the best interests of the States at that time. Clearly we would not have taken the decision we did if we believed anything to the contrary.

**Deputy R.J. Rondel:**

Do you think that was measured against other areas of his calibre in the U.K. at the time?

**Mr. F. Walker:**

I cannot tell you if it was specifically measured against other areas in the U.K. I have in the last few days tried to find again the work that we did and tried to find what the position in the U.K. is and I have gone through a number of websites but have not come up with any other really satisfactory answers in that respect. All I can say is that we did become satisfied and it was not a decision lightly taken. We did become satisfied that if we were going to keep Bill Ogley that is where we needed to go.

**Deputy R.J. Rondel:**

You were reasonably comfortable with that, being that the committee and the States themselves were trying to cut back on expenditure at the time in some areas?

**Mr. F. Walker:**

Well, first of all we never envisaged it was going to cost the States money because at that point we did not envisage Bill Ogley leaving. So we did not envisage the current situation. It is very easy with 20-20 hindsight to look at things differently, but at that point I and my colleagues thought that Bill Ogley was here, effectively, for life. I knew that Bill Ogley was doing at that time certainly a very good job and he was achieving ... you mentioned saving money. He was achieving a considerable amount in that respect. The problem is you cannot quantify that. Your terms of reference number 2 says: "To examine whether the change of contract established best value for money." You cannot do that, because you cannot quantify what the other side would have been. Had Bill Ogley gone, how much would it have cost the States? I do not know and it is impossible to quantify it. I will say, though, with confidence that it was millions, not half a million.

**Deputy S. Pitman:**

Are you able to provide us with documentation of when you were considering the figure? You just said it was around 2.5. Are you able to ...?

**Mr. F. Walker:**

I have no access to documentation whatsoever so it is a question of what exists.

**Deputy S. Pitman:**

Could you advise us where we should go?

**Mr. F. Walker:**

I think probably the Comptroller and Auditor General has already had an attempt at this. Whatever information exists on file will be in the then Policy and Resources Committee's files.

**Deputy T.A. Vallois:**

I have to ask, you say it would be for us to quantify, but it would be very difficult for us to quantify. I would argue that it was the Policy and Resources' role to quantify as to value for money in terms of losing him then and obviously in the best interests of the public then, compared to what might happen later on, bearing in mind with the change of Government every 3 years. So could you explain why there was no documentation establishing what was discussed around the 2.5 at that point in time?

**Mr. F. Walker:**

No, I cannot, and I am surprised that there is not more, but I do recall the meetings of the Human Resources sub-committee where the matter as you would imagine was discussed in some considerable detail. As I said earlier, it was not a decision taken lightly. I recall that there was some initial opposition from at least one member of the Human Resources sub-committee and there was some considerable discussion before it became a unanimous decision of that sub-committee. You mentioned value for money. The reason the decision was taken was entirely based on value for money. I did not say you could not quantify or we could not quantify at the time. We could not quantify value for money but we were satisfied that the loss of Bill Ogley would cost

the States considerably more than if his contract, as it now has been sadly, was enacted, but you could not put a figure on it. That is just impossible and I do not see how anyone could ever do that. How can you say that one man is accountable for that percentage part of the savings that were achieved? As the leader of the civil service team he was responsible for a lot of them and responsible for a lot more that followed on in later years, but how much ...

[12:00]

**Deputy T.A. Vallois:**

No, but there could have been documentation explaining the committee's reasons as to why they saw the value in the Chief Executive at that point to change the contract and there is no such documentation that can be identified.

**Mr. F. Walker:**

There is nothing that puts a figure on it, no, of course there is not, because as I say you could not put a figure on it. But the committee was satisfied and I think the minutes do record that, that the decision was in the best interests of the States for financial reasons. Even with 20-20 hindsight no one could put a figure on it. It is impossible to quantify that figure. You just have to accept, I think, that for very good reasons we, those involved, were of the view, came to be of the view, that it was very much in the States interests, it was very much in the best interests of the States finances, to retain Bill Ogley at that stage than to lose him.

**Senator S.C. Ferguson:**

Going on from that, you have said earlier this morning that this situation could not happen in the U.K. because of the codes and you have also said that you thought it was unlikely that this paragraph in the contract would be triggered so if it cannot happen in the U.K. and you are comparing it with the U.K. practice, you would think that the risk is much lower so why have you agreed 2.5 times salary?

**Mr. F. Walker:**

Because we wanted to keep him; I mean I cannot really say any more than that. We not only wanted to keep Bill Ogley, at that juncture we were utterly of the view that we needed to keep him. When I say: "we" I mean the States as a whole.

**Senator S.C. Ferguson:**

Yes, but it is where the comparison of the 2.5 comes from. Normally you would expect perhaps a year's salary, but 2.5 times salary?

**Mr. F. Walker:**

A year's salary is not uncommon in other areas of the States and not uncommon in many other places. We were dealing here with a Chief Executive at a totally unique time and a Chief Executive who was very nervous, very frustrated and had other options open to him. Through discussion we determined that the 2.5 times salary was the necessary level to keep him.

**Deputy R.J. Rondel:**

On what basis, though? That is what I cannot understand.

**Senator S.C. Ferguson:**

No, I think Mr. Walker has answered the question. You would say that in fact it is a reasonable amount plus a sweetener to just seal the deal?

**Mr. F. Walker:**

I do not know that I would use the word: “sweetener” and I am not even sure it was necessarily what I would consider a reasonable amount. It was an amount that was necessary to keep him and that is the bottom line.

**Senator S.C. Ferguson:**

All right. So did you also consider what the main risks of revising the contract were as proposed?

**Mr. F. Walker:**

Well, the main risk is I think what has happened, quite clearly.

**Deputy T.A. Vallois:**

Was that considered at the time?

**Mr. F. Walker:**

Yes, it was but as I said just now we did not at that stage envisage that occurrence. Bill Ogley was certainly at that time doing a very good job. We did not envisage that coming to an early end. We envisaged him going on to achieve far more than he had been able to achieve up to that point and to which he was working. Yes, we took the risks into account but again it is a question, as Mr. Swinson said in his report, of balancing the risk and that is exactly what we did. We balanced the risk and concluded that the ...

**Senator S.C. Ferguson:**

How would you describe the risk? You have said: “Yes, the risk is what has occurred” but looking at it, what are the risks?

**Mr. F. Walker:**

It depends which side of the balance sheet you are looking at. The risk of his contract being called in, enacted, call it what you will, is exactly what happened. The risk as I have said I think already on the other side of the balance sheet of losing him was disruption to the change of all departments moving towards Ministerial Government at an enormous cost in our opinion.

**Senator S.C. Ferguson:**

But can we examine the risks, perhaps. You said the risk of it being called in. Right. As I understand it from the report, there are 2 main risks. The States are carrying the risk because we have a Chief Executive in a position where he can say: “You have not performed as far as I am concerned in my employment and therefore I call that paragraph in of my contract.” We understand from the report of Mr. Swinson that there is no record of the performance appraisals being reviewed by the Chief Minister, therefore it makes it unlikely we can get rid of the Chief Executive on the grounds of poor performance because if we have not done the proper procedures to assess performance we cannot then turn around and say: “Poor performance.” That is one risk. The other risk ...

**Mr. F. Walker:**

Could I interrupt? I do not think that is a risk at all. You could not fire the Chief Executive without very complete factual evidence. I think that is made clear in Mr. Swinson's comments on the contract. I will come back to performance review and appraisal in a minute, if I may.

**Senator S.C. Ferguson:**

Yes, because the H.R. requirements are that the self-assessment is reviewed by the employer, the Chief Minister, and there should be a record of it.

**Mr. F. Walker:**

Correct.

**Senator S.C. Ferguson:**

That is one. The other risk is were all the Policy and Resources Committee aware of the term in the contract and was it well known by successive Ministers so that there was no danger of that particular term in the contract being triggered inadvertently?

**Mr. F. Walker:**

Okay, there are 3 questions there, I think. I will leave the performance review and appraisal bit to the end, if I may. First of all, were the Policy and Resources Committee aware of the change of contract? Yes, they were. Secondly, were Ministers subsequently aware? I cannot honestly answer that.

**Senator S.C. Ferguson:**

How were Policy and Resources aware?

**Mr. F. Walker:**

Because I told them.

**Senator S.C. Ferguson:**

Oh, right.

**Deputy T.A. Vallois:**

It would have been your responsibility to tell your Council of Ministers because you became Chief Minister.

**Mr. F. Walker:**

The Council of Ministers did not exist at that juncture.

**Deputy T.A. Vallois:**

No, but after that. You were the Chief Minister of the Council of Ministers.

**Mr. F. Walker:**

I am very confident the Council of Ministers was aware of the terms of the contract. How they became aware of those terms precisely I cannot tell you. I am very confident they were aware of them. Certainly I think you need to recall that most of the Council of Ministers were members of the previous Policy and Resources Committee anyway, so there was a continuity of knowledge. Whether every Minister

was aware of them I could not precisely say. Certainly most Ministers were aware of them. Certainly my successor.

**Deputy T.A. Vallois:**

So you are saying the previous members of the Policy and Resources Committee that became Ministers were aware of the contract because of the Policy and Resources Committee meeting?

**Mr. F. Walker:**

I do not know.

**Deputy T.A. Vallois:**

However, other Ministers probably were not aware?

**Mr. F. Walker:**

I honestly do not know. I am not sure. As I say I have no access to records.

**Deputy T.A. Vallois:**

It would have been your responsibility to make the Ministers aware of the contracts, the terms in the contract?

**Mr. F. Walker:**

I do not know. You could argue, on that basis, that it would be the responsibility to make Council of Ministers aware of all terms of contracts. I am not sure it is a responsibility, frankly, but I am very confident that Ministers, and I think this is very clearly evidenced by what has happened subsequently, were very aware of the terms of the contract. Can I come back to Senator Ferguson's point? The performance review and appraisals, Bill Ogley, and this is referred to in the Comptroller and Auditor General's report, was meticulous in doing his self-assessments, absolutely meticulous. I sat down with Bill Ogley and went through every single one of his self-assessments. I commented on them and in some cases changed them. Now what has happened, frankly, to my comments and the changes I am no longer in a position to say, but I can tell you categorically that that is what happened.

**Senator S.C. Ferguson:**

You provided documentation which should go in the personal file?

**Mr. F. Walker:**

Yes.

**Senator S.C. Ferguson:**

What form did the documentation take?

**Mr. F. Walker:**

It depended. In some cases it may have been a note on the review and appraisal. In some cases it resulted in changes to the review and appraisal document. In other cases it would have been in memo form from me.

**Deputy R.J. Rondel:**

Would that have been on a 6-monthly or annual basis?

**Mr. F. Walker:**

Annual.

**Senator S.C. Ferguson:**

So there should be a record? If there were alterations and changes did you supply any documentation to say: "I altered X, Y and Z"?

**Mr. F. Walker:**

Probably not, no, because that was done by discussion with Bill Ogley and as I said resulted in changes to his appraisal.

**Deputy T.A. Vallois:**

Did you take the reviewing of the assessments upon yourself with a Chief Executive of a large local authority in the U.K. when looking at those assessments?

**Mr. F. Walker:**

Sorry, say again?

**Deputy T.A. Vallois:**

Did you take on a Chief Executive of a large local authority in the U.K. in order to help you assess those appraisals?

**Mr. F. Walker:**

No, I did not. It was my responsibility to assess his performance and that was something I had been well accustomed to do through my entire business and political career, so I had no problem in assessing his performance whatsoever.

**Deputy T.A. Vallois:**

"In the Policy and Resources Committee 17th January 2003 it was suggested that a 6-monthly appraisal of the Chief Executive be undertaken by the President and the Chief Executive of a large local authority in the U.K. experienced in the recruitment and selection of senior public officers but recognised that further work would need to be undertaken on this matter." So I can assume from what you stated that no further work was undertaken on that matter?

**Mr. F. Walker:**

It was not, no.

**Deputy T.A. Vallois:**

Okay.

**Mr. F. Walker:**

Can I say though, at that juncture Bill Ogley's performance was not an issue. I am not aware that there was any significant concern about Bill Ogley's performance at that point whatsoever. Rather the reverse, I think that pretty well everyone believed, certainly Ministers and previously members of the Policy and Resources Committee believed, rightly in my view, that he was doing a very good job. Can I just add to that? So there would have been nothing in any event in any record of the performance review and appraisal which would have led to the breakdown in relationships later

and the removal of Bill Ogley from office. There was a very high level of satisfaction with him.

**Senator S.C. Ferguson:**

Have you any explanation as to why between you doing the assessment and the Auditor General reviewing the files that the documents you say you did have disappeared?

**Mr. F. Walker:**

No, I have no answer to that whatsoever. All I have is my memory and there is no question at all that I reviewed with Bill Ogley on an annual basis his own self-assessments and as I have already said in some cases changed them and in some cases did not, but in any case approved them.

**Deputy R.J. Rondel:**

Where would you expect those to be kept?

**Mr. F. Walker:**

They would normally be kept, I imagine, in Bill Ogley's personal file within the department.

**Mr. C. Evans:**

I am not sure that I have got anything to add because I think most of the questions Mr. Walker has answered.

**Deputy T.A. Vallois:**

Okay. Just finally, with regards to the contract itself, when it came to a change of contract why was it not considered that maybe some constraint within the contract, so constrained during the transitional period? Why did it have to be set in stone for the remaining period of the Chief Executive's employment?

[12:15]

**Mr. F. Walker:**

I think that was what he required to stay in the States and I have already said that was not a situation any of us found particularly pleasing for obvious reasons, but it was a conclusion that we came to as being necessary to keep him. I repeat again, the cost of losing him in my view and in the view of the other people principally involved, would have been very, very much higher than the cost of paying off his contract as has recently occurred.

**Deputy T.A. Vallois:**

In terms of managing exposure, in terms of the performance appraisals and so on and the risk of changing the contract, who would you say was responsible for managing that exposure of the contract? The performance appraisals not being documented, or not there, and obviously with the results that we have had, the impact that we have had, the £546,000 of taxpayers' money being paid out, who would you say was responsible for managing that exposure?

**Mr. F. Walker:**

I guess at the time the onus would fall on me and then my successors, but let us be very clear on the performance review and appraisal. Let us be very clear, if you are suggesting that it was not conducted properly and had it been conducted properly it would have made a difference, with respect that is wrong. Bill Ogley's performance at the time was very, very good indeed. The only way a performance review and appraisal would have made a difference to what has happened is if there had been quite significant criticism of the way he is performing his duties in that performance review and appraisal. There was no such criticism. That continued with my successor's performance review and appraisal comments as well, to the best that I have read elsewhere.

**Senator S.C. Ferguson:**

But the lack of evidence, the disappearing notes and so on, things get misfiled, obviously, but the lack of evidence left the States carrying the risk.

**Mr. F. Walker:**

But had the evidence been there the States would have still carried the risk because the evidence would have been he was doing a very good job.

**Deputy T.A. Vallois:**

But it is standard employment practice to document performance appraisals and ensure that your successors are aware of his previous abilities, so that is what we are trying to understand. We are not saying that particular people have failed in such a case but what we are trying to understand is exactly how it has got to the point of no documentation being there, and the fact that it is standard employment practice to ensure that staff are performing to the expectation levels of people. The Chief Executive, would you not agree, is no different to anybody else in that respect?

**Mr. F. Walker:**

Absolutely, in fact probably even more important. I can absolutely understand the point you are making, but you related it in your earlier statement to the taxpayer paying out over £500,000. My very strong reaction to that is that it had no bearing on the payout of the £500,000 because if anything it would have helped Bill Ogley's case because you would have had very good performance reviews had the documentation been found. You would have had a very good assessment of his performance, so there was absolutely nothing at that time which would have led to the situation of him being paid off or subsequent events. His performance at the time I was appraising him, at the time I was responsible for him, was excellent.

**Deputy T.A. Vallois:**

Can you not understand that we have no evidence to suggest that that is a matter of fact, so hence the reason why we need to ask you.

**Mr. F. Walker:**

No, as I said I understand your point completely and I think that all the recommendations in that respect made by the Comptroller and Auditor General are absolutely very sound.

**Senator S.C. Ferguson:**

Yes, because at the moment we have no evidence. The only evidence we have got is that you thought: “Oh well, there is no problem. The risk of anything happening is very low” and therefore what steps were taken to assess the risk, to mitigate the risks that we have identified?

**Mr. F. Walker:**

You could not mitigate the risks, because as I have said if the documents were available they would show that he was performing at a very high level.

**Senator S.C. Ferguson:**

Yes, but if the documents have not been properly organised then that is a further risk or it is compounding the risks that we were involved in.

**Mr. F. Walker:**

I absolutely accept that the paperwork should be there. There is no issue there, I absolutely accept that, and I am very disappointed that it is not, but you cannot relate the lack of documentation on the performance review and appraisal to the payout that he got at the end in any shape or form whatsoever.

**Senator S.C. Ferguson:**

No, I was not talking about that. I was looking at a risk assessment and my concern is that the States ends up carrying the risk.

**Mr. F. Walker:**

Of course the States ended up carrying the risk but paragraph 50 of the Comptroller and Auditor General’s report: “Whether the mechanism chosen was appropriate was a matter for judgment by the relevant committee at the time” which is exactly the point I have been making: “In making that judgment the committee would have wanted to be clear that the risk to the States of having to make such a payment were properly balanced” and that is exactly what we did. It was the risk possibly and unlikely in our view at that time of having to make a payment against the risk of losing and the cost associated with losing Bill Ogleby on the other. That was the balance of risk and that was the balance that we took into consideration and arrived at the decision. Can I say just for the record, if I was in the same position today, exactly the same position today, I would take the same decision.

**Deputy T.A. Vallois:**

Could I ask on the basis of the compromise agreement being triggered, if it happens after the contract was agreed, I believe it was 25th July 2005 that it came into force, say if it happened after 25th July, during your time as President of Policy and Resources, would you have had the sufficient funds to pay for that compromise agreement?

**Mr. F. Walker:**

Yes.

**Deputy T.A. Vallois:**

Where would you have obtained those funds?

**Mr. F. Walker:**

There is always money available, whether it is an emergency fund or whatever it may be, to meet such expenditure. That is the case in the States.

**Deputy T.A. Vallois:**

You would have had to go back to the States for the money? You would have been able to get it out of a ...

**Mr. F. Walker:**

No, it would have come from the Human Resources budget in some respect, but let us be clear, there was absolutely no chance whatsoever, unless Bill Ogley had a complete breakdown or something, there was absolutely no chance whatsoever of that clause being activated during the period of office of the Policy and Resources Committee.

**Deputy T.A. Vallois:**

I am finding it difficult to understand how you can believe that statement yourself when you stated that it was worse then, with the relationships between Members and officers, than what it is now yet we have seen the trigger established now, rather than back then. So could you explain exactly how you could make a statement such as that?

**Mr. F. Walker:**

Can you say that again, just to let me be clear before I answer that.

**Deputy T.A. Vallois:**

You stated at the beginning that the relationship between Members and officers then was worse than what it is now.

**Mr. F. Walker:**

Yes.

**Deputy T.A. Vallois:**

However the trigger has been made now and not back then. So how could you make that statement? How could you support that statement?

**Mr. F. Walker:**

Okay. I think the relationship continued to be very bad until comparatively recently and I have to say I think the influx of new Members into the States has made a considerable difference. Maybe the appointment of a Chief Minister with a different style has made a difference, I do not know, and I am not following proceedings of course as closely as I did when I was there. But the bad behaviour and the personal attacks that Bill Ogley referred to was not just at that point. It had been going on for quite some time and it continued for quite some time. The guy ended up in a situation where frankly he was battered and worn out. No one will ever know, and I do not know, how much Haut de la Garenne for example took out of him. The abuse that he had to put up with from certain quarters during that period and the sheer pressure that it caused and the statements that were being made, for example, and there was pressure for many other reasons of course, but statements that were being made about some of his Chief Officers who were ending up in his office in desperate straits, no one can imagine the pressure that put the guy under. This was all subsequent to the

agreement that was reached. It was pressure that just continued and continued, and my guess, because I was not involved at all, is that by the time it came to breakdown the guy was no longer the man he was when he joined us, through no fault of his own.

**Senator S.C. Ferguson:**

Yes, but the reasons he gave for leaving were not any of the ones you have just described.

**Mr. F. Walker:**

No, but I believe they contributed to his: “mental state” is capable of being misinterpreted but I believe it contributed significantly to his wellbeing, to his view of the situation. I think probably and again you cannot take this as a statement of fact, this is an opinion, probably he had lost quite a lot of the motivation and impetus that he had in the early days and that led to the clash with Senator Ozouf who was pushing very hard for reform, more reform, to the States, not least in the central departments.

**Senator S.C. Ferguson:**

Yes, but bearing in mind that as the Chairman has said, this report is based on documentary evidence and the documentary evidence is not being slagged off in the States as the reason that Mr Ogley, the former Chief Executive, raised the question of performance in this paragraph in his contract.

**Mr. F. Walker:**

But it was the reason he sought a change to his contract and it did not go away.

**Senator S.C. Ferguson:**

It was the reason he sought changes but the performance of it was triggered by behaviour of Ministers.

**Mr. F. Walker:**

I can only speculate on that because I was not there and I have read what you have read, or probably less.

**Senator S.C. Ferguson:**

Just going by the evidence, this is all documentary stuff and obviously we have to speak to people.

**Mr. F. Walker:**

It is my considered view that Bill Ogley’s performance was over a period of time severely affected by the criticisms that he was subjected to.

**Deputy T.A. Vallois:**

More in a public domain or a private domain?

**Mr. F. Walker:**

I think both, but principally public. Very much principally public.

**Deputy T.A. Vallois:**

Okay. Is there anything further? Okay. We would just like to thank you very much for coming before the Public Accounts Committee today. We appreciate you being honest before us.

**Mr. F. Walker:**

Thank you very much.

[12:28]