

Annual Report

2015

1. Introduction

- 1.1 This is my second report as Chair of the Jersey Appointments Commission (the “Commission”), the first having been presented six months after my appointment. It covered my early involvement and reviewed the work of my predecessor.
- 1.2 I reported on the changes brought in by legislation to enable a more regulatory approach to be taken by the Commission and the need to clarify its role in relation to States employees, non-governmental organisations in receipt of States monies, and in roles exercising statutory powers or with significant public profile or interest. These changes ensure the independence and integrity of the Commission and its recourse directly to the States of Jersey should the need arise.
- 1.3 In order to undertake the changed role I needed to recruit a new team of commissioners, the terms of office of the previous team having concluded on the 10th April 2015.
- 1.4 I was assisted in this by the Director of HR, Richard Stevens and Connétable Juliette Gallichan on behalf of the States Employment Board (SEB). We also used the services of Rosy Dessain and Charles Clarke of Thomas and Dessain, the local search agency with which the HR department had an existing contract. Advertisements were placed and a local search undertaken, applicants were long-listed and then interviewed by the search company whose recommendations were put before the recruitment panel for shortlisting. Four appointments were made for recommendation to the SEB/States. They were:
- Professor Ed Sallis OBE. Ed had already served as a Commissioner for two years and has held senior leadership roles in colleges in the UK, before moving to Jersey to become the Principal of Highlands College.
 - Jennifer Carnegie. Jennifer was Director and Co-founder of Amicus Ltd, a global strategic leadership consultancy and had previously been the Global Director of Mars Incorporated and had set up Mars Corporate University.
 - Richard Plaster. Richard has a background in HR and had previously been the Commercial and HR Director at Jersey Electricity. He is currently a Director of Law at Work.
 - Louise Read. Louise has an accountancy background and is currently the Director and Secretary to the Board of the Channel Islands Competition and Regulatory Authorities.
- 1.5 During the early months of their work schedule, one Commissioner, Jennifer Carnegie fell ill and after her return to work left to take up a position in the Caribbean. The recruitment panel then reviewed their list of appointable candidates and called one applicant back for a further interview. Gailina Liew is a Barrister and Solicitor and an independent board director and public company executive with working experience in Canada. Gailina was appointed with States of Jersey approval on 1 December 2015.
- Gailina is also a Director of the Jersey Policy Forum and a non-executive Director of Digital Jersey.
- 1.6 Administrative support for the team has changed twice during the year with a retirement and a voluntary redundancy. The team is now supported by a senior HR business partner who handles the team’s work efficiently on top of an existing case load.

2. **General remarks**

- 2.1 Identifying and classifying the non-governmental organisations has taken time, particularly with regard to those organisations covered by Financial Directions 5.1 and 5.5. A seminar was held inviting the first of those identified to explain the changing role of the Commission and to learn something of the history of involvement with the Commission over the past years. We were grateful for the support of Christine Donnelly from the Chief Minister's department in this process which also exposed how unaware many organisations were about the source of their funding, their sponsor department or the HR business partner from whom support and assistance should be available for recruitment.
- 2.2 Identifying potential conflicting legislation also became urgent since, as we tried to standardise the application of our expectations of good practice it became apparent that different individual legislation applied across the sector. To this end we secured the help of Pam Staley from the Law Draftman's department to look and see how we might develop enabling legislation to tidy things up. We are grateful to Pam for this detailed work which is now due to be put before the SEB / States during Q2 of 2016.
- 2.3 No internal audit programmes were undertaken on our behalf during this period because of staff shortages in the internal audit department. But terms were agreed for the Internal Audit team to audit the Commission itself to check whether we are now fit for purpose and that our documentation is clear, understandable and properly reflects our role.
- 2.4 Meetings with all Commissioners are held monthly with the Director of HR in attendance. We plan for this schedule to change to bi-monthly as soon as the new procedures and ways of working have been approved and are bedded in. Business Partners working with relevant States departments attend part of the meetings as well as representatives of the Law Draftman's department and Treasury when required
- 2.5 The Commission's new guidelines for recruitment have been drafted and the production by the HR department of a separate guide to accompany these is underway. The guidelines apply to the recruitment of States employees and to senior officers working in public services and independent bodies (Chairs and CEOs).
- 2.6 The Commission also works with the Bailiff's office to help ensure that best recruitment practice applies across all Crown appointments and any other appointments in which the Bailiff is involved.
- 2.7 I was also consulted about the contract for the current Chief Executive of the States of Jersey when the extension to his contract was challenged
- 2.8 On broader matters, as Chair of the Commission I have been consulted on the possibility of draft legislation relating to the establishment of an independent judicial appointments board where the Commission might need to be involved in initial recruitment.

3. **Operations and Recruitment**

3.1 During 2015, the Commission has been involved in 35 key appointments, 8 in States departments, 22 in non-departmental bodies and 5 on behalf of the Crown. These are detailed in Appendix 1. Key among them have been:

- Treasurer of the States;
- Chief Officer of the Social Security department;
- Comptroller of Taxes;
- Managing Director of Community and Social Services; and
- Director of the Civil Division, Law Officers' department.

3.2 The Commission has also reviewed through audit a further nine appointments to independent bodies in receipt of States' funding of less than £250,000 a year.

3.3 The Commission has assisted the Bailiff's office in the appointment of the Judicial Greffier, Greffier of the States and of the Viscount. I have also been involved in the recruitment of the Lieutenant Governor, the first part of the process having begun in this reporting year. The Commission has assisted the Bailiff's office with the presentation of job particulars and more contemporary recruitment processes, and some of this has been shared with colleagues in Guernsey by the team at the Ministry of Justice.

3.4 Overall local residents, or those who are residentially qualified under the Control of Housing and Work laws, have made up 77% of those appointed to States positions or to senior roles on the Boards of independent bodies, the remainder being filled by candidates recruited more widely.

3.5 During the year, the contract for the current Chief Executive was renewed appropriately but challenged publicly by a member of the States because of the length of time since an open competition had been held for the role. The current contract allowed for an extension and this was confirmed at a meeting of the States on 2 December 2015 to which I gave the Commission's view.

4. **Boards**

4.1 About 60% of the work of Commissioners has been with the boards of independent bodies and some are new to the expectations of the Commission as regulator. In looking at our role in relation to wholly owned or majority owned commercial organisations, the States and the JAC are considering whether these organisations should fall within the remit of the JAC directly or whether the shareholder function should be held to account for assuring the JAC that its appointment guidelines are being followed. During the year three such bodies have fallen within our remit but a further two, having been established before the JAC came into being, were not.

4.2 The independent bodies play a significant role in the Island's administration. Changing culture and practice takes time and there are still occasions where commissioners have found themselves needing to assist with the HR process in ways that could compromise their regulatory role. The identification of the appropriate sponsor department and HR business partner should help to move things forward. The Commission will generally not get involved in the direct regulation of organisations in receipt

of States' funding of less than £250,000 a year, except from time to time through audit, unless there is likely to be significant public interest or the organisation has a high public profile.

5. Exceptions and Acting-Up positions

- 5.1 There was one senior post where an acting-up position had been held long enough and where there was a significant enough match with the job expectations and person specification for the post to be made substantive.
- 5.2 One 'by exception' extension to a contract for a senior post held jointly with the States of Guernsey was allowed just the day before that contract ended. I was able to authorise this because I was attending a meeting of the SEB for another purpose. I allowed the position to be filled in this way as the post was essential in order to comply with the law.

6. Issues of concern

- 6.1 The Commission has identified a number of issues which may need to be addressed through training. These include: the inexperience of some panel members; gender bias in questioning during interviews; the appropriateness of questions to applicants; the expectation of extended length of service of board members; the lateness and sometimes hurried nature of recruitment procedures; and historical convention which does not match best practice principles. Some of these have seriously impeded the recruitment process.
- 6.2 On one occasion, the gender bias was such that the process had to be stopped and a second set of interviews were called for during which I was myself involved. Equal opportunities monitoring forms are not always used and, on at least one occasion where they had been distributed and completed by applicants, they were not removed from the materials sent to the selection panel.
- 6.3 There is a need for better communication, particularly with the independent bodies, of the expectation of adherence to the Commission's guidelines and of their status in law. Recommendations should not be forwarded for consideration by the States before the process has been reviewed and signed as satisfactory by the Commission as was done on one occasion. Nor should the present post holder, either Chair or Chief Executive, be involved in the formal selection process for their successor, a common request.
- 6.4 But there is also a need within States departments to pay greater attention to time-scales and contracts of service especially when extensions are thought to be a possibility. Where there may be a role for a States employee on the board of an independent body, this should not get muddled with the appointment process of independent members as it was on one occasion. In this case, I had to intervene as the States employee, having been on the selection panel, recommended himself as a member of the board of an independent body rather than recognising that his role would be 'in attendance' as a States observer at board meetings.
- 6.5 On a further occasion the Commission was inappropriately excluded from proposed arrangements for an appointment to a senior position because it was an interim post.

In the end this appointment was not progressed but it raised concern about the awareness of the role of the Commission even at the most senior level.

- 6.6 The 'by exception' extension for the contract which I gave at a day's notice for a very senior and independent role gives cause for another concern. The status of the contract was not made clear to the SEB as the person concerned had previously been a permanent member of a States department before their current role. States departments and their HR business partners should hold a register of such contracts which they review on a regular basis and everyone should be aware of the detailed implications of moving from a permanent position to a short term contract.
- 6.7 In both the independent sector and in the States, earlier and more timely preparation is needed. On a number of occasions, selection panels have been established before the agreement of a timetable, the production of a role and person specification or the approval of an advert and support material. Panel members need to be aware of this detail before they agree to take part and panel members should agree upon a scoring method before the long or shortlisting of candidates.

7. Political Involvement

- 7.1 There have been no problems with inappropriate involvement in the appointment procedures in which commissioners have been involved. There was one request but this was handled professionally and with understanding.
- 7.2 The political concern about the extension of the Chief Executive's contract could however have been dealt with more expeditiously by proper reference to the published papers of the SEB and the States. It was unfortunate that it became the subject of significant media coverage not always giving accurate detail.
- 7.3 At the request of the Chief Minister, and with the approval of the Crown, the Chief Minister had participated for the first time in the interview process for the recruitment of the Lieutenant Governor for 2017-2022, a process which began during this reporting year.

8. Complaints

- 8.1 Only one complaint came before the Commission and only after considerable time had been taken in dealing to the satisfaction of the complainant about a position for which an individual had applied and not been selected, did it come to light that the Commission need not have been involved. Clearer guidelines are required both for the Commission and for States departments and independent bodies regulated by the Commission to enable an efficient service to be provided.

9. Going forward, issues for development

- 9.1 Improved communication between the Commission and independent bodies especially relating to the pending enabling legislation which will standardise existing individual legislation so that it follows the detail laid out by the Commission.
- 9.2 Better informed HR partners and HR staff in their role following the issuance of the new guidelines of the Commission.

- 9.3 Training in interview practice and procedure across the States but in particular for those in the independent bodies who may be less used to involvement in such matters.
- 9.4 A raised awareness of diversity issues across all procedures and practice including the establishment of mixed gender selection panels wherever possible and the appropriate gathering of diversity statistics through the proper use of the equal opportunities monitoring form and annual reporting of statistics by the States departments and independent bodies.
- 9.5 Consideration of any recommendations of the internal audit of the practice and procedures of the commission.
- 9.6 The review of appointments to key posts where outside talent has been sought.
- 9.7 The publication of the results of those organisations regulated by audit.
- 9.8 Processes for sign-off on compliance and working towards annual reporting of recruiting/appointment data and activities, particularly for independent bodies to build a culture of accountability as recipients of States' monies.

**Rt Hon Dame Janet Paraskeva DBE
Chair, Jersey Appointments Commission**

March 2016

Posts with which Jersey Appointments Commission have had involvement during 2015 (excludes audit-only posts)

Channel Islands' Financial Ombudsman
Chief Officer – Home and Constitutional Affairs
Chief Officer – Social Security Department
Comptroller of Taxes
Criminal Injuries Compensation Board Chair and members
Data Protection Commissioner – extension of Appointment
Deputy Chief Officer, Home Affairs
Digital Jersey - Chair
Director of Civil Division, Law Officers' Department
Greffier of the States
Head of International Agreements
Independent Safeguarding Board – Chair – extension of appointment
Inspectors - Appeals against Planning Decisions
Jersey Appointments Commission - Commissioners
Jersey Business Board - NED
Jersey Consumer Council - Members
Jersey Development Company – Chair
Jersey Employment Trust - Chair
Jersey Employment and Discrimination Tribunal - Members
Jersey Financial Services Commission – Commissioner
Jersey Gambling Commission – Chair and Commissioners
Jersey Heritage – Chair and Trustees
Jersey Innovation Fund - NED
Jersey Overseas Aid Commission – Members
Jersey Police Complaints Authority - Members
Judicial Greffier
Lt Governor
Managing Director Community & Social Services, HSSD
Police Authority - Chair
Social Security Tribunals – Chair and Deputy Chair
Solicitor General
Sport Shadow Board – Chair and Members
Tourism Development Fund
Treasurer of the States
Viscount