JERSEY APPOINTMENTS COMMISSION

Guidelines for the recruitment of Senior States Employees, appointees and members of independent bodies.

V6 June 2018

1. Principles

1.1 Under the terms of reference[1] set by down in the Employment of States of Jersey Employees (Jersey) Law 2005, (The "Law") it is the duty of the Jersey Appointments Commission (the "Commission") to oversee the recruitment of certain States employees, appointees and members of independent bodies to ensure that as far as practicable:

(a) the recruitment of persons as States employees, appointees or members of independent bodies is fair, efficient and conducted in accordance with best practice principles and procedures;

(b) States employees, appointees and members of independent bodies are appointed on merit;

(c) Members of the States Assembly are only involved in the recruitment of States employees, appointees and members of independent bodies in accordance with guidelines made under Article 24 of the Law or other circumstances where, in the opinion of the Commission, it is appropriate that they be involved.

2. Responsibilities

2.1 The Law[2] requires that the Commission shall from time to time, produce and review guidelines that are to apply in relation to the recruitment of States appointees, and to take all reasonable steps to ensure that the guidelines are followed.

2.2 Under those same terms[3], the Commission is also directed by the States to oversee the recruitment of senior officers to the public service and to independent bodies. It is for the States Employment Board ("SEB") and the Commission to determine which of those offices or classes of offices of independent bodies to include[4]. The offices or classes of offices so determined are set out separately and attached to these Guidelines. (Appendix 1)

2.3 Accordingly, the Commission publishes its recruitment guidelines[5] (the "Guidelines"), setting out the principles to be applied in recruitment and selection activities. The Guidelines apply to all recruitment within the public service. While these principles may be used as guidance they do not apply where an appointment is made directly by the Crown or to a post referred to in the Departments of the Judiciary and the Legislature (Jersey) Law, 1965, or one subject to general medical appointment procedures applied within the health service.

2.4 In addition, but separately, the Commission will advise the SEB regarding the preparation of codes of practice (the "Code") concerning the procedures for recruitment of States employees[6].

2.5 These Guidelines define the basis upon which appointments of senior officers to the public service, States appointees, and those appointed to independent bodies should be made. In this latter case, unless other legislation so determines, these would normally include the Chair and its Chief Executive Officer.

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[1] S23 Employment of States of Jersey Employees (Jersey) Law 2005
[2] S24
[3] S26
[4] S16
[5] S24
[6] S23A

2.6 The Commission is required to report annually[7] to the States of Jersey on compliance with acceptable recruitment practices and recommend any remedies where any actions should be taken as a result of specific incidents where the Commission's Code has not been applied in an appropriate manner. In addition the Commission is required to undertake audits of recruitment practices in relation to States employees and States appointees[8].

2.7 The Commission has been charged specifically to:

1. Ensure that selection processes for senior appointments follow approved guidelines and are, at all times, properly undertaken;

2. Oversee the selection process for senior appointments;

3. Approve the making of such appointments on the basis that it is wholly satisfied that they have been properly made.

2.8 The Commission has published these guidelines for all States departments and independent bodies. They apply to all recruitment within the public service other than those exceptions identified within these guidelines.

3. The Standards

3.1 The Guidelines outline the standards against which all appointments should be made. These standards are:

1. Appointment on merit must be the overriding principle governing the appointments process. Applicants must be considered equally on merit at each stage of the selection process;

2. The principles of equal opportunity and diversity must be inherent within the process;

3. Each role will be advertised in such a way to encourage applicants from all sectors and groups, especially those who are under-represented at senior levels within public service;

4. Every prospective applicant must be given equal and reasonable access to adequate information about the job and its requirements and about the selection process;

5. Selection techniques must be reliable, consistent and guard against bias and be in line with discrimination legislation;

6. Selection must be based on robust objective criteria applied consistently to all candidates;

7. The application of the appointment process must be transparent. All stages of the process should be documented and the information be readily available for audit.

8. Personal information about applicants and panel members must remain confidential, unless the individual concerned gives permission for its release; and

9. Data protection legislation must be considered in relation to all recorded information.

10. Where a succession plan is in place it should follow guidance published by the States.

[7] S28
[8] S25

3.2 There are four reasons for the application of these standards:

1. To appoint the most appropriate person for the job on the basis of individual merit regardless of race, gender, age or any other personal factor;

2. To put all appointments above suspicion of patronage or prejudice;

3. To ensure that recruitment procedures uphold the political impartiality of the public service; and

4. To maintain public confidence in the method of recruitment to senior appointments.

5. Conflict of Interest

5.1 Procedures should be applied to ensure that the candidates for appointment are committed to the values of public service[9]. The problem most likely to arise is that of conflict of interest, either actual or one which could reasonably be perceived e.g. Financial interests or share ownership of the applicant or close family member, candidates who are actively sought from within a field of expertise in which the public body works, and membership of societies.

6. Notification to the Commission

6.1 Departments and independent bodies are responsible for notifying the Commission of the requirement to become involved in an appointment at the earliest possibility and normally no later than 14 days[10] before a recruitment process commences, through the secretary to the Commission.

7. Role of the Commissioner in the Appointment Process

7.1 The Commissioner who is appointed to oversee any appointment must have oversight of the following:

- agreement of the timescales associated with the competition;
- production of the role and person specifications;
- advertisement and support material such as the recruitment pack;
- choice of any search consultants;
- shortlisting of the applicants, which the Commissioner would normally chair;
- selection of any assessment processes to be used; and
- assessment and selection processes, including interviews which the Commissioner would normally chair but not vote upon.

8. Complaints

8.1 The Commission has published procedures enabling candidates for positions who have a complaint to bring a matter to an independent member of the Commission. The procedure is attached at **Appendix 2.**

[9] Committee on Standards in Public Life, "The Nolan Principles"
[10] S26(2)

9. Compliance

9.1 Chief Officers of departments and Chairs of independent bodies will be expected to certify on an annual basis that they have complied with these Guidelines. Ratings will be published by the JAC for the department and for the organisations that they sponsor and reported to the SEB. The procedure is attached at Appendix 3.

10. Report to be made to SEB in certain circumstances.

10.1 The Commission shall produce a report to the SEB if the Commission is not satisfied that any recruitment was in accordance with the Principles set out in the guidelines.

11. Audit

11.1 The Commission shall carry out, or order to be carried out, audits of recruitment practice in relation to States employees and appointees and members of independent bodies.

11.2 Documents should therefore be retained in accordance with the retention schedule of the States of Jersey[11] or the independent organisation.

12. THE ROLE OF THE COMMISSION IN SENIOR APPOINTMENTS TO THE STATES OF JERSEY

12.1 The following section relates to senior appointments to roles in the States of Jersey. Provisions for appointments to roles in Independent bodies are set out in section 17.

12.2 Accountability for senior appointments must rest with the senior officer in the Department or at the highest level of governance within the organisation making the appointment.

12.3 The Commission must be consulted at the earliest possible opportunity of the intention of a department to recruit to a senior position and no later than 14 days[12] before a recruitment process commences. Should a position fall within one of the exemptions within the Code, consent for the use of an exemption shall be sought from the Commission prior to appointment.

12.4 In this context, 'senior position' means all posts, including interim appointments, which fall within the following definition:

a) All posts where the post holder reports directly to a Minister;
b) All posts where the post holder reports directly to a Director General; **provided that c applies;** and
c) All posts which command a salary that requires approval by the States Employment Board.

13. Selection panels for Senior States appointments

13.1 The Commissioner will ordinarily chair the selection panel (the "panel"), while the constitution of the panel will vary according to the particular post that is being filled.

Membership will normally be as follows for the appointment of senior States officers;

[11] The States of Jersey's retention schedule for appointment processes is to keep recruitment records for 12 months from the end of the year in which recruitment took place.
[12] S26(2)

13.1.1 **Chief Executive to the Council of Ministers [13](5 panel members)**

- the Chair of the Appointments Commission (panel Chair);
- two other members of the Commission;
- a Chief Executive of a UK Local Authority or an individual of equivalent standing; and
- the Chief Minister of the States of Jersey.

13.1.2 **Director Generals reporting to the Chief Executive (at least 4 panel members)**

- a member of the Commission (panel Chair);
- the Chief Executive to the Council of Ministers, or delegate; and
- at least two independent members one of whom should be an expert on the services for which the Director General will be responsible.

13.1.3 **Posts below Director General where the Commission is directly involved in the appointment (4 panel members**)

- a member of the Commission (panel Chair);
- the Chief Executive to the Council of Ministers or the Director General of the Department in which the senior manager will be employed, or delegate; and
- at least one expert on the services for which the senior manager will be responsible.
- another appropriate senior officer

14 The role of Human Resources in the Appointments process

14.1 The role of HR is to provide expert support, guidance and advice throughout the appointments process.

15. Involvement of politicians in the recruitment and selection processes for Senior States Employees

15.1 Politicians may have a particular interest in the kind of person who is appointed to certain senior posts because the role may be of considerable importance in the setting and delivery of their policies. However, that interest must be accommodated within a system which selects on merit, makes appointments which can last and which is free from personal or political bias.

15.2 Only in the case of filling the vacancy of the post of Chief Executive to the Council of Ministers should a politician be involved directly in the interviewing and appointment of applicants.

15.3 In all other cases, politicians would not normally be included as members of a panel. It is, however, considered appropriate that where a post will be of interest to a Minister, they may request to take an active interest in the recruitment and selection processes associated with filling that post. In this connection, the politician could be invited to participate in commenting on the following areas:

- the period of the contract which will apply to the post;
- the job description
- issues they might want to raise after informal meetings with any short listed candidates together with with any relevant questions that might be asked by the Panel

15.4 The candidate recommended for appointment must be the person deemed to be the most appropriate based on merit against the agreed criteria by the panel. The politician may be invited

[13] S26AA

to meet the selected candidate once the panel has confirmed its decision to appoint, but he or she may not influence the decision of the panel.

15.5 If, in the opinion of the appointed Commissioner, it is appropriate that a serving politician is involved in a recruitment, the Commissioner involved will seek specific dispensation from the Chair of the Commission, or in their absence or if the Chair is the appointed Commissioner, then the Deputy Chair, stating the reason for their request.

16. Power of Intervention in recruitment of States employees.

16.1 The Commission may intervene in the recruitment, on behalf of the SEB, of a States employee if the Commission believes that there is non-compliance with the Guidelines.

17. THE ROLE OF THE COMMISSION IN APPOINTMENTS TO INDEPENDENT BODIES

17.1 Independent bodies required to follow these Guidelines will be notified by the SEB, and may also be listed in Appendix 1 of these guidelines. All independent bodies, as with all States departments, are required to follow this Code and apply the principles. Their adherence to the Code will normally be regulated through an ongoing audit process.

17.2 An independent body is likely to fall within the direct remit of the Commission if it meets at least one of the following criteria:

1. It exercises statutory powers on behalf of the States of Jersey; or
2. It receives government funding through its sponsoring Department of £250,000 per annum or more; or
3. It has a significant public profile because of the nature of its responsibilities.

17.3 Where a body falls within the remit of the Commission all appointments to the position of Chair and Chief Executive (or equivalent) of that body will require the involvement of a member of the Commission. Other key Board roles e.g. Finance Director may require the involvement of the Commission and this should be determined by Commission as early as possible in order to arrange for the nomination of a Commissioner to oversee the recruitment and selection processes.

17.4 Notwithstanding the above, the Commission reserves the right to become involved in any recruitment and selection processes where, because of the nature of the position (for example, its public profile or its significant contact with politicians), it is deemed appropriate by the Commission so to do. Where a department or independent body is uncertain whether a vacant post warrants the involvement of the Commission it should contact the most senior HR official in the relevant department and where doubt might still remain, the link Commissioner for that Department.

18. Composition of Interview panels - Independent bodies

18.1 For those Independent bodies that fall within the direct remit of the Commission a panel should be constituted which must be responsible for all decisions in respect of long and short-listing and the final selection decisions.

18.1.1. The panel membership shall normally be as follows:

- a member of the Commission as chair;
- the Director General or delegate of the relevant department ;
- the Chair of the independent body (for the CEO post) or an appropriate Board member;
- a representative of the independent body or other interested group and/or an expert in the services.

18.2 Where a panel is convened for a particular appointment, it should comprise the same members throughout.

19. Involvement of politicians in the recruitment and selection processes for independent bodies.

19.1 It is for the individual politician to decide whether to accept an invitation to be involved in the recruitment and selection processes for an independent body, taking into account any conflict of interest whether real or perceived.

20. Term of Office

20.1 States appointees and members of independent bodies should not normally be appointed for terms in excess of nine years. The period of nine years includes any term of office and periods of office in a shadow position. If there has been a break in the appointment, the break should normally exceed the period already served.

20.2 The terms of office for Officers of the Crown and other judicial appointments are subject to the normal judicial terms of office.

21. Further information

21.1 Further information on the work of the Commission and its procedures is available on www.gov.je

Appendix 1
Regulated Bodies

The SEB, in conjunction with legislation, determines which bodies are regulated by the JAC. An independent body is likely to fall within the direct remit of the Commission if it meets at least one of the following criteria:

- It exercises statutory powers on behalf of the States of Jersey, or
- It receives government funding through its sponsoring Department of £250,000 per annum or more, or
- It has a significant public profile because of the nature of its responsibilities.

The list of these independent bodies will change from time to time but at present includes the following:

Sponsoring Department	Name of Body
Chief Minister's	Charities Commission
Chief Minister's	Charities Tribunal
Chief Minister's	Data Protection Tribunal
Chief Minister's	Data Protection Supervisory Authority
Chief Minister's	Digital Jersey*
Chief Minister's	Jersey Competition Regulatory Authority*
Chief Minister's	Jersey Financial Services Commission*
Chief Minister's	Jersey Overseas Aid Commission*
Chief Minister's	Office of the Comptroller and Auditor General
Chief Minister's	Office of the Information Commissioner
Community and Constitutional Affairs	Children's Commission
Community and Constitutional Affairs	Jersey Community Relations Trust
Community and Constitutional Affairs	Jersey Police Authority
Community and Constitutional Affairs	Jersey Police Complaints Authority
Community and Constitutional Affairs	Jersey Safeguarding Partnership Board
Economic Development, Tourism, Sport and Culture	Association of Jersey Charities *[14]
Economic Development, Tourism, Sport and Culture	Depositor's Compensation Scheme
Economic Development, Tourism, Sport and Culture	Financial Services Ombudsman
Economic Development, Tourism, Sport and Culture	Jersey Arts Centre Association*
Economic Development, Tourism, Sport and Culture	Jersey Arts Trust*
Economic Development, Tourism, Sport and Culture	Jersey Business Ltd*
Economic Development, Tourism, Sport and Culture	Jersey Consumer Council
Economic Development, Tourism, Sport and Culture	Jersey Finance Ltd*
Economic Development, Tourism, Sport and Culture	Jersey Gambling Commission
Economic Development, Tourism, Sport and Culture	Jersey Heritage Trust*
Economic Development, Tourism, Sport and Culture	Jersey Innovation Fund
Economic Development, Tourism, Sport and Culture	Jersey Opera House*
Economic Development, Tourism, Sport and Culture	Royal Jersey Agricultural and Horticultural Society[15]
Economic Development, Tourism, Sport and Culture	Jersey Sport*
Economic Development, Tourism, Sport and Culture	Tourism Development Fund
Economic Development, Tourism, Sport and Culture	Visit Jersey Ltd*
Education	Early Years and Childcare Partnership
Education	Jersey Childcare Trust

* Body receiving statutory funding of £250,000 of more per annum

[14] Body whose chair is elected by a ballot of members

[15] Body whose chair is elected by a ballot of members

Health and Social Services	Citizen's Advice Bureau
Health and Social Services	Health and Social Services Care Commission
Independent body	States of Jersey Development Company
Independent body	Andium Homes
Independent body	Jersey Post
Independent body	Jersey Telecom/JT
Independent body	Ports of Jersey
Social Security	Jersey Advisory and Conciliation Service*
Social Security	Jersey Employment Trust*
Social Security	Jersey Health and Safety Council
Social Security	Income Support Medical Appeal Tribunal
Social Security	Social Security Appeal Tribunal
Social Security	Social Security Medical Appeal Tribunal
States Greffe	Commissioner for Standards
States Greffe	Referendum Commission
Treasury and Resources	Fiscal Policy Panel
Treasury and Resources	Public Employees Contributory Retirement Scheme/Jersey Teachers Superannuation Fund

* Body receiving statutory funding of £250,000 of more per annum

Appendix 2

Jersey Appointments Commission

Complaints Resolution Procedure

1. **Introduction**.

1.1 The Jersey Appointment Commission (the "JAC") has published guidelines for the recruitment of Senior States Employees, appointees and members of independent bodies. The following procedure will be followed where a candidate for a position falling within the remit of the JAC (the "complainant"), has a complaint regarding a recruitment process in which they were personally involved.

2. Principles.

2.1 Complaints against a recruitment process should be made in writing within 30 days of the subject matter or event being complained about.

2.2 Complaints will be considered by a commissioner (the "Independent Commissioner") not involved in the recruitment process that is the subject of the complaint.

2.3 If the Chair of the JAC is the subject of, or involved in, the recruitment process which is the subject of the complaint, the matter will be passed to the Deputy Chair.

2.4 Where it is not possible to nominate an Independent Commissioner, the Chair of the JAC may nominate an independent third party to take the role of the Independent Commissioner

2.5 The Independent Commissioner prior to any proposed resolution will investigate each complaint.

2.6 A complainant not satisfied with the resolution proposed by the Independent Commissioner will have the right of appeal.

2.7 Where a complaint alleges misconduct against a States or independent body employee, the matter will be considered under the disciplinary procedures of the relevant organisation and not this procedure.

3. Process

3.1 The candidate should write to the Secretary of JAC detailing the complaint.

3.2 Stage 1 (to be completed normally within 10 days)

3.2.1 For complaints considered by the Secretary of JAC to be minor or easily resolved, an informal meeting will be arranged with the complainant and a member of the States HR team to seek informal resolution. If this proves not to be possible, the Secretary will pass the matter to an Independent Commissioner who will arrange for the matter to progress to stage 2.

3.3 Stage 2 (to be completed normally within 15 days)

3.3.1 The Independent Commissioner will investigate the complaint. This may include a meeting with the complainant. Meetings will be minuted and the complainant may request to be accompanied by a representative or for someone to speak on their behalf. However, the representative will not be able to answer questions on behalf of the complainant.

3.3.2 The Independent Commissioner will write to the complainant confirming the conclusion of the investigation into the complaint.

3.4 Stage 3 (to be completed normally within 15 days)

3.4.1 If the complainant is not satisfied with the outcome under Stage 2, the complainant will have a right of appeal. An appeal must be made within 5 working days of the written notification under Stage 2 and outline the reasons for the appeal. The Chair of JAC will consider the appeal or, if the Chair is the subject of the appeal or involved in the recruitment process, the appeal will be considered by a Commissioner who has not been involved in the complaint (the "Appeal Chair").

3.4.2 The Appeal Chair will investigate the appeal. This may include a meeting with the complainant. Meetings will be minuted and the complainant may request to be accompanied by a representative or for someone to speak on their behalf. However, the representative will not be able to answer questions on behalf of the complainant.

3.4.3 The Appeal Chair will write to the complainant confirming the conclusion of the investigation into the complaint. This decision will be final.

4. Complaints about appointments with which the JAC were not directly involved.

The JAC will only consider complaints about recruitment processes for appointments with which they have been directly involved. Complaints about other appointments should be made to the Director General of the Department (for States of Jersey posts) or the CEO/Chair of the independent body in accordance with their complaints process.

5. Useful Contacts

You can email the Secretary of the JAC at the following address: appointmentscommission@gov.je

Appendix 3

Compliance and Sanctions

1. Employees of the States of Jersey

1.1 Director Generals of Departments and Accounting Officers are required to confirm on an annual basis that they have complied with Codes of Practice issued under Article 8(2) of the Employment of States of Jersey Employees (Jersey) Law 2005, and which have been delegated formally under Article 10 of the Law. The codes of practice includes the Code on Recruitment and Selection as well as a range of other employment codes.

1.2 Director Generals and Accounting Officers are therefore required to certify annually that they have complied with these Guidelines.

1.3 The Commission may intervene[16] in the recruitment of a States' employee if the Commission believes that there is non-compliance with the Code of Practice on Recruitment and Selection. The Commission will notify the SEB and the Department conducting the recruitment of its decision to intervene and the reasons for doing so.

2. Appointees and members of Independent Bodies

2.1 Chairs of Boards, Trustees, or the Chair of the appointment board will be asked to certify on an annual basis that they have complied with these Guidelines.

2.2 Independent Bodies will be categorised on a Red, Amber, Green basis on an annual basis in the Jersey Appointments Commission Annual report for the year. The Annual Report will also comment on any specific issues or areas for improvement.

[16] S26A Employment of States of Jersey Employees (Jersey) Law 2005