

20 May 2021

The processes followed in respect of the severance of the employment of the former Chief Executive highlight weaknesses in policies and procedures

Comptroller and Auditor General issues latest report alongside her Certificate on the States of Jersey 2020 Annual Report and Accounts

Comptroller and Auditor General (C&AG), Lynn Pamment, has today 20 May 2021 issued her Certificate on the 2020 Annual Report and Accounts of the States of Jersey ('the C&AG's Certificate'). In doing so she has used her powers under Article 12(3) of the Comptroller and Auditor General (Jersey) Law 2014 ('the 2014 Law') to draw attention to the severance payment made to the former Chief Executive. The C&AG has also today published a report to the States Assembly on **States Employment Board - follow up: Employment of the former Chief Executive** using her powers under Article 11(2) of the 2014 Law.

The C&AG's Certificate draws attention to the Qualified Opinion on Regularity contained within the Independent Auditor's Report to the States Assembly on page 231 of the States of Jersey Annual Report and Accounts 2020. The C&AG notes that the Independent Auditor has reported that their audit identified an exception related to the settlement agreement in respect of the severance of the former Chief Executive's employment contract. The Independent Auditor has reported that the Public Finances Manual (Special Payments) requires that where payments are being considered, Treasury and Exchequer must always be consulted. In the view of the Independent Auditor, the amount agreed was in excess of the minimum contractual requirements and the consultation required by the Manual did not take place.

Whilst the Independent Auditor has issued a Qualified Opinion on Regularity, this does not mean that the States lacked the power to agree and make the payment. The C&AG's Certificate states that the circumstances of and processes followed in respect of the severance of the former Chief Executive have however highlighted a number of weaknesses in policies and procedures in the States of Jersey. These weaknesses include non-compliance with the requirements of the Public Finances Manual in respect of the payment made.

The C&AG's Report *States Employment Board – follow up: Employment of the former Chief Executive* evaluates the circumstances surrounding the severance of the employment of the former Chief Executive in so far as they relate to internal control, economy, efficiency and effectiveness and corporate governance.

Lynn Pamment found that the States Employment Board (SEB), as employer of the former Chief Executive, took a key role in agreeing the former Chief Executive's terms and conditions of employment, outside the terms and conditions that apply to other staff. At the time that the contract of employment was agreed, the SEB considered the employer's potential liabilities in the event of early termination of the contract or early retirement of the former Chief Executive. The SEB made an informed decision on the nature of the terms which it was willing to agree.

The C&AG notes that in practice the Chief Minister acted as line manager for the former Chief Executive. This position was not however supported by a formal delegation from the SEB. There were also limited procedures in place to deal with situations where the Chief Executive has a conflict of interest.

The C&AG found that the SEB had considered alternative options before reaching a compromise agreement with the former Chief Executive for the severance of his employment. There were however limitations to the alternative options.

The C&AG notes that the compromise agreement reached resulted in a payment of £500,000 to the former Chief Executive. At the time of the compromise agreement, this £500,000 payment to the former Chief Executive was, in the view of the C&AG, in excess of his maximum entitlement under his contract of employment and associated side letter. However, the C&AG considers that the actual settlement agreed was reasonable in light of the potential claims that the employer might have faced and the costs of defending them.

The C&AG found that there was initial uncertainty as to which budget head the severance payment fell under and therefore who should be the Accountable Officer for the payment made to the former Chief Executive.

The C&AG notes that the former Chief Executive was subsequently re-employed under a fixed term contract with a period of seven days between the termination of his original contract of employment and the commencement of a new fixed term contract. During this seven day period the former Chief Executive acted as an unpaid advisor to the Council of Ministers. The exact nature and status of this role was not documented or communicated to senior staff.

Whilst there was a common understanding that the former Chief Executive remained Chief Executive in the period of overlap between his fixed term contract and the employment of the Interim Chief Executive, there was the potential for confusion as the written contracts of both individuals stated that they held the post of Chief Executive and performed the associated roles.

Lynn Pamment said:

“The circumstances of and processes followed in respect of the severance of the employment of the former Chief Executive have highlighted a number of weaknesses in policies and procedures in the States of Jersey. Recommendations from previous C&AG reports in respect of improved documentation standards for cases leading to compromise agreements and ensuring that reports to and minutes of the SEB include a clear rationale for exit terms proposed and agreed, have not been implemented.

Whilst I consider that the settlement reached was not unreasonable in the circumstances, I have made a number of recommendations to improve policies and procedures going forwards.”

The C&AG’s Certificate can be found on page 244 of the 2020 Annual Report and Accounts of the States of Jersey.

The C&AG report *States Employment Board - follow up: Employment of the former Chief Executive* can be found at: <https://www.jerseyauditoffice.je>

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Notes to Editors:

- The Office of Comptroller and Auditor General (‘C&AG’) was established in 2005 and operates under the Comptroller and Auditor General (Jersey) Law 2014
- The remit of the C&AG includes the audit of financial statements, corporate governance, internal control and wider consideration of public funds, often expressed as ‘value for money’
- The 2021 Audit Plan (including further details of the C&AG COVID-19 work programme) can be found at: www.jerseyauditoffice.je
- Lynn Pamment took up the Office of C&AG on 1 January 2020 for a fixed term of seven years. Following the introduction of the Comptroller and Auditor General (Jersey) Law 2014 the term of office is fixed at seven years and is non-renewable.
- The Office of Comptroller & Auditor General is known as the ‘Jersey Audit Office’.
- Contact details are: de Carteret House, 7 Castle Street, St Helier, Jersey JE2 3BT / T:716800 / E: enquiries@jerseyauditoffice.je

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- Press releases will be published by the Jersey Audit Office to accompany the publication of each report
- Embargo times, where set, will be at 0001 hours on the day of publication - for press releases, reports and all other information pertaining to the publication date

- Other press releases/ statements may be made on an occasional basis and not necessarily dependent upon the publication of a report. They will be subject to the same embargoes where set
- With any report issued, the opportunity is available for members of the press to request factual clarification, by email, of points contained therein
- Any comments made additional to any reports, will be included within any press release(s) as issued by the Jersey Audit Office, in the form of a quotation by the C&AG. These comments will be available for publication; but there will not be any supplementary live or pre-recorded interviews offered or undertaken by either Lynn Pamment or the staff of the Jersey Audit Office
- The C&AG is prepared, on an occasional basis, to provide articles for publication in the local media, following a specific request and consideration of the relevant topic
- All public information, including press releases and reports, are accessible on the Jersey Audit Office website at www.jerseyauditoffice.je