

STATES OF JERSEY



PUBLIC FINANCES (JERSEY) LAW 2005: FUNDING REQUESTS UNDER ARTICLE 11(8)

**Lodged au Greffe on 2nd June 2009
by the Minister for Treasury and Resources**

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

- (a) in accordance with Article 11(8) of the Public Finances (Jersey) Law 2005 to amend the expenditure approval for 2009 approved by the States on 23rd September 2008 in respect of the Treasury and Resources Department to permit the withdrawal of up to an additional £4,250,000 from the consolidated fund to be reallocated for the net revenue expenditure of a number of departments in order to fund the Historic Child Abuse Enquiry and that the funding up to a maximum of £4,250,000 should only be made available to departments from the allocation to the Treasury and Resources Department by public Ministerial Decision of the Minister for Treasury and Resources based on documented evidence of actual additional costs incurred as a result of the Historic Child Abuse Enquiry;
- (b) in accordance with Article 11(8) of the Public Finances (Jersey) Law 2005 to amend the expenditure approval for 2009 approved by the States on 23rd September 2008 in respect of the Treasury and Resources Department to permit the withdrawal of up to an additional £2,900,000 from the consolidated fund to be allocated to the Health and Social Services Department as a result of a funding shortfall caused by the ending of the Reciprocal Health Agreement with the U.K. and that the funding up to a maximum of £2,900,000 should only be made available to the Health and Social Services Department from the allocation to the Treasury and Resources Department by public Ministerial Decision of the Minister for Treasury and Resources based on a request from the Minister for Health and Social Services together with documented evidence of actual income lost as a result of the ending of the Reciprocal Health Agreement with the U.K. and evidence that the claim was necessary, that it could not be met from existing resources and that all possible measures had been taken to secure payment by visitors from the U.K. and their insurers;
- (c) in accordance with Article 11(8) of the Public Finances (Jersey) Law 2005 to amend the expenditure approval for 2009 approved by the States on 23rd September 2008 in respect of the Treasury and Resources Department to permit the withdrawal of up to an additional £3,100,000 from the consolidated fund to be allocated to the Social Security Department as a result of the economic downturn and that the funding up to a maximum of £3,100,000 should only be made available to the Social Security Department from the allocation to the Treasury and Resources Department by public Ministerial Decision of the Minister for Treasury and Resources based on a request from the Minister for Social Security together with documented evidence of actual costs incurred as a result of the economic downturn.

MINISTER FOR TREASURY AND RESOURCES

REPORT

Background

Under the Public Finances (Jersey) Law 2005, heads of expenditure for departments are, in the normal course of events, approved as part of the Annual Business Plan approval process by the States. The sum of such approvals is known as the “expenditure approval”. The Public Finances Law, does, however, state in Article 11(8) –

- (8) ... the States may, at any time, amend an expenditure approval on a proposition lodged by the Minister on the grounds that –
 - (a) there is an urgent need for expenditure; and
 - (b) no expenditure approval is available.

There is a need for the States to consider a request under Article 11(8) in relation to –

- the Historic Child Abuse Enquiry (HCAE);
- the ending of the Reciprocal Health Agreement with the U.K. This request is to cover the loss of revenues to the Health and Social Services Department (H&SS) arising from the termination of the Reciprocal Health Agreement;
- additional costs incurred by the Social Security Department as a result of the economic downturn.

This request will not, in itself, result in recurring additions to departments’ cash limits. However, recurrent funding may be proposed by the Council of Ministers in the 2010 Annual Business Plan.

Historic Child Abuse Enquiry

Historic Child Abuse Enquiry funding to date

Members will be aware of a number of public assurances given that all necessary resources would be made available to enable a full investigation to be carried out relating to the Historic Child Abuse Enquiry. In connection with this the Minister for Treasury and Resources, via the Treasurer of the States, has been asking each department to provide quarterly returns detailing an analysis of spend to date.

P.91/2008 (Historic Child Abuse Enquiry – Funding) was approved by the States on 8th September 2008. This agreed to allocate up to £7,500,000 to the Treasury and Resources Department in order to reimburse departments for actual expenditure incurred on the Enquiry. This funding was to be held by the Treasury and Resources Department and reimbursed to departments quarterly on the basis of returns of actual expenditure incurred. Accounting Officers are asked to certify that –

- there are appropriate controls in place to ensure that funds are being spent appropriately and that value for money is being achieved; and that
- financial directions are being complied with in respect of this expenditure.

To date £6,108,534 has been reimbursed to Departments as follows –

Department	Allocated	Allocated	Allocated	Total
	June	September	December	2008
	£	£	£	£
Health and Social Services	124,000	29,000	117,000	270,000
Home Affairs	2,579,000	1,068,000	875,067	4,522,067
Treasury and Resources (Property Holdings)	0	0	96,927	96,927
Law Officers	0	479,064	447,389	926,453
Economic Development	210,000	0	0	210,000
Chief Minister's	47,417	3,583	32,087	83,087
Total	2,960,417	1,579,647	1,568,470	6,108,534

Further information on expenditure reimbursed is available in the following Ministerial Decisions –

- MD-TR-2008-0086
- MD-TR-2008-0141
- MD-TR-2009-0011.

Two departments spent more than their 2008 forecast – Home Affairs (£67) and the Chief Minister's Department (£2,087). A further £846,250 was expected to be spent in 2008 but will now be carried forward as “earmarked” sums for the following Departments to be used in 2009 –

Health and Social Services – legal costs	154,630
ESC – Jersey Archive contract post	65,000
Treasury and Resources (Property Holdings) – lost income and possible reinstatement of building	453,073
Law Officers – legal fees	<u>173,547</u>
Total	<u>846,250</u>

This leaves a balance of £547,370 from the £7.5 million approved by the States to be used to meet further costs forecast to be incurred in 2009.

2009 Historic Child Abuse Enquiry funding request

The Treasurer of the States has asked departments to forecast 2009 expenditure related to the Enquiry. Four departments are forecasting expenditure in 2009 (in addition to the carried forward amounts) –

	£
Law Officers' Department	881,453
Home Affairs	2,500,500
Health and Social Services	1,177,000
Education, Sport and Culture	<u>70,000</u>
Total	<u>4,628,953</u>

Details relating to each of these Departments are included below.

Law Officers' Department

- Best estimate of Legal Fees in 2009 – £975,000
- Temporary legal adviser at Police H.Q. – £80,000.

Home Affairs

The costs already incurred by the States of Jersey Police are being reviewed and significant work has been undertaken to reduce the resource requirements for 2009. The initial estimates indicate that, based on the current level of the investigation, £2,500,500 will be required in 2009, almost £2 million less than 2008. The detailed estimated costs for 2009 are as follows –

	Total £'000
Staff	1,703.60
Travel, Accommodation and Subsistence	592.20
Other	204.70
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Total	2,500.50

The estimates exclude any costs associated with –

- any future Public Inquiry;
- any future claims for compensation plus costs of administration;
- the outcome of the investigation currently being undertaken by Wiltshire Police concerning the Chief Officer of the States of Jersey Police;
- any additional workload associated with any further witnesses and/or alleged victims.

Health and Social Services

The two main elements are legal fees and the Trauma Support team which is necessary to pick up the caseload of potential abuse victims who have been managed by the NSPCC and the police to date. H&SS believe that these clients must now start to enter into H&SS mainstream services and there is a need to ensure H&SS can deliver services in a professional and timely fashion.

	£'000
Legal Defence Claims	770
Psychology Trauma Support Team	154
Support for Care Leavers	85
Other	<hr/> 168
Total	1,177

It should be noted that the Department is also forecasting expenditure relating to the Enquiry for future years –

- 2010 – £1.665 million
- 2011 – £1.038 million
- 2012 – £650,000.

Education, Sport and Culture

£70,000 to fund a contract post at the Jersey Archive and improve storage to appraise and catalogue all departmental records potentially relating to the enquiry. This was agreed by the Minister for Treasury and Resources in 2008 for a period of 2 years.

Summary of funding request

The total sum forecast as required for 2009 is £4,083,737 calculated as follows –

	£
Law Officers' Department	881,453
Home Affairs	2,500,500
Health and Social Services	1,177,000
Education, Sport and Culture	<u>70,000</u>
 Total	4,628,953
 Less balance from 2008	-547,370
 Add 2008 overspends	2,154
 Funding requested	<u>4,083,737</u>

In order to allow a degree of flexibility, approval is being sought from the States for up to an additional £4.25 million, to be allocated initially to the Treasury and Resources Department. The Treasury and Resources Department will only draw down such sums as are needed from the consolidated fund to reallocate to departments to reimburse actual expenditure in accordance with the procedures outlined below. The States are being asked for approval of up to the full projected sum rather than being asked for piecemeal approvals.

The total forecast additional funding required for the Enquiry to the end of 2009 is therefore £11,583,737 calculated as follows –

	£
Actual 2008 expenditure	6,108,534
Earmarked from 2008	846,250
2009 requests	<u>4,628,953</u>
 <u>11,583,737</u>	

Summary of HCAE funding

	2008 allocation £	2008 Spend £	Balance £	Requested to be carried forward £	Available to reallocate £	2009 spend £	Forecast spend £	Total HCAE spend £
Health and Social Services	424,630	270,000	154,630	154,630	0	1,177,000	0	1,601,630
ESCC - Jersey Archive	65,000	0	65,000	65,000	0	70,000	0	135,000
Home Affairs	4,522,000	4,522,067	-67	0	0	2,500,500	0	7,022,567
Treasury and Resources (Property Holdings)	550,000	96,927	453,073	453,073	0	0	0	550,000
Law Officers	1,100,000	926,453	173,547	173,547	0	881,453	0	1,981,453
Judicial Greffe	150,000	0	150,000	0	150,000	0	0	0
Economic Development	210,000	210,000	0	0	0	0	0	210,000
Chief Minister's	81,000	83,087	-2,087	0	0	0	0	83,087
	7,102,630	6,108,534	994,096	846,250	150,000	4,628,953	11,583,737	
Contingency	397,370			397,370	397,370			
Approved by the States 2008						547,370		
Balance available to reallocate							4,081,583	
Contingency							168,417	
2009 request to the States								4,250,000

Proposals for release of additional funding

As with the 2008 funding, should the States agree an additional expenditure approval of up to £4.25 million, it is proposed that this is initially allocated to the Treasury and Resources Department. Amounts drawn down will only be reallocated to individual departments by public Ministerial Decision of the Minister for Treasury and Resources. These allocations will be based on additional expenditure actually incurred that cannot be met from existing cash limits. Ministers, Accounting Officers and Finance Directors will be required to confirm claims as proper, justified and necessary. In particular, Ministers will be asked to confirm assurances from Accounting Officers that –

- costs are essential to the Historic Child Abuse Enquiry;
- costs cannot be absorbed within existing cash limits;
- costs are additional to usual expenses;
- reimbursements of funds will only be used for the purposes intended;
- there are appropriate controls in place to ensure that funds are being spent appropriately and that value for money is being achieved; and that
- financial directions are being complied with in respect of this expenditure.

Claims may be subject to review and internal audit. Treasury officials will review claims, and the Minister for Treasury and Resources will consider claims and make a Ministerial Decision prior to any funds being released to Departments.

Consequences of non-approval

Should the States not approve this proposition, then the costs of the Inquiry would still be incurred, so accounting officers would have to take immediate action to ensure that those costs are absorbed within existing budgets. This would probably require severe cutbacks in front line services.

Ending of the Reciprocal Health Agreement with the U.K.

Reciprocal Health Agreement (RHA) with the U.K.

The U.K. government has now terminated the RHA (with effect from 1st April 2009) which has governed the arrangements for health care between these jurisdictions since May 1976. The effect of the termination of the RHA means that Health and Social Services (H&SS) will no longer be able to charge the U.K. Government for urgent and necessary healthcare treatments provided to U.K. residents whilst they are in Jersey. The annual loss of income is estimated by H&SS to be £3.9 million and the actual loss of income between 1st April 2009 and 31st December 2009 to be £2.9 million.

The RHA between the United Kingdom and the Channel Islands governed the arrangement by which U.K. citizens received emergency treatment in the Channel Islands – and Channel Islanders received emergency treatment in the U.K.

Health and Social Services Department

The Health and Social Services Department have provided the following background and explanation –

“Whilst a very complicated matter, it is possible to estimate the differential impact of the withdrawal from the RHA by the U.K. and by Jersey. In short, the U.K. will not be damaged financially by this, whereas Jersey will be seriously compromised by it. This is because the health and social care systems in the two jurisdictions are significantly different in the way in which finances are generated, healthcare providers are “paid” for the services they deliver and the way patient data is managed.

When a U.K. patient presents for emergency treatment at a hospital in the U.K., two pieces of information are taken from the patient. The first is the post code and the second is the name of the patient’s G.P. If a patient is able to give their home address post code (as most people can), but cannot give the name of the G.P. they are registered with, then this instigates a ‘red flag’ which prompts a junior administrator to meet with the patient and enquire as to their U.K. residential status. A Jersey person requiring treatment in the U.K. therefore, would be easily identified because they will be able to give a post code (a Jersey post code) which would be sufficient to instigate the ‘red flag’ intervention described above. Also they would give the address of their G.P. practice in Jersey and hence be easily recognised as a non-U.K. resident.

In Jersey many U.K. visitors stay with relatives at a Jersey address, which is post coded accordingly, but H&SS cannot identify the patient as being a ‘red flag’ patient because Jersey citizens do not have to register with a G.P. What all this means is that it is not always possible to identify those who have visited the Island and who would be eligible to make a payment for their emergency treatment. It will be a number of years before there is a new computerised system in Jersey which fully integrates hospital care and G.P. care – and as a consequence (with these new technologies) allows Jersey to better enable it to identify U.K. citizens who should be charged.

It is important to note that H&SS service budgets are supported by this fixed income that has historically been received from the U.K. on an annual basis, but H&SS is committed to ensuring that all patients who should be charged are charged and all income is recovered. Interim “manual” systems are being put in place to identify patients at admission and the admission forms have already been revised to assist the process.

Once a patient is identified as a possible charge they are interviewed by a member of the Finance team and if appropriate an invoice is generated, presented to them and ideally settled before they are discharged. This is an extremely emotive issue but if it transpires that H&SS start to have an unacceptable level of bad debt/non-payment then H&SS will insist that the patient (or relative) provides an impress of their credit card (somewhat like a quality hotel would do) so we can guarantee a level of income for that patient’s treatment.

The basis of the charge is the U.K. NHS healthcare “tariff” (this is not the same as private patient rates) made comparable to a central London provider by the NHS “market forces factor” index. This index is used as a proxy for the cost of living difference between Jersey and the U.K. The reason for using the U.K. NHS Tariff is that it can be seen as fair and transparent and hopefully removes debate or negotiation about the price, i.e. they are generally U.K. residents and we are charging them (or their insurance company) U.K. Tariff

Rates which would be the same as if their treatment occurred in a Central London U.K. NHS Hospital.”

Expenditure Approval

Should the States agree an additional expenditure approval of up to £2.9 million, it is proposed that this is initially allocated to the Treasury and Resources Department and requests for specific funding to meet actual lost income be made from the Minister for Health and Social Services on a quarterly basis.

Each quarterly claim would be accompanied by an assurance from the Health and Social Services Accounting Officer and Finance Director that the claim was necessary, that it could not be met from existing resources and that all possible measures had been taken to secure payment by visitors from the U.K. and their insurers. All claims will be subject to review and audit at the discretion of the Minister for Treasury and Resources.

Increased Social Security costs as a result of the economic downturn

Income Support

As a result of the economic downturn, the Social Security Department has indicated it will suffer additional costs (e.g. income support) in 2009 that it will be unable to absorb. An estimate of these costs was also identified in the calculation of the costs of automatic stabilisers for 2009 as part of P.55/2009, but it was always intended to fund these costs from the available balance on the Consolidated Fund in 2009 through an Article 11(8) request.

In terms of income support spend, normal expenditure trends would have expected costs to rise during 2008 as the system bedded in, then level off. However, initial analysis of the data shows that the impact of the recession has resulted in costs continuing to increase on average between 0.4% to 1.7% per month, with no indication that this will slow down. Consequently, the Department is forecasting income support costs to exceed the available budget by up to £2.3 million for 2009. As a result of the increase in administration costs (due to additional claims and increased demands upon the Workzone, by those seeking employment) an additional 5 temporary staff will be needed up to the end of 2009 at a cost of £111,000.

Further analysis is underway to determine the drivers which are influencing the daily rate of income support benefit.

Supplementation

The 2009 budget is set at £68.1 million.

Forecasts based on the most recent available quarter actual data (Qtr D 2008) indicate that the cost of supplementation could be within the range of £67.5 to £68.1 million in 2009.

It has been suggested that as a result of Income Support costs rising, this should be discounted against the ‘saving’ in supplementation arising from increased

unemployment. This is reasonable; however in the wider population other factors need to be considered. A reduction in pay or a pay freeze can impact on costs in 2 ways –

- Earners already in receipt of supplementation require more which results in supplementation costs increasing;
- Earners previously just above the supplementation threshold are pulled below it and they then receive supplementation.

The distribution of earners above the threshold is a key driver that will impact on the numbers receiving supplementation. Initial modelling shows that if all those who receive supplementation have a pay freeze in 2009 the cost could amount to an additional £3.7 million. Though this is unlikely, based on employment numbers in 2008, if 20% (10,600) of these had a pay freeze this would increase supplementation by £740,000. This would indicate a revised forecast out-turn within the range £68.24 to £68.84 million.

More will be known once the cost for January to March 2009 is finalised in mid June.

Financial and manpower implications

If the States approve all parts of this proposition the combined effect on States expenditure for 2009 will be –

	£
Historic Child Abuse Enquiry	4,250,000
Reciprocal Health	2,900,000
Social Security	3,100,000
	<u>10,250,000</u>

This is equivalent to a further 1.9% increase in the approved 2009 cash limit and will take the total increase over the 2008 cash limit to 4.9%.

Manpower implications in respect of the Historic Child Abuse Enquiry are a contract post of one in Education, Sport and Culture which ends in 2010, and 9 full-time equivalent (FTE) staff in Health and Social Services which will be contract posts wherever possible. Additional staffing in Social Security is 5 temporary staff in Income Support. Health and Social Services will also need additional staff (1-3 FTE) to identify income due as a result of the ending of the Reciprocal Health Agreement with the U.K.

Re-issue Note

This project is re-issued because an incorrect version was inadvertently prepared for printing.