

STATES OF JERSEY



CHANGES TO THE OBJECTS AND PURPOSE OF THE ANN ALICE RAYNER FUND (P.92/2021): COMMENTS

Presented to the States on 19th November 2021
by the Corporate Services Scrutiny Panel
Earliest date for debate: 23rd November 2021

STATES GREFFE

COMMENTS

Background

1. The Changes to the Objects and Purpose of the Ann Alice Rayner Fund Proposition [P.92/2021](#) (the Proposition) lodged by the Minister for Treasury and Resources (the Minister) will, if adopted, make various amendments to the Proposition [[P.38/2001](#)] entitled Ann Alice Rayner Fund: Objects, Purpose and Administration which was agreed by the States Assembly on the 27th March 2001.
2. The Corporate Services Scrutiny Panel (the Panel) reviews matters proposed by the Minister for Treasury and Resources and concluded it would provide Comments to highlight its concerns in relation to the Proposition.
3. In preparing its Comments to the Proposition the Panel focussed on ascertaining if:
 - the suggested changes delivered against the intentions of the Ann Alice Rayner Fund (the Fund).
 - an effective and efficient framework had been supplied with enough detail to substantiate the changes to the Objects and Purpose of the Fund.
4. The Panel notes that the proposal does provide the foundations for enhanced governance, accountability, transparency and standards for the administration of the Fund. However, the Panel has various concerns in relation to certain detail contained in the Proposition which it concludes should be addressed by the Minister prior to the Assembly debate.

Amendment to Objects and Purposes of the Fund

5. The Proposition if adopted will delete the words “or philanthropic” from the objects and purposes of the Fund when it occurs in paragraph (a)(2).
6. The Panel requested the full and complete rationale behind the removal of the word “philanthropic” from the Fund purpose in a letter to the Minister¹. The reply from the Minister² confirmed:

“in a general sense, “charitable” is commonly understood to relate to addressing issues in a manner of immediate response to an issue, whereas “philanthropic” relates to actions to tackle underlying causes (usually in a longer-term manner).

The original bequest from Ann Alice Rayner contained two parts. The first part may be considered “philanthropic” in the manner defined above, and the second part may likewise be considered “charitable”. Firstly, the bequest was to provide a Nurse’s Home and equipment to the General Hospital and to help inmates of the Poor Law Department. Secondly, the remainder was to be used for ‘grants of pecuniary relief in any form to needy persons or the needy persons or either sex of the professional classes residing in Jersey.

¹ [CSSP Letter to Minister for Treasury and Resources – 15 October 2021](#)

² [Minister for Treasury and Resources reply to CSSP Letter – 21 October 2021](#)

The first part has become an absorbed responsibility of States of Jersey expenditure, meaning that the remaining funds were to cater for pecuniary relief of the needy (though without the original restriction to professional classes)."

7. The Panel are concerned by the Minister's rationale³ to the proposed removal of the "philanthropic" wording of the Fund as the States of Jersey have absorbed only limited responsibilities to those specifically stipulated by the Fund and the Panel concludes that it would therefore have a detrimental effect on the intended purpose of the Fund if adopted.
8. Whilst the Panel appreciates the intended charitable purpose may need modernisation, the proposed removal of the 'philanthropic' wording could make the Fund inaccessible to those it was intended to assist when bequeathed by Ann Alice Rayner. The Panel would suggest that amendments should be considered to provide specifically for nurses and patients in hospital in need as well as hospital equipment.

Clarity on Strategy

9. The Bailiff of Jersey gave notice in November 2020 of the intended administration changes required for the Ann Alice Rayner Fund to the Trustee and the Minister for Treasury and Resources and in February 2021 advised of the intention of Jurats to stand down in October 2021. However, the Minister for Treasury and Resources did not lodge the Proposition until the 28th September 2021 and did not update the Assembly of intended actions.

The consequence of lodging the Proposition at such a late stage to the Jurats standing down and not updating the Assembly of intended actions has restricted scrutiny and limited questioning by States Members to inform the debate.

10. Page 6 of the Proposition Report highlights that:

"At the date of drafting this proposition, the Treasurer is also lodging a representation with the Royal Court to seek authority to vary the terms of the Greville Bathe Trust, and to confer upon the Treasurer, as Trustee, a power to appoint income administrator (s) in respect of the Greville Bathe Trust and a corresponding power to terminate appointments. It is the Treasurer's intention to similarly appoint the JCF as income administrator of the Greville Bathe Trust on a pilot basis"

The Panel are concerned that the Proposition goes beyond amendments of the Ann Alice Rayner Fund and that it would appear that the Assembly in agreeing this Proposition will set a precedence for the management of other Gift Funds held by Government.

11. The Proposition Report also confirms that:

³ [Minister for Treasury and Resources reply to CSSP Letter – 21 October 2021](#)

“the Trustee (the Treasurer) is exploring the model of an Office of a Public Trustee (“OPT”) which would enable the Trusteeship of various Gift Funds to transfer to an independent body.”⁴

The Panel are concerned that the transfer of the trusteeship to an independent body could affect the responsibilities of the Treasurer as Trustee and Accountable Officer as defined in the Public Finance Law but that this is not addressed within the Proposition or its Report and should be provided to clarify the position for the Assembly.

Accountability

12. The Proposition [P.38/2001] agreed by the Assembly in 2001 refers to “the delegation” which consisted of the four Jurats appointed as the Ann Alice Rayner Fund delegation. However, the Proposition [P.92/2021] removes its reference in paragraphs (b)(1) but then continues to use it in (b)(5), (b)(7) and (b)(8) even though the reference point does not exist.
13. Terminology in the lodged proposition [P.92/2021] refers to an independent corporate administrator (b)(1) and then an income administrator (b)(2). The Panel concludes this must be the same ‘role’ yet there is no reference to determine the link.
14. The Proposition [P.92/2021] also changes the wording from the ‘income’ of the Fund [P.38/2001 (b)(3)] to the ‘returns’ of the fund [P.92/2021(b)(2)] but with no clarification as to the reasoning within the Report. It is also not clear from either of these definitions that it is the ‘invested returns’ which the administrator makes grants or loans of the fund and it would be prudent to ensure that this wording be clarified in the lodged proposition.
15. The Panel concludes that without correlated reference points and confirmation being provided in the Proposition it is difficult to ascertain the lines of accountability, which is essential when considering the responsibilities of all stakeholders and the Assembly agreeing the Proposition.

Governance

16. The Proposition Report confirms that the 18 month ‘pilot’ programme is an interim solution in relation to the income administrator appointment. The Panel agrees with the Comptroller and Auditor General’s recommendation,⁵ provided to the Panel, which suggested that there should be a formal consultation on the outcomes of the 18-month pilot programme.
17. The lodged Proposition and Report for Assembly consideration is silent on various engagement terms of the independent corporate administrator including confirmation on costs. The Panel concludes that the terms of the Service Level Agreement should be provided to the Assembly to inform its decision making.

⁴ P.92/2021 – Page 5: Paragraph 4

⁵ Comptroller and Auditor General letter to CSSP – 12th November 2021

18. The accounts for the Ann Alice Rayner Fund have not been published on Gov.je⁶ since 2017. The Assembly should be able to access up to date records of the Fund to inform its decision making.

Conclusions

Amendment to Objects and Purpose of the Fund

19. The deletion of the word “philanthropic” within the Proposition will have a detrimental effect on the intended objects and purpose of the Fund.
20. The Fund's “philanthropic” wording should be updated and modernised to reflect the intent of the Fund when established by Ann Alice Rayner and continue to acknowledge nurses and hospital equipment as beneficiaries of the Fund.

Strategy

21. The Proposition was lodged on the cusp of the Jurat’s departures even though the Minister and Treasurer knew the timetable for several months. The delay in lodging this Proposition has restricted scrutiny and limited questioning by the Assembly to inform the debate, which is highly regrettable.
22. The Proposition Report indicates that its approval will instigate changes beyond the amendments of the Ann Alice Rayner Fund and will affect the Greville Bathe Fund. The Panel concludes that the Assembly might therefore consider carefully how the approval of this Proposition will set a precedent for other Gift Funds held.
23. The Panel requests that the Minister provides further clarification to the Assembly on the model of an Office of a Public Trustee being explored, and confirms how this change could impact the responsibilities of the Treasurer as Trustee to Trust Funds and Accountable Officer for the Treasury department, as defined in the Public Finance Law, as it is not apparent within the Proposition or Report.

Accountability

24. The Panel requests that the Minister considers the terminology within the Proposition and ensures that correlated reference points and confirmation in the lines of accountability are clear given the different responsibilities of each stakeholder.

Governance

25. The Panel concludes that the Minister should agree to a formal consultation on the outcomes of the 18-month pilot programme as recommended to the Panel by the Comptroller and Auditor General.
26. The Panel concludes that the Minister should provide the Assembly with all relevant terms and financials arrangements of the income administrator to ensure the Assembly holds all relevant detail prior to the debate.

⁶ [Ann Alice Rayner Fund \(gov.je\)](http://gov.je)

27. The Panel concludes that the Minister should ensure that the Assembly can access all relevant accounting records of the Fund to inform its decision making.
28. The Panel recommends that the Minister delay the debate of the Proposition and consider amendments and provides transparency in response to the Panel's Comments Paper prior to a debate within the Assembly.

Statement under Standing Order 37A [Presentation of comment relating to a proposition]

These comments were submitted to the States Greffe after the noon deadline as set out in Standing Order 37A due to the high volume of work being undertaken by the Panel at this time.