

**WRITTEN QUESTION TO THE CHIEF MINISTER
BY SENATOR K.L. MOORE
QUESTION SUBMITTED ON MONDAY 22nd FEBRUARY 2021
ANSWER TO BE TABLED ON MONDAY 1st MARCH 2021**

Question

Will the Chief Minister state how many letters of instruction have been issued by Ministers since the 2018 election, with the information broken down by year, Minister, and the subject of the decision?

Answer

Accountable Officers (who are normally the Directors General) are appointed by the Principal Accountable Officer (PAO) in government departments. The Public Finances Law 2019 places a personal responsibility on the Accountable Officer for a number of matters, including the propriety, regularity and value for money (economy, efficiency and effectiveness) of all income and expenditure for their area(s) of responsibility. In this respect Accountable Officers are accountable to the PAO and answerable to the Public Accounts Committee.

Letters of instruction are a procedure under the Public Finances Manual where an Accountable Officer considers that a course of action requested by the Minister responsible for their department's activity may have implications, specifically for these statutory responsibilities of propriety or regularity; economy, efficiency and effectiveness. In such instances the Accountable Officer will write to the Minister setting out their concerns. If the Minister still wishes to proceed, the Accountable Officer will request a formal letter of instruction. A copy of this letter must be sent to the Comptroller and Auditor General. The Public Accounts Committee should then be expected to recognise that the Accountable Officers bears no personal responsibility for the course of action.

The Chief Minister understands that the Treasury & Resources Minister has requested the Treasurer of the States for advice with the aim of publishing such letters in the future.

It is entirely possible for an Accountable Officer to understand and agree with the need or policy imperative for a particular course of action but still require a letter of instruction because of concerns relating to these narrower responsibilities.

The Chief Minister understands that four formal letters of instruction issued since the 2018 election. The first three concern support schemes for businesses suffering detriment as a result of Covid-19 and resulted from a need to accelerate that support. The fourth relates to an Education policy matter.

The first, dated 14th December 2020 from the Minister for Economic Development, Tourism, Sport and Culture to the Acting Director General, Economy (who is the Accountable Officer for that area of expenditure), concerned the Attractions and Events Scheme. The Accountable Officer had pointed out a number of risks relating to the Scheme. The Minister acknowledged these risks, but considered that they were outweighed by the urgent need to provide additional support to this sector. In instructing that the Scheme should continue, the Minister noted checks and balances in place and that the Scheme was supported by the Council of Ministers in their meeting of 16th October. The Scheme was funded from within the head of expenditure available to the Acting Director General, Economy.

The second, dated 29th January 2021 from the Minister for Treasury and Resources to the Treasurer of the States and the Director General – Customer and Local Services, concerned Phase 4 of the Co-funded Payroll Scheme (CFPS). Those Officers had written to the Minister on 28th January 2021. The Minister considered that, taking into account the economic advice received, the representations made by the business community, and the recommendations of her ministerial colleagues, the package of changes to the CFPS proposed by officers, and amended by Ministers, should be implemented in light of the need to deliver support and liquidity to the economy urgently. The amendment to the Scheme had been approved by the Competent Authorities Ministers and Ministers responsible for the CFPS on 20th January 2021. The Minister for Treasury and Resources accordingly allocated funding from the Covid Reserve by public ministerial decision (MD-TR-2021-0011).

The third, dated 8th February 2021 from the Minister for Economic Development, Tourism, Sport and Culture to the Acting Director General, Economy (who is the Accountable Officer for that area of expenditure) concerned the Fixed Cost Support Scheme. In this instance the Accountable Officer had expressed concern over a number of risks, but the Minister instructed that the Scheme be introduced to provide extra support for a broad range of impacted businesses not eligible for help under other Schemes. In doing so the Minister noted that the Scheme had been supported by the Competent Authorities Ministers and the Economic Recovery Political Oversight Group, and had a number of safeguards built into it. The Scheme was funded from within the head of expenditure available to the Acting Director General, Economy.

The fourth letter of instruction was issued on 25th February 2021 from the Minister for Children and Education to the Director General of Children, Young People, Education and Skills (the Accountable Officer). The Minister instructed the Accountable Officer to implement changes to the Nursery Education Fund (NEF) so that it offers up to 30 hours funded education each week, for 38 weeks, during school term-time only, from September 2021. The Minister further instructed an increased hourly rate for the registered providers to £6.70 per NEF funded hour. The Accountable Officer had identified a number of risks. The Minister considered that these risks were outweighed by the urgent need to honour the Government's commitments made by the previous Education Minister. CYPES will be expected to plan to meet the cost of the proposals from within their head of expenditure.

Letters of instruction are a valid and appropriate mechanism, to be used where necessary as part of an overall framework of good governance, used in Jersey and elsewhere, enabling Ministers to consider the wide range of issues they are required to, and allowing Accountable Officers to discharge their responsibilities.

The Jersey process outlined above is based upon a similar process in the UK, where Ministerial Directions are issued if Accountable Officers express concerns. Members may be interested to note that 19 such directions were issued by UK Ministers in 2020, and 2 so far in 2021. Further details can be found at <https://www.gov.uk/government/collections/ministerial-directions#2020>