

STATES OF JERSEY



JERSEY HERITAGE TRUST: SERVICE LEVEL AGREEMENT AND FUNDING REQUIREMENTS (P.75/2010) – COMMENTS

**Presented to the States on 13th July 2010
by the Public Accounts Committee**

STATES GREFFE

COMMENTS

The Public Accounts Committee (PAC) was disappointed at the timing of P.75/2010 – which was lodged on 8th June 2010. The Minister for Education, Sport and Culture was aware that the PAC was undertaking a comprehensive review of Jersey Heritage Trust and that publication of this Report was imminent.

The PAC has concerns both at a macro and a micro level.

Macro View

The obvious question to ask is why has an ad-hoc funding request been made to be included in the Draft Annual Business Plan 2011?

The answer is not clear.

The whole concept of the Ministerial system was that it would bring some structure to Government. The Council of Ministers would co-ordinate policy between departments and prepare an Annual Business Plan which would be submitted to the States Assembly for approval. It is understood that this proposition was prepared and lodged “au Greffe” without discussion at the Council of Ministers level despite the fact that it has implications for all Ministers.

It is difficult to see how the Council of Ministers could support a proposition lodged in such a manner, as it makes a mockery of the whole concept of joined-up government. Furthermore, it sets a dangerous precedent as it creates the opportunity for Ministers to act in silos and it opens the door for any Minister in the future to secure funds for his or her department on an ad-hoc basis, rather than a co-ordinated Business Plan presented to the States in accordance with the original concept. We could end up with a raft of individual propositions from silo-mentality Ministers.

Probably the most depressing aspect of the logic of the proposition is that from a funding perspective it actually achieves nothing. If adopted, the Annual Business Plan presented to the States will reflect the figures outlined in the proposition.

However, the Business Plan may be amended and the final document passed by the States may look very different to the lodged document. Therefore, Jersey Heritage Trust should be aware that the passing of P.75/2010 does not give them any certainty of funding.

The Minister may argue that the States Assembly would be unlikely to alter the JHT funding level set in P.75/2010 if passed during the Annual Business Plan debate, but the PAC does not agree with this stance.

When determining expenditure, the States Assembly must take a holistic view and not determine spends in isolation. An additional £200,000 may not seem so reasonable if the actual consequence is a £200,000 reduction in spending on cancer treatments or child protection services. The Public Accounts Committee strongly believes that the funding request should be part of the Annual Business Plan debate.

Micro View

The PAC does not intend to dwell on the weakness of the Service Level Agreement as proposed. We are disappointed that the Minister could not wait for the publication of the PAC review before lodging the proposition.

The Chairman's foreword to the PAC Financial Review of Jersey Heritage Trusts states –

'The key issue is that everyone should know and accept the deal through a Service Level Agreement that comprehensively covers all requirements'¹

The opinion of the PAC is that P.75/2010 does not achieve this aim.

Jersey Archive

The PAC recommended, in respect of Jersey Archives, that funding for areas of work required under statutory duties, including funding of building maintenance and depreciation, should be made in a ring-fenced grant that ensures that there are sufficient funds to meet all legal requirements.

It is a concern that if Freedom of Information legislation is passed, the Jersey Archive will face significant pressure to catalogue and put many thousands of documents into the public domain when they are already under-resourced. It is a concern of the PAC that the inability to fund the Public Records Law has not been addressed by P.75/2010 – in fact, it has not even been mentioned. Indeed, a reduction in the backlog of cataloguing stood at 21.8 years at the end of 2009 and now stands at 24 years. A performance indicator in P.75/2010 should be a reduction in the backlog.

In the PAC Report the Head Archivist commented as follows –

"I do feel that the 'family history' function of the archive is integrated into the Public Records Law – family history is just one area of research that the archive is used for. The Law states that we shall make records available for public access (Part 2, [Article] 9(c)) and by doing this we inevitably become a centre for family historians and many other researchers to use.

What could be separated as a non-legal essential is the promotion of the archive through talks and tours. The Law says that we may promote the work of the archive through 'education, advice and assistance' and the 'preservation, conservation, appreciation and use of public records' – I feel that the promotion of the work of the Archive is vital to ensure that the facility is fully used and appreciated by members of the public however the promotion is not strictly a legal requirement. In reality only a small amount of staff time (at most 5%) is actually spent on promotional activities with the majority of time spent on preservation, cataloguing and providing access – all of which are requirements of the law.

¹ P.A.C.3/2010: Foreword

My key priority for the archive is to achieve a level of funding which means that we can fully meet our obligations under the Public Records Law (and FOI) and meet the National Standards for Records Repositories. If the level of our funding is adjusted to meet these legal obligations and standards then I feel that the public investment in the archive building can be fully realised as a centre for information management, government accountability, preservation of cultural heritage and lifelong learning.

In terms of the placement of the archive – if funding was available to increase staff levels to the 11 as recommended in Dr. James’ report I would agree with his conclusion:

‘5.4. We found that the Jersey Heritage Trust provides a responsive and appropriate governing body and management framework for the operations of the archive service. Operationally, the archive service and other Trust activities dovetail well.’²

Of further concern to the PAC is the following statement by the Chairman of Trustees, Jersey Heritage Trust.

“I think the biggest risk is going to be the continued backlog of archiving in relation to the Public Records law and the anticipated tsunami under the Freedom of Information law. We have talked to the Minister about this, I understand the Minister does intend to develop plans and bring those to the States in due course. But I use the Archive as a good example of an entirely good decision to create a marvellous asset for the Island but not really looking forward to the implications.”³

States members should therefore be aware that P.75/2010 is not the complete piece of the jigsaw. The inference here is that the Minister for Education, Sport and Culture will come back to the States Assembly for additional archive funding.

The rationale for ring-fencing the Jersey Archive funding was to ensure that the funds are not used to cover shortfalls elsewhere in the JHT portfolio. We ask members to review the draft SLA in order to ascertain whether requirements in respect of the Jersey Archive have been achieved. They will find no reference to Jersey Archive in the Service Level Agreement, despite the fact that Archive duties overlap other areas of responsibility.

In the public hearing on 18th May 2010, the Chairman of Trustees stated that it was never the intention of the Jersey Heritage Trust to be the operator and owner of the amphibious vessels for use on the West Park to Elizabeth Castle route –

² P.A.C.3/2010: Appendix 6

³ Transcript from the Public Hearing with the Senior Management of JHT, 18th May 2010, page 36

“...Buying the existing vehicles was certainly not an alternative and from what I understand the eventual sale price to be I think had we paid the original asking price it would have been equally subject to criticism. It was to find an alternative solution, which we did and the aim is to find a solution whereby we did not end up owning and running vehicles. That was the last thing we wanted to do, we are not a transport company.””⁴

The PAC Report stated –

“The unwise decision to purchase the amphibious vehicles to the tune of approx half a million pounds was a major contributory factor to the decline in Jersey Heritage Trust’s financial health. The Comptroller and Auditor General’s report states in no uncertain terms that the Trust did not protect its commercial interests.

‘...when the management of the ferry service by the previous operators, Pure Adventure (Jersey) Limited, was proving unsatisfactory, the Trust did not take sufficient care to preserve the Trust’s commercial interests. In particular, it suggests that the Trust failed to preserve its right to claim that the operator’s poor performance had so breached the terms of the contract that it had repudiated the contract. As a result of this failure, when an agreement was reached by which the Trust took over management of the ferry and the operator withdrew, the Trust was obliged to make a payment to the operator (of the order of £120,000) for the benefit that the operator would have enjoyed had the contract continued.’”⁵

The PAC does not believe that the Jersey Heritage Trust should be the owner-operator of the DUKWs over the longer term. It is vitally important that the long-term plan for the operation of this service is detailed and changes made to the Service Level Agreement where appropriate. The Jersey Heritage Trust now owns a depreciating asset with a heavy running cost that is a distraction to a management team with no specialist knowledge in this area. The possibility of another States financial bail-out must be eliminated.

The PAC believes that P.75/2010 should be withdrawn and a more comprehensive and co-ordinated approach adopted by the Minister.

N.B. Mr. Kevin Keen, non-States Member of the PAC, did not have any input into this comment due to a conflict of interest.

⁴ Transcript from the Public Hearing with the Senior Management of JHT, 18th May 2010, page 14

⁵ P.A.C.3/2010: page 22