

# Public Accounts Committee

## Comments on Ministerial Decision MD/TR/2007/0057: Review of the Public Finances (Jersey) Law 2005

States of Jersey  
States Assembly



États de Jersey  
Assemblée des États

**Presented to the States on 18th September 2007.**

**P.A.C.4/2007**

## REPORT

### The Public Accounts Committee

The primary function of the Public Accounts Committee is defined in Standing Orders as the review of reports by the Comptroller and Auditor General regarding –

The audit of the Annual Accounts of the States of Jersey and to report to the States upon any significant issues arising from those reports;

Investigations into the economy, efficiency and effectiveness achieved in the use of resources by the States, States funded bodies, independently audited States bodies (apart from those that are companies owned and controlled by the States), and States aided independent bodies;

The adequacy of corporate governance arrangements within the States, States funded bodies, independently audited States bodies, and States aided independent bodies,

and to assess whether public funds have been applied for the purpose intended and whether extravagance and waste are being eradicated and sound financial practices applied throughout the administration of the States.

The Public Accounts Committee may also examine issues, other than those arising from the reports of the Comptroller and Auditor General, from time to time.

The Public Accounts Committee represents a specialised area of scrutiny. Scrutiny examines policy whereas the Public Accounts Committee examines the use of States' resources in the furtherance of those policies. Consequently, initial enquiries are made of Chief Officers rather than Ministers. This is not to say that enquiries may not be made of Ministers should the reports and recommendations of the Public Accounts Committee be ignored.

The work of the Public Accounts Committee is ongoing rather than on a one-off basis and the Committee will return to topics previously examined in order to evaluate whether recommendations have been followed or procedures improved. If such a follow-up is unsatisfactory then the Committee may decide to hold further public hearings in order to identify the reasons for the lack of progress.

The current membership of the Public Accounts Committee consists of –

#### States Members

Deputy Sarah Ferguson of St. Brelade (Chairman)

#### Independent Members

Deputy James Reed of St. Ouen (ViceChairman)  
Senator James Perchard  
Connétable Tom du Feu of St. Peter  
Connétable Dan Murphy of Grouville  
Deputy Alan Breckon of St. Saviour

Mr. Tony Grimes  
Advocate Alex Ohlsson  
Mr. Chris Evans  
Mr. Roger Bignell  
Mr. Martin Magee

## Introduction

1. This paper sets out the Public Accounts Committee's comments on the proposals made by the Treasury and Resources Department ('the Treasury') for changes to the Public Finances (Jersey) Law 2005 ('the 2005 Law'). By a Ministerial Decision dated 14th May 2007 (MD-TR-2007-0057) the Minister for Treasury and Resources approved the proposed amendments and agreed that the Law Draftsman should be requested to make the necessary amendments. A copy of the Decision and of the Treasury's report supporting that decision are set out in Appendix 1.

## Summary of the Committee's comments

2. In summary, the Committee believes that –
  - (1) there is insufficient experience of the operation of the 2005 law for a thorough review to be possible;
  - (2) the proposals approved by the Minister will lead to a significant dilution in the States' control of government expenditure; and
  - (3) would permit the States to avoid applying accounting principles that have long been regarded as essential by the private sector.
3. The Committee hopes that these proposals are not evidence that the Minister and the Council of Ministers wish to resile from a commitment to effective control of expenditure and absolute transparency in reporting to the public of the States' financial affairs.

## The Deputy Treasurer's comments

4. In making these comments, account has been taken of observations made by the Treasury and Resources Department on a draft of this report. A copy of the Department's comments is reproduced in Appendix 2. In a subsequent e-mail exchange, reproduced in Appendix 3, the Department clarified its comments.
5. In the Committee's view, the Department's comments do nothing to assuage the Committee's concern. The Department has served only to add a further concern. One part of the Department's response is that, in contravention of the rules on ministerial decisions, the Ministerial Decision as set out on the Department's website is not a complete or accurate record of the Minister's decision.
6. For the system of recording ministerial decisions to be worthwhile, the public should be able to rely on the records of decisions being complete and accurate. Ministers and Departments should be obliged to explain subsequently that the decision actually made was either different or subject to conditions that were not disclosed.

## Timing of the review

7. The background to the Review is described in the Treasury's Report as follows –

*"The Public Finances (Jersey) Law 2005 (the Law) and subsidiary Regulations came into force in mid December, 2005. Financial directions have also been issued which provide greater detail on certain areas within the Law and on other financial matters where it was deemed necessary. As with any new Law the real test comes when the Law has been in operation for a short while and there are now a number of issues which need to be reconsidered. The purpose of this report is to highlight these issues and to gain approval to take the changes forward with the Law Draftsman and for the amended Law to be submitted to the States at the appropriate time . . .*

*The fact that the Law has now been in operation for a full financial year with the States having*

***had the opportunity to operate within its structure and to work their way through the Annual Business Plan and Budget under the new procedures has highlighted areas where amendments are required”.***

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8. Whilst the Committee believes that a thorough-going review of the operation of the 2005 Law will in due course be justified, in the Committee’s view, a review at this stage is premature. The 2005 Law sets out a cycle for States expenditure of planning, States’ approval, spending and then reporting to the States.
9. It is still the case that this cycle has not been followed in its entirety for any single year. 2007 will be the first year to which the cycle has applied.
10. In the Committee’s view, a thoroughgoing review will not be possible until a least one full cycle has been completed and the current exercise is therefore premature.
11. The Committee intends that it will undertake such a review in the autumn of 2008 once the 2007 accounts have been published.
12. Against this background, the Committee has considered the amendments approved by the Minister and makes the following observations.

### **Definitions**

13. The Ministerial Decision approves the Treasury’s following proposal –

***“An amendment is proposed which would enable the States (purely for the purposes for the Public Finances Law) to merge two or more of the non-ministerial States funded bodies to allow States’ funds to be allocated to the merged body. This may assist in budgetary control***

***terms whilst at the same time still allowing departments to operate in separate bodies.”<sup>121</sup>***

14. The background to this proposal is that the 2005 Law provides that an Accounting Officer should be appointed for each department who shall have personal responsibility for complying with the 2005 Law and for ensuring that expenditure is incurred within and in accordance with both the decisions of the States and the requirements of the 2005 law. In nearly all cases, each department’s Chief Officer has been named as the Accounting Officer. The effect is that the person who has key management responsibility for a department also has personal responsibility for that department’s financial management.
15. In a number of cases, and, in particular, for non-ministerial departments, relatively small amounts of money are involved.
16. However, the proposed change to the 2005 Law would have the effect of sanctioning a division between management responsibility and personal responsibility for financial management. In the Committee’s view such a division would be unsatisfactory in principle and would undermine one of the principles on which the 2005 Law was based.
17. Personal responsibility for financial management should be an integral part of the responsibility accepted

by a Chief Officer.

### **Investment of money of the States**

18. The Ministerial Decision appears to approve the Treasury's proposal that the Minister for Treasury and Resources may set an investment strategy for the States by order (which therefore would not require the approval of the States) rather than as at present by regulation (which would require the approval of the

States).<sup>[3]</sup>

19. The report does not provide any justification for this dilution of the States' oversight of these matters.
20. In the Committee's view, such a change should not be taken forward until a properly reasoned justification has been provided.

### **Inability to overspend**

21. The Ministerial Decision approves the Treasury's proposal that –

*"That the Law be amended to enable the departments to carry forward overspends from one financial year to the next. The amendment should also allow the States to overspend its overall expenditure approval. The ability to overspend being in line with such restrictions and*

*conditions as specified in a financial direction issued by the Treasurer."*<sup>[4]</sup>

22. It is a fundamental principle of the system of financial control introduced by the 2005 Law that Accounting Officers are personally accountable for ensuring that their departments do not exceed expenditure limits provided by the States. This proposal effectively removes that fundamental constraint on spending.
23. Although the text of the Treasury's report suggests that "strict guidelines and limits" would be necessary, the proposal does not suggest what those strict guidelines and limits should be. In effect, a change to the Law on the basis proposed by the Minister would enable the Treasurer and the Minister together to vitiate the States' current control of government spending through the issue of a Financial Direction.
24. The current intentions of the Minister and the Treasurer may be that the power should be used sparingly but if the proposed amendments were made, the law would not constrain them.
25. An example of the consequences of this approach is provided by the recent decision of the Council of Ministers that the dispute over pay increases for 2006 should be concluded by awarding increases in excess of those assumed in the budgets for 2006 and for 2007. The Council of Ministers decided that a higher than expected pay increase should be awarded but that departments' budgets would not be increased proportionately. To the extent that the pay increase would lead to additional expenditure, the Council of Ministers decided that departments were to recover the over spend from within their existing budgets.
26. Notwithstanding that public announcement, approval of the proposed change to the 2005 Law would

mean that departments could, in contravention of that decision, overspend their budgets and carry forward the overspend without any further approval from the States.

27. In the Committee's view, this represents a serious dilution of the effectiveness of expenditure control by the States.

### **Annual financial statements**

28. Under the terms of the 2005 law, the States of Jersey's Annual Accounts –

*". . . must be prepared in accordance with:*

*(a) generally accepted accounting practice and;*

*(b) accounting standards prescribed by an Order made by the Minister."*<sup>[5]</sup>

29. The Treasury's report accompanying the Ministerial Decision observes –

*"At the time that the Law was drafted advice from the Law Draftsman was clearly that the "and" between (a) and (b) could be interpreted as "or". In order to prevent confusion it is recommended that the aforementioned "and" be changed to "or". This should allow the Minister to detail the basis on which the Annual Accounts are prepared if GAAP is not*

*followed."*<sup>[6]</sup>

30. For any system of expenditure control to be effective, it is important not merely that budgets are approved by an appropriate authority but that spending departments are required to account for their expenditure on a proper and rigorous basis.

31. In the past, the States' practice in this respect has been disappointing as has been made clear in a series of reports by Audit Committees, the Audit Commission, the Shadow Public Accounts Committee and the Public Accounts Committee.

32. The Committee therefore welcomed the requirement of the 2005 Law (quoted above) that the States of Jersey should follow generally accepted accounting practice and the plans made within the Treasury and Resources Department for this to be accomplished. The Committee also welcomed the inclusion of this proposed change in the Strategic Plan published by the Council of Ministers.

33. Latterly, the Committee has been concerned at the time being taken to implement this requirement and thus to achieve the application to the States' affairs of accounting principles that have long been regarded as essential for the private sector.

34. The Minister's approval of the amendment proposed by the Treasurer would have the effect of removing the statutory requirement that generally accepted accounting principles should be employed the States.

35. In the Committee's view, this step would be deeply regrettable.

36. The Committee hopes that the fact that the Minister has approved this proposal is not evidence that he and the Council of Ministers wish to resile from their commitment to ensuring that reporting of the States' financial affairs should be absolutely transparent.

**MINISTERIAL DECISION MD-TR-2007-0057****Decision(s):**

The Minister approved the recommended amendments to the Public Finances (Jersey) Law 2005 as highlighted in the relevant sections of the Report and agreed that the Law Draftsman be requested to make the necessary Law amendments, and that these be brought back to the Minister for consideration and approval as appropriate.

**Reason(s) for decision:**

To enable amendments to be made to the Public Finances (Jersey) Law 2005.

**Action required:**

Corporate Finance officer to arrange for the proposed Law amendments be forwarded to the Law Draftsman to enable the necessary changes to the Public Finances (Jersey) Law, 2005 to be progressed.

**Signature:****Date of Decision:**

(Minister/ Assistant Minister)

14 May 2007

**TREASURY'S REPORT SUPPORTING MINISTERIAL DECISION  
MD-TR-2007-0057**

Review of Public Finances (Jersey) Law 2005

**1. Purpose of Report**

- 1.1 The Public Finances (Jersey) Law 2005 (the Law) and subsidiary Regulations came into force in mid December, 2005. Financial directions have also been issued which provide greater detail on certain areas within the Law and on other financial matters where it was deemed necessary. As with any new Law the real test comes when the Law has been in operation for a short while and there are now a number of issues which need to be reconsidered. The purpose of this report is to highlight these issues and to gain approval to take the changes forward with the Law Draftsman and for the amended Law to be submitted to the States at the appropriate time.

**2. Background**

- 2.1 States finances were previously governed by the Public Finances (Administration) (Jersey) Law 1967 and although that Law had been updated on numerous occasions it needed a thorough review and overhaul to reflect modern financial processes and practices, further urgency was given to the matter when the States agreed to move to a Ministerial system of government. As a result of the review the Public Finances (Jersey) Law 2005 was drafted and implemented.
- 2.2 The fact that the Law has now been in operation for a full financial year with the States having had the opportunity to operate within its structure and to work their way through the Annual Business Plan and Budget under the new procedures has highlighted areas where amendments are required.

**3. Comments**

- 3.1 Detailed below are areas where changes to the Law are proposed. Further amendments will also need to be made to the Public Finances (Transitional Provisions) (Jersey) Regulations 2005 – these will follow in due course.

3.2 Discussions on the proposed amendments have been held with the Law Draftsman and the Greffier of the States and they have identified further amendments related to States procedures and in particular those related to the annual Budget debate.

### 3.3 **Proposed Law changes**

For ease the following comments and issues follow the current order of the Finance Law.

#### 3.3.1 **Paragraph 1 Interpretation (Definitions)**

The Finance Law enables amendments to this Paragraph of the Law to be secured through a Regulation and therefore any amendments can be progressed separately from the Law changes.

##### (a) **Definition of Income**

This definition is to be extended to “exclude money received by special funds”.

##### (b) **Definition of a Non-ministerial States funded body**

An amendment is proposed which would enable the States (purely for the purposes of the Public Finances Law) to merge two or more of the non-Ministerial States funded bodies to allow States funds to be allocated to the merged body. This may assist in budgetary control terms whilst at the same time still allowing Departments to operate as separate bodies.

##### (c) **Definition of a States funded body**

(i) Article 1 – The Interpretation section of the Law provides a definition of a States funded body which includes the term “Ministry”.

This part of the definition is now superfluous as decisions made after the Law was agreed are such that a Minister heads a Department and not a “Ministry” and, therefore, in effect a Ministry does not exist. There are no further references to “Ministry” in the Law.

(ii) The definition of a States funded body includes a States trading operation. However, due to different procedural requirements for the States trading operations there are certain sub-paragraphs of the Law where the term “States funded body” should not include the States trading operations. A minor amendment to the definition of a “States funded body” is required to address this matter.

***Action: The definitions highlighted above should be redefined as identified.***

#### 3.3.2 **Investment of money of the States**

(i) The Law Draftsman has expressed concern that the Finance Law does not explicitly empower the Minister to establish an investment strategy (the ability to do so is currently established in the Investment Regulations). The Law Draftsman has proposed a minor amendment to the Law to achieve this.

(ii) The Law Draftsman has also queried the need for the Minister’s investment powers to be governed through Regulations (Articles 6(2) and 6(3) detailed below refer) and has asked whether these could be downgraded to Order-making powers.

## 6 ***Investment of money of the States***

(2) *Except as provided by paragraph (5), money to which this Article applies may be invested to the extent and in the manner prescribed by Regulations made by the States on a proposition lodged by*

*the Minister.*

- (3) *The Regulations may, in particular, provide for –*
- (a) *investment by the Minister or the Treasurer; and*
  - (b) *the appointment of investment managers and their investment powers.*

The delegation to the Minister to determine and present an Investment Strategy to the States was a major departure from the contents of the 1967 Finance Law and further amendments may be considered a step too far.

**Actions:**

- (i) ***The Law to be amended to explicitly direct the Minister to establish an Investment Strategy.***
- (ii) ***That the Minister consider whether it is desirable to downgrade the Regulation making powers in Articles 6(2) and 6(3) to Order making powers.***

### **3.3.3 Approval of annual business plan**

- (i) For very good reasons the Finance Law currently requires that the annual business plan is presented to the States by the Chief Minister (due to the fact that the plan may be an amalgam of issues – finance, manpower, law drafting etc.) However, it is expected that the debate on the financial elements of the plan will be led by the Minister for Treasury and Resources. The procedures defined in the States of Jersey Law and States standing orders actually prevent this from happening – however, the Bailiff allowed the Treasury and Resources Minister to lead the debate on financial matters in the 2007 Annual Business Plan debate.
- (ii) There was some unease surrounding the debate on last year’s Annual Business Plan that the focus was on the approval of departmental objectives with little or no opportunity for States members to question the detailed financial budgets of departments. The views expressed by the Treasurer and the Treasury and Resources Minister at the time were that the debate on financial allocations was at the right level i.e. focused on the **total** allocated to a Ministerial Department and not on the detail which made up the total. The Minister is asked to reconfirm this view.

**Actions:**

- (i) ***That the Minister agree that Law amendments be made to enable the Minister for Treasury and Resources to present to the States and lead the debate on the financial elements of the Annual Business Plan.***
- (ii) ***That the Minister confirms his view of the Annual Business Plan process.***

### **3.3.4 Inability to overspend**

Article 15 of the Law deals with variations to heads of expenditure and carry forwards.

Departments are currently able, subject to relevant approvals and within certain parameters set in a Treasury financial direction, to carry forward revenue under-spends from one financial year to the next.

However, the Law ***does not allow States funded bodies to exceed the annual expenditure approval or head of expenditure agreed by the States*** (“expenditure approval” being the total net amount that can be withdrawn by all States funded bodies from the consolidated fund in a financial year) and therefore it does not allow a States funded body to carry forward an overspend into the following financial year. An over-spend can arise both when a

department incurs additional expenditure over and above that authorised, and also when it fails to recover its estimated income.

The Law allows funds to be transferred from one “Head of Expenditure” (being the total amount that a States department may withdraw from the consolidated fund for revenue/capital after taking into account any estimated income) to another with the relevant approvals. This effectively means that an overspend in one head of expenditure **could** be offset by a transfer of funds (either of a permanent or temporary nature) from an underspend in another head of expenditure. However, this approach presents a heavy reliance on sufficient funds being available elsewhere to meet overspends.

With the move to longer-term planning and budgeting emphasis should be on controlling expenditure over a longer period which means that States departments may need to “overspend” in one financial year and make good in a subsequent period(s).

It is important from a financial control perspective that any Law amendment to allow “overspending” must be set within strict guidelines and limits.

The 1967 Finance Law (Article 19(6) referred) enabled departments (formerly Committees) to carry forward a surplus or deficit in its authorised net revenue expenditure (now head of expenditure) ***in accordance with such restrictions and conditions as are specified in the Code of Directions***. It is recommended that a similar approach is taken to revisions to the current Law.

***Action: That the Law be amended to enable departments to carry forward overspends from one financial year to the next. The amendment should also allow the States to overspend its overall expenditure approval. The ability to overspend being in line with such restrictions and conditions as specified in a financial direction issued by the Treasurer.***

### **3.3.5 Budget Procedures**

Articles 17 to 19 of the Law cover procedural issues for the Budget debate including the presentation and approval of amendments to taxation. Due to the legal context of these Articles they were originally prepared and drafted in full consultation with the Law Draftsman.

Under current procedures any taxation drafts should be lodged as part of the Budget proposition – this is not practicable. The Law Draftsman has now had the opportunity to review the wording and procedures and has proposed amendments on the following matters –

- § the need to split the budget proposition from the taxation draft (this being a draft Law);
- § the addition of procedures to be followed if the proposals included in a taxation draft are not supported by the States;
- § the introduction of minimum lodging periods for an amendment to an amendment on the Budget;
- § an amendment to Article 20(3) so that the Minister has the absolute right to move an amendment to a taxation draft where it is to give effect to an amendment to the Budget Statement which the States have adopted;
- § the fact that only the Minister can lodge a taxation draft – that is a draft Law – although any States member can bring forward an amendment to the budget proposition.

These amendments do not alter the intent of the original Law in this area they merely tidy up procedural matters.

***Action: That the amendments highlighted above be incorporated into the Law.***

### **3.3.6 Annual Financial Statement**

When the Finance Law was drafted it was clearly the belief that the 2006 Accounts would be produced in line with UK Generally Accepted Accounting Practice (GAAP), however, this hasn't happened and there is still much work required to reach this position. Article 32(2) of the Law states:

That the statement (being the annual financial statement) must be prepared in accordance with –

- (a) generally accepted accounting practice; and
- (b) accounting standards prescribed by an Order made by the Minister.

At the time that the Law was drafted advice from the Law Draftsman was clearly that the “and” between (a) and (b) could be interpreted as “or”. In order to prevent confusion it is recommended that the aforementioned “and” be changed to “or”. This should allow the Minister to detail the basis on which the annual accounts are prepared if GAAP is not followed.

***Action: That the necessary amendment be incorporated into the revised Law.***

### **3.3.7 GAAP Compliant accounts**

It is well publicised that the States accounts do not comply with UK Generally Accepted Accounting Practice (GAAP) – the major area of non-compliance being in the accounting treatment of capital. A Business Case is being progressed which will identify the different stages and actions which are required to produce accounts which meet the relevant accounting standards whilst still reflecting the States of Jersey's unique situation.

It is recommended that as part of the development and implementation of the Action Plan the implications of any accounting changes are fully considered alongside the current Finance Law so that any changes to the Law can be addressed and taken forward within the required timetable.

***Action: That the Action Plan to achieve GAAP compliant accounts includes the consideration of implications on the PFL 2005.***

3.4 The Law Draftsman has indicated that the changes proposed above should be achievable within current resources.

3.5 The Law changes will have to be progressed through the States then the UK Privy Council.

## **4. Recommendations**

4.1 That the recommendations included under “Actions” in the Comments section above should be approved. That the necessary amendments be made to the Law and brought back to the Minister for consideration and approval as appropriate.

4.2 The amendments to the Law will need to be progressed through the States then on to the UK Privy Council for consideration and approval prior to any changes being brought into effect and it is therefore recommended that the Law be progressed.

## **5. Reason for Decision**

5.1 To enable changes to be made to the Public Finances (Jersey) Law 2005.

**States Treasury Corporate Finance**

**COMMENTS BY THE TREASURY AND RESOURCES DEPARTMENT ON THE COMMITTEE'S  
DRAFT COMMENTS  
(RECEIVED 3RD SEPTEMBER 2007)**

**Timing of the Review**

The Public Finances (Jersey) Law 2005 came into effect (in the main) from 1st January 2006. The new procedures contained in the Law were followed for the production of the three main financial documents of the States:

- 2006 Final Accounts (issued in June 2007);
- 2007 Annual Business Plan (debated and agreed by the States in September 2006); and
- 2007 Budget documents (debated and approved by the States in December 2006).

The Public Finance Law also introduced from January 1st 2006 the Accounting Officer concept, with Chief Officers taking on personal accountability for the proper financial management of the resources of the body which they direct.

The review of the Law was initiated to deal with several issues had been identified during 2006. There will undoubtedly be further changes required to the Law to ensure that the States are able to produce GAAP based accounts and indeed to meet the full implications of the planned move to Resource based accounting and budgeting in the near future.

These changes are likely to be required during 2008 to ensure that they are in place for 2009 and 2010 business planning.

**Definitions – Merging of two or more bodies**

There was never any intention that a change to the Law to enable two departments to merge for budgeting purposes would undermine the role and responsibility of an accounting office. This proposal was aimed at Non-ministerial departments where the accounting officer is the same person.

The purpose of this proposed change was to assist and improve budgetary control. The budgets allocated to the Non-ministerial departments are, in the main, quite minor when considering the overall level of States expenditure and the bringing together of budgets could actually result in financial savings.

**Investment of money of the States**

Although it is not made clear in the Ministerial decision the Minister for Treasury and Resources did not approve the proposal to amend the current Regulation making powers into Order making powers. The Minister was firmly of the view that the final decision in this area should remain with the States.

**Inability to overspend**

The guiding principles of the Public Finances (Jersey) Law are those of financial discipline, transparency and flexibility. The proposal to amend the Law to enable Departments to carry forward an overspend to be met in the following financial year was put forward in an attempt to further enforce these principles.

When the 2005 Finance Law was being drafted it was intended that the Law would allow small overspends (which would be met in the following financial year) to be incurred in order to assist departments from a financial management perspective. The current Law currently allows some variation in the use of funds, where necessary, after the States have approved expenditure. (the detail of how and when an application for a budget variation can be made is set in a financial direction issued under the terms of Law). This is because in any organisation circumstances and priorities can and do change, however, the Minister for Treasury and Resources has to report

any approved variations to the States at six monthly intervals.

The Minister approved the inclusion of minor overspends not exceeding 1% of Departmental net revenue expenditure (with a maximum stated figure for smaller departments). Although it is not intended that this figure would be drafted into the primary legislation it would be included in the relevant financial direction and it is proposed that the Law would refer to this fact.

The important issue here is that the proposed amendment would not allow a department to overspend without consequence – the consequence is that the over spend would need to be met from the following year's head of expenditure and would not therefore dilute in any way from the effectiveness of expenditure control.

Taking the example provided by the Public Accounts Committee concerning the Council of Ministers decision to conclude the dispute over pay increases for 2006 by awarding increases in excess of those assumed in budgets for 2006 and for 2007. If departments had been allowed to carry forward a deficit to the following financial year the Council of Ministers could have approved the pay increases in 2006 and required departments to plan and meet the cost of the awards in 2006 and 2007. Department would have been able to make more structured decisions on how to meet the additional costs without having to make short-term decisions.

The previous Public Finances (Jersey) (Administration) Law 1967 enabled Committees to carry forward both under spends and overspends into the following financial year – the levels to be carried forward were set in a previous Code of Direction.

This issue is currently being considered as part of the Resource Accounting and Budgeting Project and it may now be more appropriate to consider any changes to this element of the law as part of this overall project which is reviewing the financial planning and budgeting regime.

### **Annual financial statement**

The change in wording from “and” to “or” is not meant to detract from the States intent of producing GAAP compliant accounts and is meant to simply clarify the situation.

As previously stated the guiding principles of 2005 Public Finances (Jersey) Law are those of financial discipline, transparency and flexibility. One of the ways in meeting the transparency principle is the production of States accounts which are compliant with Generally Accepted Accounting Principles. The Minister for Treasury and Resources fully endorses this requirement and has the full backing of the Council of Ministers and the States in meeting this requirement.

The Treasury recognises that for any system of expenditure control to be effective, it is important that budgets are approved by an appropriate authority and that departments are required to account for expenditure on a proper basis. The Treasury is currently working towards producing GAAP based accounts. Work is well underway preparing the Jersey Financial Reporting Manual, which interprets UK GAAP for the States of Jersey; this adopts a similar approach to that of the UK Government. The Implementation of Resource Accounting and Budgeting also encompasses the implementation of an improved budgeting framework which will further support financial control and resource management.

**E-MAILS EXCHANGED BETWEEN THE CHAIRMAN OF THE COMMITTEE AND THE DEPUTY  
TREASURER OF THE STATES**

*E-mail from the Chairman of the Committee to the Deputy Treasurer, 3rd September 2007*

Thanks for your e-mail Jason and for your department's response to the draft report.

In a number of places you say that the minister either did not approve the department's proposal or that he did so subject to conditions. Neither the instances in which the minister did not approve nor the conditions are mentioned in the decision that has been lodged on the States website or at the States Greffe.

Would you please send a copy of the complete formal record of the minister's decision and explain why, in contravention of the agreed procedure, it was not lodged. As this record must already exist, I am sure there will be no difficulty in providing me with the copy within 24 hours. You will understand that I do not wish there to be a further delay in dealing with this matter.

If the complete formal record is not provided, then the committee's report will refer to this most unsatisfactory state of affairs.'

*E-mail from the Deputy Treasurer to the Chairman of the Committee, 4th September 2007*

Deputy,

Thank you for your email.

I can confirm that the record of the minister's decision included in your report and lodged at the States Greffe is correct. This does record the decisions made by the Minister. In your email I believe you are referring to two particular comments in the note that I sent you. I have clarified these issues below.

1. Investment of money of the States

The ministerial decision recorded the Ministers' decision to consider downgrading the Regulation making powers in Articles 6(2) and 6(3) to Order making powers. The Minister did consider this issue and concluded that the existing regulation making powers were most appropriate; he was firmly of the view that the final decision in this area should remain with the States. This maintains the status quo and as such no further decisions have been made and the law draftsman has not been asked to prepare any changes regarding this matter.

2. Overspends

I believe you are referring to the comment concerning overspends not being allowed to exceed 1%. The report accompanying the ministerial decision includes as an action: "That the Law be amended to enable departments to carry forward overspends from one financial year to the next. The amendment should also allow the States to overspend its overall expenditure approval. The ability to overspend being in line with such restrictions and conditions as specified in a financial direction issued by the Treasurer".

The note sent to you yesterday attempted to put this decision in context. The reference regarding overspends not being allowed to exceed 1% was not part of the minister's decision regarding the law drafting instructions but

referred to expected restrictions and conditions to be specified in a financial direction if the proposed change to the law were made. Please accept my apologies if the note confused matters. With the benefit of hindsight I think that the original report accompanying the ministerial decision could have been clearer and we will endeavour to improve the clarity of similar reports in the future. ‘

### ***Committee’s assessment of the exchange***

There is no reference in the decision published by the Department to the alleged decision by the Minister not to proceed with the proposal regarding investment of money by the States. If the Deputy Treasurer’s response is correct, there should have been.

There is no reference in the decision published by the Department to the condition apparently imposed by the Minister when agreeing to the proposal regarding overspends. If the Deputy Treasurer’s response is correct, there should have been.

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[1] *Paragraphs 1.1 and 2.2 of the report – Appendix 1.*

[2] *Section 3.3.1 (b) of the Treasury’s report: see Appendix 1.*

[3] *Section 3.3.2 of the Treasury’s report: see Appendix 1.*

[4] *Section 3.3.4 of the Treasury’s report: see Appendix 1.*

[5] *Article 32(2) of the 2005 Law.*

[6] *Section 3.3.6 of the Treasury’s report: see Appendix 1.*