

States of Jersey
States Assembly



États de Jersey
Assemblée des États

Public Accounts Committee



Report on the Accounts of the States

for the year ended 31st December 2008

Presented to the States on 1st March 2010

P.A.C 1/2010

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Chairman's Foreword

The Public Accounts Committee looks for weaknesses in the structure of public finances and questions the robustness of current structures. A report of this nature, which highlights areas of concern, will inevitably appear highly critical. It should be noted that there is much to praise within the public sector organisation, and the Public Accounts Committee found areas of efficient and capable management which are not covered within this report.

However it would be virtually impossible to run a private sector business on a sustainable long term basis with the quality of financial information and risk mitigation that is currently prevalent in public sector finances and management accounts. It is difficult to envisage how projects such as a Comprehensive Spending Review can be professionally carried out where basic information such as property costs, depreciation, replacement capital and central costs are not available in a consistent and reliable manner. Furthermore much work still needs to be done to control and budget for significant variable costs such as Supplementation and Court & Case Costs.

Ultimately, it will be the taxpayer that funds these inefficiencies. It is in their interest to invest in proper financial management in order to eliminate longer term waste and improve both management and cost control.

Key issues arising from this report will form the basis of further work by the PAC during 2010.



Senator Ben Shenton
Chairman, Public Accounts Committee

Executive Summary

- As the switch to GAAP accounting was not complete at the time of the preparation of the 2008 accounts, it has been extremely difficult for the Public Accounts Committee (PAC) to satisfactorily examine the States accounts, which are less than transparent due to complications and confusion inherent in comparing budget and actual. Also, the summary of income and expenditure listed under Social Security¹ is misleading because it is missing material amounts which are charged directly to the Social Security and Health Insurance funds.
- Volatile factors such as court and case costs (which remain at the taxpayers' expense) remain a significant and unpredictable drain on public funds.
- Fraud within the States, in particular benefit fraud, remains a drain on taxpayers' money and the PAC is concerned that it is not being treated with sufficient urgency.
- The PAC is concerned that the absence of repatriation legislation means that the cost of accommodation of foreign nationals in Jersey's prison is also borne by the taxpayer.
- The Public Employees Contributory Retirement Scheme (PECRS) remains a substantial area of unease. The liability for scheme members and the taxpayer continues to grow, and urgent consideration should be given to conversion to a defined contributions scheme. Further research in this area will be undertaken by the PAC during 2010.
- Although the provision of grants by the Economic Development Department (EDD) has now been subject to some regulation subsequent to an investigation by the Comptroller and Auditor General (C&AG), the PAC remains concerned that grants are still being given without sufficient checks.
- Although the inevitability of unpredictable costs to a certain extent within Health is acknowledged, the fact that the true costs of health provision are not known is of serious concern. Without such figures, no adequate review of financial management is possible.
- Added costs as a result of lack of accountability and confusion of lines of accountability remain an issue: the overspend in 2008 within Home Affairs and the failure to cover the cost of the Euros when purchasing the Energy From Waste Plant being two significant examples. The Committee is troubled by an apparent absence of central ownership of such problems. Within the Home Affairs Department, the apparent ease with which the Accounting Officer side-stepped accountability is a major concern – especially as the matter had been raised previously. The PAC recommends immediate action to eliminate this serious flaw.

¹ Financial Report and Accounts 2008 page 119

Key Findings and Recommendations

Financial Management - Overall Observations

Key Finding The Committee is concerned that central findings in 2008/2009 may be repeated due to structural deficiencies. The poor financial management of the Energy From Waste exchange rate strategy and issues of an emotional nature (such as pandemic flu funding and the historic abuse enquiry) will ultimately impact on the tax payer who will suffer higher taxes and/or reduced services as a result.

Recommendation Whilst the PAC are pleased that the Treasury Minister has acknowledged significant deficiencies in his Department, and support his endeavours in this area, we recommend that the whole structure of responsibility for financial management is reviewed on a holistic level with greater emphasis on financial control and accountability across the public sector. Open cheque book policies, regardless of circumstances, must be discouraged.

GAAP Accounting

Key Finding It is very difficult, if not impossible, to satisfactorily examine the States Accounts, due to the complications inherent in comparing budget and actual arising from the switch towards impending GAAP Accounting.

Recommendation The move to GAAP compliant accounting should be accelerated. In addition, trading entities such as the Airport should provide proper accounts in order that performance can be measured against other entities worldwide.

Law Officers' Department

Key Finding 1 Court and Case costs are an unpredictable and volatile drain on taxpayers' money. Therefore, this expenditure cannot be budgeted for. However, these costs can present a significant financial risk for a small island community and their volatility makes prudent financial management difficult.

Recommendation 1 Prosecution costs in the Magistrates Court should be recovered on an 'ability to pay' basis. A more holistic approach to court costs needs to be undertaken as matters such as legal aid provision need to be taken into account. The PAC recommends that the Judiciary undertakes an internal review of its funding requirements and looks towards the commerciality of all functions provided.

Key Finding 2 The Department finds it problematic to recruit and retain senior staff due to a lack of competitive salaries, particularly at a senior level where staff find substantial incentives to move to the private sector.

Recommendation 2 A significant proportion of remuneration is provided through the provision of a generous final salary pension scheme that may not be fully appreciated on a salary comparison basis. By aligning the remuneration package more closely with the private sector, the ability to recruit may improve.

Key Finding 3 The recruitment of staff may also be problematic due to the potentially public nature of the role.

Recommendation 3 The conflict between freedom of information and professional confidentiality needs to be addressed. Ultimately, the ability to undertake a task to the highest standard must take priority over freedom of information as it is in the best interests of the public.

Key Finding 4 Unlike in the private sector, the Law Officers' Department has no financial incentive to optimise staff time against projects. However, time management is vitally important for adequate cost control.

Recommendation 4 The Law Officers' Department should ensure that workload matches resources available and that work is prioritised appropriately. States Departments utilising the services of the Law Officers for low priority advice should be instructed to obtain a response from the private sector – albeit at a cost to themselves. The Department must operate a triage system and when necessary, advise that it may be in the interests of the client to seek advice elsewhere.

Economic Development Department

Key Finding 1 The procedures in relation to the provision of grants (which is in effect the handing out of taxpayers' money) have been tightened and the PAC is heartened by this.

Recommendation 1 The PAC is concerned that grants are still being provided to organisations that do not fulfil all requirements. The PAC recommends that EDD adopt a 'zero tolerance' approach given the nature of the funding – regardless of any short term impact. The PAC is concerned about the cost effectiveness of some of Jersey Finance's speculative activities, and questions whether these should be publicly funded.

Health and Social Services Expenditure

Key Finding 1 Expenditure on Health and Social Services is never in the ratio put forward in the Business Plan as technically they are 'one' Department with 'one' budget.

Recommendation 1 Whilst the PAC acknowledges that there can be advantages in the flexibility of the Health and Social Services split, it has concerns that sufficient controls are not currently in place to avoid the potential abuse of this flexibility to the detriment of the public. Consideration should be given to providing parameters within the Public Finances Law to limit deviation from the Annual Business Plan agreed by the States Assembly.

Key Finding 2 The PAC found a lack of understanding amongst senior Health Management in respect of the true cost of Health provision. For example, patients were being retained in the hospital rather than being transferred to the private sector to save money – yet the cost of provision within the public sector was unknown.

Recommendation 2 Health and Social Services must know the true cost of all services provided, in order that comparisons with the private sector costs can be made. Management should look to 'outsource' areas where savings can be made and must have adequate financial management information to enable reviews of this nature to be undertaken.

Social Security Department

Key Finding 1 There is still no States-Wide anti fraud policy.

Recommendation 1 The Committee believes that benefit fraud should be treated with more urgency as it is a problem that we are experiencing now (not in 2011). Benefit fraud is a significant drain on taxpayers' money and it should be prioritised more highly.

Key Finding 2 The summary of income and expenditure appearing under Social Security (on page 119 of the 2008 accounts) is incomplete because material amounts of expenditure (including staff costs of approximately £3.3 million) are charged directly to the Social Security and Health Insurance funds.

Recommendation 2 A summary of all overhead expenditure for the department and funds should be provided in future States Accounts analysed by the provider of those funds (i.e. States or the respective funds). This will allow users to form a view about the efficiency of the department and its total operating costs. The problem of supplementation provisions needs to be addressed as a matter of urgency. The PAC was pleased that Proposition P153/2009 was passed on the 18th November 2009. However the PAC considers that it is important that in addition to the question of funding, there is also consideration in respect of the relevant accounting practices. Not all governments fund Social Security in a manner as prudent as the States of Jersey and some of the concerns are in relation to the relatively short notice under which funding must be applied. If, for example the funding requirement is in arrears on a two year retrospective basis, financial planning can be undertaken without an element of ‘nasty surprises.’

Financial Directions and Internal Controls

Key Finding 1 As the Treasurer observed, ‘we still have a long way to go.’ The issuance of Financial Directions which are not acted on demonstrates that a rather wayward and uncertain system currently operates. Controls and insistence on compliance by the centre are lacking.

Recommendation 1 The re-organisation of the Treasury structure should alleviate some of the areas of concern. However, there have to be controls to ensure that all Financial Directions are implemented in full by all relevant Departments. All Financial Officers should sign off each Financial Direction and give an undertaking that it will be implemented.

The Treasury

Key Finding 1 The Treasurer of the States did not seem to fully understand his role and saw himself as something more akin to the States accountant.

Recommendation 1 The Treasurer of the States should act with more independence, as prescribed by law, and be more vocal in his quest to keep the States finances in balance. It is important that he is able to provide an independent voice free from undue influence from the Treasury Minister and other politicians.

Home Affairs

Key Finding 1 Jersey has no legislation regarding repatriation of prisoners, which is resulting in unnecessary expenditure of public funds on accommodating foreign nationals.

Recommendation 1 Using the UK’s Repatriation of Prisoners Act as a precedent, legislation should be brought into force and agreements made with other countries to allow prisoners to be returned to their home countries. This should not only provide significant savings for the taxpayer – but will also repatriate foreign nationals to their homeland where they can receive support from family and friends.

Confusion Over the Lines of Accounting Responsibility

Key Finding 1 The Accounting Officer within the Home Affairs Department is currently unable to undertake his role due to the Departmental Structure. The PAC is concerned that the current position is open to abuse and that there is a lack of clear accountability.

Recommendation 1 The Accounting Officer role within Home Affairs needs to be strengthened and clarified as a matter of urgency. The PAC is very concerned that this issue is still outstanding, despite being raised as an urgent problem some time ago. It is simply not acceptable that there is still no defined accountability in respect of taxpayers' funds.

Key Finding 2 Lines of financial responsibility remain unclear across several Departments, leading to confusion and the spending of considerable sums of public funds which cannot be accounted for.

Recommendation 2 The independence of the Treasurer is paramount – as are clear reporting lines and allocations of responsibilities. Where failures of accounting controls occur, there must be responsibility taken from the centre to correct these problems. The significant and potentially costly lack of clarity within Home Affairs must be corrected as a matter of urgency.

Recommendation 3 The PAC recommends that a Police Authority, to which police expenditure will be accountable, is set up as a matter of urgency.

Pensions

Key Finding 1 For a small island jurisdiction it is important that all liabilities are professionally managed and contained. Whilst measures have been taken, it is questionable whether continuation of a final salary based scheme is either feasible or achievable.

Recommendation 1 The PAC requires that the past service liability be dealt with as a matter of urgency. The PAC shall be reviewing the provision of public sector pensions in 2010 and will report in more detail on this important issue. The current rules assume that any deficit relating to the service of past 1987 members is not necessarily a liability for the States – it is a liability for members in the first place. This is generally dealt with by amending promised benefits. The scheme is therefore closer to a Defined Contribution Scheme than many might expect. The prudent approach would be to stop accrual of benefits under the old arrangements and move to a simple Defined Contribution basis. The financial engineering within the Accounts should cease and the PAC requests that the States Auditors look to treat pension liabilities and surpluses on a similar basis rather than allow a disparity in accounting practices that is not reflective of the true position.

Committee Membership

The current membership of the Public Accounts Committee (as at 1st March 2010) comprises:

States Members

Senator B.E Shenton (Chairman)

Connétable J. Refault (Vice-Chairman)

Senator A. Breckon

Senator J. Perchard

Independent Members

Mr K. Keen

Mr A. Fearn

Mr M. Magee

Terms of Reference

To review the States of Jersey Financial Report and Accounts 2008.

In accordance with paragraph 132(1)(a)(i) of the Standing Orders of the States of Jersey, to receive a report from the Comptroller and Auditor General on the results of the audit of the Annual Financial Statement of the States, and to report to the States upon any significant issues arising.

To examine any further issues relating to the Financial Report and Accounts 2008 that the Committee considers relevant.

Hearings

Following the release (in 2009) of the Financial Report and Accounts of the States of Jersey for 2008, the Committee held a series of Public Hearings in order to establish those issues which had arisen within the Accounts, to discuss matters raised by the External Auditors and to highlight areas where improvements were necessary.

The following Public Hearings were held under the following topics –

Home Affairs

The Chief Officer of Home Affairs attended on 20th July 2009.

Health

The Chief Officer of Health and Social Services and the Director of Finance and Information attended on 20th July 2009.

Social Security

The Chief Officer, Finance Director and the Acting Income Support Director attended on 21st July 2009.

Treasury

The Treasurer of the States of Jersey, the Deputy Treasurer and the Head of Financial Reporting attended on 21st July 2009.

Written submissions were also received from the Chief Clerk and Accounting Officer at the Law Officers' Department and the Chief Executive of Economic Development.

In this report, the Committee hopes to illustrate those issues of financial management which have affected the States as a whole, but also to highlight difficulties which have arisen within individual Departments.

Financial Management - Overall Observations

The Committee noted the five key results for 2008 identified in the Treasurer's report within the Financial Report and Accounts.² However, the Committee's attention was drawn to the fact that gross departmental spending had increased by 8.2 per cent in 2008 compared with the previous year, while in contrast, the total income generated by Departments had fallen.

A deficit was clear:

On a basis consistent with, and allowing comparison to, the 2008 budget, the States recorded a deficit of £5 million in 2008. This compares with a surplus of £58 million originally estimated in the 2008 budget. The movement from a planned surplus of £58 million to an actual deficit of £5 million was principally the result of the States' decision to allocate £103 million to the Energy from Waste capital project in 2008. Against this, higher than expected taxation income resulted in a smaller deficit than would otherwise have been recorded.

Expenditure was also £7 million higher than the anticipated £515 million originally budgeted for in the 2008 Business Plan:

This additional expenditure was authorised through increases to Departmental budgets, including the carry forward of unspent 2007 budgets, transfers between capital and revenue budgets and additional funds voted by the States for the Historic Child Abuse Enquiry. Net Expenditure in 2008 totalled £522 million compared to a final authorised budget of £528 million, an underspend of £5.5 million or 1% of budget.³

The spend on the Energy from Waste Plant was further exacerbated by the failures in managing the foreign currency exchange risks, an issue the PAC has already investigated at length.⁴

KEY FINDING

The Committee is concerned that central findings in 2008/2009 may be repeated due to structural deficiencies. The poor financial management of the Energy from Waste exchange rate strategy and issues of an emotional nature (such as pandemic flu funding and the historic abuse enquiry) will ultimately impact on the tax payer who will suffer higher taxes and/or reduced services as a result.

RECOMMENDATION

Whilst the PAC are pleased that the Treasury Minister has acknowledged significant deficiencies in his Department, and support his endeavours in this area, we recommend that the whole structure of responsibility for financial management is reviewed on a holistic level with greater emphasis on financial control and accountability across the public sector. Open cheque book policies, regardless of circumstances, must be discouraged.

² Financial Report and Accounts 2008 page 3

³ *ibid*

⁴ P.A.C.1/2009 page 5

GAAP Accounting

In its report on the 2007 Financial Report and Accounts, the previous Public Accounts Committee advised that the move to GAAP accounting be made as soon as possible.⁵ This year, the Committee noted that the Financial Report and Accounts were yet to be produced in accordance with GAAP accounting standards. For that reason the figures included within the Accounts relating to the value of fixed assets were treated with caution.

Nonetheless, the Committee was encouraged to hear from the Treasurer of the States that GAAP Accounting was imminent, and the first GAAP compliant accounts would be presented in 2010:

Senator B.E. Shenton:

How satisfied are you with the sort of progress that you are making with regard to G.A.A.P accounting and so on and so forth, bearing in mind that the accounting standards do tend to change as you go along?

Treasurer of the States:

I cannot say for certain but we believe we will be the first small jurisdiction in the world to be producing G.A.A.P. compliant accounts. I cannot say for definite but we cannot find anyone else who has, and certainly not Guernsey, they have not even considered it yet, and the Isle of Man do not, so none of our near peers. I think the U.K. (United Kingdom) started on this process about 12 years ago. They still have not quite produced whole of government accounts, so it took them 12 years, and we have been at it 3 and have overtaken them. In that case, I would suggest that the pace of change here has been phenomenal and the achievement for a small jurisdiction to manage this has been quite high. In terms of what the accounts look like, these accounts before you today are not G.A.A.P. compliant accounts because it is next year's accounts that will be, but they show big steps in the right direction.... So, you are going to see not only G.A.A.P. accounts next year but a really big change in presentation and a lot slimmer.⁶

However, this 'transition phase' from non GAAP accounts to GAAP accounts, has created its own set of problems for the Committee. As the first set of GAAP accounts would not appear until 2010, the interim budget will therefore be produced on a cash basis. The Committee is aware of the problem created by this regarding a lack of transparency, as it creates a difficulty in comparing budget and actual. It was recognised that the problem of reconciling accounts with budget would be a major challenge for the Committee across the board.

KEY FINDING

It is very difficult, if not impossible, to satisfactorily examine the States Accounts, due to the complications inherent in comparing budget and actual arising from the switch towards impending GAAP Accounting.

RECOMMENDATION

The move to GAAP compliant accounting should be accelerated. In addition, trading entities such as the airport should provide proper accounts in order that performance can be measured against other entities worldwide.

⁵ PAC Report on the Accounts of the States for the year ended 31st December 2007, page 6

⁶ Transcript of the Public Hearing with the Treasurer of the States, page 2

Law Officers' Department

COURT AND CASE COSTS

The Committee is concerned that the States have yet to put in place a sustainable funding arrangement and have instead resorted to drawing upon the balance of the Criminal Offences Confiscation Fund. The Treasurer acknowledged that this was an issue:

Treasurer of the States of Jersey:

... I have got to tell you that court and case costs in the current year are running at a very high level. We did have that review. We have put all the actions from that in place so things like when there is a very significant case started there is a case plan put in place with estimate costs that are monitored on a regular basis. All those things have been done. We have a clear Accounting Officer to monitor expenditure. What we do not have in place is anything that ultimately has got a means of controlling the cost and it is rising. We have a decision at the moment, any overrun on court and case costs will be charged to the Criminal Offences Confiscation Fund. I have to say that the overrun now is running at such a level that it is challenging the ability of the Criminal Offences Confiscation Fund to meet those costs. There is an issue here, but the arrangements for the day-to-day control, I think, are working well. The big issue of whether you can limit your expenditure on this area is a more difficult one.⁷

It was put to the Treasurer that the reason for the funding problem was a lack of organisation and direction:

Senator B.E. Shenton:

I will just jump in here because I have spoken to the Attorney General on this matter. To give you an example, in the U.K. in the Magistrates Court, prosecution costs on an ability to pay basis will be taken from the convicted, if they are convicted. In Jersey we do not try and cover prosecution costs even if the person convicted does have an ability to pay. The Attorney General is now looking into this matter and it came back to me that it was just lack of direction that they failed to take this course of action. How many other areas do you think we have on court case costs that there is a lack of direction? Because also when I was looking into the Voisin situation I found that when Planning win a case they never ask for costs because the department was so disorganised they could not work out what the costs were. There are big steps that need to be taken here. There is no real user pays policy with regard to court and case.⁸

The Treasurer appears to be in agreement that this situation is not satisfactory:

Treasurer of the States of Jersey:

It sounds like there is something to be looked at. I think so. We have, as a result of some of these big cases, we have to be fair, seen some very significant sums of money off people which have gone into the Criminal Offences Confiscation Fund and that has met our costs to date. We are now in the unfortunate situation where the people being prosecuted have very expensive cases and little or no assets, and that is just money up and going in one direction and you cannot recover anything. If there is something you have to look at, I am all for it.⁹

The original budget for the Law Officer's department as set out in the Business Plan for 2008 is £5.27 million. The final approved budget for 2008 was £5.15 million after additions of £.08 million from carry forwards from 2007 and £0.93 million for additional costs in respect of the Historical Child Abuse Enquiry (HCAE). From this was deducted £1.2 million, an amount transferred from the Criminal Offences Confiscation Fund (COCF). For some years, the financing from Court and Case Costs has caused some difficulty: mainly because it has proved impossible to forecast the

⁷ Transcript of the Public Hearing with the Treasurer of the States, Page 23

⁸ *ibid*

⁹ *ibid*

likely expenditure with any accuracy. The fundamental review of spending in 2003 led to a decision that it would be appropriate to use the balances in the COCF and the Drug Trafficking Confiscation Fund (DTCF) to meet various heads of expenditure. At the time, there was no obvious use for these funds. Since that time, the Law Officers' Department has partly been funded by substantial transfers from the COCF. The fund has been replenished from further substantial confiscations. Funds currently held by the Viscount's Department as a result of confiscations pending prosecution are sufficient to keep the fund replenished for some years.¹⁰

The Chief Clerk and Accounting Officer at the Law Officers' Department confirmed

..the tremendous variability in the expenditure from year to year which falls to Court and Case Costs, which is impossible to predict with any accuracy from one year to the next, and which cannot be absorbed within the allocated budget...It is understood by the Department that the Treasury is likely to identify Court and Case Costs as an area of expenditure known as Annually Managed Expenditure which acknowledges that it is difficult to control or forecast. Such expenditure is set outside the normal budgeting and spending rules.¹¹

The Chief Clerk and Accounting Officer further confirmed that there is "uncertainty around" how much pressure there will be on the COCF, because so much depends on whether major cases are successfully prosecuted or not. The Fund can actually receive funds too through confiscation proceeds, but many other cases result in considerable costs to the Crown, which have to be funded from the COCF.¹²

KEY FINDING

Court and Case costs are an unpredictable and volatile drain on taxpayers' money. Therefore, this expenditure cannot be budgeted for. However, they can present a significant financial risk for a small island community and their volatility makes prudent financial management difficult.

RECOMMENDATION

Prosecution costs in the Magistrates Court should be recovered on an ability to pay basis. A more holistic approach to court costs needs to be undertaken as matters such as legal aid provision need to be taken into account. The PAC recommends that the Judiciary undertakes an internal review of its funding requirements and looks towards the commerciality of all functions provided.

RECRUITMENT AND RETENTION OF STAFF IN LAW OFFICERS' DEPARTMENT

In recent years, staffing the Law Officers' Department has been troublesome. The Department's salaries are competitive with the private sector in junior and training grades. Salaries do not appear competitive in senior grades. The result has been that the Department has tended to lose the more senior people as they complete their period of training within the Department. In turn, this has had the consequence of difficulty in securing the services of senior and experienced people both to lead the Department and to manage its work load.

These are matters referred to in the report on the States Spending Review carried out at the beginning of 2008. In this connection it is worth noting that the department's annual report explains the relatively small under spend by the department (3.2%) as being due to

¹⁰ This was the position at the time of the public hearings, as of July 2009

¹¹ Written submission to the Public Accounts Committee by the Chief Clerk and Accounting Officer at the Law Officers' Department, 2nd November 2009

¹² *ibid*

“ . . . delays in the recruitment of staff and other associated costs”

The Chief Clerk and Accounting Officer has confirmed that there are difficulties in retaining senior staff, saying that:

The Department is in competition with the private sector for legal staff. As such, the financial rewards available in the private sector far outstrip those which the Department can offer, even at the level of legal adviser. The Department therefore relies on the good will of staff who have what may be described as ‘a public sector ethos’ to remain within the Department. There are those, however, who decide to move to the private sector and the Department has experience of at least three senior lawyers who have done so for financial reasons.¹³

He also went on to state:

While the Department is usually able to recruit reasonably easily at Assistant Legal Adviser level, it is frequently not possible to recruit more specialised posts at a higher level from Island residents. Several key posts have had to be recruited from the UK because the salary was insufficient for the local lawyer who had been offered the job.¹⁴

At the time of the preparation of this report, the critical post of Solicitor General remains vacant, and an additional post (a legal adviser for children’s matters agreed as necessary as a result of the Williamson Report) has been agreed but is also yet to be filled. A recent recruitment advert for an experienced post in the Department received only one applicant, (although that applicant was fortunately suitable.)¹⁵

It should perhaps be remembered that the Island’s difficult economic position should have made it easier for the department to recruit more senior staff.

KEY FINDING

The Department finds it problematic to recruit and retain senior staff due to a lack of competitive salaries, particularly at a senior level where staff find substantial incentives to move to the private sector.

RECOMMENDATION

A significant proportion of remuneration is provided through the provision of a generous final salary pension scheme that may not be fully appreciated on a salary comparison basis. By aligning the remuneration package more closely with the private sector, the ability to recruit may improve.

Another, perhaps more unexpected barrier to recruiting staff was raised by The Chief Clerk and Accounting Officer:

A well qualified candidate who had been offered a legal adviser post subsequently rejected the offer as he had not realised that every piece of advice he would be giving was likely to be held up to public scrutiny.¹⁶

¹³ Written submission to the Public Accounts Committee by the Chief Clerk and Accounting Officer at the Law Officers’ Department, 2nd November 2009

¹⁴ *ibid*

¹⁵ *ibid*

¹⁶ Written submission to the Public Accounts Committee by the Chief Clerk and Accounting Officer at the Law Officers’ Department, 2nd November 2009

KEY FINDING

The recruitment of staff may also be problematic due to the potentially public nature of the role.

RECOMMENDATION

The conflict between freedom of information and professional confidentiality needs to be addressed. Ultimately, the ability to undertake a task to the highest standard must take priority over freedom of information as it is in the best interests of the public.

MANAGEMENT OF STAFF IN LAW OFFICERS' DEPARTMENT

Almost as important as the recruitment and retention of staff is the management of staff i.e the maximisation of the value of the work output achieved by personnel. Of course, the Law Officers' Department is not a commercial law firm and does not have the same financial interest in the optimisation of the use of staff time against projects. On the other hand, the States generally have an interest in making sure that the cost of providing legal advice is appropriate and this involves very similar disciplines to those which would be expected in a professional law firm.

Systems such as those used in the private sector would be necessary if the Department were to be expected to charge other departments for its services.

Following recommendations made in a report by the Comptroller and Auditor General,¹⁷ the Law Officers' Department has undergone a fundamental re-organisation, as outlined by The Chief Clerk and Accounting Officer:

The Department has recently undergone a re-organisation which has resulted in two Principal Legal Advisers having direct management responsibility for the Civil and Criminal Divisions. They in turn are responsible to the Attorney General and Solicitor General for the efficient and prompt delivery of the services for which their directorates are responsible. In the Civil Division, it is anticipated that Service Level agreements will be negotiated with other States Departments, setting out the responsibilities of each party and the timescales within which advice will be delivered. Once these SLA's are in place, the Department will look to publishing statistical information on the success or otherwise of their delivery. The Criminal Division is subject to oversight and timescales imposed by the courts.¹⁸

The PAC have noted that within professional firms of lawyers one would expect to see that there are systems for;

- (1) recording of projects, deadlines and progress towards achieving deadlines.
- (2) recording of time against projects.
- (3) managing the proportion of chargeable time recorded by individual members of staff (and thus the minimisation of non-productive staff time).
- (4) managing the total amount of time charged to each project to ensure that recording of time for projects betrays no inefficiency.

The PAC asked The Chief Clerk and Accounting Officer what disciplines were in place to ensure individual members of staff use their time productively, to which he replied:

The Department has a time recording system in place for work that it carries out and a flexitime system has also recently been introduced...The time recording system enables management to

¹⁷ 'Emerging Issues – States Spending Review' published in May 2008 by the Comptroller and Auditor General page 44

¹⁸ Written submission to the Public Accounts Committee by Mr. T. Allen, Chief Clerk and Accounting Officer at the Law Officers' Department, 2nd November 2009

monitor the workload of staff and the amount of time spent on each piece of work. The Department is currently re-assessing its file referencing system which may result in changes to the time recording system.¹⁹

The PAC asked who was responsible for monitoring performance:

The two directors are responsible for monitoring performance of the legal staff within their divisions and the Chief Clerk is responsible for monitoring performance of support staff. The Law Officers have overall responsibility for the performance of the Department as a whole. All members of the Department undergo performance review and appraisal. In the past, the Department used a bespoke system...but the senior management team recently decided to revert to States civil service system. Training for all those who are to appraise staff is being organised to ensure the system is applied fairly and consistently.²⁰

KEY FINDING

Unlike in the private sector, the Department has no financial incentive to optimise staff time against projects. However, time management is vitally important for adequate cost control.

RECOMMENDATION

The Department should ensure that workload matches resources available and that work is prioritised appropriately. States Departments utilising the services of the Law Officers for low priority advice should be instructed to obtain a response from the private sector – albeit at a cost to themselves. The Department must operate a triage system and when necessary, advise that it may be in the interests of the client to seek advice elsewhere.

¹⁹ Written submission to the Public Accounts Committee by the Chief Clerk and Accounting Officer at the Law Officers' Department, 2nd November 2009

²⁰ *ibid*

Economic Development Department

OVERARCHING BUDGETING

It was not clear to the Committee that actual expenditure on Tourism support and marketing in 2008 was wholly consistent with the strategic and business planning objectives of the Department. The Committee also identified a need for further information to demonstrate how monies allocated in support of the finance industry had been spent and whether that spend had been cost-effective, and how the increase of spending on this area is justified, bearing in mind the decrease in funding for Tourism from 2007 to 2008. In addition, it was not apparent how exactly the funds allocated to support and marketing of the Finance industry had been spent.

The final approved budget for the department for 2008 was £16.51 million. This included an additional allocation of £.45 million which was voted by the States to fund the cost of additional advertising by Tourism in response to the historical child abuse enquiry (£0.21 million). Funding of £.27 million was also voted from the Department's Capital Growth Fund to supplement additional expenditure on the grant to the Jersey Financial Services Commission

ZERO BASED BUDGETING

The Department's introduction indicates that, following the States' approval of the budget, the Department moved to 'zero based budgeting' and in consequence allocated planned spending in a manner that had not previously been shown to the States.

Whilst the move to zero based budgeting may well have been justified and valuable, how does the Chief Officer of the Department explain that the plan which he originally presented to the States Assembly was one that he must have known he would not implement? Presumably he had already instigated a plan to introduce zero based budgeting when the original plan was considered by the States Assembly.

Even from the annual report it is not possible to discern the extent of the changes made to the original plan and why they were made.

The Chief Executive of Economic Development, submitted this comment in response to the issue:

There appears to be some misunderstanding with regard to where EDD's zero-based budget process sits within the annual business plan and budget cycle. The draft EDD business plan, published in May, is derived using the zero-based approach and not, as the Committee's questions seem to imply, before the zero-based process begins.

EDD's zero-based budget process is a triage of the Department's annual spend. EDD has a significant number of statutory responsibilities that must be funded e.g. regulatory functions. In addition, in any year we have committed expenditure. These commitments are either contractual or political. Given EDD's current cash limits, in addition to statutory and committed spend, EDD has a proportion of discretionary spend.

The Department has a broad remit and the call on discretionary funds far outweighs the available budget. To ensure that, given prevailing market conditions, the Strategic Plan objectives are being met it is vital that this discretionary spend is applied to the areas of maximum need and/or opportunity. This is achieved by an objective process that prioritises expenditure through the Senior Management Team scoring all discretionary bids against agreed criteria. It is the output from this process that forms the recommendation to the Minister on the business plan and budget for the following year.

It should be remembered that the 2008 budget process, including the zero-based approach, started in March 2007. In the period between the publication on the business plan and budget in May 2007, prevailing market conditions changed radically. Therefore the economic "drivers",

based on both need and opportunity changed and, as a consequence, the allocation of discretionary spend was revisited by the Department's Senior Management Team. This led to an incremental revision of the budget distribution that was captured in the final document published in November.²¹

The PAC expressed its concern that these decisions reflect a change in policy significantly different to that previously presented to the States Assembly. The Department has countered this claim, stating that:

There were no changes to policy or approach. The 2008 business plan, published in May 2007, was at that time capable of being implemented and would have been implemented had market conditions not changed so radically. Given the changes that occurred during 2007, it would have been irresponsible not to have revisited the Department's budget to ensure that, to the greatest extent possible, policy objectives could be met. The process of continuous monthly scrutiny and revision of the Department's spend continued through out 2008 as market conditions continued to change.²²

PRIORITIES

Even though the Department's spending on advertising for Tourism has been increased by a special allocation to cover the costs of advertising in response to the Historic Child Abuse Enquiry, spending on Tourism and marketing was in fact considerably lower than actual spend in 2007.

The PAC is concerned at the funding of Jersey Finance to the detriment of Tourism subsidies.

The Economic Development Chief Executive confirms that Tourism was indeed a lower priority:

*With a limited discretionary budget and increased pressure across the spectrum of EDD activity, **cuts were necessary in the Tourism area in order to fund higher priority items.** The cut to the events programme was central to the policy of encouraging event organisers to attract more commercial sponsorship.²³*

Such prioritisation was further defended in terms of zero based budgeting:

Given that the financial services sector contributes 53% of the Island's GVA and over 60% of tax revenues, support and marketing of the Finance industry is a priority item that scores highly in EDD's zero-based budget evaluation. With a limited discretionary budget and increased pressure across the spectrum of EDD activity, budget reductions were applied to other areas of the EDD budget to facilitate funding of support for financial services.²⁴

The PAC asked the Department how they assess the effectiveness of spending on Tourism, and received the following response:

Visitor volume and value are measured through a number of research programmes which are undertaken monthly using visitor card data combined with questionnaires on spend and satisfaction. The department places a high priority on performance analysis for marketing and uses sophisticated web analysis as well as advertising tracking to assess the performance of the marketing campaigns.²⁵

²¹ Written submission by the Chief Executive – Economic Development to the Public Accounts Committee, dated 30th October 2009

²² *ibid*

²³ *ibid*

²⁴ *ibid*

²⁵ *ibid*

Economic Development insists that this extra funding for Jersey Finance was successful and cost effective:

“As part of the annual grant approval process, Jersey Finance Limited reports on the performance of the previous year’s activity. Assessment of the 2007 and 2008 performance indicates that spend has been cost effective and all targets have been met or exceeded. In addition, Jersey Finance Limited undertook additional, specific pieces of work out with the business plan that were completed at or above expected levels.”²⁶.

RURAL ECONOMY

The amount spent on the rural economy during 2008 was lower than in 2007 and lower than budgeted (even after the zero based budgeting transfers). Actual spend in 2007 was £3.1 million and in 2008 only £2.9 million. The adjusted budget for the rural economy appears to have been approximately £3.3 million. Similar questions arise to those indicated in respect of Tourism.

GRANTS

In 2006, following a report published by the C&AG on the management of the Battle of Flowers, the Committee held a Public Hearing at which the Chief Officer of the Department was questioned on his Department’s management of financial assistance provided to various bodies in connection with Tourism related events. In the case of the Battle of Flowers, an exceptional grant had been awarded without a formal specification of the purposes for which the grant was to be used. In the event, the grant was not well spent.

At the hearing in 2006, the Chief Officer confirmed that he would ensure that in future, business plans would be obtained from organisations seeking grants to justify the funding request and that appropriate financial reports were obtained after the events in question.

When further questioned on this, the Chief Officer responded:

All grants are managed in line with the Financial Direction No. 5.4 Obtaining Value for Money from Grants. All Directors have received detailed information on 5.4 and have confirmed both their understanding of the Direction and the fact it is being applied within their area of responsibility. In certain cases the Department has developed dedicated schemes and they, while compliant with the Financial Direction, have characteristics, criteria and measurements unique to them. The Department has gone to great lengths to work closely with those to whom it has given grants. On the whole organisations comply with the directions but as we are often dealing with voluntary organisations, who in certain cases are not business people, this can sometimes be challenging. The most challenging of all these cases is the International Air Display. I am confident that the officers of the Department are following the Financial Direction and I am notified of any areas of concern in a timely fashion which allows me to take the necessary action. A recent audit of the grants awarded by EDD has highlighted some potential area for improvement in the governance arrangements with grant funded bodies and the consistency with which 5.4 is being applied across the Department. All findings of the audit are being implemented”²⁷

KEY FINDING

The procedures in relation to the provision of grants, which is in effect the handing out of taxpayers’ money, have been tightened and the PAC is heartened by this.

²⁶ Written submission by Chief Executive – Economic Development to the Public Accounts Committee, dated 30th October 2009

²⁷ *ibid*

RECOMMENDATION

The PAC is concerned that grants are still being provided to organisations that do not fulfil all requirements. The PAC recommends that EDD adopt a 'zero tolerance' approach given the nature of the funding – regardless of any short term impact. The PAC is concerned about the cost effectiveness of some of Jersey Finances speculative activities, and questions whether these should be publicly funded.

Health and Social Services Expenditure

The Committee questioned whether the declared underspend on staff costs and the overspend on supplies and services was indicative of a reliance on contract labour. Clarification was also needed regarding the steps taken by the Department to allocate funding in response to the recommendations of the Williamson report on child care service provision.

Where service provision is across Departments, how can we be sure that responsibility is in the right Department and do important issues fall because of lack of dedicated responsibility? Is Prison healthcare the responsibility of Home Affairs budget or the Health budget?

Mr. A. Fearn:

Yes. You obviously mentioned the continual battle between prioritisation and I know there have been some challenging developments over the year. You mentioned Children's Services, for example. What areas have you had to prioritise over 2008 just as a ...?

Director of Finance and Information – Health and Social Services:

One small example is Prison health care. There has been a programme to develop health care in the prison, a very worthy, recognisable development that I would not argue is not something that we need to do, but as a pure example of that, the overspending on oncology drugs, for example, on people's direct access to those cancer ... and, as we know, speed is of the essence in cancer. That is an example where effectively prison health care services have not been developed in the way that our previous Business Plans would have suggested we would have done that because we have prioritised in exactly the way I have described.²⁸

So are savings made which are probably not genuine savings at all? The Hospital does not know how much a bed in each ward costs but, if they fill that bed rather than paying for a bed in the private sector they are making a saving! The Department must understand the cost of each bed as they could be wasting money on inefficient allocation of resources.

Senator B.E. Shenton:

I was curious. In the accounts, you wrote: "To compensate for overspends, vacancies were held open in administrative posts." Now, obviously, the obvious question there is were those administrative posts vital, then? If you can hold vacancies open in administrative posts indefinitely, you have got to question whether those administrative posts are necessary. The other part was: "And savings were achieved within services for older people by reducing the usage of nursing and residential beds in the private sector" which implies that by using private sector beds you are significantly increasing costs, or have I misread it?

Chief Officer - Health and Social Services:

It means keeping such clients that require institutional care in hospital so they would still be residing in the general hospital rather than having their episode of active treatment being completed and then moved immediately to an institution, a nursing home, be it private or be it public.

²⁸ Transcript of the hearing with the Chief Officer, Health and Social Services, page 15

Senator B.E. Shenton:

So it is cheaper to keep someone in hospital than it is to keep ... it does not make sense, does it?

Director of Finance and Information – Health and Social Services:

No. The situation there is the bit that is missing in that discussion is the bit that says the nurses in the hospital are already budgeted and paid for and there is a saving opportunity of not putting someone out, to be quite frank, an appropriate care setting. We are talking about prioritisation that is creating a less enhanced level of care. So what you may turn around and say then is: “Well, actually that obviously means there are too many beds in the acute hospital and, therefore, you do not need so many” but what is being dealt with there is the flexibility of demand because there is ... obviously to be able to manage the acute unit, you need to have a cushion of empty beds to be able to deal with the emergency activity that spikes up every now and then.

Senator B.E. Shenton:

So what you are saying is these are only savings in terms of the appalling way the States does their accounts and, in reality, they are not savings at all?

Chief Officer – Health and Social Services:

It is a break because if we get to ... I think we have probably got about 12 patients requiring institutional care at the moment. If that got to 13 or 14, however reluctant it is but if we are under pressure, then that would be fine. If it gets to 20, 30, 50, that is not a sustainable position because we are eating so far into the bed stock that it is making the ability for the hospital to serve the Island ... but it is restricting the capacity we have. So it is an opportunistic thing. It is used as a break rather than as a full stop. Perhaps until the next year when you can try and reset some of that.²⁹

SHOULD HEALTH AND SOCIAL SERVICES BE SPLIT?

The Chief Executive of Health and Social Services was asked whether Health and Social Services should be split, to ensure that monies are ring-fenced and that the Chief Executive has the necessary skills and expertise in the area under his control.

Senator B Shenton

Have you ever considered ring-fencing the Social Services side so that it can never be accused of being neglected or being used to the detriment of Health?

Chief Officer – Health and Social Services:

The curious thing in 2010 is that the poor relation in the Health and Social Services Department will be Health.

Senator B.E. Shenton

But that is quite a rarity and, certainly looking back, that has not been the case, has it?

Director of Finance and Information – Health and Social Services:

I think my personal view on this and how I would advise managing an organisation such as Health and Social Services or the Department of Health and Social Services is to retain the flexibility because, to be quite frank, I always feel that I need the flexibility to be able to respond to the pressing issue rather than to be constrained by saying, effectively, that is a Social Services component and, therefore, that will take priority, in effect, over something that would be pressing maybe in acute services.³⁰

²⁹ Transcript of the hearing with the Chief Officer, Health and Social Services, page 19

³⁰ Transcript of the hearing with the Chief Officer, Health and Social Services, page 13

KEY FINDING

Expenditure on Health and Social Services is never in the ratio put forward in the Business Plan as technically they are 'one' Department with 'one' budget.

RECOMMENDATION

Whilst the PAC acknowledges that there can be advantages in the flexibility of the Health and Social Services split, it has concerns that sufficient controls are not currently in place to avoid the potential abuse of this flexibility to the detriment of the public. Consideration should be given to providing parameters within the Public Finances Law which limits deviation from the Annual Business Plan agreed by the States Assembly.

UNPREDICTABILITY OF HEALTH SPENDING

During hearings, the Committee also explored the issues of unpredictability in health spending. While the Committee accepts that to a certain extent this instability is inevitable, when an unforeseen expense arises such as swine flu, but is a 'post-op rationalisation' required in such cases?

Chief Officer – Health and Social Services:

It might well be that what we have to do as we look forward to a Business Plan is to come up with a post-op rationalisation that tells in a transparent way the States why we have not done something. Because, of course, if you tell us to do something, the Committee, and we do not do it, you should want to know about that and that is something I think is that is actually missing and it will allow that reconciliation between in-year pressure and plan.³¹

KEY FINDING

The PAC found a lack of understanding amongst senior Health Management in respect of the true cost of Health provision. For example, patients were being retained in the Hospital rather than being transferred to the private sector to save money – yet the cost of provision within the public sector was unknown.

RECOMMENDATION

Health and Social Services must know the true cost of all services provided, in order that comparisons with the private sector costs can be made. Management should look to 'outsource' areas where savings can be made and must have adequate financial management information to enable reviews of this nature to be undertaken.

³¹ Transcript of the hearing with the Chief Officer, Health and Social Services, page 19

Social Security Department

The previous Public Accounts Committee had concerns about the quality and quantity of Management Information available within the Department. It became clear in the Hearings that the functionality of N.E.S.S.I.E. (New Employment and Social Security Information Exchange) was underdeveloped. This was made clear by the Chief Officer of the Department's statement that *'To my mind, management information is not as it should be in the Department.'* The Chief Officer of Social Security went on to say *'some of it does not exist at the moment, supplementation being the case in point.'*³²

The present Public Accounts Committee agreed that it should clarify the extent to which the Department had been taking steps to manage the impact on the Social Security Reserve Fund by the demographic changes anticipated by 2030. It further agreed that it should consider exploring aspects of the implementation of Income Support, including, but not exclusive to, the following –

- whether planning for the introduction of Income Support had been effective.
- whether the information technology solution for managing Income Support had been fit for purpose and had been implemented effectively.
- whether adequate counter-fraud measures had been implemented.

FRAUD

During their examination of the 2007 Financial Report and Accounts, the previous Public Accounts Committee found evidence of a *"general absence of attention to the issue of fraud within the States."* Furthermore, it was identified that anti fraud measures were particularly necessary within Social Security. The current Public Accounts Committee remain vigilant on this issue:

The Connétable of St. Peter:

What sort of anti-fraud policies do you have in place?

The Treasurer of the States of Jersey:

Well, we do have financial directions that cover this. We are reviewing our anti-fraud policy and what we have done this year is we have invested in some software, which is training, in order to deal with fraud. We have also updated our whistle-blowing policy, and also next year we are investing in additional investigators, particularly in Social Security and Income Tax, to deal with fraud.

The Connétable of St. Peter:

Can you clarify that one, so there are no investigators currently within Social Security?

The Treasurer of the States of Jersey:

*No, there are a small number and it has been identified that employing more has a double benefit of reducing fraud and potentially raising the income of the States. Again, that is a strategy that is included in the Business Plan.*³³

Last year's PAC stated that: *'From the evidence there is no States-wide anti-fraud policy and the Committee recommends that this is formulated urgently and applied.'* Evidence was found which

³² Public Accounts Committee Report on the Accounts of the States for the year ended 31st December 2007, page 23

³³ Transcript of Hearing with the Treasurer of the States, page 14

'suggested a general absence of attention to the issue of fraud within the States.'³⁴ The previous PAC also identified that anti fraud measures were particularly necessary within Social Security.

KEY FINDING

There is still no States-Wide anti fraud policy.

RECOMMENDATION

The Committee believes that benefit fraud should be treated with more urgency as it is a problem that we are experiencing now (not in 2011). Benefit fraud is a significant drain on taxpayers' money and it should be prioritised more highly.

Senator B.E. Shenton:

Staying with income support, the P.A.C. will be looking, going forward, at benefit fraud and fraud within the States... I do notice that you are looking in the Annual Business Plan to save £500,000 a year from 2011. What are you saying? Are you saying that there is £500,000 fraud going on at the moment, but you just let it go or what are you saying by that statement?

Chief Officer – Social Security:

I am not saying that. Just a little bit of background first; we are in the process of putting together another fraud strategy to the department to reflect income support coming on line, but also to reflect, because lots of these risks were inherent in the old benefits as well, whether we can learn from anywhere else on how we tackle fraud. The figure we put in of £500,000 will come from ... let us just say we initially put this as a target. We put this in as a target for 2011 because we have got to complete the business case to make sure that those sorts of savings are achievable and there is a net savings as opposed to gross savings. There is no point in employing 4 more inspectors or beefing up your compliance team if at the end of the day it is not going to wash its face. There will be a business case put together before that £500,000 is finally agreed to.

Senator B.E. Shenton:

The figure for 2011 is nil.

Chief Officer – Social Security:

The figure for 2011 is nil because at that point we were not willing to go for a target that we had not put into a business case and would, therefore, be something that we would be tied to for the Business Plan in 2010.³⁵

SUPPLEMENTATION

Supplementation remains a problem as it is very difficult to predict the sums required. In addition the accounting processes are complicated by the fact that monies within the funds are outside Government expenditure.

Mr. K. Keen:

Some of your costs are clearly charged directly to the funds themselves and I am just looking at, for example, staff costs. In your analysis you have got staff costs of £5.9 million virtually, but in your income and expenditure you have £2.5 million. I am looking at page 114, staff analysis, how many people, and so you have got £5,875,000 in a little shaded box down towards the middle. On page 119 you have got staff costs of £2,586,000. In the notes you say that some staff are employed by the funds themselves. Are there other costs of the funds? When we are looking at your expenditure we really need to ...

³⁴ Public Accounts Committee Report on the Accounts of the States for the year ended 31st December 2007, page 8

³⁵ Transcript of the hearing with Chief Officer, Social Security, page 5

Chief Officer – Social Security:

This is only part of the picture.

Mr. K. Keen:

This is a very small part of the picture then, is it?

Chief Officer – Social Security:

Not very small but very big part of the picture, yes, and when we were talking about perhaps presenting to the figures, the expenditure of the department and the whole £318 million ...

Mr. K. Keen:

This includes Social Security ...

Chief Officer – Social Security:

Yes, that is Social Security, Health Insurance Fund and tax funded benefits and services. We collect £384 million of income. When you apply those numbers, it really is a very big department. In terms of the expenditure, you are talking about recharging. Quite often the way it does work is that the fund will run a bank account and then recharges so we pay everything out to the fund and then we recharge it across to the fund in accordance with activity.³⁶

KEY FINDING

The summary of income and expenditure appearing under Social Security (on page 119 of the 2008 accounts) is incomplete because material amounts of expenditure (including staff costs of approximately £3.3 million) are charged directly to the Social Security and Health Insurance funds.

RECOMMENDATION

A summary of all overhead expenditure for the Department and funds should be provided in future States Accounts analysed by the provider of those funds (i.e. States or the respective funds). This will allow users to form a view about the efficiency of the department and its total operating costs.

The problem of supplementation provisions needs to be addressed as a matter of urgency. The PAC was pleased that Proposition P153/2009 was passed on the 18th November 2009. However the PAC considers that it is important that in addition to the question of funding, there is also consideration in respect of the relevant accounting practices. Not all governments fund Social Security in a manner as prudent as the States of Jersey and some of the concerns are in relation to the relatively short notice under which funding must be applied. If, for example the funding requirement is in arrears on a two year retrospective basis, financial planning can be undertaken without an element of 'nasty surprises.'

³⁶ Transcript of the Hearing with the Chief Officer, Social Security, page 9

Financial Directions and Internal Controls

Last year's findings by the Public Accounts Committee³⁷

During their consideration of the 2007 Financial Report and Accounts, the previous PAC expressed dissatisfaction with the Financial Directions, observing:

- **Lack of centralisation**, so that each Department was left to work within the Financial Directions in isolation, with an occasional overlap.
- **Lack of compliance**. The PAC found evidence that if a certain Department found the Directions inappropriate, it did not follow them.
- **Lack of compulsion to comply**. Only Accounting Officers are obliged to comply with Financial Directions.
- **Lack of monitoring** 'of the implementation of internal audit recommendations for the correction of weakness of internal control.' The PAC considered that this monitoring should be a Treasury function.
- **A potential inadequacy within the Financial Directions themselves** as confirmed by the Chief Internal Auditor, "One of the main things that comes through is that quite a number of departments feel that the financial directions are written on a Treasury basis and for the Treasury, but they state that they do not know what is involved in running departments and they do not know what is involved with dealing with the customer, which is quite ironic, as one of the core values of the organisation is that the customer is at the heart of everything we do." The PAC recommended that the Financial Directions themselves be reviewed.

The previous PAC went on to advise that the Public Finances (Jersey) Law 2005 be amended such that:

- (i) A duty should be placed on all States employees to comply with Financial Directions.
- (ii) The Treasurer should take responsibility for ensuring that recommendations by the Internal Audit Department are implemented swiftly.
- (iii) The Treasurer should have a legal responsibility to issue Financial Directions which are sufficient to ensure that an appropriate system of internal control is in place throughout the States.

A vital part of the scrutiny process exercised by the Public Accounts Committee is to ensure that their findings and recommendations have been followed up. With this in mind, the Committee questioned the Treasurer regarding the above:

Deputy T.A. Vallois of St. Saviour:

With regards to internal controls within the Treasury Department, just looking back on the report that was done by P.A.C. back on 9th September 2008, and they mention with regards to the financial directions and how this was an issue. Where are Treasury with regards to the financial directions, have they been changed?

The Treasurer of the States of Jersey:

I think you can answer that one.

Deputy Treasurer:

There is a whole range of financial directions in place covering a whole range of various financial control issues, and these cover everything from how to buy goods to how to manage petty cash, and then a whole new range of other things. From time to time we issue new ones, or revise old ones for various reasons that come along. What we are in the midst of doing following that issue and various other issues that have come up over the past year is we have gone through a process of firstly looking at the various assurances that are in place to give us and accounting officers

³⁷ Public Accounts Committee Report on the Accounts of the States for the year ended 31st December 2007, page 7

assurance that financial directions are being complied with. As part of that we are validating that the controls within them are still relevant, valid and appropriate at this time. We do have a programme of revisions to existing financial directions which is underway and some new financial directions which need to be introduced. This is an ongoing thing that happens most years and there are a number of areas being worked on, as we speak, at the moment. As we are advising them to do new ones we are obviously learning from past experience and ensuring that they are appropriate and as understandable as they can be, but some of them are necessarily technical documents. The other piece of work that we are about to undertake is a comparison of the control framework, so that is the areas where we have financial controls in place against best practice in the U.K., to see if we are covering everything that needs to be covered, whether there are any areas where we could look to improve our range of controls. Equally, if we have areas where perhaps the controls are more at risk than might be best practice.

Deputy T.A. Vallois:

With regards to the Chief Internal Auditor, who mentioned with regards to the financial directions and that it was a problem, he makes recommendations, I understand, to the accounting officers. Obviously, you will be speaking with the accounting officers when it comes to budgets and monies, when it comes to that time, how have they reacted to the recommendations in moving forward over the last year, 2008? Do you know or ...?

The Treasurer of the States of Jersey:

In terms of?

Deputy T.A. Vallois:

In terms of recommendations which would have been made by the Chief Internal Auditor because he would have made recommendations to obviously improve areas.

The Treasurer of the States of Jersey:

Yes. As I mentioned earlier we have now set up an independent Audit Committee, it has got an independent chair and all audit reports go to that committee. All of them have actions. For each one the accounting officers say what actions they will put in place to put things right. The Audit Committee, if they feel that those actions are not good enough, will summon the accounting officer to the meeting to explain themselves, and all those actions are followed up to make sure they are put in place by the agreed date. I think at the moment, I say this because I saw a report recently, the implementation of actions by the agreed date is running I think at 96 per cent plus, so they are being put in place.

Mr. K. Keen:

Could I have a follow-up to that one. I recall from last year in evidence to this committee, you were reported as saying that the system was incapable of exercising control over States expenditure, I think that was virtually a front page, and not surprisingly, would you say that it has improved in the last year and if so how?

The Treasurer of the States of Jersey:

I was not referring to this context at all. I am not going to go to the same place again, which was about States financial planning. Your question is on controls, have they improved over the last year? I think we are on a journey, but I think controls have improved very, very significantly over the last year. We have put a lot of things in place to improve the standard of controls. We are in the process of totally reviewing financial directions, issuing new ones. We have set up this independent Audit Committee. We have done a piece of work to look at compliance with financial directions to ensure there is a framework in place. We have produced statements of internal control that are signed off by the accounting officer, and we have put a statement in the accounts. We have still got a long way to go but I think they have improved very dramatically.³⁸

³⁸ Transcript of the hearing with the Treasurer of the States, page 9

KEY FINDING

As the Treasurer observed, 'we still have a long way to go.' The issuance of Financial Directions which are not acted on, demonstrates that a rather wayward and uncertain system currently operates. Controls and insistence on compliance by the centre are lacking.

RECOMMENDATION

The re-organisation of the Treasury structure should alleviate some of the areas of concern. However, there have to be controls to ensure that all Financial Directions are implemented in full by all relevant Departments. All Financial Officers should sign off each Financial Direction and give an undertaking that it will be implemented.

The Treasury

There appears to be a lack of leadership and advice from the Treasury area. The Committee questioned whether the Treasurer considers offering his opinion or guidance in financial matters as part of his role:

Senator B.E. Shenton:

The Treasurer of the States, reports to the States Assembly as a whole, so there is a level of independence there so that no one can tell you what to do. Now, surely we would then expect you to turn around and be a little bit more vocal from an economic point of view if spending was getting out of control.

The Treasurer of the States of Jersey:

Yes, and I think I will do that. The balance of tax and spending is a political decision. I cannot say States spending is too high or too low because that is what the people of Jersey will look up to you as politicians, say they want you to increase or cut spending and increase or cut taxes. Where I guess I would make a stand to you is if what I thought you were doing was unsustainable. If I saw someone suggesting a very big increase in States spending and a big reduction in taxes it would be my job, and I think I would do it, to tell you what the consequences of that would likely to be.

Senator B.E. Shenton:

Then you would be more vocal on the implications of the policy. The Medical Officer for Health, she has a similar role to you. She sits outside the States and she says: "We need this, that and the other. We need pandemic and this, that and the other" and then it is up to the Health Minister to decide whether we are going to spend the money on the pandemic or not but ...

The Treasurer of the States of Jersey:

Yes, and if I thought there was an issue I would certainly raise it. I would say that this States, in recent years, has got a very good record of ensuring sustainable public finances. It has made some very difficult decisions, necessary decisions, on taxes which mean that our starting point today, and entering the credit crunch, we are in a financial position, I think, is the envy of the rest of the world. We have got, potentially, another structural deficit arising. If I saw the States reluctance to address that I guess, ultimately, I would have to say, either through not cutting spending or not increasing taxes, this is not sustainable.³⁹

³⁹ Transcript of hearing with the Treasurer of the States, page 11

THE TREASURER - A NON POLITICAL ROLE?

The Committee has observed that as part of the Treasury Re-structuring Plan, some of the Treasurer's roles are moving to the Deputy Chief Executive who is much more politically influenced than the Treasurer. A potential problem has been identified here, as the Treasurer of the States was initially created and envisaged as a non political function. The Committee is troubled by the idea of previously non-political roles moving over to the political arena.

Senator B.E. Shenton:

The way the role of Treasurer was set up was very much that he would report to the States so that he would not have anyone telling him what to do and would be totally free from undue political influence. That is how basically the law was structured. A number of your roles are moving across to the Deputy Chief Executive of the States, who is much more under political influence. Has that been taken into account with regard to the movement of roles? Is this whole change just a way of the Council of Ministers getting more sort of flexibility in making it more malleable that the people will do what they want them to do with regard financial management?

The Treasurer of the States of Jersey:

No, absolutely not. I think it is driven by all the right reasons. I think it is driven by the fact that we had Human Resources and I.T. (Information Technology) sitting in one States department, we had Financial Processing and Procurement and Property sitting in another. These things are all resources and there are all huge interlinks between them and there are huge opportunities for economies of scale and for providing a really good one stop shop to departments. If they are setting up a new office building they do not want to go running to one person for their I.T. systems, one person for their building and one person for their staffing. They want to go to one place. Behind this is that objective. There is one that quite simply I was being spread too thin so I need to be able to concentrate on the Treasury side and on this financial management agenda, by bringing in some extra resource to help deliver that resources agenda. There is no devious thing to it and there is no change to my responsibilities. I have still got an obligation, a right, which I will exercise if I think so, to go straight to the States on issues if I think something has been dealt with wrongly. All I am saying is that it is a really positive move. There is no sub-agenda, there is no political agenda to it.

Senator B.E. Shenton:

No, but albeit that if you are looking back, some of the areas that you need an independent Treasurer to oversee are moving to an area where you have not got the independence of them all.

The Treasurer of the States of Jersey:

We have not worked out how it is going to work out. It may be that I effectively have a service level agreement to have some things provided to me, but that is okay because I contract out other things all the time. I contract out currency and security issue and the like. You can do that and still retain responsibility.⁴⁰

TREASURY - EXPENDITURE

The overarching point of note was that the States spent significantly more last year than was allocated in the original business plan. The Committee was interested to discover how the Treasurer of the States viewed his role in ensuring that the assigned budget was adhered to:

Senator B.E. Shenton:

I think it would be fair to say that when we pass the Business Plan, the Business Plan is what we pass as the States. The final approved budget or variances to that Business Plan is normally extra spending. How far do you see your role to make sure that the States sticks to the original Business Plan, as opposed to making sure that you just account for every penny that they spend? What degree are you Treasurer and what degree are you the States accountant?

⁴⁰ Transcript of the hearing with the Treasurer of the States, page 22

The Treasurer of the States of Jersey:

Do you want to try that question again? Which question are you asking me? Clearly, the difference in the Business Plan and approved budget we all know is carry forwards plus additions agreed by the States. It is up to the States to decide on whether they can agree additional spending. Far be it for me, that is a political decision. To that extent the job here is to make sure that people live within their budgets, their approved budgets, and that is what the Finance Law requires.

Senator B.E. Shenton:

Where I am coming from is that you refer back to private companies. The style of the report, where the introduction by the Treasury Minister is very gushing, as you would expect from a P.L.C. (public listed company): "Did we not do well, blah, blah, blah, blah, blah" but there is no counter within that to say: "Well, yes, we have done well but the Annual Business Plan was X and the States decided to do Y and this is very disappointing that we have spent significantly more money than in the original Business Plan." Is this a document that is more a sort of bit of P.R. (public relations) work as opposed to a serious piece of work?

The Treasurer of the States of Jersey:

This is quite the opposite from my point of view; obviously the Minister's foreword is the Minister's foreword. My Treasurer's report and the accounts are all subject to an audit and they have all received a clean audit report, and they are statements of fact. It is up to others what conclusions they draw from those facts. There is just no way I am going to get involved in presentational stuff. My job here is to give the facts.⁴¹

'MY JOB HERE IS TO GIVE THE FACTS'

The issue raised above of whether the Treasurer is a 'Treasurer or an accountant' echoes the sentiments expressed in the 2007 Review of the Financial Report and Accounts, where the previous PAC was concerned that the Treasurer had no legal requirement to 'take responsibility for the active supervision of financial management throughout the States,'⁴² going on to recommend that the Treasurer should have 'an explicit responsibility for ensuring the quality of the States' financial management' which should also be included in the Public Finance (Jersey) Law 2005. The Committee stressed that the Treasurer should not just "keep score" but take responsibility. The current Committee shares this view, and considers that the Treasurer should take a more hands on approach:

Senator B.E. Shenton:

... with the Teachers' Pension Fund it was well known for quite a long time that there was a problem there. I think the original intention was to merge it in with the P.E.C.R.S. scheme, but then P.E.C.R.S. turned around and said: "No, we do not want to because it would create too many problems." While the negotiations were going on there was a failure to increase the contribution rates to the teachers, which was largely a political decision. I believe the Minister at the time did not want to increase the contribution rates to the teachers even if he knew that there was a liability there building up. Where you have got circumstances like that where do you see your role as Treasurer of the States, where politicians are basically not making difficult decisions and, as a result, the liabilities to the taxpayer are increasing?

The Treasurer of the States of Jersey:

I do not know if I accept the analysis you have just given, but I think it is my job to give advice on the implications of decisions absolutely.⁴³

⁴¹ Transcript of the hearing with the Treasurer of the States, page 3

⁴² Public Accounts Committee Report on the Accounts of the States for the year ended 31st December 2007, page 7

⁴³ Transcript of the hearing with the Treasurer of the States, page 16

KEY FINDING

The Treasurer of the States did not seem to fully understand his role and saw himself as something more akin to the States accountant.

RECOMMENDATION

The Treasurer of the States should act with more independence, as prescribed by law, and be more vocal in his quest to keep the States finances in balance. It is important that he is able to provide an independent voice free from undue influence from the Treasury Minister and other politicians.

Home Affairs

PRISON - ACCOMMODATING FOREIGN NATIONALS

The Committee has observed that the prison has a high non-Jersey population whose accommodation is publicly funded. Money could be saved if these prisoners were held in their home countries. The Committee is concerned that Jersey currently does not have legislation (such as the UK's - Repatriation of Prisoners Act) to address this.

Senator B.E. Shenton:

But we still do not have any treaties with Madeira, Portugal, Poland and various others where we have got a high prison population and, in fact, from a human rights point of view a number of people have said they would prefer to serve their sentence within their homeland where they have family and yet we are paying for them in Jersey where no one really wants them to be.

Chief Officer – Home Affairs:

The U.K. has a Repatriation of Prisoners Act where it does have these agreements with certain countries. It has never been extended to Jersey. I had a letter last week from the S.G. (Solicitor General) because we have been in correspondence with him. The advice we asked for was should we extend the Act or should we have our own law? He has advised that we should develop our own law to make agreements probably initially with Poland and Madeira, clearly, because those are the foreign nationals that are in the majority in our prison, so it is a subject that the Minister is actively working on now.⁴⁴

KEY FINDING

Jersey has no legislation regarding repatriation of prisoners which is resulting in unnecessary expenditure of public funds on accommodating foreign nationals.

RECOMMENDATION

Using the UK's Repatriation of Prisoners Act as a precedent, legislation should be brought into force and agreements made with other countries to allow prisoners to be returned to their home countries. This should not only provide significant savings for the taxpayer – but also repatriate foreign nationals to their homeland where they can receive support from family and friends.

⁴⁴ Transcript of the hearing with Chief Officer, Home Affairs page 19

OVERSPEND IN HOME AFFAIRS IN 2008

The overspend itself is a 'statement of fact,' says the Chief Officer.

Mr. M.P. Magee:

I think the reality also is that we do keep referring to an opening and overspend. My view of life is that the original budget, £42 million, was the original budget. The very fact that Treasury is giving you an extra £5 million to bring you in at £49 million, there has been an overspend of £5 million. Now, to me it is disingenuous not to talk about any budget overspending. From where you stand there is no budget overspend because the States have said you can spend £49 million so you say: "We are coming in at budget." The reality is there has been £5 million spent, I guess most of it on what you have referred to, but the question is who is responsible for knowing whether that £5 million is spent properly because you cannot see whether it has been spent properly?

Chief Officer – Home Affairs:

No, I can tell you what I think about that later.

Mr. M.P. Magee:

To me, to a layman here, it is overspent by £5 million, the original budget that the States initially approved.

Chief Officer – Home Affairs:

Yes, I think that is a statement of fact, yes.⁴⁵

Confusion Over the Lines of Accounting Responsibility

The previous PAC considered that *'the States organisation does not take the exceeding of budgets seriously. Accounting Officers are not held to account and shortfalls are covered by transfers from other budgets or allocated by supplementary votes.'*⁴⁶

This remains a serious issue. The Committee found evidence of uncertainty about financial accountability within individual Departments: a problem which seems to be endemic: from the Treasury itself all the way through various Departments.

Health and Social Services

During the hearing, the Director of Finance and Information – Health and Social Services, explained that the lines of financial accountability are less than transparent. Moreover, he appeared to feel that there was a cultural assumption that all funding issues in his Department were automatically his responsibility (and indeed, as remarked by the last PAC Report on the Accounts⁴⁷ there is no compulsion for any other individual in his Department to comply with the Financial Directions):

⁴⁵ Transcript of the hearing with the Chief Officer, Home Affairs, page 11

⁴⁶ Public Accounts Committee Report on the Accounts of the States for the year ended 31st December 2007, page 6

⁴⁷ Public Accounts Committee Report on the Accounts of the States for the year ended 31st December 2007, page 7

Director of Finance and Information – Health and Social Services:

I think the difficulty for that, then, is the concept of accounting officer then is slightly undermined as it becomes unclear about who is taking real responsibility. I can give an example. Some of my colleagues in Health and Social Services believe that if they tell me it is a problem and it has got a financial sum attached to it, somehow or other it becomes my problem, and it does not change the fact that actually they are still potentially ... the plan that they might be undertaking is going to incur resources they do not have. I do not think it is positive to create a similar confusion between the department and Treasury but I do think there is a lot more work than can be done at, I would say, a policy type guidance type level across the States overall from Treasury that would assist the smoother running of the department overall.

There is an element of inconsistency. We have the F.A.B. group, the Finance Adviser Board, which is the pulling together of the Finance Directors, but I think there is a mixture of some things that need a lot more clear steer and maybe a bit more diktat about: "This is how it will be done" rather than an option that then never happens, and I think that is something I think that we, in our role as Finance Directors, in our relationship with the Treasurer and the Treasury, we will constantly be defining as we go.⁴⁸

Home Affairs

The Chief Officer of Home Affairs was clear that he felt that the defined roles of financial accountability were hazy, describing the situation as:

A very delicate relationship between two Chief Officers which is shown to be a bit vulnerable ... well, a bit tenuous but making me a bit vulnerable.⁴⁹

He went on to explain:

Chief Officer – Home Affairs:

Home Affairs is the only department with two Chief Officers and there is a very, very important distinction. The Chief Officer of Police reports direct to the Minister and I have no managerial or command or control or responsibility at all, but I am the accounting officer and so the whole of the Home Affairs budget, half of which is the States of Jersey Police budget, I am accountable for. The rest of Home Affairs, that is the Prison, Fire and Rescue Services, Customs and Immigration, Jersey Field Squadron and Superintendent Registrar, they do report through me to the Minister. There is a different managerial relationship and clearly I can ask more questions of those departments than I can do of the Police.⁵⁰

The Chief Officer for Home Affairs is also technically the Accounting Officer. However the Chief Police Officer is not accountable to him and reports directly to the Minister. This leaves a perturbing grey area, most notably exemplified by the large financial outlay required for the historical child abuse enquiry. As a direct result of this ambiguity around financial accountability, a large portion of money has no Accounting Officer and cannot be verified as wisely spent.

The actual statement on the 2008 Financial Report and Accounts acknowledges this problem, albeit fleetingly:

Since the advent of Ministerial Government and the introduction of Public Finances Law 2005, this arrangement (between Home Affairs and the Police) has worked satisfactorily. However, the funding experience with the HCAE has exposed potential weaknesses, which require a review of the funding arrangements within Home Affairs.⁵¹

⁴⁸ Transcript of hearing with Chief Officer, Health and Social Services, page 46

⁴⁹ Transcript of hearing with Chief Officer, Home Affairs, page 10

⁵⁰ Ibid, page 7

⁵¹ Financial Report and Accounts 2008, page 98

Furthermore, the Committee is disturbed at the implication of a Ministerial Decision whereby the Chief Officer of Home Affairs said that he could not undertake his role because of the current set-up in respect of the Home Affairs Department and the accounting officer's role within that department. The Chief Officer said that because of the structure he could not verify that the money spent on the Police side within the Home Affairs budget was spent wisely in accordance with the States of Jersey Public Finances Law.

Senator B.E. Shenton:

There is a Ministerial Decision signed by Senator Ozouf which you will be very interested in.

The Treasurer of the States of Jersey:

I think I know the Ministerial Decision.

Senator B.E. Shenton:

This is the one where he says I could not carry on my role as Accounting Officer and obviously that has big implications because if you have got a law with Accounting Officers and all they have to do is say: "Well, I am sorry that is not part of my role," then you have got no checks and balances.⁵²

The Ministerial Decision in essence says that part of the money, which is a significant part of the budget, effectively has no accounting officer. This MD therefore appears to absolve any individual of accountability for the expenditure of funds.

The Committee finds this unacceptable. If a Ministerial Decision has the power to retrospectively circumvent a law, this renders the original law meaningless. Whilst understanding that the Chief Officer of Police requires independence, the PAC does not consider that this requirement negates the requirement to funnel all finances through the Accounting Officer. It is a matter of serious concern that there appears to be no central oversight in respect of the Home Affairs Budget.

KEY FINDING

The Accounting Officer within the Home Affairs Department is currently unable to undertake his role due to the Departmental Structure. The PAC is concerned that the current position is open to abuse and that there is a lack of clear accountability.

RECOMMENDATION

The Accounting Officer role within Home Affairs needs to be strengthened and clarified as a matter of urgency. The PAC is very concerned that this issue is still outstanding, despite being raised as an urgent problem some time ago. It is simply not acceptable that there is still no defined accountability in respect of taxpayers' funds.

Surprisingly, the Treasurer seemed unaware of this situation:

Senator B.E. Shenton:

What was your reaction to the ministerial decision signed by Senator Ozouf with regard to the fact that the accounting officer said he could not undertake his role?

The Treasurer of the States of Jersey:

Sorry, again, I am not aware of that.

Senator B.E. Shenton:

There was a Ministerial Decision signed whereby the Chief Officer of Home Affairs said that he could not undertake his role because of the current set-up in respect of the Home Affairs Department and the Accounting Officer's role within that Department.

⁵² Transcript of the hearing with the Treasurer of the States, page 26

The Treasurer of the States of Jersey:

As far as I am aware, the current arrangement is he accepts his Accounting Officer responsibilities for Home Affairs and has arrangements in place to ensure that the money is properly accounted for.⁵³

When further questioned on the matter, the Treasurer seemed sure that the accounting lines were clear and unchanged:

The Treasurer of the States of Jersey:

The Minister determines the Accounting Officers. The Accounting Officer is currently the Chief Officer of Home Affairs. I am not personally being asked nor aware of any proposals to change that at present.⁵⁴

The Treasurer has subsequently submitted the following clarification to the Committee:

At Tuesday's PAC hearing Constable Refault and yourself asked me questions about page 98 of the accounts regarding discussions with Home Affairs and also referred to a Treasury and Resources Ministerial decision which, I think you said, accepted that the Chief Officer of Home Affairs was not the Accounting Officer. I could not recall such a decision, nor any lack of clarity about Home Affairs Accounting Officer responsibilities, so I hope you can understand my confusion at this line of questioning.

I promised to come back to you with a statement on the position which I have agreed with the Chief Officer of Home Affairs.

The Ministerial Decision I believe you were referring to is attached.(see Appendix) It transferred funds to a number of Departments including Home Affairs to cover costs of the HCAE.

The enclosed report states in section 3:-

“Departmental funding requests

Three of the Departments seeking reimbursement have confirmed 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.

The Accounting Officer of the Home Affairs Department had stated that he has taken all reasonable steps to discharge his responsibilities under the Public Finances Law in seeking the necessary assurances concerning the expenditure of public funds associated with the historical child abuse enquiry. However he also states that he is unable to give an assurance that the level of expenditure incurred whilst the previous Senior Investigating Officer was in charge of the investigation was entirely justified. Despite this the Minister for Treasury and Resources has agreed to reimburse the accounting officer to protect his legal position but the Treasurer of the States has asked for urgent discussions on proposed solutions to this situation. A response has been received from the Accounting Officer of the Home Affairs Department and discussions are ongoing within the department on how to improve the level of assurance the Accounting Officer is able to give relating to this expenditure.”

Neither this report, nor the Ministerial Decision waived the Chief Officer's Accounting Officer responsibilities.

Discussions did subsequently take place about the arrangements necessary to ensure that all HCAE expenditure was appropriately incurred.

Those arrangements include a Strategic Co-ordination (Gold Command) Group to oversee HCAE, and a Memorandum of Understanding between the Home Affairs Chief Officer and the Acting Police Chief on the financial management of the police budget.

And the outcome of a meeting with the Treasury on this matter was an exchange of emails (enclosed) by which the Chief Officer confirmed that he was the Accounting Officer and that the

⁵³ Transcript of the hearing with the Treasurer of the States, page 5

⁵⁴ ibid

responsibilities for managing HCAE costs and value for money sits with his department with the mechanisms he has set up to control them.”⁵⁵

The Chief Officer of Home Affairs has subsequently submitted the following clarification to the Committee:

It is quite clear that I am the Accounting Officer for the whole of the Home Affairs Department. The point was that the events surrounding expenditure on the Historical Child Abuse Enquiry (HCAE) placed me in a vulnerable position. I hadn't felt so exposed up until that point.

To say “.....a large portion of money has no Accounting Officer.....” is factually incorrect. I am the accounting officer for the whole of the Home Affairs budget and I have never suggested otherwise. In fact, I am quoted in the paragraph which precedes this as saying that I am accountable for the whole budget.

*The two material Ministerial Decisions are MD-TR-2008-0141 and MD-TR-2009-011, the second of which the Treasurer refers to in his later clarification statement. The statements at the foot of each MD are factually correct but appear not to have been interpreted correctly. Firstly, that statement says that I could not give certain assurances about the expenditure of public funds **associated with the HCAE only**, not expenditure against the Police budget generally. It is widely known that the Wiltshire Constabulary are investigating the conduct of the HCAE, and that part of that investigation concerns the use of public funds. During the hearing, I was not questioned for long about this aspect. Had I been asked what factors might have contributed to the high levels of expenditure on the HCAE, I would have said that, in my view, there were more significant factors than the Accounting Officer structure, but it would be inappropriate to expand upon them in a public hearing until the Wiltshire investigation report, and all matters connected with it, had been completed.*

There is a reference to there being “...effectively no accounting officer...” Again, there is no reference to this in the MD which is the authoritative statement from which this inference is drawn.

The PAC report states: “It is a matter of serious concern that there appears to be no central oversight in respect of the Home Affairs budget.” This is factually incorrect. Aside from the HCAE funding, for which there was no prescribed budget, the Home Affairs budget has been properly managed as a result of there being central oversight through me as the accounting officer and the Home Affairs Finance Director.

There is a statement that “....the Chief Officer of Home Affairs said he could not undertake his role.....” The statement I made for the MD does not say this. It simply says that I could not give the necessary assurances that expenditure incurred by the previous SIO was entirely justified. That is not the same thing and it was because of the lack of assurance that the BDO Alto audit was commissioned.⁵⁶

KEY FINDING

Lines of financial responsibility remain unclear across several Departments, leading to confusion and the spending of considerable sums of public funds which cannot be accounted for.

RECOMMENDATION

The independence of the Treasurer is paramount – as are clear reporting lines and allocations of responsibilities. Where failures of accounting controls occur, there must be responsibility taken from the centre to correct these problems. The significant and potentially costly lack of clarity within Home Affairs must be corrected as a matter of urgency.

⁵⁵ Written submission of the Treasurer of the States in relation to the hearing of 21st July 2008

⁵⁶ Written submission from the Chief Officer of Home Affairs dated 19th February 2010

RECOMMENDATION

The PAC recommends that a Police Authority, to which police expenditure will be accountable, is set up as a matter of urgency.

The two Ministerial Decisions relating to the budget transfers in respect of the Historic Child Abuse Enquiry are included in the Appendix of this report.

Housing

The Committee questioned the Treasurer of the States regarding the write-off of assets.

Mr. K. Keen:

Can you tell me what the write-off of assets £1,385,919 is?

The Treasurer of the States of Jersey:

The Housing Development Fund has purchased sites for redevelopment and when they redevelop, and it has happened in the past, a town site for social rented housing you buy the site at quite high cost but social rented housing has not got a high value because rents are low. It is a price you pay for trying to build your social rented housing in town and not in green areas, so when we pass these assets over to housing trusts they are only going to get social rents. We have to sell them to them effectively at a loss. It is a deliberate mechanism to achieve States policies and provide more social rented housing in doing it in the town area, but I have got to say I think that is extremely likely to be the reason, but I will confirm in writing to you.⁵⁷

The PAC recognises that there are significant re-organisations of the States property assets being undertaken at present. The PAC shall therefore comment in due course once it has analysed current proposals.

Pensions

There are two major pension schemes provided by the States for its employees: the Public Employees Contributory Retirement Scheme (the PECRS) and the Teachers Superannuation Fund (the TSF).

PECRS

In May 2008, the C&AG wrote a report entitled 'Pension Schemes for States' Employees – Liabilities.' In his findings, the C&AG stated that the PECRS is well managed, and due to the reforms in 1987, the exposure of the States has been limited. However, there is no cause for complacency, and the States may need to review the terms and conditions in order to keep pace with the UK Public Service pension schemes. In fact, the Public Accounts Committee is minded that the past pension liability be dealt with as a matter of urgency.

At a public hearing, the Committee questioned the Treasurer about the PECRS:

⁵⁷ Transcript of the hearing with the Treasurer of the States, page 24

Mr. K. Keen:

Could I ask you about pensions? On page 27 of the 2008 accounts there is an item described: "Movement in pension liability", virtually £96 million, which is obviously a very big number and does not seem to have got much mention in the narrative by the Minister, or indeed in your report, that I found. On page 28, I think the principal explanation in 1996 meant there was an increase in the pre-1987 P.E.C.R.S. (Public Employees Contributory Retirement Scheme) liability, where it has virtually doubled from £119 million to £222 million. Could you explain a little as to what that is?

The Treasurer of the States of Jersey:

I will happily do so, or I will try my best because it is complicated. There are very extensive notes in the accounts on pension issues.

Mr. K. Keen:

Yes, accepted.

The Treasurer of the States of Jersey:

What this is about is about the pre-1987 debt. Up until 1987 the States funded its pension liabilities on a pay-as-you-go basis. From 1988 onwards it moved towards fully funding, and the trouble is that that left you with a debt from previous generations that give these people a greater ..

Mr. K. Keen:

I think that is understood by this committee but you booked the liability in 2005 at £100-odd million and you have doubled it now; what is the reason for that?

The Treasurer of the States of Jersey:

Yes, I will happily explain. The trouble was that what was agreed in 2002 was that the States would eradicate that debt over a number of years and it entered into negotiations with the Committee of Management and in the end came up with a deal that effectively meant that 2 per cent would be contributions on payrolls, so it agreed that the States overall contribution, effectively, would be 15.6 per cent, of which 13.6 per cent would cover ongoing pension contributions and that was capped, and 2 per cent would cover the past service debt. That 2 per cent of payroll was converted to a cash amount and is indexed each year in accordance with the cost of pay in the States. What we have done to put a figure on that is you work backwards on a discounted basis, effectively to what that equates to in terms of debt, and it varies hugely depending on the discount rate. Now, what we had over this period was a big fall in interest rates and that has increased the value of the pre-1987 debt. This is truly an accounting issue. There has been no change in the agreement. There has been no change in the liability. There has been no change in the contribution. What it is, is because of changes in the discount rate, is that revenue stream - I think it is about £3.5 million or something we pay in a year - when you capitalise that, based on the discount rate, it varies in accordance with interest rates. Although it is a way of demonstrating the figure, it has not changed one iota the amount the States will repay over the period.

Mr. K. Keen:

It seems a highly material change, it really does. Do the public owe £119 million or £222 million?

The Treasurer of the States of Jersey:

No, what the public are committed to is to repaying the debt over 82 years on a sum of money that is index-linked by pay awards. That is what they are committed to and that figure does not change regardless of interest rates. They are trying to put a capital value on that for accounting purposes. It is varied by the actuary and it is done independently by him on an annual basis. So it is not more money.

Mr. K. Keen:

If your accounts show a true and fair view I am sure it is more money, is it not? Presumably if you tried to settle that liability with the trustees you would have to pay them the cash amount and what we are saying now is it is £222 million.

The Treasurer of the States of Jersey:

If you decided to pay the money to the trustees now it probably would be. I think it may not be a wise thing to do at this point because as interest rates change the amount would go back down again.⁵⁸

While acknowledging here that the liability 'probably would be' £222 million, The Treasurer's point appears to be that it is incredibly unlikely that this sum would be crystallised and paid out at one point in time. So he appears to be saying that the £222 million is only theoretical and also that the interest rates 'may change' in any event.

Mr. A. Fearn:

Just to clarify, some members of the public were asking me this question in relation to the pensions. Obviously, with regards to pensions in the private sector, the 2 main issues around funding as it relates to longer life expectancy and also pay awards traditionally. So just to clarify, when you talk about capping these schemes does that capping relate to the cessation of any further liability by the States on behalf of longer life expectancy and also potential payments?

The Treasurer of the States of Jersey:

Absolutely. For instance, we have just had an actuarial valuation done of P.E.C.R.S. and it has identified a deficiency. One of the major contributors of that was increasing life expectancy. There are actions that must be taken to address the deficiency and there are discussions that are open between the employer and the employer representatives, but the default position is that index linking of pensions reduces. So that is how the States has capped its position, that any worsening of the scheme for whatever reason - pay, longevity, anything - results in a valuation deficiency. That deficiency in default is always addressed by automatically reducing the figure to pensions; the States is not exposed.⁵⁹

Teachers Superannuation Fund.

In his consideration of the TSF, the C&AG said that it similarly now provides benefits 'broadly comparable with those available from equivalent mainland public sector schemes; has now been reformed so that the States are not exposed to unlimited risks.'⁶⁰ However, he noted that the costs incurred by the scheme are higher than for the PECS. This is 'in part because the far-sighted reforms of the PECS in the late 1980s's were not matched at the time by equivalent reforms of the TSF.'

The Teachers Pensions Fund had a shaky start but the management has been much improved - the aim being to bring this scheme in line with the PECS. It was recognised during the 1990s that there was an awareness of the growing liabilities of the TSF. Also recognised was the need to find a way of restricting the States' exposure to these liabilities. For some time, it was assumed that this limitation could be achieved by transferring the TSF into the PECS. While these negotiations were going on however, there were no steps taken to prevent the ever growing exposure in the meantime. The merger did not take place. Instead it was decided to reform the TSF so that it mirrored the PECS regulations as closely as possible. These new regulations took effect from 1st April 2007 and introduced financing the indexation of pensions from within the Scheme.⁶¹

⁵⁸ Transcript of the hearing with the Treasurer of the States page 15

⁵⁹ Transcript of the hearing with the Treasurer of the States page 21

⁶⁰ Pensions Schemes for States' Employees – Liabilities. Report by the Comptroller & Auditor General March 2008 page 6

⁶¹ Pensions Schemes for States' Employees – Liabilities. Report by the Comptroller & Auditor General March 2008 page 13

However, it is likely that problems may arise due to the liabilities incurred prior to the change of management. The 2008 Accounts acknowledge this liability, stating that "In agreeing P190/2005 the States confirmed responsibility for the past service liability which arose from restructuring of the PECRS arrangements with effect from 1st January 1988. This liability is recognised in the accounts."⁶²

Senator B.E. Shenton:

Is there still work to do on the teachers' pensions?

The Treasurer of the States of Jersey:

I think what we are doing with the teachers' scheme is the right thing to do. That is my advice. I think the issue of the pre-1987 debt is trying to deal with a sense of the past. I think it is admirable that before my time, in 1988, the States decided then in their wisdom to go for a fully funded scheme and to cap off their pension liabilities. I think the decision to try and recoup the ... pay back the past service debt is an admirable decision. I do understand that you have lodged a proposition on this. It is a matter of judgment whether this generation should pay off that debt of previous generations - a number of previous generations - very quickly or whether it is only fair that it has spread it over a period of time. I think attempting to do the same on the teachers' scheme, which is to cap the employers' liability, which is what the changes do, and to try and pay off the debt of previous generations is laudable.

Senator B.E. Shenton:

You have not set a time frame for the teachers' one yet, have you?

The Treasurer of the States of Jersey:

No, we have not, but the intention is that it mirrors P.E.C.R.S. as much as possible.

Mr. K. Keen:

This discount rate on page 37 for the scheme liabilities - at the top, if I am looking at the right discount rate - has gone from 5.8 to 6. I am surprised it makes that big a difference from £100 million to £200 million.

Head of Financial Reporting:

The notes on page 37 to which you refer are the assumptions used in drawing up the FRS17 disclosures, which are wholly different from the valuation of the pre-1987 debt. It is a different piece of work by a different actuarial advisor so that discount rate is not the rate that has been applied to the pre-1987 debt. The rate that is used is the one that is used in valuing the liability for the P.E.C.R.S.

Mr. K. Keen:

Are you able to disclose the 2 discount rates so we can just see how that number has changed, because it is a staggering number?

The Treasurer of the States of Jersey:

These are very complicated issues and we have a briefing note here, which I am sure we would be absolutely delighted to share with you. If you want I can take you through ... I have a high-level variance analysis here, but the best thing is if I just give it to you, I think.

Mr. K. Keen:

Yes, I think you must understand why I think members of the public would be surprised that a liability that we thought was capped - and I think you used those words "capped" - can change from £117 million to £222 million; it is a big number.

⁶² Financial Report and Accounts -2008, page 26

The Treasurer of the States of Jersey:

I accept it is difficult to understand, but I think I would also say, and I really do mean this, that the States has capped its liability in terms of meeting the ongoing costs of the scheme and the States has ... the pre-1987 debt was always there. The States has always capped ... has also capped the way of dealing with it in that it has come up with an agreed formula and making an index-linked payment every year for a number of years. Regardless of these fluctuations those payments do not change, nor the period of the loan.

Senator B.E. Shenton:

I cannot find my notes, but on one of the pension funds you do have a surplus which you have written back into the accounts. Is that on the future service liability of the teachers?

The Treasurer of the States of Jersey:

There is a tiny one that the States is exposed on. When it was set up it incorporated ... it is Jersey Post you are talking about, I presume. When we set up Jersey Post as an incorporated entity it had an exposure on a traditional pension scheme and the States took on that liability on incorporation.

Senator B.E. Shenton:

I will need to write to you about it because ... I have not got my notes here, but where you had the surplus you actually wrote it back into the accounts over something like 14 years and therefore built it up as a large amount of money whereas your liability is over 82 years. I will write to you separately on that.

The Treasurer of the States of Jersey:

I have to say, apart from the 2 big ones, we have some pretty residual pension issues in the accounts. We have 2 big schemes and we have some minor ones relating to the post office scheme, I think, primarily.

Senator B.E. Shenton:

No, it was more to do with the fact that you ... by using your surplus and using a smaller time frame you are increasing the size of the surplus and doing the opposite with the liability.⁶³

KEY FINDING

For a small island jurisdiction it is important that all liabilities are professionally managed and contained. Whilst measures have been taken it is questionable whether continuation of a final salary based scheme is either feasible or achievable.

RECOMMENDATION

The PAC requires that the past service liability be dealt with as a matter of urgency. The PAC shall be reviewing the provision of public sector pensions in 2010 and will report in more detail on this important issue. The current rules assume that any deficit relating to the service of past 1987 members is not necessarily a liability for the States – it is a liability for members in the first place. This is generally dealt with by amending promised benefits. The scheme is therefore closer to a Defined Contribution Scheme than many might expect. The prudent approach would be to stop accrual of benefits under the old arrangements and move to a simple Defined Contribution basis. The financial engineering within the Accounts should cease and the PAC requests that the States Auditors look to treat pension liabilities and surpluses on a similar basis rather than allow a disparity in accounting practices that is not reflective of the true position.

⁶³ Transcript of the hearing with the Treasurer of the States, page 17

Appendix

Budget Transfers in respect of Historic Child Abuse Enquiry (MD-TR-2008-0141)

Introduction A decision made (08.12.2008) to approve transfers from the Treasury and Resources Contingency Fund to reimburse expenditure incurred on the Historic Child Abuse Enquiry.

Decision

Treasury & Resources Department

Ministerial Decision

Decision Reference: MD-TR-2008-0141

Decision Summary Title: Budget transfers in respect of Historic Child Abuse Enquiry **of Date of Decision Summary:** 3rd December 2008

Decision Summary Author: Kevin Hemmings
Head of Decision Support **Decision Summary: Public or Exempt?** Public

Type of Report: Written **Person Giving Oral Report:** N/A

Written Report Title: Budget transfers in respect of Historic Child Abuse Enquiry **of Date of Written Report:** 3rd December 2008

Written Report Author: Kevin Hemmings
Head of Decision Support **Written Report : Public or Exempt?** Public

Subject:

Budget transfers in respect of Historic Child Abuse Enquiry

Decision(s):

The Minister approved the transfers from the Treasury and Resources Department Contingency Fund to the following revenue heads of expenditure to reimburse additional actual expenditure incurred on the Historic Child Abuse Enquiry up to 30th September 2008:

- Health and Social Services - £29,000
- Home Affairs - £1,068,000
- Law Officers Department - £479,064
- Chief Minister's - £3,583

Total - £1,579,647

Reason(s) for Decision:

The Public Finances (Jersey) Law 2005 and financial direction 3.6 require the Minister for Treasury and Resources to approve significant transfers between revenue and capital heads of expenditure and to report such transfers to the States twice yearly. In September the States approved P91/2008 (Historic Child Abuse Enquiry – Funding) which required the Minister for Treasury and Resources to allocate reimbursement of actual expenditure by public ministerial decision.

Resource Implications:

Other than those detailed in the report there are no further financial or manpower Implications.

Action required:

Head of Decision Support to ensure that the necessary transfers are effected.

Signature:

Position: Senator T A Le Sueur, Minister for Treasury and Resources

Date Signed: 8th December 2008

Date of Decision: 8th December 2008

Report

TREASURY AND RESOURCES MINISTER

Budget transfers in respect of Historic Child Abuse Enquiry

1. Purpose of Report

To enable the Minister to approve a number of budget transfers from capital to revenue and to fulfil the requirements of P91/2008.

2. Background

P91/2008 (Historic Child Abuse Enquiry – Funding) was approved by the States in 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.

Departments are required to submit quarterly returns to the Treasurer of the States of actual expenditure incurred. At the end of June 2008 £2,960,417 was reimbursed as follows (MD-TR-2008-0086):

- Health and Social Services - £124,000
- Home Affairs - £2,579,000
- Economic Development - £210,000
- Chief Minister's - £47,417

Based on returns to 30th September 2008 an additional £1,579,647 is now requested to be reimbursed:

- Health and Social Services - £29,000
- Home Affairs - £1,068,000
- Law Officers Department - £479,064
- Chief Minister's - £3,583

The table below gives a summary of the position as at 30th September 2008. At that date £397,370 of the approved £7,500,000 remained to be allocated to departments if expenditure is as forecast. This balance will be carried forward to assist in meeting further Historic Child Abuse Enquiry costs in 2009.

Department	Forecast at 30th Sept	Allocated June	Allocated Sept	Remaining forecast
	£	£	£	£
Health and Social Services	225,000	124,000	29,000	72,000
ESC - Jersey Archive	65,000		0	65,000
Home Affairs	4,522,000	2,579,000	1,068,000	875,000
Treasury and Resources (Property Holdings)	550,000		0	550,000
Law Officers	1,000,000		479,064	520,936
Economic Development	210,000	210,000	0	0
Chief Minister's	81,000	47,417	3,583	30,000
Contingency	449,630		0	449,630
Total	7,102,630	2,960,417	1,579,647	2,562,566

3. Departmental funding requests

Three of the departments seeking reimbursement have confirmed 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.

The accounting officer of the Home Affairs department had stated that he has taken all reasonable steps to discharge his responsibilities under the Public Finances Law in seeking the necessary assurances concerning the expenditure of public funds associated with the historical child abuse enquiry. However he also states that he is unable to give an assurance that the level of expenditure incurred whilst the previous Senior Investigating Officer was in charge of the investigation was entirely justified. Despite this the Minister for Treasury and Resources has agreed to reimburse the accounting officer to protect his legal position but the Treasurer of the States has asked for urgent discussions on proposed solutions to this situation.

Health and Social Services

The department requests reimbursement of £29,000 additional actual expenditure in 2008 (total £153,000 to 30th September 2008):

Home Affairs

The department requests reimbursement of £1,068,000 additional actual expenditure in 2008 (£3,647,000 to 30th September 2008):

Law Officers Department

The department requests reimbursement of £479,064 for Case Fees to 30th September 2008. No expenditure had previously been claimed in 2008. Potential costs for 2009 have now been adjusted to reflect an extension of timescales where expenditure anticipated too be made in 2008 is likely to be expended in 2009. It has also been agreed that an additional (fixed term) Legal Adviser, who will be based at the Police Headquarters and commence employment in 2009, will also be met from these costs.

Chief Minister's

The department requests reimbursement of £3,583 additional actual expenditure in 2008 (£51,000 to 30th September 2008) for expenditure by the Communications Unit. The Communications Unit has had to employ specialist advice for the duration of the investigation. This includes fees for advice and associated costs, such as travel and equipment.

4. Recommendation

That the Minister approves the transfers from the Treasury and Resources Department Contingency Fund to the following revenue heads of expenditure to reimburse additional actual expenditure incurred on the Historic Child Abuse Enquiry up to 30th September 2008:

- **Health and Social Services - £29,000**
- **Home Affairs - £1,068,000**
- **Law Officers Department - £479,064**
- **Chief Minister's - £3,583**

Total - £1,579,647

5. Reason for Decision

The Public Finances (Jersey) Law 2005 and financial direction 3.6 require the Minister for Treasury and Resources to approve significant transfers between revenue and capital heads of expenditure and to report such transfers to the States twice yearly. In September the States approved P91/2008 (Historic Child Abuse Enquiry – Funding) which required the Minister for Treasury and Resources to allocate reimbursement of actual expenditure by public ministerial decision.

**States Treasury
16 December, 2008**

**Head of Decision Support
for decision 8th December 2008**

Historic Child Abuse Enquiry - Budget Transfers (MD-TR-2009-0011)

Introduction A decision made (22.01.2009) to approve budget transfers from the Treasury and Resources Department Contingency Fund to various Revenue Heads of Expenditure to reimburse additional actual expenditure incurred on the Historic Child Abuse Enquiry up to 31.12.2008

Decision

Treasury & Resources Department

Ministerial Decision

Decision Reference: MD-TR-2009-0011

Decision Title: Budget transfers in respect of Historic Child Abuse Enquiry **Date of Decision Summary:** 20th January 2009

Decision Author: Kevin Hemmings
Head of Decision Support **Decision Summary:** Public
Public or Exempt?

Type of Report: Written **Person Giving:** N/A
Oral or Written? **Oral Report:**

Written Report Title: Budget transfers in respect of Historic Child Abuse Enquiry **Date of Written Report:** 20th January 2009

Written Report Author: Kevin Hemmings
Head of Decision Support **Written Report :** Public
Public or Exempt?

Subject: Budget transfers in respect of Historic Child Abuse Enquiry

Decision(s): The Minister approved the transfers from the Treasury and Resources Department Contingency Fund to the following revenue heads of expenditure to reimburse additional actual expenditure incurred on the Historic Child Abuse Enquiry up to 31st December 2008:

- Health and Social Services - £117,000
- Home Affairs - £875,067
- Treasury and Resources (Property Holdings) - £96,927
- Law Officers Department - £447,389
- Chief Minister's - £32,087

Total - £1,568,470

Reason(s) for Decision: The Public Finances (Jersey) Law 2005 and financial direction 3.6 require the Minister for Treasury and Resources to approve significant transfers between revenue and capital heads of expenditure and to report such transfers to the States twice yearly. In September the States approved P91/2008 (Historic Child Abuse Enquiry – Funding) which required the Minister for Treasury and Resources to allocate reimbursement of actual expenditure by public ministerial decision.

Resource Implications:

Other than those detailed in the report there are no further financial or manpower Implications.

Action required: Head of Decision Support to ensure that the necessary transfers are effected.

Signature: **Position:** Senator P F C Ozouf, Minister for Treasury and Resources

Date Signed: 22nd January 2009

Date of Decision: 22nd January 2009

Report

TREASURY AND RESOURCES MINISTER

Budget transfers in respect of Historic Child Abuse Enquiry

1. Purpose of Report

To enable the Minister to approve a number of budget transfers from capital to revenue and to fulfil the requirements of P91/2008.

2. Background

P91/2008 (Historic Child Abuse Enquiry – Funding) was approved by the States in 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.

Departments are required to submit quarterly returns to the Treasurer of the States of actual expenditure incurred. At the end of June 2008 £2,960,417 was reimbursed as follows (MD-TR-2008-0086):

- Health and Social Services - £124,000**
- Home Affairs - £2,579,000**
- Economic Development - £210,000**
- Chief Minister's - £47,417**

At the end of 30th September 2008 an additional £1,579,647 was reimbursed (MD-TR-2008-0141):

- Health and Social Services - £29,000**
- Home Affairs - £1,068,000**
- Law Officers Department - £479,064**
- Chief Minister's - £3,583**

At the end of 31st December 2008 an additional £1,568,470 is requested:

- Health and Social Services - £117,000**

- Home Affairs - £875,067
- Treasury and Resources (Property Holdings) - £96,927
- Law Officers Department - £447,389
- Chief Minister's - £32,087

The table below gives a summary of the position as at 31st December 2008. At that date £1,391,466 of the approved £7,500,000 remained to be allocated to departments. Of this sum an additional £994,096 was forecast to be spent in 2008 but is now anticipated to be spent in 2009. £397,370 remains to be allocated or forecast from the £7,500,000 approved. This balance will be carried forward to assist in meeting further Historic Child Abuse Enquiry costs in 2009.

3. Departmental funding requests

Three of the departments seeking reimbursement have confirmed 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.

The accounting officer of the Home Affairs department had stated that he has taken all reasonable steps to discharge his responsibilities under the Public Finances Law in seeking the necessary assurances concerning the expenditure of public funds associated with the historical child abuse enquiry. However he also states that he is unable to give an assurance that the level of expenditure incurred whilst the previous Senior Investigating Officer was in charge of the investigation was entirely justified. Despite this the Minister for Treasury and Resources has agreed to reimburse the accounting officer to protect his legal position but the Treasurer of the States has asked for urgent discussions on proposed solutions to this situation. A response has been received from the accounting officer of the Home Affairs department and discussions are ongoing within the department on how to improve the level of assurance the accounting officer is able to give relating to this expenditure.

Health and Social Services

The department requests reimbursement of £117,000 additional actual expenditure in 2008 (total £270,000 for 2008):

Home Affairs

The department requests reimbursement of £875,067 additional actual expenditure for the period 1st October to 31st December 2008 (£3,647,000 was allocated to 30th September 2008 giving total expenditure by the department of £4,522,067 in 2008):

Treasury and Resources (Property Holdings)

The department requests reimbursement of £99,927 to 31st December 2008 as follows:

Description	Amount
Staff costs	8,866.53
Security costs	24,513.56
Telephone costs	277.44
Youth Hostel Association costs incurred	22,372.81
Grounds Maintenance costs	1505
General Building work, repairs & maintenance costs	23,435.46
Reinstatement of plumbing after police investigation	4,500.00
Electrical work costs	4,500.00
Electricity costs	1540.12
Water costs	31.7
Rates cost	1,583.37
Asbestos survey	3,000.00
Other costs	800.98
Total costs	96,926.97

Law Officers Department

The department requests reimbursement of £447,389 for Case Fees between 1st October and 31st December 2008. £479,064 was reimbursed to the end of 30th September. Potential costs for 2009 have now been adjusted to reflect an extension of timescales where expenditure anticipated to be made in 2008 is likely to be expended in 2009. It has also been agreed that an additional (fixed term) Legal Adviser, who will be based at the Police Headquarters and commence employment in 2009, will also be met from these costs.

Chief Minister's

The department requests reimbursement of £32,087 additional actual expenditure between 1st October and 31st December 2008 (£83,087 in total for 2008). The department has had to employ specialist advice for the duration of the investigation. This includes fees for advice and associated costs, such as travel and equipment.

4. Recommendation

That the Minister approves the transfers from the Treasury and Resources Department Contingency Fund to the following revenue heads of expenditure to reimburse additional actual expenditure incurred on the Historic Child Abuse Enquiry up to 30th September 2008:

- **Health and Social Services - £117,000**
- **Home Affairs - £875,067**
- **Treasury and Resources (Property Holdings) - £96,927**
- **Law Officers Department - £447,389**
- **Chief Minister's - £32,087**

Total - £1,568,470

• **Reason for Decision**

The Public Finances (Jersey) Law 2005 and financial direction 3.6 require the Minister for Treasury and Resources to approve significant transfers between revenue and capital heads of expenditure and to report such transfers to the States twice yearly. In September the States approved P91/2008 (Historic Child Abuse Enquiry – Funding) which required the Minister for Treasury and Resources to allocate reimbursement of actual expenditure by public ministerial decision.

States Treasury

26 January, 2009

Head of Decision Support

for decision 22nd January 2009