

Review of User-Pays Charges for Non-households – Phase 1 Liquid Waste

Response of the Minister for Infrastructure

Ministerial Response to: S.R.7/2017

Review Title: Review of User-Pays Charges for Non-households – Phase 1 Liquid Waste

Scrutiny Panel: Environment, Housing and Infrastructure

Introduction

The Minister for Infrastructure welcomes the Environment, Housing and Infrastructure Scrutiny Panel report on Liquid Waste Charges for Non-households.

The Minister has responded to each finding and recommendation below, and provided additional comments where appropriate.

Findings

	Para	Page	Findings	Comments
1	5.6	18	With the exception of the collection of solid waste, which is undertaken by the Parishes, solid and liquid waste services are currently almost wholly funded by the States of Jersey through direct taxation of Jersey’s residents.	Agreed.
2	6.5	20	The rationale for introducing user pays charges is, on the whole, well supported and consistent with experience in other jurisdictions. However, the argument that charging for liquid waste will ensure transparent and justifiable use of public resources is weakened by the fact that the charges will be used primarily to fund growth in States expenditure rather than ring-fenced to improve waste services.	<p>Jersey’s Public Finance Law does not allow hypothecation of income e.g. cannot directly say “that this income funds that.” In order to achieve an element of ‘ring-fencing’ of the income raised by the new user pays charges Dfl is proposing to move towards becoming a States Trading Operation from the 1 January 2020 as outlined in the report.</p> <p>In the interim period, it is suggested that consideration may also be given to allowing an automatic carry forward of surpluses in the Waste operation to the following year in order to protect, to some extent, the risk associated with income peaks and troughs prior to trading operation status being approved by the States (as currently agreed with Jersey Markets).</p> <p>(P38/2017 pg 32 9.1 Trading Operation)</p>

3	6.9	20	The rationale for the immediate introduction of the charges to address either acute financial issues or to finance the new Sewage Treatment Works is unclear.	Disagree. The MTFP Addition as well as the Liquid Waste Non-householder user pays report clearly states that the Non-householder waste charge is part of a number of measures to balance the budget over the MTFP. Additional income received by the States in 2016 is largely related to the Separately Constituted Funds such as the Social Security Reserve and the Strategic Reserve and is not available for distribution. Cash limits for departments were agreed in the MTFP Addition 2017-2019 and included the reprioritisation of budget from Dfl to other States Strategic Priorities.
4	6.15	21	Charging for the cost of provision of liquid waste services is widespread elsewhere.	Agreed.
5	6.16	21	Charging for the cost of treating liquid waste is in line with the polluter pays principle, a fundamental tenet that underpins environmental policy in many jurisdictions across the world.	Agreed. It is also a requirement of Article 9 of the Water Framework Directive, adopted by the States as part of the Waste Water Strategy in 2014 (P39/2014 (a)(i) and Eonomia Report para 17).
6	6.17	21	The majority of those who contacted the Panel regarding the proposals were not opposed to the principle of user pays charges but rather expressed concerns surrounding their implementation.	Agreed.
7	6.24	23	Under the present zero/ten tax regime certain businesses (or their owners) pay no income tax in relation to such businesses.	Disagree. Corporate tax rates in Jersey are: 10% for financial services companies (irrespective of who owns them) 20% for utility companies (irrespective of who owns them) 20% is also paid on any corporate profits arising from the renting or developing of property located in the Island (irrespective of who owns the company) 0% for other sectors (irrespective of who owns them). However, when a company distributes profits to its owners those individuals pay

				income tax on these payments. A Jersey-based owner pays personal income tax in Jersey on distributed profits just like they would on any other income. If the owner lives elsewhere they will pay tax on the payments they receive in accordance with the tax rules in the jurisdiction where they live.
8	6.26	23	The exclusion of domestic customers from waste charges, whilst not widespread, is not inconsistent with approaches adopted in other countries.	Agreed. DfI is only aware of Ireland, in Western Europe, that excludes domestic customers. Initially, domestic customers in Ireland were charged for wastewater but this charge was subsequently withdrawn following public dissatisfaction.
9	7.8	25	Jersey's charging principles, when combined with the objectives of the Strategic Outline Case, are similar to those in the UK and Ireland.	Agreed.
10	7.9	25	Good practice in the UK and Ireland suggest that a formal document, combining all of the principles, is consulted upon and then adopted before progressing to the design of a charging scheme. This has not occurred in Jersey.	The timescales for consultation as suggested by the Panel would have need to occur prior to the lodging of the MTFP Addition. F able to formally consult on charging principles before designing a charging Scheme. However, the charging principals are based on best practice and the Panel's report confirms that the proposed charging principles are similar to those used in the UK and Ireland.
11	7.15	27	The definition provided by DFI is not adequate for identifying legal entities that might be classified as a non-householder and, as a result, may compromise the delivery of a robust charging mechanism.	The Panel has suggested that a definition of "non-household customers" should be inserted in Article 4. However, the legal advice that the Department has received – a copy of which has been provided to the Panel – is that this is not necessary. Basically, this is because of the safeguards that we already have in place – <ul style="list-style-type: none"> • Firstly, the Senator Syvret Proposition – P63/2003 – means that before any new charges can be introduced then they will have to be approved in principle by the States. The liquid waste charges that we are now proposing to introduce were of course approved in that way for non-householders only by the States last September.

				<ul style="list-style-type: none"> • Secondly, the Minister for Infrastructure has lodged a second Report and Proposition in connection with the debate, which if approved by the States will specifically mean that any proposals that we may have to introduce new household liquid waste charges will need to be brought to the States for approval. • Thirdly, the Minister for Infrastructure has stated that “if the Assembly approves my Appointed Day Act Proposition, then I will subsequently have to set out the charges that I currently propose to introduce into a Ministerial Order, which I am hoping to do early next year. As Members will be aware a Ministerial Order is subject to annulment by the States if they are dissatisfied with it.”
12	7.20	27	<p>Whilst the use of exemptions might be logical and valid, the method by which they have been announced risks losing customers’ confidence in their utilisation. If they are not perceived to be transparent then the overall fairness of the charges might be questioned.</p>	<p>DfI does feel that the exemptions are valid. It clearly sets out in its report who the customers are and which entities will be exempt from the charge, as summarised below:</p> <p>Customers</p> <p>Customers are all non-household entities who use liquid waste service provided by DfI. These include:</p> <ul style="list-style-type: none"> • businesses • States departments • community facilities • charities • waste delivered to DfI involving a third party commercial transaction • events <p>Entities to which the charges do not apply</p> <p>The following customers will not be subject to user-pays liquid waste charge:</p>

				<ul style="list-style-type: none"> • household customers other than pre-existing tanker service charges and drainage search fees; • share-transfer companies for household properties; • residential care-homes that provide accommodation only to persons with no other permanent address or are unable to live at their permanent address; • tenants of residential property owned and operated by a landlord; and • when a multiple-occupancy commercial premise is supplied by a shared water supply, the liquid waste charge will apply to the owner / operator of the premises. <p>(P38/2017 pg 16 5.Customers)</p>
13	7.24	28	No distinction is currently made by Jersey Water between its billing rates of household and non-household entities. As a result, there is a risk of misclassification when relying on its data.	In order to have an accurate database Dfl has had to reconcile a number of different databases and has not just relied on the Jersey Water database as the Scrutiny report implies. Dfl is confident of the accuracy of this database and will undertake further validation if the user pays charge is approved.
14	7.29	29	The number of small businesses operating from residential premises is currently unknown. Without a robust understanding of the number of entities that may be subject to the proposed charge, the fairness of the charge could be called into question.	As stated in the response to 13 above, Dfl is confident that the non-householder database that it has developed has captured 99% + of the non-householders operating from residential properties.
15	7.30	29	The apportionment of the liquid waste usage for non-household entities operating from residential premises may be difficult to validate and will require goodwill and co-operation from bill payers.	Disagree - this information can be reconciled and validated with the Parish Rates Data / Jersey Water Data. In addition, Dfl will be undertaking compliance reviews and analysing data to provide further assurance that the data provided by the bill payers is reasonable.

16	7.34	30	It is not clear as to whether Airbnb type businesses would be charged for liquid waste under the proposed charging mechanisms. The Control of Housing and Work Legislation does not currently recognise this type of activity as a 'business'.	Dfl has made it clear that non-householders operating from residential properties such as Airbnb will receive an allowance to account for household consumption based on Jersey Water's quarterly assessed water allowance and will pay a waste water charge on any metered water they use in excess of this allowance.
17	7.40	31	Approximately 60 non-household customers will require an assessment or audit to be undertaken by DFI of their water usage. Until such time that this is completed, those customers will be unable to estimate their charge and, therefore, prepare for its introduction.	There are approximately 60 Trade Effluent Discharge Consent holders who will face a higher standing charge. Most of these customers will pay the standard volumetric rate and return to sewer %, only those with unusual effluent discharges will require assessment. For the small percentage of non-householder customers who are not on mains water Dfl will conduct a water audit or make an assessment of usage on which to base a fair charge at the earliest possible date.
18	7.51	34	The application of the principles used for calculating the costs associated with non-householder liquid waste lacks transparency and the estimates used by DFI could be significantly incorrect. As a result, it is difficult to ensure that the proposed liquid waste charges are cost reflective.	The forecasts of future revenue and capital requirements are based on current operating and forecast capital expenditure, taking into account expected efficiencies and maintenance requirements following the commissioning of the new STW. The States allocate capital expenditure budgets annually and whilst long-term forecasts are made, it is possible that these requirements will vary over the course of the forecast period.

19	7.53	34	<p>The Panel fully endorses Eumonia’s findings in regards to cost recovery. These are as follows:</p> <ul style="list-style-type: none"> - The original approach to the assessment of relevant costs in the February 2016 SOC (Strategic Outline Case) appears comprehensive and soundly based. However, this approach has not been used in the financial model lodged with the States in May 2017. - Average charges to businesses are now assumed to be 14% higher than when original engagement and consultation took place, even though the proportion of costs to be recovered from non-household entities has dropped from 48% to 22%. - The annual cost to be recovered has risen by £2m compared to models used in the SOC. The methodology to reach these new costs is not based on a DCF (Discounted Cash Flow) approach and contains capital expenditures that may not reflect the long-term cost of running the liquid waste service for household entities. - The divergence in the financial modelling approach from the assumptions used in the SOC compared with the modelling lodged with the States does not appear to have been addressed in a communication and engagement process with stakeholders. - There is a risk that the amount of costs recovered 	<p>The Strategic Outline Case (SOC) model was not issued publically, but was given to the Scrutiny Panel in advance of the 2016 MTFP (February 2016) to inform them of the proposals in respect of waste charges. It is not unusual for figures and models to change during the process of moving from SOC to Full Business Case (FBC) / Implementation.</p> <p>The original models used pre- and post-SOC were extremely complex and difficult to summarise in the report and proposition. Key statistics from the stakeholder engagement were based on these original models and carried over to the revised model used in the R&P (total costs of service, volumetric and standing charge costs) and the financial data reviewed for accuracy.</p> <p>The original SOC model included domestic charging and it was expected that businesses would cross-subsidise domestic customers by around £2.5m per annum.</p> <p>Average charges to businesses are actually 34% lower than originally estimated in the SOC model (SOC : £1,728) as £3.85 million ÷ 3,400 customers = £1,132. The figure of £1,980 on page 28 of the R&P excludes small businesses which are mentioned separately. The original model did not set a volumetric charge but, if recalculated now to include the cross subsidy to domestic customers, would now result in a volumetric charge of around £3.80/m³ - an increase in charges to business of over 65%.</p> <p>The reason why businesses were paying a greater proportion of costs in the SOC is because they were being asked to subsidise domestic customers. There is no expectation of this is the model now being used.</p> <p>The original SOC model’s figures have been reviewed and updated for current assumptions. The original SOC model did not include the costs of the new STW construction at Bellozanne, for example.</p>
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20	7.60	36	<p>The proposed volumetric charge of £2.27/m³ appears fair in comparison to other jurisdictions when consideration is also given to the types of liquid service provided.</p>	<p>Agreed.</p>
21	8.9	39	<p>The hospitality industry will be the sector impacted the most by the proposed liquid waste charge.</p>	<p>DfI has recently announced that in order to provide support to businesses, and in particular the hospitality sector, it intends to phase in the proposed liquid waste charge at an initial one-year discounted rate of 50% of the proposed charge of £2.27/m³.</p> <p>It is acknowledged that industry sectors such as hospitality which consume large volumes of water as part of their operation (particularly the hotel sector) are likely to be impacted most by the proposed charges.</p>

				<p>However, it is to be remembered that they also contribute a significant additional load to the STW which has to be designed to cater for the additional summer demand presented by around 10,000 hotel beds being occupied.</p> <p>In 2015, 717,600 visitors were recorded by Visit Jersey. The proposed charges are expected to bring around 32% of the total of £3.85m (around £1.2m) from the hospitality sector (hotels, restaurants, bars, cafes, etc) so this represents an average of around £1.70 per visitor (a higher end estimate as it does not account for the fact that Islanders will also spend money in these establishments). In 2015, Visit Jersey recorded 1.7m bed nights sold which equates to around 70p per bed night sold, although the figure for most hotel establishments will be lower in practice as the hospitality sector includes restaurants and bars.</p> <p>Visit Jersey estimate that the average visitor stays for 4.2 nights and spends £338 on-Island. The charges would therefore add around £1.50-£3.00 (or 0.4% - 0.9%) to the average visitor's spend, assuming that establishments choose to pass on the costs in full in their room rates.</p> <p>Dfl has now proposed to reduce the charges in the first year of introduction, the above figures would reduce to 75p-£1.50 per visitor, or 0.2%-0.4% of the average spend.</p>
22	8.18	41	For a small number of trade effluent customers their liquid waste charge will amount to considerably more than £50,000 per annum. Furthermore, based on the Mogden Formula used in England and Wales, the annual liquid waste bill for one customer could amount to approximately £200,000.	Current data suggests that there are only two trade effluent customers that will pay in excess of £50,000 per annum.
23	8.20	41	The Distributional Analysis provides some limited examples of potential impacts on individual businesses, but does not paint a	The Distributional Analysis sets out clearly that it considers how the liquid waste charge might ultimately impact on households and individuals at different

			<p>fuller picture of the potential impacts across the sectors and potentially across different sizes and types of businesses.</p>	<p>points of the income distribution. It was not intended for it to consider the impact on individual businesses.</p> <p>The Scrutiny Panel's Economic Advisors, London Economics Limited, as well as the States of Jersey Economics Unit have both stated that the small size of revenue raised by the liquid waste charge compared to the size of the Jersey Economy suggest that there will not be a significant overall impact.</p>
24	8.21	41	<p>The lack of supporting information about the illustrative examples, used within the Distributional Analysis, makes it difficult for stakeholders to understand how the examples are relevant to their own interests.</p>	<p>The illustrative examples in the Distributional Analysis were purely presented as background information to the analysis looking at the impact on households at different income levels. They were not intended to be information for stakeholders about their own interests.</p> <p>The majority of stakeholders can easily calculate their waste charge and the report sets out easy examples of how to do this. The non-householder waste water charge will be approximately 84% of their water bill in £'s as a rough estimate.</p>
25	8.28	43	<p>The cost of the charge to the end user of the service, if passed on in full, will vary considerably between different businesses.</p>	<p>Agreed.</p>
26	8.29	43	<p>It is highly likely that a medium sized hotel would have to charge in excess of 37p per room per night, this being the amount estimated by the Department for Infrastructure, if it were to decide to pass the charges on in full to the public.</p>	<p>Dfl has estimated that the sector average will be around 37p per night.</p> <p>Visit Jersey estimate that the average visitor stays for 4.2 nights and spends £338 on-Island. The charges would therefore add around £1.50-£3.00 (or 0.4% - 0.9%) to the average visitor's spend, assuming that establishments choose to pass on the costs in full in their room rates.</p> <p>As Dfl has now proposed to reduce the charges in the first year of introduction, the above figures would reduce to 75p-£1.50 per visitor, or 0.2%-0.4% of the average spend.</p> <p>All establishments will be encouraged to minimise water usage in order to reduce the costs to their business associated with the</p>

				<p>liquid waste charge. In those establishments with significant water usage with opportunities to reduce return to sewer (for example grey water re-use) then the return on investment will be more cost effective, especially as the saving will be both on mains water consumption and the liquid waste charge.</p> <p>Non-householders will need to evaluate the costs of some of these measures and the likely cost savings that could be expected. In many instances, the charge will become an “overhead” of running the establishment in the same way that other utilities such as electricity, heating costs and water are currently, with small efficiency measures over time gradually reducing the impact of charging (such as the impact low energy lighting has had on electricity usage).</p>
27	8.38	45	<p>It has been suggested, that as a result of the proposed charges, Jersey will struggle to be competitive as a tourist destination, countless jobs will be put at risk and Jersey’s further potential will be extinguished.</p>	<p>Most countries already charge for liquid waste disposal services and have done so for many years. Phasing in the charges in Jersey will allow the industry some time to adjust, make water efficiency savings and allow additional time for consideration of the impact of the full charge and its possible effect on prices.</p> <p>The Panel has provided no evidence that this will be the case and simply restated the assertions of different stakeholders. It is difficult to imagine that this charge alone (which is not out of line with charges elsewhere) could make Jersey uncompetitive as a tourist destination.</p>
28	8.39	45	<p>There is a concern among those who operate within the hospitality and tourism sector that the new charges could hinder any further improvements in visitor numbers.</p>	<p>The Scrutiny Panel’s Economic Advisors as well as the States of Jersey Economics Unit have both stated that the small size of revenue raised by the liquid waste charge compared to the size of the Jersey Economy suggest that there will not be a significant overall impact.</p> <p>No evidence has been provided to support this assertion about the potential material impact on visitor numbers.</p>

29	8.40	45	It is difficult to judge the nature of the potential impacts on tourists or the tourism industry without a much more detailed and lengthy analysis of the sector, its cost structures and the nature of demand.	<p>The Scrutiny Panel's Economic Advisors suggests that further detailed analysis would provide little additional benefit compared to the cost of providing such information: Conclusion 13 "there is potential for more detailed analysis of the impact of the charge on households and tourists but given the uncertainties inherent in this type of analysis, the additional returns from this are unlikely to justify the additional costs" and "there is potential for more detailed analysis of the charge on the aggregate Jersey economy – though this would not really be expected as part of a distributional analysis".</p> <p>The Panel is not clear as to what work should be undertaken and how it will be able to determine the nature of the potential impacts on tourists and tourism. Ultimately, this will be down to how businesses respond to the charge and this will remain uncertain however much work is done. Significantly more time and money could be spent doing additional analysis but the Panel are not clear as to the benefits this analysis would provide or how it would clear up the uncertainties.</p>
30	8.42	45	The aggregate impact of the proposed charge on Jersey's wider economy is small. Any impact on the overall economy would be the result of a shift in responsibility for paying the costs of dealing with non-household liquid waste.	Agreed.
31	8.49	47	It is unclear as to the extent to which the Department for infrastructure or the Council of Ministers considered alternative approaches for raising the shortfall in revenue prior to the MTFP Addition's approval in 2016.	<p>Dfl as well as the Council of Ministers considered a number of income raising measures as well as departmental savings measures to address the shortfall in raising revenue.</p> <p>For Dfl, the most significant barrier to changing behaviour in regard to waste in Jersey is the absence of fiscal measures that apply a level of cost to behaviours that are to be discouraged while promoting other preferable waste management behaviour.</p>

				<p>This charging mechanism proposed encourages a sense of ownership for waste producers and enable them to take responsibility for the amount of water they use. This follows best practice elsewhere.</p> <p>There are also a number of problems with the current approach to financing waste services. Funding through centralised taxes can be grossly unfair to the majority of tax payers. There are many cross-subsidies with a lack of transparency. For example, householders are subsidising businesses that are not paying, either directly or indirectly, for the safe disposal and treatment of their liquid waste. As tourists, visitors and travellers have their waste disposed of through businesses, they too are being subsidised by Jersey taxpayers. Non-household users paying for the service they receive is a much fairer system.</p>
32	8.60	49	<p>At the time of the MTFP Addition, the Infrastructure Minister assured the Panel that a full consultation would be undertaken on the details once it had received approval for the in principle decision in the States.</p>	<p>The consultation was not inadequate - it covered the areas that were open for discussion. The Scrutiny advisers have not acknowledged the limitations that came with an in principle decision having already been made and therefore leaving us very little to truly consult on. That said we engaged with a cross section of potential customers and representative bodies and we did make changes to our proposals as a result of that engagement.</p>
33	8.61	50	<p>The type and extent of consultation actually carried out is not consistent with normal practice and the spirit of the Consultation Code of Practice appears to have been breached. The impact of these should not be understated. Without stakeholder support or acceptance of the charge there is a real danger that its effectiveness might be compromised.</p>	<p>Prior to the MTFP Debate Q4 2015 focus groups were held independently (using 4Insight) with members of the public, consumer groups, charities, business customers and their representatives.</p> <p>The consultation concentrated on the understanding the perceptions of the levels of service provided by the Dfl; the options and priorities for change; and how the Dfl should be organised and funded in the future. The engagement activities sought views on the introduction of user pays charges. In total twenty members of the public; various Parishes; nineteen businesses and the Chamber of Commerce attended the focus groups. The conclusions</p>

				<p>for the stakeholder engagement regarding charging options was:</p> <ul style="list-style-type: none"> • The general consensus is that waste services should not be free for all users, and that everyone should pay for waste services on a user basis, even if it is just a little; • The current arrangements where some do not pay anything or enough to cover the costs of the service is seen as unfair; • There was recognition that there should be incentives to reduce waste and increase recycling; • There was recognition that funding through taxation does not provide incentives to reduce waste and increase recycling as compared to some form of user payments; • Charging is only acceptable if services are run efficiently; • Charges should be fair with protection for those that are less well off; • Monies raised through charging should be ring-fenced and not diverted to other services; • Overall, the initial view was that some charging for commercial customers is appropriate; • Stakeholders very helpfully provided a number of practical issues to consider in implementing any commercial charges; • Stakeholders generally consider the fairest way to introduce wastewater charging is through water bills so that there is clear linkage to water usage; and <p>Dfl has undertaken extensive engagements over the past 18 months as highlighted in the information sent to all States Members.</p>
34	9.12	53	The Department for Infrastructure does not envisage that the proposed liquid waste charge will	Partly agreed. Many businesses have already made water efficiency savings following Jersey Water’s roll-out of

			have a significant impact on the volume of water consumed by non-householders.	metering. Grey water re-use, sustainable urban drainage schemes and other recycling options become more viable as pay-back periods for the initial investment reduce.
35	9.16	54	In order for non-householders to change their behaviour in response to the liquid waste charges, there needs to be certainty and understanding of the charging mechanism.	Agreed.
36	9.20	54	The Panel was advised by the Infrastructure Department that any reduction in revenue as a result of environmental behaviours will be recovered from a resulting reduction in running and operating costs of the Sewage Treatment Works. The Panel questions whether the Department takes account of the fixed costs.	Any reduction in revenue as a result of environmental benefits will be partially recovered from the Liquid Waste Services operational budget as well as from Dfl's cash limit.
37	9.21	55	The Minister for Infrastructure cannot increase the liquid waste charge above 2.5% per annum unless he first obtains approval from the Minister for Treasury and Resources.	Agreed.
38	9.26	56	Whilst the Department for Infrastructure will not be offering any financial incentives to nonhouseholds to help improve their water efficiency, it will be providing free advice and expertise to help them identify where they have opportunities to mitigate the liquid waste charges.	Agreed.
39	9.31	56	There are alternative ways in which the proposed charges could be used to encourage and incentivise improved environmental behaviours. One option is a brokerage system, which could help to reduce levels of nitrogen in Jersey's water.	The biggest incentive to improve environmental behaviour will be from the introduction of liquid waste user-pays charges for all Sectors of the Economy within Jersey. In the future, following the introduction of these user pays charges, the Departments will review the impact that these charges have had on the environment and if required may explore additional options for incentivising improved environmental behaviour.

40	9.32	57	The Department for the Environment has not been involved in discussions regarding the proposed liquid waste charging mechanism and how it could be designed to optimise environmental outcomes.	As above.
41	10.12	60	Whilst the Minister for Infrastructure's decision to phase in the proposed liquid waste charges acknowledges the potential impact on non-householders, it does not address the main concerns raised during the Panel's review.	The stakeholders have generally been supportive around the need to change environmental behaviours through the introduction of charges but have requested that the non-householder charges be delayed so they would have more time to plan for how they can try to reduce their water consumption and their waste water output. I and the Council of Ministers have listened to their concerns and have proposed to phase in the charge in 2018, by charging 50% of the proposed cost prior to the full charge being introduced in 2019.
42	10.19	61	An amendment to the Drainage (Jersey) Law 2005 is required in order to allow data sharing for both non-household metered water use from Jersey Water and for borehole data from the Department for the Environment. There is a possibility that this requirement could jeopardise the timetable for the introduction of the proposed charge.	Dfl will need to rely on water consumption data from Jersey Water as well as water abstraction data from the Minister of Environment for the purposes of determining the appropriate charges under Article 4. DFI has consulted with the Data Protection Commissioner on this point, who has advised that this will indeed need to be resolved. DFI has therefore taken the decision - subject to the approval of the Assembly to the Appointed Day Act Proposition - to bring forward a short Bill to amend Article 4 for this purpose.
43	10.24	62	There is a significant risk that billing data, for a substantial number of customers, will not be available in time for the proposed launch of bills in 2018. To ensure fairness, it is imperative that all customers receive their first bill at the same time.	Agreed.
44	10.29	63	It has not been possible to assess whether the appeals system is adequate as the details of the process are yet to be finalised.	Dfl does not consider this to be either necessary or appropriate. In the first instance, customers who have a concern in relation to their assessments will be able to talk to our Billing Section and if necessary to have it referred up to the Director of

				Finance or of course to the Minister personally. In those rare cases where that does not resolve the problem, then customers will have recourse to the Courts for resolution of their dispute in the normal way. This is no different from charges levied by any of our other Utilities such as Jersey Water or Jersey Electricity.
45	10.33	64	It is imperative that the details of the liquid waste charges are well communicated to all non-householders, to allow them to take the necessary steps to help reduce their water consumption.	Agreed.

Recommendations

No	Para	Page	Recommendations	Accept/ Reject	Comments
1	7. 16	27	The Minister for Infrastructure must ensure that the term “non-household” is defined in primary legislation before Article 4 of the Drainage (Jersey) Law 2005 is able to come into effect.	Reject	<p>The Panel has suggested that a definition of “non household customers” should be inserted in Article 4. However, the legal advice that the Department has received – a copy of which has been provided to the Panel – is that this is not necessary. Basically, this is because of the safeguards that we already have in place –</p> <ul style="list-style-type: none"> • Firstly, the Senator Syvret Proposition – P63/2003 – means that before any new charges can be introduced then they will have to be approved in principle by the States. The liquid waste charges that we are now proposing to introduce were of course approved in that way for non-householders only by the States last September. • Secondly, the Minister for Infrastructure has lodged a second Report and Proposition in connection with the debate, which if approved by the States will specifically mean that any proposals that we may have to introduce new household liquid waste charges will need to be brought to the States for approval. • Thirdly, the Minister for Infrastructure has stated that “if the Assembly approves my Appointed Day Act Proposition, then I will subsequently have to set out the charges that I currently propose to introduce into a Ministerial Order, which I am hoping to do early next year. As Members will be aware a Ministerial Order is subject to annulment by the States if they are dissatisfied with it.”
2	7. 21	27	The Minister for Infrastructure must ensure that exemptions to the term “non-household” are included in primary legislation, and the basis for their selection are made publically available, before Article	Reject	<p>In relation to the question of exemptions Dfl has made it quite clear that all Householders - which is extended to include all Residential Homes and other places where people live – will be totally exempt from these new charges. Dfl will continue with pre-existing household charges such as for the emptying of tight tanks. Dfl will also make it clear within the Ministerial Order precisely who is exempt from the charges.</p>

			4 of the Drainage (Jersey) Law 2005 is able to come into effect.		
3	7.25	28	The Minister for Infrastructure must undertake necessary steps to ensure that an accurate database of non-household customers is in place before the proposed charges are levied.	Accept	Agreed. In order to have an accurate database Dfl has had to reconcile a number of different databases and has not just relied on the Jersey Water database as the Scrutiny report implies. Dfl is confident of the accuracy of this database and will undertake further validation if the user pays charge is approved.
4	7.31	29	The Minister for Infrastructure must develop alternative methods for identifying the allocation of charges for businesses operating from residential properties.	Reject	The proposed mechanism is fair and is based on figures used by Jersey Water to assess customer's usage who cannot be provided with a metered connection.
5	7.54	34	The Minister for Infrastructure must revisit the calculation of non-household costs to ensure that they are calculated in a transparent manner that is in alignment with best practice.	Reject	The data used in the models is the current best estimates of capital and revenue costs. Discounted Cash Flow has not been used as the inflation assumptions and increases in States charges would result in a net nil difference, but would add significant complexity.
6	8.22	41	The Minister for Infrastructure must commission the Economics Unit to undertake a more detailed analysis of the impact of the liquid waste charges on non-householders which shows the potential range of charges in each sector and how the charges vary by size and type of non-household.	Reject	The Panel have not explained what such work should entail, why it is justified and what decision the analysis will help inform. The range of charges is determined by water use/waste generation as it is intended. It would risk delay and additional costs without a clear indication of the benefits of such work.
7	8.50	47	The Minister for Infrastructure must consider a wider range of charging schemes that can deliver similar	Reject	The Panel themselves suggested that a simple easy to understand model is necessary that is easily understood by customers. This is what is being proposed. Introducing additional ways of charging for liquid waste will only make the

			outcomes to the proposed liquid waste charges. This should include more innovative approaches to managing liquid wastes on the Island that deliver improved environmental outcomes.		system more complex, difficult to understand and moves away from the principles of “polluter pays” and “user pays”.
8	8.62	50	The Minister for Infrastructure must delay the introduction of the proposed charges to enable an open consultation to take place. The consultation should include discussion of the charging principles and genuine options as to how the charge might be deployed. The consultation should also be supported by suitable outreach events.	Reject	<p>The consultation was not inadequate it covered the areas that were open for discussion.</p> <p>The Scrutiny advisers have not acknowledged the limitations that came with an in principle decision having already been made and therefore leaving us very little to truly consult on. The in principle decision as part of the MTFP debate:</p> <ul style="list-style-type: none"> • Who the charge should be applied to - the non-householder • How much income we needed to generate - £3.85m the cost of liquid waste services provided to the non-householder • The type of charge it would be – user pays • When it would be introduced – 2018 <p>Dfi had to work within these parameters, they were not areas for consultation, Dfi had no power to change them.</p> <p>Dfi actually only had one variable to work with which waste to determine how the charge was defined ie standing charge and volumetric charge and the rate for these based on the numbers of customers</p> <p>That said we engaged with a cross section of potential customers and representative bodies and we did make a change to our proposals as a result of that engagement.</p>
9	9.33	57	The Minister for Infrastructure must work closely with the	Partially accept	The biggest incentive to improve environmental behaviour will be from the

			Minister for the Environment to explore the possible options available for incentivising improved environmental behaviour. The Minister for Infrastructure must report back to the States Assembly before the end of March 2018.		introduction of liquid waste user-pays charges for all sectors of the economy within Jersey. Following the introduction of these user pays charges, the two Departments will review the impact that these charges have had on the environment and if required may explore additional options for incentivising improved environmental behaviour.
10	10.13	60	The Minister for Infrastructure must delay the introduction of the proposed liquid waste charges until such time as the recommendations within the Panel's report have been thoroughly considered and addressed.	Reject	DfI does not believe that it is either necessary, or desirable, to delay introduction of the proposed liquid waste charges.
11	10.30	63	The debate on the proposed liquid waste charges should not progress until the States Assembly has considered, and approved, the appeals process for non-householders.	Reject	DfI does not consider this to be either necessary or appropriate. In the first instance, customers who have a concern in relation to their assessments will be able to talk to our Billing Section and if necessary to have it referred up to the Director of Finance or of course to the Minister personally. In those rare cases where that does not resolve the problem, then customers will have recourse to the Courts for resolution of their dispute in the normal way. This is no different from charges levied by any of our other Utilities such as Jersey Water or Jersey Electricity.
12	10.34	64	The Minister for Infrastructure must establish a comprehensive communication programme to ensure that non-householders are fully up to speed about the proposed charges and are supported to improve their waste management.	Accept	DfI has communicated with stakeholders over the last 18 months and will continue to do so. Shown below is part of our future communication plan; <ul style="list-style-type: none"> • information will be forwarded to all Non-householders explaining how the charge will impact on them; • site visits to non- standard customers; • website, handbooks and leaflets will be made available to all customers;

					<ul style="list-style-type: none"> • waste audits will be available to Non-householders and funded by DfI; and • a Customer Services Team will be established to deal with any customers queries.
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Conclusion:

We thank the Panel for undertaking this review and for the above findings and recommendations. We are pleased to see that the Panel recognised the following:

- the rationale for introducing user pays charges is, on the whole, well supported and consistent with experience in other jurisdictions;
- charging for the cost of provision of liquid waste services is widespread and is in line with the polluter pays principal, a fundamental tenet that underpins environmental policy in many jurisdictions across the world; and
- the scale of the charge is **not** likely to have a significant impact on the economy as a whole.

The concerns raised by the Panel are addressed in the comments to the findings and recommendations in the table above and accordingly we do not believe that it is necessarily to defer debate of P.38/2017 as recommended by the Panel.