

STATES OF JERSEY
Public Accounts Committee
Public Hearing with Treasurer of the States and
Chief Executive
TUESDAY, 16th MAY 2017

Committee:

Deputy A.D. Lewis of St. Helier (Chairman)

Deputy J.A. Martin of St. Helier

Connétable C.J. Taylor of St. John

Mr. G. Drinkwater

Mr. R. Parker

Mr. M. Robinson

In attendance:

Ms. K. McConnell - Comptroller and Auditor General

Mr. S. Warren - Deputy Comptroller and Auditor General

C. Tomlinson, PAC Officer

Witnesses:

Chief Executive, States of Jersey

Treasurer of the States

[9:35]

Deputy A.D. Lewis of St. Helier (Chairman):

Thank you very much for attending today, particularly the officers who will be challenged today on the subject of the Innovation Fund. You probably are aware that the P.A.C. (Public Accounts Committee) is slightly different from scrutiny in that we are here to hold accounting officers to account not Ministers. That is up to another panel who are dealing with this in another report. We are looking at the information of the policy rather than the policy itself and the membership of this Committee is made up of both States Members and independent members who will introduce themselves shortly. The P.A.C. launched its own review of the Jersey Innovation Fund following the C. and A.G.'s (Comptroller and Auditor General) report published in January. The Chief Minister's Department is

undertaking 3 reviews into political involvement, officer involvement and the administrative arrangements for loans paid out to third parties. P.A.C. considers it is necessary to hold some public hearings such as today with those persons who had responsibilities in the establishment, funding and operation of the Jersey Innovation Fund. So what we actually want to find out today, and over the period of the next few weeks and months through some desk top work as well is things such as how the full potential costs and resources of the fund as agreed by the States in the proposition which was named P.124 was assessed, agreed and by whom. Who was responsible for developing changes to the Public Finance Law to enable mechanisms for securing upside gains from successful loans that was envisaged in that proposition. Why the necessary changes to the Public Finance Law were not pursued and the intended equity model was not established, in particular why the changes were not presented to the States Assembly within the 6 months that was dictated in P.124. When and how the quantification of the risk appetite changed from what was 10 per cent stake in the ministerial response to 50 per cent which is outlined in the Financial Direction 1.2 of 2014, which we will no doubt discuss during questions and why the States Assembly was not formally informed of this change. We also want to know whether the Chief Executive and the Treasurer and others were satisfied with the government procedures and I am sure that is something we will spend a bit of time talking about this morning. We are also going to look at the operational terms of reference that were contained in P.124. We want to find out whether they were workable, and if not, why they were not amended, changed or updated. Perhaps they were and we do not know about it. The terms of reference of our review have been provided to each of the witnesses prior to the public hearings, as has a bundle of documents including the C. and A.G.'s report on direction 1.2 which I just referred and a copy of the Economic Affairs Scrutiny Panel report 2013, which was set up to look at the Jersey Innovation Fund before it came into existence. We have also noted the recent R.45 that was published last week, which is the J.I.F. (Jersey Innovation Fund) review of ministerial responsibility commissioned by the Council of Ministers, only so far as it references officer responsibility. We are not looking at Ministers in this hearing. So just for the purpose of the record I would like to go around the table and everybody can introduce themselves, their name and their title.

Chief Executive, States of Jersey:

John Richardson, Chief Executive.

Treasurer of the States:

Richard Bell, Treasurer

Mr. M. Robinson:

Mike Robinson, independent member of the Committee.

Mr. R. Parker:

Robert Parker, independent member.

Mr. G. Drinkwater:

Gary Drinkwater, independent member.

P.A.C. Officer:

P.A.C. Officer.

Deputy A.D. Lewis:

Deputy Andrew Lewis, Chairman.

Deputy J.A. Martin of St. Helier:

Judy Martin, Deputy of St. Helier No. 1, and a member of the Public Accounts Committee.

Connétable C.J. Taylor of St. John:

Constable Chris Taylor, member of the Public Accounts Committee.

Deputy Comptroller and Auditor General:

Stephen Warren, Deputy C. and A.G.

Comptroller and Auditor General:

Karen McConnell, Comptroller and Auditor General.

Deputy A.D. Lewis:

Okay, thank you. We just want to kick off with some questions starting with Gary Drinkwater.

Mr. G. Drinkwater:

This is really, hopefully, straightforward. Can you describe your involvement in the Jersey Fund in the past and what it is at the present just for the record?

Treasurer of the States:

Firstly, I am going to assume that the Panel is aware of the timeline of the fund compared to the timeline of my appointment. So therefore it should be clear to the Panel that I was not involved in the establishment of the fund or the issuance of the Financial Direction at the time, or indeed the appointment a Treasury representative to the fund board, however, notwithstanding that, I have no difficulty in that particular appointment at all.

Mr. G. Drinkwater:

So at present how do you ...

Treasurer of the States:

Present? Right now?

Mr. G. Drinkwater:

Yes.

Treasurer of the States:

In terms of Treasury involvement we have ... I will not get the officer group name correct so the Chief Executive can correct me, but there is an officer group which has a senior director of the Treasury as a member of it who has considerable relevant experience from his past to bring to it. So that extent the Treasury is involved, as it was, hands on where the fund currently.

Mr. G. Drinkwater:

Okay, thank you. I suppose the next question is basically to the Chief Executive, what was your initial role and can you describe it and how that has evolved?

Chief Executive, States of Jersey:

Mine goes back a little bit further because I was obviously, as Chief Executive ... with the Council of Ministers I was involved with the Council of Ministers early, very early, discussions about the whole inception of an innovation fund and I think it is important to just set it in context as to the timing of why it was considered important, why it was set up and clearly in 2012 when it was starting to be discussed we were in the middle of our economic downturn, the global recession, et cetera, banks were not lending money at all and effectively any opportunity for investment in innovation was stifled from a private financing position. I do not think Jersey was the only jurisdiction that looked at opportunities for providing funding, seed funding, to new innovative ideas to start helping boost the economy and diversify our economy. So there was that very early discussion. That moved then into ... the Minister for Economic Development and department took responsibility for it in developing the original report and proposition. As you have laid out, Chairman, we have had the scrutiny of the Economic Affairs Scrutiny, so it was all part of the Economic Development Department, it when through that whole process of report and proposition, scrutiny, revised report from scrutiny panel, which led to the amended P.124 which was lodged in April 2013. Subsequently approved and from that point on it then ran under the auspices of the Minister for Economic Development and department. My other involvement was I attended one meeting with the Chief Minister and the Chairman to talk about the Financial Direction and effectively the establishment of it, which I cannot remember the exact date but it was certainly well before July 14th, I suspect it was probably April,

March/April 2014 and once that was established and the fund was set up, it was then over to Economic Development Department, the Minister for M.D.s (Ministerial Decisions) and Decisions and the board to then run the fund. I did not really get back involved with it until late 2015 when we started to see some problems occurring, which is when audit became involved and I became involved then with internal audit and after that obviously involvement wrapped up considerably to the point in November 2016 when I took over as accounting office and take on the administration of the fund.

Treasurer of the States:

That is probably quite an important area to amplify now than I had done originally but in the meantime, in terms of the timeline, there has been much been made of why issues were identified, it is fair to say that there was activity with the E.D.D. (Economic Development Department) in respect of a particular loan but the internal audit report that was undertaken in Q4, and was published in January, raised concern or raised sufficient concerns for me and the Chief Executive to be further involved. We agreed from that point on that the funds would go out without me casting an eye over it. Indeed, we may well say horses had bolted ... there could have been many more horses on that point to have bolted but the only payment that went out at that time was a second tranche, if I have my timeline right, of a loan that had already been agreed in the Committee.

[9:45]

Mr. R. Parker:

Can I just ask a supplementary to the Chief Executive? The concept as you set out I think was very important for diversifying the economy and would have been an important aspect of actually how Jersey was performing and going forward. So you are saying you had no oversight in relation to difficulties maybe that J.I.F. was having. Is that not something in relation to trying to develop strategy from the Chief Minister's office?

Chief Executive, States of Jersey:

Well, I think I would refer to the Hansard discussion of the States Assembly where there can be no question that every States Member that stood up and spoke identified the support for the concept and the innovation fund but every Member knew and identified the risk they were going into in taking this. There was risk of failure. It is one of the clearest Hansards I have ever read in terms of agreement. So no one can be in any doubt that in setting this fund up we were going into a very high risk strategy with a high risk of failure. So ...

Deputy A.D. Lewis:

We are going to come on to risk of failure later because those risk boundaries have changed but it is an interest area to probe into. Has anybody else got any questions in this area for the Chief Executive and Treasurer of the States, if not we will go on to actual consultation.

The Connétable of St. John:

Okay, P124/2012 was the proposition that set out the establishment funding and operation of the innovation fund. Chief Executive, when did you see a draft of the amended P124?

Chief Executive, States of Jersey:

I could not give you a date when I saw it. It would clearly have been ... it would have come to the Council of Ministers and it would have been agreed but I could not give you a date so if it was lodged by the Minister for T. and R. (Treasury and Resources) on 17th April 2013 it would have been approved somewhere between the March 13 date and the April 17, so I cannot give you a date, but we would have to check the Council of Minister's minutes to see when it came through for final approval.

The Connétable of St. John:

Right, because the Economic Affairs Scrutiny Panel report was published in March 2013, so you would have seen it then?

Chief Executive, States of Jersey:

Yes.

The Connétable of St. John:

The scrutiny report so the amended one ...

Chief Executive, States of Jersey:

The obvious sequencing was issue of 124, into scrutiny, scrutiny report, March, amended R. and P. (report and proposition) which is Treasury and Resources which was April 13. So at some stage, and as I say I cannot give you a date, at some stage between this report being published and the amendment going through it would have ... I am sure it went back to the Council of Ministers, we would have to check the minutes.

The Connétable of St. John:

Yes. Did you make any comments on that report, on the amendment?

Chief Executive, States of Jersey:

No, I did not make any comments on it.

The Connétable of St. John:

Did any officer make comments on the amendment when it was presented to the Council of Ministers?

Chief Executive, States of Jersey:

I am not aware of them but I would need ... to be honest with you, I do not know.

Deputy A.D. Lewis:

I think probably we may need to ask for some copies of the Council of Ministers meeting minutes for when this was presented to the Council of Ministers. We are just curious to know what were common thoughts of proposition before it got to the States.

Chief Executive, States of Jersey:

I think the answer is it was approved because it did --

Deputy A.D. Lewis:

It was definitely approved, yes. We are interesting to check on whether any comments were made by the Executive team.

Chief Executive, States of Jersey:

We can check that.

The Connétable of St. John:

So following on from that to both of you, who else was involved in the preparation of the proposition P.124 and whose ultimate responsibility was it to ensure that it was fit for purpose?

Chief Executive, States of Jersey:

I will start. I think it is important to establish it was the Minister for Economic Development and his department who saw this all the way through. There is only one reason why it went to Treasury and Resources is because the Jersey Innovation Fund is a specially constituted fund under the Public Finances Law because it is only the Minister for T. and R. who can established a specially constituted fund. So that is why when you read P.124 it is absolutely clear that it is the Economic Development Department and Minister who are responsible all the way through for this. So to answer your questions, Constable, the development of 124, given that it came out of the Economic Affairs Scrutiny Panel would have been through the Economic Development Department, through the Minister but clearly with the previous Treasurer to make sure that it was a T. and R. proposition, report proposition, that was then taken forward to the States.

The Connétable of St. John:

My understanding is that the Treasury and Resources formed the fund because they are the financial whizz kids and it is the responsibility of Treasury to set up the fund with the necessary checks and balances and then when the fund is fit for purpose they had it over to the relevant department to administer and continue it. Is that a correct assumption?

Treasurer of the States:

Well, it is actually a decision of the States to set up the fund, not the decision of Treasury and Resources. However, in a similar position I would say it would be a joint responsibility. There is a lead department in respect of the policy, the lead department I understand was the Economic Development Department. As the Chief Executive said, we would expect the Treasurer, as it is a proposition of the Minister for Treasury and Resource to have been happy with the governance. There was also the Financial Direction, which I am sure we will come on to. It was the subject of a scrutiny review and the scrutiny review made comments in respect of governance but with the terms of reference were then, post scrutiny, agreed by the States.

The Connétable of St. John:

But it is a Treasury and Resources proposition?

Treasurer of the States:

Because it is under the Public Finances Law and therefore the Minister for Treasury and Resources has to bring forward the proposition.

The Connétable of St. John:

Yes, so it would be that department that puts it together and effectively has ultimate say in what goes in the proposition to ensure that the proposition is fit and proper for purpose.

Treasurer of the States:

If they had concerns ... it is not uncommon for anyone to have concerns that are not of a significant nature but if the Treasury had significant concerns at that point we would expect that they would have been edited into the proposition.

Chief Executive, States of Jersey:

If I can, there is one specific reference under section 2, which is to be consistent with the Minister for Treasury and Resources' maximum lending limit. So the Treasury and Resources actually stipulated a maximum limit. So that was clearly part of the work between T. and R. and E.D.D. at

the time, which was built into it. So it is obvious that the 2 were working together to actually ensure this was established.

Deputy J.A. Martin:

Yes, that follows on to what was the role of the Treasury and Resources Department in preparing and providing information to support the preparation of 124 and then the subsequently amended version. So really what was the Treasury and Resources' role in the estimation of the potential cost of the fund, including the potential costs of write off of loans made.

Treasurer of the States:

I only caught part of that because of my ...

Deputy J.A. Martin:

Oh, sorry. Sorry. Well, I think you have sort of answered the first bit, so what was the role of Treasury and Resources in the estimation of the potential costs of the fund, including the potential costs of write-offs of loans made?

Treasurer of the States:

So in the normal course of events, and I can only talk to the normal course of events given the timeline, is that Treasury and Resources should cast their eye over the financial implications and in this case because it was a T. and R. proposition proposed by themselves, whether they seemed reasonable. That would be on the basis of the resources that the department would say that it requires in order to operate the fund. So, yes, at first glance, given this is something we have not previously looked at ... well, we had not run a fund like this previously, it may seem slightly light, 100,000 that was estimated and we will acknowledge the point of the C. and A.G. that there was no quantification at that point so therefore there are likely losses which may have amplified to States Members at that point what it is that they were committing to in black and white, although there were statements over risk appetite at that point.

Deputy J.A. Martin:

Yes, sorry, Treasurer, you made a couple of points there. You said "cast your eye over the ..." and I know you did not mean you personally but Treasury and Resources cast their eye and it was the first time you have ever set up a fund like this with the potential risk. So did you take any external advice for the support for the estimated cost or did you look anywhere else ... and, if so, from whom and when?

Treasurer of the States:

You will know I have not because of the timeline, so I would have to go back and ask whether there was any particular advice on the quantification cost.

Deputy J.A. Martin:

So you do not know if there was any external expert advice?

Treasurer of the States:

I am not aware that there was, but I will have to ...

Deputy J.A. Martin:

Right. So when you took over and you found out, as you mentioned earlier, that there was problems starting to arise, did you go back and see, question how it was set up and why ...

Treasurer of the States:

By the time we ...

Deputy J.A. Martin:

... and the external advice ... sorry, I am pushing you.

Treasurer of the States:

Okay. By the time the internal audit was delivered - that was in January 2016 - we would have been in the process very shortly after that of undertaking our own review internally, which was then superseded by the C. and A.G.'s review. So yes, we did start looking into and following up, and at that point I noted that there were some discrepancies, for example, between the F.D. (Financial Direction) and the terms of reference. Now, whether those were the root cause of whatever is demonstrated to have happened we will wait until we finalise the other investigations. Some of those are not necessarily the root cause of whatever errors or mistakes were made. Some of them ... but they do not paint a picture of complete governance.

Deputy J.A. Martin:

So you can let us know when you have checked if there was ever any external advice?

Treasurer of the States:

Sorry?

Deputy J.A. Martin:

You will let us know as a panel?

Treasurer of the States:

Whether there was any external advice on the quantification of the cost?

Deputy J.A. Martin:

Yes, early on, yes. Obviously, I know you were not there personally but, as you say, it will all come out, but you can let us know in ...

Treasurer of the States:

I suspect it was just an estimate undertaken from the finance staff as is normally the case.

Deputy J.A. Martin:

Okay, thank you.

Deputy A.D. Lewis:

I think the reason why we are curious here is that from our own experience of funds is that it does not really matter how big the fund is, the principles are the same and the quantity of administration is similar as well. So whether it is a £5 million fund or a £50 million fund, you would still need the same kind of structures and possibly the same resources to set it up and then manage it. Would you agree with that?

Treasurer of the States:

What I would say is the nature of this fund makes it different rather than the size of the fund. So it is different to the Strategic Reserve Fund and the investment for that and different to the Social Security Fund, different to the Health Insurance Fund. All of those are very different funds to the risk profile basically of this fund, as simple as that.

Deputy A.D. Lewis:

I am talking simply about this type of fund.

Treasurer of the States:

But there will be ...well, I will say that yes, there would be a relatively fixed cost, but there would also be a variable cost linked to the number of loans that were issued both in terms of the processes to see those loans through ... now, admittedly there were many loan applications that were not accepted. I think that is something that is sometimes forgotten, but there were a large quantity of loans that were rejected, loan applications that were rejected, which of course would have formed some of the work that the Chief Executive and the board would have had to undertake. So there is a variable and the variable is the number of loan applications made and in the case of successful

loan applications the work that you would expect to have been done before the loans had been issued and the aftercare and monitoring thereafter. So it is not entirely just a fixed cost, no.

Deputy A.D. Lewis:

The reason why we are curious is that you have said yourself this is the first time this has been done in the States, a special fund.

Treasurer of the States:

It is not the first special fund, it is the first innovation fund.

Deputy A.D. Lewis:

Yes, this type of innovation fund is the first time it has been done, so that is why we were asking about external advice being sought. Are you saying that there was plenty of advice internally to make the right decisions in terms of resourcing?

Treasurer of the States:

I am addressing my point here to the quantification of the costs of administration. So I am assuming that with the individuals involved that that quantification will have been done by them. I would not necessarily have expected too much in the way of external advice to have been sought on it.

Deputy A.D. Lewis:

But you are confident there was enough expertise within your department to make a judgment call on what was required in terms of resources and costs of setting up and running this fund?

Treasurer of the States:

Basically, as I draw my point back to, it starts with what resources I needed in order to do so. From the resources that I needed to do so, which I would have expected the lead department to have quantified those resources, putting a pound sign on those arises from the resource implications, manpower implications involved and the need for specialist advice.

[10:00]

Deputy A.D. Lewis:

Thank you. Right. Just sticking with that theme, we understand that provision was made for the board to obtain external advice, expert advice, as and when necessary. Were you satisfied that sufficient funding or external resources were available to seek such advice? I am talking about the board here.

Chief Executive, States of Jersey:

Can I start with that? I think it is important that we then actually start looking at the operational terms of reference and look very clearly at the position that is set out in section 10, which is management and governance of the J.I.F, because that is setting out ...

Deputy A.D. Lewis:

It is also mentioned in 2.1.1 in the F.D. as well.

Chief Executive, States of Jersey:

Yes, but I start with this one looking ... the framework ... and my starting point I think is the Comptroller and Auditor General's report, which highlights the fact that there was a deficiency in the terms of reference and it was the overall framework that was not in place. Well, the terms of reference have some fairly clear terms in it, but there was clearly a lack of framework and we can describe it in many different ways, but what I call sort of the control/compliance governance position that needed to be established was not established. So, for example, section 10 of the operational terms of reference says: "The board as appropriate will also draw on expert opinions to provide a comprehensive due diligence." It was the responsibility of the board to ensure it drew on expert opinion as required. There was provision in section 13, financial and manpower implications, £100,000 made available. It was for the board to determine what was required. Now, where I think there is a gap, which has clearly become evident, is that the operational terms of reference set the direction approved by the States, but what was not in place and what was not put in place was this is high level and the level below which was the meat of actually making sure that a programme such as this was managed effectively did not get put in place.

Deputy A.D. Lewis:

We are going to come on to the O.T.R. (operational terms of reference) later, but what I am drilling down here is was there sufficient funding for them to seek external advice within, for example, the £100,000 that was applied?

Chief Executive, States of Jersey:

My simple answer would be it was a matter for the board and if the board felt they needed more funding, then the board had at its disposal the fund and it would have needed to have said that number that was published there was not enough, we need more in order to carry out the ...

Deputy A.D. Lewis:

So you were satisfied there was adequate funding for them to seek that advice?

Chief Executive, States of Jersey:

I was satisfied that the scale of funding that had been approved by the States for the Jersey Innovation Fund had the ability for the board to draw on specialist advice and it was for the board to determine what advice that was required.

Deputy A.D. Lewis:

Okay. I think you may have answered this already, but if you could say for the record again. Are you satisfied that adequate advice was obtained by the board?

Chief Executive, States of Jersey:

Chairman, that is a very different question to the one you just asked me. I need to clarify that with you. What you asked me was the funding so I ...

Deputy A.D. Lewis:

Funding is one thing. So you have already said quite clearly that you felt there was enough funding within the fund to seek external advice as and when necessary. Moving on then, were you satisfied that adequate advice was obtained by the board on the basis that they did have the funding and the ability to acquire it?

Chief Executive, States of Jersey:

Simple answer: no.

Deputy A.D. Lewis:

Okay.

Deputy J.A. Martin:

Sorry, John, can I just push you on that? You quoted from the amended 124 on the financial costs. So when you are saying that you thought under the operational terms of reference that there was money for external advisers, you think that should have come out of the £100,000? Obviously not out of the £50,000 because that was manpower internal cost. So you are saying for 10 applications a year you think £100,000 ... or it was proven that £100,000 would be able to also get external advice?

Chief Executive, States of Jersey:

This is what the States approved.

Deputy J.A. Martin:

Yes.

Chief Executive, States of Jersey:

So there is £100,000 set aside. The Economic Development Department estimates the cost of managing an estimated 10 applications a year will be no greater than £100,000. So I am reading that as being the amount of money that would be inscribed within the fund for the external advice and the due diligence, effectively. So that was available for them. If the board through the process of assessing the applications felt that it was a complex application that needed more funds, then I would ask the question if that £100,000 was not sufficient, why did the board not through the Executive and the officers make provision for further funds? They had £5 million at their disposal.

Deputy A.D. Lewis:

So, in other words, you do not believe funding was an issue here in terms of them being able to acquire advice?

Chief Executive, States of Jersey:

Absolutely not.

Deputy A.D. Lewis:

You have said that you do not believe they did acquire adequate advice. Why do you think that was? Do you feel that they maybe believed they had sufficient knowledge themselves to adjudicate on every application?

Chief Executive, States of Jersey:

If we are going into the terms of reference and having been running the fund for the last 6 months, what is clear to me is that the way in which the board was structured and set up brought in external relevant expertise. The minutes of the board meetings are very clear in that the first board meeting was the inaugural welcome meeting and introductions and the second meeting they started considering loan applications. I cannot see anything in any of the board minutes where between the welcome introductions and considering loans - apart from one reference to category (a), (b) and (c), how they categorised the applications - there was any discussion between board and J.I.F. executive officers about how do we manage this, how do we then take the section 8.1 assessment policies, how do we convert that into a compliance framework? I cannot see anything and clearly the results of what has happened is that did not happen. If it did, there is no evidence that I have seen.

Deputy A.D. Lewis:

We are going to come on to some compliance framework later on so we will ask you some more questions on that later then. I think that covers adequately what we are talking about, resourcing, and you have quite clearly said that you do not believe that adequate advice was sought.

Mr. R. Parker:

Sorry, can I just ask a question on the resourcing? If resourcing for expert advice was from another States department would that have resulted in a charge to the J.I.F.?

Chief Executive, States of Jersey:

Normally, no. So the example I would use is the economic adviser was providing economic assessments. He did not charge his time back to the J.I.F., to the fund, and if there had been a request for any other specialist advice, whether it is Treasury or Law Officers advice, then the normal procedure is unless it is excessive for a long period of time you would not charge it back.

Deputy A.D. Lewis:

Okay. We are going to move on from advice now and external advisers and start talking about questions about risk. Mr. Robinson, would you like to ...?

Mr. M. Robinson:

No, it is ...

Deputy J.A. Martin:

Yes, it is Robert.

Mr. R. Parker:

Yes. The Economic Affairs Scrutiny Panel scrutinised the proposition 124 and in its report warned about potential risks and operational issues. This is for you, Chief Executive. What input did you have into the drafting of the ministerial response to that Scrutiny Panel report?

Chief Executive, States of Jersey:

I did not have any personal involvement in the drafting of the response. That was done ... if I can find it ... ministerial response, that was prepared in ... looks like I do not have it with me. I did not have any personal involvement in the drafting of a response. It would have been prepared, certainly at that stage because it was between E.D.D. and Treasury and Resources, that because it was preparation of the fund that that response from taking that document into the final stage would have been between those 2 departments.

Mr. R. Parker:

Would there have been any oversight by any member of your department in relation to that response?

Chief Executive, States of Jersey:

The only oversight would probably have come from the Chief Economic Adviser, who was working with the team.

Mr. R. Parker:

He would have reported back to you related to the quality of that response?

Chief Executive, States of Jersey:

If there were any concerns with that response or any other issues that needed to be addressed, he would have certainly brought them to my attention. There were not at that stage.

Mr. R. Parker:

But nothing was brought to your attention?

Chief Executive, States of Jersey:

Nothing was brought to my attention at that stage that there were concerns, bearing in mind that was April 2013. The next involvement I had with it was the March/April 2014 meeting when the Financial Direction was being drafted.

Mr. R. Parker:

Right. Treasurer, what role did Treasury and Resources have in preparing or advising on the ministerial response?

Treasurer of the States:

I do not know the answer to that question. I would envisage that it would have come through my predecessor and other officers.

Chief Executive, States of Jersey:

If I can say I think it is important when you read S.R.4/2013, it is the response of the Minister for Economic Development, so the response would have been from the Economic Development Department. I am sure, without going through it in detail, it would have been a response prepared by both Economic Development and Treasury given that it was going to be a specially constituted fund. It would have been set up.

Deputy A.D. Lewis:

Obviously, this is a while ago, Treasurer, so perhaps you could look back and see what your department had and what involvement it had in helping with the response together with E.D.D.

Treasurer of the States:

Yes, of course.

Deputy A.D. Lewis:

I assume it was a joint response. Perhaps you could look at your records and let us know.

Treasurer of the States:

I am reasonably satisfied they were involved but in order to 100 per cent clarify I will go back and ...

Deputy A.D. Lewis:

We would hope so because there are some technical aspects to it from a finance perspective that you would want some input into, so I am sure you did. Perhaps you could just check that and let us know what advice you gave to formulate the response.

Chief Executive, States of Jersey:

I think it is clear: "This will require E.D. and T. and R. to work closely with stakeholders to develop the R. and P." so I think it is fairly clear there was.

Deputy A.D. Lewis:

Yes. We are well aware that there was because we have seen the same document, so it is just a question of what it was. If you could come back to us on that, that would be useful.

Treasurer of the States:

Yes.

Mr. R. Parker:

The only other thing is do you think that there is this aspect of silos related to departments and should there be an aspect of an oversight in the future?

Treasurer of the States:

But that is partly why I am cautious about the last answer. I suspect that what happened was that the departments worked together on providing the response, officers worked together, rather than E.D. passing a formal document over to T. and R. for its formal comment, for T. and R. to then give its formal comments back to E.D. for a further iteration to go backwards and forwards, which is why it would mean it is quite difficult to, therefore, to lay your hands on. In that scenario, yes, that would be very straightforward to lay your hands on something that says: "E.D. has now finished and are asking T. and R." My impression is that there was joint working being undertaken to develop this, so I would just have to ask around for those that were around at the time to say: "Is my impression

right?" because that is the way generally when you have more than one department working on something it happens. We do not have ... I can think of all sorts of ... we both sit on the ... what is it actually called? The E.B.G...?

Chief Executive, States of Jersey:

Economic Growth Productivity Fund, E.G.P. [Laughter]

Treasurer of the States:

We do not sit in separate silos. We meet as a board to consider the applications and we work together rather than it be passing backwards and forwards of what I would call in the good old days committee acts between individual departments, which take about 3 months to arrive and then you do a response. That is why I am cautious over answering your other question because I am envisaging the way that this would have been developed is the way that most things are developed, is that for things that overlap on departments, multi departments will be involved.

Deputy A.D. Lewis:

It would appear that the lead on this was E.D.D., as you described earlier on. They took the response back to scrutiny with this interesting advice that your department gave to formulate that response, so if you can look into that.

Treasurer of the States:

Yes, and this is the point I am actually making. The advice would have been in an informal setting with people around the table as opposed to E.D. referring it to T. and R. for their input.

Deputy A.D. Lewis:

If there are any file notes on that informal setting, then we would be grateful to receive them. Okay, we now come on to some questions about risk. Mr. Robinson?

Mr. M. Robinson:

Yes. Yes, and just looking at the ministerial response again, I hear what you say about your involvement and that you might have to go back and research on this. But if we talk about some specifics on risk, I would just like to quote from one part of the ministerial response where it says: "It is estimated that about 20 per cent of projects supported by the J.I.F. will fail to reach their original forecasted growth, of which 10 per cent in outstanding loan value will fail completely." Firstly to the Treasurer, do you know if your department agreed with those risk parameters for the 10 per cent total failure?

Treasurer of the States:

Well, firstly, I would probably say that I also know that in hearings that were attributed to that response, but other figures were quoted up to a level of ...

Deputy A.D. Lewis:

Yes, the E.D.D. Minister of that day said up to 70 per cent.

[10:15]

Treasurer of the States:

But nevertheless the black and white ... I think they were both formal settings, but there is some discussion from the discussions I have had as to everyone's understanding and, indeed, when I had had discussions prior to having gone back to that black and white statement, they have been described to me by many that 50 per cent was the accepted level. Now, I had not at that point gone all the way back to the ministerial response of 2013 to identify that there was a discrepancy, but I do not think I came across anybody who said to me: "No, it is not." Now, I do not know whether that was because the Financial Direction had changed the quantification or whether there was a movement ... whether that was always the case and somehow this quantification has erroneously been included in the response. It seemed that most people I spoke to that were involved talk about the 50 per cent being the position. Now, that is obviously post the Financial Direction having been issued. I think you would have to go backwards in time in a way that I cannot necessarily do so to identify in the view of my predecessor whether she changed her view from 30 per cent or 10 to 20 per cent to 50 per cent, but what I do know is that ... well, I do know from having discussed it, and the Chief Exec will confirm this, that the Financial Direction was not developed in isolation from other parties.

Chief Executive, States of Jersey:

Yes, and perhaps I can add to that that I think the sequencing, which is why I start with the proposition and the recognition of the level of risk in the States debate, which effectively identified that it was a high-risk programme, that there would be failure, it is absolutely right the numbers that are in there are as they stated, but then as the programme moved forward and it was actually ... the important point is now moving on to the Financial Direction and I refer back to this meeting again which took place with the Chief Minister, of which the Economic Development Department Minister and Chief Officer were invited, together with the chairman of the board, myself and the Treasurer, previous Treasurer, that is the point at which the board and the members who had been appointed were clearly concerned at the role that they had to fulfil and the discussion prior to this being prepared was very much about the quantification of the 10, 20, 50. There were even discussions whether the risk was going to be even higher than that, but the figure of 50 was then established and that is how it got put into there. So, as the Treasurer said, it was not done in isolation. It was

done with a lot of clear understanding from what had happened in the past to establish the fund, what had happened in the intermediary period between States approval, board appointment and then Financial Direction.

Deputy A.D. Lewis:

Okay. Could I invite the C. and A.G. in at this point? Did you want to make a comment about the risk?

Comptroller and Auditor General:

I would just like to ask a question, really. When you were asking ... and it is to the Treasurer. Although you were not there at the time, if you were taking ... if you had oversight of this type of fund and you were having a look at the degree of risk and the impact of risk on the fund, that has a financial implication. So there is quite a difference between having a risk of 10 per cent and a much higher risk of 50 per cent. So if you were going to ask elected Members to make a decision on a fund and the level of risk, would you not expect them to be provided with a range of figures that reflected the impact of the fund on having those different levels of risk?

Treasurer of the States:

I am accorded the luxury of having hindsight, of course, and so in hindsight it seems fairly obvious that you would, but firstly if you have made a statement on percentage you may leave it to people to do their own maths, but it would make more sense to convey that into a pounds estimation that fell from that risk.

Comptroller and Auditor General:

I think my question really goes back to the fact that elected Members in particular, you would not expect them to be experts in this type of fund and, therefore, the impact of different levels of risk on the potential costs that could fall to the States. So it is really in the interest of people being able to make an informed decision.

Treasurer of the States:

I would much rather have seen that that was done.

Deputy J.A. Martin:

Could I just follow on with, sorry, one? It goes back to what the Chief Exec said right at the beginning about Hansard and what States Members thought they were passing on the risk. You said ... sorry, the Chief Executive said there was never a clearer Hansard to say what States Members were passing. So what do you think they thought they were passing? Was it the 10 and 20 or was it the 50 that was substituted later on after the States decision? What is clear?

Chief Executive, States of Jersey:

What is clear is the range of discussion in Hansard varied but everyone identified risk and failure. Some of them were ... some comments were actually ... I think there was one particular Member who said 50 per cent, half will fail. So the number was not quantified in the proposition, so it is very difficult to establish. I did not bring the Hansard with me, but you only have to read it to see that every Member who spoke knew there was going to be failure. Now, whether it was 10 per cent, whether it was 50 per cent, whether it was 60 per cent was not clear, and I think as the Treasurer said and I would agree, it should have been clarified formally.

Deputy J.A. Martin:

Okay.

Deputy A.D. Lewis:

I think that is the nub of it, really. In the proposition as prepared by E.D.D. in conjunction with Treasury, P.124, should it have stated clearly what the risk parameters were in your opinion?

Chief Executive, States of Jersey:

I think they should have been much ... there should have been a far more open, much clearer position which said you know you are going ... it is very clear from here and from all the documentation you are going into high risk with loss, so it is not unreasonable to say you should have been able to quantify that loss or quantify the risk and hence, because of the nature of it, there was going to be a financial loss, and it was not done.

Deputy A.D. Lewis:

Okay. Just coming back then to the next question that Mr. Robinson will ask, this might sort of help sum things up because you did talk about advice earlier on in the preparation of that proposition. Mike, can you come in with that?

Mr. M. Robinson:

Just before I do that, can I just finish up on the question of what the States knew and what they decided upon when looking at risk? Formally, they would have had the ministerial response, which talked about a 10 per cent risk. Subsequently, there was the Financial Direction which talked about a 50 per cent risk, but the States would not have had any formal notification between the 10 per cent risk and the Financial Direction being drawn up. So the States would have had no involvement in arriving at that 50 per cent risk. Do you agree with that?

Treasurer of the States:

That is right and I do not actually think it was in the proposition we asked the States to agree. I would have to go back and read it on the proposition the level of risk that was there, but yes, the Financial Direction, while it was not undertaken in isolation, did not involve a reference back to the States.

Mr. M. Robinson:

Do you think that was an omission?

Treasurer of the States:

It is very easy to say yes in hindsight.

Mr. M. Robinson:

So the answer is yes? [Laughter]

Chief Executive, States of Jersey:

We are talking about what was actually presented to the States, but I think we should just read the next section, which is identifying 70 per cent was quoted. So we are talking about 20 per cent and 10 per cent will fail, but then just go on to the next section and it is identified in the document presented to the States ... the Minister for Economic Development identifies, raised the potential, suggesting it could be as high as 70 per cent. Now, the problem we have is it was not nailed down with a number until that came out that did not end up going back to the States.

Mr. M. Robinson:

But he does qualify that by saying that 70 per cent relates to the failure of a similar fund in Israel.

Chief Executive, States of Jersey:

Absolutely, yes, but it is showing that there was a clear discussion that took place of risk. The problem is it was left too open between 10 or 20 per cent there, 50 per cent that was settled there, and reference to another one, which I would say did not get nailed down with ... having nailed it down to say of the £5 million, if all that £5 million had gone out, were the States comfortable with potentially having 50 per cent, which was put in there, that could be subject to write-off.

Treasurer of the States:

But by that point that was a formal response. It did, therefore, compare the losses with similar funds.

The Connétable of St. John:

Could we just clarify who was present? You said at a meeting that took place where 50 per cent was agreed, who was present at that meeting?

Chief Executive, States of Jersey:

I was. The previous Treasurer was there. The Chief Minister was there. The Chairman of the Jersey Innovation Fund board was there. I think one other member of the board was there. Those are the people I would ...

Deputy A.D. Lewis:

This is the meeting on 19th August?

Chief Executive, States of Jersey:

No, this was the meeting in March/April, whenever it was in ...

Deputy J.A. Martin:

Yes, it is page 28 of R.45 going through, which talks about ... yes, it starts there, John, the meeting you are talking about, page 28 of R.45, which is the most recently published.

Chief Executive, States of Jersey:

So, it is the Chief Minister, Senator Routier, John Richardson, Treasurer of the States, Chairman of the board, 2 other board members were present. That is correct.

Deputy J.A. Martin:

Sorry, can I go to page ... on page 30 of that ...

Chief Executive, States of Jersey:

But other members had been invited that did not attend.

Deputy J.A. Martin:

Oh, yes, no, no, you were not there but it is in print. My confusion about what was agreed and what was trying to be amended at this meeting was from going to a certain amount to 50/50 or 50 success/failure rate, and there is talk about needing to go back to the States, but there is a worry that it could take 3 to 6 months. So if there was no ... let us say in anybody's mind there was no cap at 10 and 20, why was there discussion that it needed now to be 50 and there should have been a States decision on that? Because somebody is missing something somewhere and I am just trying to get to the point of who it was and when it was.

Chief Executive, States of Jersey:

I am on page 30 here?

Deputy J.A. Martin:

Yes, page 30, John, yes. It is sort of all in the last paragraph, yes.

Chief Executive, States of Jersey:

The last paragraph. So it is clearly ... “The Chairman of the board advised that the revised Financial Direction does not go nearly as far as he would wish in accommodating the recommendations the board made, although it does include the de minimis provision on the 50/50 success/failure rate.” So that is the point at which the board came to the Chief Minister and the group at that meeting and said that they felt they needed that 50 per cent. That is exactly how it came about.

Deputy J.A. Martin:

So the revised Financial Direction did contain ...? Because it said: “Although it does contain ...”

Chief Executive, States of Jersey:

Well, it was not revised, it was that was the Financial Direction that came out subsequently in July 2014.

Deputy J.A. Martin:

Right, okay.

Mr. M. Robinson:

Can I just follow up on your question on this?

Deputy J.A. Martin:

Yes, sorry, Mike.

Mr. M. Robinson:

Was there any expert advice received to support that assessment of 50 per cent failure rate?

Chief Executive, States of Jersey:

The expert advice came from the external advisers who had been appointed as experts on the board. It was the board who came in and requested that. That is what it says.

Mr. R. Parker:

John, can I ask since you said earlier that you had no oversight of this, why was this meeting with the Chief Minister and yourself and nobody, it would appear, from Economic Development or Senator Ozouf who was supposedly managing the fund at the time?

Chief Executive, States of Jersey:

I certainly know the Minister for Economic Development and Chief Officer had been invited to it. I cannot tell you why they did not attend but the meeting had been arranged. Again, I cannot say whether Senator Ozouf had been invited to attend or not, but I know the Minister for Economic Development and the Chief Officer had been invited and did not attend.

Mr. R. Parker:

But if they are the ones who had responsibility ...

Treasurer of the States:

I think in terms of timeline this would have been not Senator Ozouf, would it? He would have been Minister for Treasury and Resources at that point.

Chief Executive, States of Jersey:

It would have been Senator Maclean would have been E.D.D. Minister and Senator Ozouf would have been Minister for Treasury and Resources at that time.

Deputy A.D. Lewis:

But neither of them were at that meeting?

Chief Executive, States of Jersey:

No.

Deputy A.D. Lewis:

Their officers?

Chief Executive, States of Jersey:

The Treasurer was there. The previous Treasurer was there.

The Connétable of St. John:

But they were invited?

Chief Executive, States of Jersey:

As far as I know, yes, absolutely.

Deputy A.D. Lewis:

I guess the thing that we are slightly confused about here is that we were aware that this special fund was created. We were aware that it was high risk. It was all noted in Hansard. The board

recognised that in order to function as an innovation-type fund it needed to take greater risk because of the type of applicants it was seeing.

[10:30]

Yet from day one of the inception of this the risk parameters seemed to be quite low, yet it was an innovation fund. So why do you think that was? Why did we start at 10 per cent when clearly your own knowledge of these types of funds is that they are high risk? It was clear in Hansard it was deemed by Members as high risk, yet it was never stated in the original proposition that that was the case. Do you feel that that was an error? Because the board could not function with such low-risk parameters, so they say in here in your recent report, and it was clear to you from the outset that this was a risky proposition, no risk, no reward.

Chief Executive, States of Jersey:

I think that once the board had been established, and clearly the board was made up of external experts or people with knowledge in this field, they identified that the level of risk was obviously higher than had been taken to the States in the previous report there and clearly wanted that level moved up, which is how we got to how that 50/50 was there.

Deputy J.A. Martin:

Sorry, John, you just said it was going to be ... you said then the board obviously know ... when they started working, they agreed the risk was going to be higher than was taken to the States, so I am just trying to drill down what did States Members agree. Because from scrutiny they mention the 10 to 20 being probably not achievable, so which Financial Direction - that is probably what I am asking - was amended at this meeting?

Chief Executive, States of Jersey:

There was no Financial Direction amended.

Deputy J.A. Martin:

So they introduced a new one?

Chief Executive, States of Jersey:

Sorry, just step back a bit ...

Deputy J.A. Martin:

I am trying to get my head around this. It is amended or what has the States agreed?

Chief Executive, States of Jersey:

At the point of that meeting in March ... on 31st March 2014, there was no Financial Direction. That is the Financial Direction that then ensued from that meeting, which is where 50 per cent came in. It came in because of that statement. So it is the sequencing that is the important bit. The discussion with the Chairman of the board and the members of the board was the point at which the 50 per cent was set and that is what got translated into that Financial Direction.

Deputy A.D. Lewis:

Okay. If I could just ask a question about the sequencing that you have now come on to, really, so after that meeting I take it you then informed the accounting officer of the outcome of the meeting?

Chief Executive, States of Jersey:

No, that would have been done with the Treasurer because the Treasurer then produced the final document.

Deputy A.D. Lewis:

But the accounting officer was also informed?

Chief Executive, States of Jersey:

It then goes round to the accounting officer. It goes round for comment before they are finalised.

Deputy A.D. Lewis:

Okay. So did you at any time suggest to the accounting officer that the States Assembly should be advised of the change in risk forecast?

Chief Executive, States of Jersey:

I did not because I would need to go back to ... need to go back to that, which then ... oh, no, sorry ... then goes on, on page 30, which was: "The board agreed a States debate on this subject was unlikely in the next 3 to 6 months" - bearing in mind where we were in the election cycle - "and therefore the board are required to work with the F.D. as it currently stands." However, he suggested, that is the Chairman of the board suggested: "Then when the new E.D.D. and Treasury Ministers are in place following the elections it may be possible to discuss it with them. In the meantime, the chair urged the directors to review the revised Financial Direction as it continues to prevent the directors from approaching issues liberally." So it is where we were in terms of the election cycle. The view was clearly that it was not going to get ... in July 2013, so we were just breaking for the summer recess, so by the time we got back after the summer recess it would have been early September and we were going straight into election mode.

Deputy A.D. Lewis:

Okay. Obviously, there are various different ways of informing the Assembly, from a statement, a memorandum, to a proposition, so did you at any time ask the accounting officer to inform the Assembly in whatever method you felt appropriate regardless of the cycle we were in in Parliament?

Chief Executive, States of Jersey:

I did not, no.

Deputy A.D. Lewis:

Okay. So, in your opinion then, why was the States not formally advised of the change in risk? Was it because of the election cycle? Because the impact of that change could be significant in terms of the future performance of the fund, so do you not think it was important that they were informed, in which case is the reason you are saying they were not informed was because of the cycle we were in in Parliament at that time?

Chief Executive, States of Jersey:

Well, I think we have said a couple of times hindsight is wonderful. It is an area which probably the States should have been informed that this was then finalised as 50 per cent. It did not happen, but there were clear parameters that everyone was working to from that point on.

Deputy A.D. Lewis:

Okay. I think that answers the question. Thank you. We are now going to come on to some more questions about the scrutiny report. Constable Taylor?

The Connétable of St. John:

Yes. In the ministerial response to the scrutiny report, there is a commitment to bring back to the States Assembly within 6 months changes to the Public Finances Law to enable the Innovation Fund to take an equity stake in businesses that had received funding so that the fund could benefit from the upside in their investments. So, to the Treasurer, if I may ask, whose responsibility was it to establish the timetable for such a proposition?

Treasurer of the States:

Could I just clarify here I think it says: "Within 6 months of the launch" - the launch being November 2013 - "Treasury and Resources will launch a new R. and P. that will allow the J.I.F. to make equity investments in privately owned businesses and move towards a partnership fund. This will require E.D. and T. and R. working closely with stakeholders to develop the report and proposition." The point I would make there is you have said that it is just a change to the Public Finances Law. It is not just a change to the Public Finances Law. It was, if you like, a whole new model of operating to

move to a partnership fund, which would involve, as I understand it - get the words right here - a joint venture private equity ...

Deputy A.D. Lewis:

It was contained as one of the options in the original report that went to the States.

Treasurer of the States:

It was the partnership fund that was said to be where we were moving to. Now, my assumption is that 6 months finished in May 2014, but as is always the case I think sometimes things do not happen as quickly as one might envisage initially. My assumption - so I have had to question myself in terms of this assumption - is that this was, as with phase one, to be led by E.D.D., but ... and, yes, there would need to be changes to the Public Finances Law. This is a bit different to the establishment of a fund, but this would be very different in terms of you would already have your fund. You would have to change the operating terms of reference for the fund and, yes, you would have to in this event make changes to the Public Finances Law somehow to have allowed investments to be undertaken. Now, of course, the Minister for Treasury and Resources currently is allowed to make investments under the Public Finances Law relating to the investment of funds, but this would have been to have allowed a Minister for E.D.D. to have made these investments. Now, that might well be a very straightforward change in the Public Finances Law but would require, in my view, the research and development of terms of reference as they would relate to a partnership fund, okay, which is more than simply a change to the Public Finances Law. It is not necessarily about taking any upside advantage of the loans that had already been issued but was moving the fund to a different operating model that may well have included loans as is currently the case or was the case or grants - some of the feedback was given that grants might be more appropriate in some cases - or whether it would be ... so, just in terms of then having looked at it backwards and thought to myself am I wrong in the assumption and, therefore, was there another department that was believing that it was working for the Treasury, and I can see that there would have been some traffic going backwards and forwards during my time, I thought, well, okay. I went back to the business plan for Treasury and Resources for 2014. It had 98 activities and objectives in it. I have been through them twice now recently and I have asked another officer to go through and we cannot find this item in there. I can, however, find it in the E.D.D. business plan.

The Connétable of St. John:

So it was E.D.D. who should have brought back some ...

Treasurer of the States:

Well, no, it may well have been T. and R. in terms of it ... as it required a change to the Finances Law. I am saying that the cold statement here says jointly. If we are going to go back to all those

representatives of the States jointly. I am explaining my assumption that it was pleading to lead, that is not to say that we would not have significant input because the Treasury undertakes investment, obviously not huge investments, unless you include the nationalising industries that we have. Outside of that any investments within Strategic Reserve, the Common Investment Fund, Social Security Fund, those will be small holdings in individual companies, so there is not this sort of scale of risk by any stretch of the imagination.

Deputy A.D. Lewis:

Sorry, cut to the chase, Treasury, are you saying that it absolutely E.D.D. to bring this back, not you?

Treasurer of the States:

All I am saying is I made an assumption, is there anything? Then in hindsight, look, maybe I have that wrong. I go back to the Business Plan, I can see it is very clearly in the District Plan. Why was it not then developed further? I am going to make a bit of a leap here, is that we then move to a review of innovation being undertaken by Tera Allas, so I am going to make some leaps and it may well be that I knew this. I cannot recall but it seems sensible to have awaited the outcome of the Tera Allas report before you move to another phase. I would also make the point that, in my view, it would not seem sensible to move to a phase 2 until you have had adequate experience of phase 1 and until you have done a review of phase 1. Notwithstanding whatever was put in a response to a Scrutiny Panel report, I would regard it as appropriate to have undertaken a review of phase 1. That is not me just then pedalling off the back of Tera Allas' review that said exactly that, did that happen, 2 years of the operation of the fund? By the way, it was almost 2 years by the time she said it, a review should be undertaken that would then inform where you would move to in phase 2 of that review. Intensive, who would be the lead department that falls out of that? They would, therefore, then refer you to the action plan that did not include Treasury and Resources as a partner in the development of that but did identify that there would be changes to the Public Finances Law.

The Connétable of St. John:

I think the direction I am coming from and certainly Deputy Martin is coming from, is that what was presented to the Assembly was the risk level was 10 per cent and there would be a commitment that within 6 months changes to the Finance Law would bring back an equity system to help the States benefit from any successes, both of which significantly changed in that, one, we have never had any changes to the Finance Law to get the upside benefits and, 2, the risk was severely changed 50 per cent. What we in the Assembly agreed is very different to what has happened in practice and that is our concern.

Treasurer of the States:

Yes, the 50 per cent is and was there a Partnership Fund prepared?

Deputy A.D. Lewis:

But the 6 months thing you are saying was unrealistic to bring back a proposition within 6 months because Tera Allas...

Treasurer of the States:

I will go back to my phrase I had said ...

Deputy A.D. Lewis:

... then say you should wait 2 years to operate the fund before you do anything.

Treasurer of the States:

Yes, but I would have to admit by that point 2 years we are almost stuck, so it would seem sensible for it to say for 2 years, although that would have been December 2015.

Deputy A.D. Lewis:

Yes, so it has taken you 6 months in the first place, the proposition was perhaps wrong to do that.

Treasurer of the States:

Again, there but for the grace of God, okay, I am afforded the luxury of hindsight, as are most people who were reviewing this afterwards, as opposed to being involved with it as it is developed. It is very easy to ... it is not easy, sometimes it is very complex to identify where the fault lay. I would just say that my own belief is that there should really be a review of phase 1 before you jump to, potentially, a much riskier equity investment proposal, admittedly with greater upside.

Mr. R. Parker:

Sorry to jump in, there is a question on this, is if you are setting a fund, okay, and the standard of the structure of those funds in many other places is with equity participation, would that not have been something that had been looked at at that time and the possible complications before it was even presented to the States?

Treasurer of the States:

I think it was but I think there was quite a bit of research and indeed, as we just identified on point 7, there is a ministerial response that clarified. I understand there was some considerable looking into and researching the position is really ...

[10:45]

Mr. R. Parker:

If you had that knowledge and had to be dealt with, then the question comes back to, obviously there was an understanding that this could be effected within that 6 month period.

Treasurer of the States:

I am giving my opinion.

Mr. R. Parker:

Then the second part to that is, what degree is the Chief Officer of Economic Development chasing up Treasury and Resources in relation to bringing forward that change?

Treasurer of the States:

I think I would come back to my point, you are oversimplifying this with just the just the change in the Public Finances Law. It is not simply a change in the Public Finances Law. I would expect a report and proposition to have included amended terms of reference that relate to this, alongside any changes to the Public Finances Law that would allow it. This is a different model than that covered, I would say, by the current position of the operating terms of reference. Yes, my view is you would evaluate where you were with the current scheme before you move to a new scheme.

Chief Executive, States of Jersey:

Yes, and I think that perceptive ...

Treasurer of the States:

It is just my view.

Chief Executive, States of Jersey:

I would concur completely with the Treasurer and the question you asked was, why was not the Economic Development Chief Officer chasing the Treasury and Resources Department? I think it is absolutely the wrong way round, if I may say. I think it was the responsibility of the Accounting Officer, Economic Development Department who had experience of the on the board, working with the J.I.F. Advisory Board to determine the success and implementation of phase 1, how that was working, lessons learned from it and how do you convert that into a revised phase 2 with equity? That would be the point at which he would have the discussion with the Treasury about lessons learned, how do you then convert it and then you start looking at all the upsides and downsides of it? But to suggest it was the Treasury and Resources doing it first I think is wrong. I think it is absolutely clear ...

The Connétable of St. John:

Can I ask, did the Chief Officer of Economic Development ever approach you on this subject to ...

Treasurer of the States:

We did meet. In actual fact, the C. and A.G. acknowledges that there was a convertible option within one of the loan improvements and that was something that I had agreed to, the Economic Development Chief Officer. It is not that I am saying I do not acknowledge that there was a piece of work to be done, I am just saying my assumption in working was that it was an E.D. (Economic Development) lead and it is borne out by the Business Plans. Whether I had got some emails or any other notes of any meetings that said, no, it was you, Richard, I cannot recall that ever being the case, which passed by me but a lot goes past the Treasurer's desk. I have 2 points here, I believe that it was E.D. to lead. I am not being overly critical in any way, shape or form because, in actual fact, I then believe that, personally, you should do an evaluation before you move to phase 2. At the point we were with 6 or 7 loans, okay, we were by November or by the time the Tera Allas review came out we were 15th September, so we are nearly 2 years post-launch. But still by the time you were at roughly that time, you only had about 6 loans issued and I would, therefore, challenge ... it is just my stance. But I know what it says in black and white and I have to acknowledge that that says it is a joint responsibility, so I am just trying to explain myself. My position would be that you should do an evaluation really before you move to that and that should be forming a part of it.

The Connétable of St. John:

Yes, I think we have that point, so if we could move on. Perhaps this one just to the Chief Officer, who has responsibility of monitoring the States decisions to ensure that agreements to bring something back to the Assembly happens?

Deputy A.D. Lewis:

Or at least if Assembly is informed, why has it not happened?

Chief Executive, States of Jersey:

Yes, I would say this is the department who was the sponsoring department for supporting that in this case because I was just going to come back in to say and have a look at the operation of the terms of reference, under section 4, it says, in both cases: "The Minister for Economic Development." It is the Minister for Economic Development. Have to be very clear, yes, Treasury and Resources were involved because it was a specially constituted fund but read the terms of reference, it is clear it is the Minister for Economic Development, the accounting officer and the department that is responsible.

The Connétable of St. John:

Each department has its own record of what needs to be brought back to the Assembly.

Chief Executive, States of Jersey:

Yes, yes.

The Connétable of St. John:

There is not a central register.

Chief Executive, States of Jersey:

No, each department, go back to the constitution of the States and how it is made up, the Minister is the body sole and body corporate and the accounting officer is the accounting officer with legal responsibility.

Deputy A.D. Lewis:

Essentially, the equity issue then, it was lose-lose, there was no win-win because unless you do take equity there is not the opportunity to top up the fund, which was one of the prospects that was contained in the original discussion about having an Innovation Fund, which is commonplace elsewhere. Do you feel then that maybe this should have been there from day one, having done the sort of work that Richard is talking about or do you feel it was essential that it ran for a while, as you have already said, before you considered the equity model or was there simply not the expertise to run a private equity type model?

Chief Executive, States of Jersey:

I think if you are going in on day one to run a private equity model you would not have set it up this way in the first place. We would not be sitting here today because we would not have a Jersey Innovation Fund being set up the way it was. It would have been completely different ...

Deputy A.D. Lewis:

Really the prospect of having the fund replenished through equity stakes, which was contained in the original proposition, was never really going to happen for several years at best.

Chief Executive, States of Jersey:

No, sorry, I cannot agree with that, Chairman. Sorry, I do not like words being put in my mouth. The Treasurer has been very clear in terms of the sequence, declaring here, it is written in here, phase 2, it did not happen in 6 months but, as the Treasurer has explained very clearly, there were reviews of the Innovation Fund. This fund had to start off, with all the issues that have occurred it started to run, that sequencing should have been that the Minister for Economic Development should then

have brought back the second phase, phase 2, which is what it clearly says in the terms of reference. As the Treasurer said, the Tera Allas work on innovation came in on top and it would have been appropriate at that time if it was the right thing to do to move into phase 2 with that knowledge. I cannot be clearer in how this was set up. This was set up to do the first part ...

Deputy A.D. Lewis:

Okay, so simply 6 months was unrealistic then, is that fair to say?

Chief Executive, States of Jersey:

I think 6 months probably was unrealistic, given there was a new fund to get into.

Deputy A.D. Lewis:

Okay, let us leave it at that, shall we? Now, 6 months is unrealistic, the projecting model was not taken forward, so we could not replenish the fund and you have stated clearly as to why that may have been the case. Yes, shall we leave it at that for now?

Treasurer of the States:

I am making some assumptions, yes.

Deputy A.D. Lewis:

Okay, thank you. We are now going to move on to the operational terms of reference. Chief Executive and Treasurer, did you consider there to be any weaknesses in the operational terms of reference? I have a document here, which I am sure you are very familiar with, which is what spurred this panel hearing to have the hearing, is the C. and A.G.'s report where it is clearly listed on 15.2, a list of ...

Scrutiny Officer:

Page 28, as long as there is a C. and A.G. report in front of you.

Deputy A.D. Lewis:

Where it summarises the inadequacies, could you perhaps comment on what you perceived ...

Treasurer of the States:

Sorry, what page is that again?

Deputy A.D. Lewis:

Page 28, 15.2, there is a summary of the inadequacies of the operational terms of reference. Perhaps, Chief Executive, firstly, do you consider there to be any weaknesses, this is before this was out, the one by the C. and A.G.?

Chief Executive, States of Jersey:

I think the Treasurer opened up very early on in the discussion this morning that from the internal audit report it became clear that we were concerned about where it was being managed and he and I made it very clear to the Chief Officer of Economic Development that no further funds were to be approved without the Treasurer's input, so we are putting that extra layer in. At that particular point we did not go back because we just had the audit report to look at the in-depth review of the 124A and D because the Comptroller and Auditor General, in very early course, I cannot remember the exact date when she started the work, said was going to undertake a review. That review then commenced, so obviously we had an internal audit report and the Comptroller and Auditor General said: "I am taking the review." I think that 15.2, when you look at the content of 15.2, bullet points versus the operational terms of reference, highlight deficiencies in it. But, as I said very early on in the hearing today, as a policy document approved by the States it set out the direction, the bit that was lacking or that was missing and it is also referred to in a C. and A.G. report, that the high levels of framework, as the C. and A.G. report refers to it. I refer to it as a governance compliance control framework. If only the board and the officers had taken time between meeting 1 and meeting 2 to put in that key meeting, which did not happen, which was to say: "We have operational terms of reference here that says the board, as appropriate, will also draw on", then it cannot be clearer ...

Deputy A.D. Lewis:

Are you saying they were strong enough and clear enough, the O.T.R.?

Chief Executive, States of Jersey:

This was clear but what was not clear was that was what they had to do, the how they were going to do it did not come out; that is the bit that is missing.

Deputy A.D. Lewis:

Okay. Can you explain then why the finance direction was then drafted? What gaps was that supposed to fill?

Chief Executive, States of Jersey:

The Financial Direction also adds another layer into it but ...

Deputy A.D. Lewis:

That is not a layer, are you saying there should be another layer on top of that as well?

Chief Executive, States of Jersey:

In terms of operational management, that sets a very clear direction. The question is, if you take the content of this Financial Direction and apply it to the way in which the fund was administered, was that adequate? I think, clearly, from the findings of all the reports, with C. and A.G., Q.C.'s (Queen's Counsel's) views of the reviews, then clearly there was a significant gap between what was written here and was actually done.

Deputy A.D. Lewis:

What was done was a different matter, which is important, of course, but what I am asking here is, the original operational terms of reference, were they weak, is that what you are saying or not?

Chief Executive, States of Jersey:

I am saying there was a gap between what was agreed by the States as in terms of reference and the actual day-to-day business of how they administered the fund. There was a gap. The C. and A.G. report refers to it as the framework was wrong, which I agree with. My interpretation is the framework was going to be, what I would consider as the how you do it.

Deputy J.A. Martin:

You said, John, that that was missing between the first meeting and the second meeting, so this was just after the board was set up after the States decision. Who should have been following up? Whose responsibility was it to follow up to see that this operation ... under the operation, there was an operating manual and why nobody checked it?

Chief Executive, States of Jersey:

The accounting officer, simple as that.

Deputy J.A. Martin:

The accounting officer to the board.

Chief Executive, States of Jersey:

The accounting officer who was on the board should have said with the Chairman: "We have a fund, we all know it is high risk, percentage failure is irrelevant at this point. We have a fund which we know is high risk, we are dealing with public money, we have a Financial Direction, we need to ensure we put in place the appropriate controls between meeting 1 and meeting 2." Meeting 2 is like to consider loans. There is nothing in between that says: "Let us just stop and think, how do we make sure we cover off all of that?" How do you then go back into what was already in the terms of reference, which is, in effect, a tick box, assessment policies? There are loads of little bullet points

in here on pages 14 and 15. There is nothing that I can see and certainly since I have taken on administering the loan book, it did not happen, that is the problem.

The Connétable of St. John:

But the second board meeting took place on 15th January, Financial Directions did not come up until July.

Chief Executive, States of Jersey:

Yes.

The Connétable of St. John:

How can you say there was a gap between this and this, when this had not yet been published?

Chief Executive, States of Jersey:

Because there is plenty of evidence in 8.1 of page 14 and 8.2 and 8.3 that gave them all ...

Scrutiny Officer:

Of what, sorry, what are you ...

Chief Executive, States of Jersey:

Sorry, operational ...

Scrutiny Officer:

Just for the record.

Chief Executive, States of Jersey:

Right, sorry, for the record, operational terms of reference page 14, section 8, which is headed the assessment framework, 8.1 assessment policies, 8.2 applicant and it goes on. I agree with you the Financial Direction was not in place but there is enough in here to be able to say, we need to ensure we have the right level of control in place to assess the loans. I cannot see any evidence in here between meeting 1, which is the welcome, meeting 2, which is where they started looking at loans and I will then draw your attention to meeting 3, which is at the end of the meeting: "The board noted that the Chairman had met with John Richardson on the previous date of writing with an update on J.I.F.

[11:00]

Mr. Richardson advised that he was nervous about governance and it was resolved that the Chair would arrange a meeting between the directors, the Minister to discuss where the J.I.F. sits in terms of phase 2.” I highlighted to them this is high risk, you need to make sure you get your controls, your compliance, your governance in place because of the background that we knew existed.

Deputy A.D. Lewis:

Okay. As a way of sort of very much cross-referencing here with the C. and A.G.’s report, did you want to come in here, C. and A.G.?

Comptroller and Auditor General:

I would just come back, I think, with one question again, which would be, whose ultimate responsibility was it to make sure that all of those controls were in place?

Chief Executive, States of Jersey:

It has to be the accounting officer, they have legal responsibility for doing that.

Mr. G. Drinkwater:

Can I just check though because on page 17 here it says: “This man, the Chief Executive ...”

Scrutiny Officer:

Can you say what you are looking at? I am sorry, for the record.

Mr. G. Drinkwater:

Sorry. Yes, this is ...

Scrutiny Officer:

R/45, is it?

Mr. G. Drinkwater:

Yes, so only the first 2 here: “This man, the Chief Executive and M.D. (Managing Director), Mike King, is leaving, responsible for the management of the funds.” That is really what comes back. I mean Mike has chosen not to come back to the Island. We have invited him here and I think, emotionally, it would be nice if we could get this interpreted but that is my understanding.

Mr. R. Parker:

Can I just ask you one question, who does the accounting officer report to? Is it purely their Minister or do they report to yourself, as the Chief Executive?

The Connétable of St. John:

Right, under the Employment of States of Jersey Employees Law that was in place at that time. I had absolutely no legal responsibility for any accounting officer. As the Employment of States of Jersey Employees Law now sits, I still do not have a responsibility for accounting officers' roles or for the policy-making roles. I cannot interfere, as the Chief Executive, in the relationship between the Minister, the accounting officer in terms of delivering of policy because I cannot interfere in the Minister's decision on policy-making. Equally, I cannot interfere in the accounting officers' responsibilities to discharge those responsibilities under the Public Finances Law.

Deputy A.D. Lewis:

Do you have no powers of direction?

Chief Executive, States of Jersey:

I have powers of direction where there are corporate matters but I do not have powers to direct which relates to Minister policy implementation in the department and I do not have powers to direct where it is under the Public Finances Law and the accounting officer's responsibility.

Deputy A.D. Lewis:

Is there a deficiency in the current system?

Chief Executive, States of Jersey:

I think it is a whole issue about structure of Government that probably does need to be looked at.

Deputy A.D. Lewis:

Just sticking with this question for a minute longer, just for the record, are you saying that there are not any serious weaknesses in the operational terms of reference; that they were adequate enough, the accounting officer simply did not abide by them in quite the way he could have done?

Chief Executive, States of Jersey:

No, I agree, I ...

Deputy A.D. Lewis:

Is that what you are saying? Because what the confusion, I think, is among the Panel here is that there is a long list here in summary of deficiencies in the O.T.R., yet you are quoting from them as if they are perfectly adequate.

Chief Executive, States of Jersey:

Sorry, I am just getting the C. and A.G.'s report open, so I think ...

Deputy A.D. Lewis:

If I am correct, just for the record for those listening, it says that: "There is confusion about the poor articulation of roles and accountabilities. The objectives of the funds were not translated into measurable outputs with associated targets. Key policy matters were either confused or not addressed. Internal resource requirements were underestimated. Potential financial performance of the funds were not adequately considered and, despite risk-management arrangements for individual loans, there was insufficient focus on managing risk for the fund as a whole, so a set of criteria was not clearly articulated, mechanisms for securing upside gains of successful loans were not developed and arrangements for after care were underdeveloped." Are you saying that that goes beyond the terms of reference, therefore, that is why you saying the terms of reference are adequate?

Chief Executive, States of Jersey:

I think I am in complete agreement with the C. and A.G.'s report at 15.2. I suppose what maybe where the slight difference is, how it was then changed, was it change the terms of reference to go back and clarify all that or was it keep the terms of references they are but in place below it within the board and the structural relationship between the board and the Executive and the officers, all answers to those questions?

Deputy A.D. Lewis:

Okay. If they did not do that, what could you have done about it?

Chief Executive, States of Jersey:

Without being the accounting officer sitting where I am sitting today ...

Deputy A.D. Lewis:

Legally you could not, is that what you are trying to say?

Chief Executive, States of Jersey:

Legally I could not. If the accounting officer had come to me: "Look, we have a problem with this, these terms of reference do not work", then we could have understood ...

Deputy A.D. Lewis:

You could have helped but he did not come to you.

Chief Executive, States of Jersey:

I could have helped, we could have understood why.

Deputy A.D. Lewis:

But he did not come to you.

Chief Executive, States of Jersey:

He did not come to me.

Deputy A.D. Lewis:

Okay, I think that answers the question, thank you. We move on to question 14, Gary.

Mr. G. Drinkwater:

Yes, and just for sort of clarity again ...

Deputy A.D. Lewis:

I think 14 is covered.

Mr. G. Drinkwater:

Yes.

Deputy A.D. Lewis:

So 15, we go to 15 ...

Mr. G. Drinkwater:

Go to 15, all right. This is for the Treasurer, were you ever made aware of any concerns about the fund by an officer prior to the C. and A.G. review?

Deputy A.D. Lewis:

Or by any officer.

Treasurer of the States:

Yes, because the internal audit preceded the C. and A.G. report.

Mr. G. Drinkwater:

Who was that? Which officer?

Treasurer of the States:

Pardon?

Mr. G. Drinkwater:

Which officer or was it a number of officers?

Treasurer of the States:

But all decisions taken by the Chief Internal Auditor.

Deputy A.D. Lewis:

The Chief Internal Auditor made you aware.

Treasurer of the States:

Pardon?

Deputy A.D. Lewis:

Sorry, perhaps I should speak up a bit, you are saying the Chief Internal Auditor made you aware of circumstance.

Treasurer of the States:

You asked the question, did I know about anything before the C. and A.G. report?

Deputy A.D. Lewis:

Yes.

Treasurer of the States:

Yes, I did because what set this ball rolling was, in huge part, the internal audit, which was issued in January 2016 because that lays out concerns, from there very rapidly we end up where we are now.

The Connétable of St. John:

Can I ask, what mechanism or do you have a mechanism in place to check loan repayments, what their dates due for repayment are, whether it is made, whether it is late? Do you have that mechanism in place?

Treasurer of the States:

Yes, so the September report seem to give some indication of ... that would be the first indication that there was any slippage by then, as I understand it, in respect of a particular loan. There were activities being undertaken by the accounting officer and lots of discussions taking place with the company that received that loan, as to where they were with their repayments and difficulties that they were encountering. Most of the others at that point were either not issued or not due to have

been repaid at that point, so that was the September report, although it does clearly say on the front of this report, that report, as reflected in the thinking the C. and A.G. comes to these conclusions in the report saying that: "The quarterly reports from the Chief Executive state that there were never breaches of conditions of loans during 2015." You can see with careful examination backwards that you can see that there were early signs at that point that perhaps loans were not going to be repaid as per one. We did the auditing in Q4, the audit report was issued in January, so there were signs but, as I say, also active management, as I understand it, with the Economic Development Chief Officer in respect of a particular loan. The other one, that if you look at that point and try to determine whether it was in arrears. I have some sympathy with people who I talk with, perhaps there is an overprescribed format in this particular arena. The nature of lots of these investments or loans is that they will not hit the deadline that is given to them for performance or reviews. The nature of these, that they were early clients. The other one that would have been behind that at that point is now the only one that would appear to be performing well.

The Connétable of St. John:

Can we just come back because what I am interested in is, the first loan repayment was due in September, it did not happen, who was alerted and who knew? Was E.D.D. advised immediately so that the monitoring process could pick up on it or was it left until the Internal Auditor picked it up at the end of the year?

Treasurer of the States:

I can see, if I look at the September report, that while success has no breaches in the words of the document, there would appear, if you look at the ledger that is attached to the pack, a first agreed payment date that had not ... first agreed payment date, so the first one of those was June, I think, in respect of one of the loans and it the same date as the issue of that report. There was an argument as to whether it would be due then the day after or whatever on another loan.

The Connétable of St. John:

Yes, all right.

Treasurer of the States:

That was there to show that that was not happening at those scheduled payment dates.

The Connétable of St. John:

Who is that reported to? Was it reported to the accounting officer and to the J.I.F. Board?

Chief Executive, States of Jersey:

Sorry, can I please answer that?

Deputy A.D. Lewis:

When it would get to you eventually.

Chief Executive, States of Jersey:

It is very clear in the Financial Directions, section 3.5: "The J.I.F. Board will provide the Minister for Economic Development and the Treasurer of the States with a written report no later than ..." and it is sectioned out. It was the J.I.F. Board who should have prepared, through the accounting officer, that statement.

The Connétable of St. John:

Fine. How can they do that if they do not know because Treasury has not told them that the loan has not been made? This is what I want to ... the link is ...

Treasurer of the States:

I was not aware that they were not aware.

Chief Executive, States of Jersey:

No, I think there was a ...

The Connétable of St. John:

The cheque is given to Treasury or should be. If Treasury do not get the cheque, how can the J.I.F. Board know ...

Chief Executive, States of Jersey:

They must have been aware because it was a J.I.F. officer that wrote the report and the J.I.F. Board who presented the report. As the Treasurer said, if the ledger showed up there was something ... it says, if the money had gone into the Treasury and the Treasury had to have said to the J.I.F. officer, Executive Officer ...

Deputy A.D. Lewis:

You automatically have to inform the accounting officer, okay.

Chief Executive, States of Jersey:

Would have known, absolutely.

The Connétable of St. John:

Right, so the accounting officer would automatically know at the due date whether it had been paid or not.

Chief Executive, States of Jersey:

Should have, yes.

The Connétable of St. John:

Should have, okay, right. Sorry, that was just ...

Deputy A.D. Lewis:

In your internal audit, Treasurer, did you pick up on the fact that, for example, one of the loans that you may have alluded to a moment ago, I am not wishing to name any individuals but one of the loans was advanced in one tranche. When you found out about that, were you concerned about that?

Treasurer of the States:

Having been afforded hindsight, I am quite surprised at that but then if I look at those schedules and I am not clear at that point that loan was paid out. I would have to clarify but I can see, with hindsight, that they were lumps.

Deputy A.D. Lewis:

Yes, but you would have seen that.

Treasurer of the States:

Yes.

Deputy A.D. Lewis:

Is that the sort of thing that you would have flagged up, as your department and ...

Treasurer of the States:

It is the sort of thing that I look and I think I should have maybe ... could I have jumped in at that point? Yes, potentially the case that ...

Deputy A.D. Lewis:

But that would have been of concern to you, so would you have had a quiet word, a bit of advice to the other accounting officer?

Treasurer of the States:

Yes, perhaps at that point should have done. It was within the operating terms of reference to loan up to £500,000. It would be unusual ... given the individuals involved, it would be unusual ...

Deputy A.D. Lewis:

It is a question we will be asking the board later, so I am just curious to know, what do you mean by that?

Chief Executive, States of Jersey:

I think, Chairman ...

Treasurer of the States:

... and given the experience of some of the individuals, unusual, it would appear, to given them all in single tranches but they were not all given in single tranches, in defence.

Deputy A.D. Lewis:

No, no, we were aware of that.

Treasurer of the States:

There would have been decisions made as to why single tranches were ...

Deputy A.D. Lewis:

We will ask who had made those decisions later.

Chief Executive, States of Jersey:

But I would like to add because I think this comes back to part of the heart of the problem, is that we had the discussion about the C. and A.G.'s report and the operational terms of reference and the comments on there, had that piece of work been undertaken consideration should have been given to ... when we get an application for a loan of £500,000, what controls we put in place to ensure that if we issue it in tranches of £100,000, £200,000, there are 8 ways of measurement; there is something in place.

Deputy A.D. Lewis:

Okay. It is all in there and it was also in the Financial Direction.

Chief Executive, States of Jersey:

Yes.

Deputy A.D. Lewis:

Yes, okay. If we could just move on to some brief final questions, Gary, did you want to ask about the status of the fund to date?

Mr. G. Drinkwater:

Yes, this is really about the ... Chief Executive, in January I think the debt provisions were about £1.4 million potentially. Can you give an update, which is official, on, one, the repayments we dealt with but, more importantly, what is the provision that that gets at this moment? I think £1.4 million was the official number, just for these purposes, what is the number you think we are at now?

Chief Executive, States of Jersey:

I will look at the Treasurer to support me with the numbers here but in the 2016 accounts we have made provision for all of the loans that are currently out should any further ones fail. They are all provided for now in terms of the total amount that has been allocated.

Mr. G. Drinkwater:

That is, what, 5 ...

Chief Executive, States of Jersey:

I think it is £1.8 million. The simple answer is there is provision for all of the loans. There is only one loan, which is the one that you know about in the public domain; that is in administration receivership, so that one is being managed through proper process.

[11:15]

Mr. G. Drinkwater:

What's the total there?

Treasurer of the States:

No, I think they will have made these points at the issuance of the report of the C. and A.G. The number of £1.4 million is the movement in 2016, not the balance as at ...

Mr. G. Drinkwater:

Yes, but ... that is £5 million ...

Treasurer of the States:

... 21st of December 2016, so the balance as at that date is just over £2 million.

Deputy A.D. Lewis:

Yes, all of which is at risk because it is risk and you have made provision for that.

Treasurer of the States:

The doubtful debts, as opposed to being written off, so I make that point. They are not written off because we have given them an undertaking to revise the provisions ...

Deputy A.D. Lewis:

What proportion is written off? Just the £500,000.

Treasurer of the States:

We have not written any of them off at this point.

Deputy A.D. Lewis:

The £500,000, even though it is in administration, so you do not know.

Treasurer of the States:

It is not written off at this point.

Chief Executive, States of Jersey:

It is not written off.

Deputy A.D. Lewis:

You do not know, okay.

Treasurer of the States:

I have asked for a revision in light of the latest work that has been done by the officer group as to a clearer understanding of what that provision should be. Having read those reports, there is some indication indeed that one of the loans that was under a gap or debt provision at the end of 2015 is no longer on the debt at the end of 2016 under a doubtful debt provision.

Deputy A.D. Lewis:

Right.

Treasurer of the States:

This is to point out that it is not terminal, I mean a doubtful debt provision.

Deputy A.D. Lewis:

Yes, yes.

Chief Executive, States of Jersey:

I think, as this is a public hearing, it is important to stress that it is not all gloom and doom. Some other loans are repaying in line with their schedule and will repay, so I felt on public ...

Deputy A.D. Lewis:

But your doubtful debt provision of it is £2.1 million.

Chief Executive, States of Jersey:

We are making provision in case of ... right, it has not occurred and some of the loans are paying back ...

Deputy A.D. Lewis:

Okay, nothing has been written off yet, it is subject to an administration process at the moment, that one that is in question.

Chief Executive, States of Jersey:

On the one, yes.

Deputy A.D. Lewis:

Okay, that is fine, thank you. Finally, we are running over a little bit, following the suspension of the Jersey Innovation Fund, what actions do you think should be taken more widely across the States to mitigate this sort of thing, potentially, occurring again?

Chief Executive, States of Jersey:

I think had the ...

Deputy A.D. Lewis:

A reasonably short answer but ...

Chief Executive, States of Jersey:

All right. I think had the basics been ...

Deputy A.D. Lewis:

Concise, as Ministers often ask in the States.

Chief Executive, States of Jersey:

Had the basics been put in place, that we have discussed at length today, we would not be sitting here today. Unfortunately, for a reason they were not put in place adequately, hence we are in this position today. It is very unfortunate but I think there is sufficient between that document and this document ...

Scrutiny Officer:

Can you just say which ones you are talking about for the sake of the transcript?

Chief Executive, States of Jersey:

Sorry, sorry, yes, it is sufficient between the Financial Direction, the operational terms of reference, that had appropriate measures being put in place at the very outset to put in this, what I am calling it, extra layer of compliance control governance arrangements, I do not think we would be sitting here today.

Deputy A.D. Lewis:

Did you want to comment on, C. and A.G.?

Comptroller and Governor General:

I would like to ask a question, please. Would you say, therefore, that on the type of issues that I raised in paragraph 15.2 of my report ...

Scrutiny Officer:

Which page, please?

Comptroller and Auditor General:

On page 28, about objectives of the fund not being translated into measurable outputs and those types of issues, would you say that you could say for all the types of funds that there are across the States that these are in place?

Chief Executive, States of Jersey:

That is part of the review we are doing on all of the other funds. The 3 reviews we have mentioned are obviously the ... sorry, the 3 reviews that the Chief Minister has commissioned are the Q.C.'s review and the political involvement, the internal officer involvement and the review of the funds. Some of the points that are raised in C. and A.G. report clearly need to be looked at on all other funds to determine whether the controls are appropriate and in place. That is when you look at the number of funds that are under administrative ... the amount of money that is put into funds across the States, there is a large piece of work which that is currently ongoing.

Deputy A.D. Lewis:

Okay. Is the nub of the issue then inadequacies in guidance notes or whatever you want to call them or them not being implemented by the accounting officers to their full extent and what monitoring then could they be put in place to ensure accounting officers, that are highly paid, highly responsible individuals, should be following through on these directives?

Chief Executive, States of Jersey:

It would be wrong of me to start talking about individual departments but there are ...

Deputy A.D. Lewis:

I am not suggesting you do, I just think generally across the States, is there a culture ignoring these situations?

Chief Executive, States of Jersey:

No, I think that is the whole point I am trying to raise, is that there is evidence of funds being very well administered.

Deputy A.D. Lewis:

Good.

Chief Executive, States of Jersey:

There is evidence of departments going from grant funding into service level agreements where there are very clear controls or very clear measurables and outputs and so on. Departments have moved from the traditional, here is a sum of money as a grant to do A, B, C, but not perhaps following it through properly in the past, to that is not good enough, convert that into a fund of which there are clear service level agreements where they only get paid if they deliver on A, B, C. A lot of movement and a lot of departments and funds are very well administered. There are, unfortunately, which the reason we are here today is there is evidence that that did not happen in this case, which is regrettable.

Deputy A.D. Lewis:

Okay. What more can you do from the centre to stop this happening in the future?

Chief Executive, States of Jersey:

I think the clear view of all Chief Officers is what happened is a point which is not a good example of good administration. I think it is fair to say that all Chief Officers are extremely aware of their responsibilities and I could cite a number of big departments where they administer large elements of public money in the way of funds where ...

Deputy A.D. Lewis:

In a very competent way.

Chief Executive, States of Jersey:

I am very confident that they do extremely well and do a very good job.

Deputy A.D. Lewis:

Good.

Chief Executive, States of Jersey:

This, unfortunately, is not one of those examples I can cite.

Deputy A.D. Lewis:

Okay.

Mr. M. Robinson:

John, do you think, I mean and looked in companies in the commercial world, the Chief Executive has oversight of all the other directors in relation to trying to achieve the overall structural objective of that organisation, do you believe there should be a direct reporting line and responsibilities on basically accounting officers to the Chief Executive?

Chief Executive, States of Jersey:

It goes back to a comment I made that perhaps was not clear enough ...

Deputy A.D. Lewis:

You did say you felt there was a ...

Chief Executive, States of Jersey:

The answer is, I do but on the same and I would have to say that will not work in the current structure of Government.

Deputy A.D. Lewis:

Because you have ministerial laws, all of which ...

Chief Executive, States of Jersey:

Because you have completely different arrangements between the way in which ministerial Government operates. You cannot put a Chief Executive with overall responsibility while you have the Ministers as body corporates and soles, it will not work.

Mr. M. Robinson:

Based on the current system, does that have an implication to the culture and the way it is obviously talked about, it is how to change that culture? Having a restructuring is probably very important to achieving that.

Chief Executive, States of Jersey:

It is very easy to draw the theoretical model of how life should look. Unfortunately, the outcome of the J.I.F. and all these points we have discussed today are not good. But, having said that, there is an awful lot of good in the organisation. There is a lot of very good practice that works well within the current structure and culture. I am certainly not saying that what we have is broken. It is not, it works well. This has highlighted an area which has not worked well, which is unfortunate and very regrettable. But unless there is a fundamental change in overall structure right throughout, then do not change one bit because the chances are you are going to change it into something worse. The culture in the organisation and the way in which Chief Officers work, I think, Richard, the Treasurer who has powers under the Public Finances Law, Chief Officers are very aware of their responsibilities and accountabilities. In the main, they, without question, adhere to it and comply with it. Unfortunately, this is one case that did not happen.

Mr. M. Robinson:

I am just wondering about things like egov and in the forming of the States but ...

Deputy A.D. Lewis:

We are going to come to an egov review at a later date, so you will be talking to us about that now in the future. But is it true to say then there is a dotted line, albeit a light-coloured one, to you both from these accounting officers? It is not a solid line, it cannot be legally and there is no intention of that changing in the foreseeable future because it would be extremely difficult to do so.

Treasurer of the States:

I can see the C. and A.G. is encouraging me to give my view from the side ...

Deputy A.D. Lewis:

This is not a corporation, this is not a body corporate. It is very different, this is the public sector.

Treasurer of the States:

Okay. Picking up on the point of culture, it seems it is in accordance with the way that we currently say we wish to operate, which is as a single entity through a Council of Ministers will collective responsibility to have an accounting officer structure that is different to that. The accounting officer structure enshrines the departmental side of this strongly. I do share the view that it creates difficulty with the ministerial sole responsibility from a departmental perspective. I would admit and I have not got very far with this at all, there has been some conversation around making the lines of accountability for accounting officers, the same as they are for Chief Officers. Then draw the distinction between the 2 in that the Chief Exec has some powers in respect of Chief Officers, which are very often accounting officers but the 2 roles are different in different legislation. It seems odd that we have this arrangement in the Finances Law and a more vaguely this arrangement under the States of Jersey Employees Law and a bit of a mix, insofar as ministerial responsibility is there. I think there is something to look at in terms of a single structure for accounting officers that would ultimately be perhaps a principal accounting officer as the Chief Executive. I am not quite sure who would want that role, with some other name attached to the accounting officers that sit underneath that structure. It is the case in other places where you can have principal and subsidiaries, not the right word but a commendable part here reporting it. I think it is something to look at because it gets in the way. In terms of the decision that we are making moving forward on the finance function, I can understand accounting officers having some concern over that, given their legal responsibility like that to have the finance function go like that. It feels to me anomalous. That does not necessarily mean it is the panacea but it does seem odd and it is stated intention of moving the culture in the organisation forward to have that structure. Will it make every bit of difference, given the political structure we have? I do not know but it seems to me to be an impediment to moving that forward.

Deputy A.D. Lewis:

An ongoing discussion, I think but not to being resolved today. But thank you very much that and thank you for your time today. That concludes our questions, unless somebody else has something else burning. We have some other witnesses that are waiting to see us. We thank you for your attendance today.

Treasurer of the States:

Thank you.

Deputy A.D. Lewis:

There are a few things that we need to pull up on there, which I also will be in contact with you about in terms of some written evidence. Then I can form our final review but thanks, once again, to those who also attended in the background and I conclude the hearing as completed for today. Thank you.

[11:27]