



Environment, Housing and Infrastructure Scrutiny Panel

Review of User-Pays Charges for Non-households

Phase 1 – Liquid Waste



Presented to the States on 13th July 2017

S.R.7 /2017

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1. PANEL MEMBERSHIP, TERMS OF REFERENCE AND EVIDENCE GATHERED

1.1 For this review the Environment, Housing and Infrastructure Scrutiny Panel comprised the following members:

Deputy David Johnson, Chairman

Deputy Tracey Vallois, Vice-Chairman

Connétable Sadie Le Sueur-Rennard, Panel Member

Deputy Montfort Tadier, Panel Member

1.3 The Panel appointed Mr. Sam Taylor and Mr. David Baxter from Eunomia Research and Consulting Limited (Eunomia) to assist the Panel with its general Terms of Reference and to help identify key issues from the evidence received. The Panel also engaged Mr. Sion Jones from London Economics Limited (LEL) to carry out a desktop study on the Distributional Impact Analysis which was produced by the Economics Unit that sits within the Chief Minister's Department. Eunomia requested a series of meetings with various stakeholders, which took place in June 2017. Both of the Advisors' reports are appended to this report and are referenced throughout.

1.4 The following Terms of Reference were agreed for this review:

1. To consider the rationale behind the introduction of user pays charges for non-household waste.
2. To assess the charging mechanisms and determine how they will be applied.
3. To determine whether the proposed charges are reasonable and fair.
4. To consider the potential impact of the proposed charges, alongside the current charges, on non-householders.
5. To determine what impact the proposed charges will have on environmental behaviours.
6. To assess the adequacy of the present facilities in regards to waste management and recycling.

Evidence Gathered

1.5 The written materials provided to us and our Advisors during our review are listed within the reports. In addition, we held one Public Hearing and received eight written testimonies, as follows:

Public Hearing

15th June 2017 The Minister for Infrastructure, accompanied by various Officers from within the Infrastructure Department; the Director of Operations, Assistant Director of Operations, Chief Officer and Business Development and Change Manager.

Written Submission

12th May 2017	Visit Jersey
12th May 2017	The Jersey Royal Company
15th May 2017	Chamber of Commerce
15th May 2017	The Jersey Farmers Union
21st May 2017	Member of the Public
22nd May 2017	The Inn Jersey
23rd May 2017	The Jersey Hospitality Association
25th May 2017	Channel Hotels and Leisure Limited

- 1.6 The written submissions and the transcript of the Public Hearing are available to read on the Scrutiny website (www.scrutiny.gov.je).
- 1.7 The Panel also undertook a street poll in St Helier town centre on 12th June and received feedback from the general public on the Minister's proposals in regards to liquid waste charges.

2. EXECUTIVE SUMMARY

- 2.1 On 18th May 2017, the Minister for Infrastructure lodged the Draft Drainage (Jersey) Law 2005 (Appointed Day) Act 201- and accompanying report. If passed by the States Assembly, the legislation will enable the introduction of liquid waste charges for non-households in March 2018. Currently, solid and liquid waste services are almost wholly funded by the States of Jersey through direct taxation of Jersey's residents. If the Minister's proposals are approved by the States Assembly, non-householders will be charged a proportional fee for their use of the liquid waste services.
- 2.2 The rationale for introducing user pays charges is, on the whole, well supported and consistent with experience in other jurisdictions. However, the argument that charging for liquid waste will ensure transparent and justifiable use of public resources is weakened by the fact that the charges will be used primarily to fund growth in States expenditure, rather than ring-fenced to improve waste services. A significant part of the expenditure, used to justify the level of the liquid waste charge, are the costs associated with replacing the Bellozzane Sewage Treatment Works (STW). However, alternative funds have already been identified to complete this work. Hence, the rationale for the immediate introduction of the charges to address either acute financial issues or to finance the replacement of the STW is unclear.
- 2.3 Charging for the cost of provision of liquid waste services is widespread and is in line with the polluter pays principle, a fundamental tenet that underpins environmental policy in many jurisdictions across the world. It was found that the majority of non-householders who provided submissions to the Panel were not opposed to the principle of user pays charges but rather expressed concerns surrounding their implementation.
- 2.4 We found that the definition provided by the Department for Infrastructure (DFI), within the charging report, is not adequate for identifying 'non-household' entities and, as a result, may compromise the delivery of a robust charging mechanism. Furthermore, whilst the use of exemptions for 'non-households' may be valid, the method by which they have been announced risks losing customer's confidence in their utilisation. If they are not perceived to be transparent then the overall fairness of the charges might be questioned. As a result, we recommend that both the definition of 'non-households' and the exemptions are defined within primary legislation, and the basis for their selection are made public, before Article 4 of the Drainage (Jersey) Law 2005 is able to come into effect.
- 2.5 One of the key measures for ensuring the successful introduction of the liquid waste charges is the identification of each 'non-householder' entity that is eligible to be charged. Without a robust understanding of the number of entities that may be subject to the proposed charge, its fairness could be called into question. During our review we found that an amendment to the Drainage Law is required in order to allow both Jersey Water to share data on non-household metered water with DFI and for the Department for the Environment to share

their borehole data. There is a possibility that this requirement would jeopardise the timetable for the introduction of the proposed charge.

- 2.6 Whilst the majority of non-householders will be able to estimate their likely charge based on their current water bills, approximately 60 customers will require an assessment or audit to be undertaken by DFI of their waste usage. Until such time that is completed, those customers will be unable to estimate their charge and, therefore, prepare for its introduction.
- 2.7 Ensuring that the charges are proportional to the level of service used is a principle that has been widely supported throughout the debate on waste charging in Jersey. In this respect, we found that the application of the principles used for calculating the costs associated with 'non-household' liquid waste lacked transparency. Furthermore, it is likely that the estimates used by DFI to make these calculations are significantly incorrect. As a result, it is difficult to ensure that the proposed liquid waste charges are cost reflective. The Panel therefore recommends that the Minister for Infrastructure revisits the calculation of non-household costs to ensure that they are calculated in a transparent manner that is in alignment with best practice.
- 2.8 It is widely accepted that the hospitality industry will be the sector impacted the most by the proposed liquid waste charges. However, the extent to which they will be impacted is not entirely clear. Whilst the Distributional Analysis provides some limited examples of potential impacts on individual businesses, it does not paint a fuller picture of the potential impacts across the sectors and across different sized and types of businesses. Furthermore, the lack of supporting information about the illustrative examples, used within the Distributional Analysis, makes it difficult for stakeholders to understand how the examples are relevant to their own interests. We therefore recommend that the Minister commissions the Economics Unit to undertake a more detailed analysis of the impact of the liquid waste charges on non-householders which shows the potential range of charges in each sector and how the charges vary by size and type of non-household.
- 2.9 DFI estimated that the cost of a room at a medium sized hotel could increase by 37p as a result of the liquid waste charges, if the hotel choose to pass the costs on in full to the end customer. We found it highly likely that this figure will vary considerably between different businesses and, in some cases, medium sized hotels will have to charge substantially more than 37p per room per night.
- 2.10 It has been suggested that, as a result of the proposed charges, Jersey will struggle to be competitive as a tourist destination, countless jobs will be put at risk and Jersey's further potential will be extinguished. Furthermore, there is a concern amongst those who operate within the hospitality and tourism sector that the new charges could hinder any further improvements in visitor numbers. We found that it is difficult to judge the nature of the potential impacts on tourists and the tourism industry without a much more detailed and lengthy analysis of the sector, its cost structures and the nature of demand.

- 2.11 It is unclear as to the extent to which DFI or the Council of Ministers considered alternative approaches for raising the shortfall in revenue prior to the approval of the MTFP Addition in 2016. We recommend that DFI consider the implementation of a wider range of charging schemes that can deliver similar outcomes to the one proposed. We further recommend that the range of schemes should include more innovative approaches to managing liquid waste on the Island that deliver improved environmental outcomes.
- 2.12 As with any significant change in policy, it is necessary to ensure that the changes are considered and understood by all interested parties prior to their introduction. At the time of the MTFP Addition, the Minister for Infrastructure Minister assured the Panel that a full consultation would be undertaken on the details of the proposed charges once the in-principle decision had been taken by the States. However, the type and extent of consultation that did take place is not consistent with normal practice elsewhere and the spirit of the Consultation Code of Practice seems to have been breached. The impact of these should not be understated because without stakeholder support and acceptance of the charge, there is a real danger that its effectiveness will be compromised. It is the Panel's view that the introduction of the charges should be delayed to enable an open consultation to take place. The consultation should include discussion of the charging principles alongside various options as to how the charge might be deployed.
- 2.13 One of the motivations behind the introduction of the waste charges is to help improve environmental behaviours in regards to waste management. During our review, however, we learnt that DFI does not envisage that the proposed liquid waste charges will have a significant impact on the volume of water consumed by non-householders.
- 2.14 Whilst the Department for Infrastructure will not be offering any financial incentives to non-households to help improve their water efficiency, it will be providing free advice and expertise to help customers identify where they have opportunities to mitigate the liquid waste charges.
- 2.15 We found that there are alternative ways in which the proposed charges could be used to encourage and incentivise improved environmental behaviours, which have not been considered by DFI. One option is the introduction of a brokerage system, which could help to reduce levels of nitrogen in Jersey's water. When we raised this matter with the Environment Department, it seemed supportive of this type of solution as a means of achieving environmental improvements. Through such correspondence we found that, whilst discussions had taken place between the two Departments in respect of wider issues relating to the Water Plan, the Environment Department had not been involved in discussions regarding the proposed liquid waste charging mechanism and how it could be designed to optimise environmental behaviours. We recommend, therefore, that both Ministers work closely together to explore the possible options available for incentivising improved environmental behaviours.
- 2.16 At the time of undertaking our review, we were advised that DFI had yet to finalise the details of the appeals process for non-householders. As such, the Panel and its Advisors were

unable to determine whether these were adequate. We therefore recommend that the debate on the proposed liquid waste charges should not progress until the States Assembly has considered and approved the details for the appeals process.

- 2.17 It is now proposed that only 50% of the liquid waste charges will be levied in 2018 and it will not be until 2019 that the full charge is introduced. Whilst this decision shows that the Infrastructure Minister has acknowledged the significant impact that these charges could have on non-householders, it does not address the main concerns raised during the Panel's review. The Panel concludes that the debate on these proposals should be delayed until such time that our recommendations have been thoroughly considered and addressed by the Minister for Infrastructure and his Department.

3. FINDINGS AND RECOMMENDATIONS

FINDINGS

The Present Situation

1. With the exception of the collection of solid waste, which is undertaken by the Parishes, solid and liquid waste services are currently almost wholly funded by the States of Jersey through direct taxation of Jersey's residents. (5.6)

Rationale

2. The rationale for introducing user pays charges is, on the whole, well supported and consistent with experience in other jurisdictions. However, the argument that charging for liquid waste will ensure transparent and justifiable use of public resources is weakened by the fact that the charges will be used primarily to fund growth in States expenditure rather than ring-fenced to improve waste services. (6.5)
3. The rationale for the immediate introduction of the charges to address either acute financial issues or to finance the new Sewage Treatment Works is unclear. (6.9)
4. Charging for the cost of provision of liquid waste services is widespread elsewhere. (6.15)
5. Charging for the cost of treating liquid waste is in line with the polluter pays principle, a fundamental tenet that underpins environmental policy in many jurisdictions across the world. (6.16)
6. The majority of those who contacted the Panel regarding the proposals were not opposed to the principle of user pays charges but rather expressed concerns surrounding their implementation. (6.17)
7. Under the present zero/ten tax regime certain businesses (or their owners) pay no income tax in relation to such businesses. (6.23)
8. The exclusion of domestic customers from waste charges, whilst not widespread, is not inconsistent with approaches adopted in other countries. (6.25)

The Proposals

9. Jersey's charging principles, when combined with the objectives of the Strategic Outline Case, are similar to those in the UK and Ireland. (7.8)
10. Good practice in the UK and Ireland suggest that a formal document, combining all of the principles, is consulted upon and then adopted before progressing to the design of a charging scheme. This has not occurred in Jersey. (7.9)

11. The definition provided by DFI is not adequate for identifying legal entities that might be classified as a non-householder and, as a result, may compromise the delivery of a robust charging mechanism. (7.15)
12. Whilst the use of exemptions might be logical and valid, the method by which they have been announced risks losing customers' confidence in their utilisation. If they are not perceived to be transparent then the overall fairness of the charges might be questioned. (7.20)
13. No distinction is currently made by Jersey Water between its billing rates of household and non-household entities. As a result, there is a risk of misclassification when relying on its data. (7.24)
14. The number of small businesses operating from residential premises is currently unknown. Without a robust understanding of the number of entities that may be subject to the proposed charge, the fairness of the charge could be called into question. (7.29)
15. The apportionment of the liquid waste usage for non-household entities operating from residential premises may be difficult to validate and will require goodwill and co-operation from bill payers. (7.30)
16. It is not clear as to whether Airbnb type businesses would be charged for liquid waste under the proposed charging mechanisms. The Control of Housing and Work Legislation does not currently recognise this type of activity as a 'business'. (7.34)
17. Approximately 60 non-household customers will require an assessment or audit to be undertaken by DFI of their water usage. Until such time that this is completed, those customers will be unable to estimate their charge and, therefore, prepare for its introduction. (7.40)
18. The application of the principles used for calculating the costs associated with non-householder liquid waste lacks transparency and the estimates used by DFI could be significantly incorrect. As a result, it is difficult to ensure that the proposed liquid waste charges are cost reflective. (7.51)
19. The Panel fully endorses Eunomia's findings in regards to cost recovery. These are as follows: (7.53)
 - The original approach to the assessment of relevant costs in the February 2016 SOC (Strategic Outline Case) appears comprehensive and soundly based. However, this approach has not been used in the financial model lodged with the States in May 2017.
 - Average charges to businesses are now assumed to be 14% higher than when original engagement and consultation took place, even though the proportion of costs to be recovered from non-household entities has dropped from 48% to 22%.
 - The annual cost to be recovered has risen by £2m compared to models used in the SOC. The methodology to reach these new costs is not based on a DCF (Discounted Cash

Flow) approach and contains capital expenditures that may not reflect the long-term cost of running the liquid waste service for household entities.

- The divergence in the financial modelling approach from the assumptions used in the SOC compared with the modelling lodged with the States does not appear to have been addressed in a communication and engagement process with stakeholders.
- There is a risk that the amount of costs recovered are either significantly below or above the actual relevant amount of costs. If charges induce significant behavioural changes from a small number of large users, then there could be volatility in future liquid waste charges for other users. Over-recovery would run contrary to the States Assembly guidance on the application of user charges.

20. The proposed volumetric charge of £2.27/m³ appears fair in comparison to other jurisdictions when consideration is also given to the types of liquid service provided. (7.60)

The Economic Impact

21. The hospitality industry will be the sector impacted the most by the proposed liquid waste charge. (8.9)

22. For a small number of trade effluent customers their liquid waste charge will amount to considerably more than £50,000 per annum. Furthermore, based on the Mogden Formula used in England and Wales, the annual liquid waste bill for one customer could amount to approximately £200,000. (8.18)

23. The Distributional Analysis provides some limited examples of potential impacts on individual businesses, but does not paint a fuller picture of the potential impacts across the sectors and potentially across different sizes and types of businesses. (8.20)

24. The lack of supporting information about the illustrative examples, used within the Distributional Analysis, makes it difficult for stakeholders to understand how the examples are relevant to their own interests. (8.21)

25. The cost of the charge to the end user of the service, if passed on in full, will vary considerably between different businesses. (8.28)

26. It is highly likely that a medium sized hotel would have to charge in excess of 37p per room per night, this being the amount estimated by the Department for Infrastructure, if it were to decide to pass the charges on in full to the public. (8.29)

27. It has been suggested, that as a result of the proposed charges, Jersey will struggle to be competitive as a tourist destination, countless jobs will be put at risk and Jersey's further potential will be extinguished. (8.38)

28. There is a concern among those who operate within the hospitality and tourism sector that the new charges could hinder any further improvements in visitor numbers. (8.39)

29. It is difficult to judge the nature of the potential impacts on tourists or the tourism industry without a much more detailed and lengthy analysis of the sector, its cost structures and the nature of demand. (8.40)
30. The aggregate impact of the proposed charge on Jersey's wider economy is small. Any impact on the overall economy would be the result of a shift in responsibility for paying the costs of dealing with non-household liquid waste. (8.42)
31. It is unclear as to the extent to which the Department for Infrastructure or the Council of Ministers considered alternative approaches for raising the shortfall in revenue prior to the MTFP Addition's approval in 2016. (8.49)

Consultation

32. At the time of the MTFP Addition, the Infrastructure Minister assured the Panel that a full consultation would be undertaken on the details once it had received approval for the in-principle decision in the States. (8.60)
33. The type and extent of consultation actually carried out is not consistent with normal practice and the spirit of the Consultation Code of Practice appears to have been breached. The impact of these should not be understated. Without stakeholder support or acceptance of the charge there is a real danger that its effectiveness might be compromised. (8.61)

Environmental Impact

34. The Department for Infrastructure does not envisage that the proposed liquid waste charge will have a significant impact on the volume of water consumed by non-householders. (9.12)
35. In order for non-householders to change their behaviour in response to the liquid waste charges, there needs to be certainty and understanding of the charging mechanism. (9.16)
36. The Panel was advised by the Infrastructure Department that any reduction in revenue as a result of environmental behaviours will be recovered from a resulting reduction in running and operating costs of the Sewage Treatment Works. The Panel questions whether the Department takes account of the fixed costs. (9.20)
37. The Minister for Infrastructure cannot increase the liquid waste charge above 2.5% per annum unless he first obtains approval from the Minister for Treasury and Resources. (9.21)
38. Whilst the Department for Infrastructure will not be offering any financial incentives to non-households to help improve their water efficiency, it will be providing free advice and expertise to help them identify where they have opportunities to mitigate the liquid waste charges. (9.26)

39. There are alternative ways in which the proposed charges could be used to encourage and incentivise improved environmental behaviours. One option is a brokerage system, which could help to reduce levels of nitrogen in Jersey's water. (9.31)
40. The Department for the Environment has not been involved in discussions regarding the proposed liquid waste charging mechanism and how it could be designed to optimise environmental outcomes. (9.32)

Implementation

41. Whilst the Minister for Infrastructure's decision to phase in the proposed liquid waste charges acknowledges the potential impact on non-householders, it does not address the main concerns raised during the Panel's review. (10.12)
42. An amendment to the Drainage (Jersey) Law 2005 is required in order to allow data sharing for both non-household metered water use from Jersey Water and for borehole data from the Department for the Environment. There is a possibility that this requirement could jeopardise the timetable for the introduction of the proposed charge. (10.19)
43. There is a significant risk that billing data, for a substantial number of customers, will not be available in time for the proposed launch of bills in 2018. To ensure fairness, it is imperative that all customers receive their first bill at the same time. (10.24)
44. It has not been possible to assess whether the appeals system is adequate as the details of the process are yet to be finalised. (10.29)
45. It is imperative that the details of the liquid waste charges are well communicated to all non-householders, to allow them to take the necessary steps to help reduce their water consumption. (10.33)

RECOMMENDATIONS

1. The Minister for Infrastructure must ensure that the term "non-household" is defined in primary legislation before Article 4 of the Drainage (Jersey) Law 2005 is able to come into effect. (7.16)
2. The Minister for Infrastructure must ensure that exemptions to the term "non-household" are included in primary legislation, and the basis for their selection are made publically available, before Article 4 of the Drainage (Jersey) Law 2005 is able to come into effect. (7.21)
3. The Minister for Infrastructure must undertake necessary steps to ensure that an accurate database of non-household customers is in place before the proposed charges are levied. (7.25)

4. The Minister for Infrastructure must develop alternative methods for identifying the allocation of charges for businesses operating from residential properties. (7.31)
5. The Minister for Infrastructure must revisit the calculation of non-household costs to ensure that they are calculated in a transparent manner that is in alignment with best practice. (7.54)
6. The Minister for Infrastructure must commission the Economics Unit to undertake a more detailed analysis of the impact of the liquid waste charges on non-householders which shows the potential range of charges in each sector and how the charges vary by size and type of non-household. (8.22)
7. The Minister for Infrastructure must consider a wider range of charging schemes that can deliver similar outcomes to the proposed liquid waste charges. This should include more innovative approaches to managing liquid wastes on the Island that deliver improved environmental outcomes. (8.50)
8. The Minister for Infrastructure must delay the introduction of the proposed charges to enable an open consultation to take place. The consultation should include discussion of the charging principles and genuine options as to how the charge might be deployed. The consultation should also be supported by suitable outreach events. (8.62)
9. The Minister for Infrastructure must work closely with the Minister for the Environment to explore the possible options available for incentivising improved environmental behaviour. The Minister for Infrastructure must report back to the States Assembly before the end of March 2018. (9.33)
10. The Minister for Infrastructure must delay the introduction of the proposed liquid waste charges until such time as the recommendations within the Panel's report have been thoroughly considered and addressed. (10.13)
11. The debate on the proposed liquid waste charges should not progress until the States Assembly has considered, and approved, the appeals process for non-householders. (10.30)
12. The Minister for Infrastructure must establish a comprehensive communication programme to ensure that non-householders are fully up to speed about the proposed charges and are supported to improve their waste management. (10.34)

4. INTRODUCTION

Background

- 4.1 On 30th June 2016, the Council of Ministers lodged the Draft Medium Term Financial Plan Addition for 2017-2019 (P.68/2016) (“the MTFP Addition”). This followed the States’ approval of the Draft Strategic Plan 2015-2018 (P.27/2015, adopted on 20th April 2015) and the Medium Term Financial Plan 2016-2019 (P.72/2015, adopted on 8th October 2015), which agreed detailed expenditure allocations for 2016 and the total States expenditure limits for 2017-2019. As part of the Medium Term Financial Plan, the Department for Infrastructure was asked to undertake work on introducing solid and liquid waste charges for non-householders.
- 4.2 Within the MTFP Addition the States Assembly was asked to provide an in principal approval of the new ‘user pays’ proposals for non-householder liquid and solid waste charges. However, the details as to the practicalities of the charges, how they would be applied, and their potential impact on non-households and members of the public were not available at that time. Rather, the States Assembly was advised that the Minister for Infrastructure intended to bring detailed proposals forward for approval in the spring of 2017. In the absence of such details, the States Assembly was asked to approve the Department’s total revenue expenditure less its estimated income, which included the new ‘user pays’ proposals.
- 4.3 The States Assembly approved the MTFP Addition (as amended) and thus gave an in principal approval to raise waste charges in order to generate £11.35m by 2019. As a result of an amendment which was proposed by Deputy John Le Fondré, the States Assembly also agreed that the Department for Infrastructure could not undertake work on the development of ‘user pays’ charges in relation to domestic solid and liquid waste, other than work necessarily connected to the development of non-household waste charges, without seeking separate authorisation by the Assembly beforehand.
- 4.4 Currently, the disposal of solid and liquid waste is wholly funded by the States of Jersey through direct taxation of Island residents. At present, there is only a minor income generated and the services are not self-sustainable. On average, £30 million worth of waste (£15 million for solid and £15 million for liquid) is being ‘subsidised’ by the taxpayer, and the majority of which is produced by the commercial sector.

According to the Council of Ministers “*there is a gross unfairness at the heart of the system as businesses and their customers do not pay and the services they use are subsidised by tax-paying residents.*”¹

- 4.5 The Minister for Infrastructure’s expectation was that the ‘user pays’ charges would not only raise £11 million for high priority areas of Health and Social Services and Education, which would otherwise have to come out of general revenues, but would also lead to a change in

¹ MTFP Addition

environmental behaviour. For instance, it was anticipated that the charges would encourage the commercial sector to consider alternative options for recycling and alternative providers for disposal of waste.

- 4.6 In September last year the Panel undertook a review of the Draft MTFP Addition, with particular consideration given to the Departments which fell within its remit. The Panel presented Comments on this matter to the States Assembly on 21st September 2016 (P.68/2016 Com).
- 4.7 During its review, the Panel raised concerns about the uncertainty that surrounded the potential impact of the waste charges on non-households and members of the public. Whilst the distributional analysis, which was undertaken by the Economics Unit, contained some consideration of the potential impact of the charges on non-households and the general public, at the time of the MTFP Addition the details were not available. The analysis did confirm, however, that the likelihood of the charges feeding through into higher costs for the users of the services was extremely high.
- 4.8 The Panel also raised concerns regarding fly-tipping and the risk of its occurrence increasing if 'user pays' waste charges were introduced. Both the Minister for Infrastructure and the Minister for the Environment accepted that the charges would most certainly lead to increased cases of fly-tipping. However, through the use of new technology, both Ministers hoped that instances of fly-tipping would be more easily identified, thereby resulting in more successful prosecutions. The Panel agreed that it was imperative that greater consideration was given to the potential impact of the charges on fly-tipping before the Minister brought the Proposition for the charges to the States in 2017.

The Review

- 4.9 In May 2017 the Panel was advised that it was the Minister's intention to bring the waste proposals forward as two separate debates with two separate reports. The liquid waste charges were lodged in May and are due to be debated on 18th July 2017, and the solid waste charges are to be lodged in June/July and debated on 26th September 2017.
- 4.10 Accordingly, the Panel decided to undertake work for this review in two separate phases. This report addresses phase one of the Panel's review and deals with the proposed liquid waste charges in their entirety. Phase two will follow up on the information received during phase one and will assess the details of the proposals for solid waste charges.
- 4.11 Given the technical nature of this topic, the Panel decided to commission two expert advisors to assist with its review. Firstly, Eunomia Research and Consulting Limited (Eunomia) was appointed to assist the Panel with its general Terms of Reference and to help identify key issues from the evidence received. Secondly, London Economics Limited (LEL) was asked to carry out a desktop study on the Distributional Impact Analysis of the liquid waste charges which was produced by the Economics Unit that sit within the Chief

Minister's Department. Both Advisors were appointed in May 2017. A copy of the Advisors' reports are appended to our own.

- 4.12 We sought written testimonies from key stakeholders and held a Public Hearing with the Infrastructure Minister. The testimonies we considered are available to read on the Scrutiny Website. We are grateful to those who have contributed to our work and to the Minister and his Department for their assistance during the review.

5. THE PRESENT SITUATION

5.1 With the exception of the collection of solid waste, which is undertaken by the Parishes, solid and liquid waste services are currently almost wholly funded by the States of Jersey through direct taxation of Jersey's residents. At present, there is only minor income generation and the services are not self-sustainable. The Panel notes that under the current funding approach, 'user-pays' charges contribute around 8% of the total cost of service provision. At the moment, on average, £30 million worth of waste is being 'subsidised' by the taxpayer, of which the majority is produced by non-householders.² According to DFI:

"There is a gross unfairness at the heart of the system as businesses do not pay – either directly or indirectly – for the bulk of these services."³

5.2 The Infrastructure Department has calculated that approximately 3,400 potential non-householders provide 22% of the liquid waste, by volume, on the Island. The revenue and capital annual requirements of the liquid waste services total £17.5m and it has been estimated that, of this, £3.85m (22%) relates to the cost of non-householder services.

5.3 In contrast to sewage, where the majority is produced by households, solid waste is largely generated by non-households. For instance, 66% of the total volume of solid waste received by DFI at the Energy for Waste Plant (EfW) is from non-householders and 34% from householders.

5.4 In respect of liquid waste, DFI is responsible for the collection, treatments and disposal of all of Jersey's raw sewage and sewage sludge and is also responsible for managing some of the storm water. In the Appendix accompanying the Appointed Day Act, we are informed that 25,000 tonnes of liquid waste is transported by the sewerage system every day via pumping stations and 571km of sewerage is sent to the Bellozanne Sewage Treatment Works and Bonne Nuit Sewage Treatment Works.

5.5 DFI operates and maintains an asset base and provides the following liquid waste management services:

- Drainage and conveyance of highway surface waters and associated sludge to Bellozanne and Bonne Nuit, or the storage facility at Fort Regent;
- Conveyance of foul surface water from householders and business premises to the treatment works to the above three facilities;
- Treatment and disposal of the foul sewage;
- Treatment and disposal of the surface water;
- Treatment and disposal of the sludge from foul and surface wastes; and
- Customer and administration services.

² MTFP Addition

³ Appendix 1 – Liquid Waste Non-Householder Charging Report, Department for Infrastructure, p3

5.6 KEY FINDING: With the exception of the collection of solid waste, which is undertaken by the Parishes, solid and liquid waste services are currently almost wholly funded by the States of Jersey through direct taxation of Jersey's residents.

6. THE RATIONALE

6.1 The Report, produced by the Department for Infrastructure (DFI) provides a summary of the main arguments for introducing a user-pays approach to waste charges. These are to:

- Incentivise non-householders to manage their waste more effectively;
- Drive more efficient use of services by providing incentives to reduce waste and hence reduce the overall service costs;
- Rectify the gross unfairness at the heart of the current funding regime;
- Be more transparent and justifiable to householders and non-householders that public funds are being used fairly and appropriately;
- Ensure that wastes are treated and disposed of safely over the long-term; and
- Generate additional revenue to alleviate the pressure on household taxation and reinvestment.⁴

6.2 In the Medium Term Financial Plan 2017-2019 (MTFP), which was agreed in September 2016, DFI was asked to make £7.5m efficiency savings across the Department in addition to taking a budget cut of £11.35m from waste services. The funds for waste services that are currently covered by income from taxes and provided from the Treasury Department were to be redistributed to priority areas, such as health and education, as part of the overall measures that had been agreed by the States. As a result, DFI's has been tasked with replacing the lost budget with the funds raised from user pays charges for non-householder solid and liquid waste. According to the Infrastructure Minister, these funds *"would maintain DFI's current funding levels and there would be no reduction in services."*⁵

6.3 Eunomia agrees that the arguments put forward by DFI for introducing user-pays liquid waste charges reflect the rationale used in other jurisdictions. However, it notes that the extent to which the charges are being treated as a general revenue stream rather than a more targeted form of income to specifically improve waste services is perhaps different to elsewhere in the world. For instance, when the Infrastructure Minister was asked how the liquid waste charges would be used and, specifically, whether they would be used to fund improvements at the Sewage Treatment Works (STW) he advised:

*"The correct position is that my Department's budget has been reduced by the end of 2019 by some £11.5 million and that is monies being reinvested in education and in health services. The purpose of the charges is to replace that revenue stream so we can continue to provide the services to non-households for their waste disposal."*⁶

6.4 Thus, it is Eunomia's view that the fact that the charges will be used primarily to fund growth in States expenditure, rather than being ring-fenced to improve the services being charged

⁴ Appendix 1 – Liquid Waste Non-Householder Charging Report, Department for Infrastructure

⁵ Appendix 1 – Liquid Waste Non-Householder Charging Report, Department for Infrastructure, p3

⁶ Eunomia, Review of Proposed User Pays Charges for Non-Household Liquid Waste, July 2017, p5

for, weakens the argument that charging for liquid waste will ensure transparent and justifiable use of public resources.

6.5 KEY FINDING: The rationale for introducing user pays charges is, on the whole, well supported and consistent with experience in other jurisdictions. However, the argument that charging for liquid waste will ensure transparent and justifiable use of public resources is weakened by the fact that the charges will be used primarily to fund growth in States expenditure rather than ring-fenced to improve waste services.

6.6 One of the main justifications for the user-pays waste charges is to address financial constraints identified in the MTFP Addition. In a testimony to the Panel, the Jersey Hospitality Association (JHA) questioned this rationale following a statement, which was made by the Chief Minister, announcing the healthiness of Jersey's finances and economy. On 17th May 2017, in the Jersey Evening Post, the Chief Minister was quoted as stating:

“Our economy is doing incredibly well, although that brings challenges. Our finances have turned the corner and are healthy, income is above what is expected, departments have spent less...we must do all we can, but balancing books early on is a good thing.”⁷

6.7 Reflecting on of the Chief Minister's statement, the JHA told the Panel:

“With this positive statement by the CM [Chief Minister], as a Sector we are now confused as to why therefore the implementation of the proposed wastage charges are still being pushed through.”

6.8 Eunomia recognised within its own report that a significant part of the expenditure, used to justify the level of the liquid waste charge, was the cost for replacing the Bellozanne STW. However, correspondence with DFI suggested that alternative funds had already been identified for this work. It was advised that, to date, £61,094,000 of the £68,944,000 capital budget for the new STW had been funded from the States Capital Fund and it had been agreed by the Treasury and Resources Department that the balance would be funded from DFI's 2018 and 2019 Capital Programme.⁸

6.9 KEY FINDING: The rationale for the immediate introduction of the charges to address either acute financial issues or to finance the new Sewage Treatment Works is unclear.

6.10 DFI maintains that the introduction of waste charges is the right way to raise the much needed income because they will also provide non-householders with an incentive to reduce waste. It has been suggested that charging for the amount of waste generated will provide an incentive for organisations to try to reduce the amount of waste (solid and liquid) they send for disposal, which will in turn reduce their respective waste charge. In a written answer to the Connétable of St Helier on 2nd May 2017, the Infrastructure Minister stated:

“The most significant barrier to changing behaviour in regard to waste in Jersey is the absence of fiscal measures that apply a level of cost to behaviours that are to be

⁷ JEP, 17th May 2017

⁸ Email correspondence with DFI, June 2017

*discouraged while promoting other preferable waste management behaviours. This mechanism would encourage a sense of ownership for waste producers and enable them to take responsibility for the amount and type of wastes they produce.*⁹

- 6.11 In chapter (9) of our report we assess the potential impact that these charges could have on environmental behaviours.
- 6.12 The proposed charges for both solid and liquid waste will be based on the user pays principle which, according to DFI, will “*ensure fairness*”. For instance, the more a customer uses waste services for a commercial transaction, the more they will pay. Every non-householder customer will be charged a proportional fee according to the degree in which they have used the service. According to DFI, introducing non-householder user pays charges will rectify the gross unfairness of the current funding regime which results in householders subsidising businesses that are not paying taxation.
- 6.13 In international terms, charging for the cost of provision of liquid waste services is widespread. Article 9 of the Water Framework Directive requires Member States to “*ensure that water-pricing policies provide adequate incentives to use water resources efficiently by 2010 and that the price charged to water customers reflects the true cost.*”¹⁰ According to Eunomia, charging for the cost of treating liquid waste is also in line with the polluter-pays principle, a fundamental tenet that underpins environmental policy in many jurisdictions across the world.¹¹
- 6.14 The Panel found that the majority of those who contacted the Panel regarding the proposals were not opposed to the principle of user pays charges but rather expressed concern regarding their implementation. For instance, in a testimony to the Panel, The Jersey Royal Company advised the Panel that it wholeheartedly agreed with the user pays principle, provided that the rates charged were fair and equitable, and that businesses had sufficient time to prepare for such charges.¹²

6.15 KEY FINDING: Charging for the cost of provision of liquid waste services is widespread elsewhere.

6.16 KEY FINDING: Charging for the cost of treating liquid waste is in line with the polluter pays principle, a fundamental tenet that underpins environmental policy in many jurisdictions across the world.

6.17 KEY FINDING: The majority of those who contacted the Panel regarding the proposals were not opposed to the principle of user pays charges but rather expressed concerns surrounding their implementation.

⁹ Written Answer, 2nd May 2017

¹⁰ Eunomia, Review of Proposed User Pays Charges for Non-Household Liquid Waste, July 2017, p4

¹¹ Eunomia, Review of Proposed User Pays Charges for Non-Household Liquid Waste, July 2017

¹² Written Submission, Jersey Royal Company, 11th May 2017

Non-Household Vs Household

6.18 The original intention of DFI was to charge both non-householders and householders 'user pays' charges for liquid and solid waste. The rationale behind this being that user pays charges could only be 'user pays' if every user of that service was being charged. However, following political engagement in 2016 and suggestions from States Members, the Department was instructed during the MTFP debate in September 2016 to bring papers back to the Assembly for details of non-household waste charging during the summer of 2017. As mentioned earlier, during the debate it was also agreed, according to the amendment P.68/2016 Amd. (5), that DFI would not expand resources on the development of 'user pays' charges in relation to domestic waste, unless it was connected to the development and implementation of non-household waste. The only household entities that will be subject to charges are pre-existing tanker service charges and drainage search fees.

6.19 The majority of testimonies received by the Panel from non-householders questioned whether it was fair that the charges fell solely on the commercial sector (non-householders). For instance, Visit Jersey told us:

*"The household sector is free of any contribution. From a fairness perspective, this appears unjust. An Island-wide application for both domestic and commercial users would be equitable, promote water conservation and support improved waste management."*¹³

6.20 A number of non-householder stakeholders from whom we received evidence, referred to one of DFI's objectives for introducing waste charges – to encourage better environmental performance – when arguing for domestic charges. For example, Jersey Hospitality Association believe that the political decision to not introduce waste charges for householders was short-sighted in terms of progressing wastage reform and protecting the Islands environment. The Association went further in saying:

"...it would surely make more sense to implement a charge for both householders and businesses. This would achieve the following:

- *Spread the burden of wastage charges perhaps by reducing the £per m³, businesses would still pay more if they are using more but it would be fairer*
- *Focus the Islands attention as a whole on managing their waste*
- *Encourage speedier adoption of 'looking after our environment' & ensures everyone plays a part."*¹⁴

6.21 In response to similar concerns raised during DFI's own briefing sessions, the Department advised stakeholders that it was not their decision to exclude householders and that it was not in DFI's power to be able to change this independently.¹⁵

¹³ Written Submission, Visit Jersey, 12th May 2017

¹⁴ Written Submission, Jersey Hospitality Association, 22nd May 2017

¹⁵ Appendix 1 – Liquid Waste Non-householder charging Report, Department for Infrastructure, p7

6.22 As we mentioned earlier, the costs for providing liquid waste services are currently covered by income from taxes. A counter argument against those who dispute the decision to only charge non-householders, is one that has been made explicit in DFI's charging report – that householders are currently subsidising businesses by paying for the safe disposal and treatment of their liquid waste.

6.23 In 2009, significant changes were made to the system of corporate taxation in Jersey. These changes included the introduction of a standard rate of corporate income tax of 0% and the phasing out of exempt company status. This regime is simply referred to as “zero/ten” and applies to companies that are incorporated, owned and controlled in Jersey. One of the consequences of the regime is that businesses do not have to pay income tax. It is worth noting, however, that there are a number of exceptions to the 0% standard rate. For instance, certain “financial services companies” which have permanent establishment in Jersey will not pay income tax at the 0% rate but instead will have to pay income tax at a rate of 10%. Additionally, certain Jersey utility companies will be taxed at a rate of 20%.

6.24 KEY FINDING: Under the present zero/ten tax regime certain businesses (or their owners) pay no income tax in relation to such businesses.

6.25 In regards to the situation elsewhere, Eunomia advised:

“There is scope to achieve user-based cost recovery in a number of ways, so the exclusion of domestic customers from waste charges, while not widespread, is not inconsistent with approaches adopted in other countries.”¹⁶

6.26 KEY FINDING: The exclusion of domestic customers from waste charges, whilst not widespread, is not inconsistent with approaches adopted in other countries.

¹⁶ Eunomia, Review of Proposed User Pays Charges for Non-Household Liquid Waste, July 2017, p5

7. THE PROPOSALS

The Draft Drainage (Jersey) Law 2005 (Appointed Day) Act 201-

- 7.1 In respect of liquid waste, currently charges only exist for both householders and non-householders regarding tanker services. The Infrastructure Minister's intention is to extend charging to encompass all liquid waste services provided to non-householders. The necessary legislation, to enable the introduction of liquid waste charges, is in fact already in place. When the Drainage (Jersey) Law 2005 was enacted, the whole of the Law was immediately brought into force with the exception of Article 4. At the time it was not considered appropriate to introduce sewage charges under that Article.
- 7.2 On 18th May 2017, the Minister for Infrastructure lodged the Drainage (Jersey) Law 2005 (Appointed Day) Act 201- which, if passed by the States Assembly, will have the effect of bringing Article 4 of the legislation into force on 1st September 2017. The enactment of Article 4 of the legislation will permit the Minister for Infrastructure to prescribe by Order fees and charges for the provision of sewerage services and allow six months lead-in time in preparation for the introduction of charges at the end of March 2018.¹⁷
- 7.3 All of the charges for liquid waste will fall under one of the four categories provided within Articles 3(2) and 4(1) of the Drainage Law as follows:
- a) General Sewage Charges: All non-household customers without a trade effluent consent or individual agreement with DFI
 - b) Trade Effluent Charges: Non-household customers with a trade effluent consent unless they have an individual agreement with DFI;
 - c) Miscellaneous Charges: For example emptying tight tanks, cesspits, and septic tanks. The Category under which DFI will charge for tankering services; and
 - d) Charges by Agreement with the DFI: A typical customer is one that seeks an individual negotiated agreement outside of the standard Trade Effluent or General Sewerage Charges regime.
- 7.4 Upon receipt of the draft Drainage (Jersey) Law 2005 (Appointed Day) Act 201-, the Chairman of the Panel wrote to the Infrastructure Minister to highlight the fact that Article 4 of the Drainage Law made no distinction between household and non-household waste and queried how the Minister was going to address this in legislative terms. In response to the Panel's concerns, the Infrastructure Minister lodged a proposition which asked the States to decide whether they are of the opinion that *"any proposal to introduce household liquid or solid waste charges must be brought to the States for approval prior to implementation."*¹⁸

¹⁷ Draft Drainage (Jersey) Law 2005 (Appointed Day) Act 201-

¹⁸ P.57/2017 - States' approval for household liquid or solid waste charges prior to implementation.

Charging Principles

7.5 As we have mentioned a number of times, the proposed charges are based on ‘user pays’ principles, which DFI has argued is a “fair” way of raising funds for waste services. The Infrastructure Department feels that the following principles ensure that charges are clear, fair and transparent for all customers:

- The waste charges are based on the user-pays principle to ensure fairness. The more a customer uses the waste service, the more they will pay.
- Every customer who uses Jersey’s waste services as part of a commercial transaction will be charged proportionally to the degree to which they use the service.
- The waste charges levels will be set to reflect the cost of providing and maintaining the infrastructure associated with the service.
- The income raised from the charges will remain ring-fenced within Jersey Waste for operating waste services.
- Charges will need to evolve over time to maintain fairness and reflect changes in both the cost of running services and/or recycling market conditions. This means that charges may increase or decrease in the future to reflect the cost of running the service.¹⁹

7.6 It appears that these principles arose from engagement that took place in 2015, leading to the Strategic Outline Case (SOC) of the Waste Services Transformation Programme. The SOC also included the following objectives for the overall waste transformation programme:

- Fair and affordable charges that encourage the right behaviours
- Reasonable custody of the environment – land, air and sea.

7.7 Eunomia found that Jersey’s charging principles, when combined with the objectives of the SOC, are similar to those used in the UK and Ireland. However, good practice in these jurisdictions suggests that a formal document combining all of the principles is consulted upon, and then adopted before progressing to the design of a charging scheme. Eunomia suggests that this practice has not occurred in the case of the proposed charges.²⁰

7.8 KEY FINDING: Jersey’s charging principles, when combined with the objectives of the Strategic Outline Case, are similar to those in the UK and Ireland.

7.9 KEY FINDING: Good practice in the UK and Ireland suggest that a formal document, combining all of the principles, is consulted upon and then adopted before progressing to the design of a charging scheme. This has not occurred in Jersey.

Who will be charged?

7.10 All non-household entities who use liquid or solid waste services provided by the Department for Infrastructure will be charged under the new proposals. As we mentioned earlier, DFI has estimated that there are approximately 3,400 non-householders who

¹⁹ Appendix 1 – Liquid Waste Non-Householder Charging Report, Department for Infrastructure

²⁰ Eunomia, Review of Proposed User Pays Charges for Non-Household Liquid Waste, July 2017, p9

provide 22% of the liquid waste by volume in Jersey. In its report, DFI defines non-household entities as:

- Businesses
- States Departments
- Charities
- Community Facilities
- Events
- Waste delivered to DFI involving a third party commercial transaction²¹

7.11 Whilst undertaking our review it became apparent that DFI's intention was to apply the above definition, contained within the report, rather than having it defined in Legislation. When we raised this matter with the Infrastructure Minister during a Hearing, he advised that the legal advice his Department had received confirmed that it would be very difficult to build a definition into the primary Law. Nevertheless, the Chief Officer recognised that some form of governance warranted consideration.²²

7.12 Eunomia raised its own concerns regarding this position within its report. Firstly, it argued that the definition provided in DFI's report is not adequate for identifying legal entities that might be classified as a non-householder. For instance, 'community facilities', 'waste delivered to DFI involving a third party commercial transaction' and 'events' are not understood to be legal entities, but instead describe *activities* that might be undertaken by non-householders. It has also been argued that, under the definition provided, it is unclear how some activities, such as Airbnb 'businesses', might be classified.

7.13 According to Eunomia, the inadequacy of the current definition could cause a number of unintended impacts:

- a) "Entities may be unclear as to whether the charges apply to them. This could cause some anxiety and may prevent or delay some entities from optimising their position under the charging regime (e.g. by reducing water consumption).*
- b) Entities might wish to take advantage of the ambiguity associated with the definition and seek to avoid or reduce their exposure to the charge by claiming not to be one of the entities listed*
- c) Entities which have multiple types of activities that may be captured only in part by the definition may be confused. This could cause some anxiety and may prevent or delay some entities from optimising their position under the charging regime (e.g. by reducing waste consumption).²³*

7.14 As a result of the above concerns, Eunomia has recommended that, similar to Part 1 (2) of the Charities (Jersey) Law 2014, a clear definition of entities of non-householders should

²¹ Appendix 1 – Liquid Waste Non-Householder Charging Report, Department for Infrastructure

²² Transcript, Public Hearing with the Minister for Infrastructure, 15th June 2017

²³ Eunomia, Review of Proposed User Pays Charges for Non-Household Liquid Waste, July 2017, p9

be provided within the draft Drainage (Jersey) Law 2005. It is argued that a clear definition could help to mitigate the risk of the charging mechanism being compromised.

7.15 KEY FINDING: The definition provided by DFI is not adequate for identifying legal entities that might be classified as a non-householder and, as a result, may compromise the delivery of a robust charging mechanism.

7.16 RECOMMENDATION: The Minister for Infrastructure must ensure that the term “non-household” is defined in primary legislation before Article 4 of the Drainage (Jersey) Law 2005 is able to come into effect.

7.17 In addition to households, it has been proposed that the following customers will also be exempt from liquid waste charges:

- Share-transfer companies for household properties
- Residential care-homes that provide accommodation only to persons with no other permanent address or are unable to live at their permanent address
- Tenants of residential property owned and operated by a landlord
- When a multiple-occupancy commercial premise is supplied by a shared water supply, the liquid waste charge will apply to the owner/operator of the premises.

7.18 Whilst it is understood that there may be a clear justification for these exemptions, no definitive explanation has been provided as to the rationale behind applying these exemptions. According to Eunomia, this could be perceived as having a negative impact on the transparency of the charging system as a whole. Furthermore, similar to the definition of non-householders, the exemptions are not understood to be codified in Law which means that the list above could be amended without any legal change. There is a chance that this could cause uncertainty amount entities who rely on the exempt status.

7.19 Eunomia found that:

“Whilst the use of exemptions might be logical and valid; the method by which they have been announced risks losing entities confidence in their utilisation. If they are not perceived to be transparent then the overall fairness of the charges might be questioned by some entities.”

7.20 KEY FINDING: Whilst the use of exemptions might be logical and valid, the method by which they have been announced risks losing customers’ confidence in their utilisation. If they are not perceived to be transparent then the overall fairness of the charges might be questioned.

7.21 RECOMMENDATION: The Minister for Infrastructure must ensure that exemptions to the term “non-household” are included in primary legislation, and the basis for their selection are made publically available, before Article 4 of the Drainage (Jersey) Law 2005 is able to come into effect.

Non- Householder Database

7.22 According to Eunomia, one of the key measures of success associated the introduction of the charge will be ability of DFI to identify each non-householder entity that is eligible to be charged²⁴. During the Public Hearing, we were advised that the Infrastructure Minister and his Officers had been collating a database of non-householders in Jersey. According to the Minister the information for the database had been sourced from a number of different areas:

“Jersey Water have been very kind to us and under the data protection rules have been able to give us some of their data. We have looked at numerous other databases and effectively now we probably have the best database on non-householders in the Island. It has come from the control of housing and work, it has come from Social Security, it has come from the Parishes themselves in some respect and now we have a robust database of who we consider to be non-householders.”²⁵

7.23 From correspondence with Jersey Water, we understand that no distinction is made between its billing rates of household and non-household entities. There is therefore a risk of misclassification when relying on Jersey Water’s data. Given that the proposed charge is to be levied on water use for the majority of non-household entities, it is imperative that DFI’s data is consistent with the data held by Jersey Water. In this regard, Eunomia found that a close working relationship between DFI and Jersey Water needs to be established (if not already) to ensure that the proposed charge is robust.

7.24 KEY FINDING: No distinction is currently made by Jersey Water between its billing rates of household and non-household entities. As a result, there is a risk of misclassification when relying on its data.

7.25 RECOMMENDATION: The Minister for Infrastructure must undertake necessary steps to ensure that an accurate database of non-household customers is in place before the proposed charges are levied.

Types of Liquid Waste Charges

Small Businesses operating from household premises

7.26 In respect of non-householders who will be subject to liquid waste charges, there are a number of customers who will be charged differently under the new proposals. For instance, DFI has recognised that there are numerous small businesses operating from household premises. According to the Report that accompanies the draft Appointed Day Act, these businesses will receive an allowance per quarterly billing period or part thereof to account

²⁴ Eunomia, Review of Proposed User Pays Charges for Non-Household Liquid Waste, July 2017

²⁵ Transcript, Public Hearing with the Minister for Infrastructure, 15th June 2017, p4

for household consumption based on Jersey Water’s quarterly assessed waste allowance (see Figure 1)²⁶.

Figure 1: The allowance applicable to small businesses operating from residential premises (courtesy of Jersey Water)

No. of People Living In Residential Property used for business	Jersey Water’s Quarterly Assessed Water Allowance (m ³)
1	12.78
2	24.34
3	32.85
4	39.56
5	46.40
6	55.68

7.27 We discovered during our review that the number of small businesses operating from residential premises is currently unknown and DFI are unable to forecast how many there may be. As Eunomia has stated in its report, an informal estimate provided by Jersey Water suggested that there may be approximately 2,500 non-household entities of this type operating in Jersey. Whilst it is unclear whether this figure includes entities that might be exempt from the proposed charge, if correct these businesses could represent a significant percentage of the 3,410 non-householders who would be charged under the proposals.

7.28 We were advised that the intention is for DFI to undertake a business survey (to be carried out pending States approval) to determine the number of residents living on these type of premises.²⁷ According to Eunomia, there would be a clear incentive for respondents of the survey to overstate the number of people residing at their address. It is therefore unclear how participation of the survey will be ensured and the results validated.²⁸

7.29 KEY FINDING: The number of small businesses operating from residential premises is currently unknown. Without a robust understanding of the number of entities that may be subject to the proposed charge, the fairness of the charge could be called into question.

7.30 KEY FINDING: The apportionment of the liquid waste usage for non-household entities operating from residential premises may be difficult to validate and will require goodwill and co-operation from bill payers.

7.31 RECOMMENDATION: The Minister for Infrastructure must develop alternative methods for identifying the allocation of charges for businesses operating from residential properties.

7.32 The Panel received a number of written submissions which queried how individuals, who rent their homes out through rental schemes such as Airbnb, would be charged for their

²⁶ Appendix 1 – Liquid Waste Non-Householder Charging Report, Department for Infrastructure

²⁷ Transcript, Public Hearing with the Minister for Infrastructure, 15th June 2017

²⁸ Eunomia, Review of Proposed User Pays Charges for Non-Household Liquid Waste, July 2017

liquid waste consumption. Many Airbnb's are not registered as businesses and simply run ad-hoc from people's homes after registering on the Airbnb website. In their testimony to the Panel, Visit Jersey stated:

*"There are over 80 Airbnb type accommodation providers in Jersey who offer short rentals to visitors in, typically domestic dwellings. Will waste be treated as domestic or commercial and on what calculation? There is a question of fairness between Airbnb type properties and hotel and guest houses."*²⁹

7.33 When we queried this with the Infrastructure Minister he advised that under the current housing rules, the operation of this type of business was not necessarily legal in Jersey and therefore, the Economic Development, Tourism, Sport and Culture Department are currently looking into this matter. From further discussions, it is our understanding that the current legislation which deals with housing and tourism, is not designed to recognise Airbnb type 'businesses'. Furthermore, under the Control of Housing and Work Law (Article 3 (g) (iii) (b)), this sort of activity is exempt from duty to have a business licence.

7.34 KEY FINDING: It is not clear as to whether Airbnb type businesses would be charged for liquid waste under the proposed charging mechanisms. The Control of Housing and Work Legislation does not currently recognise this type of activity as a 'business'.

Trade Effluent Customers

7.35 Trade effluent customers will also be assessed differently under the proposals. The Waste Industry Act 1991 defines any used water discharged as a result of activity carried out at a trade premises as "trade effluent". Trade effluent will include any water used in a production process or in cleaning or cooling activities. It does not include domestic sewage such as used water from toilets or hand washing which might take place on site.³⁰ We have considered the details of the charges for trade effluent customers later on in this chapter.

Non-standard customers

7.36 The Infrastructure Department has identified a number of non-household customers where their water usage will not fairly reflect their proportion of sewerage usage. Examples of these are customers who have multiple-source water supplies installed (mains water, boreholes, rainwater recycling and tanker water services etc.) and customers with sewerage connections but no mains water connection. Through DFI's work with Jersey Water, it has been estimated that there are approximately 60 customers who fall under this particular category. It is advised that in these instances a water audit or assessment of usage on which to base a fair charge will be undertaken by DFI. For instance the Chief Officer of the Infrastructure Department told the Panel:

²⁹ Written Submission, Visit Jersey, 12th May 2017

³⁰ Transcript, Public Hearing with the Minister for Infrastructure, 15th June 2017

“...for those individuals we will do individual assessments, go and look at their properties, talk through what they are doing, how they are doing it.”³¹

7.37 With regard to such instances, where a negotiated agreement outside of the standard trade effluent or general sewage regime is sought, the Panel was concerned with how DFI would ensure fairness and transparency. When we raised this point with the Infrastructure Minister we were told:

“We can benchmark to a similar type activity elsewhere and we can show what our overall costs are, et cetera, so we can have transparency. We are open and willing to work with businesses to make sure that we...that it is a fair user pays charge.”³²

7.38 In addition to “non-standard customers” there are a small number of large industrial customers that create huge volumes of liquid waste with variable pollution loads who will require an individual agreement with DFI to ensure that “affordable and realistic” charges are implemented. The dairy and the brewery are customers likely to fall under this category. We were advised by the Department that the Modgen formula would most likely be used to charge customers in these instances. The Modgen formula is used in the UK and accounts for the volume, type and strength of the liquid waste produced by the user.

7.39 We were advised during our review that those businesses who would be charged under the Mogden formula, were unaware of the amount that their waste bill was likely to be. The Director of Operations within the Infrastructure Department confirmed that the calculation of the formula and how it was going to be applied in Jersey was yet to be decided.³³ The Panel recognised that in the absence of this decision, businesses who fall under this particular category would be unable to undertake the necessary steps to prepare for the introduction of the charge in March 2018.

7.40 KEY FINDING: Approximately 60 non-household customers will require an assessment or audit to be undertaken by DFI of their water usage. Until such time that this is completed, those customers will be unable to estimate their charge and, therefore, prepare for its introduction.

States Departments

7.41 Finally, with regard to States of Jersey Departments, it has been proposed that the volumetric charges, which have been estimated at £600,000, be offset by additional budgets provided from the overall income collected from non-householder charges. However, this does not apply to areas of the States which are in direct competition with comparable provisions in the private sector, such as sports facilities and fee paying schools. It has been

³¹ Transcript, Public Hearing with the Minister for Infrastructure, 15th June 2017, p14

³² Transcript, Public Hearing with the Minister for Infrastructure, 15th June 2017, p63

³³ Transcript, Public Hearing with the Minister for Infrastructure, 15th June 2017

accepted that if these areas were given an additional budget to pay for the proposed charges it would be extremely unfair on the private sector.

Calculation of the charge

Proportion of costs allocated to Non-Household use

7.42 According to Eunomia, ensuring that the charges are proportional to the amount of service used is a principle that has been widely supported throughout the debate on waste charging in Jersey.

7.43 In a response to a written question by the Connétable of St Helier in May 2017, the Infrastructure Minister advised that an “appropriate and fair assessment” had been made of the proportionate costs associated with non-householder liquid and solid waste services, based on the current view of the non-householder customer base, in order to calculate the appropriate level of charging for his proposals. This was the basis for the predicted level of income required, which was approved in the MTFP debate in 2016. For instance, according to DFI the revenue and capital annual requirements of the liquid waste totals £17.5m and, of this, £3.85m (22%) relates to the cost of non-householder services.³⁴

7.44 In order to raise these funds, the following charging mechanisms have been proposed:

- An annual standard charge, the exact cost of which will be dependent on the size of the non-householder’s incoming waste supply pipes; and
- A volumetric charge of £2.27/m³.

7.45 In contrast to the annual charge, the proposed volumetric charge will vary per non-householder and will be calculated on 95% of water consumed. This approach is similar to England and Wales where the majority of businesses base their volumetric charges on 95% of the water consumed being returned to the sewer.³⁵ According to DFI, volumetric information is available from Jersey Water for the majority of non-householders and therefore each customer will easily be able to calculate how much the volumetric charge is likely to be. For instance, in order for non-householders to work out their likely waste charge they undertake the following steps:

- Obtain used water volume from water bill.
- Multiply used water volume by 0.95 to give volume of chargeable sewage (m³).
- Multiply chargeable sewage volume by £2.27/m³

7.46 However, where there is no volumetric information available (trade effluent and “non-standard” customers), an assessment will have to be undertaken by DFI Officers to establish an appropriate charge.

³⁴ Written Question to the Minister for Infrastructure, 2nd May 2017

³⁵ Appendix 1 – Liquid Waste Non-Householder Charging Report, Department for Infrastructure

7.47 The figures noted above are for a full service and are applicable to customers that are connected either directly or indirectly to the public sewer. It has been advised that such charges will cover the costs associated with the conveyance (network and pumping), treatment and safe disposal of their wastewater. Customers who do not receive a full service (i.e. not connected to the public sewer and where tight tanks, cesspits and septic tanks are used to collect wastewater before it is transferred to Bellozane by tanker) will be charged for a partial service. This charge will only cover the costs associated with the treatment and disposal of their wastewater and not conveyance. DFI has estimated that around only 40 non-householders will be charged for a partial service. Customers who receive a partial service will be charged £1.54 per m³ of their water consumption.³⁶

7.48 In the Department's report, table 6.3.1 uses data from Jersey Water to illustrate the customer split between householders and non-householders for water usage. The total annual volume of water equals 7,042,610 m³, of which 22% (1,524,770 m³) is used by non-householders³⁷. The Department has calculated that the running costs of the liquid waste services equate to around £17.5 million a year and, as a result, it has been estimated that around £3.85m (22%) of this cost relates to non-householders. In order to raise that amount of funds on an annual basis from 2018 onwards, DFI have worked out that each customer would need to be charged £2.27 per cubic metre for their sewage, plus an annual standing charge.

7.49 According to Eunomia, there are a number of reasons why the estimate of 22% is likely to be inaccurate. These are as follows:

- *"The figures do not include an allowance for the volumes used by small businesses that are simply classified as householders by Jersey Water. Based on reported differences between Jersey Water's database and the DFI's more thorough analysis of alternative sources of information to identify these small businesses, around 2,500 domestic supplies could constitute some form of non-household use for liquid waste charges.*
- *A number of household businesses use large volumes of water from boreholes rather than from Jersey Water, so volumes returning to sewer would be higher. The reverse situation could also apply – agriculture businesses reuse the liquid waste arising from Jersey Water on their fields rather than returning it to the sewer.*
- *Although a volumetric approach has been used for simplistic approaches, some businesses do produce very strong effluent which therefore creates a disproportionate burden of use on the treatment works. At the Scrutiny Panel Hearing, the Minister for Infrastructure suggested that the effluent from Jersey Dairy was equivalent to an additional domestic population of 20,000."³⁸*

7.50 In light of the above, Eunomia is of the view that the application of the principles behind the calculations of the proposed charge is not transparent. Furthermore, it found that the

³⁶ Appendix 1 – Liquid Waste Non-Householder Charging Report, Department for Infrastructure

³⁷ Appendix 1 – Liquid Waste Non-Householder Charging Report, Department for Infrastructure

³⁸ Eunomia, Review of Proposed User Pays Charges for Non-Household Liquid Waste, July 2017, p9

estimates used within DFI's report could be significantly incorrect. As a result of these two findings, Eunomia argues that it is difficult to assure that the proposed liquid waste charges are cost effective.

7.51 KEY FINDING: The application of the principles used for calculating the costs associated with non-householder liquid waste lacks transparency and the estimates used by DFI could be significantly incorrect. As a result, it is difficult to ensure that the proposed liquid waste charges are cost reflective.

Calculation of relevant costs to be recovered

7.52 Eunomia considers this matter in great detail within section 3.4.2 of its own report and, therefore, we did not wish to repeat it here. Based on its findings in relation to both the allocation of costs for non-householders and the calculation of recovery costs, Eunomia recommends that DFI's calculations are revisited to ensure that they are calculated in a transparent manner that is aligned with best practice.

7.53 KEY FINDING: The Panel fully endorses Eunomia's findings in regards to cost recovery. These are as follows:

- The original approach to the assessment of relevant costs in the February 2016 SOC (Strategic Outline Case) appears comprehensive and soundly based. However, this approach has not been used in the financial model lodged with the States in May 2017.
- Average charges to businesses are now assumed to be 14% higher than when original engagement and consultation took place, even though the proportion of costs to be recovered from non-household entities has dropped from 48% to 22%.
- The annual cost to be recovered has risen by £2m compared to models used in the SOC. The methodology to reach these new costs is not based on a DCF (Discounted Cash Flows) approach and contains capital expenditures that may not reflect the long-term cost of running the liquid waste service for household entities.
- The divergence in the financial modelling approach from the assumptions used in the SOC compared with the modelling lodged with the States does not appear to have been addressed in a communication and engagement process with stakeholders.
- There is a risk that the amount of costs recovered are either significantly below or above the actual relevant amount of costs. If charges induce significant behavioural changes from a small number of large users, then there could be volatility in future liquid waste charges for other users. Over-recovery would run contrary to the States Assembly guidance on the application of user charges.

7.54 RECOMMENDATION: The Minister for Infrastructure must revisit the calculation of non-household costs to ensure that they are calculated in a transparent manner that is in alignment with best practice.

Liquid Waste Charges in Other Jurisdictions

7.55 We have been told by the Infrastructure Department that the funding of our essential waste services in Jersey is out of kilter with other countries and jurisdictions where user pays charges are the norm. Research undertaken by DFI shows that Guernsey, other Islands, the UK and other European countries have successfully adopted user pays charges for liquid and solid waste services. At the time of the MTFP Addition debate, the Chief Officer from DFI advised the Panel that his Department was unable to find any other jurisdiction that provides free commercial waste services in the world. DFI's Report states:

"In the United Kingdom, liquid waste services have been consistently and transparently charged since 1989. This has been successful in driving environmental performance, improvements in service levels and company efficiency."³⁹

7.56 We acknowledge that charging for waste services is considered the norm elsewhere but how do charges that are being proposed by the Infrastructure Minister compare with those in other jurisdictions? In Guernsey households and businesses pay for waste services separately from any state taxation. Similar to what is being proposed here, the payments comprise a fixed element plus a variable payment. However, in Guernsey the variable rate relates to 90% of their clean waste consumption compared to the proposed figure of 95% for Jersey. Furthermore, Guernsey charges metered customers at a rate of £0.68/m³, which differs considerably to the proposed charge of £2.27/m³ in Jersey. In a written testimony to the Panel, the Chairman of Channel Hotels and Leisure Ltd recognised the disparity between the two Islands in this respect and questioned the reason for this. He wrote:

"Water is considerably cheaper in Guernsey than Jersey and the waste charge is lower than proposed in Jersey. Is Guernsey Water more efficient than Jersey?"⁴⁰

7.57 On the surface, the discrepancy between the two figures may seem surprising. However, in Guernsey and also the Isle of Man, only a partial service is provided. For instance, Guernsey only carries out limited treatment of their liquid waste before pumping it out to sea.⁴¹

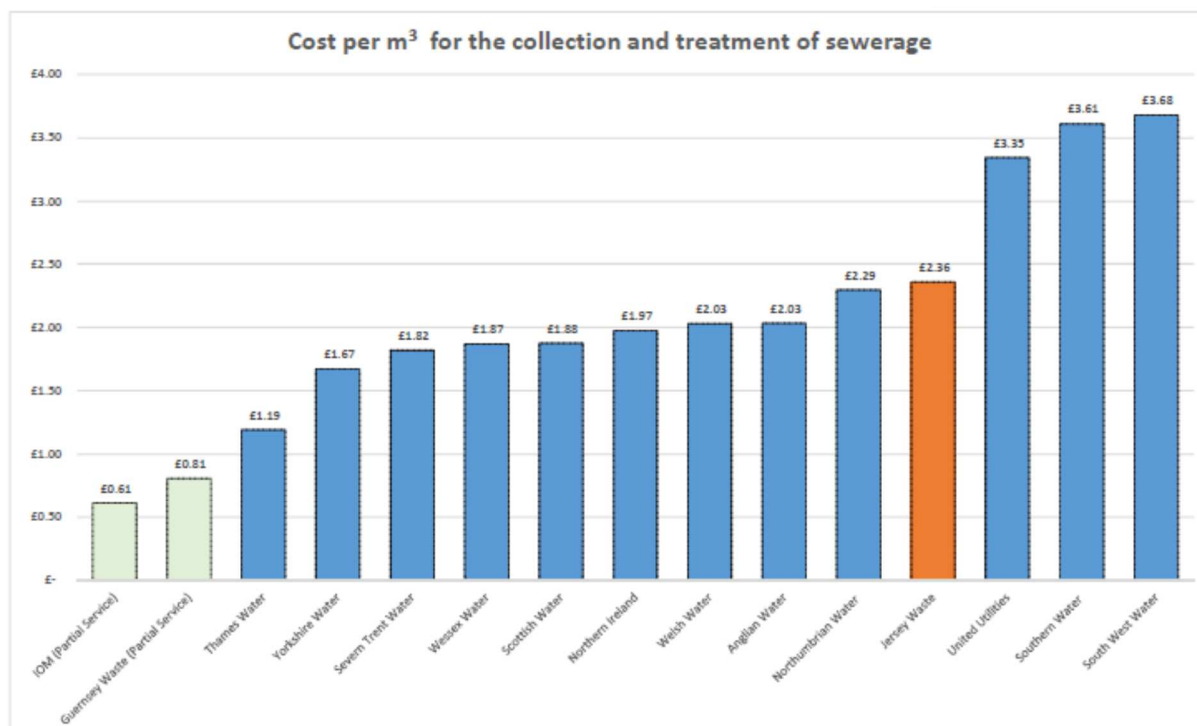
7.58 As part of the research they undertook for this work, DFI did a comparison with liquid charges in England, Wales and Guernsey. For comparison purposes the Department used an annual water usage of 300m³ as the volumetric and standard charge vary per Wastewater Company. The results can be found below in Figure 4.

³⁹ Appendix 1 – Liquid Waste Non-householder charging Report, Department for Infrastructure, p7

⁴⁰ Written Submission, Chairman of Channel Hotels and Leisure Ltd, 24 May 2017

⁴¹ Appendix 1 – Liquid Waste Non-householder charging Report, Department for Infrastructure

Figure 4 – Comparison of liquid waste charges



7.59 A number of explanations have been provided by DFI for the considerable variation in the above wastewater charge figures. Firstly, unlike commercial companies in the UK, DFI will not incur a profit from the proposed charges. The ‘user pays’ charges will only reflect the costs of providing the service which includes both operational and capital expenditure. Secondly, the costs of providing the service in Jersey will generally be higher than many places in the UK because the cost of living in Jersey is higher. Thirdly, a number of UK authorities offer a reduced standing charge or volumetric rate for very large water customers but DFI felt that this was not in line with the ‘user-pays’ principles. Lastly, the condition of assets determine the costs associated with repair, maintenance and replacement, and this differs from region to region⁴².

7.60 KEY FINDING: The proposed volumetric charge of £2.27/m³ appears fair in comparison to other jurisdictions when consideration is also given to the types of liquid service provided.

⁴² Appendix 1 – Liquid Waste Non-householder charging Report, Department for Infrastructure

8. THE ECONOMIC IMPACT OF THE PROPOSED CHARGES

8.1 In 2016, a Distributional Analysis was published alongside the MTFP addition which included an examination of the potential impact of the proposed charges for liquid and solid waste. At the time of the MTFP Addition the Panel noted that, whilst the Distributional Analysis contained some consideration of the potential impact of the proposed charges on non-householders and the general public, the details of the charges were not yet available. The Panel was told that a further Distributional Analysis would be undertaken once the details had been formulated.

8.2 The analysis undertaken in 2016 did, however, confirm that the likelihood of the charges being fed through into higher costs for the users of the service was extremely high. For instance, it was suggested that:

“Where such charges that fall on commercial enterprises cannot be offset by efficiency improvements they are likely to impact on islanders through one of the three ways-

- *Increased prices*
- *Reductions in other costs such as employment costs*
- *Reduced dividends for shareholders.”⁴³*

8.3 The analysis undertaken as part of the work for the MTFP Addition also confirmed that, where charges are passed on through prices, they are likely to be regressive. However, the degree to which such charges would feed through would depend on the nature of the markets for the final product/service. For instance, it was advised that businesses exporting large shares of their output might not be able to pass the costs on through increased prices as their competitors may not be subject to the same change in their costs. In their testimony to the Panel, The Jersey Royal Company expressed a concern regarding this exact point:

“Whilst some businesses may be able to handle these additional costs by passing on any additional costs to their customers e.g. restaurants can increase the price for a meal, a builder can increase their building costs, for some businesses this will be difficult. For The Jersey Royal Company, who already operates on small margins, to negotiate a price increase with a UK retailer will be extremely difficult if not impossible. Any additional charges to our business will almost certainly have to be absorbed without any increase in revenue. The tax would be on top of a significant reduction in agricultural subsidies, and increased costs in order to improve waste quality.”⁴⁴

8.4 The following instances were also provided in the Distributional Analysis as examples that may affect the degree to which charges are fed through to the general public:

⁴³ Medium Term Financial Plan Addition for 2017 – 2019 (P.68/2016): Second Addendum, p.59

⁴⁴ Written Submission, The Jersey Royal Company, 11th May 2017

- *“Shareholders may not be prepared to take lower returns and the degree to which it reduced returns relative to other investments could impact (marginally) on the level of investment in the Island;*
- *Where the businesses affected are competing in local markets against local competitors, and impacted to the same degree, the cost is more likely to be passed through into prices; and*
- *Where demand for the product/service is more sensitive to price changes (for example where it is a discretionary purchase or substitutable with other alternatives) the cost may be less likely to feed through into prices and be more likely to be absorbed by businesses.”⁴⁵*

8.5 Around the time of the debate on the MTFP Addition, the Minister for Economic Development, Tourism, Sport & Culture (EDTS&C), whilst supporting the principle of the proposed waste charges, raised his own concerns about the negative impact they could have on the hospitality industry and, in particular, smaller less profitable enterprises. In a Public Hearing the Minister for EDTS&C advised:

“I make no secret about it, I do not like this charge. I think it is going to be challenging, particularly for small businesses, but we are living in fiscally-challenged times and I understand that certain new charges are necessary.”⁴⁶

8.6 Accordingly, he assured the Economic Affairs Scrutiny Panel that he would work with the Council of Ministers and businesses to ensure that the charges were applied fairly.

Impact on Non-Householders

8.7 A further Distributional Analysis was undertaken by the Economics Unit on the proposed waste charges this year. It is perhaps worth noting here that at the time of undertaking the evidence gathering stage of our review, the Distributional Impact Analysis had not been published and therefore non-householders had not had sight of the document. The Analysis was formally presented on 27th June 2017.

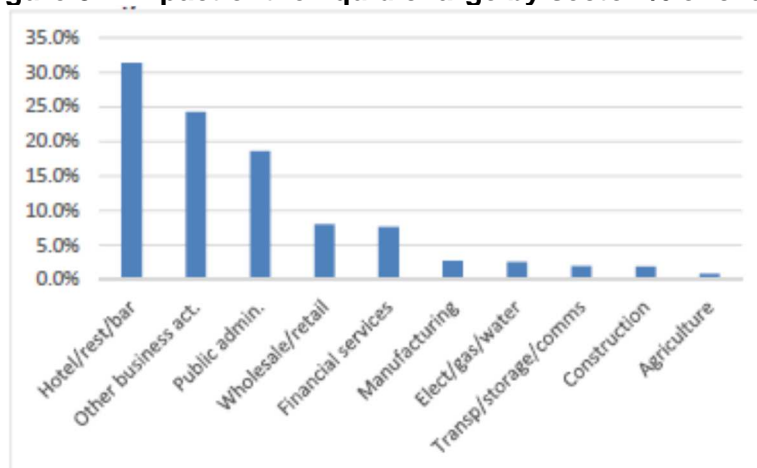
8.8 Similar to the report that accompanies the draft Appointed Day Act the Analysis acknowledges that, if introduced, the liquid waste charge would impact the hospitality sector more than some of the other non-householders. For instance, it was found that the highest proportion of the charge would be incurred by hotels/restaurants/bars (31%), followed by business activities (24%), the public sector (19%), wholesale and retail (8%), financial services (8%) and the other 5 sectors making up 10% (see Figure 5 below).⁴⁷

⁴⁵ Distributional Analysis, Addendum to Report P.38/2017

⁴⁶ Transcript, Public Quarterly Hearing, Minister for Economic Development, Tourism, Sport & Culture, 22nd March 2017, p22

⁴⁷ Appendix 1 – Liquid Waste Non-householder charging Report, Department for Infrastructure, p2

Figure 5 – Impact of the liquid charge by sector % of charge



Source: Department for Infrastructure

8.9 KEY FINDING: The hospitality industry will be the sector impacted the most by the proposed liquid waste charge.

8.10 In collaboration with Jersey Water, DFI examined the likely annual costs that different types of non-householders across a range of economic sectors would incur as a result of the liquid waste charge. Figure 6 below, which was produced by DFI, shows estimates of the scale of charges for different types of non-household customers, based on information about meter sizes and recent estimated volumes for non-householders supplied by Jersey Water⁴⁸.

Figure 6 – Comparison of typical annual liquid waste and water service charges by economic sector

Economic Sector	Jersey Water Charge including standing charge £2.61 Per m3	Liquid Waste Charge including standing charge £2.27 Per m3	Example of a typical establishment
Agriculture	£1,990	£1,660	Dairy Farm
Community	£421	£356	Parish Hall
Guest House	£1,736	£1,442	Medium size Guest House
Hair Salon	£973	£812	Hairdresser
Hotel	£14,679	£12,149	Medium size Hotel
Hotel	£48,386	£40,039	Large size Hotel
Laundry	£1,776	£1,513	Launderette
Office	£1,429	£1,237	Medium size Office
Public House	£3,744	£3,150	Country Public House
Restaurant	£4,601	£3,811	Medium size Restaurant
Restaurant	£907	£757	Small Café
Restaurant	£1,145	£954	Small Coffee Shop
Retail Shop	£488	£411	Convenience Store
Retail Shop	£8,042	£6,692	Supermarket

⁴⁸ Appendix 1 – Liquid Waste Non-householder charging Report, Department for Infrastructure, p30

- 8.11 Based on the information provided by Jersey Water and DFI, large sized hotels are likely to incur the greatest costs of around £40,039 per annum. This is no surprise to the Panel as a hotel will, by nature of its business, utilise far greater volumes of water and therefore incur greater charges under the proposed charging mechanism. However, all businesses will have to implement a price increase of between around 85-90% on their current Jersey Water charge.
- 8.12 According to the Infrastructure Department, volume-based payments are expected to range from £50-£50,000 with an average of around £1,980 per year for non-household users for liquid waste collection, treatment and disposal. It is also confirmed that *“small businesses are expected to pay significantly less at around £100-£400 per year.”*⁴⁹
- 8.13 Our Advisor from London Economics Limited (LEL) provides comments in his own report on the assessment of the potential impact on non-households within the Distributional Analysis:
- “There is only a very limited analysis of the direct impact of the charge on non-households. The Distributional Analysis provides some limited examples of potential impacts on individual businesses, but does not paint a fuller picture of the potential impacts across the sectors and potentially across different sizes and types of businesses.”*⁵⁰
- 8.14 For instance, as shown in Figure 6 above, the Distributional Analysis provides estimates of the liquid waste bills for 14 “typical establishments” from various sectors of the economy. These are based on anonymised examples of Jersey Water non-household customers, with the proposed liquid waste charges being applied to estimated liquid waste volumes based on their actual volumes of water use. However, LEL found that there was no further explanation of the derivation of these estimates in the Distributional Analysis.
- 8.15 In a response to a follow-up question from LEL, the Infrastructure Department indicated that the range of £50-£50,000 was based on real water figures across around 2,700 customers which they had identified. The Department was however unable to provide a definition of what constituted a ‘small business’, in the phase quoted above (8.12), or the method they used to estimate a potential impact of around £100-£400 per year.
- 8.16 London Economics Limited are of the view that a more detailed analysis of the distributional impact on non-householders by sector could have been undertaken by the Economics Unit using the data already available. Further analysis, for example, could have provided a better picture of the potential range of liquid waste bills in each sector.
- 8.17 Furthermore, according to LEL the analysis could have been improved further if the data available also included information on which type of liquid waste charge each organisation would be paying (e.g. general charges (above and below 25mm) and trade effluent). Moreover, *“consideration of the full range of potential charges including trade effluent*

⁴⁹ Distributional Analysis, Addendum to Report P.38/2017, p11

⁵⁰ London Economics Limited, Distributional Analysis of the Liquid Waste Charge in Jersey: A Comment, June 2017, p10

charges could have provided a more accurate picture of the aggregate range of charges than the £50-£50,000 quoted above.⁵¹ In a Public Hearing for example, the Infrastructure Minister confirmed that for one or two trade effluent customers the liquid waste charge would amount to considerably more than £50,000.⁵² According to Eunomia, assuming the Mogden Formula is based around the median of values used by companies in England and Wales, the annual bill for the largest customer could be in the order of £200,000.⁵³

8.18 KEY FINDING: For a small number of trade effluent customers their liquid waste charge will amount to considerably more than £50,000 per annum. Furthermore, based on the Mogden Formula used in England and Wales, the annual liquid waste bill for one customer could amount to approximately £200,000.

8.19 Whilst it is common in the analysis of distributional impacts to use illustrative examples of bill impacts (as has been done in Figure 6), more information on the characteristics of the examples is normally provided. According to LEL:

“The Distributional Analysis provides very little supporting information about the examples – for example: ‘dairy farm’, ‘medium sized guest house’, ‘large sized hotel’, ‘country public house’. This makes it difficult for stakeholders to understand how relevant the examples are to their interests.”⁵⁴

8.20 KEY FINDING: The Distributional Analysis provides some limited examples of potential impacts on individual businesses, but does not paint a fuller picture of the potential impacts across the sectors and potentially across different sizes and types of businesses.

8.21 KEY FINDING: The lack of supporting information about the illustrative examples, used within the Distributional Analysis, makes it difficult for stakeholders to understand how the examples are relevant to their own interests.

8.22 RECOMMENDATION: The Minister for Infrastructure must commission the Economics Unit to undertake a more detailed analysis of the impact of the liquid waste charges on non-householders which shows the potential range of charges in each sector and how the charges vary by size and type of non-household.

Impact on Households

8.23 A considerable part of the Distributional Analysis focuses on consideration of the way in which liquid waste charges for non-householders might be passed on to the end users of the service through increased prices or might be absorbed through achieving cost efficiencies in other areas (reducing profitability for example). As we mentioned previously, the specific impact on the end user is hard to predict as it very much depends on how businesses respond to the charge. According to LEL, in general, assessments of the impacts of policy measures directed at non-households do not often give much

⁵¹ London Economics Limited, Distributional Analysis of the Liquid Waste Charge in Jersey: A Comment, June 2017, p6

⁵² Written Submission, Chamber of Commerce, 15th May 2017

⁵³ Eunomia, Review of Proposed User Pays Charges for Non-Household Liquid Waste, July 2017

⁵⁴ London Economics Limited, Distributional Analysis of the Liquid Waste Charge in Jersey: A Comment, June 2017, p7

consideration of the potential consequential impacts on householders. As such, the approach taken here to assessing impacts on households is considered a reasonable one.⁵⁵

8.24 The Distributional Analysis includes illustrative examples, provided by DFI, of the possible cost impacts from the new charges onto the end users, assuming that the costs are passed on in full (see Figure 7 below). It notes that DFI's figures have been based on the following assumptions:

- For Hotel: 63% occupancy, open 365 days per year (figures from the States of Jersey Statistics Unit).
- For Restaurants: 50% occupancy, open 312 days per year assumes on average the restaurant will have two sittings per cover per day.
- For Office: Based on use for 253 days per year.

Figure 7: Potential Impact on End User

		Liquid Waste Charge	
Business	Business Size	Annual Charge	Cost per... Room/ Meal/Employee
Medium Sized Hotel	143 Rooms	£12,149	37p / room / night
Medium Sized Restaurant	150 covers	£3,811	8p / meal
Medium Sized Office	50 staff	£1,237	10p / day / employee

8.25 The Infrastructure Department has calculated that a medium sized hotel with 143 rooms is likely to incur liquid waste costs of approximately £12,149 per year which equates to 37p per room per night, if the charges are passed on in full. Whilst we acknowledge that the figures provided are simply meant to demonstrate possible impacts on end users, we believe that the examples could elicit some confusion if taken at face value.

8.26 When we queried the Department on the figures provided for a medium sized hotel we were told that these were based on the actual Jersey Water data for one hotel in the Island. It is highly likely therefore that this figure will vary considerably between each hotel. For instance, the annual charge for water may differ according to the age of the building, whether the hotel has recently been renovated, the facilities the hotel has and whether it uses water efficient technologies.

8.27 The Panel received a testimony from the Managing Director of one of the smaller hotels in Jersey. Through the calculations provided by DFI and based on their 2016 water bill, they estimated that their liquid waste charge would equate to over £1 per room per night, if they

⁵⁵London Economics Limited, Distributional Analysis of the Liquid Waste Charge in Jersey: A Comment, June 2017

were to choose to pass the full costs of the charge on to the end user. This particular hotel has 36 rooms in total and had an occupancy rate of 75% in 2016.

8.28 KEY FINDING: The cost of the charge to the end user of the service, if passed on in full, will vary considerably between different businesses.

8.29 KEY FINDING: It is highly likely that a medium sized hotel would have to charge in excess of 37p per room per night, this being the amount estimated by the Department for Infrastructure, if it were to decide to pass the charges on in full to the public.

Impact on Tourists and Tourism

8.30 Similar to the argument put forward by The Jersey Royal Company (above), Chamber of Commerce are of the opinion that the Infrastructure Department has overestimated the amount in which businesses will be able to either absorb or pass on the costs of these charges to their customers:

“It is unrealistic to think businesses will simply be able to absorb such a tax and nor is it realistic to think these costs can simply be passed on to the customer, especially if Jersey is to remain a destination of choice in a highly competitive global tourism industry. A tax such as this, will no doubt result in the closure of businesses, especially in the hospitality and tourism sectors.”⁵⁶

8.31 In their testimonies to the Panel both the Chamber of Commerce and the Jersey Hospitality Association provided examples of the potential far-reaching impacts of the liquid waste charges. These included:

- Jersey will struggle to be competitive as a tourism destination
- Jobs will be put at risk
- Hotels may close out of season or entirely
- Our local infrastructure may be damaged
- Tourist attractions may close
- Local food producers will see a fall in demand, as organisations may look to import pre-washed produce.

8.32 In regards to tourism, the visitor economy contributes 8.3% Gross Value Added (GVA) and 12.6% of employment to Jersey⁵⁷. Visit Jersey recently released new figures which showed that the numbers of people visiting the Island was on the rise. According to their figures, a total of 78,000 people visited for one or more nights from January to the end of April this year. That equates to an increase of 12,800 (19%) compared to the first four months of 2016. In 2016 Jersey welcomed 692,000 visitors, of which 356,000 were staying leisure visitors. There is a concern among those who operate within this sector that the new

⁵⁶ Written Submission, Chamber of Commerce, 15th May 2017

⁵⁷ The Economic Contribution of Tourism to Jersey, May 2017

charges could hinder any further improvements in visitor numbers. With regards to the proposed waste charges, Visit Jersey advised the Panel:

“Tourism is a global business which is characterised by very high levels of competition. Higher costs will impact on Jersey tourism businesses’ competitiveness.”⁵⁸

8.33 In a Public Hearing we asked the Infrastructure Minister how he would respond to concerns, in particular those expressed by The Jersey Hospitality Association, about the potential impact of the proposed liquid waste charges on tourism. We received the following response:

“Those businesses that are in the tourism industry, particularly the large hotels, many of them operate in multiple jurisdictions. They suffer these charges in other jurisdictions and they are competitive there, so I challenge that assumption from them...I do not see why they would not survive and prosper in Jersey”.⁵⁹

8.34 The Minister also challenged the viewpoint that the proposed waste charges would have a significant and long-lasting negative impact on businesses. Moreover, according to the Chief Officer of DFI, the proposed charges are benchmarked against charges in the UK and other jurisdictions in Europe and do not appear in the upper quartile in comparison.

8.35 We note that the Distributional Analysis does not make any direct reference to the impact of the liquid waste charges on tourists or tourism, though there is some reference to a number of services that tourists use, i.e. hotels and restaurants. As a result, our Advisors from LEL feel that it is difficult to judge the nature of the potential impact on tourists or the tourism industry without a much more detailed and lengthy analysis of the sector, its cost structures and the nature of demand⁶⁰.

8.36 Whilst it is expected that the liquid waste charge will undoubtedly raise costs in the sector, which will have to be absorbed or passed on, we are unable to determine whether tourists will still come to Jersey despite a potential price increase that may result as a consequence of the liquid waste charge⁶¹. Similar to the Infrastructure Minister, LEL also note the consideration that many businesses in other competing tourist destinations will already be paying liquid waste charges and corporate taxes.

8.37 It is important to note that, whilst LEL acknowledge the potential for a much more detailed analysis of the impact of the charge on households and tourists, in their concluding comments they state:

“...given the uncertainties inherent in this type of analysis, the additional returns from this are unlikely to justify the additional costs.”⁶²

⁵⁸ Written Submission, Visit Jersey, 12th May 2017

⁵⁹ Transcript, Public Hearing with the Minister for Infrastructure, 15th June 2017, p32

⁶⁰ London Economics Limited, Distributional Analysis of the Liquid Waste Charge in Jersey: A Comment, June 2017

⁶¹ London Economics Limited, Distributional Analysis of the Liquid Waste Charge in Jersey: A Comment, June 2017

⁶² London Economics Limited, Distributional Analysis of the Liquid Waste Charge in Jersey: A Comment, June 2017, p11

8.38 KEY FINDING: It has been suggested, that as a result of the proposed charges, Jersey will struggle to be competitive as a tourist destination, countless jobs will be put at risk and Jersey's further potential will be extinguished.

8.39 KEY FINDING: There is a concern among those who operate within the hospitality and tourism sector that the new charges could hinder any further improvements in visitor numbers.

8.40 KEY FINDING: It is difficult to judge the nature of the potential impacts on tourists or the tourism industry without a much more detailed and lengthy analysis of the sector, its cost structures and the nature of demand.

Aggregate Impact on the Jersey Economy

8.41 According to the Distributional Analysis, the amount of revenue expected to be raised from the liquid waste charges is £3.85m, which equates to 0.1% of GVA and around 0.2% of total wages/salaries across Jersey's economy.⁶³ With regard to the potential impact of the proposed charges on the Island's economy, LEL found:

*"The revenue raised by the liquid waste charge is expected to be very small compared to the size of the Jersey Economy. In addition, the costs of dealing with liquid waste for non-households are already met from within the Jersey economy, so any impact on the overall economy would be a result of the shift in responsibility for paying the costs of dealing with non-household liquid waste. Although aggregate impacts are likely to be very small, there may be bigger impacts for some sectors and individual organisations."*⁶⁴

8.42 KEY FINDING: The aggregate impact of the proposed charge on Jersey's wider economy is small. Any impact on the overall economy would be the result of a shift in responsibility for paying the costs of dealing with non-household liquid waste.

Consideration of Alternative Approaches

8.43 The specific circumstances that surround the proposal of the liquid and solid waste charges impact somewhat on the consideration of alternative options for funding the current waste services. As a result of the in-principle decision in 2016 to introduce non-household waste charges to offset the Department's shortfall in revenue, the funds have already been removed from the Department of Infrastructure's budget. The Minister raised this point at the Public Hearing in June when being questioned about the potential impact of the proposed charges on non-householders:

⁶³ Distributional Analysis, Addendum to Report P.38/2017

⁶⁴ London Economics Limited, Distributional Analysis of the Liquid Waste Charge in Jersey: A Comment, June 2017, p11

“...I challenge back, what is the alternative? The alternative is another form of income, because the money has been committed to other services. The money has been taken from my Department’s budget, so the challenge is how we do...if we do not bring waste charges, what charges or taxes do we bring in to provide that income to be able to run services? So you have to look at alternatives as well and how they would impact on the tourism industry.”⁶⁵

8.44 Whilst it is not entirely clear to the Panel the extent to which the Infrastructure Department or the Council of Ministers considered alternative approaches for raising the shortfall in revenue, the Distributional Analysis does touch on this matter. It argues that when considering the distributional impact of the liquid waste charges it is important to look at what would happen if the charge was not introduced and what the impacts of alternative approaches would be. In this regard, the Distributional Analysis states:

“The choice is not really between the charge and doing nothing where nobody incurs any costs. Most alternative approaches would have distributional impacts and the real issue is what would be deemed the fairest approach.”⁶⁶

8.45 Examples of alternative approaches to the liquid waste charge were provided by the Economics Unit within their Distributional Analysis Report:

- If the funding was to be raised through reductions in government spending in other Departments rather than waste charges it would be necessary to consider which income groups would be most affected. It advised that the distributional impacts of a reduction in health expenditure, for example, would be regressive.
- If the alternative approach was that the shortfall of £3.85m was not met and as a result waste water services were underfunded then sanitation standards could fall. If the costs of this were incurred more in built up areas then the costs of this scenario would impact the well less off but if the costs were concentrated in rural areas the better off would be mostly impacted.
- If the funding is raised though general taxation, as is the case now, then it could be raised in a progressive way if from income tax or a regressive way if raised through GST.

8.46 Although the Economics Unit included the options of income tax and GST in its analysis, our Advisor from LEL has questioned the reason for this:

“...the liquid waste charge seeks to raise revenue sufficient to cover the costs of dealing with the liquid waste produced by non-households specifically, so it would seem very odd to seek to recover this cost through taxes paid mainly by households/individuals.”⁶⁷

⁶⁵ Transcript, Public Hearing with the Minister for Infrastructure, 15th June 2017, p32

⁶⁶ Distributional Analysis, Addendum to Report P.38/2017, p3

⁶⁷ London Economics Limited, Distributional Analysis of the Liquid Waste Charge in Jersey: A Comment, June 2017, p8

8.47 When we asked the Infrastructure Minister at our Public Hearing whether any consideration had been given to other mechanisms for recovering costs from the hospitality sector, for example via sustainable tourism tax, he told the Panel:

“Well, that would have been a very good amendment for you to bring to the M.T.F.P. last summer. The decision by the States last summer was for waste charges to be brought in. That was a decision in principle and my department and myself were tasked to come back with the detailed proposals this summer and that is exactly what we have done. Alternatives, the time for alternatives and the debate for alternatives was last year.”⁶⁸

8.48 In light of the evidence, Eunomia is of the view that other mechanisms to gather contributions to the cost of liquid waste services could be developed, though there are likely to be a range of advantages and disadvantages when compared to the user pays charges. It is argued that the option to use taxation as a complement to user-based charging has not been considered or consulted upon. It, therefore, recommends that DFI considers the implementation of a wider range of charging schemes that can deliver similar outcomes to the one proposed. Furthermore, it is suggested that the range of schemes should include more innovative approaches to managing liquid wastes on the Island that deliver improved environmental outcomes.

8.49 KEY FINDING: It is unclear as to the extent to which the Department for Infrastructure or the Council of Ministers considered alternative approaches for raising the shortfall in revenue prior to the MTFP Addition’s approval in 2016.

8.50 RECOMMENDATION: The Minister for Infrastructure must consider a wider range of charging schemes that can deliver similar outcomes to the proposed liquid waste charges. This should include more innovative approaches to managing liquid wastes on the Island that deliver improved environmental outcomes.

Consultation with Non-Householders

8.51 The Distributional Analysis does to some extent provide an idea of how the proposed liquid waste charges could impact particular types of non-householders. Nevertheless, it could be argued that in order to gain a real understanding of how individual businesses would be affected by this additional charge one would need to hear from those who will be directly impacted.

8.52 Given the concerns expressed by key stakeholders above, the Panel was keen to establish whether any formal consultation had been undertaken by the Department to date and, if not, whether the Minister intended to do so before the debate on 18th July. When we queried this with the Minister at the Public Hearing, he responded:

⁶⁸ Transcript, Public Hearing with the Minister for Infrastructure, 15th June 2017, p45

“No, because there is nothing to consult about. We know what it costs us to provide the services and, therefore, we know how much revenue we need to raise and the fair way to do that is on a user pays.”

The Deputy of St Mary:

“Is that not the basic point which Monty [Deputy Tadier] said earlier, that there has not been consultation? This is being imposed on the industry, and given the importance of the industry as a whole to the economy there is a general knock-on effect. So we cannot just look at that in isolation.”

The Minister for Infrastructure:

“Well, the time for that was prior to September last year, Chairman.”⁶⁹

8.53 When the Panel undertook work on the draft MTFP Addition back in July 2016, concerns were raised at this stage regarding the potential impact of both the liquid and solid waste charges on the hospitality industry and, in particular, on smaller businesses. The Panel expressed concerns about agreeing to an in-principle decision in the absence of any details on how those charges would be applied. However, at the time the Infrastructure Minister assured the Panel that a full consultation would be undertaken on the details once it had received approval for the in-principle decision in the States:

The Deputy of St. John:

“Okay, so should this be approved by the States Assembly, commercial activities will not be aware of how much or how they will be charged until next year?”

The Minister for Infrastructure:

“They will have some indication because obviously we will be consulting with commercial enterprises in all different aspects, be they offices, hotels, retail, et cetera. We will be talking to individual business, trade bodies, et cetera, to get a better understanding on how the detail will impact on those businesses.”⁷⁰

8.54 Further along in the Public Hearing, the Vice-Chairman asked whether the Department had already consulted with key stakeholders. The Minister told the Panel:

“No, we have not gone out to a full consultation. We said that that would be what is happening in the next 6 months or so, so we can formalise our detailed proposals which will be brought back to the States in the spring of next year.”⁷¹

8.55 At the Hearing in June this year the Minister and his Chief Officer, whilst acknowledging that no formal consultation had taken place, did advise us they had been in open and transparent discussions with the industry for a long time about the proposals and how they

⁶⁹ Transcript, Public Hearing with the Minister for Infrastructure, 15th June 2017, p40

⁷⁰ Transcript, Public Hearing with the Minister for Infrastructure, 11th July 2017, p10

⁷¹ Transcript, Public Hearing with the Minister for Infrastructure, 11th July 2017, p14

intended to levy the waste charges. The Chief Officer told the Panel that he had hoped that these discussions had made the introduction of these charges *“as simple and as painless as possible”*.⁷²

8.56 The evidence above seems to support the claim by JHA that no formal consultation had been undertaken on the liquid waste proposals. In its testimony to the Panel it commented:

*“There has been no consultation on the proposed charges but a “briefing” provided on what is being proposed, this approach comes across as a combination of arrogance from the Minister and his team plus a very poor attempt at communicating and understanding the likely effects on the sector.”*⁷³

8.57 Eunomia also addresses the subject of consultation within its own report (Section 3.1), which we recommend the reader to consider. Similar to the Panel, our advisor is of the view that inadequate consultation has taken place with non-householders in respect of the proposed liquid waste charges. For instance, Eunomia argues:

*“The type and extent of consultation is not consistent with normal practice and the spirit of the Consultation Code of Practice appears to have been breached. The impact of these should not be understated; without stakeholder support or acceptance of the charge, there is a real danger that its effectiveness might be compromised.”*⁷⁴

8.58 Interestingly, the Advisors note that in 2016 a stakeholder engagement strategy was developed by ICS and SLR Consulting for DFI in regards to the Waste Transformation Project, which encompassed the charging scheme. The report stressed the importance of effective stakeholder engagement and included reference to wide external consultation on options during different phases of the programme. Three strategic objectives were provided for stakeholder engagement, which included the need to mitigate the following risks:

- a) Missing information useful to policy development;
- b) Lack of acceptance of policy option chosen; and
- c) Ineffective engagement activity.⁷⁵

8.59 In light of the evidence, Eunomia has recommended that an open public consultation is undertaken that captures the views from interested stakeholders. Furthermore, it is argued that the consultation should include discussion of the charging principles and genuine options on how the charge might be deployed.

8.60 KEY FINDING: At the time of the MTFP Addition, the Infrastructure Minister assured the Panel that a full consultation would be undertaken on the details once it had received approval for the in-principle decision in the States.

⁷² Transcript, Public Hearing with the Minister for Infrastructure, 15th June 2017, p43

⁷³ Written Submission, Jersey Hospitality Association, 22nd May 2017

⁷⁴ Eunomia, Review of Proposed User Pays Charges for Non-Household Liquid Waste, July 2017, p9

⁷⁵ ICS and SLR Consulting (2016) 16/19 Transformation Programme: Waste. Appendix 1: Stakeholder Engagement, February 2016

8.61 KEY FINDING: The type and extent of consultation is not consistent with normal practice and the spirit of the Consultation Code of Practice appears to have been breached. The impact of these should not be understated. Without stakeholder support or acceptance of the charge there is a real danger that its effectiveness might be compromised.

8.62 RECOMMENDATION: The Minister for Infrastructure must delay the introduction of the proposed charges to enable an open consultation to take place. The consultation should include discussion of the charging principles and genuine options as to how the charges might be deployed. The consultation should also be supported by suitable outreach events.

9. WILL THE CHARGES HAVE AN IMPACT ON ENVIRONMENTAL BEHAVIOURS?

- 9.1 According to DFI *“the most significant barrier to changing behaviour in regard to waste in Jersey is the absence of fiscal measures that apply a level of cost to behaviours that are to be discouraged while promoting other preferable waste management behaviour.”*⁷⁶ It is envisaged that the proposed charges for liquid and solid waste will encourage customers to take more responsibility for the amount and type of waste they produce. With regard to liquid waste, DFI are of the opinion that the main environmental impact from the charges will be a reduction in water consumption, which in turn will make existing water resources last longer.
- 9.2 The Panel was advised that it is intended that the new charges for liquid waste will have the following environmental impacts:
- Cost of water and sewage utility services will drive businesses to cost save
 - Cost saving will be centred around water efficiency
 - Any cost savings on water efficiency would be worth double (saving on water and thus sewage costs)
 - Reduced use of water means less sewerage flows = reduced pumping = lower operating costs = reduced energy demand
 - Charges for Trade Effluents should encourage businesses to clean up their wastewater – Effluents that are easier to treat will mean a higher quality discharge to St Aubin’s Bay.
- 9.3 In their report, DFI suggests a number of ways in which businesses can reduce their water consumption. We will not go into the details of strategies here, however we will provide a list of what has been suggested:
- Go low-flow – Restroom or break room faucets or showers can be fitted with low-flow restrictors.
 - Get a water audit.
 - Purchase water-efficient equipment.
 - Reduce landscape water use.
 - Engage and inform employees.
- 9.4 We were also advised that, in order to help non-householders understand what they can do to save on water costs, DFI will be producing a local version of the WRAP (Working Together for a World without Waste) Efficiency booklet as well as providing customers with case studies demonstrating that efficiencies can be made by looking at the way they run their business. One of the Case Studies on waste management, which can be found on WRAP’s

⁷⁶ Appendix 1 – Liquid Waste Non-householder Charging Report, Department for Infrastructure, p8

website⁷⁷, is about a hotel in London which had been trialling water efficient technologies and new management practices. Amongst the hotel's key actions to save water were:

- Installation of water efficient shower-heads
- Installation of food waste digester
- Water re-use (harvesting of water from laundry and swimming pool to use for flushing of staff toilets).

9.5 Through the water efficiency measures, the hotel achieved water savings of 85,000m³ which translated into £112,500 of savings per year. This particular case study can be found at the following [link](#).

9.6 In an email to all States Members in March, the Chamber of Commerce expressed confusion regarding the message that was being given to businesses in respect of the rationale behind the introduction of these charges. The President at the time, Kristina Le Feuvre, advised:

"In a thinly veiled attempt to disguise this new Tax as an environmental initiative, the business community is being told by DFI, they want to help businesses understand their water usage. This message is confusing. Is Jersey's Government genuinely concerned about the environment and prioritising green initiatives? Or is this an easy Tax option to raise money for capital projects? Businesses already manage their waste usage, take environmental responsibility seriously and contribute to waste disposal through parish rates."⁷⁸

9.7 In June 2016, the Infrastructure Minister advised the Panel that, without these waste charges, Jersey would not see any substantial change in environmental behaviours.⁷⁹ However, in the Public Hearing with the Minister in June this year, it was less clear to what extent the new charges for liquid waste would impact environmental behaviour. Such a finding therefore questioned the main motive behind the introduction of these charges. For example, during the Hearing the Minister told us:

"The purpose of the charges is to replace that revenue stream so we can continue to provide the services to non-householders for their waste services."⁸⁰

9.8 However, when asked what the main objective of proposing these charges was, he advised:

"Overall, waste charges are about behaviour change. That is our primary aim for us."⁸¹

Extent of Change

9.9 According to Eunomia, the majority of evidence from other jurisdictions suggests that the biggest effect on reducing water use (10-15% reduction on average) comes from the

⁷⁷ <http://www.wrap.org.uk/>

⁷⁸ Email Correspondence, Chamber of Commerce, 30th March 2017

⁷⁹ Transcript, Public Hearing with the Minister for Infrastructure, 11th July 2016

⁸⁰ Transcript, Public Hearing with the Minister for Infrastructure, 15th June 2017, p3

⁸¹ Transcript, Public Hearing with the Minister for Infrastructure, 15th June 2017, p25

introduction of water meters. However, near universal metering has been in place since around 2015. With regard to Jersey, we have been advised that around 96% of properties are metered – including the majority of businesses.⁸² In light of this information, we sought to understand from the Minister and his officers’ the magnitude in which they anticipated businesses would be able to improve the efficiency of their water use by reducing consumption. When we queried the Minister he advised:

“Some businesses have already...businesses in more modern premises – we are talking about, let us say, the office environments – already have water-saving devices built into their premises. Some businesses have not had that investment so overall we are actually looking at very minimal changes in the volumes that we are going to be treating at the S.T.W from non-domestic.”⁸³

9.10 Additionally, we were told:

“The feedback we have got from Jersey Water is that they are not going to see a significant decrease in the amount of water usage but they would welcome that because it will give them more storage capacity or take it from 120 days and increase that, which is something that they want to do.”⁸⁴

9.11 Whilst the Infrastructure Department is not expecting much change in the short term, they do envisage that in the long-term there will be a shift as premises are modernised. DFI hopes that the new waste charge, if agreed, along with Jersey’s Water charge will make initiatives such as grey water recycling and rain water recycling more cost effective.⁸⁵

9.12 KEY FINDING: The Department for Infrastructure does not envisage that the proposed liquid waste charge will have a significant impact on the volume of water consumed by non-householders.

9.13 As we previously mentioned, the Distributional Analysis found that some businesses may be able to offset some of the costs of the charge by being more efficient in their use of water, although it is unlikely that all businesses will be able to totally offset the costs.⁸⁶

9.14 During interviews conducted by Eunomia it was suggested by a number of key stakeholders that there was some scope to reduce water consumption. However, it was recognised that the scope for this reduction would vary business to business. Some of the considerations included:

- Other demands for capital;
- Availability of technological solutions;

⁸² Transcript, Public Hearing with the Minister for Infrastructure, 15th June 2017

⁸³ Transcript, Public Hearing with the Minister for Infrastructure, 15th June 2017, p52

⁸⁴ Transcript, Public Hearing with the Minister for Infrastructure, 15th June 2017, p62

⁸⁵ Transcript, Public Hearing with the Minister for Infrastructure, 15th June 2017

⁸⁶ Distributional Analysis, Addendum to Report P.38/2017, p3

- The competitiveness of the market by which the business operates and its ability to pass on the costs directly.⁸⁷

9.15 It is perhaps also worth noting that, in order for non-householders to be able to alter their behaviour to respond to the charge, there needs to be certainty and understanding of the charging mechanism.

9.16 KEY FINDING: In order for non-householders to change their behaviour in response to the liquid waste charges, there needs to be certainty and understanding of the charging mechanism.

9.17 As we know, based on annual volume figures from Jersey Water the Infrastructure Department has calculated that the cost of providing liquid waste services in Jersey amounts to £17.5m, of which 22% (£3.85m) relates to non-householders. During the Hearing, the Infrastructure Minister advised the Panel that a reduction in the amount of usage of liquid waste had been factored into their figures and calculations. However, when pressed on this point by Eunomia it became clear that, for liquid waste, behavioural change had not been built into the £3.85m figure. As a result, we were concerned that any reduction in water usage by non-householders would mean that the charge would increase in order to cover the shortfall.

9.18 We were assured by the Chief Officer for DFI that any reduction in revenue as a result of environmental behaviours would be recovered from a resulting reduction in running and operating costs of the Sewage Treatment Works (STW). Additionally, the Panel was advised that it was likely that the original forecast of 22% non-householders would increase once DFI had finalised its database. This would therefore increase the amount of revenue raised by the liquid waste charges and cover any loss which may result from a reduction in water consumption. In this regard the Director of Operations told the Panel:

“As much as it is difficult to work out how much businesses are going to reduce liquid waste, as John said, we are being very conservative in the number of businesses, so we are looking at 22%. As we are firming up the data on the database that could grow.”⁸⁸

9.19 It is worth noting here that under The States of Jersey Financial Directions No.4.1, increases in States fees and charges should be limited to 2.5% per annum with compelling cases to be subject to the prior approval of the Minister for Treasury and Resources. Furthermore, the user pays charges cannot exceed the cost of service provision, except where imposed by States trading operations.⁸⁹ The Minister for Infrastructure advised the Panel that the liquid waste charges had been modelled on the assumption of a 2.5% increase per year.⁹⁰

9.20 KEY FINDING: The Panel was advised by the Infrastructure Department that any reduction in revenue as a result of environmental behaviours will be recovered from a resulting

⁸⁷ Eunomia, Review of Proposed User Pays Charges for Non-Household Liquid Waste, July 2017

⁸⁸ Transcript, Public Hearing with the Minister for Infrastructure, 15th June 2017, p22

⁸⁹ Financial Directions 4.1, Increases in States Fees and Charges, January 2006

⁹⁰ Transcript, Public Hearing with the Minister for Infrastructure, 15th June 2017

reduction in running and operating costs of the Sewage Treatment Works. The Panel questions whether the Department takes account of the fixed costs.

9.21 KEY FINDING: The Minister for Infrastructure cannot increase the liquid waste charge above 2.5% per annum unless he first obtains approval from the Minister for Treasury and Resources.

Potential Negative Consequences of Charging

9.22 According to Eunomia, once of the environmental impacts of liquid waste arises from deliberate releases of untreated or partially treated liquid waste. This is akin to fly-tipping of solid waste. There is no readily available research to monitor whether illegal releases of liquid waste increase after the introduction of charging. However, it has been argued by our Advisors that if this change in behaviour did occur then a rise in pollution incidents would be expected.

9.23 We found no evidence to suggest that this issue has been considered by the Infrastructure Minister in the liquid waste proposals or by the Environment Minister as part of his work in respect of the Water Plan.

Incentives to encourage good behaviour

9.24 In their testimony to the Panel, Visit Jersey expressed the view that within the proposals there did not appear to be any incentives to encourage good waste behaviour. According to Visit Jersey, *“the proposals appear to focus on the ‘stick’ with little ‘carrot’ on offer.”*⁹¹ When we raised this point with the Infrastructure Minister he advised that, due to limited funds, his Department would not be providing any cash incentives to non-householders to help improve their water efficiency. However, the Minister did confirm that DFI would be providing free advice and expertise to help non-householders identify where they have opportunities to mitigate the charges. We were also advised that the Infrastructure Department would be offering such assistance to non-householders, in conjunction with the Environment Department, as soon as a decision had been made by the States Assembly on the details of the liquid waste charges.⁹²

9.25 The Panel found that this position was similar to the general position in England, Scotland and Wales. Whilst some water companies, for example, offer limited device support for households, schools and community based organisations, they do not often extend this offer to the private sector. With the advent of retail competition in the non-household water market of England and Wales it is expected that more companies will offer water saving advice. This form of competition already exists in Scotland, where companies such as Business Stream⁹³ provide free top tips to their customers for reducing water consumption.

⁹¹ Written Submission, Visit Jersey, 12th May 2017

⁹² Transcript, Public Hearing with the Minister for Infrastructure, 15th June 2017

⁹³ <https://www.business-stream.co.uk/payment-savings/saving-money/water-saving-devices-tips/>

9.26 KEY FINDING: Whilst the Department for Infrastructure will not be offering any financial incentives to non-households to help improve their water efficiency, it will be providing free advice and expertise to help them identify where they have opportunities to mitigate the liquid waste charges.

Other ways of using charges to incentivise environmental behaviours

9.27 In section 4.3 of Eunomia's report, consideration is given to alternative ways in which the proposed charges could be used to encourage and incentivise improved environmental behaviours. One of the options explored could potentially help to reduce the nitrogen problem that currently exists in the Island. For instance, it has been suggested that a charge reduction could be offered to customers as an incentive, in return for promotion (by the customer) of environmentally friendly behaviour elsewhere in the catchment area. Eunomia note that this type of approach is being used by Wessex Water to reduce Nitrogen inputs into Poole Harbour. Poole Harbour is a nutrient sensitive area affected by excessive algal growth.

9.28 Wessex Water faced the possibility of a £10 million investment to upgrade Dorchester Sewage Treatment Works. However, instead it developed a trading mechanism which allowed farmers to bid for payments to alter their land use and reduce nitrogen inputs. The brokerage platform enabled them to run a reverse auction to secure the most effective price. According to Eunomia, in its initial trial, the trading solution achieved the same nitrogen reductions that would have been achieved from upgrades at the Sewage Treatment Works, but cost 25% less than what they had predicted the upgrade would have cost.⁹⁴

9.29 When we raised this matter with the Environment Department, it seemed supportive of this type of solution as a means of achieving environmental improvements. Furthermore, the Department confirmed that it would consider this option, pending the correct monitoring and brokerage systems being able to be established.⁹⁵

9.30 Whilst the Environment Department confirmed that discussions had taken place between its Officers and Officers from DFI in respect of wider issues relating to the Water Plan, it was apparent that the Environment Department had not been involved in discussions regarding the proposed liquid waste charging mechanism and how it could be designed to optimise environmental outcomes.

9.31 KEY FINDING: There are alternative ways in which the proposed charges could be used to encourage and incentivise improved environmental behaviours. One option is a brokerage system, which could help to reduce levels of nitrogen in Jersey's water.

⁹⁴Eunomia, Review of Proposed User Pays Charges for Non-Household Liquid Waste, July 2017

⁹⁵ Written Response, Department for the Environment, 27th June 2017

9.32 KEY FINDING: The Department for the Environment has not been involved in discussions regarding the proposed liquid waste charging mechanism and how it could be designed to optimise environmental outcomes.

9.33 RECOMMENDATION: The Minister for Infrastructure must work closely with the Minister for the Environment to explore the possible options available for incentivising improved environmental behaviour. The Minister for Infrastructure must report back to the States Assembly before the end of March 2018.

10. IMPLEMENTATION OF CHARGES

10.1 Although the details of the liquid waste charges are yet to be approved by the States Assembly, we feel that it is important to consider the process for implementing the charges as part of our review. In doing so we wish to determine whether the process is fair, as well as adequate.

Timeframe for introduction of charges

10.2 A timetable for the introduction of both liquid and solid waste charges has been included in DFI's Charging Report. The timetable confirms that the States debate, to bring Article 4 of the Drainage (Jersey) Law 2015 into force to permit liquid waste charging, will take place on 18th July 2017. It also confirms that the chargeable service for non-household liquid waste, if approved, will commence in March 2018.

10.3 If approved, the current timetable will give non-householders 7 and a half months to prepare for the introduction of these charges from the first States debate. Some may argue that, given the potential impact of the charges and the fact that every business will have to pay a new sewage bill (equating to between 85-90% of their current water bill), non-householders will not have enough time to adequately prepare.

10.4 Contrary to this view however, the Minister for Infrastructure has argued that because the indicative figures for liquid and solid waste were published last year, by the time the charges are introduced in March, non-householders would have had 21 months of notice of the level of costs they can expect to incur.⁹⁶ According to DFI:

"Liquid waste charges are easy to calculate, all of the information is now available to enable businesses to calculate the costs for themselves in the vast majority of cases".

10.5 However, as we have already discussed earlier in our report, there are many businesses who are still unable to calculate how much their liquid waste charge is likely to be. Furthermore, in one or two cases, the charges could be considerably bigger than the average costs of £1,980 per year and may require significant capital investment in order to try to reduce their water consumption.

10.6 In a Public Hearing with the Infrastructure Minister, we queried whether an appraisal had been undertaken on the impact of phasing in the charges gradually over time. The Minister advised:

"Our position, my position, is the fact that last September the States agreed in principle for the charges to be brought in and the monies were then effectively taken from my budget for 2018 and for 2019. I need to replace that funding to be able to provide the services. Any sort of soft landing or phasing in is a matter really for discussion between myself and the Minister for Treasury and Resources to see if some of the money that has effectively

⁹⁶ Transcript, Public Hearing with the Minister for Infrastructure, 15th June 2017

*been removed from my budget can be put back, because otherwise I need to raise the £3.8 million in 2018 and the net £11.5 million in 2019, because we have got to provide the service. So we have managed to soft land where we can by delaying the implementation of solid waste until the tail end of 2018, but predominantly in 2019, as opposed to bringing in both the solid and liquid at the same time. But at the end of the day, I need to fill that gap that the States have agreed and taken from my budget, because I need to carry on running those services.*⁹⁷

10.7 Further on in the Hearing, the Minister told the Panel that he would ensure that discussions took place with the Minister for Treasury and Resources to ascertain whether there was any leeway of putting back some of the funding that had been taken from the Department, in order to enable a soft landing for the charges. However, the Minister also warned that phasing in the charges would prolong the current system by which taxpayers are ‘subsidising’ the costs of non-householders waste services.⁹⁸

10.8 On 23rd June the Infrastructure Minister announced to the media that, as a result of feedback on the proposed liquid waste charges, the Council of Ministers had agreed to phase in the introduction of the charges. Now it is being proposed that only 50% of the proposed charges will be levied in 2018 and it will not be until 2019 that the full charge is introduced. In regards to this matter, the Minister commented:

*“This phasing in of charges will make it easier and allow more time to implement changes before the full charge will be due.”*⁹⁹

10.9 In response to the decision to phase in the charges, the President of Jersey Hospitality Association commented:

*“We welcome Deputy Noel’s realisation that he did not get this right first time, **but** he is just kicking the problem down the road. Delaying the full charge for a year does not change the fundamental problem with it: that the Minister is threatening the existence of an important Island industry without any proper consultation or consideration of the impact on hospitality businesses or the wider-reaching impact on other businesses supplying the industry and those reliant on the visitors such as retail. This tax could easily create an inflationary ripple across the island population. The Minister needs to stop rushing through a poorly conceived law and talk to us. That is all we ask.”*¹⁰⁰

10.10 It could be argued that the decision to phase in the charges may have been made a lot sooner if a thorough consultation had in fact been undertaken. The change of policy at this stage does suggest that opportunities were missed in respect of stakeholder engagement. Eunomia has also argued that the change in policy contradicts the view of the Minister, which was expressed during the Public Hearing, that there was nothing to consult about and that there were no alternative options for the introduction of this charge.¹⁰¹ We suggest

⁹⁷ Transcript, Public Hearing with the Minister for Infrastructure, 15th June 2017, p16

⁹⁸ Transcript, Public Hearing with the Minister for Infrastructure, 15th June 2017, p44

⁹⁹ Response to editorial letter, 21 June 2017

¹⁰⁰ Press Release, JHA, 26th June 2017

¹⁰¹ Eunomia, Review of Proposed User Pays Charges for Non-Household Liquid Waste, July 2017

that this decision by the Minister strengthens the case that the process for designing the charging mechanisms has not been properly conducted.

- 10.11 Eunomia has recommended that the implementation of the charge should be paused in order for the Infrastructure Minister to address the recommendations made within its report. It argues:

“The financial case for rapid introduction of liquid waste charges is not clearly made. In relation to all the Findings, there are a range of administrative and modelling issues that could be resolved, together with a range of options for improving the design and roll-out of charges that could be explored. A delay would allow time for the recommendations to take place and allow time for businesses to adapt and help improve the environment. This approach will improve transparency, trust and effectiveness of charging in the longer-term.”¹⁰²

10.12 KEY FINDING: Whilst the Minister for Infrastructure’s decision to phase in the proposed liquid waste charges acknowledges the potential impact on non-householders, it does not address the main concerns raised during the Panel’s review.

10.13 RECOMMENDATION: The Minister for Infrastructure must delay the introduction of the proposed liquid waste charges until such time as the recommendations within the Panel’s report have been thoroughly considered and addressed.

Data Protection (Jersey) Law

- 10.14 During our review we received evidence from Jersey Water which raised concerns regarding the current timetable for introducing the proposed liquid waste charges. During our discussions, we were advised by the Chief Officer of Jersey Water that:

“Our understanding of the data protection legislation is that Jersey Water would be unable to share meter reading data (in so far as it related to individuals (commercial or not)) without either our customer’s specific consent or a legal requirement to do so. The voluntary sharing of customer information outside of the organisation for commercial purposes also goes against our published policy.”¹⁰³

- 10.15 We note that the Infrastructure Department previously informed Jersey Water that there would be a change in legislation requiring Jersey Water to share meter data for liquid waste customers with DFI in exchange for a fee. However, more recently DFI raised a concern that a Law change would take too long and therefore pursued the option of obtaining consent from all customers, allowing Jersey Water to provide DFI with the appropriate billing information. In June, Jersey Water was told that, having consulted with the Data Protection Commissioner, DFI would again be seeking a law change to require the Company to provide meter reading data for the purposes of liquid waste billing. It is

¹⁰² Eunomia, Review of Proposed User Pays Charges for Non-Household Liquid Waste, July 2017, p40

¹⁰³ Correspondence from Jersey Water, 20th June 2017

our understanding, that DFI's intention is to have the amended legislation in place by the end of 2017, enabling the timetable for the introduction of the proposed charges to continue as planned.

10.16 With regard to the necessary Law change, Jersey Water told the Panel:

"Our concern remains that a further change in legislation and all of the related processes that would have to go through (Privy Council, etc.) could jeopardise the tight timetable for the introduction of this charge."¹⁰⁴

10.17 Following the information received from Jersey Water, the Panel wrote to the Minister requesting a timeline for when he intended to bring a law change to the States for approval. The Minister advised that, subject to States approval on 18th July, his Department would propose Law Drafting Instructions to amend the Drainage (Jersey) Law 2005 to require data sharing for both non-household metered water use from Jersey Water and also for borehole data from the Department for the Environment. We were also told that his intention would then be to bring the draft amendment to the States for approval in September 2017.

10.18 In his letter the Minister also provided an explanation as to why he had not yet proceeded with amending the Legislation:

"I have not been trying to pursue these amendments in advance of the States debate on the Drainage (Jersey) Law 2005 Appointed Day Act because I neither want to take the States Members decisions for granted nor do I want to waste Law Officers time and taxpayers money until a decision about non-householder liquid waste charges has been made by the States."¹⁰⁵

10.19 KEY FINDING: An amendment to the Drainage (Jersey) Law 2005 is required in order to allow data sharing for both non-household metered water use from Jersey Water and for borehole data from the Department for the Environment. There is a possibility that this requirement could jeopardise the timetable for the introduction of the proposed charge.

Billing

10.20 According to the Director of Operations at DFI, any business that has a water meter can calculate what their bills are likely to be for liquid waste. We were told that the only non-householders that will be unable to calculate their bills are those who will be charged under the Mogden formula and about 60 businesses who either have multiple-source water supplies or are not connected to mains water.¹⁰⁶

¹⁰⁴ Correspondence from Jersey Water, 20th June 2017

¹⁰⁵ Correspondence, Minister for Infrastructure, 30th June 2017

¹⁰⁶ Transcript, Public Hearing with the Minister for Infrastructure, 15th June 2017

- 10.21 It is currently unknown as to which company will be operating the billing system if the charges are introduced in March 2018. We were advised by the Infrastructure Department that it was currently out for tender and that it would be considering different options to determine the most efficient way forward. It was noted that DFI would not award the tender until there has been a States decision on the proposed charges.¹⁰⁷
- 10.22 According to Eunomia, preparing bills requires accurate information about the customers and their charges. Jersey Water have indicated that, in its experience of the billing process, it would take a lead in time of 7-9 months to implement the process of issuing the first bills, upon receipt of accurate billing information.¹⁰⁸ Jersey Water also suggested that good practice would be to align the timing of the liquid waste bill and the water bill so that non-household customers were able to connect volumes of usage in the same time period on one billing cycle.
- 10.23 In light of this information, Eunomia found:

“For a significant number of customers, primarily small businesses, there is a significant risk that billing data will not be made available in time for the proposed launch of bills in 2018. There is a risk that some customers will feel that they are unfairly treated if a large group of other customers are not billed.”

10.24 KEY FINDING: There is a significant risk that billing data, for a substantial number of customers, will not be available in time for the proposed launch of bills in 2018. To ensure fairness, it is imperative that all customers receive their first bill at the same time.

Appeals Process

- 10.25 The report which accompanies the Draft Appointed Day Act includes little information about an appeals process. The information it does include suggests that the appeals process will be based on a customer complaint process. Furthermore, the report only considers an appeal process in instances where DFI have already carried out an assessment or water audit on the customer. For instance the report states:

“If after a site assessment/water audit, a customer wishes to appeal the charge levied, they should advise the DFI customer services department in writing. Where a customer is not satisfied with DFI response, an appeal can be made which will be dealt with in accordance with the complaints procedure.”¹⁰⁹

- 10.26 When we questioned the Minister on the appeals process at our Public Hearing we were advised that the details were yet to be finalised. Nonetheless, the Panel was assured that

¹⁰⁷ Transcript, Public Hearing with the Minister for Infrastructure, 15th June 2017

¹⁰⁸ Eunomia, Review of Proposed User Pays Charges for Non-Household Liquid Waste, July 2017

¹⁰⁹ Appendix 1 – Liquid Waste Non-householder charging Report, Department for Infrastructure, p8

further work on this matter would be undertaken within the next 6 weeks and States Members would have sight of the details before the States debate on 18th July.¹¹⁰

10.27 Eunomia advised that, as the appeals system had not yet been designed it was not possible for it to assess whether the processes and procedures were adequate.¹¹¹

10.28 In regards to timings, we expressed our concern to the Minister that, since customers can only appeal their first bill when they receive it in July 2018, all those affected by the new charge will have a period of a year of significant uncertainty knowing that they want to appeal but unable to do so. In response, the Director of Operations at the Infrastructure Department advised:

“I think all businesses will be contacted once there is a States decision, with a questionnaire and data and information of what we think their likely bills are going to be, and asking businesses if they think that that is right, if they think they have got a right to appeal, if they think that the charge is too high, and those kind of things. We will expect that feedback back so we can deal with that and those businesses can deal with any issues or concerns that they have within the next 3 to 4 months. So they have got an opportunity to be able to rectify any problems and we can rectify those problems and make sure that they have got time to be able to plan for that next year.”¹¹²

10.29 KEY FINDING: It has not been possible to assess whether the appeals system is adequate as the details of the process are yet to be finalised.

10.30 RECOMMENDATION: The debate on the proposed liquid waste charges should not progress until the States Assembly has considered, and approved, the appeals process for non-householders.

Communication Strategy

10.31 In its testimony to the Panel, Visit Jersey discussed the need for DFI to ensure that the details of the liquid waste charges were well communicated to all businesses, but particularly small and medium sized companies within the tourism and hospitality sector, if they were to be approved by the States Assembly. Visit Jersey told the Panel:

“A comprehensive communication programme will be helpful to ensure business owners, many family run businesses, are fully up to speed about the tax and supported to improve their waste management.”¹¹³

10.32 As we have already discussed, the Infrastructure Minister has advised that his Department, in conjunction with the Environment Department, will be offering free assistance and advice to help non-householders improve their water efficiency. Additionally, at the Public Hearing we were also told that the Department was considering

¹¹⁰ Transcript, Public Hearing with the Minister for Infrastructure, 15th June 2017

¹¹¹ Eunomia, Review of Proposed User Pays Charges for Non-Household Liquid Waste, July 2017

¹¹² Transcript, Public Hearing with the Minister for Infrastructure, 15th June 2017, p65

¹¹³ Written Submission, Visit Jersey, 12th May 2017

producing a trail questionnaire in the Parish of St. Mary so they could determine from non-householders whether DFI have the right data and whether businesses have any questions that they need addressed. If the trail is successful, DFI's intention would then be to circulate the questionnaire to all other Parishes on the Island.

10.33 KEY FINDING: It is imperative that the details of the liquid waste charges are well communicated to all non-householders, to allow them to take the necessary steps to help reduce their water consumption.

10.34 RECOMMENDATION: The Minister for Infrastructure must establish a comprehensive communication programme to ensure that non-householders are fully up to speed about the proposed charges and are supported to improve their waste management.

11. APPENDIX 1 – EUNOMIA’S REPORT



Review of Proposed User-pays Charges for Non-household Liquid Wastes

Final Report for the States of Jersey
Environment, Housing and Infrastructure
Scrutiny Panel

Sam Taylor
David Baxter

11th July 2017

Report for the States of Jersey Environment, Housing and Infrastructure Scrutiny Panel

Prepared by Sam Taylor and David Baxter

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Disclaimer

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Version Control Table

Version	Date	Author	Description
V1.0	3 rd July 2017	Sam Taylor and David Baxter	First draft issued to client
V1.1	4 th July 2017	Sam Taylor and David Baxter	Final draft version issued to client
V2.0	11 th July 2017	Sam Taylor and David Baxter	Final version issued to client

Executive Summary

Eunomia Research and Consulting Ltd ('Eunomia') has been appointed advisors to the States of Jersey Environment, Housing and Infrastructure Scrutiny Panel (the 'Panel') to provide a report on the introduction of user-pays charges for non-householders for the first time in Jersey.

The aim of this report is to provide an expert view of the proposed user-pays charges to support the Panel in its duties. The scope of this report is focussed on the potential introduction of charges for liquid wastes for non-householders. As the proposed liquid and solid waste charges are to be brought to the States Assembly as two separate debates (July for liquid wastes, and September for solid wastes), the scope of this report is focussed on liquid wastes only.

E.1.0 Key Findings

This assessment has identified a number of key findings. These are summarised as follows:

The Rationale behind the Proposed Changes

In international terms, charging for the cost of provision of liquid waste services is widespread. In the European Union, charging in some form is a legal requirement and in line with the polluter pays principle. The rationale for introducing user-pays charges is, on the whole, well supported and consistent with experience in other jurisdictions. There is scope to achieve user-based cost recovery in a number of ways, so the exclusion of domestic customers from waste charges, while not widespread, is not inconsistent with approaches adopted in other countries.

The arguments that the charges are largely to fund general income shortfalls, rather than being ring-fenced to improve the services that are being charged for, weakens the argument that charging will ensure transparent and justifiable use of public resources.

A large part of the justification for the potential introduction of the charges is to address financial constraints identified in the Medium Term Financial Plan (MTFP). In our interviews with stakeholders, some noted that Jersey's overall financial position was healthier when compared to the time the plan was signed off. They believed that this weakened the argument for introducing charges as a fiscal measure to support general public expenditure. The rationale for the immediate introduction of the charges to address either acute financial issues or to finance the essential replacement of the liquid waste infrastructure is not clearly made.

Alternative Mechanisms

Users can pay through a number of mechanisms, including through taxation. In tourist destinations across the world, it is not uncommon for a tourist tax to be used. Other mechanisms to gather user contributions to the cost of liquid waste services could be developed, though there are likely to be a range of advantages and disadvantages when compared to the user-pays charges. These have not been considered on the grounds that an in-principle decision to use charges has been taken. The option to use taxation as a complement to user-based charging has not been consulted upon.

How the Proposed Charges will be applied

Consultation

As with any significant change in policy, it is necessary to ensure that the changes are considered and understood by interested parties prior to their introduction. Evidence of a “wide consultation” is not provided and it is our understanding that the Dfl has not been able to engage with all interested parties who might be impacted by the charge.

It is our view that inadequate consultation has taken place since the decision was taken to exclude householders from waste charges. This can perhaps be mitigated by a belief that the agreement in principal associated with the introduction of charges did not necessitate consultation.

However, the end result is that the type and extent of consultation is not consistent with normal practice. The spirit of the Consultation Code of Practice appears to have been breached. The impact of these should not be understated; without stakeholder support, or acceptance of the charge, there is a real danger that its effectiveness might be compromised.

Charging Principles

Jersey’s waste charging principles, when combined with the objectives of the Strategic Outline Case (SOC), are similar to those used in the UK and Ireland. Good practice from the UK and Ireland suggests that a formal document combining all the principles is consulted on and then adopted before progressing to design of a charging scheme. This has not occurred in Jersey.

Where significant changes in charging occur, good practice also suggests that a principle is needed to recognise the importance of a transitional period and the need to support parts of society which may struggle to afford new charges. Jersey has accepted this principle for solid waste charges, but the timescale for liquid waste charges is on a more rapid schedule.

Eligibility and Exemptions

The charge is set to apply to all non-household entities who use liquid waste service provided by Dfl. The term ‘non-householder’ is not defined in the Drainage Law and it is unclear what the legal basis for a ‘non-householder’ is. It is also unclear how some activities undertaken by households might be classified under the definition provided by Dfl. It is our view that the definition provided in the report is not adequate for identifying legal entities that might be classified as a non-householder.

Associated the definition of non-householders, there are a number of exemptions to the charge which has been proposed. Whilst there may be a clear justification for these exemptions, no definitive explanation has been provided as to the rationale behind applying them.

Whilst the use of exemptions might be logical and valid, the method by which they have been announced risks losing entities confidence in their utilisation. If they are not perceived to be transparent then the overall fairness of the charge might be questioned by some entities.

Data on Non-Householders

One of the key measures of success associated with the introduction of the charge will be the ability of Dfl to identify each non-householder entity that is eligible to be charged. We understand that that Dfl has been working on creating a database created from a number of sources, including Jersey Water. It is understood that Jersey Water does not make a distinction between the billing rates of household and non-household customers. Therefore only using Jersey Water's database includes a risk that some misclassification might be introduced.

Dfl will need to establish (if not already) a close working relationship with Jersey Water to ensure that the charge is robust. This is likely to involve administrative effort from both the Dfl and Jersey Water. This should be properly accounted for.

A particular feature of the non-household sector in Jersey is that it is believed to comprise a large number of micro sized businesses (below 10 full time equivalents) that are located in households. Correspondence with Dfl has unfortunately been unable to confirm how many non-household entities are forecast by the Dfl to be located at households. It seems crucial to understand how many entities might be subject to the charge. Without a robust understanding, the fairness of the charge might be questioned.

Costs Allocated to Non-household Use

The principles behind calculating the proportion of services used by the non-household sector are sound and have been developed in light of stakeholder engagement. However, owing to a variety of measurement/data availability challenges, the application of the principles is not transparent and estimates could be significantly incorrect. It is therefore difficult to assure that the proposed liquid waste charges are cost reflective.

Relevant Costs to be Recovered

The original approach to the assessment of relevant costs in the February SOC appears comprehensive and soundly based. However, this approach has not been used in the financial model lodged with the States in May 2017.

Average charges to business are now assumed to be 14% higher than when original engagement and consultation took place, even though the proportion of costs to be recovered from non-household entities has dropped from 48% to 22%.

The annual cost to be recovered has risen by £2m compared to models used in the SOC. The methodology to reach these new cost is not based on discounted cash flows (DCF) and contains capital expenditures that may not reflect the long-run cost of running the liquid waste service for non-household entities.

If liquid waste charges introduce significant changes in waste handling behaviour in a small number of large users, and cost recovery from the sector remains a goal, then there could be volatility in future liquid waste charges.

The divergence in the financial modelling approach from the assumptions used in the SOC compared with the modelling lodged with the States does not appear to have been addressed in a communication and engagement process with stakeholders.

Relevant Costs

The original approach to the assessment of relevant costs in the February 2016 SOC appears comprehensive and soundly based. However, this approach has not been used in the financial model lodged with the States in May 2017.

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The annual cost to be recovered has risen by £2m compared to models used in the SOC. The methodology to reach these new cost is not based on DCF and contains capital expenditures that may not reflect the long-run cost of running the liquid waste service for non-household entities.

The divergence in financial modelling approach from the assumptions used in the SOC compared with the modelling lodged with the States does not appear to have been addressed in a communication and engagement process with stakeholders.

There is a risk that the amount of costs recovered are either significantly below or above the actual relevant amount of costs. If charges induce significant behavioural changes from a small number of large users, then there could be volatility in future liquid waste charges for other users. Over-recovery would run contrary to States Assembly guidance on the application of user charges.

Billing

The approaches to calculating bills for the majority of 3,350 metered non-household entities will be relatively easy to apply. However, for a small number of entities on an unmetered water supply the calculations might not be so straightforward. The Mogden formula approach has not yet been agreed. This affects only one or two customers, but for the largest customer, this could be around £200,000 and represents a significant uncertainty affecting future cash flows of this business.

Preparing bills requires accurate information about the customers and their charges. Experience from Jersey Water in their billing process suggests that, upon receipt of accurate bill requirement information, it would take a lead time of seven to nine months to implement the process of issuing first bills.

For a significant number of customers, primarily small businesses, there is a significant risk that billing data will not be made available in time for the proposed launch of bills in 2018. There is a risk that some customers will feel that they are unfairly treated if a large group of other customers are not billed.

Potential Impact of the Proposed Charges

It is particularly unclear as to whether the charge will incentivise non-household entities to manage their waste more effectively. There appears to have been no baseline assessment of water use within Jersey, and no proper assessment of what the charge might achieve. Given that some businesses in Jersey are likely to be particularly sensitive to price increases, it is recommended that a more thorough assessment of the impact of the charge is considered.

The DfI asserts that liquid waste charges will be environmentally positive, as they will allow continued investment in replacement and maintenance of the infrastructure required to provide liquid waste services. Experience from privatisation of water companies in England and Wales, shows that increases in charges can fund significant investment programmes (£120 billion since 1989) and has driven major environmental improvements. If charges are the only way that capital investment in Jersey's sewage infrastructure can be achieved, then it would be valid to connect charges to positive environmental outcomes.

It has been assumed that the introduction of liquid waste charging will have little impact on the volume of sewage produced, collected, treated and disposed of, as water is already charged for and therefore any water saving behaviours would already be prevalent. Charges and charge increases for Jersey Water have not led to significant reductions in water use. There is no strong evidence to suggest that liquid waste charging will act as a stimulus to reduce water consumption and liquid waste production. Efforts to achieve water efficiency take time and investment.

Research has suggested that solid waste charges can increase fly-tipping. There is no readily available research to monitor whether illegal releases of liquid waste arise after the introduction of charging. If this change in behaviour did occur then, a rise in pollution incidents would be expected. There is a risk that liquid waste charging promotes behaviours and decisions that increase the likelihood of pollution incidents.

Novel Ways to Achieve Impact

There are a range of novel ways of using charges to incentivise environmental improvements. DfI do not appear to have consulted on these options with stakeholders, or explored them with the Department of the Environment. Mechanisms to use charges in combination with brokerage of better land management in catchments is an option that the Department of the Environment would consider. This offers scope for cost effective improvements to Jersey's water environment.

E.2.0 Recommendations

This report has highlighted a number of issues associated with the introduction of liquid waste charges for non-householders.

Our overall view is that the original case and approach for applying liquid waste charges made in the SOC is sound. However, it appears that the decision to remove households from charging, made in September 2016, has caused a series of rapid redesigns to retain budgets within the MTFP. These mean that the resulting charge proposals have departed from many of the principles that were originally agreed with stakeholders.

As many steps associated with the implementation of the charge has started to take place, it is questionable as to how much can be changed. It is our view that the implementation of the charge should be paused to address the following recommendations.

Recommendation 1: Revisit the Timing of Liquid Waste Charges

The financial case for the rapid introduction of liquid waste charges has not been clearly made. In relation to all of our findings, there are a range of administrative and modelling issues that should be resolved, together with exploration of a range of options for improving the design and roll-out of charges. A delay would allow time for the recommendations outlined below to take place and allow time for businesses to adapt to the introduction of the charge and ultimately, help improve the environment. This approach will improve transparency, trust and effectiveness of charging in the longer-term.

Recommendation 2: Consider Alternative Approaches to Ensure that the User-Pays and the Environment Improves

Dfl might consider the implementation of a wider range of charging schemes that can deliver similar outcomes to the one proposed. It is recommended that this range of schemes should include more innovative approaches to managing liquid wastes on the island that deliver improved environmental outcomes.

Recommendation 3: Consultation

It is recommended that a genuine consultation on the introduction of charges is undertaken by Dfl. It is suggested that an open public consultation is undertaken to enable the collection of views from all interested stakeholders. The consultation should include discussion of the charging principles alongside various options on how the charge might be deployed. The consultation should be supported by suitable outreach events.

Recommendation 4: Eligibility

A clearer definition of the non-household entities due to pay the charge should be provided. Existing law is already provided in Jersey to this effect. For example, Part 1 (2) of the Charities (Jersey) Law 2014 provides a definition of entities. This could be adopted/adapted for the purposes of the charging scheme.

It is also recommended that, like the definition of non-householders, exemptions are codified in law and the basis for their selection be made publically available. This should include outlining a set of principles that the exemptions align themselves with. These should be consulted upon prior to their finalisation.

Recommendation 5: Non-household Costs

It is recommended that the calculation of non-household costs are revisited to ensure that they are calculated in a transparent basis that is in alignment with best practice. This is considered to be a fundamental basis for the charging scheme.

Recommendation 6: Assessment of Impact

Finally, it is recommended that an Impact Assessment is conducted so that the potential impact of the charging scheme can be properly assessed. This should be provided alongside any consultation so that the impacts of various options can be considered together.

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1.0 Introduction

1. Eunomia Research and Consulting Ltd ('Eunomia') has been appointed advisors to the States of Jersey Environment, Housing and Infrastructure Scrutiny Panel (the 'Panel') to provide a report on the introduction of user-pays charges for non-householders for the first time in Jersey. The aim of this report is to provide an expert view of the proposed user-pays charges to support the Panel in its duties.
2. The scope of the work, as agreed with the Panel, includes consideration of the following aspects:
 - a. To consider the rationale behind the introduction of user-pays charges for non-household waste;
 - b. To assess the charging mechanisms and determine how they will be applied;
 - c. To determine whether the proposed charges are reasonable and fair;
 - d. To consider the potential impact of the proposed charges, alongside the current charges, on non-householders;
 - e. To determine what impact the proposed charges will have on environmental behaviours;
 - f. To assess the adequacy of the present facilities in regards to waste management and recycling; and
 - g. To assess how the issue of fly-tipping will be addressed in respect of the proposed solid waste charges.
3. As the proposed liquid and solid waste charges are to be brought to the States Assembly as two separate debates (July for liquid wastes, and September for solid wastes), the scope of this report is focussed on the **charges for liquid wastes only**.

1.1 About the Proposals

4. The Department for Infrastructure (DfI) is responsible for the collection, treatment and disposal of all of the Island's raw sewage and sewage sludge and has responsibilities for managing some of the storm water. Liquid waste services are currently funded almost wholly by the States of Jersey through direct taxation. There are, however, a few exceptions. Householders and non-householders pay for private hauliers to collect some of their liquid waste from septic tanks and tight tanks.¹

¹ Department for Infrastructure (2017) *Liquid Waste Non-householder charging Report - Appendix 1*, May 2017

5. Approximately 25,000 tonnes of liquid waste is transported by the sewerage system to Bellozanne Sewage Treatment Works and the smaller Bonne Nuit Sewage Treatment Works each day. Wastewater is treated and made safe before being discharged in accordance with environmental standards. There is also a significant foul and storm water storage facility located under Fort Regent and many storm water pumping stations and outfalls. Where properties are not connected to the sewer network, users have tight tanks, cesspits, and septic tanks. Tanker services are currently provided by the Dfl.²
6. The introduction of solid and liquid waste charges for non-householders is being led by Dfl. The introduction of user-pays charges were agreed in principle as part of the Medium Term Financial Plan (MTFP)³ in September 2016. It is reported by the Dfl that the necessary legislation is already in place for the introduction of liquid waste charges, with Article 4 of the Drainage (Jersey) Law 2005⁴ needing to be enacted, to enable liquid waste charging to be undertaken.
7. It was also agreed according to the Amendment to P. 68/2016 Amd. (5)⁵, that the Dfl would not expend resources 'on the development of 'user-pays' charges in relation to domestic liquid and domestic solid waste, other than work connected to the development and implementation of commercial solid and liquid waste charges'.
8. The Council of Ministers has undertaken initiatives to drive out efficiencies prior to the potential introduction of user-pays charges. As part of the MTFP, Dfl was asked to make £7.5m efficiency savings. The Liquid Waste Section was specifically tasked with making £520k of revenue savings. As a consequence, Dfl has (alongside other measures) invested in a combined heat and power plant to generate some of the sites power requirements at Bellozanne which has resulted in savings of £800 per day.⁶
9. Alongside the efficiency savings, the MTFP also required a budget cut from the Dfl of £11.35m from waste services, so that the funds could be redirected to priority areas of new and improved services for health and education. The sum of £11.35m was estimated to be the proportion of service costs that were generated by waste from the non-householder sector. £3.85m was the estimated proportion for non-householder

² Department for Infrastructure (2017) *Liquid Waste Non-householder charging Report - Appendix 1*, May 2017

³ States of Jersey *Medium Term Financial Plans*,
<https://www.gov.je/Government/PlanningPerformance/StrategicPlanning/Pages/StatesAnnualBusinessPlan.aspx>

⁴ States of Jersey Drainage (Jersey) Law 2005, L.3/2005

⁵ States of Jersey DRAFT MEDIUM TERM FINANCIAL PLAN ADDITION FOR 2017 – 2019 (P.68/2016) – FIFTH AMENDMENT (P.68/2016 Amd.(5)) – AMENDMENT, P.68 Amd.(5)Amd.

⁶ Department for Infrastructure (2017) *Liquid Waste Non-householder charging Report - Appendix 1*, May 2017

liquid waste services, and Dfl has therefore developed a set of user-pays liquid waste charges based around the cost of service that will generate £3.85m (net).⁷

10. Since the agreement of the MTFP, the Dfl has been preparing the design and implementation of the user-pays charge. It is our understanding that the charge has been developed via expert advice from external consultants and informal discussions with businesses (and associated representative groups) that are likely to be impacted by charge. No formal consultation has been undertaken and it is unclear whether the detailed thinking behind the design of the charge has been made available in the public domain.
11. The main description of the charge is provided within the Liquid Waste Non-householder Charging Report.⁸ This document (amongst others) sets out details relating to the proposed implementation and is supported by supplementary data provided to the Panel in Excel spreadsheets.
12. The user-pays charge is due to be introduced for non-householders from March 2018 and apply to approximately 3,410 non household entities. Originally it was communicated that the charge would be introduced in its entirety. On 23rd June the Dfl proposed that only 50% of the proposed charge would be levied in 2018 and it would not be until 2019 that the full charge would be introduced. Dfl has stated that this was based on feedback during discussions and correspondence with businesses and industry representatives, in particular the hospitality industry, who have been asking for consideration to be given to delaying or phasing in the proposed non-householder user-pays charges.⁹

1.2 Method of Assessment

13. This report is provided in an independent and impartial basis following review of evidence received by the Panel. Evidence has included:
 - Review of documentation provided by Dfl;
 - Evidence provided at the Public Hearing¹⁰;
 - Interviews with selected participants; and
 - Evidence provided in the public domain.
14. A list of the evidence reviewed is summarised in Appendix A.1.0. Please note that specific individuals have not been named in the report so to preserve their anonymity.

⁷ Department for Infrastructure (2017) *Liquid Waste Non-householder charging Report - Appendix 1*, May 2017

⁸ *Ibid*

⁹ Department for Infrastructure (2017) *Non-householder user pays liquid waste charges to be phased in*, June 2017

¹⁰ States of Jersey (2017) Environment, Housing and Infrastructure Scrutiny Panel Waste Charges Review

1.3 Structure of this Report

15. The following sections of the report are structured as follows:

- Section 2.0: summarises the **rationale behind the charge**;
- Section 3.0: summarises **how the charge will be applied**;
- Section 4.0 summarises the **potential impacts of the charge**; and
- Section 5.0: summarises the **key findings and associated recommendations**.

2.0 The Rationale behind the Proposed Charges

16. In the following sub-sections we have sought to outline the rationale behind the proposed charges.

2.1 The Case for Charging

17. In international terms, charging for the cost of provision of liquid waste services is widespread. In the European Union, charging in some form is a legal requirement. Article 9 of the Water Framework Directive (WFD)¹¹ requires Member States to:

“ensure that water-pricing policies provide adequate incentives to use water resources efficiently by 2010 and that the price charged to water customers reflects the true costs.”

18. Charging for the cost of treating liquid waste is also in line with the polluter pays principle; a fundamental tenet that underpins environmental policy in many jurisdictions across the world. A key argument for the polluter pays principle is that it creates an economic signal (and reward) for more environmentally friendly behaviour.

19. Creating a separate charge for water services for both householders and non-householders, rather than bundling it within a total charge for public services, was an important outcome from the privatisation of the English and Welsh water companies in 1989. The creation of a separate charge allowed a transparent debate on the pressing need to fund water infrastructure improvements and ensured that the income raised was targeted for this purpose. Since 1989, the water industry in England and Wales has invested over £120 billion in improved water services. This has led to widespread improvements in environmental quality and almost complete compliance by the water industry with major pieces of European legislation on bathing waters, shellfish waters, urban water treatment, nitrates, dangerous substances, habitats and drinking water.

20. However, creating an explicit charge when one did not exist before has not always been straightforward and looking to England and Wales may not be the best reference point for Jersey. In the Republic of Ireland, commercial users of water and wastewater services currently pay charges, but households do not. The cost of household water services is funded from general and local taxation. Domestic water service charges were introduced in the Republic of Ireland in 2014, largely to ensure compliance with Article 9 of the WFD.

¹¹ Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L327/1 of 22.12.2000)

21. In 2016, following extensive campaigning against charges - householders felt that they were being asked to pay for water twice, as there was no concomitant reduction in their local taxation bill. This was accompanied by large scale non-payment, and despite various government initiatives to offset the impact of the charges, the Irish Government withdrew them in 2016. It appears to have done so as a consequence of a broader interpretation of Article 9:

“While the Directive requires an adequate recovery of the costs of water and sewerage services for each economic sector (households, industry and agriculture), it allows flexibility as to how the recovery of those costs are distributed within the economic sector. The Directive also allows member states to take into account social and economic considerations when establishing the level of cost recovery for different users.”

22. The principle to introduce liquid waste charges in Jersey was accepted when the MTFP was approved by the States Assembly in September 2016. The States Assembly rejected the option to introduce charging for households, despite this being part of the original proposal put forward. In some respects, this reflects the position in the Republic of Ireland mentioned in the previous section.

23. The arguments put forward to require a user-pays approach to waste charges are summarised in Box 2-1.

Box 2-1: Aims of User-Pays Approach

Introducing non-householder user-pays charges in Jersey will:

- Incentivise non-householders to manage their waste more effectively;
- Drive more efficient use of services by providing incentives to reduce waste and hence reduce the overall service costs;
- Rectify the gross unfairness at the heart of the current funding regime;
- be more transparent and justifiable to householders and non-householders that public funds are being used fairly and appropriately;
- Ensure that wastes are treated and disposed of safely over the longer-term; and
- Generate additional revenue to alleviate the pressure on household taxation for reinvestment.

Source: DfI (2017)¹²

24. These arguments, in large part, reflect the rationale used in other jurisdictions.

25. One area of difference is the extent to which the charges are being treated as a general revenue stream, or are seen as a more targeted form of income to

¹² Department for Infrastructure (2017) *Liquid Waste Non-householder charging Report - Appendix 1*, May 2017

specifically improve waste services. When asked about how liquid waste charges would be used, and whether they would be used to fund improvements at the sewage treatment works, the Minister for Infrastructure stated:

*“The correct position is that my department’s budget has been reduced by the end of 2019 by some £11.5 million and that is monies being reinvested in education and in health services. The purpose of the charges is to replace that revenue stream so we can continue to provide the services to non-households for their waste disposal.”*¹³

Finding 1: Rationale for Introducing User-Pays

The rationale for introducing user-pays charges is, on the whole, well supported and consistent with experience in other jurisdictions. There is scope to achieve user-based cost recovery in a number of ways, so the exclusion of domestic customers from waste charges, while not widespread, is not inconsistent with approaches adopted in other countries.

The arguments that the charges are largely to fund general income shortfalls, rather than being ring-fenced to improve the services that are being charged for, weakens the argument that charging will ensure transparent and justifiable use of public resources.

2.1.1 Significance of Budget Constraints on Jersey’s Ability to Provide Liquid Waste Services

26. A large part of the justification for the potential introduction of the charges is to address financial constraints identified in the MTFP. In June 2017, the States of Jersey Treasury reported that 2016 income had been over £300m higher than expected, though it was noted that this was an exceptional year.¹⁴

27. In our interviews with stakeholders, some noted that Jersey’s overall financial position was healthier when compared to the time the plan was signed off. They believed that this weakened the argument for introducing charges as a fiscal measure to support general public expenditure.

28. A significant part of the expenditure used to justify the level of liquid waste charge is the cost of replacing the Bellozanne Sewage Treatment Works. However, correspondence with the DfI suggest that these works have access to the finance required:

“The capital budget for the new STW totals £68.944m. To date the Department has received funding from the States Capital Fund totalling £61,094,000 and it

¹³ States of Jersey (2017) Environment, Housing and Infrastructure Scrutiny Panel Waste Charges Review

¹⁴ See: <https://www.gov.je/news/2017/pages/StatesAccounts2016.aspx>

*has been agreed by the Treasury that the balance will be funded from DfI's 2018 and 2019 Capital programme."*¹⁵

Finding 2: Significance of Budget Constraints

The rationale for the immediate introduction of the charges to address either acute financial issues or to finance the essential replacement of the liquid waste infrastructure is not clearly made.

2.2 Alternative Approaches to Ensuring that the User-Pays

29. As noted in the Irish Water case, and implicitly through the decision not to introduce waste charges to households in Jersey, users can pay through a number of mechanisms, including through taxation.
30. In tourist destinations across the world, it is not uncommon for various types of tourism tax to be used, particularly where these taxes fund the provision of infrastructure that makes the destination attractive to visitors, as is the case with the eco-tourism tax in the Balearic Islands.
31. One of the advantage of a tourism tax is that it is transparent and passed on to the end-user (the tourist) irrespective of the size of business. There is also the added advantage that the tax is externalised and therefore does not appear in the headline price of the accommodation. The downside is that it is only focussed on tourism and doesn't incentivise improved environmental behaviour amongst the wider business community.
32. When we interviewed stakeholders from Jersey's tourism business, the ability of hotels to pass on the extra cost burden of the liquid waste charge, along with other costs was a major concern. They suggested that other alternatives, such as a tourism tax, could be part of a solution, but that this had not been discussed as an option that they could consider.
33. When the issue of a tourism tax was raised at the Scrutiny Panel hearing on 15th June, the point was made that such a tax would not be able to cover all the costs of delivering waste services and that this would not ensure contributions from other sectors. In an exchange about using more general taxation methods, the following points were raised:

Deputy M. Tadier:

"[...] I was just going to say it is a remarkably complex waste charge to bring in with all these exemptions and these outliers. Why not just have a simple tax that can be administered like G.S.T., keep it broad, simple and across the board?"

¹⁵ Email from Hugo Johnson, 23rd June 2017

The Minister for Infrastructure:

“Well, that would have been a very good amendment for you to bring to the M.T.F.P. last summer. The decision by the States last summer was for waste charges to be brought in. That was a decision in principle and my department and myself were tasked to come back with the detailed proposals this summer and that is exactly what we have done. Alternatives, the time for alternatives and the debate for alternatives was last year.”¹⁶

Finding 3: Alternative Approaches to Ensuring that the User-Pays

Other mechanisms to gather user contributions to the cost of liquid waste services could be developed, though there are likely to be a range of advantages and disadvantages when compared to the user-pays charges. These have not been considered on the grounds that an in-principle decision to use charges has been taken. The option to use taxation as a complement to user-based charging has not been consulted upon.

¹⁶ States of Jersey (2017) Environment, Housing and Infrastructure Scrutiny Panel Waste Charges Review

3.0 How the Proposed Charges will be Applied

34. This section considers how the charges will be applied. This includes appraisal and assessment of the following aspects:

- a) Consultation
- b) Charging principles;
- c) Eligibility;
- d) Cost reflectivity and cost recovery;
- e) Billing; and
- f) Appeals

3.1 Consultation on the Proposed Changes

35. As with any significant change in policy, it is necessary to ensure that the changes are considered and understood by interested parties prior to their introduction. To that end, a stakeholder engagement strategy was developed by ICS and SLR Consulting supporting the Waste Transformation project that encompasses the charging scheme.¹⁷

36. The report developed for DfI stressed the importance of effective stakeholder engagement and outlined three strategic objectives for stakeholder engagement that were agreed as part of the Waste Transformation Project. These include the need to mitigate three specific risks:

- a) Missing information useful to policy development;
- b) Lack of acceptance of policy option chosen; and
- c) Ineffective engagement activity.¹⁸

37. The strategy highlighted an engagement process that included reference to wide external consultation on options during multiple phases of the programme as shown in Figure 3-1.

¹⁷ ICS and SLR Consulting (2016) *16/19 Transformation Programme: Waste. Appendix 1: Stakeholder Engagement*, February 2016

¹⁸ *Ibid*

Figure 3-1: Engagement Phases

Project milestone	Date	Engagement topic	Stakeholders
Completion of Strategic Outline Case (SOC)	December 2015	Objectives & CSFs	Wide internal and external stakeholders
		Alternative options	Wide internal stakeholders Key external stakeholders
States Debate on SOC	by end of May 2016	Alternative options - high level preferences & acceptability	Wide external consultation on options Soft market testing
Completion of Outline Business Case (OBC)	July 2016		
Consideration for Approval of OBC by Minister	End July 2016		
Completion of Full Business Case (FBC)	March 2017	Shortlisted option(s) - detailed preference and acceptability, practicalities, and potentially valuation work	Wide internal and external options
States Debate on FBC	by end of June 2017		

Source: ICS and SLR Consulting (2017)¹⁹

38. It is accepted that the strategy was designed for both households and non-households. This situation changed in light of the decision to exclude households.
39. It is understood that the main engagement activities undertaken by and on behalf of DfI included:
- Informal discussions with affected parties on a one to one basis;
 - Press releases; and
 - Use of focus groups to discuss the charge in December 2016.
40. Evidence of “wide consultation” is not provided in the report and it is our understanding that the DfI has not been able to engage with all interested parties who might be impacted by the charge. This is backed up by views of interviewees who strongly expressed views that the details and implications of the charge had not been communicated clearly. Interviewees noted that the focus groups were led by consultants (4insight, ICS and SLR Consulting) and not attended by employees from DfI.
41. One such method of achieving “wide consultation” might have been by hosting an open public consultation. It is our view that the proposals are entirely suitable for an open public consultation as outlined in the Consultation Code of Practice.²⁰

¹⁹ ICS and SLR Consulting (2016) *16/19 Transformation Programme: Waste. Appendix 1: Stakeholder Engagement*, February 2016

42. In previous years the Dfl has undertaken open public consultations on the following aspects:

- Household recycling centre opening times;²¹ and
- The introduction of public bus shelters²²

43. It is noted that at the time of writing an extensive open consultation was being undertaken by the Department of the Environment on the Jersey Infrastructure Levy (land development charge).²³ This charge is relatively comparable, although it is noted that it is expected to impact a smaller number of organisations and generate a smaller amount of revenue (between £1.5m and £2.5m a year).

44. Evidence presented in the public hearing from the Minister for Infrastructure justified a lack of an open public consultation because:

“There is not anything to consult about. We know what it costs us to provide the services and, therefore, we know how much revenue we need to raise²⁴

and

“there is no point in having a false consultation”²⁵

45. This suggestion appears to be inconsistent with at least two pieces of evidence gathered as part of this research. These include:

- The messages reported to be conveyed to stakeholders in the focus groups; and
- The subsequent change in the policy following the public hearing.

As part of the stakeholder engagement strategy, a description of the key messages provided in the Focus Group Topic Guide was summarised. The only two statements provided in bold, were as follows:

“Key: Must stress that the options we discuss in the focus group by no means represent any policy that Dfl is going to implement. We are going to discuss all the options, but that does not mean any conclusions have been made. At this stage Dfl are just looking to understand what customers and the public think

²⁰ States of Jersey *Consultation Code of Practice*,
<https://www.gov.je/Government/Consultations/Documents/20150708%20ID%20States%20Code%20of%20Practice%20on%20Consultation%20CLS.pdf>

²¹ See: <https://www.gov.je/Government/Consultations/Pages/RecyclingSurvey.aspx>

²² See: <https://www.gov.je/Government/Consultations/Pages/ProposesBusShelters.asp>

²³ See: <https://www.gov.je/Government/Consultations/Pages/JerseyInfrastructureLevy.aspx>

²⁴ States of Jersey (2017) Environment, Housing and Infrastructure Scrutiny Panel Waste Charges Review

²⁵ *ibid*

about the wide range of options that exist and to feed this into the review it is commencing.”²⁶

“Reiterate again that options we discuss by no means represent any policy that DfI is going to implement.”²⁷

46. These appear to directly contradict the view that there are no alternative options for the introduction of the charge. Evidently this is supported by the change in policy on 23rd June where the DfI proposed that only 50% of the proposed charge would be levied in 2018 and it would not be until 2019 that the full charge would be introduced.

Finding 4: Consultation Methods

It is our view that inadequate consultation has taken place since the decision was taken to exclude householders from waste charges. This can perhaps be mitigated by a belief that the agreement in principal associated with the introduction of charges did not necessitate consultation.

However, the end result is that the type and extent of consultation is not consistent with normal practice. The spirit of the Consultation Code of Practice appears to have been breached. The impact of these should not be understated; without stakeholder support, or acceptance of the charge, there is a real danger that its effectiveness might be compromised.

3.2 Charging Principles

47. The initial establishment of charging principles is an important step in governing charge-setting proposals.

3.2.1 Examples of liquid Waste Charging Principles in the UK and Republic of Ireland

48. In England and Wales, the economic regulator Ofwat publishes a set of charging rules²⁸, agreed after consultation with industry and in line with wider charging principles set by Government²⁹.

“The Government has four overarching objectives for charging in respect of water and sewerage services. Each of these four objectives has equal weight and will need to be reflected by the regulator in determining the Charging Rules

- *fairness and affordability;*

²⁶ ICS and SLR Consulting (2016) *16/19 Transformation Programme: Waste. Appendix 1: Stakeholder Engagement*, February 2016

²⁷ *Ibid*

²⁸ Ofwat (2016) *Charge Scheme Rules*

²⁹ Defra (2016) *Charging guidance to Ofwat*

- *environmental protection;*
- *stability and predictability;*
- *transparency and customer-focused service.”*

49. Ofwat’s rules guide how regional water companies can set up their own bespoke charging systems. The concepts of fairness, stability and transparency are central to them. As is the principle of recovering an amount that reflects the costs of services, as measured in the long-run.

50. Each water company publishes its own charging schedule that sets out in detail how charges will apply, who is exempt, how payment will be made, how complaints for charges can be handled, as well as detailed information on how much the charges are. Charges are also accompanied by an Assurance Statement confirming that they have been fairly made in accordance with relevant policies and principles.³⁰

51. In the Republic of Ireland, Irish Water is currently consulting on a modification to existing arrangements for charging non-household entities. Its regulator, the Commission for Energy Regulation (CER), has specified five key principles for future charges:

- Equity and no undue discrimination;
- Efficiency in the use of water services;
- Cost reflectivity;
- Cost recovery; and
- Stability and simplicity.

52. The CER announced its intention to make these changes in October 2016³¹ and has since signalled that consultations on proposals are likely to be delayed January 2018³². In addition to the five principles above, the CER sets out the importance of a transitional period for introduction of the new framework:

“Moving to a harmonised tariff arrangement is likely to result in tariff changes for many customers. It is important therefore to consider the implementation of a glidepath(s) to gradually transition customers from their existing tariff arrangements to the enduring arrangements. The purpose of the transitional arrangements will be to ensure changes to customer’s bills are implemented in an equitable and reasonable manner. “

³⁰ <https://www.unitedutilities.com/services/wholesale-services/wholesale-charges/>

³¹ Commission for Energy Regulation (2016) Establishing Irish Water’s Non-Domestic Tariff Framework- Information Note

³² Irish Water (2017) Irish Water Business Briefing - Future Business Charges

3.2.2 Jersey's Charging Principles

53. The DfI states³³ five principles that it is following to ensure that charges are clear, fair and transparent for all customers, these are:

- The charges will be based on the user-pays principle to ensure fairness. The more a customer uses the waste service, the more they will pay.
- Every customer who uses waste services as part of a commercial transaction will be charged proportionally to the degree to which the service has been used.
- Waste charge levels will be set to reflect the cost of providing and maintaining the infrastructure associated with the service.
- The income raised from waste charges will remain ring-fenced within Jersey Waste for operating waste services (hence the intention to create Jersey Waste as a States trading organisation similar to Jersey Car Parks and Jersey Fleet Management).
- Charges will need to evolve over time to maintain fairness and reflect changes in both the cost of running the service.

54. These principles arose, it appears, from engagement that commenced in 2015, leading to the SOC of the Waste Services Transformation Programme (published in February 2016).³⁴ The SOC also included the following objectives for the overall waste transformation programme, these include:

- Fair and affordable charges that encourage the right behaviours; and
- Responsible custody of the environment – land, air and sea

³³ Section 4.4, Appendix 1 – Liquid Waste Non-householder charging Report

³⁴ Strategic Outline Case (SOC) of the Waste Services Transformation Programme, SLR, Feb 2016

Finding 5: Charging Principles

Jersey's waste charging principles, when combined with the objectives of the SOC, are similar to those used in the UK and Ireland. Good practice from the UK and Ireland suggests that a formal document combining all the principles is consulted on and then adopted before progressing to design of a charging scheme. This has not occurred in Jersey.

Where significant changes in charging occur, good practice also suggests that a principle is needed to recognise the importance of a transitional period and the need to support parts of society which may struggle to afford new charges. Jersey has accepted this principle for solid waste charges, but the timescale for liquid waste charges is on a more rapid schedule.

3.3 Eligibility

55. The charge is set to apply to all non-household entities who use liquid waste service provided by Dfl. The term 'non-householder' is not defined in the Drainage Law³⁵ and it is unclear what the legal basis for a 'non-householder' is. Based on the evidence provided at the public hearing, it is understood that the Dfl intends on applying the definition provided in the report supporting the introduction of the charge.³⁶ This report defines non-household entities as:

- Businesses
- States departments
- Community facilities
- Charities
- Waste delivered to Dfl involving a third party commercial transaction
- Events

56. 'Community facilities' 'waste delivered to Dfl involving a third party commercial transaction' and 'events' are not understood to be legal entities. Rather these appear to describe *activities* that might be undertaken by non-householders. It is unclear as to why they are included in the definition.

57. It is also unclear how some activities undertaken by households might be classified under the definition provided by Dfl. This might include, for example, householders who chose to rent out their properties using software such as Airbnb.

³⁵ States of Jersey Drainage (Jersey) Law 2005, L.3/2005

³⁶ Department for Infrastructure (2017) *Liquid Waste Non-householder charging Report - Appendix 1*, May 2017

Finding 6: Eligibility

It is our view that the definition provided in the report is not adequate for identifying legal entities that might be classified as a non-householder.

This, could cause a number of unintended impacts:

- a) Entities may be unclear as to whether the charges apply to them. This could cause some anxiety and may prevent or delay some entities from optimising their position under the charging regime (e.g. by reducing water consumption).
- b) Entities might wish to take advantage of the ambiguity associated with the definition and seek to avoid or reduce their exposure to the charge by claiming not to be one of the types of entities listed.
- c) Entities which have multiple types of activities that may be captured only in part by the definition may be confused. This could cause some anxiety and may prevent or delay some entities from optimising their position under the charging regime (e.g. by reducing water consumption).

3.3.1 Exemptions

58. Associated the definition of non-householders, there are a number of exemptions to the charge which has been proposed, these include:

- Household customers other than pre-existing tanker service charges and drainage search fees;
- Share-transfer companies for household properties;
- Residential care-homes that provide accommodation only to persons with no other permanent address or are unable to live at their permanent address;
- Tenants of residential property owned and operated by a landlord; and
- When a multiple-occupancy commercial premise is supplied by a shared water supply, the liquid waste charge will apply to the owner / operator of the premises.

59. It is recognised that a number of these criteria seek to clarify the definition of a 'non-householder'.

60. Whilst there may be a clear justification for these exemptions, no definitive explanation has been provided as to the rationale behind applying these exemptions; this could be perceived as having a negative impact on the transparency of the charging system as a whole.

61. Furthermore, like the definition of non-householders, the exemptions are not understood to be codified in law. It appears that they could be retrospectively changed and amended without any legal change. This might have the impact of causing some uncertainty for some entities who might rely on an exempt status.

Finding 7: Exemptions

Whilst the use of exemptions might be logical and valid, the method by which they have been announced risks losing entities confidence in their utilisation. If they are not perceived to be transparent then the overall fairness of the charge might be questioned by some entities.

3.3.2 Availability of Data on Non-Householders

62. One of the key measures of success associated with the introduction of the charge will be the ability of Dfl to identify each non-householder entity that is eligible to be charged. We understand that there is no common database of non-householder entities and that Dfl has been working on creating a database sourced from a number of sources, including Jersey Water, Social Security and Parishes.
63. Based on correspondence with Jersey Water, it is understood that no distinction is made between the billing rates of household and non-household customers. Accordingly, there is a reduced incentive on Jersey Water to ensure that the classification between the two categories is correct. Therefore only using Jersey Water's database includes a risk that some misclassification might be introduced.
64. We understand that this concern has been somewhat mitigated by the use of other data. However, given that the charge is due to be levied (by proxy) on water use for a large percentage of entities, consistency with the Jersey Water data will be key.

Finding 8: Data from Jersey Water on Non-Householders

Dfl will need to establish (if not already) a close working relationship with Jersey Water to ensure that the charge is robust. This is likely to involve administrative effort from both the Dfl and Jersey Water. This should be properly accounted for.

3.3.2.1 Non-household Entities Resident in Households

65. A particular feature of the non-household sector in Jersey is that it is believed to comprise of a large number of micro sized businesses (below 10 full time equivalents) that are located in households.
66. This situation adds complexity to the introduction of the charge, as:
 - a) There is a need to **identify** such entities from the household population; and
 - b) There is a need to ensure that **an apportionment** of the liquid waste usage by the non-household entity is calculated fairly.
67. On the first point, correspondence with Dfl has unfortunately been unable to confirm how many non-household entities are forecast by the Dfl to be located at households.
68. An informal estimate provided by Jersey Water suggested that it would be approximately 2,500. It is unclear whether this includes entities that might be

exempt from the charge. If correct, it would represent over 70% of the 3,410 entities forecast to be impacted by the charge by Dfl.³⁷

Finding 9: Data on Non-Householders

It seems crucial to understand how many entities might be subject to the charge. Without a robust understanding, the fairness of the charge might be questioned.

69. Consideration has been given by Dfl to the second issue by the inclusion of an allowance per quarterly billing period to account for household consumption. In effect, non-household entities would be given a free allowance of waste water usage, depending on the how many people live in the residential property. Table 3-1 summarises the allowance.

Table 3-1: Allowance Applicable to Non-household Entities Operating from Residential Premises

No. of People Living In Residential Property used for business	Jersey Water’s Quarterly Assessed Water Allowance (m3)
1	12.78
2	24.34
3	32.85
4	39.56
5	46.40
6	55.68

Source: Dfl (2017)³⁸

70. It is understood that the method identifying the number of people living in residential property will be via a survey. There is a clear incentive for respondents to game their response by stating a large number of people reside in the address. It is unclear how participation of the survey will be ensured and the results validated.

³⁷ Department for Infrastructure (2017) *Liquid Waste Non-householder charging Report - Appendix 1*, May 2017

³⁸*ibid*

Finding 10: Allowance Applicable to Non-household Entities

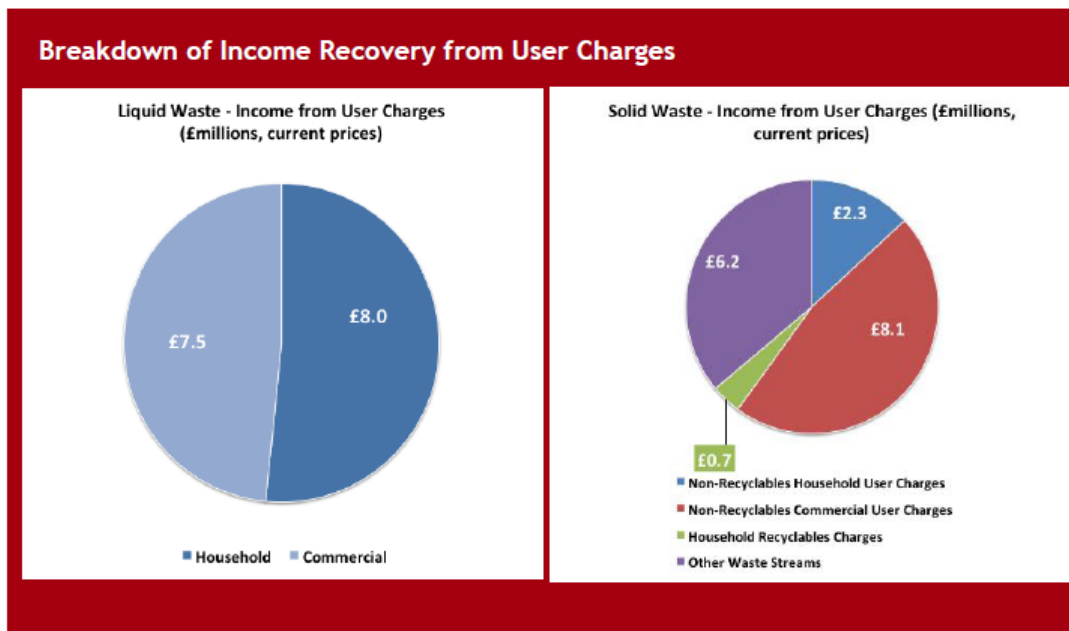
The apportionment of the liquid waste usage by the non-household entities operating in households is likely to be difficult to validate and will require significant good-will and cooperation from bill payers.

3.4 Cost Reflectivity and Cost Recovery

3.4.1 Proportion of Costs Allocated to Non-household Use

71. Ensuring that charges are proportional to the amount of service used is a principle that has been widely supported throughout the debate on waste charging in Jersey. The DfI considered a number of options for apportioning the allocation of costs to non-household users, and discussed these with stakeholders.
72. The original approach for allocating costs was published in the SOC, in February 2016. At that time, it was still assumed that liquid waste charges would be applied to households as well. In the SOC, a judgement was made to reflect the maximum amount of liquid waste charge that would be acceptable to households – this was set at £200 per household, with the aim of raising no more than £10 million. The costs to non-households would be set simply to recover the balance of cash flows required to run the service. Stakeholders were reported to be comfortable with this approach.
73. Using the basis of the SOC assumptions, non-households were expected to contribute £7.5m out of a total £15.5m requirement, i.e. 48%. This is detailed in Figure 3-2 of the SOC.

Figure 3-2: Breakdown of the Income under the Preferred Option



74. However, following the exclusion of households from charges, a revised option was developed, also in light of some stakeholder engagement. This is outlined in Section 3.5 of Appendix 2 of the Charging Mechanisms Report from March 2017. The revised option is a blend of approaches but is largely based on the volume disposed.

The charge, for both full and partial service, should be made up of a fixed and a variable element, where:

- The fixed element should be based on the size of the water supply meter at the premises or whether there is a trade effluent consent; and
- The variable element should be based on a volumetric charge and in most cases will be derived by using water consumption figures. Where volumetric information is not available, i.e. where water is provided through a private borehole for example, then an 'assessed volume' calculation will be required which could be based on the relevant abstraction consent or on consumption figures of other similar operations where volumetric data is available. The volumetric element will be based on 95% of water usage being returned for treatment as is typical of such calculations used in England and Wales.
- All non-household customers should pay a wastewater service charge directly to the DfI regardless of whether they are connected to the public sewer or not. Those that do not have a connection will pay the partial service charge. The latter will therefore require a separate commercial relationship with a haulier to empty and transport their wastewater to the sewage and sludge treatment facility at Bellozanne.
- For large or atypical customers, provision should be made to allow scope for their charges to be based on a special agreement with the DfI.

75. This approach requires non-household liquid waste volumes to be calculated, starting with an estimate for the non-household sector as a whole. The approach used was to allocate a proportion of costs based on the proportion of clean water supplied by Jersey Water. This led to a figure of 22% of the total cost being attributed to non-household entities for liquid waste services as set out in Table 3-2 of the document lodged with the States of Jersey in May 2017.³⁹

³⁹ Department for Infrastructure (2017) *Liquid Waste Non-householder charging Report - Appendix 1*, May 2017

Table 3-2: Users of Liquid Waste Services

Type	Number of Customers	Assumed Volume m ³ Use*	Return to Sewer	Total Annual Volume	% of Customers based on Annual Volume
Domestic Supplies	36,870	136.9	95%	4,795,130	68%
Non-Householder (incoming main <=25mm)	2,685	301	95%	767,780	11%
Non-Householder (incoming main >25mm)	644	967.9	95%	592,160	9%
Non-Householder Consented Connection	63	2,754	95%	164,830	2%
				6,319,900	90%
Properties not Connected to Sewer					
Domestic Supplies	5,469	137	95%	711,270	10%
Non-Householder	40		95%	11,440	0%
				7,042,610	100%

76. However, there are a number of reasons why this estimate is likely to be inaccurate:

- The figures do not include an allowance for the volumes used by small businesses that are simply classified as householders by Jersey Water. Based on reported differences between Jersey Water’s database and the DfI’s more thorough analysis of alternative sources of information to identify these small business, around 2,500 domestic supplies could constitute some form of non-household use for liquid waste charges.
- A number of household business use large volumes of water from boreholes rather than from Jersey Water, so volumes returning to sewer could be higher. The reverse situation could also apply – agriculture businesses reuse the liquid waste arising from Jersey Water on their fields rather than returning it to sewer.
- Although a volumetric approach has been used for simplistic approaches, some businesses do produce very strong effluent which therefore creates a disproportionate burden of use on the treatment works. At the Scrutiny Panel hearing, the Minister for Infrastructure suggested that the effluent from Jersey Dairy was equivalent to an additional domestic population of 20,000.

Finding 11: Proportion of Costs Allocated to Non-household Use

The principles behind calculating the proportion of services used by the non-household sector are sound and have been developed in light of stakeholder engagement. However, owing to a variety of measurement/data availability challenges, the application of the principles is not transparent and estimates could be significantly incorrect. It is therefore difficult to assure that the proposed liquid waste charges are cost reflective.

3.4.2 Calculation of Relevant Costs to be Recovered

77. The first step is to ensure that all relevant cost are included. This was originally done in the SOC report of February 2016.

78. The SOC report outlines a comprehensive list of relevant functions and relevant costs, including major capital costs, costs of finance, operating expenditure, regulatory costs, transformation costs, bad debt costs, growth in customer numbers and future operational efficiencies. Furthermore, sensitivity analyses looking at impacts of further efficiencies and further major capital projects were also carried out. This is in line with models used in other water utility businesses.

79. To calculate cost recovery in industries with long asset lives, as is the case in the treatment of liquid waste, it is important to consider long-run costs to smooth out the inevitable “lumpiness” in cost profiles that can emerge when major asset replacements are required.

80. The SOC report acknowledges this issue and recommends the use of a discounted cash flow approach to calculate costs that need to be recovered, noting:

“[A] discounted cash flow approach (DCF) has been selected for the analysis. There are a number of reasons for this.

First, this appears to be more in line with DfI annual business plans and financial reports. This approach appears more consistent with the accounting conventions presented in the DfI accounts (being expenditure and cash based rather than the “cost” building blocks). Moreover, the charge calculations are largely independent of accounting policies (e.g. the rate at which assets are depreciated) and more directly reflect the profile of capital expenditures.

Second, this approach also aligns with the discounted cash flow valuation methods that States of Jersey Treasury use for the valuation of the Strategic Investments (e.g. JT Group Limited, Jersey New Waterworks Company Limited and Jersey Post International Limited).

Finally, the discounted cash flow approach aligns with the appraisal approaches presented in HM Treasury Green Book guidance.”

81. Using the comprehensive list of expenditures that it outlines, the SOC estimated that a cash flow of £15.5 million per annum would be required to fund liquid waste services, including the planned replacement of the STW. As noted in the preceding

section, the SOC report assumed that household charges would also be introduced, but capped at £200 per household per annum. This raises £8 million per annum.

82. To fund the balance of cash flow requirements for liquid waste services, i.e. £7.5m per annum or 48% of the costs (which was the assumption on cost reflectivity used in the SOC), it was calculated that the average non-household charge would need to be £1,735 per annum. As part of the sensitivity analysis, the potential capital costs of further upgrades at STW, to include ammonia and nitrate removal plants at a cost of c£31 million, were included in the DCF calculation. The SOC notes that this would raise the average cost of non-household bills by £395. The report noted that this would be a significant rise and recommended:

[...]it will be necessary to ensure that the delivery of the new Bellozanne STW is well managed to minimise capital expenditure overspend, that acceptance that the Nitrate issues in the bay are as a result of the final effluent from the STW should also be strongly resisted[...]

83. The costs analysis in the financial models lodged with the States in May 2017 are not prepared along the same lines as the DCF analysis used in the SOC. The data appears in the submission and is summarised in Table 3-3.

Table 3-3: Breakdown of Expenditure

	2017-2020	2021-2025	2026-2030	2031-2035	2036-2040	Total
	4 years	5 years	5 years	5 years	5 years	24 years
	£'000	£'000	£'000	£'000	£'000	£'000
Revenue Expenditure						
Drainage (including Drainage Infrastructure, Drainage Mechanised, Technical Records) (Note 1)	8,578	10,720	11,095	10,972	10,859	52,224
Sewage and Sludge Treatment including STW operations	9,054	11,005	11,005	11,005	11,005	53,074
Pumping Stations and Telemetry	7,740	9,585	9,225	9,225	9,225	45,000
Mechanical, Electrical and Site Services, Stores operations	1,730	1,985	1,985	1,985	1,985	9,670
DfI administration, finance, Health and Safety, corporate resources	4,200	5,250	5,250	5,250	5,250	25,200
Additional costs of collection, assessment and customer support (Note 2)	1,445	650	650	650	650	4,045
Revenue Total	32,747	39,195	39,210	39,087	38,974	189,213
Capital Expenditure						
New STW (Note 3)	49,732	11,650	4,885	3,123	12,475	81,865
Drainage Infrastructure (Note 4)	13,224	31,530	10,730	10,530	10,530	76,544
Network Extensions (Note 1)	-	-	12,600	21,000	21,000	54,600
Pumping Stations	3,440	3,630	3,430	3,630	3,630	17,760
Capital Expenditure Total	66,396	46,810	31,645	38,283	47,635	230,769
	Annual Average over the period					17,499

84. The headline differences in the May 2017 submission:

- A non-DCF approach has been used, with no reference to finance/debt cost. Consequently several 'lumpy' capital expenditures – including the capital costs of sewerage extensions that almost entirely benefit households only - are included. These might not reflect long-term costs;
- The annual cost of running the liquid service is £2m higher at £17,499 million;
- The proportion of costs ascribed to non-households is lower to 22% compared to 48%; and
- The estimated average cost to non-households is 14% higher at £1,980 compared to £1,735.

85. In the event of non-household users altering their environmental behaviour, the large proportion of capital costs in the overall costs creates a challenge to the future stability of charges. If a large user such as Jersey Dairy, with a load equivalent to 20,000 domestic users, managed its own treatment then operational cost would be reduced, but capital cost would still have to be recovered, only from a smaller charging base. So unit charges would have to increase.

Finding 12: Calculation of Relevant Costs to be Recovered

The original approach to the assessment of relevant costs in the February 2016 SOC appears comprehensive and soundly based. However, this approach has not been used in the financial model lodged with the States in May 2017.

Average charges to business are now assumed to be 14% higher than when original engagement and consultation took place, even though the proportion of costs to be recovered from non-household users has dropped from 48% to 22%.

The annual cost to be recovered has risen by £2m compared to models used in the SOC. The methodology to reach these new cost is not based on DCF and contains capital expenditures that may not reflect the long-run cost of running the liquid waste service for non-household customers.

If liquid waste charges introduce significant changes in waste handling behaviour in a small number of large users, and cost recovery from the sector remains a goal, then there could be volatility in future liquid waste charges.

The divergence in financial modelling approach from assumptions used in the SOC compared with the modelling lodged with the States does not appear to have been addressed in a communication and engagement process with stakeholders.

There is a risk that the amount of costs recovered are either significantly below or above the actual relevant amount of costs. If charges induce significant behavioural changes from a small number of large users, then there could be volatility in future liquid waste charges for other users. Over-recovery would run contrary to States Assembly guidance on the application of user charges.

3.5 Billing

86. The DfI submission to the States in May 2017 outlines the approach to calculating bills. Bills will include a standing element to cover various fixed costs associated with managing a customer (billing processes themselves, metering and customer handling) and a variable element be calculated on the basis of volumes. These are both commonly used approaches elsewhere in the world, and the rates (particularly the £2.27 per cubic metre charge) have been clearly signalled.

87. With regard to calculating the variable volumetric element, the following approach is put forward:

- For non-households supplied and metered by Jersey Water, the volume used will be 95% of the water supplied by Jersey Water. This is a commonly used assumption across water companies in England and Wales;
- For unmetered premises, and non-household customers who believe there could be a significant departure from the volumes implied by Jersey Water metered figures, an assessment will be made by the DfI;
- These are special cases that could require an individual agreement to ensure affordable and realistic charges are implemented. This will to a few large

industrial customers that create large volumes of liquid waste with variable pollution loads, e.g. the dairy, brewery. This will be via an application of the Mogden formula;

- As at June 2017, the factors to be used in the formula for Jersey’s liquid waste had not been agreed. Assuming it is based around median of values used by companies in England and Wales, the annual bill for the largest customer could be of the order of £200,000 (see Appendix A.1.0); and
- For mixed use premises – i.e. those with household and non-household uses – an adjustment will be made according to the number of domestic dwellers at the residence, made in accordance with allowance factors for domestic use that has been agreed with Jersey Water (As outlined in Section 3.3.2.1).

Finding 13: Billing

The approaches to calculating bills for the majority of 3,350 metered non-household entities will be relatively easy to apply. However, for a small number of entities on an unmetered water supply the calculations might not be so straightforward.

The Mogden formula approach has not yet been agreed. This affects only one or two customers, but for the largest customer, this could be around £200,000 and so represents a significant uncertainty affecting future cash flows of this business

3.5.1 Timeline to Prepare First Bills

88. Bills for liquid waste are expected to apply for services used from 1 March 2018. A procurement process is underway to determine who will win the contract to prepare the liquid waste bills.

89. Preparing bills requires accurate information about the customers and their charges. Experience from Jersey Water in their billing process suggests that, upon receipt of accurate bill requirement information, it would take a lead time of seven to nine months to implement the process of issuing first bills.

90. Jersey Water also noted that aligning the timing of liquid waste bills with water bills would be good practice so that customers could connect volumes of usage in the same time period on one billing cycle.

Finding 14: Timing of Bills

For a significant number of customers, primarily small businesses, there is a significant risk that billing data will not be made available in time for the proposed launch of bills in 2018. There is a risk that some customers will feel that they are unfairly treated if a large group of other customers are not billed.

3.6 Appeals

91. A small number of non-household entities are understood to rely on an unmetered water supply. In such situations, customers would seek an individual negotiated agreement outside of the standard Trade Effluent or General Sewerage charges

regime. Non-household entities will be subject to an assessed calculation, undertaken by Dfl Assessment Officers.

92. Alongside this process, Dfl is also proposing the introduction of an appeals system for this assessed process. It is understood that if a customer wishes to appeal the charge levied, they should advise the Dfl customer services department in writing.
93. It is particularly unclear at this stage on what grounds an appeal may be made. The report detailing the introduction of the charge states that unmetered customers may request a review of their assessed charge once a year (provided sufficient data is provided). Unmetered customers may have irregular usage patterns and therefore it is key that the charge accurately reflects their usage. It is not clear whether the appeals process would allow more than one assessment per year; though this would appear a reasonable process.
94. As the appeals system has not yet been designed it is not possible to assess whether the processes and procedures are adequate.

4.0 Potential Impact of the Proposed Charges

95. As explored in Section 2.0 the introduction of the charge has a number of stated aims. These include the aim to:

- Incentivise non-householders to manage their waste more effectively;
- Drive more efficient use of services by providing incentives to reduce waste and hence reduce the overall service costs;
- Rectify the gross unfairness at the heart of the current funding regime;
- Be more transparent and justifiable to householders and non-householders that public funds are being used fairly and appropriately;
- Ensure that wastes are treated and disposed of safely over the longer-term; and
- Generate additional revenue to alleviate the pressure on household taxation for reinvestment.

4.1 Economic Impact

96. One of the key aims of the charge is to incentivise non-householders to manage their waste more effectively. For the vast majority of non-householders, this could be undertaken by reducing the consumption of water, and thus the volume of liquid wastes.

97. The scope, and consequences of such action, is particularly unclear. As stated in the public hearing, no assessment has been made of the impact of reduced consumption on the revenue received by the charge. Furthermore the Distributional Analysis gives very little information on the potential impact on non-householder entities, it states:

“Some businesses may be able to offset some of the costs by being more efficient in their use of water, although it is unlikely that all businesses will be able to totally offset the costs of the charge”

98. In order for non-householders to adapt to the charge, there will often be a need for at least three conditions to be present:

- **Understanding** of the charging mechanism.
- **Adequate scale** of the charge; and
- **Timing** of the mechanism.

99. A common understanding of the charging mechanism is not believed to be wildly present amongst the non-householder community. Whilst the potential scale of charge for most business types has been presented and communicated by the DfI, understanding of how the charge is due to be calculated has not been made clear. This is particularly apparent for a small number of non-standard customers where the costs might be significant.

100. The scale of the charge is comparable to other parts of the UK. Unfortunately no clear assessment has not been made within the distribution analysis on the whether any impact would be associated with the charge at its current rate, and how sensitive some entities would be to a variations on the rates proposed.
101. Interviews conducted with interested parties suggested that there was some scope to reduce water consumption; yet it was acknowledge that the scope for this reduction will vary from business to business. Some of the considerations that might impact behaviour change include:
- (Other) demands for capital;
 - Availability of technological solutions; and
 - The competitiveness of the market by which the business operates and its ability to pass on the costs directly.
102. The final condition is the timing of the mechanism. Interviewees stressed that not enough time has been given in order for them to adapt to the charge. Whilst this report has been developed, it has been proposed that only 50% of the proposed charge would be levied in 2018 and it would not be until 2019 that the full charge would be introduced. This provides further time for non-householder entities to adapt to the charge and does allow rational decisions to be made. However, it still might not be sufficient for those entities which must consider large investment decisions. In such cases a longer lead in time might be required as raising capital to invest in infrastructure and technology to offset the charge.

Finding 15: Economic Impact of the Charges

It is particularly unclear as to whether the charge will incentivise non-household entities to manage their waste more effectively. There appears to have been no baseline assessment of water use within Jersey, and no proper assessment of what the charge might achieve. Given that some businesses in Jersey are likely to be particularly sensitive to price increases, it is recommended that a more thorough assessment of the impact of the charge is considered.

4.1 Environmental Impact

103. Direct environmental impacts of liquid waste arise in three main ways:
- a) Raw or partially treated sewage can enter the environment, usually through one of two routes:
 - Spills of untreated sewage which occur when there are capacity issues, blockages or pumping asset failures in the sewerage network; and
 - Deliberate releases of sewage direct to the environment, rather than being properly treated or conveyed to a treatment works.
 - b) Treated sewage entering the environment. Even after sewage is treated, a polluting load remains. The load can be reduced with more efficient and effective

treatment works. In terms of releases to the coastal environment, the most significant pollutants are:

- Inorganic nitrogen (nitrates and ammonia which lead to excessive growths of algae and harmful types of plankton);
- Microbes (which put human health at risk in bathing and shellfish waters); and
- Organic materials that lead to oxygen depletion when subsequently digested by natural microbes in receiving waters (which can lead to anoxic zones and unpleasant odours).

c) Carbon footprint arising from operation of liquid waste treatment services

- Energy usage from pumping operations and treatment options (particularly UV plant which is used to kill off microbes prior to discharge)

104. Liquid waste volumes also reflects an indirect, upstream environmental impact. The volumes of liquid waste produced are linked closely to the amount of water resources consumed, so reductions in waste water discharges can reflect reductions in demand for raw water.

4.1.1 Environmental Impacts of Introducing Charges

105. The DfI asserts that liquid waste charges will be environmentally positive, as they will allow continued investment in replacement and maintenance to the infrastructure required to provide liquid waste services.

106. Experience from privatisation of water companies England and Wales, shows that increases in charges can fund massive investment programmes (£120 billion since 1989) which has driven major environmental improvements. These programmes have given customers benefits in terms of increased quality of life, better water services and economic benefits from increased tourism associated with compliant Bathing Waters.

107. The investment programme that underpins the financial model for liquid waste charges includes expenditures that will improve environmental performance of the liquid waste services infrastructure. The Department of the Environment suggests that several improvements of the current discharge are expected. These include:

- A more stable effluent quality given the balanced inlet flow from the First Tower inlet works (the use of variable speed pumps);
- Less storming events due to the larger treatment capacity (inflow volume) of the replacement plant and the two storm/storage tanks;
- Significant reduction in ammonia content of discharge due to increased treatment efficiency and different processes;
- Less shock loading from road tanker deliveries due to the storage and trickle feeding in of effluent; and
- Enhanced UV kill and lower bacterial count due to less turbidity and a new UV plant.

Finding 16: Environmental Impact of the Charges

If charges are the only way that capital investment in Jersey's sewage infrastructure can be achieved, then it would be valid to connect charges to positive environmental outcomes.

4.1.2 Potential Positive Environmental Behaviour Change

108. Since charges are based predominantly on a volumetric basis, and connected to the amount of Jersey Water used, models of economically rational behaviour would predict that non-households reduce their water use (and hence their costs) where the net effect on wellbeing was positive.
109. The DfI cites several WRAP studies showing how investment in water efficient devices by hotels and hospitals was driven by an incentive to reduce water bills.
110. However, billing for water use in Jersey has been widespread for many years, so the stimulus to reduce water consumption has been present for all that time. This position is noted in a core assumption used for the options appraisal analysed in the SOC:
- “For the liquid waste function, it has been assumed that the introduction of liquid waste charging will have little impact on the volume of sewage produced, collected, treated and disposed of, as water is already charged for and therefore any water saving behaviours would already be prevalent.”*
111. Most evidence (from the UK at least) suggests that the biggest effect on reducing water use (10-15% reduction on average) comes from the introduction of water meters. However, near universal metering has been in place in Jersey since around 2015. The volume of water supplied by Jersey Water in 2015 was 7,294 ML (86% on meters), roughly the same as it was in 2009 (35% on meters) and 2005 (24% on meters). In the period from 2005 to 2016, Jersey Water's unit price for water increased by approximately 30%.
112. This flat profile could still mask an overall reduction in the per capita usage, as the population in Jersey has increased in this period. But the population changes have not been very large, so changes in water efficiency will likely have been marginal.
113. The WRAP case studies confirm that reducing water use can be economically beneficial (and environmentally positive), but it requires policy support, a concerted investment programme and may take years to achieve.
114. The DfI has promised to offer further free advice on approaches to being water efficient, and Jersey Water has done so for several years. There are no plans to offer grants to support capital investment to make water efficient possible. This is in line with the position in England and Wales where there is lots of free advice, but limited financial support. Some water companies' offer limited device support for

households, schools and community based organisations, but not to the private companies.

Finding 17: Environmental Impact of the Charges

Charges and charge increases for Jersey Water have not led to significant reductions in water use. There is no strong evidence to suggest that liquid waste charging will act as a stimulus to reduce water consumption and liquid waste production. Efforts to achieve water efficiency take time and investment.

4.1.3 Potential Negative Consequences of Charging

115. As noted in the section on the impacts of liquid waste, one of the environmental impacts of liquid waste arises from deliberate releases of untreated or partially treated liquid waste. This is akin to fly-tipping of solid waste.
116. Research has suggested that solid waste charges can increase fly-tipping. There is no readily available research to monitor whether illegal releases of liquid waste increase after the introduction of charging. If this change in behaviour did occur, then a rise in pollution incidents would be expected.
117. The introduction of Liquid waste charges may encourage avoidance of charges, with companies opting for more on-site treatment of liquid waste or resisting connection to the mains sewerage network. This could have negative consequences. Monitoring by the Environment Agency in England and Wales suggested that small treatment facilities gave rise to a disproportionate number of pollution incidents, as installed plant was often undersized and poorly maintained. The following explains the rationale behind a change to regulation of small sewage treatment works that the Environment Agency consulted on in 2014⁴⁰:
- Environment Agency records show 21,588 substantiated pollution incidents since 2002 where the source was identified as domestic / residential. Of these, 6,698 incidents involved “sewage materials” as the primary pollutant. Of these, 1,441 incidents listed “septic tank or sewage treatment works” as the cause. “Overflowing septic tank”, “soakway blocked”, “septic tank discharge direct to watercourse”, “poor maintenance” and “pump or motor failure” were identified as the most usual causes of those incidents.*
118. There is no evidence of this issue having been considered in the liquid waste charge proposals.

⁴⁰ Environment Agency 2014, *Consultation on reform of the regulatory system to control small sewage discharges from septic tanks and small sewage treatment plants in England*
https://consult.defra.gov.uk/water/reform-regulatory-system-small-sewage-discharges/supporting_documents/SSD%20Reform%20Consultation.pdf

Finding 18: Environmental Impact of the Charges

There is a risk that liquid waste charging promotes behaviours and decisions that increase the likelihood of pollution incidents.

4.2 Potential Ways of Using Charges to Incentivise Environmental Behaviours

119. The biggest pollution problem facing Jersey's coastal waters is Nitrogen. Since Nitrogen arises from the addition of substances to clean water prior to being discharged as a liquid waste, reducing the amount of clean water consumed will not reduce the polluting load of nitrogen.
120. In order for charges to incentivise nitrogen reduction, the charging mechanism would either have to link to nitrogen strength or some form of charging rebate/offset could be offered for actions that reduce nitrogen loads.
121. The Mogden formula (see Appendix A.2.0) offers an incentive to reduce the strength of liquid waste, but so far this charging methodology is only likely to apply to maybe one or two business.
122. A more widespread option would be to offer incentives of charge reduction, in return for promotion (by the charge payer) of environmentally friendly behaviour elsewhere in the catchment. A form of this approach is being used by Wessex Water to reduce Nitrogen inputs to Poole Harbour, which is a nutrient sensitive area affected by excessive algal growth.
123. They faced the possibility of a £10 million investment (with a significant increase in running costs) to upgrade Dorchester Sewage Treatment Works. Instead, they developed a trading mechanism to let farmers bid for payments to change their land use and reduce nitrogen inputs. Their brokerage platform enables them to run a reverse auction to get the most cost effective price. In its initial trial, the trading solution achieved the nitrogen reductions that would have been achieved from the Sewage Treatment Works upgrades, but for 25% less than the predicted increase in operational expenditure and with no capital expenditure.
124. Charge reduction incentives are offered by all water companies in England and Wales in relation to surface water drainage charges. In areas where water companies are trying to reduce the amount of surface water entering foul sewers, the portion of charge relating to surface water reduction can be avoided by bill payers. Charge payers achieve this by disconnecting surface drains from combined sewers. In effect it creates a market for finding the most cost effective solution to increasing drainage capacity, leading to avoidance of the need to invest massively in sewerage network upgrades.
125. In a reply to a scrutiny panel query, the Department of the Environment implied that it had had no involvement in designing and using charging mechanisms to achieve environmental improvements. When asked whether it would be supportive

of some form of trading/charge offsetting solution to achieve environmental improvements more cost effectively it was very supportive:

“Would you be amenable to brokering options where non household charge payers offset the impact of their effluent by negotiating positive changes in land management in catchments such that environmental quality was improved in return for lower liquid waste charges?”

The answer is ‘yes’ and it is something that we would consider pending the correct monitoring and brokerage administration systems being able to be established.

As background, two previous source apportionment studies (1997 & 2007) have been undertaken. These both showed a 50/50 split between total nitrogen exiting the works and that flowing into the bay via outfalls (discharge from streams).”

Finding 19: Novel Ways to Achieve Impact

There are a range of novel ways of using charges to incentivise environmental improvements. Dfl do not appear to have consulted on these options with stakeholders, or explored them with the Department of the Environment. Mechanisms to use charges in combination with brokerage of better land management in catchments is an option that the Department of the Environment would consider. This offers scope for cost effective improvements to Jersey’s water environment.

5.0 Key Findings and Recommendations

126. This assessment has identified a number of key findings. These, along with recommendations, can be summarised as follows.

5.1 Key Findings

Finding 1: Rationale for Introducing User-pays

The rationale for introducing user-pays charges is, on the whole, well supported and consistent with experience in other jurisdictions. There is scope to achieve user-based cost recovery in a number of ways, so the exclusion of domestic customers from waste charges, while not widespread, is not inconsistent with approaches adopted in other countries. The arguments that the charges are largely to fund general income shortfalls, rather than being ring-fenced to improve the services that are being charged for, weakens the argument that charging will ensure transparent and justifiable use of public resources.

Finding 2: Significance of Budget Constraints

The rationale for the immediate introduction of the charges to address either acute financial issues or to finance the essential replacement of the liquid waste infrastructure is not clearly made within the information presented by the DfI.

Finding 3: Alternative Approaches to Ensuring that the User-Pays

Other mechanisms to gather user contributions to the cost of liquid waste services could be developed, though there are likely to be a range of advantages and disadvantages when compared to the user-pays charges. These have not been considered on the grounds that an in-principle decision to use charges has been taken. The option to use taxation as a complement to user-based charging has not been consulted upon.

Finding 4: Consultation Methods

It is our view that inadequate consultation has taken place since the decision was taken to exclude householders from waste charges. This can perhaps be mitigated by a belief that the agreement in principal associated with the introduction of charges did not necessitate consultation.

However, the end result is that the type and extent of consultation is not consistent with normal practice. The spirit of the Consultation Code of Practice appears to have been breached. The impact of these should not be understated; without stakeholder support, or acceptance of the charge, there is a real danger that its effectiveness might be compromised.

Finding 5: Charging Principles

Jersey's waste charging principles, when combined with the objectives of the SOC, are similar to those used in the UK and Ireland. Good practice from the UK and Ireland suggests that a formal document combining all the principles is consulted on and then

adopted before progressing to design of a charging scheme. This has not occurred in Jersey.

Where significant changes in charging occur, good practice also suggests that a principle is needed to recognise the importance of a transitional period and the need to support parts of society which may struggle to afford new charges. Jersey has accepted this principle for solid waste charges, but the timescale for liquid waste charges is on a more rapid schedule.

Finding 6: Eligibility

It is our view that the definition provided in the report is not adequate for identifying legal entities that might be classified as a non-householder.

This, could cause a number of unintended impacts:

- a) Entities may be unclear as to whether the charges apply to them. This could cause some anxiety and may prevent or delay some entities from optimising their position under the charging regime (e.g. by reducing water consumption).
- b) Entities might wish to take advantage of the ambiguity associated with the definition and seek to avoid or reduce their exposure to the charge by claiming not to be one of the types of entities listed.
- c) Entities which have multiple types of activities that may be captured only in part by the definition may be confused. This could cause some anxiety and may prevent or delay some entities from optimising their position under the charging regime (e.g. by reducing water consumption).

Finding 7: Exemptions

Whilst the use of exemptions might be logical and valid, the method by which they have been announced risks losing entities confidence in their utilisation. If they are not perceived to be transparent then the overall fairness of the charge might be questioned by some entities.

Finding 8: Data from Jersey Water on Non-Householders

Dfl will need to establish (if not already) a close working relationship with Jersey Water to ensure that the charge is robust. This is likely to involve administrative effort from both the Dfl and Jersey Water and should be properly accounted for.

Finding 9: Data on Non-Householders

It seems crucial to understand how many entities might be subject to the charge. Without a robust understanding, the fairness of the charge might be questioned.

Finding 10: Allowance Applicable to Non-household Entities

The apportionment of the liquid waste usage by the non-household entities operating in households is likely to be difficult to validate and will require significant good-will and cooperation from bill payers.

Finding 11: Proportion of Costs Allocated to Non-household Use

The principles behind calculating the proportion of services used by the non-household sector are sound and have been developed in light of stakeholder engagement. However, owing to a variety of measurement/data availability challenges, the application of the principles is not transparent and estimates could be significantly incorrect. It is therefore difficult to assure that the proposed liquid waste charges are cost reflective.

Finding 12: Calculation of Relevant Costs to be Recovered

The original approach to the assessment of relevant costs in the February 2016 SOC appears comprehensive and soundly based. However, this approach has not been used in the financial model lodged with the States in May 2017.

Average charges to business are now assumed to be 14% higher than when original engagement and consultation took place, even though the proportion of costs to be recovered from non-household entities has dropped from 48% to 22%.

The annual cost to be recovered has risen by £2m compared to models used in the SOC. The methodology to reach these new cost is not based on DCF and contains capital expenditures that may not reflect the long-run cost of running the liquid waste service for non-household entities.

If liquid waste charges introduce significant changes in waste handling behaviour in a small number of large users, and cost recovery from the sector remains a goal, then there could be volatility in future liquid waste charges.

The divergence in financial modelling approach from assumptions used in the SOC compared with the modelling lodged with the States does not appear to have been addressed in a communication and engagement process with stakeholders.

There is a risk that the amount of costs recovered are either significantly below or above the actual relevant amount of costs. If charges induce significant behavioural changes from a small number of large users, then there could be volatility in future liquid waste charges for other users. Over-recovery would run contrary to States Assembly guidance on the application of user charges.

Finding 13: Billing

The approaches to calculating bills for the majority of 3,350 metered non-household entities will be relatively easy to apply. However, for a small number of entities on an unmetered water supply the calculations might not be so straightforward.

The Mogden formula approach has not yet been agreed. This affects only one or two customers, but for the largest customer, this could be around £200,000 and so represents a significant uncertainty affecting future cash flows of this business.

Finding 14: Timing of Bills

For a significant number of customers, primarily small businesses, there is a significant risk that billing data will not be made available in time for the proposed launch of bills in 2018. There is a risk that some customers will feel that they are unfairly treated if a large group of other customers are not billed.

Finding 15: Economic Impact of the Charges

It is particularly unclear as to whether the charge will incentivise non-household entities to manage their waste more effectively. There appears to have been no baseline assessment of water use within Jersey, and no proper assessment of what the charge might achieve. Given that some businesses in Jersey are likely to be particularly sensitive to price increases, it is recommended that a more thorough assessment of the impact of the charge is considered.

Finding 16: Environmental Impact of the Charges

If charges are the only way that capital investment in Jersey's sewage infrastructure can be achieved, then it would be valid to connect charges to positive environmental outcomes.

Finding 17: Environmental Impact of the Charges

Charges and charge increases for Jersey Water have not led to significant reductions in water use. There is no strong evidence to suggest that liquid waste charging will act as a stimulus to reduce water consumption and liquid waste production. Efforts to achieve water efficiency take time and investment.

Finding 18: Environmental Impact of the Charges

There is a risk that liquid waste charging promotes behaviours and decisions that increase the likelihood of pollution incidents.

Finding 19: Novel Ways to Achieve Impact

There are a range of novel ways of using charges to incentivise environmental improvements. DfI do not appear to have consulted on these options with stakeholders, or explored them with the Department of the Environment. Mechanisms to use charges in combination with brokering of better land management in catchments is an option that the Department of the Environment would consider. This offers scope for cost effective improvements to Jersey's water environment.

5.2 Recommendations

127. This report has highlighted a number of issues associated with the introduction of liquid waste charges for non-householders.
128. Our overall view is that the original case and approach for applying liquid waste charges made in the SOC is sound. However, it appears that the decision to remove households from charging, made in September 2016, has caused a series of rapid redesigns to retain budgets within the MTFP. These mean that the resulting charge proposals have departed from many of the principles that were originally agreed with stakeholders.
129. As many steps associated with the implementation of the charge has started to take place, it is questionable as to how much can be changed. It is our view that the implementation of the charge should be paused to address the following recommendations.

Recommendation 1: Revisit the Timing of Liquid Waste Charges

The financial case for the rapid introduction of liquid waste charges has not been clearly made. In relation to all of our findings, there are a range of administrative and modelling issues that should be resolved, together with exploration of a range of options for improving the design and roll-out of charges. A delay would allow time for the recommendations outlined below to take place and allow time for businesses to adapt to the introduction of the charge and ultimately, help improve the environment. This approach will improve transparency, trust and effectiveness of charging in the longer-term.

Recommendation 2: Consider Alternative Approaches to Ensure that the User-Pays and the Environment Improves

Linked to Finding 3 and Finding 19, Dfl might consider the implementation of a wider range of charging schemes that can deliver similar outcomes to the one proposed. It is recommended that this range of schemes should include more innovative approaches to managing liquid wastes on the island that deliver improved environmental outcomes.

Recommendation 3: Consultation

Based on Findings 4 and 5, it is recommended that a genuine consultation on the introduction of charges is undertaken by Dfl. It is suggested that an open public consultation is undertaken to enable the collection of views from all interested stakeholders. The consultation should include discussion of the charging principles alongside various options on how the charge might be deployed. The consultation should be supported by suitable outreach events.

Recommendation 4: Eligibility

Linking to Findings 6 and 7, a clearer definition of the non-household entities due to pay the charge should be provided. Existing law is already provided in Jersey to this effect. For example, Part 1 (2) of the Charities (Jersey) Law 2014 provides a definition of entities. This could be adopted/adapted for the purposes of the charging scheme.

It is also recommended that, like the definition of non-householders, exemptions are codified in law and the basis for their selection be made publically available. This should include outlining a set of principles that the exemptions align themselves with. These should be consulted upon prior to their finalisation.

Recommendation 5: Non-household Costs

Based on Findings 11 and 12, it is recommended that the calculation of non-household costs are revisited to ensure that they are calculated in a transparent basis that is in alignment with best practice. This is considered to be a fundamental basis for the charging scheme.

Recommendation 6: Assessment of Impact

Finally, based on Findings 15-18, it is recommended that an Impact Assessment is conducted so that the potential impact of the charging scheme can be properly assessed.

This should be provided alongside any consultation so that the impacts of various options can be considered together.

APPENDICES

A.1.0 Evidence Reviewed

As part of the assessment the following evidence has been reviewed:

Background Literature

- Department for Infrastructure (2017) Liquid Waste Non-householder charging Report - Appendix 1, May 2017
- Environment Agency 2014, *Consultation on reform of the regulatory system to control small sewage discharges from septic tanks and small sewage treatment plants in England*
- ICS and SLR Consulting (2016) 16/19 Transformation Programme: Waste, Strategic Outline Case, February 2016
- ICS and SLR Consulting (2016) 16/19 Transformation Programme: Waste, Strategic Outline Case - Appendix 1 Stakeholder Engagement, February 2016
- ICS and SLR Consulting (2016) 16/19 Transformation Programme: Waste, Strategic Outline Case- Appendix 2 Evidence and Literature Review, February 2016
- ICS and SLR Consulting (2016) 16/19 Transformation Programme: Waste, Strategic Outline Case - Appendix 3 Financial Model, February 2016
- ICS and SLR Consulting (2016) 16/19 Transformation Programme: Waste, Strategic Outline Case - Appendix 4 LW and SW Expenditure Requirements, February 2016
- ICS and SLR Consulting (2016) 16/19 Transformation Programme: Waste, Strategic Outline Case - Appendix 5 Option Appraisal, February 2016
- States of Jersey Consultation Code of Practice
- States of Jersey Drainage (Jersey) Law 2005, L.3/2005
- States of Jersey Medium Term Financial Plans,
- States of Jersey DRAFT MEDIUM TERM FINANCIAL PLAN ADDITION FOR 2017 – 2019 (P.68/2016) – FIFTH AMENDMENT (P.68/2016 Amd.(5)) – AMENDMENT, P.68 Amd.(5)Amd.

Public Hearing

- States of Jersey (2017) Environment, Housing and Infrastructure Scrutiny Panel Waste Charges Review

Submissions to the Panel

- The Jersey Chamber of Commerce
- Jersey Hospitality Association
- Jersey Farmers Union
- Jersey Royal Company
- Visit Jersey

Press Releases

- Department for Infrastructure (2017) Non-householder user-pays liquid waste charges to be phased in, June 2017

Interviews and Correspondence:

- The Jersey Chamber of Commerce;
- Department of the Environment;
- Department for Infrastructure;
- Jersey Dairy;
- Jersey Royal Company; and
- Jersey Water;
- The Jersey Chamber of Commerce.

A.2.0 Illustration of Potential Liquid Waste Charge for Jersey Dairy, based on the Mogden Formula

The Mogden formula is used by water and sewerage companies in the UK to calculate charges to certain businesses in order to recover a relevant proportion of the water companies' costs. These are the costs that they incur to collect, treat and dispose of effluent discharged to their sewers. It is only applied to those businesses whose discharges are classified as trade effluent.

In the UK, trade effluent can include discharges from a range of businesses, including dairies, breweries, laundrettes, vehicle washers and leisure centres.

Since the cost depends on the volume and strength of the discharged effluent, the Mogden formula takes account of these factors to calculate the size of the charge. In its simplest form, the formula calculates the unit cost per cubic metre of effluent as follows:

Unit Charge = [R + V + (Ot/Os x B) + (St/Ss x S)] per cubic metre

Where:

R is a fixed charge per cubic metre for reception and conveyance costs

V is a fixed charge per cubic metre for preliminary/primary treatment (for example, primary settlement) costs

Ot is the average biological strength of the effluent (usual measured as Chemical Oxygen Demand, COD)

Os is the biological strength of the average foul sewage received at the company's works

B is the biological treatment cost per cubic metre of average strength settled sewage

St is the total suspended solids of the trade effluent

Ss is the total suspended solids of average foul sewage

S is the unit cost per cubic metre for sludge treatment and disposal

Based on interviews with Dfl officials at the sewage treatment works, and with Jersey Dairy officers, it is possible to assess current values of the strength and volume of the Dairy effluent.

Dfl analyses of Jersey Dairy's effluent strength suggest that COD levels are around 15 times higher than average sewage (ie Ot/Os = 15) and suspended solids levels are 5 times higher (ie St/Ss = 5). Because a large proportion of the Dairy's water is taken from private boreholes rather than metered supply from Jersey Water, the volume of effluent discharged is difficult to confirm exactly. Jersey dairy suggested that an estimate of around 30,000 cubic metres of effluent per year was reasonable.

By applying these data against Mogden formula values used by water companies that reflect high, low and median charges in England, it is possible to estimate a range of

values that Jersey Dairy could face for its liquid waste charges. The results are shown in the table below.

Table A1 Indicative range of annual liquid waste charges faced by Jersey Dairy, if charged on Mogden formula values used in three English Water companies

Water company	Mogden formula values (2016-17)				Indicative charge to Jersey Dairy
	R	V	B	S	
Southern Water	0.5981	0.5009	0.569	0.3892	£347,400 (high estimate)
United Utilities	0.3388	0.229	0.1418	0.1758	£107,214 (low estimate)
Wessex Water	0.7082	0.2899	0.4165	0.1926	£246,258 (median estimate)

12. APPENDIX 2 – LONDON ECONOMIC’S REPORT

Distributional analysis of the liquid waste charge in Jersey: A comment

Siôn Jones

June 2017

1 Introduction

I have been asked by the Environment, Housing and Infrastructure Scrutiny Panel (**'the Panel'**) of the States of Jersey to provide a critical independent analysis of the 'Distributional analysis of the liquid waste charge' (**'the Distributional Analysis'**) produced by the Economics Unit of the Chief Minister's Department.

In addition to the Department's distributional analysis, I have also seen responses to the Panel's consultation on their review of user pays charges for non-household waste; and I have seen the 'Liquid Waste Non-householder charging Report' (**'the Charging Report'**) that is appended to the 'Draft Drainage (Jersey) Law 2005 (Appointed Day) Act 201-'.¹

There has also been an e-mail exchange of questions and answers with the Department for Infrastructure (**'the Dfi'**) and with the Economic Unit.

The rest of this report is structured as follows:

- Section 2 reviews general issues around undertaking a distributional analysis;
- Section 3 covers the direct impacts on non-household organisations in Jersey;
- Section 4 covers the consequential impacts on households and tourists;
- Section 5 covers the consequential impacts on the overall Jersey economy; and
- Section 6 provides conclusions.

¹ Lodged au Greffe on 18th May 2017 by the Council of Ministers.

Available at: [http://www.statesassembly.gov.je/AssemblyPropositions/2017/P.38-2017\(re-issue\).pdf](http://www.statesassembly.gov.je/AssemblyPropositions/2017/P.38-2017(re-issue).pdf)

2 Distributional analysis

2.1 What is distributional analysis?

A distributional analysis is an assessment of the way in which a policy measure has impacted - or is expected to impact - on different groups in society.

The main purpose of the distributional analysis is to help the policy-maker understand who will benefit and/or who will pay the cost of a policy change. The analysis complements the assessment of aggregate costs and benefits. Unlike a cost-benefit assessment the distributional analysis does not give a clear steer on the desirability of proceeding with the policy. The cost-benefit analysis can suggest that the aggregate benefits are likely to exceed the aggregate costs and so this is a reason for implementing the policy, whereas the distributional analysis leaves much more to the policy-maker's discretion – they need to determine how fair or otherwise they think any particular distribution of impacts is, based on the evidence provided by the distributional analysis.

In many countries, public expenditure proposals or proposals for new regulations are accompanied by an impact assessment. A distributional analysis in that context would show how the impacts (costs and benefits) fall on different groups. Where a distributional analysis is linked to new or amended taxes or charges, the analysis usually focusses on who will be paying the taxes/charges.

The dimensions across which 'groups in society' are defined can vary considerably and can include, for example:

- Different levels of household income;
- Age;
- Gender;
- Ethnic group;
- Geographic location; and
- Disability.²

For many distributional analyses, the focus is very much on the impact on households grouped by their level of household income. The wider use of equality impact assessments is likely to mean that the distributional impacts across the other groups listed above becomes more widespread.

The most commonly seen distributional analyses in the UK are the analyses undertaken of Budget measures. These generally focus on the combined impact of budget measures (e.g. taxes and benefits) that impact on households directly and show the impacts on households at different income levels and households of different types e.g. numbers of people in the household, with and without children, pensioners etc.

The impact of policy measures on non-households is often assessed as part of an impact assessment (assessment of costs and benefits) rather than being described as part of a document called a distributional analysis, even where impacts on different types of non-households are taken into

² These examples are from HM Treasury's 'Green Book' guidance on economic appraisal.

account. As long as the impacts on different types of non-households is assessed, it does not matter whether or not they are described as being part of a distributional analysis.

Separate distributional analyses of the liquid waste charge and the solid waste charge in Jersey are being produced. This is useful as it has the potential to provide a detailed indication of the impacts of these individual measures and allows the possibility of understanding how changes in the design of the measures might lead to changes in the distributional impact of the measures.

The Panel should consider if a wider understanding of the combined distributional impact of a package of measures is useful for their purposes. That package of measures could potentially be:

- the solid and liquid waste charges combined – since the solid and liquid waste charges have been presented together as a package; or
- the full package of measures proposed in the MTFP - since the revenue raising objective of the liquid and solid waste charges is linked to other changes in the MTFP .

2.2 The baseline

Assessing the impact of a policy measure involves comparing two scenarios – one where the policy measure is implemented and one where it is not implemented. The impact of the measure is the difference between the two scenarios. Impact assessments sometimes focus very much on the scenario where the policy measure is implemented and say little about the alternative scenario which is being used as the baseline against which to assess the impact of the measure.³

When a new charge - such as the liquid waste charge - is introduced it is often instinctive to think of the situation immediately before the introduction of the charge as the baseline against which the impact of the charge should be compared. If this situation was likely to have continued in the absence of the charge, then it is an appropriate baseline to use.

In some cases, however, an alternative baseline may be more appropriate. The Charging Report implies that the main objective for the liquid waste charge is to raise revenue to offset budget cuts for the Dfl as part of the Medium Term Financial Plan (MTFP) Addition for 2017-19. Funds released by the Dfl budget cuts are intended to be spent on 'priority areas' as part of an overall package of measures agreed by the States.

In this case, as noted in the Distributional Analysis, an appropriate baseline is likely to be one that involves achieving the same funding objective in some other way. This is likely to be raising the same amount of revenue in another way, such as through tax increases, or through reducing expenditure in some way. The distributional impacts of the liquid waste charge need to be considered in this context – how different are they to the distributional implications of raising the same revenue through increases in tax, for example?

2.3 Potential impact of the liquid waste charge

The liquid waste charge is a charge that will be paid by non-household organisations ('non-households') for the transport and treatment of their liquid waste.

³ This baseline is also sometimes known as the 'counterfactual'.

The impact of the new charge across the economy depends on how non-households respond to the new charge. The general charge is linked to the volume of water used by the non-households, which means that in order to reduce their liquid waste bill (as well as their water bill) non-households could seek to reduce their water use.

Whether or not they are able to reduce their water use, non-households will still face some additional costs as a result of the new charge. Depending on the nature of their business and the competitiveness of the markets they are operating in non-households might seek to pass on the additional costs to their customers through price increases or through reduced service or product quality; or they might seek to absorb the costs by finding operating cost savings elsewhere in the business, by investing less or by reducing profits.

The pathways through which the impact of the liquid waste charge will feed through into the rest of the economy are very difficult to predict in advance. In general, the more competitive the market they are operating in the more likely that non-households will be unable to increase prices (or reduce quality) and that they will have to find a way to absorb the costs. At the extreme - if the charge is high enough - the charge, in combination with other factors, might be enough to put some organisations out of business.

The Distributional Analysis correctly recognises that there will be an initial impact on the non-households paying the charge and that this is likely to feed through to households and other areas of the economy depending on how non-households react to the charge.

3 Impact on non-households

3.1.1 What is in the Distributional Analysis

I would expect the Distributional Analysis to provide some assessment of how the charge might impact on:⁴

- non-households in different sectors (e.g. hotels, restaurants, dairy, offices etc.);
- non-households of different sizes (e.g. size bands by turnover and/or by number of employees); and
- on different types of non-households (e.g. public, private, charity etc.).

There is very little of any of this type of assessment provided in the Distributional Analysis. There is a statement that:

“DfI estimate that volume-based payments are expected to range from £50 to £50,000 with an average of around £1,980 per year per non-household. Small businesses are expected to pay significantly less at around £100 to £400 per year.”⁵

⁴ As noted above, this analysis does not necessarily need to be in a document described as a distributional analysis, in many cases the assessment of the impact on non-households would be part of the main impact assessment and any accompanying distribution analysis would focus on the distribution of the impact across households.

⁵ Page 11 of the Distributional Analysis.

The Distributional Analysis also provides estimates of the liquid waste bills for 14 “typical establishments” from various sectors of the economy.⁶ These are based on anonymised examples of Jersey Water non-household customers, with the proposed liquid waste charges being applied to estimated liquid waste volumes based on their actual volumes of water use.⁷

There is no further explanation of the derivation of these estimates in the Distributional Analysis. A response from the Dfl to a follow-up question indicates that the range of £50 to £50,000 was based on “*real water usage figures across some 2,700 commercials identified by Dfl*”. When asked for a definition of “small businesses” in the phrase from the Distributional Analysis quoted above the Dfl did not provide any indication of a definition, stating that:

“Dfl have not sought to define or re-define ‘small businesses’. The term was used simply to provide a basic understanding of whether, for example, HSBC Head Office is being compared to a corner shop.”

Presumably they used some method to estimate the £100 - £400 figures. That method will give an indication of what the implicit definition of small business is here.

For organisations operating on multiple sites, It would also be useful for clarification to be provided on whether the ranges provided (e.g. £50 to £50,000) relate to the bills for the whole organisation or to bills for each individual site.

3.1.2 Potential further analysis

According to the Charging Report, Jersey Water has 3,392 non-household customers.⁸ Dfl say that they have identified water use volumes for 2,700 ‘commercials’ – which is around 80% of the 3,392 figure.

This data could have been used as the basis for a detailed analysis of the distributional impact on non-households by sector, if the water volume data were combined with data on the sector in which each customer operates. This would have made it easy to present a picture of the potential range of liquid waste bills in each sector.

For distributional analyses in other sectors and jurisdictions I would not necessarily expect the operating sector for each individual customer to be always known. I would however expect this to be known for at least larger customers. Information about customers is important for operational reasons – in order to forecast demand and provide good customer service, for example. In this case, data on bill size by sector does appear to be available as Figure 9 of the Distributional Analysis shows the incidence of the charge by sector.

The analysis could have been improved further if the data available also included information on which type of liquid waste charge each organisation would be paying (e.g. general charges, below and above 25mm; and trade effluent). Presumably Jersey Water know which organisation is paying which type of charge, so this information should be readily available. An analysis showing at least

⁶ Figure 7 of the Distributional Analysis.

⁷ The 95% factor is used for the conversion from water volumes to liquid waste volumes.

⁸ Table 6.3.1 on page 21 (2,685 + 644 + 63 = 3,392).

the range of bill sizes across the different charge types may have been useful, e.g. the range of bill sizes for each of the following categories:

- non-households with an incoming main \leq 25mm (2,685 customers);
- non-households with an incoming main $>$ 25mm (644 customers);
- non-households with a consented connection (63 customers).^{9, 10}

Consideration of the full range of potential charges, including trade effluent charges, could also have provided a more accurate picture of the aggregate range of charges than the £50 to £50,000 range quoted above. I note from the Scrutiny Panel hearing on 15th June 2017¹¹ that the Minister for Infrastructure said that one or two businesses (paying trade effluent charges) could pay considerably more than £50,000.

If the DfI's dataset also included information about organisation size (e.g. turnover and/or number of employees) and type of organisation (e.g. private company, public sector etc) then an indication of the distribution of bills across these characteristics would also have been possible.

I do not know exactly which information has actually been collected by DfI/Jersey Water, but a copy of this anonymised dataset has been requested from the DfI. If any of the additional information referenced above has been collected alongside the water volume data, it would be straightforward to provide a more useful analysis of bill impacts on non-households.

3.1.3 Other information relevant to distributional impacts

Some additional information relevant to the bill impact by organisation type is available from the Charging Report, though not included in the Distributional Analysis. The Charging Report indicates that the likely liquid waste bill for non-household elements of States of Jersey Departments will be approximately £600,000 (of which £250,000 relates to DfI facilities).¹²

3.1.4 Using illustrative examples

As noted above the Distributional Analysis does include 14 examples of liquid waste bills likely to be faced by a range of non-household customer types, based on water volume data from actual Jersey Water customers.

This approach of using illustrative examples of bill impacts is a commonly used approach in the analysis of distributional impacts, because it is anticipated that stakeholders are able to relate to these types of examples. They are frequently used, for example, in the distributional analysis of the impacts of tax changes on households.¹³ They have also been used in the UK water sector to show

⁹ My understanding is that these are the non-households that pay trade effluent charges.

¹⁰ Data on customer numbers are from the Charging Report, Table 6.3.1 on page 21. The numbers of customers in Figure 6 of the Distributional Analysis appear to be rounded versions of these data.

¹¹ Environment, Housing and Infrastructure Scrutiny Panel: Waste Charges Review, Thursday, 15th June 2017, transcript, page 49.

¹² I assume that these figures are for the annual liquid waste bill.

¹³ For example, see the last two slides of this IFS analysis of the distributional impacts of the UK Budget, using examples of the impact on different types of household by number and type of occupant.

the impact of price changes on bills for non-household customers.¹⁴ In both these examples it can be seen that information about the characteristics of each example are provided.

The Distributional Analysis provides very little supporting information about their examples – for example: ‘dairy farm’, ‘medium size guest house’, ‘large size hotel’, ‘country public house’. This makes it difficult for stakeholders to understand how relevant the examples are to their interests.

Whilst individual organisations should be able to estimate their own charges, using water volume data and the scheme of planned charges, they may need to be assisted with this. It is clear from consultation responses that there are a number of organisations in specific situations – where the standard charges may not apply - that need additional assistance in understanding what their liquid waste bill is likely to be.¹⁵ In addition, others with an interest in the broader impacts of the charge, such as the Panel, need to see more analysis of the impact on non-households.

I suggest that the examples provided would be more helpful if they included a little more information giving an indication of the size of the business in a way that is relevant to water usage, such as the volume of water used, number of rooms for hotels, number of covers for restaurants etc.¹⁶

4 Impact on households and tourists

4.1 Impact on households

A large part of the Distributional Analysis focusses on consideration of the way increases in liquid waste charges for non-households might be passed on to households through increased prices or might be absorbed through achieving cost efficiencies in other areas, reducing profitability etc.

As noted above, it is difficult to anticipate what the ultimate impacts on households will be because they depend so much on how businesses respond to the charge. The Distributional Analysis provides a discussion of the main possible outcomes, notes the uncertainties and provides some data to illustrate or support the points that it makes.

In general, assessments of the impacts of policy measures directed at non-households, like a charge paid by non-households in this case, often do not give any, or very little, consideration to the potential consequential impacts on households. In that context, the approach here is a reasonable one.

¹⁴ For example, United Utilities provide some illustrative non-household bill impacts from a price increase. They provide information about volumes and meter size for each example. See pages 22 and 43 at: [http://corporate.unitedutilities.com/documents/B8 - Customer Bills Tariffs.pdf](http://corporate.unitedutilities.com/documents/B8_-_Customer_Bills_Tariffs.pdf)

¹⁵ For example, agricultural businesses that use a mix of borehole and mains water and who may be using liquid waste for irrigation purposes as well as discharging to the mains sewer, with large fluctuations in volume of liquid waste discharged to the sewer over the course of the year.

¹⁶ The volume of water used can be calculated from the liquid waste bill that is provided, but it would be more useful and transparent for stakeholders if the water volume (and/or implied liquid waste volume) were provided explicitly.

The discussion focusses very much on the way impacts might be distributed across income bands.¹⁷ As noted above, this is a common approach in distributional analysis. It would be helpful if some consideration were given to the potential for different impacts across other dimensions such as gender, age etc. even if only to note that large differences across these other dimensions are unlikely.

When thinking about the impact of the charge on households, it is important to consider the baseline scenario. The Distributional Analysis recognises this and describes the main alternatives. One of the alternatives relates to raising tax revenue and the Distributional Analysis refers to the possibility of raising revenue through income tax in a progressive way or through GST in a regressive way. It is worth noting that these are taxes paid directly by householders and so are very different to the liquid waste charge. In addition, the liquid waste charge seeks to raise revenue sufficient to cover the costs of dealing with the liquid waste produced by non-households specifically, so it would seem very odd to seek to recover this cost through taxes paid mainly by households/individuals.¹⁸

4.2 Impact on tourists

The Distributional Analysis does not make any direct reference to the impact of the liquid waste charge on tourists or tourism, though there is reference to some of the services that tourists use, like hotels, restaurants etc. The Charging Report, makes a couple of brief references to tourists, e.g. in section 3.1 it says that tourists are being subsidised by Jersey tax payers under the current system.

In response to a question about the impact on tourists, the Economic Unit said:

“The analysis in the paper is focusing on the distributional impact on Jersey residents rather than the impact on tourists or the tourism sector. Looking at the tourism sector impacts would require analysis looking more at the economic impacts which was not within scope of the report. That said, how the tourism sector or businesses that provide goods/services to tourists respond to the charge will determine how the charge feeds through and the nature of some of the distributional impacts. The tourism sector is an example of a sector referred to in the report where businesses export large shares of their output and may be less able to pass the costs on through increased prices as their competitors may not be subject to the same change in their costs. The analysis looks at the sector impacts by SIC code (of which tourism is not one) and some businesses in these sectors may provide goods/services to tourists but also supply local demand e.g. certain restaurants/bars/shops and at certain times of the year. This could mean businesses try to pass on any costs to the segment of the market where other businesses are affected in the same way i.e. the local market. Of course some of the charge some could clearly be passed on to tourists (especially given the relatively small scale) but we would need to think about their demand response and that of the businesses impacted which as we cover in the report could mean that employment costs/margins have to adjust as a result. Without more information on how businesses might respond we did not want to make an explicit assumption that there was ‘free money’ from the charges impact on tourists. Whether the full charge is borne directly and indirectly by islanders or a proportion is borne by tourists does not alter the main ways it could feed through or the distributional implications for islanders.”

Responses from the tourism sector to the Panel’s consultation suggest that the sector is a highly competitive one and that higher costs would impact on the Jersey tourism sector’s competitiveness.

¹⁷ It uses the terms ‘progressive’ and ‘regressive’ to discuss the extent to which charges are likely to impact more or less on people in different income bands.

¹⁸ Income tax in Jersey is also paid by sole traders and partnerships.

There is a suggestion that the charge would both lead to higher prices and a need to cut costs, potentially causing employment losses and some tourism businesses to close down.

It is difficult to judge the nature of the potential impacts without much more detailed and lengthy analysis of the sector, its cost structures and the nature of demand. Will tourists come to Jersey anyway in the face of the size of price increase that might happen as a consequence of the liquid waste charge, will they spend less once they are in Jersey? The liquid waste charge will undoubtedly raise costs in the sector and those will either need to be absorbed in some way or passed on to customers/tourists where that is possible. Other considerations are that many businesses in other competing tourist destinations will already be paying liquid waste charges (and corporate taxes); and if the revenue to cover non-household liquid waste costs is to be raised from elsewhere in the Jersey economy that may seem less fair than the proposed charge.

5 Impact on the Jersey economy

The revenue raised by the liquid waste charge is expected to be £3.85m, which the Distributional Analysis notes is about 0.1% of GVA and about 0.2% of total wages/salaries across the Jersey economy.

The costs of dealing with liquid waste for non-households are already met from within the Jersey economy. This means that the main question is whether a shift in responsibility for meeting the costs from the States to non-households will have any significant impact on the Jersey economy as a whole. Some issues include:

- The small size of revenues from the charge compared to the Jersey economy suggests that there will not be a significant overall impact.
- The shift to a user charge could encourage more efficient use of water and so lead to improvements in competitiveness, though the expectations of efficiency gains appear low so this effect is unlikely to be large.
- Depending on how inflation indices in Jersey are compiled, it is possible that the shift of liquid waste charge costs from the States to non-households could lead to a one off increase in measured inflation. Again, the small size of expected revenue from the charge relative to the Jersey economy means that any such effect is likely to be small.

The above points relate to impacts on the aggregate Jersey economy. As discussed in the Distributional Analysis and earlier in this note, it is likely that there will be bigger impacts on some individual sectors of the Jersey economy, and bigger impacts again on some individual organisations.

It is possible that in those sectors most affected by the liquid waste charge (e.g. those that have high water use relative to turnover, low profitability and are highly competitive) then there might be some loss of employment as businesses try and cut other costs or perhaps cease to trade altogether. The hospitality industry have indicated that these are possibilities in their sector and the Distributional Analysis also suggests that the liquid waste charge as a percentage of GVA and per employee in this sector is relatively high. It could be argued that the increased public expenditure that the revenue from the charge will enable will lead to increases in employment elsewhere in the economy, e.g. in the health sector. Even if this is the case, those losing employment in the hospitality sector will not necessarily be the same people who are gaining employment in the health sector (for example).

6 Conclusions

The main conclusions are:

- 1) Having separate distributional analyses of the liquid waste charge and the solid waste charge is useful, but the Panel should also consider whether an analysis showing the combined impact of a relevant package of measures would be useful. A relevant package of measures might be the solid and liquid waste charges together, or the whole package of measures included in the MTFP.
- 2) It is important to be clear about the baseline against which impacts are being compared. It may be instinctive to think of the situation immediately before the introduction of the charge as the baseline against which the impact of the charge should be compared. A more relevant baseline may be that the same amount of revenue is raised through other taxes/charges or that expenditure is reduced by that amount. In order to assess the distributional impacts of the liquid waste charge, the thought experiment might then be – what would be the impacts of raising the revenue through the charge compared to raising it through a tax?
- 3) The Distributional Analysis recognises that there will be an initial impact on the non-households paying the charge and that this is likely to feed through to households and other areas of the economy depending on how non-households react to the charge. The pathways through which the impact of the liquid waste charge will feed through into the rest of the economy are very difficult to predict.
- 4) There is only a very limited analysis of the direct impact of the charge on non-households. The Distributional Analysis provides some limited examples of potential impacts on individual businesses, but does not paint a fuller picture of the potential impacts across sectors and potentially across different sizes and types of businesses.
- 5) Whilst individual organisations should be able to estimate their own charges, using water volume data and the scheme of planned charges, they may need to be assisted with this. It is clear from consultation responses that there are a number of organisations in specific situations – where the standard charges may not apply - that need additional assistance in understanding what their liquid waste bill is likely to be. In addition, others with an interest in the broader impacts of the charge, such as the Panel, need to see more analysis of the impact on non-households.
- 6) It appears that there may be sufficient data available to provide a more detailed analysis that shows the potential range of charges in each sector. It would also be useful to see how the charges vary by size and type of non-household.
- 7) The use of illustrative examples to show bill impacts is commonly used in distributional analysis, however the examples provided would be more helpful if they included a little more information, giving an indication of the size of the business in a way that is relevant to water usage.
- 8) Assessments of the impacts of policy measures directed at non-households, like a charge paid by non-households in this case, often do not give any, or very little, consideration to the potential consequential impacts on households. In that context, the approach to assessing impacts on households in the Distributional Analysis is a reasonable one.
- 9) The discussion of impacts on households focusses very much on the way impacts might be distributed across income bands, which is a common approach in distributional analysis. It would be helpful if some consideration were given to the potential for different impacts

across other dimensions such as gender, age etc. even if only to note that large differences across these other dimensions are unlikely.

- 10) The Distributional Analysis does not make any direct reference to the impact of the liquid waste charge on tourists or tourism, though there is reference to some of the services that tourists use, like hotels, restaurants etc. The Economic Unit have provided some thoughts on potential impacts in response to an e-mailed question. It is difficult to judge the nature of the potential impacts without much more detailed and lengthy analysis of the sector, its cost structures and the nature of demand.
- 11) The liquid waste charge will raise costs in the tourism sector and those will either need to be absorbed in some way or passed on to customers/tourists where that is possible. Other considerations are that many businesses in other competing tourist destinations will already be paying liquid waste charges (and corporate taxes); and if the revenue to cover non-household liquid waste costs is to be raised from elsewhere in the Jersey economy that may seem less fair than the proposed charge, as well as losing the desirable incentive effects of a user charge.
- 12) The revenue raised by the liquid waste charge is expected to be very small compared to the size of the Jersey economy. In addition, the costs of dealing with liquid waste for non-households are already met from within the Jersey economy, so any impact on the overall economy would be a result of the shift in responsibility for paying the costs of dealing with non-household liquid waste. Although aggregate impacts are likely to be very small, there may be bigger impacts for some sectors and individual organisations.
- 13) Overall:
 - the structure of the Distributional Analysis is reasonable;
 - more detailed information and analysis needs to be provided about the direct impact of the liquid waste charge on non-households;
 - there is potential for much more detailed analysis of the impact of the charge on households and tourists but given the uncertainties inherent in this type of analysis, the additional returns from this are unlikely to justify the additional costs;
 - there is potential for more detailed analysis of the impact of the charge on the aggregate Jersey economy - though this would not really be expected as part of a distributional analysis. Given that the overall impact is likely to be small, this may not be warranted, except insofar as additional analysis of the impacts at the sector level contribute to the wider picture for the overall economy.