

STATES OF JERSEY



CHANGES TO THE OBJECTS AND PURPOSE OF THE ANN ALICE RAYNER FUND

Lodged au Greffe on 28th September 2021
by the Minister for Treasury and Resources
Earliest date for debate: 2nd November 2021

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

to amend the Act of the States dated 27th March 2001 concerning the Ann Alice Rayner Fund –

- (i) by deleting the words “or philanthropic” where they occur in Paragraph (a)(2);
- (ii) by substituting the words “the Minister for Treasury and Resources” for the words “the States” where they occur in Paragraph (a)(2);
- (iii) by substituting the following paragraphs for Paragraphs (b)(1) to (b)(4) –

“(1) The income of the Fund shall be administered by four individuals or by the board of no fewer than four individuals of a single independent corporate administrator appointed by or removed by the Minister on the recommendation of the Trustee on such terms and conditions as the Minister considers appropriate

(2) The Income Administrator(s) may, at its (their) absolute discretion from time to time, make grants, or loans to be secured on immovable property, on such terms and subject to such conditions as it (they) determines, out of the returns of the Fund for the relief of needy persons residing in Jersey.

(3) The Minister for Treasury and Resources may from time to time propose to the States other objects and purposes of a charitable nature to be approved by the States for inclusion in the objects and purposes of the Fund.”;

and re-numbering the remaining Paragraphs accordingly; and

- (iv) by substituting the words “the Minister for Treasury and Resources” for the words “the Finance and Economics Committee” throughout Paragraph (b) and its sub-paragraphs.

MINISTER FOR TREASURY AND RESOURCES

REPORT

On or about 27th March 2001, the States adopted a proposition of the Finance and Economics Committee which–

- (a) agreed that the objects and purpose of the Ann Alice Rayner Fund (hereinafter referred to as “the Fund”) should be –
 - (1) the provision of pecuniary relief to needy persons residing in Jersey; and
 - (2) such other objects or purposes of a charitable or philanthropic nature as the States¹ might hereafter in their absolute discretion determine;
- (b) agreed that the Fund should be administered as follows –
 - (1) The income of the Fund shall be administered by four Jurats appointed from among their number by the Jurats of the Royal Court as may be necessary from time to time to form the Ann Alice Rayner Fund Delegation (hereinafter referred to as “the Delegation”).
 - (2) Two members of the Delegation shall form a quorum at a meeting.
 - (3) The Delegation may, at its absolute discretion from time to time, make grants, or loans to be secured on immovable property, on such terms and subject to such conditions as the Delegation may determine, out of the income of the Fund for the relief of needy persons residing in Jersey.
 - (4) The Delegation may from time to time propose to the States other objects and purposes of a charitable or philanthropic nature to be approved by the States for inclusion in the objects and purposes of the Fund.
 - (5) The Finance and Economics Committee may make such changes in the investments of the Fund as it considers necessary or expedient and, without prejudice to the generality of the foregoing, may, after consultation with Delegation, invest in immovable property situate in or outside the Island whether such property produces income or not. Any expenses incurred in making or changing investments as aforesaid shall be defrayed out of the Fund.
 - (6) Title to any immovable property acquired under paragraph (5) of this Act shall be vested in the States of Jersey for and on behalf of the Fund and the Finance and Economics Committee may authorise the Greffier of the States to pass any contract or to execute any deed required in connection with the acquisition or subsequent disposal of any such property.
 - (7) The Finance Economics Committee may, after consultation with the Delegation, at its sole discretion, approve the leasing to any person it considers suitable, for such period and on such terms as it thinks fit of any immovable property acquired as aforesaid and may authorise the Greffier of the States to sign any agreement or pass any contract in connection with any such lease.

¹ This can be changed to the Trustee if desired.

Any expenses incurred in executing any such lease shall be defrayed out of the Fund.

- (8) The Delegation shall at least once in every year present to the Finance and Economics Committee an account of its dealings with the Fund, but it shall not be necessary to disclose in such account the name of any individual to whom a grant or loan has been made.
 - (9) The funds to be administered shall not include the specific legacies bequeathed to the States of Jersey by the will of the testatrix for the benefit of pupils of Victoria College; and
- (c) rescinded their Acts dated 16th November 1949 and 11th September 1979, concerning the administration of the Fund.

Background to the proposals

By letter dated 12 November 2020, the Bailiff of the Royal Court notified the Treasurer of the States that it was “the unanimous conclusion of the Jurats that it was no longer appropriate for the Jurats to fill the role of income administrators” for the Greville Bathe and AA Rayner funds. The Bailiff explained that the environment under which the Jurats had been originally involved had changed with the advent of many new laws and the Trust fund itself had changed over the years.

Dated 3 February 2021, the Bailiff of Jersey gave notice that Jurat Thomas is due to retire in October 2021. In addition, that the remaining Jurats wished to stand down from their roles as income administrators of both the Greville Bathe Fund and the Ann Alice Rayner Fund. He explained that they have found that the role of a modern-day income administrator is becoming increasingly specialised and technical. Due to their other commitments as Jurats, they no longer have the time to carry out their duties as income administrators in the manner they consider appropriate.

Accordingly, it is imperative that a new administrator or new income administrators be appointed, and the option to appoint Jurats is not available as it was previously.

The Treasurer, as Trustee, acknowledged and agreed with the Bailiff’s comments that the nature of the funds and resource needed to undertake the role had changed over time. In the Treasurer’s view, a structural reform of the income administrator role would benefit the durability and suitability of future appointments.

(The standards expected of administrators acting in a fiduciary capacity and trustees in the United Kingdom and Jersey are higher than previously. Specialist knowledge and experience is now essential to carry out the functions of an income administrator. It is also important to have the assistance of an experienced support team and appropriate software infrastructure).

The Treasurer concluded that a pragmatic and expedient solution in the time available would be to utilise the Jersey Community Foundation’s (“JCF”) platform that has been successfully established for the distribution of the Jersey Lottery proceeds and Jersey Reclaim funds. By using an existing platform with familiar processes as a base, the Treasurer is able to implement a model of a single corporate income administrator in a short period of time.

The Treasurer has briefed the Charitable Funds Oversight Board (CFOB) and the Jersey Charity Commissioner (JCC) during the development of his proposals and has adapted his proposals in reflection of comments received.

Consequently, the intention is to appoint the JCF for an 18-month pilot period. In the course of this appointment, the JCF and Treasurer, as Trustee, shall work with the JCC to refine the model and ensure that the operation of the fund meets the “public benefit” test (necessary for *any* Registered Charity to be able to perform the income administration role on an ongoing basis (this is also the reason for the removal of the words “or philanthropic”, point (i) above)).

(The appointment of the JCF as a Registered Charity to be income administrator is time limited and can only be extended thereafter if the JCC is satisfied the public benefit test is satisfied).

At the same time, the Trustee shall explore the model of an Office of a Public Trustee (“OPT”), which is a broader and compatible model, whereby the Trusteeship of various Gift Funds would transfer to an independent body. In the view of the CFOB, it is important that this review is not delayed further. The CFOB have sought and obtained the Trustee’s commitment to use the pilot period to explore how an OPT model may work and be applied to benefit of the wider set of Government of Jersey controlled gift funds, of which Greville Bathe and AA Rayner are part.

By the end of the pilot period, the Trustee will draw together the views of the JCC and CFOB, consider the OPT findings and any alternative arrangements that may be available before making a permanent appointment.

The Trustee advertised these proposed changes in the Jersey Evening News, Jersey Gazette and on the Government of Jersey website in July. He also wrote to individuals currently in receipt of on-going awards, recent applicant sponsors and organisations who have applied for awards in order, similarly, to give notice and invite comment. Other key partners such as the Citizens Advice Bureau have also been contacted. The feedback did not include objections, but the Trustee was asked how independence would be secured and whether at the end of the pilot the income administrator role would be tendered.

The Trustee is very mindful of the need to safeguard the independence of the income administrators in the discharge of their responsibilities. In the past, independence was achieved by appointment of Jurats, nominated by the Royal Court. This is no longer an option, however it remains relevant to the appointment of income administrators that the jointly- administered Greville Bathe deed still explicitly requires “non-political” appointments.

As expressed above, the involvement of the JCF to develop the pilot was expedient and pragmatic in the limited time available. This is a time limited initial appointment and when it expires all options for the next appointment will be considered.

Although a body corporate, the JCF is independent from the States and has the requisite experience of making awards from gift funds. Decisions on awards will be made solely by the Board of JCF, assisted by JCF’s professional support team. The JCF is a registered charity and benefits from the oversight of the JCC. The contractual arrangement with the JCF will define areas of mutual responsibility and appropriate

methods of communication, further securing independence. The appointment of the JCF will not be remunerated but its reasonable costs will be deducted according to a pre-agreed budget for the duration of the pilot. The longer-term costs of the different available reform options will be considered over the course of the pilot period.

The Trustee retains a fiduciary responsibility for the oversight of the fund, hence it is appropriate to introduce a mechanism that enables the Trustee, through the Minister for Treasury and Resources, to instigate terminations should such a change be required.

At the date of drafting of this proposition, the Treasurer is also lodging a representation with the Royal Court to seek authority to vary the terms of the Greville Bathe Trust, and to confer upon the Treasurer, as Trustee, a power to appoint income administrator(s) in respect of the Greville Bathe Trust and a corresponding power to terminate appointments. It is the Treasurer's intention to similarly appoint the JCF as income administrator of the Greville Bathe Trust on a pilot basis.

In summary, although the proposals are designed to meet the immediate need to make new income administrator appointments, they also mark a step towards the aims of securing:

- Improved and simplified access to the public
- Achievement of best practice fiduciary standards
- Demonstrable arms-length independence
- Ensuring the efficient and effective use of gift assets and Treasury resources

This Proposition seeks to mirror for the Ann Alice Rayner Fund the governance arrangements of the Greville Bathe Fund in order to ensure the governance of both Funds remains aligned.

Financial and manpower implications

There are no financial or manpower implications for the States arising from this proposition. Costs for the pilot administrators will be recharged to the Funds concerned.

Re-issue Note

This projet has been re-issued due to a publication error that omitted sections of the proposition. These parts were agreed for lodging with the Bailiff, and have subsequently been included in this re-issue.
