

STATES OF JERSEY



GOVERNMENT PLAN 2021–2024 (P.130/2020): NINETEENTH AMENDMENT (P.130/2020 AMD.(19)) - COMMENTS

Presented to the States on 14th December 2020
by the Council of Ministers

STATES GREFFE

COMMENTS

The Council of Ministers opposes this proposal and asks States members to reject the Amendment.

Conclusions

Introduction

The Council of Ministers recognises the passion and interest that Deputy Higgins has in respect to the matters that form the focus of this amendment. The Council also acknowledges that further co-ordinated work could be undertaken in respect of some of the issues highlighted. Nevertheless, it is regretted that the Council is of the view that the Deputy's intentions are, as drafted, mis-directed and Ministers therefore can't accept the amendment as proposed.

COCF

This £200,000 of funding for the States of Jersey Police firearms range has been sought from the Criminal Offences Confiscation Fund (COCF). The bid has been scrutinised by Treasury Officials and agreed by the Attorney General, as per the standard process for allocating monies from the Fund.

Statute requires that monies from the COCF are to be used "in preventing, suppressing or otherwise dealing with criminal conduct, dealing with the consequences of criminal conduct or facilitating the enforcement of any enactment dealing with criminal conduct."

It should be noted, conversely, that the above process has not been undertaken in respect of this amendment, and the Attorney General has not been consulted on the amendment. It is therefore questionable as to whether the proposal of Deputy Higgins to utilise the £200,000 in this manner is consistent with the requirements as to how COCF money can be used.

Furthermore, it should be kept in mind that the COCF can only ever deliver an irregular flow of funds. The proposal(s) of Deputy Higgins, if they are to be implemented in a meaningful and enduring way, would require recurring revenue funding.

Operational need

This £200,000 of funding towards the firearms range will support the delivery of a key on-Island training facility for the States of Jersey Police. The proposed re-allocation of funds will therefore create an additional operational challenge for our police force and local officers.

Institute of Law

Ministers are of the view that allocating this money solely to the Institute of Law, as proposed, is not appropriate. The Institute is an academic organisation – "The centre for legal learning in Jersey" – and its principal objective is "to advance learning and knowledge by teaching and research". The Institute alone is unlikely to have the structures and procedures in place to provide the services that are proposed. That said,

the Institute is likely to have a relevant role to play working with other organisations as part of a rounded approach to these challenges. It is this approach which is proposed as an alternative to adopting this amendment.

Legal representation

The Deputy raises concerns regarding the affordability of legal representation in Jersey. As Members will be aware, the Legal Aid Scheme (by way of example) includes a clear financial eligibility criteria, with an appeals mechanism in place for those who believe they are wrongly denied legal aid or are otherwise still in need of receiving legal aid.

It is unfortunately not clear how the access to the legal services which would be offered by the Institute of Law under this amendment would be controlled, and if there would be any similar criteria to that which is in place for Legal Aid. A proper, co-ordinated framework is required to ensure that funds allocated for the purposes outlined in the amendment can be used as effectively as possible.

A revised legal aid scheme, developed by the Legal Aid Guidelines Advisory Committee under the Access to Justice (Jersey) Law 2019, will be proposed, consulted upon and laid before the States during 2021. This is one means by which representations around the affordability of legal services in Jersey can be made. To this end, the Chief Minister would be willing and open to particular engagement with Deputy Higgins during 2021 as the steps to introduce a revised legal aid scheme are implemented.

Litigants in person

The Council recognises that there may be more that can be done to assist individuals who are (or choose to be) litigants in person. Bodies including the Legal Aid Office (to which this Assembly has committed additional funding in the previous Government Plan) and Citizens Advice Jersey, as well as the Institute of Law, would be suitably placed to undertake this service.

As Minister for Justice, the Chief Minister considers that the constitution of the Legal Aid Guidelines Advisory Committee makes it well placed to give thoughtful and rounded consideration as to how greater support can be provided for litigants in person, and to those individuals who for other reasons find it difficult to secure affordable legal representation. Alongside the process to introduce a revised Legal Aid Scheme, the Chief Minister will ask the Committee to consider these matters and revert with recommendations, including around any required funding, in the first half of 2021. If future recurring public funds are required, these will form part of the Government Plan for 2022.

The Committee will need to engage broadly and beyond the confines of its existing membership as it considers these issues. Accordingly, and although this does not form a formal part of the Government Plan itself, money will be made available from the central reserve, if it is required, to support the Legal Aid Guidelines Advisory Committee to undertake any such engagement or further research around how the issues raised in the amendment can best be addressed and by whom.

Duration of funding

It should be kept in mind, as referenced above, that this amendment proposes funding for one year only. If the Assembly is to act in a manner which meets the spirit of what the Deputy is intending, it would require long-term funding, most likely to other institutions in addition to the Institute of Law and for more clearly defined purposes.

Conclusion

Whilst Ministers therefore ask that the Assembly opposes the amendment, there are key strands of work that the Chief Minister commits to take forward in 2021, and on which he will seek to engage with Deputy Higgins in recognition of the intention of this amendment and his long-term interest in the subjects raised. This will result in proposals that deliver an enhanced service to those who require pro-bono legal advice and are acting as litigants in person. These will be brought forward as part of the next Government Plan.