



## Corporate Services Scrutiny Subpanel

### Public Finance Law Review

## Witness: The Minister for Treasury and Resources

Tuesday, 14th May 2019

**Panel:**

Senator K.L. Moore (Chairman)

Senator S.C. Ferguson

Connétable R. Vibert of St. Peter

**Witnesses:**

Deputy S.J. Pinel, The Minister for Treasury and Resources

Mr. R. Bell, Treasurer of the States

Mr. M. Thomas, Director, Risk and Audit

Mr. K. Hemmings, Head of Financial Governance

Ms. M. Washington, Specialist, Financial Governance

[17:01]

**Senator K.L. Moore (Chairman):**

Welcome and thank you for agreeing to the slight time change. I hope this has fitted into everyone's busy diaries. We will start with introductions, if we could. I am Senator Kristina Moore, I am the chairman of the subpanel, this is.

**Senator S.C. Ferguson:**

Senator Sarah Ferguson, a member of the panel.

**Connétable R. Vibert of St. Peter:**

Constable Vibert, a member of the panel.

**Senator K.L. Moore:**

Shall we pass a microphone down the table? You might need to turn it on.

**Specialist, Financial Governance:**

Maria Washington, specialist at the financial governance section of the Treasury.

**Treasurer of the States:**

Richard Bell, Treasurer.

**The Minister for Treasury and Resources:**

Deputy Susie Pinel, Minister for Treasury and Resources.

**Head of Financial Governance:**

Kevin Hemmings, head of financial governance in Treasury and Exchequer.

**Director, Risk and Audit:**

Mike Thomas, director of risk and audit.

**Senator K.L. Moore:**

Excellent, thank you all. The Public Finance Law is being implemented partway through a review of the finance function within the States. Was consideration given to allowing that change of the public finance function prior to bringing forward any new law?

**The Minister for Treasury and Resources:**

I think the new law, as such, is (a) because the old one was 2005, as everybody will be aware, and not fit for purpose anymore. But also, as we have seen, the restrictions from the M.T.F.P. (Medium Term Financial Plan) with a 4-year fixed expenditure programme is not working. So that was the main reason ... capital allocations as well, but the main reason was to have a programme for 4 years but then with the financial side of it on a rolling annual plan.

**Senator K.L. Moore:**

Given that governance and accountability is a core part of the Public Finances Law, would it be more sensible to allow the new financial governance structure of the States to settle down prior to agreeing this law as an Assembly?

**The Minister for Treasury and Resources:**

I think the law is fundamental to the Government Plan rather than it coming in afterwards. We need it to operate that rolling financial programme. It needs to be changed.

**Head of Financial Governance:**

I think if I could step in, the 2 do go hand in hand, so the now director of finance transformation was a member of the steering group, which developed the law and has been working on the public finances manual. So the structure complements the law itself, so the creation of the new risk, audit and governance function means that we can successfully implement and embed the new law. So the 2 have not been done in isolation. There has been involvement all the way through that process, right from the beginning of the external review.

**Senator K.L. Moore:**

Obviously, in another review we are looking at that structure of our organisation and it is certainly our understanding that that structure is not fully cemented in yet, as it were, so it is interesting to hear that perspective.

**Treasurer of the States:**

I think our comments are largely related to the financial transformation. This is a Public Finances Law, as much as the target operating model, obviously driven by good financial management. But the Public Finances Law and the transformation and financial management, as Kevin says, come hand in hand, driven by ... obviously an A.G. (Auditor General) is in the past, driven by the chief executive's review, which looked back at what the C. and A.G. (Comptroller and Auditor General) has said and driven by the piece of work we did on financial maturity. So the early part of this transformation has identified where we need to get to. This Public Finances Law is part of getting there rather than something you would do afterwards. I would probably say that if you did not change the law the existing legislation would get it somewhere in the way. It is part and parcel. This Public Finance Law is part of our financial transformation not something you add at the end.

**Senator K.L. Moore:**

Perfect. That is very helpful, thank you.

**The Connétable of St. Peter:**

Under Article 13(2), that is under "Amendments to lodge Government Plan". This requires Members to consult with you on any amendments to the Government Plan and there are some Members who consider that this is perhaps a little undemocratic. Would you consider amending or withdrawing that part of the law.

**The Minister for Treasury and Resources:**

To me, that has already been motioned and we would absolutely consider amending it.

**The Connétable of St. Peter:**

Excellent. So I do not have to ask you the second part of the question.

**Senator K.L. Moore:**

You might give a little more information to the amendment that you are planning.

**Head of Financial Governance:**

So I think the principle of what was proposed is perfectly sound. So there is new requirement on the Council of Ministers to have regard to long-term sustainability of finance and to say how they have taken that into account. It seems odd to allow amendments to be brought that did not have the same rigour behind them. But having listened to the debate the first time around and the comments from Members at the briefing, I think the Minister and Treasurer have taken the view that there might be some practical difficulties that perhaps we had not envisaged. The intention was not to make it difficult to bring amendments. So this is listening to those practical difficulties. The amendment has yet to be agreed, potentially at the end of this week. But it is more likely to be along the lines of asking anyone bringing amendments to include or to have regard to that but not specifically to consult the Minister because that seems to be the only one that caused the practical difficulty.

**The Minister for Treasury and Resources:**

It was because I think the availability of the Ministers was going to put that into question and we understood that people have a problem with that.

**The Connétable of St. Peter:**

So Article 14(c) is in a similar vein and this would give you the ability to block the Government Plan, which proposed financing or borrowing if the Minister was not in favour of that financing or borrowing. So the question is similar: why has the clause been included? What if the Assembly wished to pursue borrowing for a particular project but the Minister opposed it?

**Specialist, Financial Governance:**

We did discuss this. This was discussed at the finance law implementation group meetings that we had when the law was drafted. It was decided that it was the right thing that the Minister ... in other parts of the law it is the Minister that brings forward proposals for borrowing or what we are calling financing now. This builds on that side of things. So that it does not leave it open for anybody to bring any financing options that have not been raised with the Minister previously.

**The Connétable of St. Peter:**

But what if it is the will of the Assembly that that financing or borrowing takes place? Again, it is somewhat undemocratic if it can be blocked.

**Treasurer of the States:**

Consistent with the existing legislation, there are parts of the legislation through which ... we have witnessed this recently, have we not, whereby the States Members can bring propositions requesting that the Minister gives consideration to bringing a proposition to them? This is just that reserved area that says the Minister has been charged with certain functions under the legislation. There is nothing to stop the States requesting that the Minister brought something back to the States for consideration but this, consistent with the existing legislation, was that area where we thought this would be that 2-stage process whereby they would be requesting and it would come back.

**The Connétable of St. Peter:**

I do not believe that the existing legislation is the same as this, and we still come back to the fact that it says: "The States may not approve a Government Plan that would authorise the obtaining of financing or transfer money from one States fund to another to which the Minister has not given his or her consent." However if it is the will of the Assembly it should not be possible for one person to block it. So it is very similar to the ... would you consider amending that because we have amended the previous Article, or we are due to amend it, and this is very, very similar?

**Treasurer of the States:**

It is difficult, so we have not focused upon this one particularly having heard the feedback previously. Here we say that it is different in wording but, in essence, not that different in outcome to other parts or similar parts of the existing legislation where there are those reserved areas that the Minister has to bring to the States.

[17:15]

Therefore implying, as the Minister has brought them to the States, the Minister has given their consent to their being brought forward as the Minister has brought them forward.

**The Minister for Treasury and Resources:**

In consultation with the Minister to whom ...

**Treasurer of the States:**

But we can maybe think about how we would address that. I hear you; you are talking about the conflict between the 2 issues.

**The Connétable of St. Peter:**

So if we could think of similar wording to in fact both and I think that that would resolve it.

**Specialist, Financial Governance:**

I think though, as the Treasurer says, in the existing law it does put the power to bring forward transfers from the Strategic Reserve with the Minister. It does not leave it open for other States Members to bring forward those transfers. That is the basis for the drafted bit now.

**The Connétable of St. Peter:**

Okay, thank you.

**Senator K.L. Moore:**

Thank you, it is appreciated.

**The Connétable of St. Peter:**

Yes, thank you very much.

**Senator S.C. Ferguson:**

Going on to what used to be contingency expenditure. Article 15(3) gives you the power to allocate money from the reserve, which used to be called contingency. This is limited to expenditure in the first year of a Government Plan. What would the position be if a request was made for a project which would entail future costs, even if you could only approve one year's funding in the first instance? I think this is one of our problems, is it not, that too many times we find money for a project and suddenly find that years 2, 3, 4 *ad infinitum* also need money.

**The Minister for Treasury and Resources:**

This is one of the differences in the capital allocation is that it has happened that way. It also works in reverse, that if the money is allocated at the beginning of the project and then is not used for some reason or another, it is sitting there doing nothing, so I think what this law does is allow a sort of ... it is called a cashflow situation where the amount is agreed. So the amount is not inhibited at all by whoever wants to spend the capital. But the money will be released when it is needed as opposed to doing one lump sum at the beginning.

**Treasurer of the States:**

Yes, my understanding here would be that it does not - accepting you are probably going to come back and say: "Yes, it does" - differ too differently to where we are currently. The difference that occurs now. Your concern speaks to the inflexibility of the existing legislation and the 4-year timeframe means that when people have needed to do things, they have had to do it out of

contingency, in current language. But as we are going through now, we are not currently saying that contingency can be spent in future years beyond this current M.T.F.P. period. The intent here is that it is restricting that money to be spent in that year.

**Senator S.C. Ferguson:**

Yes.

**Treasurer of the States:**

It would be for the States to decide - as it will be for the States to decide - on existing measures that have been implemented, ultimately whether they want them to be continued. It would be for the States to decide whether funding ... sorry, whether a particular initiative that has been started, should it be through contingency, should be allowed to continue. I would also say that the one-year approach - 4-year rolling but one-year approval and annual debate - should mean that we have much greater financial discipline and financial management and financial planning, which would say that every year the States will get to take the decision on what gets spent on the following year, rather than this 4-year window fix. That therefore I do not see that clause in the way that you described it. I would expect us to be running on much lower levels of reserve as we have described it here rather than contingency because we do need to be catering for that longer period of which you are going to have to run contingency. I do not share that view on ...

**Senator S.C. Ferguson:**

Yes, because what if allocations from the reserve were restricted so that any projects entailing future costs could not be supported? A contingency in the general world is for something you do not expect but you spend the money. Our contingencies were all being spent before we had even started the year.

**Treasurer of the States:**

Let me draw an example that would say ... I am not sure if you had that hard and fast rule, if that would be your intention. So say Brexit had taken place in the middle of the year, and we had not anticipated a Brexit, but it was the right thing to do to put a Brexit team in place, if this was restrictive in that way to say you could not spend that money because there would be an ongoing cost in the following year that would say we could not put a Brexit team together. So I think it needs the flexibility but in the case of revenue expenditure, so you might say in a major project, in the case of revenue expenditure, you can turn the taps off at any point in time as a States Assembly by not approving the expenditure in each plan. But I think if you included a clause in there that said you could not approve something if it had an ongoing requirement, that might stop you doing something you needed to do.

**Senator S.C. Ferguson:**

On the other hand, it might make financial management a bit more disciplined.

**Treasurer of the States:**

I am talking unforeseen here. And I am talking unforeseen; that is why I used the Brexit ...

**Senator S.C. Ferguson:**

Like swine flu or something like that.

**Treasurer of the States:**

Yes.

**Senator K.L. Moore:**

I think you gave a very helpful description there, Treasurer. Shall we move on to the next question?

**The Connétable of St. Peter:**

Article 18, powers to reallocate. The law requires the Minister for Treasury and Resources to give 2 weeks' notice to the Assembly before transferring funds between departments. So if a Member objects they would now have to bring a proposition to stop the transfer and the only consideration here is that 2 weeks is a relatively short period for them to put the proposition together. So could we possibly consider increasing that to 4 weeks? We are only thinking about whether if someone wants to bring a proposition and giving them sufficient time to be able to do that.

**The Minister for Treasury and Resources:**

Because this is no change to the old law.

**The Connétable of St. Peter:**

No, it is just an improvement. So it is just a can we consider it?

**Head of Financial Governance:**

I think we can look at that. I think the thing to do would be to look at where we have used that in, say, the last year since we have had it.

**The Connétable of St. Peter:**

Yes, that would be very useful. Has it ever been a problem and if it has not then, you know, we are fine?

**Head of Financial Governance:**



So the proposed change is really to clarify what constitutes someone not being happy with the proposal and it not being clear, so this intended to introduce a definite course of action.

**The Connétable of St. Peter:**

I think if we have some facts and, yes, possibly then we can just ... yes.

**Head of Financial Governance:**

I think we can certainly think about 4 weeks. I will look back at decisions over the last year.

**Senator K.L. Moore:**

Thank you. The Senator is just making the very practical point that this is a slight change because the onus is on the States Member to bring a proposition and, in a 2-week window with a Back-Bencher who has no resource behind them, it is rather difficult; from a practical perspective.

**Treasurer of the States:**

That is fine yes.

**Senator K.L. Moore:**

Thank you. Schedule 1 shows that the official analyst has been removed from the list of non-ministerial bodies. We have heard from the analyst during our consultation period and we would like to understand what the rationale is behind moving the States analyst into the Justice and Home Affairs Department and their target operating model please.

**Treasurer of the States:**

I suppose our interest from the Public Finances Law is we have just mirrored what has happened in the target operating model.

**Head of Financial Governance:**

Our understanding was that that was an agreed move from all sides. So we have not seen, to the best of my knowledge, anything from the official analyst that would contradict that. So we would be interested in seeing ...

**Senator K.L. Moore:**

I think we have uploaded it today to our website as a submission.

**Treasurer of the States:**

So we can come back on the answer understanding that public ...

**Senator K.L. Moore:**

Indeed. So from your perspective, this is something that was embedded in the target operating model already and so the law was constructed to fit into that. Right. But it does beg an interesting question about independent bodies and lines of accountability. I wonder what consideration was given by this team as to those lines of accountability. Was it tested by the implementation team or simply ...?

**Treasurer of the States:**

I will say that - that one aside because it looks straightforward having originated through the target operating model - we have spent, for example, a very long time considering overseas aid, involving meetings with both the executive director - if that is his title - and also with political membership of Overseas Aid to understand how it best fits because there are a number of options. In actual fact, the Overseas Aid Commission, with the legislation that it has, the structure that it has, and a Minister as the chair, is quite a complicated structure in terms of how it would relate to the Public Finances Law. So that is an example where we have gone through and discussed with that particular team. Other changes, I will say also we have met with the Bailiff and we have met with the Lieutenant Governor to talk them through the legislation. Largely, much of the others have not changed. So the Jersey Probation Service, at one point we had it in a different place because that is how we understood that is where the target operating model would land. That was changed back to as it is now, and as we change that, that arises from the target operating model. So we have considered it. In some cases it is very obvious that there is no change, so not considered anymore but, for example, we spent a long time on overseas aid.

**Senator K.L. Moore:**

Thank you, that is helpful. I guess another ... in view of time, we will push on to another topic. I think that is finance and borrowing.

**Senator S.C. Ferguson:**

Yes, borrowing; it is always interesting. The draft law appears to have removed the statutory limit on how much the States can borrow. Perhaps would this not be better with a separate States debate because we do not know what level of borrowing you have got in mind or what type of borrowing. Perhaps you could expand on it for us.

**Treasurer of the States:**

The first thing I would say is the current number appears to me to be quite an arbitrary number in any case and it is a number that was set a while ago. It had a methodology to it. So I retract part of the arbitrary comment. It related to that point in time. KPMG have, I think, discussed this with you and the public as well, talking about the fact that just putting a number there can somewhat

sometimes, so you do not regularly review that number, seemed like a safe harbour. It might have been set a long time ago. Circumstances may have changed. Everyone then sees that as a safe harbour. The other point I would make is that the Minister, I or others, other than that - I will not say "small" because it is not an inconsiderable sum - other than limited amounts, borrow or lend, and this is therefore always the States decision to make the decision to borrow or lend large amounts of money. So the number having come out of the law has not changed the fact that it is a States decision to lend or borrow other than those relatively smaller amounts of money that the Minister has the power to use. So it is still a States decision. If we want to borrow for the hospital, say, to the scale that we were talking about before that would still be a States decision. With or without the number that it is in the current law, it would still be a States decision under the current law. What we have not got is a number that can be a number that you might come up with as a number right on the day you do it but the following year it may well not be the right number. To have that number therefore in primary law does not seem sensible on a long-term basis. But equally, coming back to the States through Government Plan, and that is typically where the decision would be made, still rests with the Assembly. So the Assembly gets to decide upon the level of borrowing that the States has. In each proposition, they would do that based upon the current level of borrowing for any previous decisions.

**Senator S.C. Ferguson:**

Given that somebody somewhere has mentioned public-private financing, you will appreciate that some of the public are a bit twitchy about that, which is why we ask about it; the type of financing.

**Treasurer of the States:**

That is why we talk about financing rather than borrowing, to make sure that we are very clear that it captures all such arrangements rather than borrowing, which could be interpreted to be just ...

[17:30]

**Senator S.C. Ferguson:**

So you are thinking of public-private financing?

**Treasurer of the States:**

I think those decisions will be resting with the States Assembly. I am saying that if they were imagined they would still rest with the States to decide rather than under a narrower definition of borrowing.

**Senator S.C. Ferguson:**

In the report, C.I.P.F.A. (Chartered Institute of Public Finance and Accountancy) suggested that perhaps the States should have a ... it needed a framework around borrowing. Have you got any suggestions as to how that could be achieved?

**Treasurer of the States:**

Firstly, I would probably point out that we have given the Fiscal Policy Panel or proposing in the legislation that we are inviting the Fiscal Policy Panel as part of their statutory responsibilities to comment on the level of borrowing that is being proposed or the level of financing that is being proposed through looking at the net asset position. What we are currently working on is we have a fiscal framework, as you know. We are looking at revising the fiscal framework to take into account also what we should spell out in the arena of borrowing and we envisage including that within the Government Plan. That would be your framework. We have got a number of metrics we could go by, a number of formulas we could go by. For example, Standard and Poor take a view as to what is a safe level, if you like. They do not describe it as safe. Standard and Poor came and told me it was not a safe level but they look at the relative financing as a proportion of G.V.A. (gross value added) or net assets similarly. So we are looking with the Economics Unit as to how we would phrase it within a fiscal framework that would be agreed through the Government Plan.

**Senator S.C. Ferguson:**

Yes, because obviously with a company you would look at, I think, 40 per cent of net assets.

**Treasurer of the States:**

You may well do. It would differ for different companies in different sectors. We also take into account their shareholder equity.

**Senator S.C. Ferguson:**

So, yes, you are looking at putting together a framework?

**Treasurer of the States:**

Yes, within the fiscal plan.

**Senator K.L. Moore:**

One question just came to mind. Will that be ready for this Government Plan that ...

**Treasurer of the States:**

Yes.

**The Connétable of St. Peter:**

Remaining with financing and overdrafts, there does not appear to be a limit in the new law on the value of overdrafts. How practical would it be to extend the annual £3 million limit which applies to other short-term financing to overdrafts?

**Head of Financial Governance:**

As a point of principle, overdrafts would not be a very sensible way to borrow and would never be a planned way of borrowing. I think the other point to make is that the Assembly sets limits for spending so it does not matter how much but it is either for the Minister or Treasurer to borrow. The ability is not there to spend anything that is borrowed. It is a rather pointless and fruitless and very expensive exercise. I think we have heard the concerns, the views, of the panel on this. We will certainly put something in the public finances manual but again perhaps it is something we can go and weigh and look at. It is never a planned exercise. It is only part of a routine, Treasury and cash management, that overdrafts would occur and they are largely timing differences. I think the law is fine as it is but we can listen to the concerns and perhaps go away and see how we can allay some of those in another way.

**The Connétable of St. Peter:**

Because the old law limited it to 25 per cent of States income.

**Head of Financial Governance:**

It did.

**The Connétable of St. Peter:**

Could that be brought into the new law or is there a specific reason for having removed it?

**Head of Financial Governance:**

It is only because it largely did not serve any effect and the Treasurer's comments just now about the rather arbitrary nature of putting a percentage on something still bear fruit here, I think. But we can go away and look at how frequently it occurs and what the levels are and see if we cannot address the concerns in some way. Perhaps not in the law but certainly in the manual. I guess you are going to come on to the manual as well in due course.

**Senator K.L. Moore:**

Thank you. We will move on to accountability in Article 36 for the moment. The current law permits the Treasurer to authorise officers within the Treasury to carry out his functions. The current law widens this to any States employee. Could you explain why this is please?

**Treasurer of the States:**

I think you just unnecessarily restricted for it to be relating to someone who is employed in the Treasury. Of course employed in the Treasury, if one were to work that through, does not really exist anymore. So all of the team that is in the Treasury is employed by the States Employment Board, not by the Treasurer.

**Senator K.L. Moore:**

As they are currently.

**Treasurer of the States:**

Yes, but when this law was written I would argue that when we have been going through the legislation you look at some of the clauses in here and say: "Well, how does that reflect the reality?" So employed in the Treasury; one day they may be in the Treasury, the next day they may not be. So their function may be moved out from within the Treasury. I am only talking here about the wider Treasury. So it is still incumbent upon me, if I am delegating to anyone - sorry, "the Treasurer" rather than me - to make sure that they are delegating to the appropriate individual. So that would still apply. It does not feel as though it adds any particular risk or exposure. We need the Treasurer to be able to authorise others to do it. It reflects the current employment practice but also it reflects that we are moving to a single organisation. Is there a particular concern as to ...?

**Senator K.L. Moore:**

It was simply about lines of accountability, I think.

**Treasurer of the States:**

If the Treasurer were to delegate somebody, that line of accountability, regardless of where that would be, would still follow through.

**Senator K.L. Moore:**

Even if it were the principal accountable officer?

**Treasurer of the States:**

Yes, I am not sure that would ever be a sensible approach for the Treasurer to delegate that to the principal accountable officer, given that the Treasurer has a stewardship role that applies to the principal accountable officer. I do not think that would work in that regard.

**Senator K.L. Moore:**

Did you want to add something?

**Director, Risk and Audit:**

No, sorry, I was just listening to the discussion.

**Senator K.L. Moore:**

Moving swiftly on.

**Senator S.C. Ferguson:**

We probably are getting on to you now.

**Director, Risk and Audit:**

Yes, that is fine.

**Senator S.C. Ferguson:**

With the chief internal auditor. The whole arrangement has been changed. It was obviously subject to some fairly detailed comments by the Auditor General. How are you responding to the recommendations that the internal audit should have a broader accountability than just the Treasurer?

**Treasurer of the States:**

A couple of aspects there. So remind me I said a couple by the time I finish the first one. The first one relates to the Minister for Treasury and Resources and the Treasurer having a wider responsibility than just the Government of Jersey. So the C. and A.G. talks about, if I get this right, that the chief internal auditor or head of internal audit, in this case it would be the director of risk and audit, should be managed more closely by the principal accountable officer. The principal accountable officer is responsible for what is now known as government finances. The principal accountable officer is not responsible for non-ministerial expenditure. But the responsibility of the Minister for Treasury and Resources and the Treasurer extend into non-ministerial work. So it seems, firstly, convenient as the Treasurer has that role across the States - I use the word "States" to include Government - that it sits there. Secondly, as part of, regardless of the view here, we are moving to a single organisation. It will be unlikely in any other structure that the line will be directly with the principal accountable officer. It would probably go through a director general who would report in to the principal accountable officer. In that regard, I am a director general of the principal accountable officer's team. So that we are putting risk and audit into Treasury, where audit previously did exist, but reporting in this respect through to the P.A.O. (principal accountable officer) and through to the executive management team. So that we are providing that wider role of audit that is not just about finance but it is in providing a service to the organisation and is not limited just to financial audit. This is the Public Finances Law, so this is talking about audit in a financial perspective. But that is not to say that there will not be audit of other areas and that will be guided

through the Risk and Audit Committee, through the P.A.O., through the executive management team. We would plan more widely out and that therefore it is not just guided by the Treasurer.

**Senator S.C. Ferguson:**

You talk about lines of reporting into the Minister, the P.A.O., the chair of the Risk and Audit Committee as well as the Treasurer, which is something that the Auditor General has also been talking about, so I am glad to hear it. The Auditor General also raised concerns about the consequential amendments to the Comptroller and Auditor General Law. What are you doing to address these?

**Specialist, Financial Governance:**

We are suggesting that there will be an amendment for the Minister to approve to say that the auditing will be in line with the auditing standards, accounting standards in the P.F.M. (Public Finances Manual), rather than referring totally to the public finances manual, which we believe is acceptable to the Comptroller and Auditor General.

**Senator S.C. Ferguson:**

Super. When can we have a copy?

**Specialist, Financial Governance:**

It will be with the amendments that the Minister for Treasury and Resources ...

**The Minister for Treasury and Resources:**

They just have not been drafted but we are intending to amend it ourselves.

**Senator S.C. Ferguson:**

Super, right. Excellent.

**The Connétable of St. Peter:**

Article 41, accountability to the States. The machinery of government changes under P.1 last year introduced additional powers to the chief executive as principal accounting officer and made him answerable to the States and accountable to the Council of Ministers. The new law changes this to make him accountable to the Public Accounts Committee. Why has the accountability to the Council of Ministers been removed?

**The Minister for Treasury and Resources:**

I think you said it is all part of P.1, which is really last March. It was not central as part of this law.



**Specialist, Financial Governance:**

There is no intent to take accountability away from the P.A.O. to the Council of Ministers. Obviously in the - I cannot remember the title properly, I do apologise - the States of Jersey Employee Law, there are accountabilities in that where the chief executive is accountable to the Council of Ministers and we took it up for that reason. It is not to take away any accountability or any answerability of the P.A.O.

**Senator K.L. Moore:**

It is helpful that that connection was made to the States of Jersey Employees Law because that is also due to be amended and we are awaiting the new version. If I recall correctly, the initial advice was to bring that new law and the States of Jersey Law alongside this one, the Public Finances Law, so that they could all be seen across and those determining it could have an overview of the complete vision in legislation.

**Treasurer of the States:**

There is a timetable set for the changes to the piece of legislation and that review is either under or will be under ...

**Director, Risk and Audit:**

It is underway.

**Treasurer of the States:**

Is underway already. But that will take ... I think we are doing the timetable through to March next year to conclude that. In the meantime, of course, we had pressing areas to address within financial management and ... it is legislation that is often used in the States. It would appear to us that in terms of prioritising, not only addressing concerns, not restricted to States Members in respect of the current where we debate and then approve the M.T.F.P. and the Government Plan, but also from a practitioners' perspective in using and administering a Public Finances Law that has been changed many times and has been amended and added to many times, that it was a priority for us to address the Public Finances Law first.

**Senator S.C. Ferguson:**

The current law requires the Treasurer to set the accounting standards that the States follows and the Minister has to lay these before the States. What was wrong with this? Why have you changed it?

[17:45]

**Treasurer of the States:**

I was just looking purely to bring it in line and simplify processes. There is no intent that that will not be there available publicly with regard to that.

**Head of Financial Governance:**

The J.F.R.M. (Jersey Financial Reporting Manual) will still be published by the Minister. The public finances manual refers to those. I think we have seen this as largely a redundant clause, the law says something about setting the standards which the Minister then had to comply with; each rock unearthed the Minister setting the rules for herself. There is no intention to move away from the Jersey financial reporting manual. I think the C. and A.G. is well aware of what those intentions are and how the Jersey financial reporting manual develops and follows U.K. (United Kingdom) changes and U.K. adoption of international financial reporting standards, and they will still be there.

**Senator S.C. Ferguson:**

But the previous law was rather more specific about following Financial Directions and it is not quite as specific about following the new manual.

**Head of Financial Governance:**

Okay, that is a slightly different point. That is not in there. Accountable officers in their governance statements, which have to be submitted as part of the annual report and accounts process are formally required to say whether or not and how they comply with Financial Directions at the moment and that will apply to the public finances manual moving forward. The principal accountable officer, in his appointment letters to accountable officers, will also set out exactly what is required in terms of compliance or otherwise with the public finances manual. So again, this is a case of streamlining the law rather than reducing the importance of those Financial Directions. You will be aware of previous C. and A.G. reports on the Financial Directions and the standard of them at the moment, which meant that it was quite difficult to apply that previous requirement in law.

**Senator S.C. Ferguson:**

They were designed by accountants but not for the accountants working in the field, so to speak.

**Head of Financial Governance:**

So the approach is now different and it is more inclusive and collaborative. So we ended up with better results. If you look at the travel financial direction where we went out and spoke to people who hoped to travel and were travelling, you get a much more rounded solution and that is the approach we are taking to the manual of the internal consultation on that.

**Senator S.C. Ferguson:**

Going on, we have had the statutory requirement applying to publishing accounting standards. What about the internal audit standards? Are those going to be tucked away in the manual?

**Director, Risk and Audit:**

I think compliance with the public sector internal audit standard is one of the qualities that went into the manual. So that will be a requirement that is needed. So, as I say, that part of the service that I oversee will be dealing to those standards and will be tested against them on an annual or every 3-year basis.

**Head of Financial Governance:**

So the draft public finances manual specifically refers to P.S.I.A.S, as it is known, public sector internal auditing standards. We did not want to be very specific in the law but again we have listened to some of the concerns that have been expressed and will be asking the Minister to consider an amendment that says internal auditing will have regard to public sector internal audit standards, rather than that particular set of standards. So there is some benchmark, there is some rigour to that process and we picked up the synergies point on that?

**Senator K.L. Moore:**

Excellent. I think during the course of this hearing we have heard there are some amendments being planned by the Treasury team. Would it be possible for you to tell us how many there are planned and also when they are likely to be drafted because ...?

**Treasurer of the States:**

I cannot remember the count.

**Head of Financial Governance:**

Is it 7, at the moment?

**Specialist, Financial Governance:**

I think there are 7.

**Head of Financial Governance:**

And I think we would be comfortable putting words in the Minister's mouth to share those as early as possible.

**Senator K.L. Moore:**

That would be helpful. Ours are already drafted so perhaps the drafts ...

**Treasurer of the States:**

How many have you got?

**Senator K.L. Moore:**

Seventeen, I think. Fifteen maybe.

**Treasurer of the States:**

That sounds like a whole Public Finances Law in itself.

**Senator K.L. Moore:**

They are all very helpful.

**Senator S.C. Ferguson:**

Just stretching your intellect.

**Senator K.L. Moore:**

I am sure that the relevant draftsman will see any overlaps, but obviously it seems a shame to duplicate effort.

**Head of Financial Governance:**

I think the legislative drafters have to preserve their independence and confidentiality with whoever is asking them, so if the panel and the Minister are both happy for us to compare and if there are 2 that are similar to reduce some of the workload for somebody.

**Senator K.L. Moore:**

I am not sure how that works in practicality but there will not be any secrets once they are published anyway. It seems that they might be able to flag to us if there is an issue in some areas.

**Head of Financial Governance:**

Possibly. I am not sure the drafters work that way.

**Specialist, Financial Governance:**

No, I am not sure that they are able to do that. I think, as Kevin says, they have to keep their independence here so that if you have asked them to do amendments, they will keep those for you and if we have asked on the Minister for Treasury and Resources' side for amendments, they will keep those separate.

**Treasurer of the States:**

I think the Minister would be happy to ... they cannot share yours with us. You would have to share yours with us.

**Senator K.L. Moore:**

Yes, of course. Okay.

**Specialist, Financial Governance:**

I think, as you say, if there are some that are very, very similar that there are advantages of discussing them to perhaps reach a road that then saves the Assembly having to discuss 2 very similar issues that achieve the same but maybe by a different route.

**The Minister for Treasury and Resources:**

If we can share them as drafted.

**Senator K.L. Moore:**

Yes, that would be very sensible. Thank you. I am just checking my notes. It was simply to ask when we might have that confirmation of the changes or amendments that are being proposed.

**Treasurer of the States:**

A couple of days?

**Head of Financial Governance:**

Yes.

**Senator K.L. Moore:**

Perfect. Thank you all very much for this twilight session. Well, not quite twilight. I wish you all a very enjoyable evening and thank you for your time.

**Specialist, Financial Governance:**

Sorry, can I just clarify something on sharing the amendments? Is that sharing both ways?

**Senator K.L. Moore:**

I think it would only be fair.

**The Connétable of St. Peter:**

Yes, I think we should do.

**Senator K.L. Moore:**

Would you agree, Senator?

**Senator S.C. Ferguson:**

I was going to say yes; you show us yours and we will show you ours, as they say.

**The Connétable of St. Peter:**

It would be very unfair if it was one way.

[17:53]