STATES OF JERSEY

PUBLIC FINANCES (JERSEY) LAW 2005: FUNDING REQUESTS UNDER ARTICLE 11(8)

Lodged au Greffe on 25th May 2010
by the Minister for Treasury and Resources

STATES GREFFE

PROPOSITION

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

(a) in accordance with Article 11(8) of the Public Finances (Jersey) Law 2005 to amend the expenditure approval for 2010 approved by the States on 5th October 2009 in respect of the following departments to permit increased withdrawals from the Consolidated Fund to fund Court and Case Costs –

(i) Law Officers' – £2,396,760

(ii) Home Affairs – £2,017,000

(iii) Judicial Greffe – £3,013,300

(iv) Viscount's – £8,400

(v) Bailiff's Chambers – £300,000

(vi) Treasury and Resources – £764,540;

(b) in accordance with Article 11(8) of the Public Finances (Jersey) Law 2005 to amend the expenditure approval for 2010 approved by the States on 5th October 2009 in respect of the Chief Minister's Department to permit the withdrawal of up to an additional £6,000,000 from the Consolidated Fund for a voluntary redundancy scheme;

(c) in accordance with Article 11(8) of the Public Finances (Jersey) Law 2005 to amend the expenditure approval for 2010 approved by the States on 5th October 2009 in respect of the Treasury and Resources Department to permit the withdrawal of up to an additional £500,000 from the Consolidated Fund for the delivery of an improved procurement function across the States to generate annual realisable savings.

MINISTER FOR TREASURY AND RESOURCES

REPORT

Background

Under the Public Finances (Jersey) Law 2005, heads of expenditure for departments are, in the normal course of events, approved as part of the Annual Business Plan approval process by the States. The sum of such approvals is known as the "expenditure approval". The Public Finances Law, does, however, state in Article 11(8) –

> " … the States may, at any time, amend an expenditure approval on a proposition lodged by the Minister on the grounds that –
>
> (a) there is an urgent need for expenditure; and
>
> (b) no expenditure approval is available.".

There is a need for the States to consider requests under Article 11(8) in relation to expenditure on Court and Case Costs and in addition, in order to assist the Comprehensive Spending Review, a voluntary redundancy scheme and strengthening of procurement. These requests will not result in recurring additions to departments' cash limits.

(a) Court and Case Costs

Historically Court and Case Costs have been volatile by their very nature. Unfortunately it is challenging to estimate with any degree of certainty the volume or type of criminal or civil cases that will arise. In the past, expenditure on Court and Case Costs has been funded partly from general revenues (i.e. taxation) and partly from the Criminal Offences Confiscation Fund (COCF) which was established by the Proceeds of Crime (Jersey) Law 1999. The COCF is resourced from seized assets as a result of successful criminal prosecutions.

There is an established process for approving expenditure from the COCF with the majority being approved by the COCF Steering Group. The Steering Group comprises –

- Treasurer of the States
- H.M. Attorney General
- Viscount
- Deputy Greffier of the States.

These arrangements have worked well whilst there have been funds paid into the COCF. In 2009, income was anticipated from a major seizure which had been prosecuted by the use of Court and Case Costs. However, these did not materialize with the result and the Fund had a balance of only £1.7 million at the end of 2009. After meeting existing commitments of funding staff and facilities management, the Fund balance will be spent. Whilst there are a number of significant cases pending, with potentially significant seizures anticipated, these cannot be relied upon to fund expenditure.

It should also be noted that in his report "Drug Trafficking Confiscation Fund: Criminal Offences Confiscation Fund – report by the Comptroller and Auditor General of an investigation" (R.96/2007 presented to the States on 1st October 2007), the Comptroller and Auditor General recommended that money paid into both funds should become part of the general revenues of the States and be paid into the Consolidated Fund. He further recommended that the budgets of the departments meeting expenditure from the funds should be augmented to cover the money that previously came from the funds. These recommendations will be implemented as part of the Comprehensive Spending Review (CSR). Accordingly, the Minister is proposing to properly authorize the necessary expenditure.

Whilst it is acknowledged that there should be no political interference in the judicial processes, the Minister for Treasury and Resources is obviously concerned at the costs involved. As a result, as part of the Comprehensive Spending Review, a review has been commissioned to consider costs across all the legal departments. That review will address the control of costs from 2011 onwards. It is important that the departments concerned recognize their accountability for the expenditure of taxpayers' monies.

The 2010 spending requirements

The following table shows the latest forecast position for Court and Case Costs in 2010 –

	Funding in Departmental Base Budget (£)	**Estimate (£)**	**Shortfall (£)**
Law Officers' high cost fraud cases	1,539,740	3,696,500	2,156,760
Law Officers' other lower cost cases	792,000	792,000	–
Law Officers' outsourced H&SS cases	–	240,000	240,000
Criminal Injuries Compensation Scheme	–	350,000	350,000
Home Affairs Base Budget Shortfall (Core Business) Court and Case Costs – primarily as a result of increased number of financial cases and an operation requiring forensic computer analysis	470,000	1,774,000	1,304,000
Home Affairs Base Budget Shortfall (Core Business) Court and Case Costs – Customs and Immigration Cases	30,000	225,000	195,000
Home Affairs – Wiltshire Constabulary investigation	–	168,000	168,000
Judicial Greffe – due to fraud, drugs and family law cases	1,756,100	4,769,400	3,013,300
Viscount's	304,000	312,400	8,400
Bailiff's Chambers	210,000	510,000	300,000
TOTAL	**5,101,840**	**12,837,300**	**7,735,460**

Court and Case Costs for the Court departments have increased in recent years as follows –

Year	Budget (£m)	Spend (£m)
2002	4.5	6.2
2003	4.6	5.8
2004	4.7	3.4
2005	4.9	3.8
2006	5.0	5.5
2007	5.1	8.0
2008	5.1	7.6
2009	7.5	10.0

For Home Affairs recent increases have been incurred as follows –

Year	Budget (£m)	Spend (£m)
2008	0.5	1.25
2009	0.5	2.17
2010	0.5	2.0*

*Forecast

These increases are a result of the highly publicized drugs case, a forensic computer analysis case, increases occurred by the forensic medical examiner and various other smaller cases.

The potential overspend in 2010 could therefore be £7.75 million. This excludes the £1.45 million staff and facilities management costs in the Law Officers and Judicial Greffe. It is proposed these are funded from the £1.7 million balance in the COCF. It also excludes costs relating to the Historic Child Abuse Enquiry, which will be met from sums previously approved by the States for that purpose. Given the volatile and unpredictable nature of Court and Case Costs and without wishing to bring further requests in 2010 the States are therefore requested to approve additional funding up to a maximum of £8.5 million to allow some flexibility in forecasts. Accounting officers will, however, be expected to remain within the sums approved and draw downs from Treasury will be tightly controlled. Any sums not spent for the above purposes will be returned to the Consolidated Fund at the end of 2010. Approvals requested are for –

- Law Officers' Department – £2,396,760
- Home Affairs – £2,017,000
- Judicial Greffe – £3,013,300
- Viscount's – £8,400
- Bailiff's Chambers – £300,000
- Contingency held by Treasury and Resources – £764,540
  (balance of £8.5 million).

The Treasury and Resources funding will be held in a contingency fund for release to any of the above departments by public Ministerial Decision if the above funding proves to be insufficient. Any releases will be subject to confirmations from the relevant accounting officers that –

- costs are unavoidable;
- costs cannot be absorbed within existing cash limits;
- costs are additional to usual expenses;
- reimbursements of funds will only be used for purposes intended;
- there are appropriate controls in place to ensure that funds are being spent appropriately and value for money is being achieved; and
- financial directions are being complied with in respect of this expenditure.

Consequences of non-approval

Should the States not approve part (a) of the proposition, then either important court cases could not go ahead or the accounting officers concerned will continue to overspend available budgets, which is a breach of the Public Finances Law.

(b) Voluntary Redundancy (VR) Scheme

The States of Jersey is facing a significant Budget deficit in the order of £50 million over the next 3 years and a Comprehensive Spending Review was commissioned in order to address this issue. Departments are currently reviewing their services and proposals are being put forward which involve fundamental changes to services provided in order to reduce their expenditure requirements over the next 3 years. These proposals will inevitably mean some reduction in the number of jobs in the public sector.

This reduction will be achieved by –

- robustly managing vacancies as they arise through a challenge process to ensure that only those which are critical are filled. Where possible these vacancies will be filled with "at risk" people before looking outside the organisation.

- use of redeployment and re-training to redirect people to alternative opportunities as they arise. Utilising a voluntary redundancy scheme to enable departments to meet savings targets if they cannot be met solely by the above measures. This will be needed by departments to enable them to change the way that they do their business as well as reduce staff numbers.

The Comprehensive Spending Review process is currently requiring all managers to examine how to reduce the costs of service delivery. Employment costs being a significant part of the States overall costs, the need to consider how to manage day-to-day people issues while potential changes are being considered and options evaluated is critical at this time. The consequences of not effectively managing the workforce could inadvertently lead to losing the wrong people and adding new starters who may not be needed in the medium to long-term. Failure to manage vacancies appropriately could, though, lead to people being recruited who then have to be made redundant shortly afterwards.

People can leave the organization through a variety of routes: resignation; retirement; dismissal; voluntary severance (VR); or compulsory redundancy (the latter being a last resort). Usually retirements can be predicted, with people sometimes going early or staying on for a while beyond normal retirement age.

In the event of job losses, wherever possible (usually if the numbers are small), “natural” ways are found to manage the desired workforce reduction – people are not replaced when they retire or resign, or the work is re-organized and another post lost; or a few individuals are offered early retirement or a voluntarily redundancy scheme to leave. If job losses are on a more significant scale, then other schemes are needed, either as a call for voluntary redundancy seekers, or as a last resort, a compulsory redundancy scheme.

A redeployment process is an essential component to ensure employees are not made redundant when suitable alternative employment is available elsewhere within the organization.

Vacancy management is being implemented to ensure that Senior Managers consider whether the post needs to be filled at all, if so, how that could be done to minimize future risk and cost, e.g. an opportunity for someone to act up for a period and gain experience, a secondment from another area, use of a fixed-term appointment or temporary contract or some other solution. Only if there is good reason to fill on a permanent basis and funding is secure should the post be released for advertising. A weekly or monthly analysis will be prepared for review and challenge, by a centrally co-ordinated group headed up by the H.R. Director.

Despite the introduction of vacancy management, it is accepted that further reduction in posts will be required through the use of Voluntary Redundancy.

A voluntary scheme requires adequate funding, clarity of the skills that the organization can lose (and those it needs to keep) and a fair process for selection if the number of volunteers is likely to exceed the available money.

Voluntary Redundancies will be made on existing terms, which have been in place for a number of years and have been used successfully in previous spending reviews to achieve savings targets by a reduction in the workforce by voluntary means. It is anticipated that the payback period required will be a maximum of 2 years; however, in the event that a department identifies a business change as part of its CRS savings which requires VRs to be taken with a payback in excess of 24 months, these specific requests will be reviewed on a case-by-case basis by the central H.R. department which will have to be supported by a robust business case to justify the proposal.

At a time when the organisation needs to engage with staff to deliver significant efficiency savings, to alter the terms of the scheme or reduce them significantly without full and proper consultation would be counter-productive to maintaining an open dialogue with staff through what will inevitably be a difficult period. Therefore, the States Employment Board, having considered the States’ existing scheme against other schemes, have decided to maintain the existing terms for a period up to the end of 2010. The Board will review terms again at that point and no guarantees have been given that they will be maintained beyond that date. The terms and conditions of the current scheme are shown below:

The terms currently in place for Voluntary Redundancy for public sector workers are as follows –

- *More than 5 years' service – 18 months' pay*
- *More than 10 years' service – 20 months' pay*
- *More than 15 years' service – 22 months' pay*
- *More than 20 years' service – 24 months' pay*
- *More than 25 years' service – 26 months' pay*
- *More than 30 years' service – 28 months' pay*
- *More than 35 years' service – 30 months' pay*

Employees with less than 5 years' service would receive 2 weeks' pay for each full year of service under age 40 and 3 weeks' pay for each full year of service over age 40.

As the compensation sums awarded are dependent on grade and length of service of individual members of staff, it is difficult to predict exact costs. Based on previous experience in 2004/5, it is reasonable to expect in the order of 50–60 applicants by the end of 2010, whose cases would merit approval on grounds of efficiencies to the business. Savings of this order have been identified by departments as part of their submission for the 2% cuts required to meet the proposed 2011 cash limit. As departments prepare for their 2012 and 2013 savings of 3% and 5% respectively, it is anticipated that further opportunities for voluntary redundancy will emerge. Departments should be encouraged to undertake whatever restructuring is required to meet these savings targets as soon as possible and process VRs in the coming months.

Based on the terms of the existing scheme it is estimated that this could cost in the order of £6 million as a one-off cost in 2010 and into 2011. This figure includes the cost of managing the scheme and supporting the use of vacancy management and redeployment as a first resort.

Applications for voluntary redundancy will only be considered where the post will also become redundant and not be refilled by another post-holder. The exact timing for the delivering of individual voluntary redundancy settlements will be co-ordinated between central Human Resources and the individual department but clearly, if the saving has been identified for 2011, then departments must agree the voluntary redundancy as soon as possible to obtain the full year effect of the saving.

The implementation plan is to invite applications which will be reviewed in departments and ranked according to fit with their CSR proposals and business benefit. A business case will be prepared by the department to support these applications, which will then be sent for assessment by an oversight board consisting of Corporate Management Board members and Human Resources, who will thoroughly review the business cases for arithmetic accuracy, confirmation that efficiencies will be delivered in the agreed timescales and that they fit all the other necessary criteria; and sign off the proposals.

The Chief Minister will maintain political oversight of the scheme to monitor expenditure on voluntary redundancy.

(c) Procurement

The States of Jersey spends £156 million on goods, services and works. This sum excludes capital expenditure. £100 million per annum can be influenced by a more strategic, planned and co-ordinated approach to procurement resulting in significant cash and efficiency savings.

With the exception of the Corporate Procurement Department, the vast majority of States purchasing is currently devolved, is not managed by professionals, is largely unplanned and unco-ordinated. As a result, the States is not maximizing its purchasing power by aggregating demand and does not have the systems in place to ensure that demand for goods, services and works are managed appropriately, suppliers managed effectively and value for money is being obtained. This lack of control represents significant risk to the financial management of the States and public money is being wasted.

The existing corporate procurement department is very small (8 in total) for the size of the organization, has limited mandate and limited span of control when considered against the size, scale and diversity of spending across all departments. Where the existing procurement department has been able to support departments in negotiating procurement contracts for goods, services and works, significant benefits have been realized. In addition to the assistance given to departments, the procurement department has met its overall target of delivering £2 million per annum deliverable savings through the negotiation of corporate contracts. These savings have been delivered with limited professional resource, in a highly devolved environment.

Greater control over the States estimated annual spend of circa £100 million in all departments , investment in the organizational structure, appropriately qualified staff and the systems to support the transactional elements of procurement will clearly provide opportunities for significant additional realizable and efficiency savings.

To achieve these savings, it is proposed to entirely restructure the procurement function across the States. A new 'head of category' post would be required for each major department e.g. Health, Education and Infrastructure (TTS and JPH.). These procurement professionals would be embedded in the specific business areas and would report to the Director of Strategic Procurement. The existing procurement department would also be significantly strengthened to deliver a procurement service and manage categories of spend for other departments and for all common procurement items, ranging from professional services to day-to-day commodity items.

The contribution to efficiency savings that a specialized procurement function can bring to public and private sector organizations is well recognized. A long term (3–5 year) target of 10% in terms of realizable savings and efficiency is not unrealistic. The proposed re-structuring programme is setting an initial target of £5 million per annum realizable savings and it is considered to be capable of being exceeded if all departments fully support and commit to this initiative and the resources required are provided.

To deliver this programme, achieve and sustain the level of savings identified, it is proposed to commence in the remainder of 2010 with an initial investment of £550k to enable staff to be recruited and systems set in place for the delivery of £1 million savings in 2011. The total cost of this restructuring programme will be fully developed as part of this initial investment, but the outline business case has identified a cost of £1.8 million per annum for 2 years. Thereafter, the ongoing cost of delivery for this new structure will be an additional £800k per annum to the procurement function to deliver £5 million recurring savings.

Consolidated Fund Balance

The latest forecast Consolidated Fund balance at the end of 2010 is in the region of £40 million – sufficient to fund the approvals contained in this proposition.

Financial and manpower implications

Part (a) of the proposition would increase the following 2010 expenditure approvals –

(i) Law Officers' Department – from £6,189,800 to £8,586,560

(ii) Home Affairs – from £46,067,100 to £48,084,100

(iii) Judicial Greffe – from £3,982,400 to £6,995,700

(iv) Viscount's Department – from £1,422,300 to £1,430,700

(v) Bailiff's Chambers – from £1,259,700 to £1,559,700

(vi) Treasury and Resources – from £57,414,300 to £58,178,840.

Part (b) of the proposition would increase the expenditure approval in respect of the Chief Minister's Department for 2010 from £57,414,300 to £63,414,300.

Part (c) of the proposition would increase the expenditure approval in respect of the Treasury and Resources Department for 2010 from £57,414,300 to £57,914,300.

The above amounts will be funded from the Consolidated Fund balance.

Other financial and manpower implications are as set out in this Report.