

States of Jersey
States Assembly



États de Jersey
Assemblée des États

**REVIEW OF THE DRAFT PUBLIC FINANCES (JERSEY) LAW
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CIPFA
77 Mansell Street
London E1 8AN
Phone: 0207 543 5600
Email: stuart.fair@cipfa.org.uk
Stuart W Fair LLB, FCPFA, FCCA, CPA, FRSA, JP.

CIPFA FINANCE ADVISORY



Certificate No. 5631/06



1. Review of Draft Public Finances (Jersey Law) P.28 - 2019

- 1.1 In March 2019, the States of Jersey commissioned CIPFA Business - Finance Advisory (the commercial arm of the Chartered Institute of Public Finance and Accountancy) to undertake a brief high level 'desk-top' review of a new draft Public Finance (Jersey) Law (PFL) P28, as lodged au Greffe on 12 March 2019 in the context of public financial management best practice. This report outlines CIPFA's position on this work to 22 March 2019.

Good practice

- 1.2 The draft PFL provides much needed alignment with prevailing good practice in a number of key areas:

Accountability for financial performance – aligning with P.1/2018 with clearly defined accountabilities of the PAO and AOs is a significant improvement. CIPFA has been highly critical of the current position in previous advice provided to the Corporate Services Scrutiny Panel on this issue. Holding to account departmental financial performance has been highlighted as a particular problem particularly the positioning of the Chief Executive relative to Accountable Officers (AOs). Clarification of Ministerial responsibilities and relationship with the Executive – Jersey Ministers and Civil Service is highly positive. Article 39 is 'ground breaking' relative to the previous arrangements - the responsibilities of the PAO are significant as highlighted within Article 39 (1) (a-f). The independence of the Treasurer is unimpaired by virtue of Article 34 although there may be some overlap between the Treasurer's responsibilities re Article 32 (2(a) and (b) and the PAO's functional responsibilities outlined in Article 39 (1) (a). Defining further clarity on accountabilities should be a central feature of the proposed Public Finance Manual.

Government Plan – an improved MTFP (detailed 1 year budget with rolling years 2, 3 and 4) should provide significantly improved agility. This will include the ability to easily recalibrate (including necessary Tax changes) without removing controls/scrutiny within appropriate parameters in addition to strengthening procedures for the formulation of the Plan. The ability to drive transformational change against a background of financial stability is key. The removal of the inhibiting constraints that were effectively embedded in the operation of the current MTFP framework will significantly assist the change agenda. Conceptually the current MTFP framework has positive attributes in the provision of stability within a steady state organisation – however given the wider macro-economic operating environment and the requirement for significant transformational change within the public service of Jersey, a more dynamic and agile financial strategy is urgently required. The ability to deliver this within a strengthened accountability framework will ensure that the Government Plan is at the centre of transformational change and financial stability. The Plan needs to weld together not just the detailed financial strategy but the operational service plans for transformational change. On a more basic level bringing income and expenditure proposals together is a fundamental yet basic improvement. In terms of changes around years 2 to 4 there may be some benefit in clarifying the



process in which such changes to the plan will be ‘justified’ in practice – for example, will it be for the Minister to do this?

“The Government Plan will more generally set out income and expenditure proposals for each of the subsequent 3 financial years for information purposes. Although these figures will not be fixed by the approval of the Plan, it is expected that changes to these proposals in a subsequent Government Plan will need to be justified.”

Over the last two years within UK Local Government there has been a growing number of examples of authorities being unable to deliver on their set budgets and the requirement to draw down upon reserves. Part of such difficulties have arisen through the inadequate scrutiny and testing of efficiency savings before incorporation within financial plans and a lack of proper scrutiny on related performance on the delivery of such savings. The processes in the formulation and scrutiny of a ‘dynamic’ Government Plan (aligned with improved performance management arrangements) is more likely to be achieved outwith the framework set within current MTFP arrangements.

Public Finance Manual (PFM) – Article 31 requires the Minister to issue a PFM. We assume that the PFM will be an enhancement upon the Jersey Financial Compliance Framework- (JFCF) including Financial Directions. The PFM will be a key referencing point for effective financial management. A well-constructed manual will be critical to the success of revised arrangements including effective financial performance management scrutiny and requirements around business case construction, scrutiny affordability testing etc. More clarity on the contents is urgently required. The PFM should be a working manual, easily accessible and appropriate training and exposure needs to be provided.

In our experience, effective financial performance is facilitated at a foundational level through a financial competency framework and the PFM should be linked to this in a way that provides total clarity on responsibilities/obligations. It is surprising that the PFM has not been published as an integral component of the revised Public Finance Law. In Scotland, the equivalent document (Scottish Public Finance Manual – SPFM) is primarily used by civil servants including Internal Auditors and External Audit as a high level document issued by Scottish Ministers as ‘applicable guidance’. Given the potential impact that the PFM will have - current Finance Directions have a tied link to existing PFL (the content within the proposed PFM will not have the same legal status), it is critical that Members are provided with adequate scrutiny on the formulation, scope and any future changes. Article 31 (2), (3) and (4) provides the Minister with extensive authority to change with no direct input or agreement by States’ members:

- (2) The Minister may amend the Public Finances Manual.*
- (3) The Public Finances Manual may include directions and information with respect to the proper administration of this Law and of the public finances in Jersey.*
- (4) The Minister may delegate the functions set out in paragraphs (1) and (2) to the Treasurer.*



The proposed PFL and P.1/2018 effectively change the dynamic between States' Members, Ministers and the Civil Service relative to the framework around the management of resources. Given the expectations around the central role of the PFM it would be our view that the PFM should be subject to wider member scrutiny and approval. Within the UK Local Government environment, Financial Regulations and Standing Orders are typically components of each Council's constitution, changes to which are usually put before members for approval.

It is expected that elements of the PFM will be far reaching and will include the setting out the financial relationship with arms lengths bodies and the standards of financial and risk management required by the Government of Jersey. Non-Ministerial Departments are also fully covered. In no way can Article 31 (2) be classified as a Henry VIII type clause (clauses in a bill that enable ministers to amend or repeal provisions in an Act using secondary legislation) as the PFM will not be embedded within the primary legislation as a form of secondary legislation and presumably will not be justiciable - re judicial review if it forms the same status of ministerial guidance as the SPFM. However, the PFM will have a high level of significance as outlined in that it *"may include directions and information with respect to the proper administration of this Law and of the public finances in Jersey"*. Our recommendation for enhanced scrutiny of the PFM is made in the context of the potential impact of the PFM and the level of ministerial discretion to create and change it without scrutiny or challenge.

Investment/Spending/Project flexibility – the ability to optimise the application of resources is significantly improved with the removal of sub-optimal constraints in setting aside 'major project' estimate funding at the point which the State's approves projects – approval control remains. The ability to optimise the use of underspends is maintained and it is assumed that the PFM will outline value for money obligations on those charged with the delivery of services.

Fiscal Policy Panel – improved reporting scope - the introduction of more precision within annual reporting requirements (re taking account of the State's actual assets and liabilities position) is welcomed.

Funds – improved clarity/controls around the management of funds Articles 6 to 8 and Section 3.

Borrowing - revised arrangements around ministerial borrowing are pragmatic and sensible. However it is noted that the overall 'ceiling' parameter of borrowing up to a level equal to States total annual income has been replaced by some ministerial discretion and for high level financing and lending:

"All major financing and lending will be agreed by the States Assembly as part of the approval of the Government Plan, and should be based on affordability rather than on pre-set limits. The Law requires the Council of Ministers to report in the Government Plan on the medium- and long-term sustainability of its proposals, and any borrowing would need to be justified as part of this."



With the removal of the ceiling fixed to States total net annual income being removed, it may be appropriate to ensure that affordability testing and approval on overall borrowing is provided in a way that clearly acts as a control on overall borrowing. The explanatory notes covering the narrative on articles 26 to 29 do not adequately clarify how control could be achieved if the borrowing implications were not set out clearly within any proposed Government Plan. Within UK Local Authorities, CIPFA's Prudential Code for Capital Finance has helped authorities set their own limits for all borrowing, qualifying credit arrangements and other long-term liabilities. The system is designed to encourage authorities that need and can afford to undertake capital investment to do so within a robust framework. Authorities are required by regulations imposed by statute to have regard to the Code. Following the provisions of the code 'Prudential indicators' are set by each authority in a way that allows the impact of borrowing to be appropriately assessed. We do not see any equivalence within the proposed PFL and we would not recommend that reliance is placed on the Fiscal Policy Panel's determination of overall affordability on its own.

Independence of Internal Audit

Prevailing Public Sector Internal Audit Standards (PSIAS) outlines the importance of preserving the independence of the internal audit function. Indeed the latest guidance highlights the following:

*"To achieve the degree of independence necessary to effectively carry out the responsibilities of the internal audit activity, the chief audit executive has direct and unrestricted access to senior management and the board. This can be achieved through a dual-reporting relationship."*¹

Article 32 outlining the duties of the Treasurer provider for:

*"establishing a system of internal auditing in support of that stewardship and administration and advising the Comptroller and Auditor General, as well as the Principal Accountable Officer (if appropriate), of the results of internal audits carried out under that system."*²

We would expect that whatever arrangements are adopted by the Treasurer that the Chief Internal Auditor/Head of Internal Audit will have direct reporting capability to the PAO, C&AG and members of the Assembly if necessary- irrespective of the line management reporting arrangements to the Treasurer and the system processes outlined within the PFM. The draft PFL does not make that level of independence explicit.

Summary

- 1.3 In summary, the revised PFL is to be broadly commended through the introduction of key elements of good practice financial management, including an attempt to provide a better balance on prescriptive issues that would not normally be found within typical public finance related legislation within other jurisdictions. There may well be a view

¹ Public Sector Internal Audit Standards (PSIAS) - 1100 Independence and Objectivity P14

² Article 32 (C) - Draft Public Finances (Jersey) Law P.28



that the draft PFL could be yet more concise but the proposed changes within the PFL legislative framework are certainly positive. Given that improved arrangements around the accountability for performance are being achieved, the focus might be directed as to how the Government Plan allows the appropriate level transformative change to be driven within the context of growing service pressures, external and operating environment uncertainties and medium and longer term financial stability. The proposals specifically relating to the Government Plan are clearly designed to produce a robust and dynamic financial strategy. From a financial framework perspective, a dynamic Government Plan together with an effective Public Finance Manual will be critical.

- 1.4 In respect of the Public Finance Manual we would have expected the draft legislation and the PFM to be published together given that the detail around financial management arrangements will be contained within the PFM. The PFM cannot be regarded, in itself, as a source of secondary legislation as there is no element of scrutiny or assembly approval procedure involved but it appears to fulfil the same purpose in that it will set the controls around Jersey's financial management framework – so it has a critical role to play. Existing Financial Directions are explicitly tied to the current PFL, the content of the proposed PFM will not have the same status. Ministerial discretion to create and change the PFM appears to be absolute. As a consequence we would recommend that members be afforded the ability to scrutinise and approve the PFM along with any future changes.
- 1.5 On borrowing it is noted that the overall parameter of borrowing up to a level equal to States total annual income has been removed. Although it is asserted that affordability will be tested and highlighted within the formulation of the Government Plan, we would recommend that the States has an overall framework for borrowing that transparently shows that affordability is fully considered within a framework similar to CIPFA's Prudential Code - in that an indicator or a set of indicators be set to inform the decision making process on what level of debt is affordable.
- 1.6 Article 32 outlines the scope of the Treasurer's responsibilities. In terms of enshrining the independence of the Internal Audit function as aligned with prevailing best practice there is a lack of clarity of what arrangements would be put in place to ensure that the Chief Internal Auditor/Head of Internal Audit would have reporting capability independent of the Treasurer.
- 1.7 The main changes to the PFL will positively assist in providing an improved platform for transformational change to be achieved. In conjunction with the creation of a best practice driven PFM, the effectiveness of this revised PFL will be dependent on how the framework can be delivered in practice/reality by Ministers and the Civil Service. This will ultimately determine how outcomes are shaped for the people of Jersey in a practical sense.

Comments based on summary from draft law

- 1.8 In relation to the changes highlighted in the draft legislation our high level comments are appended against the notes from pages 4 to 10 of the draft from the point of Summary of the draft Law:



Comments

The draft Law –

- is an enabling piece of legislation which allows improved flexibility and is less prescriptive;

Endorsed – overall the proposed changes provide for improved accountability in respect of decisions and performance and agility. However it remains to be seen how prescriptive the proposed Public Finances Manual will be and how that will work as a framework given that the equivalent Financial Directions related content will not have the status of law in the same way as current Finance Directions

- promotes the change to a rolling 4-year operational planning cycle which fits into the medium and long-term planning requirements and enables funding to be aligned with the priorities set by the Common Strategic Policy;

This is a pragmatic and sensible proposal

- incorporates the Government Plan, which is an annual plan proposed by the Council of Ministers, through which the States Assembly will be asked to approve a detailed one-year budget for the following financial year, with respect to both income and expenditure, whilst setting income and expenditure proposals for years 2, 3 and 4 on a rolling basis. Some of the major criticisms of the current process have been about the inflexibility of the funding levels set in the MTFP process, and the fact that the process fails to acknowledge and address the years immediately following an approved MTFP;

Realistic approach – will provided needed agility

- brings the approval of income and expenditure proposals together, which is a change to current practice;

Positive change

- requires that the Government Plan provide financial details of the major States Funds for the 4-year period of a Plan, in order to provide an improved overall picture of public finances rather than just focusing on the income and expenditure of the Consolidated Fund (however, it is important to note that the inclusion of information on the Social Security Funds does not mean that the States Assembly will be asked to approve expenditure from these Funds, as this process is governed by the specific legislation which establishes these Funds);

Endorsed - positive change

- builds on existing arrangements and promotes improvement in transparency and personal accountability by incorporating the changes brought into being



through P.1/2018, with the role of the Principal Accountable Officer having been established in law since June 2018;

Endorsed – a change of real significance – CIPFA have been highly critical of the position prior to P.1/2018

- enables funding for “major projects” on an annual cash requirement, replacing the current system whereby the States Assembly allocate the full budget upfront for a project. The current allocation process means that the Government has large amounts of cash tied up in projects which it is not able to utilise, resulting in the delay of some high priority projects, whilst the public accounts show that the Government is holding large cash balances. This is not an efficient and effective use of public monies;

Endorsed - positive change – CIPFA have been consistently critical of this position in previous advice given to the Corporate Services Scrutiny Panel

- sets a process to be followed if the States Assembly decides not to approve a Government Plan;

Endorsed – provides clarity

- requires the Fiscal Policy Panel to report on the States’ financial assets and liabilities (including external financing);

Endorsed – Article 45 Annual Report requirements including 45(2) (e) is regarded as an improvement - we previously took the view that the Panel’s advice was regarded as being more focussed on the operating environment. The requirement to report in the context of Jersey’s financial assets and liabilities position would require an additional valuable assessment of the substantive impacts based on Jersey’s actual and projected financial position. This independent view should be an important driver within the formulation of financial strategy.

- acknowledges the developments which the Government is making in improving its medium and long-term planning processes through the requirement for the Council of Ministers to set out in the Government Plan how its proposals take these issues into account;

Endorsed - provides more clarity and formality on what was already a component of the MTFP

- recognises that sustainability is an important issue and, therefore, over time the Government Plan will take into account the sustainable well-being (including the economic, social, environmental and cultural well-being) of the current inhabitants and future generations of Jersey;

Endorsed - welcomed formalisation of the approach which the Council of Ministers have been trying to apply within the MTFP process



- takes on board current international best practice, and incorporates this where appropriate in the Jersey context.

This Assembly has endorsed the need for a Government Plan in its Common Strategic Policy 2018–22 and this legislation will enable a Plan for 2020–23 to be progressed. The draft Law revises the way in which the public finances of Jersey are regulated, controlled, supervised and administered; and the following provides further detail on the various Articles, although more information on the effect of the individual Articles is found in the Explanatory Note to the draft Law.

The Funds (Articles 3–8)

The draft Law retains the Consolidated Fund and continues with the current practice that there is one Fund through which financial transactions flow (subject to certain exceptions), a practice which is common in many other jurisdictions.

Reflecting the importance of their position, the Strategic Reserve Fund and the Stabilisation Fund are retained in the Public Finances Law, with the ability to withdraw and pay money into these Funds ultimately resting with the States Assembly. Proposals to withdraw or pay into these Funds can be taken forward either by the Minister for Treasury and Resources or as part of the proposals within the Government Plan.

Endorsed

The draft Law enables the States to establish other funds for specific purposes. The potential proliferation of new States Funds was of particular concern to KPMG in their review of the current Law. The draft Law partially addresses this concern by requiring any new Fund to specify the circumstance(s) when it would be wound up. (Although not part of the draft Law, a commitment has also been made that a review of all existing States Funds will be undertaken, with a report to the Assembly detailing those Funds which might be closed).

Endorsed - positive approach

Financial planning and authority to spend (Articles 9–24)

The draft Law provides for the introduction of the Government Plan, and specifically deals with how financial spending plans and income-raising proposals will be dealt with by the Assembly. Otherwise, the non-financial aspects of the Plan are at the discretion of the Council of Ministers. This flexibility is intentional, given that each successive Council of Ministers may have different approaches to content.

In the Government Plan, the Council of Ministers must set out, for States Assembly approval, its income and expenditure proposals for the following financial year. The approval of income and expenditure together is a change to current practice. It is envisaged that this requirement, along with the need to consider sustainability issues over the medium and long terms, should provide improved financial discipline and spending decisions. Standing Orders will set that a Government Plan has a minimum 12-week lodging period.



The Government Plan will more generally set out income and expenditure proposals for each of the subsequent 3 financial years for information purposes. Although these figures will not be fixed by the approval of the Plan, it is expected that changes to these proposals in a subsequent Government Plan will need to be justified.

Endorsed – but changes to proposals - justified to who – the Assembly by the Council of Ministers? The ability to recalibrate years 2, 3 and 4 will be required but there should be transparency in the narrative on tracking substantive changes.

Under the draft Law, the States Assembly must agree funding for heads of expenditure set out in the Government Plan, which will more explicitly link spending to strategic priorities rather than being compelled to align resources only to organisational silos.

There also needs to be a link to departmental service planning – the current MTFP failed to do this in any coherent way. As with the Budget formulation in year 1 – there should be a significant element of ‘bottom up’ budget construction.

As mentioned previously, funding for major projects (replacing the current capital project heading) will be allocated on an annual cash requirement basis, but the States Assembly will still be required to approve the full cost of individual projects and its proposed funding before it can start.

Endorsed - significant improvement – CIPFA has been consistently critical of the existing arrangements around the sub-optimal impact on the overall resource management that the approval process has in ring-fencing funds - in previous advice provided to the Corporate Services Scrutiny Panel.

The draft Law enables the Government Plan to propose an allocation to a Reserve head of expenditure, and also states that the Minister for Treasury and Resources has the authority to direct where amounts appropriated under this head of expenditure will be spent.

Endorsed - sensible approach

Sustainability of the public finances is an important issue, and so the draft Law requires the Council of Ministers to take into account the medium- and long-term sustainability of public finances and the outlook for the economy when preparing their financial proposals.

Endorsed - This was always implied as a result of the MTFP framework but clarity and formalisation is welcomed.

In recognition of changes in international best practice in government accountability, the draft Law proposes that the Government Plan may include information about the sustainable well-being of the current and future inhabitants of Jersey. Given that this is a new initiative, the longer-term framework to support this inclusion of sustainable well-being will be developed over time.



Consideration has been given to the position of those departments which are independent of the Government. The draft Law provides protection to the amounts appropriated to those Departments classed as being Non-Ministerial States bodies by allowing them to submit their funding requests to the Council of Ministers for inclusion, without amendment, in the Government Plan. In the event that the Council of Ministers (or a Member of the States) disagrees with any of those amounts, an amendment to the Government Plan can be lodged.

Endorsed - sensible approach to formalise the position for NMSBs in a way that transparently protects their independence regarding their resourcing requirements.

In order to bring about further financial discipline, the draft Law includes a requirement that if there is an amendment to a lodged Government Plan, the Minister for Treasury and Resources must be asked to review and comment on the effect the proposal has on the public finances, including the medium- and long-term effects.

As above this was always implied but clarity and formalisation is welcomed.

The current Law allows some variations in the use of funds, where necessary, after the States Assembly has approved the spending proposals in the Government Plan. This is because (as is the case with any organisation) circumstances and priorities can and do change. Similar provisions are incorporated into the proposed draft Law, and include the requirement for the Minister to consult with the appropriate Minister(s) (or for those transfers which affect the non-Ministerial Departments to seek the approval of the relevant person) prior to any variations. The Minister must give the States at least 2 weeks' notice of the day on which the proposed transfer will be approved. Any States Member may lodge a proposition to object to a proposed transfer, and the Minister will need to await the outcome of the debate of such a proposition before approving a transfer. Furthermore, the Minister must report all such variations to heads of expenditure to the States Assembly by pre-set dates on a half-yearly basis.

Not much has actually changed here but there is significantly improved clarity through the revised Article 18 – Power to re-allocate.

A provision is introduced in the draft Law which would take effect on the States Assembly being unable to agree a Government Plan prior to the commencement of the first year of the Plan. This provision enables a monthly amount to be appropriated for spend – equivalent to 1/12th of the amount appropriated to an equivalent head of expenditure in the previous Government Plan. This type of provision is found in other jurisdictions, and has been included in this draft Law to enable public services to function if a Plan is not approved.

In recognition of concerns raised by Scrutiny, PAC and the C&AG, the current provisions which cover the availability and carry-forward of unspent funds at the financial year-end are more restrictive. The draft Law proposes that the Minister may direct –



- that unspent funds may be transferred into the following year's Reserve; and
- that unspent funding for a major project may be carried forward for spending on the same project.

Endorsed – this is a significant improvement – as noted above the current arrangement were regarded by CIPFA as being sub optimal.

The draft Law makes provision for expenditure which is linked to a state of emergency, or where there is an immediate threat to the health or safety of any of the population, or to the stability of the economy in Jersey or the environment. This provision enables the Minister for Treasury and Resources to spend up to £10 million from the Consolidated Fund without prior recourse to the States Assembly in those circumstances. If the amount is £10 million or over, an amendment to the Government Plan must be progressed.

Endorsed – a sensible approach – an improvement on the current Article 20 - we would assume that the £10 million threshold will be reviewed in subsequent revisions of the PFL.

The draft Law continues with the current arrangements by which the Minister for Treasury and Resources is responsible for bringing forward the necessary legislation to bring taxation issues into effect.

In relation to taxation proposals, it has been provided that any amendments to a Government Plan need not be limited to an amendment of the proposals in the Government Plan, but may include alternative taxation proposals.

Endorsed - this is positive in that there is more agility in the recalibration of financial strategy – removing formal 'hurdles'.

Investments (Article 25)

The draft Law continues with the current arrangements that the Minister must present an Investment Strategy for the funds under the Treasury's management to the States Assembly, and that the Treasurer must ensure that investments are made in line with this Strategy.

Financing and lending (Articles 26–29)

All major financing and lending will be agreed by the States Assembly as part of the approval of the Government Plan, and should be based on affordability rather than on pre-set limits. The Law requires the Council of Ministers to report in the Government Plan on the medium- and long-term sustainability of its proposals, and any borrowing would need to be justified as part of this. There is further protection in that the Fiscal Policy Panel is required to report on any such proposals in its Annual Report.

How is affordability defined? Good practice could be clarified here with reference to Public Finance Manual requirements – we would envisage properly scrutinised business cases and appropriate risk testing.



As a continuation of powers currently included in Regulations under the existing Law, and in order to allow some flexibility, the draft Law does include provisions which allow the Minister to secure financing, lend or give guarantees up to a maximum £20 million and with no more than £3 million in any one year. Anything in excess of these figures would need to be approved by the States Assembly in a Government Plan.

Administration (Articles 30–37)

These Articles set out the role of the Minister, the appointment, duties and independence of the Treasurer, the preparation of the annual financial statement and the requirement for internal auditing. They also introduce the Public Finances Manual. The concept of a Manual follows the practice in other jurisdictions. The Manual will be a document published by the Minister, and will include directions and information on the administration of this Law and the public finances generally.

The Manual will include many of the current issues covered by Financial Directions made under the existing Law.

Is the PFM going to be an amalgam of the Jersey Financial Compliance Framework-JFCF and Financial Directions? The PFM is going to be critical in the practical application of the PFL – more clarity in the notes required on the status of the PFM - how it is going to be constituted, reviewed and changed.

A draft of the Manual has been prepared, and this is currently being consulted on and further reviewed and improved – a final copy will be available for issue by the Minister when the Law comes into effect. It is fully recognised that the Manual will be an evolving document which is subject to updates as issues arise and best practice changes. The Manual will be publicly available.

In order to emphasize the importance of the independence of the Treasurer, the draft Law enables the Treasurer to issue a report to the States Assembly on the action of any person who has dealt with public money inappropriately. The Treasurer is also able to report to the Council of Ministers on the actions of any person that relate to the administration of the public finances.

Principal Accountable Officer and Accountable Officers (Articles 38–41)

The draft Law maintains the States Assembly’s decision in P.1/2018 to establish the role of Principal Accountable Officer (“PAO”), in recognition of the need for clear accountability at the very top of the public service for the overall use of resources. This approach remains consistent with modern practice elsewhere in the British Isles. The draft Law maintains the approach that the Chief Executive Officer should be the PAO, whose responsibilities include the designation of persons as Accountable Officers (“AOs”) for discrete parts of Jersey’s administration and States funds. The PAO retains responsibility for ensuring propriety and regularity of States funds and bodies, and for ensuring that such resources are used effectively, efficiently and economically. The PAO’s responsibilities also cover ensuring the performance of the relevant functions by the AOs and for publishing a list of all AOs.

The Law also enables the PAO to appoint AOs in certain specified bodies which operate apart from the States. The PAO has undertaken that before any such



appointment is made to these bodies, that consultation will take place in order to ensure a clear and shared understanding of the AO function within these bodies. As is currently the case, Non-ministerial bodies are excluded from the scope of the PAO's responsibilities, although these bodies will still have AOs who can be held to account for the resources of their area. The PAO and AOs continue to be answerable to the States Assembly and held to account by the PAC.

Endorsed – the maintenance and reference to P.1/2018 provides the appropriate level of accountability which CIPFA have previously advocated. The independence of the Treasurer is also 'enshrined' in Article 34 although presumably he/she will be an accountable AO to the PAO for the operational and financial performance of the discreet Treasury and Resources activities/function but not on the wider duties of the office of Treasurer as defined by Article 32 of the revised PFL. This defined scope for the role will fully meet the best practice as set out within CIPFA's Five Star World Class Financial Management Model and CIPFA's Code of Practice on the Chief Financial Officer in a public service organisation.

It is recognised that there is a need to review and update are some of the wider aspects of the overall accountability framework for the public administration, part of which is enacted through the Employment of the States of Jersey Employees (Jersey) Law 2005. Given that this Law was established more than 10 years ago, it will be reviewed to provide a fit-for-purpose framework for modern public service accountability. The Council of Ministers has prioritised this work and expects to propose an updated Law in the next 12 months as a second stage in modernising the overall accountability framework for the public service.

Approach endorsed

Fiscal Policy Panel (Articles 43–46)

The independent Fiscal Policy Panel is maintained in legislation. The Panel is required to prepare an Annual Report on the economy and public finances included in the Government Plan. This Report would address medium- and long-term requirements, and would also include reporting on external financing arrangements.

Endorsed – see previous comments – the clarification provided in Article 45 (2) (e) covering the review of the "States' financial assets and liabilities' is positive.

Offences and related provisions (Articles 47–52)

The draft Law sets out offences and penalties relating to the Law.

Miscellaneous Provisions and Schedules (Articles 53–66)

Provision is made in these Articles for the Minister's duties in relation to States' companies where there are shareholdings.

The draft Law (other than Part 7, which deals with Offences and related provisions) can be amended via Regulations, with the Minister having certain limited powers to amend Schedules 2, 3 and 5 by Order.

There are also transitional provisions which enable a smooth transition from the existing Public Finances (Jersey) Law 2005 to the provisions of this Law.



Consequential amendments are also included to reflect amendments which are required to other legislation to reflect the changes brought about by this Law.

No substantive comment on the above.

