

STATES OF JERSEY

Public Accounts Committee Energy from Waste Plant - Management of Foreign Currency Exchange Risks

MONDAY, 11th MAY 2009

Panel:

Senator B.E. Shenton (Chairman)
Connétable J.M. Refault of St. Peter (Vice-Chairman)
Connétable A.S. Crowcroft of St. Helier
Deputy T.A. Vallois of St. Saviour
Mr. A. Fearn
Mr. K. Keen
Mr. M.P. Magee

Witness:

Mr. W.D. Ogley (Chief Executive)

Senator B.E. Shenton (Chairman):

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Mr. W.D. Ogley:

I was going to say thank you for inviting me, but I am pleased to answer any questions obviously. I

think it is very clear ... I personally think my role is very clear in this. My job as Chief Executive is to ensure that the proper arrangements are in place to manage the contract properly through all the stages of its growth, feasibility, planning, decision making, implementation. My job is to ensure that those management arrangements are in place, that the arrangements comply with the requirements set by the States through its financial directions and States decisions. My direction, should I be concerned that any senior member of staff does not have the necessary abilities to do what is expected of them, and I think it would be quite right that I would be expected to step in and ensure that the right arrangements, the right resources, the right skills were in place. What I do not believe my responsibility was, was to actively, in any way, manage or intervene once I was satisfied that the proper arrangements were in place, the structures and processes and the skills and procedures were there. I think from that point on my role becomes one of monitoring, a point of reference and advice as needed but I did not see myself having an active management role in the specifics of this contract.

Senator B.E. Shenton:

When the States agreed to procure the incinerator contract, and bearing in mind the report was published that the currency risk would be hedged on the date of the signing of the contract, and that went to the States Chamber, where did you see within the civil service that the responsibility lay for ensuring that was done?

Mr. W.D. Ogley:

I think this is the report you are referring to. The decision of the States and the proposition was not deciding to hedge. The proposition was very much about the provision of funding to allow the project to proceed. You are absolutely right that the report referred ... it did not actually talk about hedging, it talked about eliminating exchange rate risk and I am very clear that this report then goes on to say, paragraph 3.3: "As with all States capital projects the Treasury will monitor and manage the fluctuations risk. The cost of any currency fluctuations will be met from the capital project's reserve vote in the event this increases the cost of the project." I think that is absolutely clear and unequivocal. From that point on had there been any lack of clarity I think that dealt with it directly. So I am very clear the responsibility rested with the Treasury and with the Treasurer, in that it was an operational matter, it was not a political matter or political decision and that report made it very clear to the States and to everyone involved who was responsible.

The Connétable of St. Helier:

It may be worth picking up, when we had our last hearing that certainly one of the political representatives purported the view that the report was not part of the decision and therefore accountability would not have fallen directly therefore to the Treasury.

Mr. W.D. Ogley:

The report was not part of the decision and that is why I say the proposition specifically was about the provision of the funds. The report, however, as a statement to the States, was a statement of responsibility. This was not something for the States to be making a decision about. The responsibility very clearly rests with the Treasury.

The Connétable of St. Helier:

But nevertheless the political representatives sat where you are a few weeks ago said that was just part of the report and did not have any real weight to it.

Mr. W.D. Ogley:

If you were only relying on that and you were saying the States had made a decision that that would be the case then I think your political representative was absolutely right. You could not rely on that. This was not something that required a States decision. It was, as a matter of course, practice and, frankly,

within the States overall decisions on finances and the Finance Law, the Treasury has that responsibility. This report was stating that responsibility and therefore you can rely on it to the extent that it is a statement of responsibility and, as such, has that weight.

The Connétable of St. Helier:

I can endorse that comment by saying that *Hansard* shows that the States gave very little attention during the debate on the funding to any exchange rate risks. The report clearly stated that that would be managed and therefore States Members did not waste time discussing it. Could I just ask you a couple of questions about the role of the Corporate Management Board. We heard from the Chief Executive Officer of T.T.S. (Transport and Technical Services) at the time that the incinerator contract was not discussed as an agenda item by the Corporate Management Board as far as, I think he said, at any time between the States decision on P.73 and the signing of the contract in November that year. It does seem to me quite surprising that given the size of this contract, and the fact that there was pressure on the funding through matters like planning, there were also rescindment motions coming thick and fast during the year, it does seem to be surprising that the Corporate Management Board did not take more interest in the project and, as chair of the board, that you did not make that an agenda item, or perhaps you did, I do not know.

Mr. W.D. Ogley:

The Corporate Management Board has considered and discussed the incinerator in a couple of ways. Not as a direct project under their control or direction, but clearly we do advise, we are asked by the Council of Ministers to advise them on the allocation of resources through the Business Plan process, and as the largest capital item in that book of projects, of course we have considered it and we built it into the advice going forward, number one. Second, the Corporate Management Board has usually annually in terms of setting looking forward risks has a discussion around risks and had identified previously and subsequently the incinerator as a key Island-wide risk in the sense that the Island needs to have a means of disposing of its waste. The incinerator as it currently stands is clearly obsolete and requiring major investment to keep it running, if it can be kept running. Therefore we have identified the issue of the incinerator as a major risk. In that sense, C.M.B. (Corporate Management Board) has done it, has considered it, and that I regard as the C.M.B. role, is to consider the balance of these issues. I think my role as Chief Executive is to ensure, as I have said, that the project is then properly managed, allocated and structured.

The Connétable of St. Helier:

So was there an agenda item during that period of the C.M.B.?

Mr. W.D. Ogley:

No, because the C.M.B. would not be expected, I certainly would not expect it, and I do not think anyone else would expect it, to take an active role in seeking to monitor and manage the actual delivery of this project.

The Connétable of St. Helier:

So you had the Treasurer of the States and the Accounting Officer as the Chief Executive of T.T.S. on that board it would seem to me as a good way of ensuring co-ordination and implementation of States decisions to have said to the 2 of them that they around the table, is everything on track? Are all our ducks in line in terms of the States decision taken in July?

Mr. W.D. Ogley:

I do that either individually or together, depending on the necessity of it. I see that as my role. Of course we do, under any other business, usually have a roundtable where we will identify major issues. This in the sense of funding risk, hedging risk, was not an item on our agenda because it was being

managed by the Treasury with the necessary advice and guidance.

Senator B.E. Shenton:

You mentioned about the Business Plan and the way the Accounting Officers have responsibility for carrying out actions within the Business Plan, which is obviously very important in the way the whole thing is structured, because in some ways department, I may say that they act in silos, but departments do act individually and they are responsible for the Business Plan. So, can I just repeat something that Ian Black said to us, and this is his words: "There certainly were mistakes made on this and what is quite clear is that at the end of the day the Treasury has to take some responsibility for those things. The point I am trying to make is that we started off on this game not clear who was responsible. At some point it shifted over and I think that is one of the reasons it went wrong. I think I am accountable for the delivery of Treasury's Business Plan" so he is backing up what you are saying: "If you look at Treasury's Business Plan for 2008, which is all my major projects, you will not see anything in there about Energy from Waste and currency issues and that is not surprising because when we wrote that Business Plan there was not supposed to be a currency risk in the Energy from Waste project." Now, I put it to you that this ... if you work on that sort of blinkered approach this actual hedging of the euro was not in anyone's Business Plan and no one was responsible. I would put it to you that it was your job to make sure that responsibility is allocated for all aspects, including the currency hedging of the project.

Mr. W.D. Ogley:

Well, I agree with the Treasurer's comments because he is absolutely right. When the Business Plan was set the issue of exchange rate risk did not feature. It had not been tendered in that sense. Subsequent to that the risk emerged. I have never had any doubt and I do not believe in anything that is ... I refer back to the report in May. It is very clear that the managing fluctuations providing the funding was a Treasury responsibility, that responsibility was accepted through the project management structure, through the project management board, when the Treasury representatives accepted, and accepted because they had that responsibility, made it clear that they would fulfil that responsibility in the means in which they would do so, and it has never been in doubt.

Senator B.E. Shenton:

Do you think it is acceptable for a senior officer of the States to turn round and say: "If it is not in the Business Plan I am not responsible"?

Mr. W.D. Ogley:

No, of course it is not because if you work solely to a Business Plan which is set before the start of the year that it relates to, there will be a lot of issues that will arise during the course of that Business Plan and you cannot ignore them. Some of those will be more important and, indeed, this matter became more important, I would say and I know, and you will see from the C.A.G.'s (Comptroller and Auditor General) report the way that it was responded to. It was accepted as being more important and very clearly was a responsibility of Treasury.

Senator B.E. Shenton:

When did you first become aware that there was a problem with regard to the lack of the hedging?

Mr. W.D. Ogley:

Mid-December.

Senator B.E. Shenton:

After the action had not been taken and a paper loss had been identified?

Mr. K. Keen:

Mid-December that was, December?

Mr. W.D. Ogley:

Okay, early to mid-December.

Mr. K. Keen:

Yes, after the contract had been signed, then?

Mr. W.D. Ogley:

Yes.

The Connétable of St. Helier:

Was there not a lot of interest around the time of the signing of the contract to ensure that the Ministers who were signing both in terms of T.T.S. and Treasury were fully aware of what they were doing? Because obviously there is a lot of political interest in the decision. It does appear to me that when the former Minister for T.T.S. signed the contract he must have known that the money involved was not the same as the States were considering when they approved it. He must have been aware that there had been various additional sums, not only the planning but also possibly the risk of currency fluctuations. I am just curious that there does not seem to have been any high level officer advice to say to the Ministers: "Draw back from this decision while we make sure that we have all our ducks in line."

Mr. W.D. Ogley:

Well, I do not think that is right, I am sorry. If you have read the Comptroller and Auditor General's report, which I believe is an excellent forensic analysis of the whole process of decision-making and management, you will see that these issues were addressed directly between Transport and Technical Services and Treasury and Resources and resolved at the highest level.

The Connétable of St. Helier:

Did you have any role at the time of the decision-making in terms of as the head of the Corporate Management Board to ensure that these things were signed off correctly or not? You were simply told after the event?

Mr. W.D. Ogley:

No, I wanted ... I was assuring myself that the appropriate actions were being taken, that advice was being taken, and decisions were made on the basis of that.

The Connétable of St. Helier:

Was anyone aware at the time when the signature was made that the States had understood in July that at that point of signing the exchange rate risk would be eliminated? Because that was clearly in States Members' minds when they had the debate. Come November when the signature was made, what mechanism was there to trigger implementation of that part of the report? Because it would seem to me that somebody should have ... the day after the signing, somebody should have said: "All right, today we have to fix the exchange rate mechanism, the exchange rate risk, because that is what the States have agreed." Was that your job to make sure that that decision was implemented or was it somebody else's?

Mr. W.D. Ogley:

I am very clear that that was the Treasurer's responsibility. I have no doubt whatsoever about that.

The Connétable of St. Helier:

But does that not lead to a slightly disorganised approach to States decision-making because you have

decisions being made by different ... different projects come to the States in the name of different Ministers. Decisions are made by the States, and it would seem to me that part of the co-ordinating role of the Chief Executive is to make sure that every decision that is made by the States and by the Council of Ministers is correctly implemented.

Mr. W.D. Ogley:

No, I think I am very clear here that there was a project management structure. I think that you have been all the way through this. You had the Minister for Transport and Technical Services who was responsible for ... as the responsible Minister. You had the Minister for Treasury and Resources who was responsible for providing the funding, and it is their officers who are operationally responsible for fulfilling those responsibilities. I would point you to, again, within the Comptroller and Auditor General's report paragraphs 277 to 279 which refer specifically to the points you raised. The report itself ... and this I think is different to the point I was making earlier where the report around the role of the Treasurer is a statement of reality, a statement of actuality. The report itself says at 3.2: "The exchange rate risk will be eliminated." As the Comptroller and Auditor General goes on to say: "A failure to implement a statement of this kind should not necessarily be a matter for criticism if in November 2008 Treasury and Resources officials formed the view that the statement did not represent the best value for the States. They would be open to criticism for not proposing a different approach."

The Connétable of St. Helier:

I am aware of what the Comptroller and Auditor General says in his report, but early on in our questions today you said that your role included a monitoring role. Looking at the job description for the Chief Executive, it does say under 7: "To ensure that the strategies, policies and decisions of the Council of Ministers are implemented and that government business, public service and the Council's decisions are discharged and delivered across the States efficiently and effectively." I am just surprised that that overarching monitoring role did not include making sure that the States decision, which is the important bit, and the accompanying report, which you agree, I think, with me is important, that that was not fully implemented because clearly it was not on the day after the signing.

Mr. W.D. Ogley:

Well, I have to say I was satisfied at that point that it had been implemented. I was aware, as I said to you, that there was a proper and appropriate project management structure dealing with the whole project. I was aware that Treasury and Resources had the responsibility for providing the funding and managing the exchange rate. You will have seen on at least one email that I was aware that decisions were being made, that Treasury and Resources had the appropriate advice from a number of sources and were relying on that, and at that point the Accounting Officer for Treasury and Resources is responsible for acting and implementing those decisions. My job is not, as Chief Executive of the States, to follow up the day after a decision is made and check that it has been implemented exactly as was said, because if so it would be an impossible job. There are many decisions made, many actions taken. When you have senior responsible and able people you rely on those. The important point to note is that proper advice and information has been brought together, that a decision has been made based on that, and to be satisfied that your chief officers, the accounting officers, have the appropriate structures in place to ensure that those decisions are implemented. That I regard as my role. That is what I do and that is what I did in this instance.

Mr. K. Keen:

Mr. Ogley, Public Finance Law seems to have a very ... the Treasurer seems to have a very special role in this, as you would expect. In Article 30 it says that the Treasurer may not be directed on how the function of the office of Treasurer is to be carried out. It seems to me that he seems to have ... would it be fair to say that the monitoring of the Treasurer is different to almost any other of your officers? Would that be fair to say? From what I can see, you are not mentioned in the Public Finance Law.

Mr. W.D. Ogley:

Under the Public Finance Law I have no role. You are absolutely right. It is very clear that that is the Treasurer's role. I do not regard that as meaning that the monitoring and my responsibility in relation to the Treasury is any different to that of most other chief officers because most other chief officers will have specific roles and responsibilities under specific pieces of legislation that I will have no responsibility for, and nor should I. It is very important that the Treasurer of the States acts independently in implementing the Finance Law and does so properly, and I can go through a whole raft of legislation that places personal responsibility on chief officers where either in a regulatory ... and to some extent there is a regulatory as well as an implementing role under the Finance Law ... those chief officers should not be so directed. It does not mean that somebody in my job should not satisfy themselves that those people are competent and that they have in place the right arrangements to ensure that actions are taken properly and efficiently. Unfortunately, we are all human and from time to time failings do happen, and that is why we have audits, audit structures, performance reporting structures, to pick those things up, but that is different to saying that you will follow up 24 hours later and check that something is happening. Because to do so is ... well, not only means you could not do the rest of your job, but it is undermining senior people who have a responsibility and must be relied upon to deliver on that.

Mr. K. Keen:

I understand that and I agree with you. I suppose in a corporate environment we would have had a report of sort of major risks, most certainly financial risks, in the sort of regular financial report, like open currency positions I think would have been ... they would have been much smaller, but they would have been reported to the board and to an executive committee in the case of the companies I work for. That was not the case for the Corporate Management Board?

Mr. W.D. Ogley:

No.

Mr. K. Keen:

No. So the role is clearly different from the point of view of managing the business of the States from what you might regard a company's role would be to ... not just to do the Treasurer's job but to be monitoring financial risk in that way?

Mr. W.D. Ogley:

It clearly is different. I mean, the whole structure of the States is different to that, as you know, of any company structure. You start to look for the board responsibilities and you have to decide whether they exist at the States Assembly level, the Council of Ministers level, individual Minister level, accounting officer level or management board level. You have a whole different range of structures. It might be ... I will not use the word "better" but it would certainly be easier, simpler and cleaner if you had a much simplified board structure and you did have something like a corporate management board that has that full function responsibility, but it does not, I am afraid.

Deputy T.A. Vallois of St. Saviour:

Could you clarify exactly what you became aware of in mid-December, clarify exactly what it was that was brought to your attention? Because it was mentioned in the C.A.G.'s report that there was a memo sent to you by T.T.S. with regards to the exchange rate, the changes, so could you explain what happened from that memo to what you are saying you were made aware of in December?

Mr. W.D. Ogley:

Yes. The memo was very clear and it identified the decisions that were being taken, the stance that was

being taken, and then the subsequent decisions I was aware of. As I say, mid-December, it was earlier than mid-December because it was, I believe, on 17th December that Hewetts gave their advice on triggers and that trigger arrangement was signed off, so it was well before that. So I was wrong on timing. What I became aware of, and it would have been very early December then, could even have been late November, was the fact that the euro account had not been opened and the currency had not been transferred and the risks were not starting to be actively managed. That came as a complete surprise, I have to say.

Senator B.E. Shenton:

Who brought that to your ... was it the Treasury that brought that to your attention?

Mr. W.D. Ogley:

It was the Treasurer.

Senator B.E. Shenton:

Or Transport and Technical Services?

Mr. W.D. Ogley:

It was the Treasurer.

Senator B.E. Shenton:

This is going to sound like a stupid question, but why did they bring that to your attention? What did they expect you to do upon receipt of that information? **[Laughter]**

Mr. W.D. Ogley:

You will be aware that any manager has a ... however you manage people, you have a number of responsibilities towards the people that you manage in terms of setting targets, monitoring those targets, monitoring performance against them, and also managing welfare, morale and a whole set of issues there. I keep in regular touch with all of my chief officers to just ... and this is how I can accept the responsibility for ensuring that things are in place. As part of those regular discussions that I will have, I will be running through the outstanding issues, the major issues, asking how progress has been, but I will also want to know how those individuals themselves are and what pressures they are facing and how they are responding to it. I would say that I was informed as a mixture of all of those. Clearly, I want to know how things are going, but I was also aware, made strongly aware, that the Treasurer was extremely discomforted and was suffering at a personal level, a welfare level, and I expected to know at both of those levels and that is ...

Senator B.E. Shenton:

Because ultimately under the Public Finance Law the Treasurer, as Kevin has said, does not report to you.

Mr. W.D. Ogley:

No.

Senator B.E. Shenton:

The responsibility for this was with him, 100 per cent with him.

Mr. W.D. Ogley:

Yes.

Senator B.E. Shenton:

I cannot quite see where you could step in at that level.

Mr. W.D. Ogley:

Where I can step in is not to direct, you are absolutely right, but to offer advice, guidance, another senior person that you can discuss your problems with, to bounce ideas around and seek solutions. I can also step in as that person's manager because although the law is clear ... and this is the interesting thing about the States structure. I regard myself as the chief officers' manager. I am responsible for their annual performance review and assessment. I believe ... I know I am responsible for looking after their welfare, their development, and I would expect any chief officer that either has a resounding success, a major or a minor problem, to be alerting me to that, and certainly if they are looking for somebody to talk to, to do just that.

Senator B.E. Shenton:

Are you confident as the Chief Executive that we have enough experience and expertise within the Treasury Department? What we have tended to find, for example, when they did convert the euros that we have converted so far, they do not have any Bloomberg or Reuters screens or anything like that to check the rate that they are getting. The thing is very much at arm's length and there seems to be an awful lot of reliance on consultants and advisers, but you can give something to a consultant or adviser to do but you still have to check that they are not taking more than they should do on something like that. Are you happy that we do have the expertise within Treasury given these failings?

Mr. W.D. Ogley:

No. No.

Senator B.E. Shenton:

You are not happy that we have the expertise?

Mr. W.D. Ogley:

Well, it is quite clear, as the report says, these failures have occurred. Part of it is lack of experience, as was made clear. The States have not had major euro or currency fluctuation exposure before and, therefore, we are not staffed up for it. They did previously have a member of staff who had this area of responsibility and had the knowledge and understanding but had left and they had failed to be able to replace that person. I think had they succeeded in so doing then it would have been a different matter. But it is quite clear now, looking at it, that the wrong questions were asked of the advisers, and that is a matter of an intelligent client.

Deputy T.A. Vallois:

Does that not send alarm bells ringing, though, that if somebody ... only one person had experience in that area and they left, that they did not request a consultant or adviser to step in for a short time period to help them?

Mr. W.D. Ogley:

Well, they had advisers that they were relying on, but I think you have hit on a problem throughout the States. The States is an organisation with extremely wide responsibilities. Everything a government does, everything a quango in the U.K. (United Kingdom), everything ... a lot of things that have been privatised in the U.K., the States does it all, massive range of responsibilities. It may well seem to people that there are a lot of people employed by the States, but a lot of those are frontline workers; the vast majority of them are frontline workers. You can go around almost every, I would say, department, certainly a large number of departments, and you will find that there is one expert on something, and that is a problem. There is no doubt about that. As that expert leaves, it is not that you have teams of people that you have responsibility is shared ... or not shared but passed and knowledge known. You

have a lot of individual experts, and I think the report makes clear that the handover in this instance was not as well managed as it could have been and the report makes clear that Treasury were under a lot of pressure, which is probably what led to that. But I am afraid if we were an organisation that had backup to all of the various professions, we would be a much bigger organisation and we would cost the public an awful lot more to run. We do run, I have to say, on a very thin layer of professionalism and often on a shoestring. That is what we do.

Deputy T.A. Vallois:

It does concern me. I mean, Treasury would be under a lot of pressure anyway with this on top of them, a lot of pressure to get a capital programme pushed through. So I just cannot understand why they did not feel that they could come to you or request T.T.S. to ... well, contract an adviser themselves from the funding.

Mr. W.D. Ogley:

Well, I would not have seen that as a T.T.S. responsibility. I have been very clear today, I remain very clear, that the person responsible for managing, as we have said, the provision of the funds and the currency risk is the Treasurer. It is the Treasury. I do not think ...

Deputy T.A. Vallois:

But the Chief Officer of T.T.S. did state that if Treasury can have dealt with it, they could have gone back to him and he would have contracted a consultant to do the investment management requirements.

Mr. W.D. Ogley:

If they could not have dealt with it?

Deputy T.A. Vallois:

Yes.

Mr. W.D. Ogley:

At the end of the day, the Treasury are responsible for this. They might well have gone back to the chief officer of T.T.S. and said: "We do not have enough expertise. We need to bring someone in. Can you assist us with the funding of it?" but I do not believe they could pass it back to Transport and Technical Services. It was not T.T.S.'s responsibility. I think that is very clear under the project structure. As John told you, they adopted the O.G.C. structure, they used ... this is slightly different in that it is very clear responsibility for funding sits with the Treasury. I do not think that can be passed back.

Senator B.E. Shenton:

When we interviewed the Chief Officer of Treasury, he said basically that his remit was so wide that he could not be responsible for everything, which in effect means that you are responsible for nothing. Is it acceptable that chief officers come up with statements like this? We can let you have a copy of the transcript if you so wish. Chief officers have to, surely, take full responsibility of everything that happens within their department.

Mr. W.D. Ogley:

They do. There is no doubt about that. If you are a chief officer in a department with responsibility, you accept that responsibility and you are accountable for it.

Senator B.E. Shenton:

Now with the knowledge that you have a chief officer that obviously believes that his department remit is too wide for him personally, do you intend to have a look at that?

Mr. W.D. Ogley:

Yes. That is already in hand.

Mr. A. Fearn:

Mr. Ogley, if I may, in relation to the management of a project, in some of the projects that I have seen managed by other organisations it is the accountability of the project manager to ensure that funding is in place to manage any change in scope, of which the inclusion of an element of F.X. (foreign exchange) hedging would seem to be a key change of scope. Is your view that Treasury being a subcomponent or running a work stream almost within that project would still be responsible for the failure to provide a hedging strategy, or would that be the responsibility of the project manager?

Mr. W.D. Ogley:

Well, I think again you have to come back to the fact that the States of Jersey is different to most other organisations. You are absolutely right, if this were a commercial entity then your structure would apply. Here we need to be very clear. Treasury are responsible for providing the funding. That is what they do; that is their job. Within that funding, the Chief Officer is responsible. Given that virtually all of our contracts ... well, all of our contracts to this date and all of our capital projects the cost is in sterling, then the Treasury provides that sterling sum and the Chief Officer is responsible within that for the whole issue. I believe from this report - and the report is very clear - that again the Treasury are responsible for providing that funding to meet the contracted sum. Those sterling elements are fixed, total sterling, and the euro element is fixed, and the Treasury are responsible for providing those 2 sums of money. I think it is important in this instance to differentiate between that there are those 2 sums of money because there is this euro element. It is the Treasury that should have - did have - the responsibility; should have and did have the expertise to do so. I believe, therefore, their job is to provide that funding. In this case it is a mix of sterling fixed and euro and their job is to provide that euro value. Had the contract, as it has been said here, been signed on advice with the contractor accepting that and it was then a sterling denominated contract, then I think your model applies entirely: the Treasury provide that sterling denominated sum; the Chief Officer manages it. But that is not throughout the life of this the structure that was adopted and I do not see ... I keep coming back to the very earliest question, and I am sorry if I am boring, but I have never seen and I have never understood anyone to have any lack of certainty about that responsibility.

Mr. K. Keen:

Could I just ask about internal control? In the annual report you give a statement on internal control and that you sign off the sort of master statement. I know you have not got it there, Mr. Ogley, but I am sure you will remember it. You give the final comforting closing statement to say that: "To the best of my knowledge the internal control environment as summarised above has been effectively operated during the year subject to the control issues identified", et cetera. Now, I am just wondering if you were signing that now, or perhaps you probably will be shortly, it would seem to me that management of foreign currency risk would be an internal control issue. Would you still feel as comfortable signing that today as you were on 3rd March 2008 in the light of what has happened?

Mr. W.D. Ogley:

I have just signed an internal control statement for 2008. It closes in a similar way but it identifies this contract as a major variance from that, which I think was only appropriate. I would feel much more comfortable because you know that there is already a draft - but it is being followed - policy and strategy in place for managing future exchange rate risk and fluctuations, and I would now be much more comfortable than I would have been a few weeks ago, certainly a couple of months ago, on that. I think the whole point ... I do not condone an error like this, but I think the most important point about an error like this is that you learn from it and move on from it and you do not expose yourself to that risk. I think - I am going more widely just for a moment - the whole issue of the internal control environment now,

some 3 years on from the introduction of the States of Jersey Finance Law, does need a thorough going over as you would expect and that is in place for this year.

Deputy T.A. Vallois:

Could I just ask, just to clarify, say, for example, this whole situation was the other way round: everything had been carried out normally but the exchange rate was going in our favour, for example, and we were making money out of it. Do you believe that the way that it has been handled would have been highlighted to you still?

Mr. W.D. Ogley:

Yes, because, as I said, I think I would expect chief officers to share their successes as well as their shortcomings with me. I do not believe that value ... and again I think this is where the denomination ... the value of that exchange rate benefit ... and indeed there might still be one. I am not sitting here trying to forecast what future exchange rates look like. There are people more qualified than me to do that. There may still be an exchange rate benefit. None of us know until the end of this contract. And I would expect to know, but I think that is what falls back into the Treasury and that is why when you have seen the allocation of the risk reserve it covers specifically that euro risk either way.

Senator B.E. Shenton:

Yes, sterling is quite strong today. But having said that, the decision of Treasury now is to take a currency risk. The position is not completely hedged as yet and the actual decision of Treasury and the Treasury Minister is to run a degree of exchange rate risk on this project, which is contrary to the original proposition. How does this stand within the whole remit of the fact that the proposition was passed on the basis of no exchange rate risk that the Treasury Minister has now decided to take some exchange rate risk?

Mr. W.D. Ogley:

Well, as you say and I think as has been said, the report itself was not decided upon by the States. The States did not adopt the report in total and I think the point has been made, therefore, that the statement about exchange risk was a statement of intent as opposed to a final decision. So, I just come back to that because you said the States proposition; indeed, it is not the States proposition.

Senator B.E. Shenton:

The report.

Mr. W.D. Ogley:

The report. Sorry, I just want it to be clear. I think ... and again the C.A.G.'s report makes this clear, but my view is that once you find yourself in this situation, which we did, not where we would want to be, any of us, you then take the best advice. You go and get your advice and you put in place a way to mitigate your problems, but you also look at the cost of, at that point, totally writing out risk, and on the basis of the advice certainly I have seen, professional independent advice, that cost was not one which was acceptable to bottom out the risk. Let us hope with hindsight we find that was the right decision.

Senator B.E. Shenton:

Although you can learn on the basis of hindsight, one must not forget that this has cost millions of pounds, this error by the department. How bad does an error have to be within a department before you take drastic action?

Mr. W.D. Ogley:

Sorry, what do you mean by "drastic action"?

Senator B.E. Shenton:

Well, you know, you say we can learn from this and move on. I mean, the taxpayer has lost millions of pounds and we can learn from this and move on; is this a general acceptance of how the civil service operates?

Mr. W.D. Ogley:

No.

Senator B.E. Shenton:

We just learn from something and just move on?

Mr. W.D. Ogley:

No, of course not. Absolutely not. We, as you know, have a proper disciplinary structure, disciplinary process, for all civil servants and, as I have said, my view is that we all have to be responsible and accountable for our actions. The disciplinary process may not be a means of restitution of the public having lost money. If - I come back to the point - they have lost money; none of us will know until this contract has closed out. But the disciplinary process is there. The people that have been involved with this have been or are subject to that process, and that must be enforced strongly and properly.

Senator B.E. Shenton:

Thank you very much for coming along. We have managed to keep to the timing despite the slightly late start. Thank you very much.

Mr. W.D. Ogley:

Thank you.