

# STATES OF JERSEY

## Corporate Services Panel – GST Hearing

### THURSDAY, 3rd AUGUST 2006

#### **Panel**

Deputy P.J.D. Ryan (Chairman)

Connétable D.J. Murphy of Grouville

Connétable J.L.S. Gallichan of Trinity

M. Haden (Scrutiny Officer)

#### **Witnesses**

Advocate P. Mourant (Lloyds TSB Foundation)

Mr. D. Beaugeard (Lloyds TSB Foundation)

#### **Deputy P.J.D. Ryan:**

Good morning, gentlemen, thank you for joining us. You are probably aware, I am sure you are aware that we are carrying out a review to the GST proposals. Our terms of reference are such that they are pretty wide. We will look at just about everything and anything that we want to, to do with GST, and any peripherals that come up. I have just got to do the formal thing first and just put you on notice by reading a reasonably simple statement to you. There is a copy of it in front of you. It is important that you fully understand the conditions under which you are appearing at this hearing. The panel's proceedings are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 although at present this privilege only extends to Members of the States. As a result you are protected from being sued or prosecuted for anything said during this hearing although this privilege clearly should not be abused. The proceedings are being recorded and transcriptions will be made available on the Scrutiny website and if following, once you have a look at the transcriptions, if there is any points of clarification that you would like to make please feel free to do so or if there is something slightly inaccurate then you will obviously have the opportunity to correct it. Thanks for joining us. The first thing that I would like to just put to you generally is that there were some references to charities being treated in a slightly different way in the consultation document for GST and what we found a little bit, and I would like your comment on this, is that a lot of Jersey charities, particularly the smaller ones, feel that, "That is okay, we are going to be treated separately and dealt with differently so we do not need to really do a lot", but in fact our understanding is that that is far from the case and, in fact, charities do need to make out a very good case for themselves, and we are finding a little bit belatedly that charities are slowly working themselves up to realising that they do need to make proper presentations to the government and maybe through this process. Is that right?

#### **Advocate P. Mourant (Lloyds TSB Foundation):**

Can I just say why we are here? Because I think it is important to understand the work - I got more

copies of the current annual report of the Lloyds TSB Foundation for the Channel Islands. The chairman alternates between Jersey and Guernsey hence you have to suffer a deputy chairman representing the foundation because Andrew Ozanne lives in Guernsey and he is the chairman. But it came to our attention through the good offices of the *Evening Post* that there had been a lack of response and we took the view that while we were not a charity we were, apart from the States, I think the biggest grant aider in the Island. We have £1 million roughly each year to dispose of depending on the profits of the bank. That is divided between the 2 Bailiwicks with a small international allocation which we have made for a little while back, relatively insignificant. We see as a result of our assessment procedures the accounts of most charities, I think it is fair to say, of any significance in Jersey because most of them at some time have made an application to us. I can, because it is a matter of public record and it is published in our accounts, out of my last pack take a list of people we have made donations to for the last 5 or 6 years, I have that here, and you will see it is a very wide ranging thing. I do not mind giving it to you, I am sure that is fair. Of course I think the list of donations for the previous year are in the annual report so you can either have a 5 year flavour or one year flavour. But you will see it is quite broad and covers a multitude of charities except those which we cannot provide for under the terms of our trust. Our concern was that some of these charities, not having made representations, would not convey to you what we know about the fragility of the whole charitable network in Jersey. I do not know if you listen to the early morning radio or whether you are afraid to in case you are featured in it, but this morning we had the Shelter Trust talking about, at the end of each year, they are broke, they certainly have no spare cash. They provide services, they do not charge for them largely, and this was in relation to the drunk and incapable rooms they have. Now they were saying, and I can believe it, with my other hat on as a magistrate, they are saying that they are saving about 10 days court time a year by dealing with these people without them going through the police and court systems. The police take them there if they are first offenders, have not committed any other offences, and they let them sleep it off and send them home. This makes me wonder whether in fact those who have made this decision have looked at the outward cost to the government as opposed to the inward cost. It seems to me that my experience of the way the State are handling finances at the moment, and it is personal experience, is that they are looking for every means to increase income but we never read, and I think it is important in this context to work something out about what it is going to cost them as a result of the new policy being imposed. Now how that is done I do not know. All I can say is that if charities are finding the imposition of inward and outward GST and the costs of administering it such that they have to reduce services, many of those services in relation to the culture, sports and education and health and social services are vital to the community. There must be many millions of pounds, I do not know what it is, put into the communities by charities. It is not going to all be lost. There must be a calculation to do. So this is why we felt we ought to come before you with various issues in relation to, as we see it, from the point of view of core funding. We look to sustainability in projects before we invest, if I can use that phrase, in them. We have had to say to charities within the last 2 or 3 years, because you do not produce a satisfactory business plan to show that your charity and the work you are doing is financially sustainable we cannot invest in you so you have to come back with proposals. In one case, in one

charity - I think it is only one - we withdrew the second tranche of funding because we could see them going in the wrong way and it was not sustainable. The sustainability test when you have, say for this Island, half a million pounds a year available is important, and I think you cannot overlook how important we see this. A lot of the problem is, as we see it, that the States, for reasons we all understand, have less money to use for grant aid and charities even though they are fulfilling in many cases the function of the State. So not only has that happened, charities are having to look at their costs very carefully. They are, at the same time, faced with this burden of GST, and they say 3 per cent. But 3 per cent is 3 per cent when they say it, but it could effectively be 4, 5, 6, 7 per cent and one day I am sure we might be talking about significant figures, I do not know. But you cannot just say it is 3 per cent because it might not be. That is our concern and it is really from this broad base and from our knowledge over 21 years of grant aid and Mr. Beaugeard who has been executive director for 10 years, who has been at the heart of the whole trust business, that we feel we have got the experience and the information which we can place before you to say there are grave concerns on our part on the fragility of many of these people. Now it can vary from an organisation where we invested £300,000 over 3 years, a lot of money, and worked very hard with the Health and Social Services Committee to persuade them that the project, together with the charity itself, was so good they should invest in it as well. And they have seriously invested in it. And arrange from that to a small organisation in a housing estate, perhaps, where you want to provide a climbing frame for children. Now all these people their climbing frame will cost more, will they be able to afford it? They are running on very small and very tight budgets. So it is not only the great, it is those people who are the nub of the society who are just trying -- the Women's Institutes, the Small Housing Association groups who just want to help kids play safely. They are all going to be seriously affected and it is of grave concern to us. Really, I think unless Mr. Beaugeard has anything to say, that is my opening, sort of, shot of this to you.

**Deputy P.J.D. Ryan:**

Thank you very much for that.

**Mr. D. Beaugeard (Lloyds TSB Foundation):**

Could I, Mr. Chairman, answer the question you posed at the beginning? That is that the notion of being taxed had not entered the minds of charities who after all are charities in this Island by virtue of the fact that they are exempt from tax, and I believe that in general the charities have dismissed the thought that they are likely to suffer GST. Those who have relationships with the United Kingdom will know that their charity in the UK largely is exempt from VAT (value added tax) and so therefore they felt, and I believe I am right in saying so, that at an early stage there was no notion that they would be charged tax.

**Deputy P.J.D. Ryan:**

Do you feel there is a lack of understanding in exactly how this is going to affect them as it stands at the moment unless things change?

**Mr. D. Beugeard:**

I think there is a total lack of understanding. I do not think it has been set out in clear terms what GST means for the average charity. Whether it is inwards costs or outwards costs, major charities will have some sophisticated means of obtaining advice and they will no doubt have treasurers and trustees who will have read the law and work through the issue. But of the charities, wide range of charities that we support, those are quite few. The Island is made up of some 200 charities, many of whom are really very small charities in the sense of the word with a relatively small turnover. But by the same token they fundraise avidly and they do not expect the fundraising to go in taxes.

**Advocate P. Mourant:**

There is one issue as well which we have to take legal advice on, we do not believe because of the way all the foundations were set up - there is 4, England and Wales, Scotland and Northern Ireland - we do not believe that we would be able to fund the payment of a tax. If we had a request for a grant that request would have to be accompanied by the tax costing at request which we would not meet. That is outside our remit to pay taxes to any government whether it is UK or here. We would take legal advice on it but we think that is where we would be coming from.

**Deputy P.J.D. Ryan:**

I mean the treatment of UK charities to GST is quite complicated and most of the exemptions that you refer -- there is not a blanket exemption but most of the -- should be clearly understood, I think, that most of the avoidance, if that is the right word, of GST by UK charities is because most of the particular product lines that they are involved with are in themselves exempted or zero-rated. Some of them are exempt and some of them are zero-rated. So the charity itself benefits from the fact that the goods and services that it is supplying are themselves zero-rated or exempted, rather than the charity itself. Now as the current proposals are for the Jersey GST it is broad-based with few exemptions and zero-ratings so those same product lines that are exempted or zero-rated in the UK will not be so in Jersey. So the question to you is, and I think you have already partly answered it before because you said there is a general lack of understanding, is that the crux of the general lack of understanding? You know, local charities are assuming that the same product lines that are exempted and zero-rated in the UK would similarly be zero-rated or exempted in Jersey. Is that where the crux of the misunderstanding lies?

**Mr. D. Beugeard:**

That may be one of the issues but I still go back to the remark I made that a charity, by the very nature of the thing, does not believe that it is going to be subjected to a tax. If one just considers the average charity, 80 per cent of their costs are most probably staff costs if they are employing -- my colleagues behind me would perhaps agree with me. So 80 per cent of their staff costs, 20 per cent are on other costs, foods, medical services, health-related issues for the people that they are looking after. It is extraordinary that charities that are facing an icy blast in many cases from the general rise of costs in the Island are now going to be faced with a 3 per cent cost increase on that 20 per cent of their total cost,

and now they understand it, of course they are going to appear and speak to you but frankly the notion originally did not enter their head.

**Deputy P.J.D. Ryan:**

Anything to add to the general understanding?

**The Connétable of Grouville:**

Yes, if I can just come in here? We obviously -- I am well aware of the good work that is done by TSB Foundation, I am sure we are extremely aware of that, but you will understand that we have been approached by many, many charities and quasi-charities as well looking for exemptions or whatever, we are not obviously in a position to give that. We will do a report but setting out whatever we get you can imagine it is going to be difficult for somebody at the end of the day to sit down and say yes, no, yes, no. In your mind, would you be content if charities were simply nominated on the basis that having a charitable status number, in other words the tax point at the moment where we get a registered charity, that is it, end of story? Would you be content with that definition of a charity?

**Advocate P. Mourant:**

We looked at this some time ago when the Jersey Law Commission had prepared a paper on the Charity Commission. We were concerned that some of the things they would say would again increase costs to charities, the administration of that, and we made it absolutely clear that the way forward so far as deciding what amount to a charity should remain as it is in the hands of the Income Tax Office and a treasurer of the States we think that is a perfectly adequate system. Through something I have been involved in, I have been through the process of satisfying him and it is more than a phone call and a quick letter. He will want to have all the information necessary to make a balanced judgment. It is not a particularly costly exercise for the charity to do so, even a small charity would be in a position to make application and in relation to that matter, and also to this matter, we think that the tax office would be the appropriate authority to make the decision.

**Deputy P.J.D. Ryan:**

Even though they are the very ones who are trying to maximise the revenue from GST?

**Advocate P. Mourant:**

It does not matter because they were maximising revenue from income tax so they would be in no worse situation. I do not believe that it has clouded the issues. I have been involved in that so ...

**Deputy P.J.D. Ryan:**

So you are happy enough? One of the questions was how would you isolate exemption for charities, or zero-rated for charities, and prevent it spilling over into the wider economy?

**Advocate P. Mourant:**

I think it is like so many issues in a small community, we cannot afford to have quangos to do this and quangos to do that. We have got to trust people. Now people say, "Well, you cannot trust people." Well, human nature might be like that because of the way things have developed in this Island but I think for the needs of the Island we have got to trust people and the people who are there should be appointed because they can be trusted. There are issues right across the board which I will not go into but I can think of half a dozen issues where trust and confidence in the people who have a job to do we could --

**Deputy P.J.D. Ryan:**

We could save ourselves a lot of money?

**Advocate P. Mourant:**

It worries me of this culture you cannot trust anyone and therefore you have to have independent here and independence there. We are only 85,000 people. We are a pinprick in the world and we have a very high standard of living and I think generally a very high standard of administration.

**Deputy P.J.D. Ryan:**

Thank you. That is the answer to that. Let me ask you then what exactly do you think should happen? At a slightly more technical level of detail if you can of -- well, charities should just be exempted. Because obviously the use of the word "exempted" is a little bit misleading, a bit of a misnomer because it sort of implies that you do not, but when you exempt a business, you know, a charity, what you do is stop them from reclaiming their inputs as well as not having to charge their outputs. So maybe the use of the word exemption is not a good one. How should this work? How would you feel that it should work?

**Advocate P. Mourant:**

To be quite honest, we have considered this simply on the basis that charities are going to be faced with increased costs. We are not a charity and we have not looked into it in the same detail. We have seen some of the submissions, at least Mr. Beaugeard has, which have been placed on the internet. What we want to say to you is the States of Jersey have to be very, very careful not to increase fragility rate of charities here by any further burdens on them. How that is done is not a matter really for us. As I say, we are not a charity and I am sorry to answer the question that way. If you wanted an answer I think I probably want notice of that. But we have seen and our experience is there is a much greater demand on the public of this Island to support charities because of the State's reducing their allocations for charities. Those people themselves are facing higher costs all the time and it is a vicious circle and I think anything the States can do, and they should do bearing in mind the benefit they get, and I am not sure they have worked out the benefit they get from charities. We get that feeling that when we talk to the States, or Mr. Beaugeard particularly talks to the States, they say, "Ah, yes, of course." It is only

when they are prompted and they are made to think about it that they realise that there is a benefit to them. Now 3 per cent addition to costs and the costs of administration, so it is more than 3 per cent for a slightly larger charity, it is going to be significant because I think it is fair to say largely they do not want to make a profit. They are on a break-even basis, if not a loss running basis, and then having to collect. I am sorry I cannot answer it in a technical term.

**Deputy P.J.D. Ryan:**

That is okay. One of the, sort of, issues, shall we say, that we have discovered is that it is rather difficult to -- I mean there is the Association of Jersey Charities, we are not quite sure how many people are members of that association, how many charities are, how representative it is of all Jersey charities, and there is a little bit of a difficulty in trying to get a co-ordination from the whole of the charity side as to who speaks for charities.

**Mr. D. Beugeard:**

You are quite right. You are absolutely right in fact. At the moment the charity sector is, in truth, not represented by any one body. The Association of Jersey Charities is fundamentally a funder. It is there to distribute the lottery money and its activities as a representative of the charities is, I suspect, no greater than ours. The core really is for a form of charities commission for the Island. We have said -- we have written our paper on what we believe that should be and we do not mean an enormous operation in the form that we see in the United Kingdom, Scotland and coming in Northern Ireland, but certainly there needs to be a body that formally and properly represents and speaks for the charities. There is not one and it is a great sadness that that situation remains. I think in point of fact historically charities have got on with their work, historically they have been well supported by the States, historically they have talked to each other depending on the work that they do, and there has not necessarily been a need for a body that speaks for them. The need has come about in the last few years when we have seen the significant reduction in support by the States for the voluntary not for profit sector, and I have to say I find that, if I may say, rather perverse in that we see the opposite sort of thing happening in the United Kingdom where government is very keen to outsource work to the not for profit voluntary sector in the knowledge that often it can perform the functions much more cost effectively than the actual State can perform. So the answer to your question is, yes, we would like to see a body that represents all the charities, an intellectual body that is capable of speaking on their behalf, and that may come. We have dipped our toe in the water by providing a group of charities with the money to employ a researcher to examine the formation of an umbrella organisation who would represent charities.

**Deputy P.J.D. Ryan:**

So there are moves afoot here?

**Mr. D. Beugeard:**

Yes. It is very early days, and I think it has been brought about by the need to demonstrate the quality of performance of charities and that is one of the issues that I think will come out of this piece of research. It will be a voluntary organisation, a voluntary body, but it will be distinct from the Association of Jersey Charities who have a totally different function to perform.

**Deputy P.J.D. Ryan:**

Thank you. It is difficult for us to speak to charities as a whole to get a view on how they see the treatment ideally should be for them at this stage because that body does not exist.

**Advocate P. Mourant:**

Other than through the Association of Jersey Charities, who not only deal with some funding, I think they try and instil an element of corporate governance into some of the charities as well and we recently, 18 months ago, held a conference in Jersey and sponsored it dealing with corporate governance and charities because, again, we looked at proper corporate governance when we were making our grants, but that is a different issue, but that is one of the jobs which I think the Association of Jersey Charities might take on.

**Mr. D. Beaugeard:**

I think going back to your question; that is why we have suggested really that there needs to be a blanket exemption in some form.

**Deputy P.J.D. Ryan:**

But we are not quite sure what it is, sort of thing?

**Mr. D. Beaugeard:**

No. And to arrive at that is quite clearly open for debate.

**Deputy P.J.D. Ryan:**

Do you think there is a role for us as a scrutiny panel to try and -- because it is, you know, time is not on our side or yours or charities' side here?

**Mr. D. Beaugeard:**

I think there is a role with respect for this panel to make the point.

**Deputy P.J.D. Ryan:**

To try and draw these strings together and ...?

**Advocate P. Mourant:**

I think the role of the panel would be to stimulate thought among those in the Treasury about what it is



going to cost them to impose GST on charities given the state of most of these charities which we are fully aware of, and this is why we have come, to tell you how important we think it is that the States to know as an outsider looking into charities that we see the fragility in their set up. Now what is it going to cost the States if some of these charities say, "Look, we cannot carry on. We cannot carry on whatever it is"? The States, if it is a health and social services issue we will have to say, "Right, well, we are not going to provide X for these people who need it", strictly a responsibility of government or they are going to have to say, "Well, yes, it is so important we are going to have pay for this cost".

**Mr. D. Beugeard:**

It is ironic, is it not, that the States will grant aid to charity and will continue, one assumes, to grant aid to charities in a particular way and yet take it back in tax.

**Deputy P.J.D. Ryan:**

Could you give us any idea of the -- do you have any figures for perhaps the Lloyds TSB Foundation might have figures for the total size of the charity or the voluntary sector in Jersey? Do you have figures of that?

**Mr. D. Beugeard:**

Do you mean numerical? How many charities there are?

**Deputy P.J.D. Ryan:**

How many charities, not only that, what their turnover might be?

**Mr. D. Beugeard:**

We would not have that figure to hand very easily.

**Advocate P. Mourant:**

We would know the turnover of the charities we have helped and we will know how much and which charities, and you will see it in our published accounts, and as I say if you wish to I have got the 5 year donations.

**Deputy P.J.D. Ryan:**

Actually the Treasury would have that.

**Mr. D. Beugeard:**

We would hope so. All we can say is that we have committed over the last 20 years some £5 million to the Island in donations from the Foundation.

**Deputy P.J.D. Ryan:**

I say the Treasury, I mean the Income Tax Department.

**Advocate P. Mourant:**

I do not think they have to file accounts with you.

**Mr. D. Beugeard:**

You see the law does not require the filing of accounts but I would have thought they could make a good stab at it.

**Deputy P.J.D. Ryan:**

We will try and give -- we might need to try and ask yourselves -- we would know who those charities are, I suppose, we could send round a circular.

**Advocate P. Mourant:**

I think you will find there are half a dozen really big charities to name 2, Family Nursing and Homecare, Hospice.

**Mr. D. Beugeard:**

They are sitting behind us.

**Advocate P. Mourant:**

Mencap and Les Amis, and all those. They are providing essential services. Les Amis, they are providing homes for people. Terry Le Main would have to provide -- Housing would have to provide them if they did not provide them. How is it going to affect, well, they will answer for themselves. It is just our concerns, it is just what I think Scrutiny should alert government to these issues and if government get it wrong, well, it is their fault. But I think we felt that our knowledge of the work as such that it is important to convey what we thought was a very important message to you.

**Mr. D. Beugeard:**

As another thing I would like to say, and that is one of the things we quite pride ourselves with our donations is that we encourage charities to be bold and look at new initiatives and to be inventive in how they proceed. We give them money towards the building of new homes and new services. Saddled with an increase of 3 per cent on their costs which charity is going to build a new home for their individuals? Which charity is going to build from scratch a new home for people who are disadvantaged by long term illness? One of the submissions that I read on the internet says that the 3 per cent cost on top of what they are already expecting to pay for the home will be catastrophic. Now I believe that is true because that 3 per cent is the margin. They will have great difficulty in acquiring from their fundraisers and will their fundraisers put their hand up and say, "Well, you are going to give the money to the State, do we really want to take part in that?" So I think the whole notion of GST is a turn off from the charity's

point of view and is a turn off from the fundraisers and it is a turn off from the public's point of view. If I go right back to a question you posed at me earlier, are charities aware of this taxation that is going to be imposed upon them? I do not think the public are aware that the States of Jersey are going to tax charities. I mean the whole moral issue of charities is one where good, willing people give their money to help organisations who help those who are less fortunate themselves. They do not give money to pay tax to that organisation, and I think there is a moral issue that the States of Jersey have got to face, the scrutiny committee has to face, and that is why should charities who are looking after the long term ill, the disadvantaged, the disabled, have to pay a tax in any form. I think it is quite disgraceful, frankly.

**The Connétable of Grouville:**

Reverting back to an earlier question; we were talking about the Association of Jersey Charities as an overall body and you did not think they would be suitable for reuniting all the charities in Jersey under one roof, is that correct?

**Advocate P. Maurant:**

I took the view when I was writing the paper about the Charities Commission that they would not be the people who would be suitable as a regulator.

**The Connétable of Grouville:**

Would you think of using them as the base and then changing the system within sight to become a regulator? Is that a possibility? And how would you see your relationship?

**Advocate P. Maurant:**

They provide grant aid and I think a person who provides grant aid should not be the regulator.

**The Connétable of Grouville:**

Your relationship with them would be what at the moment?

**Advocate P. Maurant:**

We do not have a relationship with them but we --

**The Connétable of Grouville:**

You are doing the same thing they are?

**Advocate P. Maurant:**

We are grant aiders.

**Mr. D. Beaugeard:**

We talk to each other and we are honorary members and we are in exactly game as they are, and that is

as a funder.

**The Connétable of Trinity:**

Youth clubs apply, everybody applies to the Association of Charities whereas I think you would be more specific on who would go -- you know, you do help youth clubs as, I know because you helped Trinity. But I think at the end of the day --

**Mr. D. Beugeard:**

I think today we are talking about health and social issues, but certainly we help right across the spectrum including youth clubs or uniformed organisations or any of those organisations. What we do not do -- what organisations we do not help are those for environmental and covering environmental issues, animals, that sort of thing.

**Deputy P.J.D. Ryan:**

We are running a little short of --

**Advocate P. Mourant:**

Can I ask a question? Would you like to see the 5 year payments?

**Deputy P.J.D. Ryan:**

Very much so, please. We are running a little short of time because we have got other people to --

**Advocate P. Mourant:**

It does not include guarantee but you will have to ...

**Deputy P.J.D. Ryan:**

I think what we can say, what I can say to you as the Chairman of the Corporate Services Scrutiny Panel is that we believe that, even more so after today's meeting with you, that we do need to co-ordinate the charities and possibly act as some kind of conduit or catalyst between government crown agents and the charities and we will be looking to do that over the next very short space of time. We will be in touch.

**Advocate P. Mourant:**

If there is any information you require if you could contact Mr. Beugeard at the Trust's address and he can liaise with me and the chairman.