Public Accounts Committee

Report on the Accounts of the States for the year ended 31st December 2007

States of Jersey
States Assembly

États de Jersey
Assemblée des États

Presented to the States on 9th September 2008.

P.A.C.4/2008

REPORT

The Public Accounts Committee

The primary function of the Public Accounts Committee is defined in Standing Orders[1] as the review of reports by the Comptroller and Auditor General regarding:

> The audit of the Annual Accounts of the States of Jersey and to report to the States upon any significant issues arising from those reports;
>
> Investigations into the economy, efficiency and effectiveness achieved in the use of resources by the States, States-funded bodies, independently audited States bodies (apart from those that are companies owned and controlled by the States), and States-aided independent bodies;
>
> The adequacy of corporate governance arrangements within the States, States-funded bodies, independently audited States bodies, and States-aided independent bodies, and
>
> To assess whether public funds have been applied for the purpose intended and whether extravagance and waste are being eradicated and sound financial practices applied throughout the administration of the States.

The Public Accounts Committee may also examine issues, other than those arising from the reports of the Comptroller and Auditor General, from time to time.

The Public Accounts Committee represents a specialised area of scrutiny. Scrutiny examines policy, whereas the Public Accounts Committee examines the use of States' resources in the furtherance of those policies. Consequently initial enquiries are made of Chief Officers rather than Ministers. This is not to say that enquiries may not be made of Ministers should the reports and recommendations of the Public Accounts Committee be ignored.

The work of the Public Accounts Committee is ongoing rather than on a one-off basis, and the Committee will return to topics previously examined in order to evaluate whether recommendations have been followed or procedures improved. If such a follow-up is unsatisfactory then the Committee may decide to hold further public hearings in order to identify the reasons for the lack of progress.

The current membership of the Public Accounts Committee consists of –

States Members:	**Independent Members**
Deputy Sarah Ferguson (Chairman)	
Deputy of St. Ouen (Vice-Chairman)	Mr. Tony Grimes
Deputy Alan Breckon	Advocate Alex Ohlsson
Connétable of Grouville	Mr. Chris Evans
Senator Len Norman	Mr. Roger Bignell
Deputy Roy Le Hérissier	Mr. Martin Magee

[1] Standing Orders of the States of Jersey 1 January 2006, No. 132

Contents

BACKGROUND

1. Following the release of the Financial Report and Accounts of the States of Jersey for 2007, the Committee held a series of Public Hearings in order to establish those issues which had arisen within the Accounts, to discuss matters raised by the External Auditors and to highlight areas where improvements were necessary.

2. Private Briefings were held with –

   (i) Mr. Ciaran Mclaughlin and Miss Rebecca Brewer, Senior Manager and Manager of PricewaterhouseCoopers, the external auditors of the States of Jersey, on 16th June 2008.

   (ii) Mr. Paul Redfern, Chief Internal Auditor of the States of Jersey, on 16th June 2008.

3. The following Public Hearings were held –

   (i) Professor Ed Sallis, Principal of Highlands College and Mr. Mario Lundy, Director of Education, Sport and Culture attended on 14th July 2008.

   (ii) Mr. Mario Lundy, Director of Education, Sport and Culture and Mr. Peter Robinson, Finance Director of Education Sport and Culture, attended on 14th July 2008.

   (iii) Mr. Richard Bell, Director of Social Security, attended on 14th July 2008.

   (iv) Mr. Ian Gallichan, Chief Officer of Housing, and Mr. Carl Mavity, Director of Estate Services, attended on 21st July 2008.

   (v) Mr. Malcolm Campbell, Comptroller of Income Tax, attended on 21st July 2008.

   (vi) Mr. David Flowers, Director of Property Holdings, and Mr. Ray Foster, Assistant Director for Finance and Strategy, Property Holdings, attended on 21st July 2008.

   (vii) Mr. Ian Black, Treasurer of the States, and Mr. Jason Turner, Deputy Treasurer of the States, attended on 22nd July 2008.

4. The Committee would like to express its thanks to everyone for their patience and forbearance in answering our questions together with their frank participation in the discussions.

5. In this report, the Committee hopes to illustrate those issues of financial management which have affected the States as a whole, but also to highlight difficulties which have arisen within individual departments.

FINDINGS AND RECOMMENDATIONS:

FINANCIAL REPORTING

6. The objective of financial reporting is to demonstrate the accountability of the States to the tax payers of the Island for the use of their money.

7. It is the opinion of the Public Accounts Committee that the States Accounts attempt to give more information but there is not enough explanation of the manner in which numbers are calculated. This can be misleading.

8. There has been a selective approach to the modifications implemented, and some of the changes have been implemented without any change in comparatives as well as a complete absence of explanations of the modifications that have been made (thus giving a misleading impression of trends).

9. The application of GAAP will require a higher depreciation charge. This represents a provision for use and replacement of assets. It is essential that each generation should provide for the replacement of assets which it uses since this represents true sustainability and ensures that liabilities are not simply passed on to the next generation. Furthermore, a realistic depreciation charge will ensure that the capital cost of current spending is articulated.

10. The Public Accounts Committee considers that the implementation of GAAP Accounting is extremely important if the States is to take seriously the control of expenditure. It is essential that GAAP Accounting is achieved as soon as possible and certainly no later than the forecasts made in the hearings.

FINANCIAL MANAGEMENT

11. Good financial management ensures that there is proper stewardship of the assets of the States.

12. The evidence is that the States organisation does not take the exceeding of budgets seriously. Accounting Officers are not held to account and shortfalls are covered by transfer from other budgets or allocated by supplementary votes.

13. The Committee was concerned that there was a lack of knowledge of the insurance arrangements of the States. This information is not yet forthcoming at the time of this report.

14. There is a shortage of financial staff and resources in the Treasury, Housing, Income Tax, Education, Sport and Culture and Social Security Departments. These all provided evidence of being unable to recruit and retain qualified staff. This echoes the concerns raised by the Comptroller and Auditor General in his report.[2]

[2] Comptroller and Auditor General Report “States’ Spending Review – Emerging issues”, May 2008

15. There is no legal requirement for the Treasurer to take responsibility for the active supervision of financial management throughout the States. There is no agreement on funding the backlog of maintenance which Jersey Property Holdings (“JPH”) will be required to undertake. There is a significant shortfall in the maintenance budgets transferred with property portfolios arising from the failure of the Treasury to take a decisive role when maintenance budgets were transferred to JPH.

16. The Committee considers that, since it is a key function of financial management to ensure that the States’ assets are properly safeguarded and used for the benefit of the Island, the Treasurer should have an explicit responsibility for ensuring the quality of the States’ financial management. At present, the Public Finance (Jersey) Law gives him power but not explicit responsibility in this respect.

17. The Committee recommends that this explicit responsibility must be included in the Public Finance (Jersey) Law 2005.

INTERNAL CONTROLS

18. The objective of Internal Controls is to extend proper rules of the stewardship of assets throughout the States system.

19. There is no central system of ensuring consistency of internal controls throughout the States. The evidence is that it has been left to each department to work within the Financial Directions.

20. The evidence given to the Committee is that departments do not find the Financial Directions appropriate and the result is that these departments do not comply with the Directions.

21. There is no proactive monitoring of implementation of Internal Audit recommendations for the correction of weaknesses in internal control. There is either a dilatory approach to implementation or a failure to comply. The Committee considers that this monitoring is a Treasury function.

22. There is no obligation on anyone, other than Accounting Officers, to comply with Financial Directions.

23. The Treasurer has power to issue Financial Directions; but he has no explicit duty to ensure that the Financial Directions that are issued are sufficient to ensure that an appropriate system of internal control is in place throughout the States.

24. The Committee will consider amendments to the Public Finances (Jersey Law 2005 such that –

    (i) A duty should be placed on all States employees to comply with Financial Directions;

(ii) The Treasurer should take responsibility for ensuring that recommendations by the Internal Audit Department are implemented swiftly;

(iii) The Treasurer should have a legal responsibility to issue Financial Directions which are sufficient to ensure that an appropriate system of internal control is in place throughout the States.

25. The Committee also recommends a thorough review of all Financial Directions.

FRAUD POLICY

26. Anti-fraud policies are required to avoid misappropriation of States Assets.

27. From the evidence there is no States-wide anti-fraud policy and the Committee recommends that this is formulated urgently and applied.

CONCLUSIONS

28. The Strategic Plan included a commitment to convert to UK GAAP Reporting Standards. The Public Accounts Committee welcomed this but regrets that the Council of Ministers failed to achieve this within the three years of the Plan.

29. Nonetheless, the inclusion of this subject in the Strategic Plan was welcome because it demonstrated the commitment of the Council of Ministers to be held accountable to the people of the Island.

30. In the view of the Committee, the Council of Ministers should also demonstrate its acceptance of the importance of proper financial management and internal controls within the States. This would be desirable to achieve proper stewardship of the States' income and assets. It would demonstrate the real commitment of the Council of Ministers to the people of the Island for the avoidance of wasteful and ill-considered expenditure.

REPORT OF HEARINGS

GENERAL ISSUES

Financial Reporting

31. The Committee are generally encouraged by improvements in the quality of the States' accounts for 2007, specifically noting the following –

    (i) The income and expenditure account format has changed this year, giving a greater level of detail vis-à-vis expenditure and income.

    (ii) A segmental analysis examining income and expenditure over the main departments and other areas has been included.

    (iii) The increasing shift towards segmental breakdown of the accounts as per U.K. G.A.A.P.

    (iv) A glossary of terms has been included to facilitate understanding.

32. It was noted that although much has been done there remained considerable room for improvement. One particular area which the Committee believe must be addressed is the tendency to provide net figures, for example the reporting of net general revenue income within the accounts, without providing the Gross figure and the explanation for the deduction.

33. The Committee was also dismayed to discover that the expenditure from the Special Funds (the Criminal Offences Confiscation Fund and the Drug Trafficking Confiscation Fund) was included in the expenditure for 2007 but the comparative for 2006 was not adjusted. At the same time the total income for the 2 funds was not included in the income in the Accounts. There was no explanation that this had occurred nor any rubric to explain the rationale. The Report of the Comptroller and Auditor General specifically stated that *« money currently paid into the two confiscation funds should become part of the general revenue of the States and should be paid into the Consolidated Fund »*. The Committee deplores the fact that the Comptroller and Auditor General's recommendations have only been partially applied and that no explanation has been supplied.

34. The Committee noted the item in the « other Income » note in the Treasurer's Report on page xi of the Accounts, listed as Dividends and Internal Returns. The explanation is that this represents the returns from the Trading Funds. This would not be clear to the average reader of the Accounts.

35. The Committee noted that whilst the introduction of GAAP accounts has slipped from the original deadline, great progress had been made in the programme to base the States' accounts on U.K. G.A.A.P., and noted the following comments from the Deputy Treasurer of the States –

    > *"That should leave us in a position where we have a set of accounting standards that we will follow for 2009, so when you receive the 2009 accounts you will have the first set of G.A.A.P.-based information.*

That will have to be presented alongside conditional information in this format because this is the way the States have voted money for 2009. So 2009 will be a transition year where we present information in the old format and new format. An essential element of G.A.A.P. is to be able to compare one year with another and obviously as 2009 will be the first year we are going to produce this information, we will not have any comparators for 2008. So 2009 will establish the first set of numbers and then going into 2010 we will have a complete set of information with prior year comparators."[3]

36. Despite this, the Committee was disappointed to learn that the Treasurer was unable to tell the Committee what the effect of changing to GAAP would be on the States' Accounts.

Mr. M. Magee: *G.A.A.P. accounting …… sounds really boring and it is technical accounting. I think my main query is do you have a feel for the scale of the adjustments? Because even though they might not be fully considered, it would be interesting to know that obviously the whole shape of the accounts is likely to change and, following on from what you said last year, you want to set up the departmental budgets to be in a similar format so that you do not get all this reconciliation hassle that you have.*

So you could at the end of the day have something that is a massive surplus or a massive deficit compared to what you have at the moment. You know, where does that place you in terms of fiscal policy? Because if you have a big hole does that mean you increase taxes; if you have a big surplus, do you reconsider what you have in place for 20 means 20, et cetera? To me there is a big picture here about G.A.A.P. accounting, not just "let us get this in a different shape".

Mr. I. Black: *We do not know what the figures are going to produce, but obviously capital is a big one, the depreciation charge is the big one. …... It will probably turn current surpluses into deficits. How we deal with that we are only just starting to think about. I really ... you know, the idea of this is to give information to informed decision-making. You are asking me what decisions you will take. I think we need to know the challenges before we start thinking about what to do with them.*

Mr. M. Magee: *I guess it is comforting to know that you are considering that because you understand the consequences ...*

Mr. I. Black: *We have given it some thought already but we do not have any answers.*[4]

[3] Page 21 of the Transcript from the Hearing with Treasurer and Deputy Treasurer
[4] Page 22 *ibid*

37. The Committee stressed the importance of ensuring that the exercise was completed and that the proposed target of full U.K. G.A.A.P. compliance is achieved by 2010 and recommends that priority be given to ensuring that the target for full GAAP compliance by 2010 is achieved.

Annual performance measurements

38. Problems associated with annual performance measurements used by departments were identified in the hearings. Within Education, Sport and Culture, an average P.T.R. (Pupil Teacher Ratio) of 23.7 over the last 3 years was quoted in the Annual Performance Report for 2007; however this figure was noted as varying significantly year-on-year.

39. The Committee was particularly concerned with the over-emphasis upon examination results as a performance measure, especially in light of the fact that evidence from Highlands College suggests that pupils may be leaving school lacking in elementary skills.

40. The Committee considers that it is important that performance measurements are used but that these should be relevant to the consumers of the service. For example, it is as important to know how many pupils have been failed by the service and why this has occurred.

41. Within Housing, the issue of increased void housing property days was raised. The Chief Officer of Housing advised the Committee that steps had been taken to address these issues. It was also noted that these data had originally been mis-stated. The Committee noted the following in this regard –

> *"Mr. M. Magee:*
>
> *Yes, I think there is obviously quite a lot of data out there in the public domain and this is -- we have got 2 documents, this being annual performance report 2007 and obviously the accounts. Now, the accounts say there is a movement upwards in void days from 23.2 to 32.6. This says it was down 19.*
>
> *Mr. I. Gallichan:*
>
> *Yes, I do apologise, that is incorrect.*
>
> *Mr. M. Magee:*
>
> *That is right, the 19 is wrong?*
>
> *Mr. I. Gallichan:*
>
> *That is incorrect. What happened was, regrettably, …, they took the quarter figures rather than the figures up to the end of the year and so it was 19 days for the quarter I am led to believe but it was not the correct figure so I do apologise for that."*[5]

[5] Page 4 of the Transcript from the Hearing with the Chief Officer of Housing

42. The Committee also noted that the Chief Internal Auditor did not consider that the Performance Indicators used for the Internal Audit Department were particularly suitable. Mr. Redfearn stated that –

> *«….there were some key performance indicators: the audit scope is issued within prior to 4 weeks of an audit, and that an audit report is produced within 2 weeks of the end of field work. That cannot happen in practice, ……. we start discussions about a draft report; people do not necessarily like it, they do not agree with it and they go back and there is discussion here, there and everywhere. So they are not particularly suitable key performance indicators….* »

43. Overall the Committee welcomed the Annual Performance Report initiative, but wishes to stress the paramount importance of validating the quality of any published information.

44. The Committee recommends that improvements should be introduced to Performance measurements and reporting which allow for a greater level of accountability and transparency in identifying the value and quality of individual services provided by the States.

Financial Management

45. The Committee was made aware of concerns over the lack of resources available for Financial Management in Social Services, Housing, Education, Sport and Culture, Income Tax and Treasury Departments, which all provided evidence of being unable to recruit and retain appropriately qualified staff. The problem was well illustrated by the Comptroller of Income Tax –

> *"We had an independent review of income tax 2 years ago by Deloitte and Deloitte recommended that my I.S. Finance Director have a deputy. He was not given a deputy. The idea was the deputy would train up when he eventually goes, but because of... well, there are all kinds of constraints on recruiting civil servants and appointing civil servants and budgets - budgets are restricted. I am not criticising anybody. I am just saying we did not get what that report recommended."*[6]

46. The Committee feels this is an issue which must be addressed as it is vital for the States to secure the necessary staff to operate the public sector. The Comptroller and Auditor General in his reports[7] also identified that in some areas salaries are insufficient to retain senior staff. The question was also raised as to whether there are adequate training arrangements to allow internal promotions, particularly for posts where recruitment may be problematic. The Committee considers that training is an important element in succession planning and should be included as part of overall States Human Resources policy. The Comptroller of Income Tax again provided evidence of such difficulties in his statement that –

[6] Page 17 of the Transcript from the Hearing with Comptroller of Income Tax
[7] Report by the Comptroller and Auditor General: "States Spending Review – Emerging Issues" presented to the States in May 2008

"I will tell you what I do. I give them a supportive culture, a culture where they can develop, a culture where they can learn, a culture where I give them 80 per cent of the professional fees paid for them if they take professional exams, I give them a nice work environment and I do all I can for them. I cannot give them bonuses; I am not allowed to. I cannot change some taxpayers' perceptions of tax staff when they come into the help desk. I can only do what I can do. But I do not have a training pool because I do not have the budget for that training pool to have them in reserve so that when someone resigns I can push someone straight into that job. I do not have that reserve training pool."[8]

47. The importance of securing the right personnel required by the States should not be overlooked. The Committee considers that remuneration mechanisms should be reviewed and adequate training is provided to allow for succession planning.

Internal Controls

48. The issue of the adequacy of financial directions was raised during the hearings with a number of different views expressed.

49. The Treasurer considered that the Financial Directions were on the whole a reliable set of control procedures. He commented that –

"... generally I think the financial directions are fit for purpose apart from those 2 or 3 we are working on at the moment."[9]

50. Comments made by the internal and external auditors provided a marked contrast to those of the Treasurer, as evidenced by this declaration by the Chief Internal Auditor –

"I have done some research recently on contacting individual departments and asking them the very same question you have just asked me about the adequacy of financial directions. One of the main things that comes through is that quite a number of departments feel that the financial directions are written on a Treasury basis and for the Treasury, but they state that they do not know what is involved in running departments and they do not know what is involved with dealing with the customer, which is quite ironic, as one of the core values of the organisation is that the customer is at the heart of everything we do."[10]

51. This is further backed up by the external auditors, with Mr. McLaughlin stating his view that there is no cohesive set of financial controls imposed from the centre –

[8] Page 18 of the Transcript from the Hearing with the Comptroller of Income Tax
[9] Page 25 of the Transcript from the Hearing with the Treasurer and Deputy Treasurer
[10] Page 10 of the Transcript from the Hearing with the Chief Internal Auditor

"I do not see it as being one system of internal control; I see it as being a number of separate systems that occasionally overlap."[11]

52. As a result of this evidence and the concerns expressed, the Committee feels there is a definitive need to establish clear, effective and efficient control systems. Without such measures, there can be little confidence that proper stewardship of public money is being achieved.

53. The Committee believes it is imperative that the Financial Directions as currently established are reviewed in order to ensure their effectiveness and that they are fit for purpose.

54. There was also disappointing evidence suggesting that the control systems specified by the Financial Directions have not been applied consistently by States' bodies. In this regard, the Committee noted that attempts have been made to improve performance in this regard within a number of departments such as Education, Sport and Culture.

55. The Committee noted that, within the Income Tax Department, tax assessments are checked for accuracy retrospectively, with no checks before the closure of an assessment, which is clearly inappropriate.

56. The external auditors have noted concerns that procurement and purchasing controls are not stringent and there is a significant potential risk. It was stressed that this area is very difficult to police, especially as there are 600 existing purchasing cards in Health and Social Services alone.

57. The Comptroller and Auditor General's report identified notable issues regarding the corporate governance of WEB[12].

58. £2,500 worth of banknotes, which were due to be destroyed by the Treasury, have been lost. The external auditors commented that the arrangements for disposal of banknotes were less formal than the U.K. procedures.

59. There was further disappointing evidence that the States have been slow to implement recommendations made by the internal audit team, particularly within Education, Sport and Culture, Housing and Social Security. The Comptroller and Auditor General has also identified such concerns within WEB, with regards to directors making prompt and accurate declarations of conflicts of interest, as evidenced by paragraph 31 of that report –

"It is evident that between 2005 and 2008, whilst WEB continued to hold the Register that had been prepared in 2005, directors were not asked by WEB to up-date their declarations and in practice did not do so. As a result, WEB's Register was not accurate." [13]

[11] Page 12 of the Transcript from the Hearing with the external auditors

[12] Report by the Comptroller and Auditor General: "**Waterfront Enterprise Board Limited – Interim Report, June 2008**

[13] Report by the Comptroller and Auditor General: "**Waterfront Enterprise Board Limited – Interim Report, June 2008**

60. The Chief Internal Auditor has stated that whilst making recommendations to improve controls is of course a vital part of his work, the responsibility for implementing any recommendations rests solely with individual Accounting Officers –

> *"It is senior management's responsibility to ensure recommendations are implemented."*[14]

61. The Chief Internal Auditor uses the Audit Committee as an « *arm of power to ensure things are followed up* » but there is no clear responsibility for the Audit Committee to ensure that the work is done. He added that he has had « *more cases than I am used to* » where he has had to refer reports to the Audit Committee to ensure that the recommendations of the Internal Audit Reports are followed up.

62. The Committee has identified that there is a need for an overall improvement in the States' performance in implementing controls. The States as a body must, as a priority, improve its implementation and adherence to all controls in place. This will not only provide protection for the Public's assets but also for all States employees.

63. This is exemplified by the report on the proposed Post Office at the Airport. The internal controls were reviewed and the report received a grading of 1, being the lowest possible grading. This underlines the necessity for better understanding and training in the application of Financial Directions and internal controls.

64. The Committee noted that the ESC Department has a policy of delegated financial management.[15] However, although Dr. Sallis had been on various courses dealing with finance, there was no formal programme of guidance in finance when taking up his post. The Committee considers that there should be formal financial training for senior management. This should include the Heads of Schools to whom financial management is delegated.

65. This lack of training has been recognised by ESC and the Finance Director has instigated a training programme so that managers and Heads of Schools within ESC understand what financial controls means. The Committee commends this approach but considers that it should be co-ordinated centrally to ensure consistency across the States.

66. The adequacy of the Public Finances (Jersey) Law 2005 was also raised by the Chief Internal Auditor highlighting the point that at present there is no compulsion for any member of staff beyond the Accounting Officer to comply with control and Financial Directions –

[14] Page 3 of the Transcript from the Hearing with the Chief Internal Auditor
[15] Page 3 of the Transcript from the Hearing with Dr. Sallis and Mario Lundy

> *"...if you look under the Jersey Finances Law it quotes the role of the accounting officers and the accountability of the accounting officers for the financial directions, however, there is nothing stated for any other member of staff to comply with."*[16]

67. The Committee noted these concerns and the need to ensure controls are improved and adhered to. The Committee will consider whether a duty should be placed on all States employees to comply with Financial Directions as part of the review of the Public Finances (Jersey) Law 2005.

68. The Chief Internal Auditor expressed concern that he had not been involved with the preparation of the Statement of Internal Controls included in the Accounts. He had been expecting to be involved and « …. *was waiting for the statements of internal control to come through and when I questioned where they were, especially the formal one reporting accounts, I was told that …, it was written, done and dusted and signed; to my amazement really, that is just something I am not used to at all. I am used to being involved throughout the full process of the statement of internal control* ».

69. The Chief Internal Auditor commented that he « *would have influenced it….Specifically within the area of risk management. It refers quite heavily in the statement of internal control to risk management, and it goes into a level of detail of risk management within the States [about] which I have not had that level of evidence and I can personally not see who else in the organisation would champion such a cause. ».*

70. The Public Accounts Committee is concerned that it is only now that it has been agreed that the Chief Internal Auditor should prepare an annual report to support the Statement of Internal Controls included in the Accounts. Furthermore, it notes that there is no requirement within the Law for the Chief Internal Auditor to produce an annual opinion although it is within the authority of the Treasurer to issue a Financial Direction to require this.

71. The Committee is also concerned that there appears to be such a low emphasis placed on having a realistic risk management policy in place.

72. Presently it is not clear who accepts overall responsibility for financial management within the organisation. Achieving appropriate financial management is not simply a matter of specifying what the control systems should be as without effective implementation and monitoring failure is likely.

73. There have been clear failures identified where departments are not accepting responsibility. For example –

    (i) The Treasury are not proactive in monitoring the implementation of Internal Audit recommendations.

    (ii) Following departmental overspends, Accounting Officers are not held to account. Funds are simply transferred from another budget or allocated via supplementary votes.

[16] Page 11 of the Transcript from the Hearing with the Chief Internal Auditor

(iii) Evidence was provided that demonstrated clear difficulties in securing the transfer of budgets from the Treasury to create Jersey Property Holdings, as alluded to by the Treasurer –

> *"Well, I am referring to personal experience of one or more difficult transfers and it is very easy to say: "You should transfer the amount across" but what is the amount you transfer across? Is it the previous year's budget? Is it the previous years actual? When a department can demonstrate that the previous year's budget was much higher than the budget for the previous 10 years or the actual was different for the previous years, what is the figure? What you found is it was very, very hard – because I was involved in the calculations – to say: "This is the definitive figure."*[17]

74. The Committee has identified 2 principal points which need to be addressed.

(i) Overall responsibility for oversight and discipline of all States finances must be clearly vested in one individual.

(ii) Progress is not like to be achieved unless responsibility for securing improvements is clearly identified as vested in a particular individual.

75. Without this, it is highly unlikely that any meaningful progress and development in the quality of financial management within the organisation could be achieved.

76. The Committee believes that the Treasurer should take responsibility for securing performance in this regard, and should not merely "keep score". The present provisions applicable to Accounting Officers which ensure they take responsibility for financial management within their departments, should not preclude the Treasury from exercising overall responsibility in this area.

77. As the Public Finances (Jersey) Law 2005 does not clearly delegate these responsibilities to the Treasurer, the Committee will consider an appropriate amendment in its review of the Public Finances Law.

Financial probity

78. Notable evidence was heard that suggested a general absence of attention to the issue of fraud within the States. The external auditors remarked upon this, and the Chief Internal Auditor commented that he has recently commissioned a review of the States' current Anti-Fraud Policy with a view to identifying the GAP Analysis from best practice held in UK Public Sector activity. The report produced is expected to be considered by the States Audit Committee in September 2008. He has included an annual review of the Anti-Fraud and other governance policies on the Audit Committee's forward work programme.

[17] Page 29 of the Transcript from the Hearing with the Treasurer and Deputy Treasurer

79. It was noted that the Chief Internal Auditor had initiated a review of the “Serious Concerns” policy (i.e. the whistle-blowing policy for States’ staff), and that this policy is being reviewed by the Chief Minister’s Department following the Bellwood case decision and report to the States.

80. The Committee feels that in light of these findings, the States should implement a comprehensive anti-fraud policy, to include consideration of the use of data matching to help identify evidence of possible fraud. This is an avenue which the Social Services Department have been investigating, but which will require a number of safeguards and checks before any implementation since Data Protection may be an issue.

SPECIFIC DEPARTMENTAL ISSUES

Treasury and Resources Department

Income Tax

81. Within the Income Tax Department, the external auditors have criticised the controls regarding tax assessments, in that there have been no checks of accuracy before closing any assessments. The Comptroller of Income Tax confirmed this when he declared that –

> *“We could do some checking before the assessments close but, frankly, I put it bluntly, we do not have the resources.”*[18]

82. The Committee would encourage the Comptroller of Income Tax to review the controls regarding agreement of assessments.

83. Staffing within the Income Tax Department was a clear issue. During 2007, the Department lost 7 experienced members of staff. The Comptroller of Income Tax cited salary pressures as being a key reason underpinning this significant loss of staff –

> *“Well, there is an additional factor in them leaving income tax. There is the work pressure at income tax but there is another additional factor; it is called money. They leave because they are offered more by firms of accountants out there. So, they have more money for less work. If you were 28 years of age that seems a pretty attractive option: “More money, less work, I will have that.” I cannot stop people resigning.”*[19]

84. As a consequence of this, the Committee feels that a shift towards increasing self-assessment by taxpayers will be necessary, if the States is unwilling to finance a proper staff for the Department. The Committee would recommend that, if this is the case, the Treasury ought to sponsor and promote a public debate on the change in tax gathering culture that would inevitably follow.

[18] Page 10 of the Transcript from the Hearing with the Comptroller of Income Tax
[19] Page 17 of the Transcript from the Hearing with the Comptroller of Income Tax

85. The external auditors highlighted an over-reliance on the Income Tax Department's Finance Director, in that much of the Department's I.T. reporting facilities and functions are only understood by him. The Committee noted that the Comptroller of Income Tax has made efforts to try and secure a Deputy Finance Director, but that this has been unsuccessful due to budgetary constraints. The Committee is concerned that these issues prevent the full functionality of the department's I.T. facilities, and that there are issues regarding succession planning in this regard. The Committee feels this further underlines the need to re-consider the staffing arrangements within the department.

86. The Committee approves of the Department's shift towards carrying out other collection functions of the States as per the Comptroller and Auditor's recommendation in the Spending Review Report[20], and noted the following as explained by the Comptroller of Income Tax –

> "*Well, I have to tell you that under the current I.T.I.S. (Income Tax Instalment Scheme) system we collect social security data from the employers for 'joined up government' and it is on our disc…… the income tax I.T.I.S. stuff comes in and the benefits in kind come in for us, and there is a separate stream for social security returns and we send that straight off to Social Security without looking at it. So, it comes in on the tax stuff and then it is sent off to Social Security. So, we are doing this already.*"

87. The Committee recommends that the Income Tax Department should –

> Reconsider the policy framework for the relationship between the States and individual taxpayers
>
> Reconsider the adequacy of staffing within the Income Tax Department
>
> Reduce over-reliance of certain individuals
>
> Capitalise on the unused functionality of the Department's IT.

Strategic Investments

88. The Treasury's move to rationalise the management of the States' interests in the strategic interests was noted by the Committee, in particular the Treasurer's view that –

> *"The general aim we are working towards is that the return of these companies is in accordance with benchmarks for similar performing companies in the market. We are moving increasingly towards that for companies."*[21]

[20] Report by the Comptroller and Auditor General: "States Spending Review – Emerging Issues" presented to the States in May 2008

[21] Page 19 of the Transcript from the Hearing with the Treasurer and Deputy Treasurer

89. There is no defined coherent policy towards these investments, merely an informal discussion and approach to deciding on the return due to the States. The Committee considers that there should be a review of the policy with a formal analysis of the return that should be expected from these investments, similar to the reviews of utility prices to customers which occurs in the USA. This should also contain a historical summary of the reasons why the States holdings differ for each of these enterprises and consideration of the advantages and disadvantages of each structure.

90. The Committee also considers that the concept of a holding company for these investments has merit. It notes that there is a company in existence, RC 84168, States of Jersey Investments Limited, which would serve this purpose. This company would provide a vehicle to which the Minister for Treasury and Resources could delegate management of these investments.

Jersey Property Holdings ("JPH")

91. The Committee was disappointed to note that the transfer of properties to JPH has yet to occur fully, with properties under the Planning and Environment and Health and Social Services Departments still outstanding. It was however noted that this represents a small proportion of the overall estate.

92. Overall, approximately £3 million of the individual departments' maintenance budgets has not yet been transferred to JPH. It was noted that, although the Treasury and Resources Department's failure to use its power to transfer the necessary budgets to JPH has played a role in this shortfall, the Director of JPH also stated the following –

> *"I think each of the departments has been put under pressure and unfortunately maintenance is a budget which is relatively easy to switch on or off and so the budgets, as far as I can see, had already been depleted before they were transferred to Property Holdings."*[22]

93. As an example, the Committee noted that the property maintenance department for Sport within Education, Sport and Culture has, with its attendant budget, been retained by Education, Sport and Culture. This is not in accordance with States policy.

94. The Committee considers that there are lessons to be learned from the delays in the implementation of an agreed policy of the States. It appears that the lack of decisiveness plus the lack of clarity relating to the items posted to the maintenance accounts in departmental ledgers have contributed to the delays.

95. The Committee was concerned to note that the overall shortfall in maintenance across the whole estate was estimated at roughly £100 million and that some £15 million a year would be required to bring the estate to a reasonable standard. The Director of JPH. informed the Committee that –

[22] Page 4 of the Transcript from the Hearing with the Director of JPH.

> *"The estate is not sustainable on the level of maintenance budget which we have."*[23]

The estimates correlate with the recommendations of the Audit Committee in 2000.[24]

96. The Director of JPH advised that regrettably it was likely that profits from the sale of properties within the estate will be used to help fund the maintenance shortfall. The Committee is greatly disappointed by this eventuality, and its concerns were echoed in the following statement by the Director of JPH –

> *"I think that was agreed at a previous P.A.C. (Public Accounts Committee) meeting by my predecessor, that the funds from disposals would not be used for revenue costs or maintenance, but it may well be necessary in the short term to do that. It is not something that I feel entirely comfortable with. I do not think it is sound accounting practice."*[25]

97. The Committee is concerned that the use of property sale proceeds for funding maintenance costs represents poor discipline in budget planning. Tighter control over expenditure is mandatory to ensure that States' properties can be maintained in good order.

98. The Committee notes that the Audit Committee issued a report on Maintenance of States Buildings[26] which was critical of the maintenance programme and made some cogent suggestions for its improvement. Whilst the formation of JPH was intended to answer the criticisms, it appears that there was no firm commitment by the Treasury to support the actions required within a sensible timescale. At that time the Audit Committee recommended that the annual maintenance budget should be around £13 million.

99. During the hearings covered in a previous report of the Public Accounts Committee,[27] the Committee approved the development of a system to charge departments for the property being utilised as a step to improving the effectiveness of States' use of property. In fact, the Committee considered that « *the Corporate Management Board would have failed in its duty to realise the expectations created by P.93/2005 if such a system were not introduced with effect from 2009*. »

100. The Committee was pleased to learn that JPH « have incorporated in our 2009 plan an outline of the charging strategy or the charging mechanism, and the plan is to put that in place in tandem with the introduction of the integrated property system, ».

---

[23] Page 5 of the Transcript from the Hearing with the Director of JPH
[24] Audit Commission report - Review of Maintenance of Buildings 30/06/2000
[25] Page 21 of the Transcript from the Hearing with the Director of JPH
[26] Audit Commission report - Review of Maintenance of Buildings 30/06/2000
[27] Report on the States' Property Plan: P.A.C.1/2007

101. Finally, the Committee would stress the importance of achieving the objectives set out in the original proposition for the creation of JPH[28], including –

The development of co-ordinated strategies.

Rational and sensible management of property.

Re-charging the costs of property occupation to States departments.

102. The Committee will revisit these issues in 2009.

General Matters

103. This report has already discussed concerns regarding a lack of central responsibility for financial management by the Treasury. The Committee wishes to state explicitly that the Treasury must be more disciplined in its oversight of instances in which voted budgets are exceeded.

104. The Committee noted that insurance arrangements are currently undertaken by the Treasury on behalf of all States departments. Part of the Consolidated Fund is hypothecated for the Insurance Deductible Fund (I.D.F.) which has been built up to allow some degree of self-insurance. The remainder is made up by external commercial insurance which goes up to the total value of all States' assets. Expert advice is sought through external brokers, but final decisions regarding the level of cover and premium payments are taken by the Treasury. The Committee will comment further on this when the information requested from the Treasury Department has been made available.[29]

105. During the hearing on Jersey Property Holdings (JPH), it was identified that JPH. is responsible for managing the properties and it is responsible therefore for managing the risks of occupying the properties. The Committee cannot reconcile the responsibility for managing properties if JPH is not also responsible for the insurance cover that is arranged, or at least put in a position of knowing that adequate cover is there. Ray Foster confirmed that *« It is a very good point. We do not have sufficient information that underpins the recharges that we receive from the Treasury.* » The Committee considers this state of affairs extraordinary.

Education, Sport and Culture

106. The Committee was pleased to note the improvement in control discipline within the Department, and the efforts to improve financial accountability, in line with the recommendations of the external auditors.

107. The mis-statement of Pupil Teacher Ratios in the Annual Performance Report was disappointing, but it is noted that the Department is aware of the need to ensure such errors are eliminated in future.

[28] States of Jersey Property Holdings – establishment (P.93/2005)
[29] This information is not yet available at 2nd September 2008

108. The Director of the Department made the following declaration regarding demographics –

> *"The principal challenge for the future will be the management of demographics with our current funding arrangements for schools."*[30]

109. It is hoped that adequate measures and strategies will be adopted in order to ensure that the Department does not suffer a drop in performance as a result of these changes. It is also worth noting that this issue echoes those comments within the Comptroller and Auditor General's Spending Review Report.[31]

110. The Committee recommends that performance measurements (as discussed in paragraph 37 *et seq.*) should be reviewed to ensure that they are relevant to the consumer so that individual services provided by the Department can be monitored with the results used as a benchmark for future years.

Social Security

111. This report has already stressed the need for a comprehensive anti-fraud policy to be developed across the States, but such developments are particularly necessary within Social Security.

112. The Committee has concerns about the quality and quantity of Management Information available within the Department. It became clear in the Hearings that the functionality of N.E.S.S.I.E. (New Employment and Social Security Information Exchange) was underdeveloped, made clear by the Chief Officer of the Department's statement that –

> *"To my mind, management information is not as it should be in the department."*[32]

113. Richard Bell went on to say « *some of it does not exist at the moment, supplementation being the case in point.* »

114. In 2007, the Committee was told that there would be a project to investigate the reasons for the substantial increase in Supplementation. The Committee was disappointed to be told that –

> *Yes, in terms of thinking about that ... having looked at the ways of forecasting, you just cannot build any certainty into it because of these variable ... all 3 variables you just do not know what they are at the point at which you are asked to make an estimate of what the costs will be. The only certainty given you is it will not be the figure that is in the business plan, …. I think going forward in terms of giving certainty, it has to be about coming up with a method that sets the amount for a 3 year period and then you get the actuarial honours tri-annual review to revisit direct.*

[30] Page 3 of the Transcript from the Hearing with the Director of Education, Sport and Culture

[31] Report by the Comptroller and Auditor General: "States Spending Review – Emerging Issues" presented to the States in May 2008

[32] Page 19 of the Transcript from the Hearing with the Chief Officer of Social Security

115. It was put to Richard Bell that the implementation of ITIS meant that all the lower paid workers were brought into the tax net and this caused the large increase in supplementation. He considered that « *The timing of it did not seem to be quite right,……. But and it still did not say why 2005 was so low because again the increase was a lot less steep between 2004 and 2006 on average and the jump between 2005 and 2006 …... was low* ».

116. However, the Committee considers that their rationale had merit as the Comptroller of Income Tax stated that –

> *Since I.T.I.S. came in we used to have 52,171 personal taxpayers – Do you know how many we have now? With I.T.I.S., 71,039, …... I.T.I.S. has caught all those seasonal people who used to come over here, pay no tax and just go away and never see them again.*
>
> *We thought we would collect £177 million from salary and wage earners in 2007, we actually collected £196 million. A lot of that growth is due to I.T.I.S.*

On this basis the Committee estimates that a 36% increase in taxpayers has given rise to a 10% increase in tax collections.

117. The Committee is therefore surprised that, given the uncertainty expressed by Richard Bell, the Council of Ministers, in their amendments to the Business Plan, state: « *Economic growth in recent years has led to increases in the workforce and, as approximately 56% of all workers are paid below the earnings limit, this leads to an increased cost of supplementation* ».

118. The Committee is also concerned that the collateral effects of implementing ITIS were not fully considered.

119. The Committee therefore considers that it is essential that there is proper research into the mechanics of the increase in supplementation so that steps can be taken to address the rapidly increasing supplementation burden.

120. It would appear that there is a lack of financial expertise within the Department, and the Committee considers it essential to make improvements in this area, which are hopefully already afoot. The Chief Officer of the department made the following statement in this regard:

> *"We went through a period of time without a finance director. We now have a finance director; he was not from the Island and he has now got up to speed. During 2007 certain things that you would like to see happen lapsed as a result of everyone getting themselves behind the introduction of income support and some other things are matters that lapsed. As income support beds down we will be back to a steady steer and things like this will be things that have my attention and have my senior management team's attention on a more regular basis."*[33]

[33] Page 10 of the Transcript from the Hearing with the Chief Officer of Social Security

121. The implementation of Income Support has further strained resources since the Compliance Team were required to assist in the implementation of Income Support.

122. The Committee recommends that a comprehensive anti-fraud policy be introduced and the functionality of current I.T. systems developed in order to provide improved management information within Social Security.

Housing

123. There has been a notable improvement in reducing rent arrears, a development which the Committee has welcomed.

124. As with other States departments, there are concerns over the relative paucity of financial expertise available within the Department. The Chief Officer of Housing informed the Committee that for approximately half of 2007 there was no Finance Director employed in the Department. The Committee has concerns that the Finance Transformation Project, driven by Treasury, recommended that only a part-time Finance Director was necessary for the Department. The Committee believes that this is woefully insufficient and would recommend that a full-time Finance Director is employed as soon as possible.

125. The Housing Department has experienced numerous difficulties due to the bureaucracy of the States, especially regarding delays in approval of property sales and property conveyancing, due to the non-responsiveness of the Law Officers' Department. The Committee believes that it is important that these issues are addressed by the Departments concerned as a matter of urgency, and consideration given to how the Social Housing stock should be managed in the future. This issue was raised by the Chief Officer of Housing who expressed the view that –

> *"I think it [Housing] is very much a social service but, and it is a political question, could it operate more effectively as a trading organisation rather than a fully fledged government department. That is obviously a political decision."*[34]

126. The Committee feels that it is possible that Housing could be better managed if it were no longer a part of the States, an opinion supported by the Chief Officer of Housing's statement that:

127. There are concerns that the current programme of property sales will leave the States with an unbalanced social housing stock, but the Committee notes that Housing is aware of this problem and is taking steps to avoid it.

Trading Funds

128. Regarding Trading Funds, the Committee feels that there is a need for the Treasury to develop a clear and rational policy for the management of Trading Funds, as currently none exists. The Committee notes that these Trading

[34] Page 7 of the Transcript from the Hearing with the Chief Officer of Housing

Funds were intended to provide a framework for management of activities within the States which should be managed commercially. In each case there should be a clear reason for ownership for each Trading Fund and a definitive commercial objective in each case. The Committee does not approve of any "disguised subsidies", and these should be avoided. The Committee's concerns in this regard arose from the Treasurer's comment that –

> *"There is not a clear policy. Many years ago the airport ceased to make a return. The harbours only made a nominal return for many years. That appears to be the current policy."*

129. The Committee recommends that clear reasons for the ownership of individual Trading Funds, supported by defined commercial objectives, should be identified and a rational policy for the commercial management of Trading Funds developed and brought forward for consideration by the States.

130. If there is no rational policy developed then the States should evaluate and consider the wisdom of retaining Trading Funds within the States ownership if there is no clear commercial objective.

131. The Committee wishes to stress its view that Trading Fund status is only appropriate if it is to provide a quasi-commercial environment in which activities can be managed. In some cases, it may be advisable that these activities take the form of incorporated companies owned by, but separate from the bureaucracy of, the States.

132. The Committee considers that, as for the Strategic Investments, (paragraph 95 *et seq*.) the concept of a Holding Company arrangement for these funds has merit.

133. It is unclear why the Treasury has not instituted a proper system of commercial targeting for Trading Funds based on normal commercial principles, and this should be a clear aim for the future. Logically, any subsidies for Trading Fund activities should be separated from their trading activities so that their degree of commercial success or failure can be monitored.

134. The Committee has noted that proper commercial accounts for Trading Funds conforming to GAAP are not published. It sees no reason that these should not be prepared and published.

135. The Committee recommends that Commercial accounts for all Trading Funds be prepared and published and included in the Annual States accounts.