

STATES OF JERSEY



GOVERNMENT PLAN 2021–2024 (P.130/2020): AMENDMENT

Lodged au Greffe on 27th November 2020
by the Children, Education and Home Affairs Scrutiny Panel

STATES GREFFE

1 PAGE 2, PARAGRAPH (e) –

After the words “Appendix 2 – Summary Table 5(i)” insert the words –

“, except that, in Summary Table 6, the efficiency and re-balancing measure to defer the implementation of the Public Services Ombudsman for one year shall be deleted”.

2 PAGE 2, PARAGRAPH (f) –

After the words “Appendix 2 – Summary Tables 5(i) and (ii) of the Report” insert the words –

“, except that, in Summary Table 5(i), the head of expenditure for Strategic Policy, Planning and Performance shall be increased by £378,000 to allow for the implementation of the Public Services Ombudsman”.

CHILDREN, EDUCATION AND HOME AFFAIRS SCRUTINY PANEL

Note: After this amendment, the proposition would read as follows –

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

to receive the Government Plan 2021 – 2024 specified in Article 9(1) of the Public Finances (Jersey) Law 2019 (“the Law”) and specifically –

- (a) to approve the estimate of total States income to be paid into the Consolidated Fund in 2021 as set out in Appendix 2 – Summary Table 1 to the Report, which is inclusive of the proposed taxation and impôts duties changes outlined in the Government Plan, in line with Article 9(2)(a) of the Law;
- (b) to approve the amounts to be transferred from one States fund to another for 2021, in line with Article 9(2)(b) as set out in Appendix 2 – Summary Table 2 to the Report;
- (c) to approve the proposed borrowing to be obtained for 2021, in line with Article 9 (2)(c), up to and including the amount set out in Appendix 2 – Summary Table 3 to the Report;
- (d) to approve each major project that is to be started or continued in 2021 and the total cost of each such project and any amendments to the proposed total cost of a major project under a previously approved government plan, in line with Article 9(2)(d), (e) and (f) of the Law and as set out in Appendix 2 - Summary Table 4 to the Report;

- (e) to endorse the efficiencies and other re-balancing measures for 2021 contained in the Government Plan as set out in Appendix 2 Summary Table 6 and reflected within each gross head of expenditure in Appendix 2 – Summary Table 5(i), except that, in Summary Table 6, the efficiency and re-balancing measure to defer the implementation of the Public Services Ombudsman for one year shall be deleted;
- (f) to approve the proposed amount to be appropriated from the Consolidated Fund for 2021, for each head of expenditure, being gross expenditure less estimated income (if any), in line with Articles 9(2)(g), 10(1) and 10(2) of the Law and set out in Appendix 2 – Summary Tables 5(i) and (ii) of the Report, except that, in Summary Table 5(i), the head of expenditure for Strategic Policy, Planning and Performance shall be increased by £378,000 to allow for the implementation of the Public Services Ombudsman;
- (g) to approve the estimated income, being estimated gross income less expenditure, that each States trading operation will pay into its trading fund in 2021 in line with Article 9(2)(h) of the Law and set out in Appendix 2 – Summary Table 7 to the Report;
- (h) to approve the proposed amount to be appropriated from each States trading operation’s trading fund for 2021 for each head of expenditure in line with Article 9(2)(i) of the Law and set out in Appendix 2 – Summary Table 8 to the Report; (i) to approve the estimated income and expenditure proposals for the Climate Emergency Fund for 2021 as set out in Appendix 2 – Summary Table 9 to the Report;
- (i) to approve the estimated income and expenditure proposals for the Climate Emergency Fund for 2021 as set out in Appendix 2 – Summary Table 9 to the Report;
- (j) to approve, in accordance with Article 9(1) of the Law, the Government Plan 2021-2024, as set out at Appendix 3 to the Report.

REPORT

This amendment concerns the efficiency and rebalancing measure that is being brought forward by the Chief Minister in respect of establishing an office for a Public Sector Ombudsman. The efficiency, if adopted by the States Assembly, would defer the £378,000 allocated in 2021 for the operation of the office until 2022.

The Panel consulted on the proposed efficiency with key stakeholders during its review. The vast majority of the evidence received pointed towards the decision to defer this project as problematic. Some of the comments received included:

Unite the Union

The delay in the implementation of a Public Sector Ombudsman means that there will continue to be no independent body available to make recommendations about complaints handling across government. Should services be impacted because of the impact of organisational change, increased workloads, or ongoing efficiencies, the availability of an independent ombudsman to both advise on best practice, and act as an independent pathway for unresolved complaints would be highly valuable.¹

JCSA Prospect

Clearly the requirement for an ombudsman has been identified as being required, whilst delaying setting up this service will save money, one has to question what will happen in the meantime to complaints, and how will they be resolved. The public service is undergoing unprecedented levels of change, so there clearly needs to be a robust mechanism to resolve issues and problems independently.²

Jersey Cares – feedback from young people with experience of care:

“Appointing an ombudsman is a vital part of having increased transparency and accountability within any organisation or public body. Delaying the establishment of an ombudsman speaks volumes”.

“I think this being put on hold is absolutely awful and goes to show the lack of accountability that the Government are willing to take. They’re doing this essentially not wanting to listen to a complaint therefore not wanting to be held accountable.”³

Noting this information, the Panel subsequently wrote to the Chief Minister in order to gather further information on the rationale for the deferral of this project, given the strength of feeling from those submitting evidence that it should not be delayed. It was informed that the funding related to the operation of the office of the ombudsman as opposed to the development of the legislation and that, due to Officers being redeployed to tackle the response to COVID-19⁴, it was not possible for the legislation to be developed in time for the Ombudsman’s office to come into being from 2021 (the funding to do that being provided elsewhere within the Government Plan).

¹ Submission – Unite the Union

² Submission – JCSA Prospect

³ Submission – Jersey Cares

⁴ Written Questions – Chief Minister – 18th November 2020

The Panel holds serious concerns about the delay to this legislation and subsequent delay to the establishment of the office of the Ombudsman. This is in part down to the evidence received during the review of the Government Plan (as outlined above) but also in respect of the emerging themes from the Care of Children in Jersey's Review Panel's review of Redress and Accountability Systems in Jersey (of which the Membership is identical to the Panel). It is intended for the Review Panel to present its final report in March 2020 where its findings and recommendations will be outlined.

The Panel has found itself in somewhat of a quandary regarding the proposed efficiency saving, the nature of the Government Plan and the practicalities of creating an Ombudsman's Office. After consultation with the Legislative Drafting Office, the Panel understands that the law drafting instructions to progress the legislation underpinning this initiative had yet to be provided to them. Furthermore, it is difficult to place a timescale on the period of time that it would take to draft the legislation in the absence of any instructions. The Chief Minister also provided the following information to the Panel in respect of the proposed timeline for the legislation:

It is intended that a draft law will be lodged and debated before the 2022 election; allowing for work to commence in establishing the Ombudsman in shadow form in 2023, with it coming into full force in January 2024. The funding required to allow implementation in 2024 will be addressed in the next Government Plan. Exact timings are due to be reviewed in conjunction with the Chairman of the Legislation Advisory Panel.⁵

On the face of it, the proposed efficiency is in keeping with this timescale. The Panel's concerns, however, relate directly to the speed at which work is being undertaken to progress the legislation for the establishment of the Public Service Ombudsman. Whilst the funding to support this process is found elsewhere in the Government Plan, the Panel has concluded that the work is not being progressed fast enough. The impact of COVID-19 is appreciated in relation to the redeployment of policy officers, however, given the strength of evidence received across the two pieces of work outlined above, and the link to the recommendations of the Independent Jersey Care Inquiry, the Panel is firm in its view that this should be prioritised.

The Panel has, therefore, made a recommendation in its review of the Government Plan that the Chief Minister should ensure that the legislation underpinning the ombudsman is brought forward for debate by quarter three 2021, with a view to the office becoming operational in shadow form by 1st January 2022 (a year earlier than set out in the timeline above).

However, without the necessary funding in place it is not possible to achieve this project in line with the proposed timescale in the Panel's recommendation to the Chief Minister. The Panel, therefore, has agreed that the proposed efficiency saving of £378,000 should be halted in order that the funding can be used to progress the development of legislation at pace and, should that be completed prior to the updated timeline in the Panel's recommendation, there would then be funding available in 2021 for the Office of the Ombudsman to operate as intended. It is understood that this may not require the full £378,000, however, it is anticipated that any underspend found at the end of the 2021 from this funding would be realised as an efficiency saving.

⁵ Written Questions – Chief Minister – 18th November 2020

Financial and Manpower Implications

The Public Services Ombudsman funding, £378,000 per annum, was removed from 2021 – 2024. Therefore, the financial implications would be additional spend of £378,000 in 2021, and for the 4 years a total of £1,577,000. As this funding is required for the running of the office of the Ombudsman it would make little sense to not require recurring funding for the additional years. There is, therefore, an effect on the efficiency target for 2021 and throughout the plan. Different efficiencies must be brought forward or expenditure will increase, and by consequence increase the borrowing requirement.

Re-issue Note

The amendment as originally published erroneously showed the head of expenditure for the Chief Operating Office as increasing to allow for the implementation of the Public Services Ombudsman. This has been corrected to show that the head of expenditure for Strategic Policy, Planning and Performance would, in fact, be increased if the amendment were to be adopted.