# Reserve funding - Letters of Comfort

## Introduction and background

This section applies to all States Bodies as defined in the Public Finances Law and applies to all expenditure made by Accountable Officers of States Bodies, or on their behalf.

The principles should be applied to all public expenditure by any person authorised by an Accountable Officer to undertake that expenditure.

Before any commitment is entered into to incur expenditure Accountable Officers must ensure they have sufficient assurance of expenditure approvals to be able to meet those commitments. If it appears that existing approved heads of expenditure might be insufficient, there are a number of ways in which the Accountable Officer concerned can address that situation prior to committing expenditure. These include:

- Approval by the Minister for Treasury and Resources of an allocation from Reserves (following receipt and appraisal of a business case)
- Approval by the Minister for Treasury and Resources of the use of additional income
- Approval by the Minister for Treasury and Resources of a transfer from another head of expenditure
- A letter of comfort

A letter of comfort from the Minister for Treasury and Resources confirms to an Accountable Officer that additional funding will be allocated from Reserves in that financial year if it appears that the approved head of expenditure may be exceeded. Any request for a letter of comfort from Treasury and Exchequer must be approved by the Minister for Treasury and Resources before the letter can be formally issued.

A letter of comfort may be used in preference to the other mechanisms listed above for a number of reasons, including:

- The proposed expenditure may be able to be absorbed within existing budgets (expenditure approvals)
- The need for the expenditure is urgent and there isn’t enough time to prepare a business case
- The proposed expenditure is in a future year
- It is uncertain that the proposed expenditure will be needed.

For the avoidance of doubt, it cannot be assumed that any commitments entered without this assurance will be met by additional funding allocations by the Minister for Treasury and Resources or Treasurer of the States.

The use of the term “letter of comfort” in this context should not be confused with letters issued to housing associations in relation to potential increases in interest rates. This type of letter of comfort is not covered by this section of the Manual (see the “Financing or borrowing” section).

Users of this section should refer to other sections of the Public Finances Manual that are relevant. Specifically, these include:

- Major projects
- Changes to heads of expenditure
- Reserve head of expenditure
- Expenditure and procurement

There are number of significant risks relating to this section, which include:

- additional funds subject to a letter of comfort may be used for a different purpose
- Accountable Officers do not prepare a full business case for additional funding
- A letter may not specify the amount and timeframe and therefore an Accountable Officer is not clear on what he or she can spend
- Accountable Officers do not seek to meet costs from existing resources, so expenditure increases unnecessarily
- The General Reserve is over-committed and cannot meet all requests for additional funding

# Principles

1. Accountable Officers should always try to meet expenditure commitments, including those which arise on an ad hoc basis during the course of the year, from within existing approved resources.
2. Letters of comfort should only be used where time constraints prevent a full business case for additional funding being prepared before committing expenditure or when there are material areas of uncertainty.
3. Letters of comfort should enable urgent and necessary expenditure to be undertaken in advance of full additional funding approval processes.

# Requirements

**1. Requests**

A request for a letter of comfort must be in writing (which can be by email) to Treasury and Exchequer and must either be from an Accountable Officer or contain evidence that it is endorsed by the Accountable Officer concerned. The request must contain sufficient detail to enable the Minister for Treasury and Resources to decide whether to issue a letter and must explain why the request is so urgent that it cannot be subject to the usual business case and investment appraisal process.

**2. Content of letter**

A letter of comfort must specify the purpose for which approval is being given, the maximum amount of the approval and the time period for which it is valid. A letter of comfort can refer to a future year (i.e. where that year’s Government Plan is not yet approved). The letter must specify when it is expected that a full business case for additional funding will be submitted.

## 3. Business case

Where a letter of comfort relates to funding that is expected to be allocated from the Reserve, then a business case must be provided and allocated in accordance with established procedures and the Minister's published policy on allocations from Reserves. For the avoidance of doubt, a letter of comfort in itself does not provide approval of additional funding. It is an interim measure to permit urgent Government business to proceed.

## 4. Minimising additional resource requirement

Accountable Officers in receipt of a letter of comfort must make all reasonable efforts to minimise additional funding needed and to identify opportunities to meet those additional costs from within existing resources provided that does not undermine the ability of the Department to deliver its departmental objectives. The amount ultimately approved from the Reserve will be reduced if it becomes apparent the department is able to meet the costs from within existing approved expenditure limits, has spent approved funding for a different purpose or has not attempted to minimise additional requirements.

## 5. Managing the Reserve

Once a letter of comfort is issued the Treasurer of the States must ensure the Reserve is not over-committed if all letters of comfort issued are to be met in full.

## 6. Letters of comfort relating to heads of expenditure for which the Treasurer of the States is Accountable Officer

Where a proposed letter of comfort would give assurance of potential additional funding for the Treasury and Exchequer head of expenditure or any other head of expenditure for which the Treasurer of the States is the Accountable Officer, the Minister for Treasury and Resources must consult the Principal Accountable Officer (PAO) before the letter is sent. If the PAO objects, then the Minister must state this in their letter.

## 7. Publication to the States Assembly

The Minister must publish a list of all letters of comfort issued during the preceding six-month period in their Semi-annual update, published in accordance with Article 23 of the Public Finances (Jersey) Law 2019.

# Governance Statements

## 1. Introduction and background

This section applies to all States Bodies as defined in the Public Finances (Jersey) Law 2019 and provides advice and guidance on "governance statements" at both States of Jersey and States Body (department) levels.

The overall purpose of the governance statement is to provide the reader with

- a clear understanding of the States of Jersey's internal control structure; and
- information on how resources are managed whilst identifying potential risks and the actions being taken or required to mitigate these.

Those organisations that are included in the States of Jersey's group boundary for accounting purposes, which are not a States Body, should ensure that they have appropriate assurance frameworks in place consistent with this Section.

**States of Jersey's Governance Statement**
An overarching governance statement is published as part of the Accountability Report within the States of Jersey's Annual Report and Accounts.

The States of Jersey's governance statement covers all States Bodies (the non-Ministerial Departments, and the States of Jersey Police, are not accountable to the Principal Accountable Officer but information, as appropriate, on their governance arrangements is reflected in this governance statement).

The governance statement covers the accounting period (1st January to 31$^{st}$ December), and also any significant issue which arises after the year end and before the date of signature of the Annual Report and Accounts.

The Minister for Treasury and Resources is responsible for determining the content and format of the governance statement and follows good practice set by other jurisdictions in specifying that the following details are included as a minimum:

- the governance framework and operation of the Government and States of Jersey including information about the Ministerial/Committee structure and the coverage of their work
- an assessment of corporate governance with reference to compliance with generally accepted best practice principles and relevant guidance, and explanations where a different approach has been adopted
- an assessment of the States of Jersey's risk management arrangements and risk profile, including, subject to a public interest test, details of significant risk-related matters arising during the period
- any significant control or governance issues that have arisen during the year and how these have been managed or mitigated, together with an update on action taken regarding similar issues reported in the previous year

Reporting of any personal or confidential matters is done in suitably careful terms.

The governance statement is reviewed by the Chief Internal Auditor who provides a check in order to verify it is consistent with the findings of internal audit and other review work as reported in the Chief Internal Auditor's Annual Opinion.

**Departmental Governance Statements**

Each States Body (including non-Ministerial States Bodies and the States of Jersey Police) is required to complete an annual departmental governance statement (where a department has more than one Accountable Officer each is required to complete a governance statement for their area of responsibility).

Departmental governance statements are not proactively published but the information they contain is used to support the production of the States of Jersey's governance statement.

Users of this section should refer to other sections of the Public Finances Manual that are relevant. Specifically, this includes:

- Principal Accountable Officer
- Accountable Officers in Government departments
- Accountable Officers in Specified Bodies
- Accountable Officers in non-Ministerial States Bodies
- Annual financial statement
- Risk Management
- Internal audit
- Supporting documents - Jersey Financial Reporting Manual

Departments are advised not to include any specific information in their governance statements that would not be disclosable under Freedom of Information legislation.

In addition to the common risks identified in the background and introduction section of the Manual a number of significant risks relating to this section include:

- reports produced by different States Bodies and those organisations which fall within States of Jersey's group boundary are inconsistent due to a lack of commonality
- the manner and format of how matters are reported in governance statements is not transparent, nor easily understood, by stakeholders.

## 2 Principles

1. Reporting should be clear, concise and consistent throughout the Government and States of Jersey including within the Annual Report and Accounts.
2. Governance statements should be drafted in such a way to be easily understandable to readers, for example abbreviations and jargon should not be used.
3. The preparation of a governance statement should be an on-going process informed by:
    - the opinion of internal (and external) audit on the quality of the systems of governance, management and risk control
    - assurances from senior staff
    - feedback from the delegation chain(s) within a department about its business, its use of resources, its responses to risks, and the extent to which in-year budgets and other targets have been met.

## 3. Requirements

### 1. Recording and reporting

Accountable Officers must ensure that relevant staff are aware of the requirements set in the Jersey Financial Reporting Manual for governance reporting purposes and that these requirements are complied with. The latest version of this document is available in the Supporting documents section of this Manual.

2. **Completion of Departmental Governance Statements**

Accountable Officers must ensure that departmental governance statements give assurances about performance and an insight into their department's risk profile including responses to identified and emerging risks (whether these relate to business objectives, regularity, propriety, or value for money reasons) and how risks have been dealt with.

3. **Notification to Principal Accountable Officer and Treasurer of the States**

An Accountable Officer must notify the Principal Accountable Officer and Treasurer of the States (or the Treasurer of the States in the case of a non-Ministerial Department, or the States of Jersey Police) of any significant issue that arises after the relevant year end date and before the date on which the Annual Report and Accounts are signed.

4. **Departmental governance statements - Consideration of matters to report on**

When compiling their department's governance statement, an Accountable Officer must take a view on the extent to which an item is significant enough to the department/States to justify recording. Relevant evidence must be retained with focus given to those areas where improvement is necessary. Further advice on this issue can be gained from Treasury and Exchequer's Head of Group Reporting.

5. **Departmental governance statements – – Completion of questionnaire**

Accountable Officers must ensure that their departmental governance statement is completed in full and with due diligence. A Governance questionnaire is available in Supporting documents to assist with this, but it must be stressed that the areas covered by the questionnaire are not exhaustive and an Accountable Officer must use their own knowledge/review of the control and risk processes when preparing departmental governance statements. The statement appears at the bottom of the questionnaire.

Questionnaires must be reviewed by the relevant Head of Finance Business Partnering who must satisfy themselves that the information provided is consistent with their knowledge of the area concerned.

Questionnaires must be completed and returned by the dates specified by officers from Treasury and Exchequer. Typically, these are:

- End of September – first draft and refresh of standing data
- Mid-January – final return for year just ended

6. **Departmental governance statements – Assurance**

Departmental governance statements must be signed and dated by an Accountable Officer after gaining sufficient assurance on matters relating to the internal control systems within or affecting their department. The relevant departmental Head of Finance Business Partnering has a pivotal role to play in providing guidance and advice on this.

7. **Appointment of new Accountable Officer**

In any instance where there is an appointment of a new Accountable Officer the incoming Accountable Officer must ensure that:

- the outgoing Accountable Officer has prepared an (interim) governance statement or handover letter on which they are able to place reliance on when preparing their own governance statement; or
- they seek suitable written assurances from relevant senior departmental managers for the period in question.

## 8. External Bodies

Accountable Officers with responsibility for external bodies must take account of any internal control issues that are likely to merit inclusion in a departmental governance statement.

Any additional issues relating to an external body or significant matters arising between the governance statement being finalised and the signing of the States of Jersey's Annual Report and Accounts, must be reported as and when they come to light. The Accountable Officer must decide, in consultation, as appropriate, with the relevant Head of Finance Business Partnering and the Chief Internal Auditor, what form of assurance is appropriate for these external bodies.

## 9. Role of Principal Accountable Officer and Treasurer of the States

When completing the States of Jersey's governance statement, the Principal Accountable Officer and Treasurer of the States (the Treasurer of the States for the non-Ministerial Departments or States of Jersey Police) must take note of the governance statements signed by individual Accountable Officers.

In compiling the States of Jersey's governance statement, the Principal Accountable Officer and Treasurer of the States must consider the following points to determine if a matter is significant to warrant recording:

- might the issue prejudice achievement of the Government Plan or other priorities?
- could the issue undermine the integrity or reputation of the Government or States of Jersey?
- what view does the Risk and Audit Committee take on the issue?
- what advice or opinions have internal audit, the Comptroller and Auditor General and/or external audit given?
- might the issue make it harder to resist fraud or other misuse of resources?
- does the issue put a significant programme or project at risk?
- could the issue divert resources from another significant aspect of the business?
- could the issue have a material impact on the accounts?
- might financial stability, security or data integrity be put at risk?

## 10. Signing of States of Jersey governance statement

The Principal Accountable Officer and Treasurer of the States must sign and date the States of Jersey's overall governance statement.

## 11. Retention of documents

All governance statements are subject to review by internal and external auditors as part of their audit work. Copies of the certificates and completed checklists must be retained locally within a department for inspection.

## 12. Change of Accountable Officer, Principal Accountable Officer or Treasurer

If there is change of Accountable Officer, Principal Accountable Officer or Treasurer responsibility during a year, the outgoing officer must sign a statement confirming that there have been no material changes in governance arrangements since the last statement was signed (and/or draw attention to any material changes). Where this requirement cannot be practically met, an alternative senior officer in the department or project can give such assurance.

APPENDIX C

## Accountable Officer Governance Assurance Statement questionnaire

This questionnaire should be submitted alongside your declaration that you have complied with your appointment as set out in your Accountable Officer appointment letter and the Public Finances (Jersey) Law 2019; or express any deviations from that which have been made known or otherwise to the Principal Accountable Officer.

This questionnaire forms part of the body of evidence used for the Annual Governance Review, which as an ongoing process, and contributes to the Governance Report – part of the Annual Report and Accounts. The scope of your responsibility as Accountable Officer is outlined in your appointment letter.

Any questions in respect to the declarations should be sent to Group Director of Performance, Accounting and Reporting, Steve Mair or Head of Group Reporting, Peter Styles or Catherine Watson, Chief Internal Auditor.

**Financial year 2021 Area of Accountable Officer responsibility: ……………………………………………………**

| Principle 1. Accountability, Decision Making and Scrutiny – *Crown, Assembly, Government and States Employment Board relationships and accountability are clear and subject to appropriate scrutiny.* | | | | |
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| Underlying statements | Question | Comply? Y/N only | Please use for additional information if you wish. Evidence need not be supplied but must be available on request. | Brief detail of known non-compliance |
| 1. Roles, responsibilities and accountabilities of the Crown, States Assembly, Scrutiny Panels | 1.1.1 Are you clear who you are accountable to, and why? Please specify. | | | |
| | 1.1.2 Is there any document, protocol or legislation in place to define this relationship or set out how it should | | | |

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| and Committees, Chief Minister, Ministers, States Employment Board, Principal Accountable Officer, Accountable Officers, officers in Departments and any decision-making bodies are clearly defined and documented. | operate? Please attach copies here, or explain briefly how the relationship operates in practice. | | | |
| | 1.1.3 Have you been Accountable officer throughout the whole of the year? If not please attach or explain what assurances are available for the period prior to your appointment. | | | |
| | 1.1.4 Is there a scheme of delegation in place setting out levels of decision-making/authority/areas of responsibility/accountability within your department? | | | |
| | 1.1.5 Are there processes in place to ensure that all decisions have been made in accordance with the States and Government of Jersey's corporate policies and processes e.g. for procurement or budget authorisation? Please describe the arrangements and attach any relevant documentation currently in use. | | | |
| | 1.1.6 Are there processes in place to ensure that key decisions in your department comply with Jersey law? | | | |
| | 1.1.7 Are there arrangements in place to ensure that all statutory obligations in your service area have been complied with? If so, please describe | | | |

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| | how this is done and how new statutory obligations or requirements are identified and implemented. | | | |
| 2. Documented arrangements exist for the conduct of business and communication between the States and Government. | 1.2.1 Are there clear arrangements in place to manage your relationship with the Minister responsible for your service area?<br><br>1.2.2 Have formal Ministerial Instructions been made for any areas where the legal responsibilities of the Accountable Officer were considered to be infringed? | | | |
| 3. Decisions at all levels are documented and accessible, including reasons for decision, and communications and business are adequately recorded. | 1.3.1 Are there arrangements in place to document all key decisions in your area of responsibility? Are these decisions accessible if access to them is required? | | | |
| 4. The roles and processes of Crown, Judicial and Assembly departments and machinery are documented and accessible. | NO INFORMATION NEEDED | NO INFORMATION NEEDED | NO INFORMATION NEEDED | NO INFORMATION NEEDED |
| 5. Processes for the development, | 1.5.1 Is there a forward programme of new or amended legislation to be | | | |

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| approval and review of legislation are documented and legislation adopted is readily accessible. | developed for your area of responsibility? | | | |
| 6. The relationship between the States of Jersey, Government of Jersey and other public bodies within and outside Jersey is clearly documented and managed. | 1.6.1 Are there documented arrangements in place for the relationship of your area of responsibility with other public bodies, boards, committees and arm's length bodies? Please list the most significant of these. | | | |
| 7. Where boards, committees and arm's length bodies exist, the relationships between the parties are clearly defined, understood and compliance monitored. | NO INFORMATION NEEDED | NO INFORMATION NEEDED | NO INFORMATION NEEDED | NO INFORMATION NEEDED |
| 8. The organisation's Annual Report and Accounts reflect its activities openly | NO INFORMATION NEEDED | NO INFORMATION NEEDED | NO INFORMATION NEEDED | NO INFORMATION NEEDED |

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| and transparently, and document compliance with all adopted governance standards. | | | | |
| 9. The organisation complies with all agreed reporting and disclosure requirements to the public, the States Assembly and all scrutiny and audit functions. | 1.9.1 Are there arrangements in place to ensure that you meet all reporting requirements to the public and States Assembly? Please list these. | | | |
| 10. Independent regulatory and rights based bodies are established where required with appropriate resourcing and governance. | NO INFORMATION NEEDED | NO INFORMATION NEEDED | NO INFORMATION NEEDED | NO INFORMATION NEEDED |
| 11. The Internal Audit function and Risk and Audit Committee provide adequate assurance on the overall effectiveness of | NO INFORMATION NEEDED | NO INFORMATION NEEDED | NO INFORMATION NEEDED | NO INFORMATION NEEDED |

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| the framework of governance, risk management and control. | | | | |
| 12. Agreed recommendations for corrective action made by internal audit, external audit, regulators, scrutiny and other relevant bodies are acted upon. | 1.12.1 Have any internal audit or external inspection reports been carried out for your service during 2020? Please list. | | | |
| | 1.12.2 Have all outstanding matters from any external regulatory investigations been resolved? Please list any such investigations, brief details surrounding each case and the outcome of the investigation? | | | |
| | 1.12.3 Have all significant weaknesses identified in audit reports been addressed? Please list and explain briefly what action is being taken. | | | |
| | 1.12.4 Have all agreed Internal Audit recommendations relating to your service been implemented by the agreed date? | | | |
| | 1.12.5 Have all key information systems and operations within your service been documented? Apart from IA coverage, what other assurance work has been done to ensure that systems of internal control are:<br>(a) adequate in principle and<br>(b) complied with in practice? | | | |

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| | 1.12.6 Other than last year's annual governance assurance statement, have you issued or received any reports or other communications during 2019 which relate specifically to your role as an accountable officer? If so please attach copies and briefly explain the reason for the report being issued and the result achieved. | | | |
| Principle 2. Planning and Performance - *Planning and performance management is defined and drives achievement of intended outcomes.* | | | | |
| Underlying statements | Question | Comply? Y/N only | Additional information (requested or supplied as additional evidence), to include evidence of assurance i.e. how you know processes and controls are operating as expected. | Brief detail of known non-compliance |
| 1. Clearly defined planning and performance management responsibilities and arrangements are in place. | 2.1.1 Are responsibilities for planning and performance matters clearly set out for your area of responsibility? Please provide evidence. | | | |
| 2. Processes exist to enhance the sustainable wellbeing (including the economic, social, environmental and cultural well- | 2.2.1 Are there arrangements in place to ensure that all appropriate Corporate and Service policies have been disseminated to your staff? Please describe the arrangements in place. | | | |

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| | being) of the inhabitants of Jersey over successive generations, supported by governance requiring good stewardship of the public service. | | | | |
| 3. | The strategic and annual planning process takes a longer-term view and balances the combined economic, social and environmental impact of policies and plans when deciding priorities. The process results in a Common Strategic Policy and Government Plan which outline key strategic goals and outcomes and outputs within the | NO INFORMATION NEEDED | NO INFORMATION NEEDED | NO INFORMATION NEEDED | NO INFORMATION NEEDED |

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| resources available. | | | | |
| 4. Departmental operational delivery plans exist that define critical success factors and outline how key strategic goals and outcomes will be accomplished at all levels. | 2.4.1 Is there a plan or document in place setting out the department's key objectives, aims or outcomes and explaining how these support the Government Plan and Common Strategic Policy? Please attach the current version of this departmental plan and explain how, and how often, it is kept up to date. | | | |
| | 2.4.2 Does this plan, or other documents, contain specific targets or performance measures? If so please attach current targets or performance indicators and explain how these are developed and updated. | | | |
| | 2.4.3 Are there processes in place to ensure current priorities are communicated within each service/ department/ team? | | | |
| | 2.4.4 Are these priorities reflected in:<br>• Departmental or service level performance indicators/ targets?<br>• Individual targets used in staff or team appraisals?<br>• Budgets and medium-term financial plan? | | | |
| 5. A performance management | 2.5.1 Is team and individual performance actively managed in your | | | |

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| structure and process exist that defines measures and monitors progress against achievement at all levels of the organisation. | area of responsibility? Please explain how. | | | |
| 6. Performance is regularly documented, reviewed and reported at departmental and corporate levels to assess whether operational plans and work programmes are achieving strategic goals and outcomes. Adjustments to operations are made as necessary. | 2.6.1 Is actual performance compared to expected performance or targets on a regular basis? How is this information reported to staff and/or management? Give recent examples of how significant performance issues have been identified, escalated and addressed. | | | |
| 7. Planning and performance management processes are in place to ensure the organisation has the property infrastructure and | • 2.7.1 Does your area have sufficient property resources to deliver its services economically, efficiently and effectively? Please list any deficiencies and explain how requirements are assessed and met. | | | |

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| resources necessary to implement its operational plans. | • 2.7.2 Are plans in place to ensure adequate maintenance of property? | | | |
| 8. There is robust evaluation of the accuracy of performance data. | 2.8.1 Is performance monitoring and reporting in your department subject to regular and independent internal checking or internal audit review? | | | |

## Principle 3. Organisational Design, Structure and Partnerships - *The organisation's structure serves its operations and intended outcomes.*

| Underlying statements | Question | Comply? Y/N only | Additional information (requested or supplied as additional evidence), to include evidence of assurance i.e. how you know processes and controls are operating as expected. | Brief detail of known non-compliance |
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| 1. Corporate policies ensure that structures serve and promote achievement of key strategic goals and outcomes. | 3.1.1 Is the current departmental structure for your area of responsibility properly documented? Please provide a copy. | | | |
| | 3.1.2 Has the structure and staffing complement been reviewed since the last Governance Statement? Please provide details of any changes. | | | |
| 2. Processes exist to manage structural change and the relationships between parts of the organisation. | 3.2.1 Are there processes in place which allow your department/service area to adapt to changing ways of working and service delivery? Please provide recent examples. | | | |

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| 3. There are arrangements for developing formal and informal partnerships to allow resources to be used more efficiently and outcomes achieved more effectively. | 3.3.1 Are there partnership or funding agreements in place for all relationships between your department and other bodies outside the Government of Jersey involving funding over £75,000 per annum? Please list these bodies. | | | |
| | 3.3.2 Are there clearly documented agreements between boards and committees and your area of responsibility? Please list these bodies. | | | |
| | 3.3.3 Do all partners, staff and other stakeholders who attend meetings understand their different roles and responsibilities? | | | |
| | 3.3.4 Is there an exit strategy in place for each significant partnership and is this fully documented? | | | |
| | 3.3.5 Are arrangements in place to ensure that the Accountable Officer does not sit on the Board of any arms-length organisation (ALO) or partnership which receives funding from the Government of Jersey? If the AO attend meetings please set out briefly the capacity in which this occurs and the remit, scope and responsibilities of each role. | | | |

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| | 3.3.6 Do you have policies in place to ensure that relevant information is disseminated to partnerships through the correct channels, in a timely manner and in an appropriate format? | | | |
| Principle 4. Ethics and Integrity - *Ethics and integrity are embedded in values and operations.* | | | | |
| Underlying statements | Question | Comply? Y/N only | Additional information (requested or supplied as additional evidence), to include evidence of assurance i.e. how you know processes and controls are operating as expected. | Brief detail of known non-compliance |
| 1. Clear values and codes of conduct exist that reflect best practice and define the standards of official conduct and professional behaviour expected of all those engaging in public life, including politicians, employees and Arm's Length Bodies. A culture of acting in the Public Interest is visibly and | 4.1.1 Are there arrangements in place to ensure all staff in your area of responsibility are made aware of the Government of Jersey's ethical standards and Code of Conduct? | | | |
| | 4.1.2 Are there arrangements in place to ensure that all staff in your area of responsibility are made aware of the rules relating to declaration of interests, and acceptance of gifts and hospitality? | | | |
| | 4.1.3 Is the gifts and hospitality register for your area of responsibility up to date? | | | |

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| consistently demonstrated. | | | | |
| 2. Ethics and integrity risks are identified, and corporate policies and operational processes address them (e.g. procurement, conflict of interest). | 4.2.1 Have any recent conflicts of interest identified in your department been properly managed? Please list any conflicts identified and state what action was taken to manage or mitigate those risks (e.g. staff redeployment, additional supervision, etc.)? | | | |
| 3. People management frameworks promote ethical behaviour and include regular review to confirm operational effectiveness. | NO INFORMATION NEEDED | NO INFORMATION NEEDED | NO INFORMATION NEEDED | NO INFORMATION NEEDED |
| 4. Processes are in place to provide supervision and assistance and enable concerns to be raised. | 4.4.1 Are the number and type of complaints, comments or compliments received by your department monitored and reviewed? Please provide details of the number of each. | | | |
| | 4.4.2 Have any instances where behaviour has fallen below the ethical standards expected of staff in your department been properly dealt with? Please provide details explaining what action was taken. | | | |

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| 5. A structured process is in place for ensuring external providers of services on behalf of the Government, including Arm's Length Bodies, are supported to act with integrity and in compliance with the ethical standards expected by the organisation. | 4.5.1 Are there arrangements in place to ensure that expected ethical standards are met by any of the following bodies in relation to your area of responsibility?<br>• External providers of services on behalf of your area of responsibility<br>• ALOs<br>• Boards<br>• Committees<br>• Other similar bodies | | | |
| Principle 5. People - *Development of capacity and leadership capability contribute to individual and organisational achievements.* | | | | |
| Underlying statements | Question | Comply? Y/N only | Additional information (requested or supplied as additional evidence), to include evidence of assurance i.e. how you know processes and controls are operating as expected. | Brief detail of known non-compliance |
| 1. Corporate policies enable the attraction, retention, development and management of people. | 5.1.1 Is your area of responsibility able to recruit/retain staff with the required skills to provide existing services? Please list those skills which are in shortest supply and which posts are currently most difficult to recruit or fill? | | | |
| 2. Plans ensure that processes, | 5.2.1 Is all recruitment undertaken fairly, equitably, impartially and | | | |

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| decisions and actions are based on the principles of fairness, equity and diversity, and are consistent, transparent, impartial and open for review. | consistently taking account of fairness, equity and diversity – involving the Jersey Appointments Commission as required? | | | |
| 3. People management frameworks cover the whole employment continuum from recruitment to exit. | 5.3.1 Do all staff in your area of responsibility have up-to-date Job Descriptions and agreed development plans (using the States' and Government's current appraisal system)? | | | |
| | 5.3.2 Are there arrangements in place to ensure all HR policies are followed within your area of responsibility? | | | |
| | 5.3.3 Have exit interviews been offered for all staff leaving your responsibility where it is a requirement to do so? | | | |
| 4. Structured procedures are in place to support adherence to human resource policies and processes. | 5.4.1 Do all non-Government or States staff working in your area of responsibility have self-employed status? Please list these staff. | | | |
| | 5.4.2 Is all staff sickness reported in accordance with Government policy? | | | |

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| | 5.4.3 Have all staff recruited within the past 12 months received proper induction? | | | |
| | 5.4.4 Are there arrangements in place to ensure that staff appointed to positions requiring a qualification actually hold the relevant qualification? | | | |
| 5. Feedback processes identify issues in people management practices. | 5.5.1 Are there arrangements in place to ensure that you receive regular (at least annual) feedback from staff working within your area of responsibility? | | | |
| 6. Effective workforce plans exist to enhance the strategic capacity and allocation of people, to include succession planning. | 5.6.1 Is there a workforce plan for your area of responsibility which includes succession planning? | | | |

## Principle 6. Public Finances - *The organisation values and safeguards financial integrity, accountability and strong public financial management.*

| Underlying statements | Question | Comply? Y/N only | Additional information (requested or supplied as additional evidence), to include evidence of assurance i.e. how you know processes and controls are operating as expected. | Brief detail of known non-compliance |
|---|---|---|---|---|
| 1. Roles, responsibilities, composition and | 6.1.1 Have all requests for information and explanations from internal audit, | | | |

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| structure of all public audit functions are documented and published. | external audit and the C&AG been promptly complied with? | | | |
| 2. Processes ensure the proper recording of financial transactions consistent with applicable accounting standards. | 6.2.1 Are there arrangements in place to ensure staff responsible for managing financial budgets carry out proper recording of financial transactions consistent with applicable accounting standards and requirements of the Jersey Financial Reporting Manual (JFReM)? Please state what these arrangements are. | | | |
| 3. Financial planning, policies and procedures contribute towards achievement of key strategic goals and outcomes, uphold the highest level of integrity, support compliance with the Public Finances Law and Manual and ensure financial resources are used for the | 6.3.1 Have you complied with the Public Finances Manual (including completion of any exemptions and breaches) during the year? Please list exemptions and breaches. | | | |
| | 6.3.2 Are there arrangements in place to ensure that financial management processes in your department align annual budgets to:<br>• spending plans approved by ministers<br>• the Government of Jersey's corporate plan and objectives<br>• departmental business plans? | | | |
| | 6.3.3 Have all budgets loaded been supported by appropriate authorisation such as Government Plan approval or | | | |

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| purposes intended. | formal decision of the Minister for Treasury and Resources? | | | |
| | 6.3.4 Are there arrangements in place to ensure that staff responsible for managing budgets are aware of the requirement that all expenditure incurred is in line with the purpose for which budget approval was given? Please explain where and from whom budget holders would obtain guidance in this respect? | | | |
| | 6.3.5 Has clear responsibility been assigned for all budgets within your service/department? | | | |
| | 6.3.6 Have individual managers with responsibility for budgets received appropriate financial training? | | | |
| | 6.3.7 Are all relevant staff in your area of responsibility aware of and have access to the Government of Jersey's Public Finances Manual, Procurement procedures and other financial procedures or guidance notes? | | | |
| | 6.3.8 Have efficiency savings been identified and agreed? Please explain the process for this. | | | |

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| | 6.3.9 Were identified efficiency savings delivered in the year? | | | |
| | 6.3.10 Where appropriate, have service area asset management plans for major assets been prepared and are they reviewed regularly? | | | |
| | 6.3.11 Are asset registers and inventories in place and maintained in accordance with the Public Finances Manual? | | | |
| 4. Structured processes are in place to monitor and audit financial performance against budget and key strategic goals, both at corporate and departmental level. | 6.4.1 Are there arrangements in place to regularly review actual financial performance against budgets? Please explain what these arrangements are. | | | |
| | 6.4.2 Have any significant virements (budget variations) between business units during the year been properly approved? | | | |
| | 6.4.3 Have there been any significant (+10%) overspends during the year? Please explain how these have been managed and reported. | | | |
| 5. Rates of taxes, duties, fees, charges and other means of collecting revenue from | 6.5.1 Are all fees and charges regularly reviewed? | | | |
| | 6.5.2 Are invoices raised promptly for all income due? | | | |

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| Jersey's individuals and businesses are clearly published and regularly reviewed. | 6.5.3 Is debt collection effective and are write-off levels low? | | | |
| | 6.5.4 Are all levels of fees and charges clearly published in an appropriate and accessible format? | | | |
| Principle 7. Communication and Engagement - *The organisation communicates and engages with all parties in a way that is accessible, open and responsive.* | | | | |
| Underlying statements | Question | Comply? Y/N only | Additional information (requested or supplied as additional evidence), to include evidence of assurance i.e. how you know processes and controls are operating as expected. | Brief detail of known non-compliance |
| 1. Policies ensure that communication is open, accessible and responsive. | NO INFORMATION NEEDED | NO INFORMATION NEEDED | NO INFORMATION NEEDED | NO INFORMATION NEEDED |
| 2. Policies ensure information is disseminated through correct channels, in a timely manner and to the right target group. | NO INFORMATION NEEDED | NO INFORMATION NEEDED | NO INFORMATION NEEDED | NO INFORMATION NEEDED |
| 3. Processes ensure proactive, transparent and responsive internal and | 7.3.1 Are there processes in place to ensure proactive, transparent, timely and responsive communication with staff and service users in line with corporate communications policy? Please give details of the main channels | | | |

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| external communication. | of communication and briefly give examples of any action taken recently to improve communication with specific target groups. | | | |
| 4. A process exists to support compliance with communication policies and strategies | NO INFORMATION NEEDED | NO INFORMATION NEEDED | NO INFORMATION NEEDED | NO INFORMATION NEEDED |
| 5. Processes exist to ensure engagement with appropriate individuals and bodies in decision-making and policy development. | 7.5.1 Are there arrangements in place to ensure engagement with individuals and bodies in decision-making and policy development, where it is appropriate to do so? | | | |

## Principle 8. Risk Management, Fraud and Insurance - *The organisation identifies and manages its risks to deliver effective accountability and outcomes.*

| Underlying statements | Question | Comply? Y/N only | Additional information (requested or supplied as additional evidence), to include evidence of assurance i.e. how you know processes and controls are operating as expected. | Brief detail of known non-compliance |
|---|---|---|---|---|
| 1. Corporate policies exist for the governance and management of material risks and internal controls | 8.1.1 Are all senior staff aware of the States' corporate policies for the governance and management of material risks (e.g. reputational, financial or physical, including occupational safety and health)? | | | |

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| | (e.g. reputational, financial or physical, including occupational safety and health). | | | | |
| 2. | Risk exposure is evaluated, remediation plans are implemented and responsibilities clearly allocated. Risk appetites are defined, and risks are insured where they can't be terminated. | 8.2.1 Are there one or more risk registers in place for your department/ service/ /business unit? Please explain how these registers are reviewed and kept up to date. | | | |
| | | 8.2.2 Are there arrangements in place for staff in your area to feed issues into the corporate risk register where appropriate? | | | |
| | | 8.2.3 Do risk registers include consideration of all types of risk including fraud risks, partnership risks, information management, business continuity, health and safety and opportunity risks? | | | |
| | | 8.2.4 Have appropriate risk owners been nominated to ensure that actions are taken to monitor and manage all risks identified? | | | |
| | | 8.2.5 Are partnership risks adequately recorded in risk registers? | | | |

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| | 8.2.6 Are arrangements in place to ensure all risks that can be insured are covered by the States' external policy or internal insurance arrangements? | | | |
| 3. Preventive measures for key risk categories are in place, including business continuity plans. | 8.3.1 Have critical and priority services been identified and continuity plans developed and approved for these areas? | | | |
| | 8.3.2 Are business continuity plans regularly reviewed and tested? | | | |
| 4. Procedures are in place to monitor incidents from identified risk categories. | 8.4.1 Were any failures in risk management arrangements during 2019 resulting in adverse media coverage, loss of States' assets or injury to staff discussed at a senior level to consider lessons learned? Please list any such incidents. | | | |
| 5. Risk management is an integral part of all activities, is considered in all aspects of decision making and is reported at an appropriate level including publicly. | 8.5.2 Are there arrangements in place to ensure that risks are considered as part of all significant decisions, and brought to the attention of your Minister if appropriate? | | | |
| 6. Effective counter fraud, anti-money laundering and anti-corruption | 8.6.1 Have all frauds and financial irregularities identified been referred to the Chief Internal Auditor in accordance with the Anti-Fraud and | | | |

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| arrangements are in place. | Corruption Strategy and Fraud Response Plan? | | | |
| | 8.6.2 Have specific fraud risks been identified and have mitigating actions been identified and put in place? | | | |
| | 8.6.3 Have anti-money laundering and anti-corruption arrangements been put in place, including compliance with the Corruption (Jersey) Law 2006 and the Anti-Corruption Policy? | | | |

## Principle 9. Information Governance - *The organisation manages its information responsibly and effectively.*

| Underlying statements | Question | Comply? Y/N only | Additional information (requested or supplied as additional evidence), to include evidence of assurance i.e. how you know processes and controls are operating as expected. | Brief detail of known non-compliance |
|---|---|---|---|---|
| 1. Legislation, policies and processes exist to ensure that information is classified, safeguarded and disclosed to the appropriate individuals and bodies at the appropriate time and in the appropriate format. | 9.1.1 Are all staff in your service/department are aware of policies in relation to the use of States equipment and systems (e.g. IS Security Policy, internet and email usage and phone usage)? | | | |
| | 9.1.2 Has your area complied with GDPR (General Data Protection Regulation) requirements during the year, including subject access requests (SARs)? Please give the number of SARs made and complied with during the year. | | | |

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| | 9.1.3 Have actions been taken to manage information security risks? Please list any IS breaches during the year and what action was taken in response. | | | |
| | 9.1.4 Are robust arrangements in place to monitor compliance with Freedom of Information (FoI) legislation? Please give the number of FoI requests in the year, and how many of these were fully complied with. | | | |
| | 9.1.5 Are all the required Information Sharing Agreements in place, including with other departments and for all partnering and contractor activities or services undertaken in the last financial year? | | | |
| | 9.1.6 Are you satisfied that all staff and contractors (that you were responsible for) that have left the employment of your service during the financial year have been removed from accessing States IS systems? | | | |
| 2. Planning and performance management processes are in place to ensure the organisation | 9.2.1 Have all staff been trained in the use of relevant IS systems? Please provide brief details of training provided in 2019 and attendance levels. | | | |

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| has the data, information systems infrastructure and resources necessary to implement its operational plans. | 9.2.2 Does your area have sufficient IS resources to deliver its services economically, efficiently and effectively? Please list and deficiencies and explain how requirements are assessed and met.<br>9.2.3 Does your area have sufficient data to be able to inform its planning and performance? Please list any areas of weakness.<br>9.2.4 Are arrangements in place within your area to ensure data used complies with the Code of Practice for Official Statistics? | | | |
| Covid-19 | | | | |
| Underlying statements | Question | Comply? Y/N only | Additional information (requested or supplied as additional evidence), to include evidence of assurance i.e. how you know processes and controls are operating as expected. | Brief detail of known non-compliance |
| The organisation has put in place additional policies, processes and legislation to address the Covid-19 pandemic. | Have any specific risks, controls or activities been identified as a result of the Coovid-19 pandemic? Please list any issues and actions taken. | | | |

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| Please list items which may be considered “significant” for inclusion in the States’ Annual | **BOX A** - Please declare below any significant control or governance issues that should be | **BOX** B – Please set out |

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| Governance Statement. These may be those which: | considered as part of the States of Jersey Governance Statement: | (a) actions taken or planned to be taken to address any significant control or governance issues listed in Box A; and<br>actions taken to address any significant control or governance issues listed in last year's departmental or Corporate Governance Statements. |
| Have seriously prejudiced or prevented achieving a key States objective; | | |
| Have resulted in the need to seek additional funding to allow it to be resolved; | | |
| Have required a significant diversion of resources; | | |
| Have had a material impact on the accounts; | | |
| The Public Accounts Committee (PAC) has advised that it should be considered as significant; | | |
| Have resulted in significant public interest or has seriously damaged reputation; | | |
| Have resulted in formal actions being taken by senior officers (e.g. the States Treasurer); | | |
| Have received significant adverse commentary in external inspection reports that has not been able to be addressed in a timely manner | | |

I confirm that this document provides a fair and accurate reflection of the system of internal control and governance arrangements operating within my area of responsibility during the past year.

Name of Accountable Officer:…………………………………………………………….Signature:……………………………………………………………………..Date:……………………………….

Name of officer completing the self-assessment ……………………………………………… Signature:…………………………………………………..Date:……………………………….

# Guarantees and indemnities

## 1. Introduction and background

This section applies to all States Bodies as defined in the Public Finances Law and provides advice on the issuance of guarantees and indemnities by the States of Jersey. Guarantees and indemnities provided by States owned entities are specifically excluded from the requirement to comply with this section. This advice also covers any guarantee or indemnity provided from a States Fund where the Fund's terms of reference allow for these arrangements. A Guarantee does not include "letters of comfort" issued by the Minister for Treasury and Resources to housing associations to protect against interest charges. A guarantee or indemnity may arise even where neither of those specific terms have been used, for example if a contractual term creates an obligation to make payments if certain circumstances arise – the substance of the term may mean that a guarantee or indemnity is created.

For the purposes of this Section:

- a **guarantee** is an agreement whereby a debt of a third party will be repaid to a lender by the States of Jersey, if the third party, who has primary responsibility to settle the debt, defaults; and
- an **indemnity** is a contractual agreement made between a third party and the States of Jersey where the States of Jersey agrees to pay for losses or damages suffered by the third party in certain situations. An indemnity in its widest terms is recompense for a loss or liability.

It is possible for a guarantee scheme to be approved which covers smaller guarantees within an overall limit.

The Public Finances (Jersey) Law 2019 (Article 28) permits the Minister for Treasury and Resources to provide guarantees or indemnities in the name of the States up to a total value of £3 million in a financial year, provided that the grand total of all guarantees and indemnities provided in this way does not exceed £20 million. Above these amounts any further guarantees and indemnities can only be approved by the States Assembly, under Article 29 of the Public Finances (Jersey) Law 2019. The Minister may delegate his or her powers.

As the issuing of a guarantee or an indemnity may represent a balance sheet contingent liability for the States of Jersey it is important that there is a clear understanding of the potential financial implications to the States of Jersey and to any departmental head of expenditure if there is a default or need to cover the costs of an indemnity.

Proportionate due diligence must be undertaken prior to any proposed guarantee or indemnity being offered to organisations external to the States of Jersey. There should be a formal assessment of the organisation's financial standing and proper consideration as to whether the organisation is in a position to satisfy the terms of any agreement and if the issuance of a guarantee is the best and most cost-effective means of supporting the organisation. As part of the due diligence process consideration must be given to the financial impact to the States and to managing any risk if there is a default which activates a guarantee or if a loss covered by an indemnity materialises.

Users of this section should refer to other sections of the Public Finances Manual that are relevant including:

- expenditure and procurement
- financing or borrowing
- lending

In addition to the common risks identified in the Background and Introduction section of the Manal a number of significant risks relating to this section include:

- Unauthorised issuance of guarantees and indemnities is carried out in breach of the Public Finances (Jersey) Law 2019 or other Laws
- Guarantees and indemnities authorised by the Minister for Treasury and Resources exceed limits set in the Law
- Ineffective due diligence procedures result in the States of Jersey being required to meet the costs of the guarantees and indemnities
- The total value of guarantees and indemnities is incorrectly calculated
- Fraud is committed through deliberate and calculated actions which ensure that terms of a guarantee or indemnity are actioned incorrectly

## 2. Principles

1. All guarantees and indemnities should be in the name of the States of Jersey.
2. Accountable Officers should not independently authorise a guarantee or indemnity. A States Body may request that Treasury and Exchequer issue a guarantee or indemnity, which is made directly from Treasury and Exchequer. All guarantees and indemnities regardless of limit must be approved by Treasury and Exchequer.
3. All guarantees and indemnities should be appropriately authorised and undertaken in accordance with the Public Finances (Jersey) Law 2019, this Manual and any other relevant States of Jersey policies. Guarantees and indemnities are approved in the Government Plan with the Minister for Treasury and Resources able to approve guarantees/indemnities within defined financial limits.
4. Due diligence procedures should be undertaken with regard to any proposed guarantee or indemnity to third parties, culminating in a formal assessment of the financial standing and an assessment as to whether or not the organisation requesting the guarantee or indemnity is likely to be in a position to satisfy the terms of the guarantee or indemnity.
5. States Bodies should be able to justify guarantees/indemnities and confirm that they do not give the recipient an unfair competitive advantage in a market.
6. States Bodies should ensure early discussion with Treasury and Exchequer when there is concern about the ability of a recipient of a guarantee or indemnity in meeting the terms of any agreement.
7. Accountable Officers should ensure there is no activity carried out by their States Body that meets the definition of a guarantee or indemnity unless conducted in accordance with the requirements of this section.
8. Decisions to give guarantees and indemnities for the Treasury and Exchequer Department should be subject to consultation with a different Minister.

## 3. Requirements

1. **Decision making**

States Bodies must not enter into any guarantee or indemnity arrangements without the approval of the Minister for Treasury and Resources or as part of an approval within a Government Plan.

Accountable Officers must consider the full financial implications of a guarantee or indemnity and compare these with other alternative courses of action. The financial implications should be considered over the whole life of the proposed guarantee or indemnity.

2. **Requesting a guarantee or indemnity**

A States Body making a request for a guarantee or indemnity for inclusion in the Government Plan or for approval by the Minister for Treasury and Resources must make a written request, through the Accountable Officer, to Treasury and Exchequer. This request must include:

- details of how granting the guarantee or indemnity will contribute to the States Body's/States Strategic Priorities
- the proposed recipient of the guarantee or indemnity
- the amount of the guarantee/indemnity
- the purpose for which the guarantee/indemnity will be used
- the reasons (both financial and non-financial) for issuing a guarantee/indemnity as opposed to any other course of action, including specific measurable objectives for the success of a guarantee/indemnity
- confirmation that the States Body has given consideration to how the costs of any default of a guarantee or indemnity will be funded
- any other terms and conditions of the proposed guarantee/indemnity
- an assessment of the risk of the guarantee recipient not being able to meet the terms of the loan and that this falls within the risk appetite of the States Body
- any conditions which may apply to reclaim States support if the financial position of the recipient changed in the future.

3. **Risk management**

The States Body requesting the guarantee/indemnity must consider the risk to the States of Jersey of the proposed course of action including the implications if the guarantee/indemnity is called in. These considerations must be documented and provided to Treasury and Exchequer.

4. **Security**

Once a guarantee or indemnity has been approved the Treasurer of the States must ensure that the appropriate legal agreement is drafted, agreed and signed.

5. **Monitoring of limits**

The Treasurer of the States must ensure that total limits on guarantees and indemnities set in the Public Finances (Jersey) Law 2019 or Government Plan are monitored and not exceeded.

6. **Name of Guarantee/indemnity**

All guarantees and indemnities must be provided in the name of the States of Jersey.

7. **Legal advice**

The Minister for Treasury and Resources (or Treasurer of the States if delegated) must obtain legal advice prior to entering into an arrangement that creates a guarantee or indemnity.

8. **Contingent or actual liability**

The Treasurer of the States must be notified if there is a possibility that a guarantee or indemnity will need to be called in. If a guarantee or indemnity crystalises then the relevant States Body must consider, in consultation with the Treasurer of the States, whether an immediate report should be made to the States Assembly or if this is better addressed during the six-monthly updates published by the Minister for Treasury and Resources. The report should explain the circumstances in which the liability has crystallised, the amount involved and how this will be funded. If a guarantee or indemnity was requested by an Accountable Officer, and the guarantee or indemnity results in an actual liability to the States, the cost must be met from within the budget available to that Accountable Officer. If the cost cannot be met in this way the Accountable Officer concerned must submit a business case requesting additional funding to the Minister for Treasury and Resources.

9. **Reporting**

When requested, Accountable Officers must submit promptly to the Treasurer of the States any information relating to guarantees or indemnities in a form which is compliant with the JFReM (see Supporting documents).

The Treasurer must ensure that all guarantees and indemnities issued under powers in the Law are reported to the States Assembly as part of the six-monthly updates published by the Minister for Treasury and Resources and in the States of Jersey's annual report and accounts.

# Budget transfers within a head of expenditure

# Introduction and Background

This section applies to all States Bodies as defined in the Public Finances (Jersey) Law 2019 and provides advice on how and when transfers of budgets within heads of expenditure agreed by the States Assembly in a Government Plan can be approved and need to be reported. It does not apply to Grouped heads of expenditure, Feasibility and Rolling votes, where separate sections of the Manual will apply.

The States Assembly approves heads of expenditure as part of the Government Plan. These include heads of expenditure for Major Projects, other capital projects and Reserves, as well as those that cover annual revenue expenditure – typically for a department.

Planning, budgeting and reporting are inter-related elements and fundamental to an understanding of the States of Jersey's performance management and accountability processes. All departments must prepare monthly budgeted projections for each area of expenditure and income for the financial year and report and maintain these on the States of Jersey's financial reporting system. The total of these allocations cannot exceed the head of expenditure approved by the States Assembly (which may be varied by in-year adjustments approved by the Minister for Treasury and Resources). The head of expenditure allocation should be broken down over separate Service Areas (and set out in the Government Plan Annex) sufficient to identify and report on departmental activities or different elements of major projects or capital projects. Departmental monthly budgets should link to operational or project targets and support performance measurement.

As part of their work in reviewing the States' Annual Report and Accounts, the States' external auditors will consider the regularity of expenditure. One of the tests of regularity is whether funding has been spent for the purposes approved by the States Assembly. Hence this section of the Manual addresses the extent to which an Accountable Officer is able to reprioritise amounts within an approved head of expenditure.

Where priorities change or the level of service provision changes Accountable Officers (or their delegates, including appointed Senior Responsible Officers) may approve certain transfers within their Body's head of expenditure, or within elements of a major project head of expenditure, without the approval of the Minister for Treasury and Resources or the Treasurer of the States.

Additional funding approved from Reserves by the Minister for Treasury and Resources is not available for transfer to purposes other than that approved by the Minister for Treasury and Resources, without the express written agreement of that Minister.

Accountable Officers must be mindful of the need to ensure that, where the States Assembly approved additional funding within a head of expenditure for "growth" purposes, the funding allocated is used for that purpose in the financial year for which the approval is given. The Minister for Treasury and Resources may approve the "repurposing" of growth expenditure for an alternative purpose on request from the Accountable Officer concerned.

Transfers between heads of expenditure, even if they are between those under the responsibility of the same Accountable Officer, must be approved by the Minister for Treasury and Resources.

Users of this section should refer to other sections of the Public Finances Manual that are relevant, including:
- transfers between heads of expenditure
- Government Plan and budgeting
- Heads of Finance Business Partnering

In addition to the common risks identified in the Background and Introduction section of the Manual a number of significant risks relating to this section include:

- transfers may not be appropriately authorised or processed
- approved expenditure which is not required by States Bodies may not be returned to the Consolidated Fund
- departments may incur expenditure which is not a priority to the States
- expenditure may not meet the test of regularity, set out and interpreted in the C&AG's Code of Audit Practice (with authoritative guidance set out in PN10 issued by the UK Public Audit Forum), and applied by the States' auditors

**Principles**

1. Budget transfers within a head of expenditure should be actioned only as and when necessary and properly recorded and authorised in accordance with an approved Scheme of Delegation.
2. Accountable Officers are responsible for ensuring the preparation of detailed annual expenditure and income proposals for their heads of expenditure.
3. Accountable Officers should promote the need for high quality and accurate budgetary forecasts.
4. Accountable Officers should ensure that systems are in place to monitor expenditure and provide regular updates both to Treasury and Exchequer and to their States Body in the format prescribed by Treasury and Exchequer
5. Accountable Officers should ensure that they have appropriate processes in place within their States Body to ensure the early identification of budget variances so that they can mitigate as appropriate to remain within budget.
6. Accountable Officers should ensure that Ministers are consulted on any changes within a head of expenditure that may affect delivery of Ministerial plans and priorities.
7. Budgets should not be overspent at a Director/Service level. Accountable Officers should explain why this has occurred to the Treasurer of the States on request.

**Requirements**

1. **Schemes of delegation**

   Accountable Officers must ensure that their Schemes of Delegation cover the approval of budget transfers within their heads of expenditure.

2. **Monitoring expenditure against budget**

   Each Accountable Officer must ensure that there are systems within their department to manage their resources within agreed budgets, take the limits into account when entering into commitments, and generally ensure that the department's spending profile is sustainable. As a minimum, Accountable Officers must monitor expenditure in relation to budget on a monthly basis and prepare monthly reports that compare actual expenditure to estimated expenditure, including an analysis of major variances and including details of budget transfers within heads of expenditure.

3. **Budget holder responsibility**

Budget holders must report any significant financial variances from planned expenditure to their Head of Finance Business Partnering, as soon as they are aware of them, and where feasible they must adopt an alternative course of action to remain within budget. The Head of Finance Business Partnering must ensure that there are systems in place to ensure that budget transfers within a head of expenditure are approved and actioned when necessary and that advice and guidance is given to budget holders, especially where budgets are reduced.

4. **Reporting to Treasury and Exchequer**

Where departmental priorities change, and regardless of the amount of funding concerned, information must be formally reported to the Treasurer of the States, as part of the in-year and end of year reporting requirements set out by Treasury and Exchequer.

**5. Repurposing of growth**

Where funding has specifically been allocated in a Government Plan for a defined purpose (for example, through growth or an approved amendment), any change of use will require a Ministerial Decision from the Minister for Treasury and Resources. This applies only to the year in which that expenditure is separately identified in the Government Plan, and will not apply once funding becomes part of a department's base budget in subsequent years.

**6. Additional funding approved from Reserves by the Minister for Treasury and Resources**

Additional funding approved from Reserves by the Minister for Treasury and Resources must not be used for purposes other than that approved by the Minister for Treasury and Resources, without the express written agreement of that Minister.

**7. Ministerial priorities**

Where a budget transfer within a head of expenditure may affect delivery of the relevant Minister's priorities and Delivery Plan, the Accountable Officer must consult that Minister.

# Conflicts of Interest

## 1. Introduction and background

As highlighted in the section on Gifts and Hospitality the States of Jersey place great importance on the need to ensure that bribery and corruption has no part to play in the way that the Island is governed. The Corruption (Jersey) Law 2006 makes it a criminal offence for a public official to do or not do any act in relation to the official's position, office or employment, for the purpose of corruptly obtaining any advantage, whether for his or her own benefit or for the benefit of any other person. The States' Anti-Fraud and Corruption Policy and Strategy make clear that the States have a zero-tolerance approach to fraud and corruption in relation to their business.

To support the above Law and the Policy and Strategy, and to ensure that there are high levels of integrity and public trust in Jersey's public administration this section provides guidance and requirements on how States Bodies should manage conflicts of interest.

Where the States or Government of Jersey or a States Body appoint a layperson on a voluntary or paid basis to any Board or Panel, they should consider including appropriate references to this section of the Manual in the relevant terms of engagement.

A conflict of interest exists where a States of Jersey employee or any employee of a non-Ministerial department is compromised when their personal or private interests conflict, or could be seen to conflict with or influence, their decisions or actions when carrying out their public duties. It means that the employee's independence, objectivity or impartiality could be called into question.

For the avoidance of doubt, public duties are the official tasks that an employee performs in their role as a States of Jersey employee. A personal/private interest means anything that can influence an employee and includes an employee's own personal, family, professional or business interests or can include the personal, family, professional or business interests of individuals or groups with whom the employee is, or was recently, closely associated.

For the purposes of this section, States of Jersey employee means a States' employee as defined in Article 2 of the Employment of States of Jersey Employees (Jersey) Law 2005. The definition therefore excludes:

- Holders of offices listed in Schedule 1 of that Law
- Crown appointments
- Members of the States of Jersey Police Force
- Officers of the Crown

These employees will be subject to other arrangements, outside of the Public Finances Manual, to manage conflicts. See "Exceptions from the obligation to disclose by eform" at the end of this section.

A conflict of interest can be -

- Actual - where a real conflict exists between an employee's public duties and private interests
- Potential - where an employee has private interests that <u>could</u> conflict with their public duties. This refers to circumstances where there is a foreseeable possibility that a conflict may arise in future - steps should be taken to mitigate that future risk.
- Perceived - the public or any third party could form the view that an employee's private interests could improperly influence their decisions or actions, now or in the future.

- Conflict of duty – arises when an employee is required to fulfil two or more roles that may actually, potentially or be perceived to be in conflict with each other.

A conflict of interest must be either avoided wherever possible, or alternately declared and managed appropriately.

A poorly managed 'perceived' conflict of interest can be just as damaging to the States and Government of Jersey as a poorly managed 'actual' conflict of interest. A conflict of interest is not wrong in itself, but it should be properly identified and managed effectively and transparently. When a conflict of interest has been ignored, or improperly acted on or has influenced actions or decision-making, the conduct (not the conflict itself) can be seen as misconduct, abuse of office or even corruption.

Although in the main, a conflict of interest may be seen as a tendency toward favouritism it can equally apply where there is a prejudice resulting from friendship, animosity, or other personal involvement with another person or group. If personal values are likely to impact on the proper performance of an employee's public duty these can also lead to a conflict of interest.

Users of this section should also refer to other sections of the Manual that are relevant. Specifically, this includes:

- risk management
- fraud
- annual financial statement
- governance statements
- gifts and hospitality.

In addition to the common risks identified in the Background and Introduction section of this Manual a number of significant risks relating to this section include:

- the States or Government of Jersey's reputation may be compromised as a result of poor practice and weak governance arrangements
- a conflict of interest occurs e.g. perceived as influencing a decision to award a contract, set policy or regulate a service
- States of Jersey employees are not protected from unwarranted criticism from not following due process, best practice guidance or adherence to principles.

More information on Conflicts of Interest is included in the Code of Practice: Standards in Public Service. Ministers and Assistant Ministers are bound by the Code of Conduct and Practice for Ministers and Assistant Ministers.

Some jobs, such as those involving the purchasing of goods or services from others, are particularly sensitive. Orders and contracts must be awarded on merit and no favouritism should be shown to businesses run by, for example, friends, partners or relatives. All such relationships must be reported, in writing, to the appropriate line manager.

## 2. Principles

1 A conflict of interest should be avoided wherever possible, or alternately declared and managed appropriately to ensure that any potential risks are mitigated.

2 Accountable Officers should ensure that employees do not place themselves in any situation where an actual or a perceived conflict of interest can or may happen. If such a situation arises, or may arise, an employee must notify their line manager as soon as the situation becomes apparent. If the employee

is the Principal Accountable Officer, an Accountable Officer or a Chief Officer in a Department (excluding Crown and other excluded officers), the Treasurer should be notified as soon as possible.

3 Where the States or Government of Jersey or a States Body appoint a layperson on a voluntary or paid basis to any Board or Panel, they should consider including appropriate references to this section of the Manual in the relevant terms of engagement.

4 To protect themselves against allegations of conflicts of interest, employees below Tier 3 who are responsible for negotiating or advising on contracts, or placing orders, should consider declaring actual or potential conflicts using the eform (NB this is a mandatory requirement for Tiers 1-3.)

## 3. Requirements

1 **Awareness**

Accountable Officers must take steps to ensure, as far as possible, that employees (and especially those involved in decision-making or the selection and purchase of goods and services) are aware of the implications of being exposed to an actual, perceived or potential conflict of interest and of the disclosure requirements which must be followed. This will include ensuring that employees attend any mandatory anti-fraud and corruption training.

2 **Disclosure**

Save for exceptions detailed at the end of this section of the Manual, employees in the following categories must complete the "Conflict of Interest" eform on at least an annual basis where there is an interest to be declared and at any time when a new conflict arises:

- all members of the Executive Leadership Team
- any other Tier 1,2 and 3 employee or equivalent (e.g. member of department's Senior Leadership Team) (excluding non-States' employees, such as Crown Officers)
- any member of the Commercial Services Directorate of Treasury and Exchequer

Members of staff below tier 3 who are responsible for negotiating or advising on contracts, or placing orders, should consider declaring actual or potential conflicts.

Where employees do not have access to a computer, they can ask another officer to complete the eform on their behalf.

**This requirement must be complied with by 31st December 2023, and at least annually thereafter**.

**It is for each employee to decide whether they have a declarable conflict of interest**.

A declarable conflict of interest exists where a States of Jersey employee or any employee of a non-Ministerial department is compromised when their personal or private interests conflict, or could be seen by a reasonable person to have a reasonable possibility to conflict with or influence, their decisions or actions when carrying out their public duties. It means that the employee's independence, objectivity or impartiality could be called into question.

A conflict is unlikely to be declarable if the employee is not able to, as part of their employment, offer preferential treatment to the connected body. For example, if an employee in Department X owns shares in a company that does business with the States, but that company does business entirely with Department Y, then the employee is not in a position to exert any influence over how much is spent with the company. It would not be wrong to declare the interest, but it is not an interest that a reasonable person would think is reasonably possible to result in a conflict.

An interest need not be declared online where the conflict is incidental and removal of the individual from the situation of conflict is impractical, for example:

- if the individual works for a school they do not need to declare simply because they know some pupils or parents – it would be impractical to remove the individual from the conflict
- if the individual works as a receptionist at the hospital they do not need to declare simply because they know some of the service users – it would be impractical to remove the individual from the conflict

An interest need not be declared online where the conflict occurs frequently and removal of the individual from the situation of conflict is straightforward and part of business as usual, for example:

- if the individual works in Revenue Jersey they do need to declare online if they know a taxpayer whose files they are reviewing – although the conflict is not incidental they must declare, as usual, directly to their manager and ensure they are removed from the conflict
- if the individual works processing claims for benefits they do need to declare online if they know a claimant whose files they are reviewing – although the conflict is not incidental they must declare, as usual, directly to their manager and ensure they are removed from the conflict

Declaring an interest is not a sign of a weakness. It is a means for the States and the employee to protect themselves against allegations of improper conduct.

For the avoidance of doubt, public duties are the official tasks that an employee performs in their role as a States of Jersey employee (employee of a non-Ministerial department). A personal/private interest means anything that can influence an employee and includes an employee's own personal, family, professional or business interests or can include the personal, family, professional or business interests of individuals or groups with whom the employee is, or was recently, closely associated.

An employee who fails to disclose a conflict of interest that should have been declared could be subject to disciplinary action up to and including dismissal, depending on the severity of the conflict. If in any doubt whether or not an interest should be declared, employees are encouraged to contact any of the individuals listed in Requirement 6 of this section for advice.

### 3 Immediate removal from conflict

Where there is clear potential for an officer to financially benefit an individual outside of the States or Government, and it its possible for another officer to deal with that individual, the officer must immediately inform their line manager of the conflict and ask that another officer deals with the affairs of the individual concerned. This applies, for example, to officers processing benefits claims and payments, and those dealing with tax matters. Provided that the officer is removed from the conflict a declaration via the eform is not required.

### 4 Line Managers

Line managers of employees declaring actual and potential conflicts of interest must set out whether the conflict declared has been managed, and what measures have been put in place to mitigate the conflict. This is not necessary for an annual re-declaration of a conflict previously considered.

Where the conflict declared involves the Principal Accountable Officer, or an Accountable Officer/ Chief Officer, the line manager approval role must be undertaken by another Accountable Officer/ Chief Officer.

5 **Heads of Finance Business Partnering**

All conflicts declared, together with the line manager response, must be certified by the relevant Head of Finance Business Partnering.

6 **Access to data**

Data submitted via the eform will be available to the following individuals only:

As part of workflow for recording and managing conflicts;

- All Heads of Finance Business Partnering
- Line managers of employees completing an eform *

Access to all data:

- Treasurer of the States
- Group Director, Strategic Finance, Treasury and Exchequer
- Head of Financial Governance, Treasury and Exchequer
- Head of Internal Audit
- All Accountable Officers (for their own areas of responsibility only)
- All Heads of Finance Business Partnering (for their own areas of responsibility only)

* Data must only be used by these individuals for the sole purpose of assessing whether measures need to be put in place to manage actual or potential conflicts of interest.

7 **Retention of data**

Data must be retained in accordance with retention schedules. If an employee leaves the organisation or moves to a post where the declared conflict no longer applies, data will be retained as long as transactions for the period of the conflict can be audited. Data must be erased once retention periods have expired. The onus is on the employee making the declaration to advise if the conflict no longer applies.

8 **Management of conflicts by Accountable Officers**

Accountable Officers must ensure that all actual, perceived or potential conflicts of interest are disclosed to an employee’s supervisor and/or line manager for review. If, after review, it is determined that there is a conflict, the supervisor or line manager must remove the employee from the particular situation or ensure that compensating controls (for example, countersigning by another officer) are put in place to manage the actual or potential conflict.

9 **Conflicts of interest of Principal Accountable Officer, Accountable Officers or Chief Officers**

If a conflict of interest relates to the Principal Accountable Officer, an Accountable Officer or Chief Officer, and that officer cannot be removed from the decision-making process then the officer concerned must ensure that any decision is countersigned by an Accountable Officer or Chief Officer of another department. This approach must also be taken where the Principal Accountable Officer, an Accountable Officer or Chief Officer has the ability to take decisions which benefit their own department, for example if the Treasurer of the States has the ability to allocate additional funding to Treasury and Exchequer.

10 **Reporting in Governance Statements**

An Accountable Officer must ensure that any actual reported conflict of interest is recorded (anonymised as far as possible) in the Department's Governance Statement produced as part of the process for the preparation of the States' Annual Report and Accounts.

**Exceptions from the obligation to disclose by eform**

The Law Officers' Department maintains a separate Conflicts Policy regarding conflicts in criminal and civil matters for case management purposes and it is expected that any reports on these issues will be held by that Department. The Department is still required to comply with this policy for other conflicts.

Commercial Services within Treasury and Exchequer will retain their own records in relation to conflicts declared during individual procurement projects.

People and Corporate Services will retain their own records in relation to conflicts declared during individual recruitment processes.

Internal Audit within Treasury and Exchequer will retain their own records in relation to conflicts declared by that team and external providers performing Internal Audit work.

General arrangements for members of the Judiciary of Jersey (who are not, by definition, States' employees) are set out in the Code of conduct for members of the Judiciary of Jersey.

General arrangements for members of the States of Jersey Police Force (who are not, by definition, States' employees) are set out in the States of Jersey Police – Code of Ethics.

# Assets

# Introduction and background

This section of the Manual applies to all States Bodies (including States Funds and Trust Assets) as defined in the Public Finances (Jersey) Law, 2019 and relates to all non-financial assets (including donated assets), management of inventories and to the management and disposal of assets. This includes capitalised assets (i.e. those costing over £10,000) as well as any “equipment” assets, (defined as “a physical asset that requires any periodic maintenance for regulatory, safety, insurance reasons or to ensure continued performance”), costing below £10,000 but where risks suggest control should be exercised.

This section also covers the management of stock. The Treasurer of the States will authorise specific departmental stock level limits.

Accountable Officers are personally accountable for the proper financial management of resources as defined in their letters of appointment.

Users of this section should refer to other sections of the Public Finances Manual that are relevant. Specifically, these include:

- Changes to head of expenditure
- Expenditure and procurement
- Major, strategic and other projects

In addition to the common risks identified in the background and introduction section of the Manual a number of significant risks relating to this section include:

- “the whole life costs” are not defined as part of the design or acquisition of a new asset
- following acquisition, information on an asset is incomplete or not in the correct format
- an asset is not disposed of at fair market value and therefore does not achieve the best value for the States or Government of Jersey
- the asset register is incomplete
- the inventory or asset deteriorates or becomes obsolete
- there is insufficient inventory causing shortages which have consequential impacts on services
- an asset is incorrectly maintained, or allowed to fall to the “lowest maintainable condition”
- an asset no longer meets the States or Government’s needs
- the disposal of an asset is not properly authorised

# Principles

1. Asset management should be undertaken in such a way to ensure that organisational and functional requirements are aligned and linked to the priorities set in the Government Plan.
2. Accountable Officers should work to optimise the performance and identify the lifetime costs of an asset at the outset (including those required for maintenance and operating the asset), whilst looking to mitigate the risks associated with those assets.
3. Accountable Officers in Government departments should be focused on ensuring that assets are used to produce services that deliver value for money and meet the States and Government of Jersey’s priorities.

4. Accountable Officers in Non-ministerial departments should be focused on ensuring that assets are used to produce services that deliver value for money and meet the States of Jersey's priorities.
5. Assets should be safeguarded and maintained in terms of value, health and safety, insurance, other regulatory requirements and protected against theft or misuse.
6. The need for assets should be reviewed on a continuous basis.

## Requirements

### 1. Acquisition of assets

There must be appropriate systems in place to ensure that the design, build and commissioning or acquisition of an asset complies with the relevant regulatory requirements (including legislative, heritage, health and safety, and environmental obligations (including consideration of the asset's carbon footprint)). For certain types of asset (vehicles, land, property and technology) there is a requirement to consult the appropriate experts within Government – see the Expenditure and procurement section of this Manual). When considering the acquisition of an asset, Accountable Officers must ensure they will have sufficient financial resources to meet ongoing revenue costs (such as support and maintenance) and must consider these costs during asset procurement decisions.

### 2. Asset Management Plan

Accountable Officers must complete and maintain an asset management plan where required to do so under the Enterprise Asset Management Framework. Any plan must be based on analysis of the condition and performance of assets held and must use good quality and timely asset data.

### 3. Recording of assets

Accountable Officers must ensure that assets are appropriately recorded to ensure completeness with any losses, thefts and damages appropriately documented and in line with requirements set in the losses and write offs section of the Manual.

### 4. Physical checks

Accountable Officers must ensure regular physical checks of assets and inventory, including checks on condition, are carried out, and that discrepancies between records and physical checks are reported, and that appropriate action is taken. This must include physical stock counts at least annually.

### 5. Disposal of surplus assets – land or property

Accountable Officers must consult with Jersey Property Holdings on the use and disposal of land or property assets. Recommendations must be approved by the Minister for Infrastructure, and meet the requirements set in States Standing Order 168 (States Standing Orders can be found on the States Assembly website). When a disposal is agreed, Accountable Officers must ensure that the disposal is completed as swiftly as the market will allow, with reasonable consideration for best value.

Any use or disposal of land which does not fall into the remit of Standing Order 168 is subject to approval by the States Assembly.

All sales of buildings are subject to approval by the States Assembly.

**6. Disposal of surplus assets – other than land or property**

Accountable Officers must document the reasons for disposal of other assets, including justification of why they are no longer needed. Accountable Officers must use reasonable means to achieve the best value proceeds for assets disposed of. This can include donation, where appropriate.

**7. Professional advice**

Accountable Officers must seek appropriate professional advice when disposing of assets with an estimated value of over £1,000, and in all cases where the disposal relates to land and property, vehicle or technology assets.

**8. Retention of proceeds of asset disposal**

Where not already included in the approved budget of the States Body, Accountable Officers must seek approval from the Treasurer of the States for the retention and use of the proceeds of asset disposals where these exceed £5,000 above the carrying value of the asset in Connect Finance.

Where an asset is held in a States Fund, or a trust asset is disposed of, the Accountable Officer must seek necessary approvals in line with the governance arrangements covering the Fund/trust asset.

**9. Maintenance**

Accountable Officers must keep and review a maintenance schedule in order to prioritise the appropriate maintenance of assets and inventory in a manner that protects or enhances their value to the States and Government of Jersey.

**10. Use and insurance**

Accountable Officers must ensure that assets and inventory are only used for purposes that meet the priorities of the States of Jersey and ensure that such assets are adequately insured.

**11. Transfer of assets (other than land and buildings)**

If assets, other than property or buildings, are transferred between States Bodies, Accountable Officers must ensure that they are transferred at market value except as otherwise agreed with Treasury and Exchequer.

**12. Reporting**

Accountable Officers must provide inventory and maintenance reports as and when required in the form specified by Treasury and Exchequer.

**13. Stock and inventory accounts**

Accountable Officers must seek approval from the Treasurer of the States for new stock or inventory accounts or increases in levels of stocks over £100,000. Accountable Officers must notify Treasury and Exchequer of any new or increased stock levels of £100,000 or less. Treasury and Exchequer must maintain a schedule of all departmental stock levels. Approvals given are for individual stock accounts – an Accountable Officer or a department may have more than one of these. The approval is permanent until revoked, and applies to the total balance at the end of the financial year. This means that the approved balance may be temporarily exceeded as stock is ordered but not yet issued. The approved limit cannot be exceeded at the end of the financial year.

**14. Accounting for assets**

Assets must be accounted for in accordance with the Jersey Financial Reporting Manual and Capital Accounting Manual (see Supporting documents).

# Third party assets

## Introduction and background

This section applies to all States Bodies as defined in the Public Finances (Jersey) Law 2019 and to Accountable Officers and officers involved in administering and managing third party assets (referred to as Trust assets in the Public Finances (Jersey) Law 2019). These assets are defined as:

- property in a legacy or bequest in favour of the States
- property held in trust for the States
- property held by the States or a States Body on behalf of a person. Property may include land, buildings, funds in a bank account of any currency (or coins and notes, again in any currency) or valuables (which may include cheques, jewellery, watches, credit/debit cards, phones and other IT devices) held for an indefinite period of time
- unclaimed property that is due to or belongs to a person other than the States and that has been deposited with the States.

These third party assets do not form part of the overall States of Jersey income and expenditure and any money received should not be paid into the Consolidated Fund. Other examples of third party assets include cash/property or other assets left in a will or in trust to the States or to a specific States Body; patient's private cash held by Health and Community Services whilst that person is receiving health care; voluntary funds such as Parent Teacher Association (PTA) funds held by Schools; and minor gifts and donations made in appreciation for services provided by employees in the course of their duties.

Within the Children, Young People, Education and Skills Department there are a number of PTAs, made up of lay people, which hold and administer funds for the benefit of a school and its pupils and it is recommended that these groups are made aware of the provisions of this Section and any specific procedures set by the Department which they should follow.

This section of the Manual does not apply to any type of money held by the Viscount as an independent office-holder with statutory and court ordered functions.

The section applies to third party assets on loan to the States or Government.

In view of the diverse nature of third party assets administered across States' departments it is not practical to provide specific requirements on all of these in this Section of the Manual and, therefore, the requirements section should be supplemented with States Body specific procedures where appropriate.

Users of the Public Finances Manual should refer to other sections that are relevant. These include:

- Accountable Officers
- changes to heads of expenditure
- cash
- banking
- foreign currency
- fraud
- income
- assets
- investments

In addition to the common risks identified in the Background and Introduction section of the Manual a number of significant risks relating to this section include:

- third party assets no longer serve the purpose for which they were intended and assets are tied up and cannot be used for suitable alternate purposes
- third party assets are incorrectly recorded and lost
- assets are mismanaged and underutilised and do not provide the benefits intended by the beneficiary
- the States of Jersey may be held liable for the loss of third party assets

- third party assets are misappropriated and used for unintended purposes
- assets left to the States or to a States Body becomes a drain on the public purse.

## Principles

1. There should be clear and documented frameworks in place which are tailored for the holding of departmental specific third party assets including property, money and other valuables which protect them from theft, misuse and misappropriation. These frameworks should include hierarchical controls and segregation of duties and, where appropriate, procedures to ensure that third party assets are used for the purposes intended.
2. The same level of financial control and governance should be applied to the control of third party assets as is applied to States expenditure and income funded under an approved Government Plan. Third party assets are subject to review by either the Treasury and Exchequer's Internal Audit section or by the Comptroller and Auditor General.
3. The need for third party assets should be periodically reviewed to ensure that they are being held for the purpose intended and that they meet a need of the States or of a particular States Body.
4. Accountable officers should be aware of all trust, bequest and other funds that could be applied to their areas of responsibility and take steps to apply them, subject to the decision making framework for each fund.
5. There is a presumption that expenditure from third party assets (such as gift funds or school funds) follows the requirements of this Manual. Accountable Officers should document, with reasons, any departures from this presumption.

## Requirements

1. **Accountable Officers**

   There must be an Accountable Officer for each third party asset who will be responsible for ensuring propriety and regularity. Where assets can be brought into departmental heads of expenditure they must be used economically, efficiently and effectively. The appointment, responsibilities and other guidelines on Accountable Officers are defined in the appropriate Accountable Officer section.

2. **Register of third party assets**

   Each States Body must maintain a register of the types of third party assets administered and managed by any person/body under the control of their designated area of responsibility.

3. **Bank accounts**

   Before opening any new account to hold a third party asset checks must be made to see if a suitable account already exists.

4. **Documentation of procedures**

   Accountable Officers must ensure that, for amounts over £10,000 or where the Accountable Officer considers there is a particular risk, there are documented procedures in place to cover the administration and management of third party assets. This documentation must, where applicable, also include procedures for the return of money and valuables in defined circumstances.

   Where a donation (monetary or otherwise) is given as a gift in recognition of service, or gratitude for, a service provided by an employee(s) in the course of their duties the procedures in the Acceptance of Gifts and Hospitality section of the Manual must be followed.

5. **Administration of third party assets**

   The operation of each third party asset must follow documented procedures.

Where money or property has been left in a Will or in Trust to the States the Accountable Officer must ensure that the terms of the relevant Will or Trust are followed. Where these funds can be brought into departmental heads of expenditure approval of the Minister for Treasury and Resources must be sought, where appropriate, in accordance with the Changes to heads of expenditure section of this Manual. The Accountable Officer is then responsible for ensuring that value for money is gained from these assets. If changes are required to the terms or a Will or Trust to enable funds to be put to better use advice must be sought from the Law Officers' Department.

6. **Asset Registers**

Accountable officers must ensure that, where appropriate, third party assets are correctly recorded in departmental asset registers.

7. **Insurance**

An Accountable Officer must ensure that suitable insurance arrangements are in place to cover the holding and administration of third party assets.

8. **Monitoring and reporting on financial activity**

Although third party assets do not form part of the States income and expenditure and are not part of the States of Jersey's Annual Financial Statement the relevant Accountable Officer must ensure that, for amounts over £10,000 or where the Accountable Officer considers there is a particular risk, appropriate periodic reports, at least annually, are prepared for each third party asset. As a minimum these reports should look at the operation and financial performance of these areas to ensure that they are meeting their objectives. It is recommended that a pragmatic approach is taken reflecting the size and type of asset being administered. As a minimum, annual accounts must be prepared for those areas where the third party asset is held to provide benefit to a group e.g. PTA funds. Again, it is recommended that a pragmatic approach is taken when determining the form of such accounts and the level of audit.

9. **Investment**

The investment of any money held in any third party asset must be in line with the provisions of the Public Finances (Jersey) Law 2019 or the terms of any bequest or trust fund. The States Treasurer is responsible, where appropriate, for ensuring that third party assets are invested in line with the relevant investment strategy. Further guidance can be found in the Investments section of the Manual.

10. **Losses**

Where any losses occur in relation to third party assets and there is a legal obligation to make good those losses, this must be funded from the head(s) of expenditure of the responsible Accountable Officer.

# Expenditure and procurement

## 1. Introduction and background

This section applies to all States Bodies as defined in the Public Finances (Jersey) Law 2019 and applies to all expenditure made by Accountable Officers of States Bodies, or on their behalf. The principles should be applied to all public expenditure by any person authorised by an Accountable Officer to undertake that expenditure.

This section excludes Benefit Payments. However, such payments should be appropriately documented. It also excludes the following, which will be subject to separate, specific guidelines:

- depreciation (see Annual Financial Statements)
- impairments, losses and write offs (see Losses and Write offs)
- finance charges (see Financing)
- special payments (see Special Payments)
- grants (see Grants)
- payments to staff (other than expenses) (see relevant Human Resources guidelines)

Users of this section should refer to other sections of the Public Finances Manual that are relevant. Specifically, these include:

- Major, strategic and other projects

Additional guidance can be found in:

- Procurement Best Practice Procedures: User Guide & Toolkit (within Supporting documents)
- Travel Policy (within Supporting documents)

In addition to the common risks identified in the Background and Introduction section of the Manual a number of significant risks associated with the goods, work and/or services being procured include:

- expenditure is not properly authorised
- purchases are made which either do not represent good value for money or fail to leverage the States or Government of Jersey's buying power
- expenditure is considered irregular i.e. is not spent for the purposes intended
- the States or Government of Jersey does not demonstrate sufficient adherence to the International Agreement related to Procurement and expenditure that the States or Government of Jersey is party to or compliance to our anti-corruption practices
- the States or Government of Jersey's reputation may be compromised as a result of poor procurement practice and weak governance arrangements
- the competition process and subsequent contract award is not open, fair or transparent or could be at risk of legal challenge
- contract terms and conditions do not provide adequate protection to the States or Government of Jersey
- Service and performance targets are not adequately defined
- There is inconsistent application of controls and performance management of suppliers across the States and Government of Jersey
- Goods, works and/or services are paid for more than once in error
- expenses claims are inadequately evidenced or are paid more than once in error
- States or Government of Jersey employees are not protected from unwarranted criticism from not following due process, best practice guidance or adherence to principles

- expenditure is incorrectly recorded
- quote and tendering limits are deliberately circumvented

Breaches and Exemptions relating to Expenditure and Procurement must be approved by the Group Director Commercial Services or delegate (using on the on-line breach and exemption process). For clarity where this section stipulates "must" then the instruction must be followed unless an **exemption** has been approved by the Group Director, Commercial Services (or delegate). If a mandatory requirement has not been followed, and an exemption was not obtained in advance, then a **breach** must be formally recorded and noted by the Group Director, Commercial Services. Where the word "should" is used, it is expected that this approach is taken. In the latter instances, departments must record and retain evidence where an alternative approach is taken but there is no need to formally record a breach.

# 2. Principles

2.1 All expenditure should be incurred in accordance with approved Schemes of Delegation.

2.2 All expenditure should be furthering the Strategic Priorities for which the funding was allocated by the States Assembly.

2.3 Accountable Officers should primarily seek to obtain value for money at all times and be able to justify all expenditure within their areas of appointment.

2.4 Accountable Officers should ensure that all procurement processes are open, fair, transparent, and follow the requirements of all international obligations applicable to the Government of Jersey.

2.5 All expenditure should be appropriately funded, authorised, recorded and coded.

2.6 All expenditure should be approved in advance of goods, works and/or services being received, utilising approved Government/States of Jersey systems and payment should only be made when the supplier has been fully on-boarded and not in advance of receiving the goods, works and/or services without prior approval.

2.7 All expenditure should be subject to segregation of duties control i.e. no one officer should be able to raise an order, receipt the goods, works or services received, and approve payment of the invoice.

2.8 All commitments to incur expenditure should have sufficient expenditure approvals in advance to be able to meet those commitments (except as permitted by the long-term contractual agreements or Pre Orders paragraphs in this section).

2.9 Accountable Officers should take into account the sustainable wellbeing (including the economic, social, environmental and cultural well-being) of the inhabitants of Jersey over successive generations when making expenditure and procurement decisions.

2.10 Budgets should not be overspent at a Director/Service level. Accountable Officers should explain why this has occurred to the Treasurer of the States on request.

# 3. Requirements

### 3.1 Achieving Value for Money

Expenditure must be undertaken in accordance with the Procurement Best Practice Procedures: User Guide & Toolkit (including putting contracts out to tender according to the criteria set out in the Toolkit) unless an exemption has been approved (using the online breach and exemption process). For all expenditure Accountable Officers must be able to justify value for money achieved within the head(s) of expenditure for which they are responsible. Accountable Officers should consider recharging expenditure to another Accountable Officer if they are not taking spending decisions relating to that expenditure (see Internal Recharges section of this Manual).

Accountable Offers must ensure that that there are sufficient controls in place to prevent purchases and orders from being artificially or deliberately split to stay under the quotes or tendering limits and requirements as set in the Procurement Best Practice Procedures: User Guide & Toolkit (including putting contracts out to tender).

**3.2 Scheme of Delegation**

Accountable Officers must document and operate a Scheme of Delegation for their States Body which segregates duties as appropriate for authorisation relating to expenditure transactions. The Scheme of Delegation must also specify who is able to sign contracts. The Scheme of Delegation must be submitted to the Treasurer for approval.

**3.3 Corporate Procurement Contracts**

Corporate procurement contracts (which include Framework Agreements) must be used unless an exception is documented within the Scheme of Delegation and approval (by exemption) has been obtained from the Group Director, Commercial Services (using the online breach and exemption process). In the case of a genuine emergency, the incident must be documented and the Group Director, Commercial Services advised as soon as possible afterwards; this event would be known as a Breach, and the Breach process detailed in the Procurement Best Practice Procedures: User Guide & Toolkit must be followed.

**3.4 Procurement system**

The approved Government or States of Jersey procurement system must be used to manage purchasing of goods, works, and services, except where alternative approaches have been approved by the Group Director, Commercial Services through an exemption (an Exemption must be recorded in the online system).

**3.5 Expenditure Controls**

Accountable Officers must ensure that there are appropriate controls in place over the expenditure process to ensure effectiveness and efficiency. These should include matching vendor invoices to the purchasing instrument (e.g. purchase order) and receipt before any payment is made as well as segregation of duties

**3.6 Expenditure Authorisation**

Certain expenditure may require specific authorisation, in addition to those required by the Scheme of Delegation. This includes but is not limited to the following:

- Jersey Fleet Management must be consulted prior to any vehicle purchase being agreed
- the Director of the Civil Division of the Law Officers' Department must be consulted prior to the purchase of any legal services being agreed
- Property Holdings must be consulted prior to any property and land transactions being agreed

In general, it may be appropriate to seek specific authorisation where the expenditure impacts on the activities of another States Body.

**3.7 Expenditure on Technology, Software, Systems and Related Services**

(i) All departments intending to undertake any expenditure on technology (Hardware, software, networked devices and software as a service), including any business project with a technology element, must consult with the Government of Jersey Design Authority process to seek direction and approval.

(ii) In addition to expenditure related to (i) above, Departments must make financial provision for the support and maintenance for the life of any technology assets. Guidance on the financial liabilities related to these investments can also be obtained through the Government of Jersey Design Authority process.

(iii) All procurement by departments of information technology related services (Software Developer, etc) must be pre-approved by the digital category manager in Commercial Services and have consulted the Government of Jersey Design Authority process in Modernisation and Digital before any work is undertaken by external agencies, contractors or consultants.

The above requirement excludes Operational technology (OT). OT is hardware and software that detects or causes a change, through the direct monitoring and/or control of industrial equipment, assets, processes and events.

**3.8 Finance Lease Agreements**

Approval by the Treasurer of the States must be obtained before entering into any finance lease agreement.

**3.9 Long term Contractual Agreements**

In the case of contractual arrangements where the obligation to pay extends beyond the end of the current Government Plan period, other than contractual staff expenditure, Major Projects or Leases, the States Body concerned must obtain approval (using the appropriate Recommend to Award form if required) from Treasury and Exchequer before entering into any such arrangement. Care should be taken where the future source of funding is uncertain e.g. for new initiatives, or where the ability to pay depends upon the future generation of income. The Government Plan will include three years' worth of indicative expenditure, providing a reasonable indication as to the levels of funding available over the time period.

**3.10 Payments in Advance of Receipt**

Payment must not be made in advance of receipt of goods, works and/or services, except where this is a normal condition for the goods, works and/or services being ordered (for example, subscriptions to magazines and periodicals, conference and course fees). If there is doubt about whether this is a normal condition, Commercial Services should be contacted for advice. Exceptions may be made where advance payment represents good value for money e.g. early payment discounts. Such exceptions will require approval by the Group Director Commercial Services except where the States Body's Scheme of Delegation requires otherwise.

**3.11 Payments after Receipt**

States Bodies must process payments for purchases of goods, works and/or services following receipt in the appropriate financial period (as specified by the Head of Group Reporting).

**3.12 Online Purchases**

When purchases are being made via the internet, Accountable Officers must ensure that States of Jersey I.T. Security Policies are followed including the use of secure checkouts.

**3.13 Goods and Services Tax**

Goods and Services Tax and other sales taxes, such as Value Added Tax, must only be paid where legally required (or where suppliers refuse to deduct after discussion).

### 3.14 Pre Orders

It may be necessary or expedient for a States Body to order goods, works and/or services towards the end of a financial year for which no provision has been made in that year's budget allocation. For example, by pre ordering a better price or discount can be achieved or continuance in service provision can be ensured. This type of pre ordering is permissible under the Public Finances Law provided that the goods, works and/or services are neither received nor paid for until the following financial year and the expenditure is included in the indicative budget for the following year as agreed in the Government Plan and reviewed as part of the year end process.

### 3.15 Purchase Cards

Accountable Officers must ensure that Purchase Cards are issued and used in accordance with the guidelines outlined in the Purchase card procedures (within Supporting documents).

### 3.16 Travel

All travel must be booked and undertaken in accordance with the Travel Policy (within Supporting documents).

### 3.17 Consultants

All expenditure on consultants must comply with the Procurement Best Practice Procedures: User Guide & Toolkit (see Supporting Documents).

All reports from consultants and other third parties that are not considered exempt under Freedom of Information legislation must be published on www.gov.je as soon as is practical after their receipt.

### 3.18 Capitalisation of assets

All purchases of assets for more than £10,000 must be accounted for as capital and the purchased asset added to the Asset Register.

### 3.19 Sufficient budget to commit expenditure

Before any commitment is entered into to incur expenditure Accountable Officers must ensure they have sufficient assurance of expenditure approvals to be able to meet those commitments. This assurance can take one or more of the following forms:

- Flexibility to reprioritise within an existing approved head of expenditure. Accountable Officers must ensure that reprioritisation meets the regularity test i.e. that the new expenditure still falls within the purposes for which the States Assembly approved the expenditure and;
  - Where funding has specifically been allocated in a Government Plan for a defined purpose (for example, through growth or an approved amendment), any change of use will require an MD from the Minister for Treasury and Resources. This applies only to the year in which that expenditure is separately identified in the Government Plan, and will not apply once funding becomes part of a department's base budget in subsequent years.
  - Any other funding (i.e. "base" budget) can be reallocated within a head of expenditure *provided that* the new purpose is within the remit of the Minister/Accountable Officer/dept *and subject to* reporting requirements to Treasury and Exchequer for internal transfers as already set out in the PFM.

- Signed decision of the Minister for Treasury and Resources or Treasurer of the States to allocate additional funding;
- Letter of comfort from the Minister for Treasury and Resources confirming that additional funding will be allocated in that financial year should it appear that the approved head of expenditure will be exceeded.

For the avoidance of doubt, it cannot be assumed that any commitments entered into without this assurance will be met by additional funding allocations by the Minister for Treasury and Resources or Treasurer of the States. In this event, the Public Finances (Jersey) Law 2019 will have been breached by the Accountable Officer for that head of expenditure, with any excess expenditure open to being identified as irregular and ultra vires by auditors.

Accountable Officers must not commit expenditure beyond the current financial year without the express agreement of the Treasurer of the States except as permitted by the Long term Contractual Agreements or Pre Orders paragraphs above.

**3.20 Monitoring expenditure against budget**

Each Accountable Officer must ensure that there are systems within their department to manage their resources within agreed budgets, take the limits into account when entering into commitments, and generally ensure that the department's spending profile is sustainable. As a minimum, Accountable Officers must monitor expenditure in relation to budget on a monthly basis and prepare monthly reports that compare actual expenditure to estimated expenditure, including an analysis of major variances and including details of budget transfers within heads of expenditure.

**3.21 Approved Business case**

Requests for additional funding over and above heads of expenditure approved in the Government Plan of more than £100,000 must be supported by a business case approved by Treasury and Exchequer unless an alternative approval method is set out in the Procedures for allocations from the Reserve published by the Minister for Treasury and Resources or otherwise agreed by the Minister.

**3.22 Recovery of departmental income**

Accountable Officers must ensure that heads of expenditure approved by the States and/or supplemented by the Minister for Treasury and Resources are not exceeded and if estimated income levels are not achieved that there is a corresponding reduction in expenditure. In exceptional circumstances and where all other funding options have been exhausted a submission may be made for funding from the Reserve head of expenditure as detailed in the Section on this.

Use of additional income over and above that approved in a Government Plan must be authorised by the Minister for Treasury and Resources (or delegate) in line with the Public Finances (Jersey) Law 2019.

**3.23 Supplier diligence**

The Group Director, Commercial Services must ensure that proportionate and risk-based diligence is carried out on approved suppliers, to include cyber security assurance where appropriate.

**3.24 Controls over standing data**

The Director – Finance Hub must ensure that adequate controls exist over changes to supplier standing data, to include bank account details for payments.

# Special Payments

## 1. Introduction and background

This section provides advice and guidance on how States Bodies, including the States Employment Board, manage payments (including those made from States Funds) but especially those transactions which are outside of the usual planned range of the Body's activity and where payments are made where there is no legal obligation to do so. These payments referred to as Special Payment(s) should only be authorised after careful appraisal of the facts and when those responsible for authorising the payment(s) are fully satisfied that the best course of action has been identified.

In all cases the relevant Accountable Officer is accountable for the decision to make a payment. The Accountable Officer is answerable to the Public Accounts Committee and must be prepared to justify any payment if questioned unless a Letter of Instruction was provided by the responsible Minister. Special payments may also be subject to Scrutiny e.g., Internal Audit, States Questions and FoI questions and an Accountable Officer must always have the relevant documentation and authorisation to support such payments.

Examples of special payments, being payments, which fall outside the normal day-to-day business of the States or Government, include but are not limited to the following -

- **special severance payment** - a payment to a departing employee outside contractual parameters as advised by the Law Officers' Department
- ***ex gratia* payment** – a payment to a third-party individual or organisation where there is no legal obligation or HR policy in place, but there is a sound business or policy reason for making the payment. Examples include:
    - payments as part of complaints procedures
    - payments to contractors outside a binding contract
    - settling a claim on a commercial basis due to the potential costs of defending the claim. Even where a claim is manifestly unfounded and no money is legally due, it may be best to settle
    - payments made to meet hardship caused by official failure or delay where there is no legal obligation to pay
    - out of court settlements to avoid legal action i.e., settling claims which have no merit, and where the settlement has no commercial basis, but for reputational reasons
    - recruitment and retention payments to staff
- **insured payment** – a proposed payment where:
    - the sum is in excess of the amount to be met by the department concerned and any applicable Insurance Fund layer; or
    - the sum is equal to or below the amount to be met by the department concerned and any applicable Insurance Fund layer in a case that has been notified to the States insurers
- **obligatory, unquantified and uninsured payment** - a proposed payment where the payment sum will not be met by the Insurance Fund or the States' insurers, but a Court (or equivalent) has established a legal but unquantified liability on the part of the States
- **extra-statutory and extra-regulatory payments** - payments are broadly within the limits of the statute or regulation, respectively, but go beyond a strict interpretation of its terms
- **precedent for further expenditure**– a payment to a member of staff or third-party individual or organisation where there is no legal obligation which creates the risk of further expenditure in other areas of the States if knowledge of the payment becomes more widespread.

For the avoidance of doubt this does not include one-off gifts such as flowers for ill members of staff or for the spouse of a deceased member of staff, or similar purpose.

In-line with the States of Jersey's accounting requirements all special payments will be reported in the States of Jersey's Annual Financial Report and Accounts.

Where a States Body financially supports an Arm's Length Body, the States Body must consider appropriate references to this section of the Manual in the relevant agreements with these bodies.

Users of this section should refer to other sections of the Public Finances Manual that are relevant. Specifically, this includes:

- Government Plan and budgeting expenditure
- fees and charges
- reserve head of expenditure
- income
- grants
- losses and write offs

In addition to the common risks identified in the Background and Introduction section of the Manual a number of significant risks relating to this section include:

- authentic circumstances requiring compensation payments are denied
- reputational damage in cases where novel, contentious and potentially repercussive special payments such as severance payments have been poorly handled
- budget overruns leading to financial burden on the Treasury and Exchequer or departmental heads of expenditure
- fraud risk is increased as special payments could be made through collusion with the recipients.

# 2. Principles

1. States Bodies should have a system for the timely identification, authentication and processing of any special payments and ensure that such payments are fulfilled in the required timeframe in accordance with the relevant policies.
2. Proposals for any special payment should explain the nature, circumstance of the case, amount involved, management procedures followed, assessment of the value for money of the case, any non-financial aspects, the impact of the case, whether budgetary provision is available to meet the payment and if the approach follows legal advice.
3. States Bodies should be proactive in drawing and documenting lessons from special payment cases as they arise in order to establish the soundness of the control system and share the outcomes with Treasury and Exchequer. Necessary steps should also be taken to remedy all failings identified.
4. Sensitive special payment situations should be handled with integrity and focus on avoiding reputational damage to both the States Body and the wider public service.
5. Any proposals to keep special payments confidential must be sufficiently justified to avoid being interpreted adversely by the public or other States Bodies.

# 3. Requirements

**1. Approval by the Accountable Officer**

All special payments, regardless of amount, must be approved by the responsible Accountable Officer. This approval can be delegated in the Accountable Officer's Scheme of Delegation (as approved by the Treasurer of the States).

## 2. Payment approvals and endorsements

Accountable Officers must use the following to determine the appropriate approvals, notification and endorsements required for Government and States of Jersey payments. This process must be followed to ensure that all payments, including those classed as special payments are lawful and do not expose the States and/or Government of Jersey to unnecessary claims or losses or create precedents for the future. A Special Payment form must be completed and sent to the Head of Financial Governance in Treasury and Exchequer. The template is attached in Supporting documents.

**CATEGORY 1**

**Treasury and Exchequer need not be NOTIFIED where:**

Payments fall within the normal day-to-day business of the entity. This definition will include, but is not limited to where:

(A) an asset is proposed to be acquired for an essential and sound business or policy reason and meets an existing States Strategic policy and
  - funding has been set aside in an approved Government Plan for the asset and the necessary statutory processes and approvals have been gained, or
  - the proposed purchase price is lower than the highest independent valuation obtained, or
  - there is a material possibility that the asset would incur a higher cost through further negotiation or an alternative process e.g. compulsory purchase, or
  - the proposed purchase is at the advertised price, or
  - where the seller, who is the only person selling the particular asset, will not accept a lower price, this may be taken as the valuation

(B) items of stock are purchased within stock limits authorised by the Treasurer of the States

(C) a service is being procured and paid for at an agreed price for an essential and sound business or policy reason and departmental funding is available

(D) a Court (or equivalent) has established a legal and quantified liability on the part of the States

(E) a payment to a member of staff is proposed that is within an approved HR policy, including payments for employment at the contracted rate

(F) an *ex gratia* payment is proposed of up to £1,000, has been approved by the relevant Accountable Officer (or their delegate) and there is no potential precedent for further expenditure

(G) an *ex gratia* payment is proposed to a member of staff that is permissible under an approved HR Code of Practice or policy

(H) the payment is part of a scheme previously approved by the States or a scheme costing up to £10,000 in total previously approved by the Treasurer of the States.

(I) A payment is specifically permissible under legislation.

**CATEGORY 2**

**Treasury and Exchequer must be NOTIFIED (prior to making any binding commitment) (using the Special Payment template) but is not required to ENDORSE where:**

(A) a special severance payment (i.e., a payment to a departing employee in excess of contractual entitlement) is proposed of up to £10,000

(B) an *ex-gratia* payment is proposed where there is no potential precedent for further expenditure and the proposed payment is up to £10,000 (and more than £1,000)

(C) an asset is proposed to be acquired for an essential and sound business or policy reason and the proposed purchase price does not exceed the highest independent valuation obtained. Where the seller will not accept a lower price, this may be taken as the valuation.

(D) an asset is proposed to be acquired for a non-essential but sound business or policy reason and the proposed purchase price does not exceed the highest independent valuation obtained, or there is a material possibility that the asset (including any and all associated costs) would incur a higher cost through further negotiation or an alternative process e.g., compulsory purchase. Where the seller will not accept a lower price, this may be taken as the valuation

(E) an insured payment is proposed that is recommended by the Law Officers' Department and is not more than the maximum amount proposed by the States' insurers (up to £1m, including costs).

**CATEGORY 3 – special payments**

**Treasury and Exchequer is required to ENDORSE (prior to making any binding commitment) where:**

(A) a special severance payment (i.e., a payment to a departing employee in excess of contractual entitlement) is proposed of £10,000 or more

(B) an *ex-gratia* payment is proposed of £10,000 or more

(C) an asset is proposed to be acquired for an essential and sound business or policy reason and the proposed purchase price is higher than the highest independent valuation obtained, or where no independent valuation has been obtained, and there is a material possibility that the asset could be acquired at a lower price through further negotiation or an alternative process e.g., compulsory purchase. Where the seller will not accept a lower price, this may be taken as the valuation

(D) an asset is proposed to be acquired for a non-essential but sound business or policy reason, but the proposed purchase price is higher than the highest independent valuation obtained, or where no independent valuation has been obtained, and there is a material possibility that the asset could be acquired at a lower price through further negotiation or an alternative process e.g. compulsory purchase. Where the seller will not accept a lower price, this may be taken as the valuation.

(E) a payment is proposed that is more than £1,000 and is higher than the amount recommended by the Law Officers' Department and/or by the States insurers

(F) a high value settlement (above £1m, including costs) is proposed.

The term Treasury and Exchequer means the Treasurer of the States or another officer delegated by the Treasurer of the States in his or her Scheme of Delegation.

## 3. Consultation, notification and endorsement from Treasurer of the States

In those instances where the Treasurer of the States is unable to endorse any such payment the requesting Accountable Officer must seek a Letter of Instruction from the responsible Minister (the Accountable Officer of a non-Ministerial States body should approach the Minister for Treasury and Resources) prior to any binding commitment to pay being made. In such cases the Treasurer of the States will consider whether to exercise his or her statutory powers under the Public Finances (Jersey) Law 2019 to make a report to the Council of Ministers or the States Assembly.

Payments proposed by Treasury and Exchequer which fall into categories 2 and 3 must be notified to and endorsed by the Principal Accountable Officer as appropriate. If the Principal Accountable Officer is unable to endorse any such payment, they must seek a Letter of Instruction from the Chief Minister prior to any binding commitment to pay being made.

## 4. Endorsement from People Services

Any potential special payment(s) to be made to a States employee, within the definition of the Employment of States of Jersey Employees (Jersey) Law 2005, or others filling a similar contractual role must be subject to consultation with the Chief People and Transformation Officer (or their delegate), who must decide whether the States Employment Board should be notified of, or need to approve, such payments.

## 5. Legal Advice

Accountable Officers are responsible for ensuring that the appropriate legal advice is secured from the Law Officers' Department before any offer of payment which may be classed as a special payment is made. Legal advice may not be shared without the prior consent of the Attorney General or his representative.

## 6. Reporting of Special Payments

All special payments must, in line with requirements in the Jersey Financial Reporting Manual, be reported and brought to the attention of the States Assembly through appropriate disclosures in the Annual Report and Accounts.

Accountable Officers must ensure that any special payments are coded as such within Connect Finance.

Confidentiality may require such payments to be reported in an aggregated and/or anonymised manner.

## 7. Payments to Principal Accountable Officer/Accountable Officers

If a payment relates to an Accountable Officer of a Government department (outside of regular contractual salary payments), the Principal Accountable Officer must take responsibility for the decision to make any payment. If a payment relates to the Principal Accountable Officer, the Treasurer of the States must consult with the Chief Minister and the Chair of the States Employment Board (where these posts differ) and gain a Ministerial Instruction from the Chief Minister to cover any payment. If a payment relates to an Accountable Officer of a Non-ministerial department (outside of regular contractual salary payments), the Treasurer of the States must take responsibility for the decision to make any payment.

## 8. Funding for special payments

It is expected that in the first instance that an Accountable Officer will ensure that any Special Payment is funded from existing budgets. If this is not possible, the Accountable Officer must ensure that another suitable source of funding is identified and agreed before the payment is authorised.

The fact that an Accountable Officer has consulted with and/or received an endorsement to a special payment from Treasury and Exchequer is <u>not</u> an agreement that additional funding will be made available by Treasury and Exchequer.

In extreme circumstances where the Accountable Officer is not able to identify funding to meet a payment, they must ensure that the Treasurer of the States is contacted, before any special payment is offered, and asked that a request for additional funding is considered by the Minister for Treasury and Resources. The Minister's written approval that funding will be made available if the special payment is approved, must be gained before any payment is offered.

APPENDIX K

## Special Payment Analysis

## Title

| | |
|---|---|
| Summary | *Must be completed* |
| Timeline | *A timeline would be useful* |
| | |
| | |
| | |
| Risks | • *Of making the Special Payment*<br>• *Of not making the Special Payment* |
| Potential costs | • *Of making the Special Payment*<br>• *Of not making the Special Payment* |
| Proposed funding source | *e.g. departmental budget, General reserve request* |
| The Accountable Officer view | *Must be completed* |
| The PAO view | *May not be needed* |
| Law Officers Advice | *Must be completed* |
| Senior P&CS view (Chief People and Transformation Officer or delegate) | |
| Treasury View | *To be completed by Strategic Finance* |
| The CoM and Ministerial view | *May not be needed* |
| PFM requirements | *Delete anything that doesn't apply*<br><br>**1. Approval**: States Bodies must always consult Treasury and Exchequer on special payments unless there are specific agreed delegation arrangements in place.<br>**4. Extra-contractual payments**<br>Extra-contractual payments are payments which, though not legally due under contract, there is nevertheless sufficient reason to make the payment. Examples include where there are ex gratia payments as part of complaints procedures, or where there is a particularly compelling moral duty on the States. Another example would be settling an unfounded contractual claim on a commercial basis due to the costs of defending the claim, even where a claim is manifestly unfounded and no money is legally due, it may be best to settle. It is important to avoid creating a risk encouraging unmeritorious claims, so such claims should not be routinely accepted.<br>**7. Special severance payments**<br>Special severance payments are paid to employees, contractors and others outside of normal statutory or contractual requirements when leaving |

<table>
<tr><td></td><td>employment in public service whether they resign, are dismissed or reach an agreed termination of contract. Special severance payments when staff leave public service employment should be exceptional.<br><br>Special severance payments always require additional endorsement from Treasury and Exchequer and People Services because they are typically novel, contentious, potentially repercussive, and may set a precedent. Overall, responsibility for any payment, however, remains with the Accountable Officer. As such, Bodies should always consult the Treasury and Exchequer in advance when considering a special severance payment. A sceptical approach needs to be adopted for proposals for special severance settlements, in particular:<br><br>• precedents from other parts of the public sector may not be a reliable guide in any given case<br>• legal advice that a particular severance payment appears to offer good value for the States Body or employer may not be conclusive since such advice may not take account of the wider public interest<br>• even if the cost of defeating an apparently frivolous appeal will exceed the likely cost of that particular settlement to the Body or employer, it may still be desirable to take the case to formal proceeding<br>• winning such cases demonstrates that the States of Jersey does not reward failure and should enhance the Body or employer’s reputation for prudent use of public funds and deter other similar claims<br>• whether the case could have wider impact, e.g. for a group of potential tribunal cases<br>8. Ex gratia payments: Ex gratia payments go beyond statutory cover, legal liability, or administrative rules, and include:<br>o payments made to meet hardship caused by official failure or delay where there is no legal obligation to pay<br>o out of court settlements to avoid legal action i.e. settling claims which have no merit, and where the settlement has no commercial basis, but for reputational reasons<br>o payments to contractors outside a binding contract<br>o retention payments designed to encourage staff to delay their departures, particularly where transformations are being negotiated.<br>• Such payments always require additional explicit endorsement from Treasury and Exchequer, whether proposed in individual cases or in groups before any commitment, whether oral or in writing, is made. Responsibility for the decision to make any payment remains with the Accountable Officer.</td></tr>
<tr><td>Accounting disclosure requirements</td><td>To be completed by Strategic Finance</td></tr>
<tr><td>Conclusion</td><td>To be completed by Strategic Finance</td></tr>
</table>

APPENDIX L

# Expenditure to meet an Emergency

**Introduction and background**

This section provides advice and guidance on the procedures to be followed if an emergency as defined in the Public Finances (Jersey) Law 2019 or a Major Incident, as described below, arises and immediate funding is required. This advice and guidance applies to all States Bodies as defined in the Public Finances (Jersey) Law 2019.

General provisions relating to emergencies are set out in the Emergency Powers and Planning (Jersey) Law 1990. That Law contains arrangements relating to the Emergencies Council and Competent Authorities Ministers.

For the purposes of financial decisions, the definition of what constitutes an emergency is established in Article 24(2) of the Public Finances (Jersey) Law 2019 as either:

- the declaration of a state of emergency under the Emergency Powers and Planning (Jersey) Law 1990
- if the Minister for Treasury and Resources is satisfied that there exists an immediate threat to the health and safety of any of the inhabitants of Jersey, to the stability of the economy in Jersey or to the environment

This section also covers the immediate arrangements if a Major incident has been declared, but neither of the above declarations have been made. The JESIP (Joint Emergency Service Interoperability Programme) doctrine states:

- A Major Incident is an event or situation with a range of serious consequences which requires special arrangements to be implemented by one or more emergency responder agency.
- Any responding agency can declare a Major Incident if it meets the criteria above for their organisation, even if it doesn't meet this threshold for other agencies.

The Public Finances (Jersey) Law 2019 sets out the responsibilities for the Minister for Treasury and Resources in relation to funding for any emergency which meets either of these terms.

The initial presumption is that any additional expenditure arising will be met from existing heads of expenditure, including centrally held reserves, approved in a Government Plan.

The Law also enables the Minister for Treasury and Resources (the Minister) to authorise the withdrawal of further funds from the Consolidated Fund if the emergency situation requires immediate funding and the Minister is satisfied that there is insufficient money in existing heads of expenditure to fund the emergency. If the amount is £100 million or more an amendment to the approved Government Plan must be progressed.

Should it be necessary for the Minister to approve the withdrawal of additional funds from the Consolidated Fund, the Minister must present a notice of the withdrawal to the States Assembly as soon as practical. Furthermore, the Minister must ensure that details of these withdrawals are included in the 6 monthly financial update report presented to the States.

The Minister for Treasury and Resources will review all other funding and financing options to meet the costs of an emergency and will where necessary take other funding options forward to the States Assembly.

Users of this section should refer to other sections of the Manual that may be relevant. Specifically, this includes:

- Accountable Officers
- Expenditure and procurement
- Risk management
- Changes to head of expenditure
- Reserve head of expenditure
- Letters of comfort

In addition to the common risks identified in the Background and Introduction section of the Manual a number of significant risks relating to this section include:

- immediate action to address an emergency may be delayed due to uncertainty over funding
- expenditure is not properly authorised and may exceed the amount set aside for the emergency
- expenditure is considered irregular i.e. not spent for the purposes intended
- expenditure may not offer the best value to the States of Jersey
- the States of Jersey's reputation may be compromised as a result of not being able to function if an emergency was to arise and if funding was not made available when required
- expenditure is incorrectly recorded

**Principles**

1. In the first instance arrangements should be put in place to deal with an emergency whilst also endeavouring to ensure that routine service delivery is maintained as far as is practically possible. The immediate health and safety of Islanders and visitors is paramount.

2. The Chief Minister, Minister for Treasury and Resources, the States Chief Executive and the Treasurer of the States should be notified by the person identifying the potential emergency as soon as there is a possibility that there is an "emergency" situation (as defined in Article 24 of the Public Finances (Jersey) Law 2019 and set out in the Background and introduction to this section above) which requires additional funding so that the relevant emergency protocols can be brought into play.

3. Initially Accountable Officers should look to meet funding associated with an emergency, as defined in this Section, from within existing heads of expenditure.

4. Any additional funding allocated to meet the costs of an emergency should only be used for the purpose it was allocated for.

5. When considering an expenditure proposal to meet an emergency, alternative approaches to delivering services to meet the emergency should, as far as possible, be considered. Accountable Officers should also be mindful of the risks they are responsible for managing and ensure they are adequately addressed.

6. All additional funding to meet emergency expenditure should be appropriately considered, authorised and then reported on.

7. Emergency expenditure should be incurred in lines with the relevant Schemes of Delegation.

8. Accountable Officers should be aware that their Accountable Officer responsibilities apply to all expenditure, including that related to emergency expenditure, and that they are responsible for

ensuring value for money at the same time as needing to ensure that the emergency situation is addressed appropriately.

9. Accountable Officers should establish whether any costs of an emergency can be met from insurance.

**Requirements**

**1. Immediate action – Major incident**

Where a major incident has been declared, or in an emergency situation where a Strategic Coordination Group (SCG) has been established, the Chair of SCG, and/ or the Government Duty Executive Officer can commit any expenditure needed to address immediate needs on the day the emergency arose (D1) and the subsequent day (D2). The normal value for money requirements of the Expenditure and procurement section are not required to be followed but expenditure authorised in this way should be proportional and reasonably necessary considering all the circumstances, with the Treasurer to be consulted if there is any doubt over what is proportional or reasonable. The relaxation of normal procurement requirements must not be used to let contracts extending beyond D2 without consulting the Treasurer. The Minister for Treasury and Resources commits to underwrite any expenditure from the General Reserve if it cannot be met from within existing heads of expenditure. Prior to the end of D2 the Minister for Treasury and Resources must advise Accountable Officers of the arrangements expected to be followed from D3 onwards, and the documentation to be provided (in due course) relating to expenditure on D1 and D2. In the event the Minister is unavailable, the Treasurer can issue that advice, to be ratified by the Minister as soon as is practical.

**2. Review of funding sources**

If an emergency situation arises Accountable Officers supported by their Heads of Finance Business Partnering and the appropriate member of staff from Treasury and Exchequer must, as much as is practicable in the situation, undertake a review of existing heads of expenditure and other sources of funding to identify what funds may be available to meet the estimated cost of any emergency.

**3. Request for additional funding**

In instances where Accountable Officers require additional funding to meet costs associated with an emergency (as declared under the terms of Article 24(2) of the Law or a Major Incident has been declared), a written business case must be made with evidence that this is supported by the affected Minister(s), prior to incurring any expenditure, to the Minister for Treasury and Resources detailing:

- the nature of the expenditure, the reason it has arisen and the implications if it's not funded
- why they believe that the proposed expenditure is relevant to either:
    - a state of emergency declared under the Emergency Powers and Planning (Jersey) Law 1990
    - an immediate threat to the health and safety of any of the inhabitants of Jersey, to the stability of the economy in Jersey or to the environment
- if the pressure is likely to be recurring
- why the request cannot be absorbed within the Accountable Officer's current head(s) of expenditure

- details of when the funding is required and sensitivity analysis around the values required, together with any assumptions
- an evaluation of major risks

Where appropriate, supporting documentary evidence must be provided.

Depending on the urgency of the expenditure the Treasurer of the States has the discretion to waive the need for a written business case or the level of detail provided before approval to spend is given. If this authority is given the relevant information must be provided as soon as practical thereafter.

**4. Consideration for request for urgent funding**

In considering whether to approve requests to fund expenditure related to the emergency the Minister and Treasurer of the States (or any delegate) will take the following factors into consideration:

- whether expenditure is genuinely urgent and essential
- decisions of the Emergencies Council Competent Authorities Ministers and the Council of Ministers, where appropriate
- whether the application followed procedures and enclosed all relevant documents
- whether existing funding sources have been adequately considered
- whether authority to spend already exists.

**5. Response to request for funding**

The Minister or Treasurer of the States, (if given delegated authority by the Minister) or their delegate will provide a written indicative response to any funding request as soon as practicable. (If necessary, an initial indication will be given within one working day). If necessary (and time permits), additional information may be requested.

**6. Expenditure and unspent funds**

Additional funding allocated to meet the costs of an emergency must only be used for the purpose for which it was approved. Treasury and Exchequer will provide details on how and when funding will be released. Accountable Officers must provide monthly updates on the use of such funds to the Treasurer of the States.

**7. Delegation**

The Minister for Treasury and Resources may delegate authority to approve expenditure relating to the emergency to the Treasurer of the States. This delegation should only occur if there is genuine urgency in the public interest and postponing expenditure would:

- cause other damage or public detriment
- cause additional wasteful expenditure
- lose efficiency savings

Any expenditure authorised under this delegated authority must be notified to the States Assembly in the appropriate six-monthly report.

**8. Reporting**

All funding decisions in relation to the emergency made by the Minister must be documented by public Ministerial Decision subject to the normal Freedom of Information restrictions.

The Minister must report to the States Assembly at six monthly intervals regarding any approvals given to withdraw additional funding from the Consolidated Fund.

**9. Insurance**

Accountable Officers must contact the Head of Insurance in Treasury and Exchequer, at the earliest practicable opportunity once immediate emergency actions have been taken, to ascertain if any costs are insured, and to begin the process of making a claim.