

STATES OF JERSEY

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SOCIAL AFFAIRS SCRUTINY PANEL: DIVISION TO CREATE A FIFTH SCRUTINY PANEL

**Lodged au Greffe on 26th May 2006
by the Chairmen's Committee**

STATES GREFFE

PROPOSITION

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

- (a) upon the election of an additional scrutiny panel to be established as described in paragraph (b), to agree that the Social Affairs Scrutiny Panel be re-named the Education and Home Affairs Scrutiny Panel, with responsibility for scrutinising education, sport, culture and home affairs matters;
- (b) to establish an additional scrutiny panel to be called the Health, Social Security and Housing Scrutiny Panel, with responsibility for scrutinising health and social services, social security and housing matters;
- (c) to request the Privileges and Procedures Committee to bring forward the necessary amendments to the Standing Orders of the States of Jersey to give effect to the proposal and to include within the estimates of the States Assembly and its services in the Annual Business Plan the necessary request for additional funds from 2007 for the fifth panel.

CHAIRMEN'S COMMITTEE

REPORT

Introduction

At its meeting on 17th February 2006 the Chairmen's Committee agreed that it wished to initiate steps to create a fifth Scrutiny Panel by splitting the current responsibilities of the Social Affairs Panel into two Panels. This proposition seeks the 'in principle' agreement of the States to this proposal so that, if it is approved, the necessary formal steps can be taken to allow the new panel to be established as soon as possible. The Chairmen's Committee has discussed the proposal with the Privileges and Procedures Committee and it has been agreed that it is more appropriate for this initial proposal to be brought forward by the Chairmen's Committee in line with the terms of reference of the Committee which include the requirement for it "*to keep under review the operation of the scrutiny function and, as appropriate, to make recommendations for change*" (Standing Order 143(c)).

Background to the present Scrutiny structure

The initial recommendation to establish a system of Scrutiny was included in the report of the Review Panel on the Machinery of Government in Jersey (the Clothier Report) in December 2000. The Report recommended in paragraph 5.13 the establishment of three or four Scrutiny Committees (as they were then known). This recommendation was reflected in the initial proposition on the implementation of the Clothier recommendations (P.122/2001) adopted by the States on 28th September 2001. The proposition referred to "*a small number of Scrutiny Committees*" but did not refer in detail to the number or remit of the proposed Committees although the Report suggested that there might be one Scrutiny Committee concerned with the economy of the Island, another with the Island's environment, and a third with the direct services that were provided to the public (paragraph 7.7).

The Implementation Plan on the Proposed Reforms to the Machinery of Government presented to the States by the Policy and Resources Committee on 27th November 2001 included details in Chapter 5 of suggestions on the manner in which Scrutiny could operate. The Committee did not recommend any particular structure for the Scrutiny function as it recognized that this was ultimately a matter for the Privileges and Procedures Committee once it was established. There was, nevertheless, reference to the possible structure of three Scrutiny Committees, namely economic, social and environment.

When the Privileges and Procedures Committee was established by the States on 26th March 2002 it was charged with bringing forward recommendations on the formation of Scrutiny Committees. The new Committee published its first report on 22nd October 2002. In this report it set out its initial recommendations on the Scrutiny structure and it was in this report that the division into four Committees (to be known as Panels), which has effectively been carried through with minor modifications to the present structure, was first suggested. In paragraph 2.62 of the report the Privileges and Procedures Committee recommended that four major Scrutiny Panels be set up as follows –

- corporate services and policy, including finance;
- environment and public services;
- economic affairs and development;
- social, education policy and home affairs.

The thinking was that each major area of government was covered and the structure proposed by the PPC was carried forward to the report and proposition on the structure of Scrutiny (P.79/2003) that was adopted by the States on 24th July 2003. In adopting paragraph (a) of that proposition the States agreed that, from the date of the introduction of a ministerial system of government, there should be four Scrutiny Panels with the following areas of responsibility –

- corporate services, policies and external relations;

environment and public services;

economic affairs and development;

social, education and home affairs.

In line with the States' decision on P.79/2003 the above structure was reflected in the new Standing Orders of the States of Jersey approved by the States in 2005. In the report accompanying the draft Standing Orders (P.162/2005) the PPC set out its reasons for retaining the structure agreed in principle by the States rather than other alternatives that had been suggested, such as having a number of generic panels that could choose to review topics on any area of the Executive's responsibilities. The report stated –

“The Committee has nevertheless concluded that it would be preferable to retain the structure already agreed by the States. It will enable members with a particular interest to seek membership of the Panel assigned that topic and will ensure that members of the Panel can build up an expertise of the subject as well as a relationship with the Minister or Ministers responsible for the areas in question. In addition it will enable legislation to be referred to the relevant Panel for review and the members of that Panel will hopefully already be aware of the policy framework which led to the drafting of the legislation in question.”

During the debate on the Standing Orders there was nevertheless concern expressed by some members, including the then President of PPC, that there was a need to review the structure being put forward as it was recognised that the remit of the proposed Social Affairs Panel was likely to be too wide. Furthermore, it was hoped that Sub-Panels could provide a degree of flexibility and help deal with extensions or variations in workload.

Remit of the Social Affairs Scrutiny Panel

PPC and the States considered the Panels from the perspective of the overall topic areas that they would cover without assessing in detail the relative size of the workload that the four Panels would have. As stated above, even before the start of the new ministerial system some members of the States, particularly those who had gained experience in Shadow Scrutiny, became aware that the workload of the proposed Social Affairs Panel was likely to be extremely heavy. When the detailed description of the remit of the Panel was finalized it became clear that this Panel would be responsible for the majority of the scrutiny of five major departments of the Executive, namely Education, Sport and Culture, Home Affairs, Health and Social Services, Housing and Social Security. It is clear that these five departments have a vast policy responsibility. An indication of their importance in the overall government structure comes from the fact that their combined net revenue expenditure is over 73% of the total net revenue expenditure of all Ministerial and non Executive departments.

In addition to the reference to the possible need to split the Social Affairs Panel during the original Standing Orders debate in 2005 this issue was also referred to by the current Chairman of the PPC when he stood for appointment to this position on 8th December 2005. In his nomination speech he stated *“The Social Affairs Panel seems to have a very wide remit. To cover this in a timely and effective manner, I think the new Committee [PPC] should consider the possibility of asking the States to set up a second Panel in this important area”*.

It is clear to the Chairmen's Committee that it will not be possible for the Social Affairs Panel to achieve proper scrutiny oversight of the areas within its remit because they are so extensive. The inevitable outcome will therefore be that major areas of the Executive not be subject to scrutiny on a regular basis. It is likely, for example, that each of the five departments might only be the subject of one scrutiny review per year at the most. This appears totally inappropriate when considering the importance of the work of departments such as Education, Sport and Culture or Health and Social Services. The Chairmen's Committee is therefore convinced that an appropriate solution must be found to allow greater scrutiny of the areas currently covered by one single Social Affairs Panel.

Possible solutions

The Chairmen's Committee considered whether the solution would be to establish one or more sub-panels as

allowed by Standing Orders. It would, theoretically, be possible to set up one or more sub-panels to cover different aspects of the Social Affairs Panel's current remit. The Chairmen's Committee concluded that this option would not, however, lead to any significant improvement. As set out later in this report the Chairmen's Committee is firmly of the view that adequate resources, both in terms of manpower and finance, must be made available to each of the Panels to enable them to undertake their work effectively. The creation of one or more sub-panels would, in practice, do no more than spread the current resources more thinly and, although it might be possible to increase the amount of political involvement by establishing sub-panels, it is unlikely that any significant increase in the work programme could be achieved. The Chairmen's Committee therefore rejected this option as a solution. There are issues arising with Sub-Panels which the Committee will seek to address imminently.

A second option considered by the Committee was to re-allocate the areas of responsibility between the four Panels. This would involve moving responsibility for the scrutiny of one or more Ministerial departments from the Social Affairs Panel to other Panels. The Chairmen's Committee does not consider that this is a realistic option. The preparation of the work programmes for 2006 by the other Panels has shown that there are already far more possible areas of scrutiny than there are resources available to undertake the necessary reviews. It would not therefore be possible to reallocate responsibilities without simply reducing the effectiveness of the other Panels and, even if it were possible to increase the amount of scrutiny in the area of Social Affairs, this would simply be at the expense of much needed scrutiny in other areas.

Division of the Social Affairs Panel into two Panels

Having considered alternative options extremely carefully the Chairmen's Committee has concluded that the only realistic option to enable the Scrutiny function to operate effectively is to divide the Social Affairs Panel into two and thereby create a fifth Scrutiny Panel. The most appropriate division seems to be to establish one Panel to scrutinize Education, Sport and Culture and Home Affairs and a second Panel to scrutinize Health and Social Services, Housing, and Social Security. In this way the 2 largest spending departments would be split between the panels which would then have a roughly equal scope in terms of workload.

Financial and manpower implications

The Chairmen's Committee is conscious that there are clearly resource implications for the States if this decision is to be implemented. The need for dedicated staff to support Scrutiny Panels has been recognised from the very outset of the machinery of government changes. Indeed the Implementation Plan presented by the Policy and Resources Committee in November 2001 referred to above states (in paragraph 5.10.1) that "*the Committee [Policy and Resources Committee] considers that it will be appropriate for EACH Scrutiny Committee to have the following personnel: two senior officers as a permanent establishment, such technical or specialist advisers as it or they may from time to time require, access to a pool of administrative and secretarial facilities, as well as research staff*".

The need for two Scrutiny officers to support each Panel has been recognised and agreed throughout the implementation process and the current complement of staff in the Scrutiny Office is 8 Scrutiny officers (namely 2 for each of the 4 Panels) together with the Scrutiny Manager (who in addition to her managerial responsibilities also has responsibility for the Public Accounts Committee and the Chairmen's Committee) plus 2 administrators to support the scrutiny function. In agreeing that a fifth Panel should be established the Chairmen's Committee also agreed that this could only be done when 2 additional Scrutiny officers can be funded and appointed to support the extra Panel. It is quite clear that spreading the current staff over a fifth Panel would achieve very little as the overall number of staff hours would simply be divided between more Panels.

Although the creation of a fifth Panel will increase the overall workload for the Scrutiny Manager and the two Scrutiny Administrators the Chairmen's Committee has agreed with the Scrutiny Manager that the fifth Panel could be accommodated within these current resources. In addition, when the accommodation for the Scrutiny Office was recently reconfigured in Morier House there was no provision for additional officers but it is accepted that by the loss of a "hot desking" room and/or a meeting room, the staff could be accommodated in the present accommodation without additional rental costs although there will be one-off set up costs for office equipment and furniture which will have to be met from existing resources.

In summary the manpower implication of this proposal is therefore the requirement for two more full time Scrutiny Officers. The Scrutiny Officer post has been evaluated at Civil Service grade 10 although new members of staff are normally appointed as trainees at Grade 9 level. This means that the current salary range for the Scrutiny Officer post is £32,210 - £41,132. For the purposes of future planning the total salary cost for two officers should be calculated at the top of the range giving an annual total of £82,264. When pension and social security costs are added the total cost to the States per annum is **£98,348**.

Each of the 4 Scrutiny Panels currently has an annual budget of **£90,000** available to it for the payment of specialist advisers, the transcription of evidence from hearings and or the commissioning of research. There would therefore be a requirement for an additional sum of **£90,000** to be made available for the fifth Panel for this purpose. The total ongoing annual additional cost for the fifth Panel is therefore **£188,348**.

It has always been a fundamental principle throughout the establishment of the new system that the move to a ministerial system required the counterbalance of a strong and well resourced scrutiny function. The original intention of the Policy and Resources Committee back in 2001 was that the funding required for scrutiny would come from the efficiencies in other areas that were seen as the consequence of the new structure. In his summing up speech on 28th September 2001 in the first machinery of government debate Senator Horsfall stated that *“we all know how much waste there is of time and resource and the early evidence is very clear that the cost of the scrutiny function will be considerably less than the savings we will make from a slimmed down structure within our Government”*. He went on to undertake that *“when this House decides how many scrutiny committees it wants, how they are going to be structured, the scrutiny process will then be resourced to the level it needs to function properly and effectively”*. The Chairmen’s Committee also believes that it is important to point out that the funding of the scrutiny function should be seen as an investment that will almost certainly lead to greater efficiency in government and, on some occasions, significant savings in public expenditure if scrutiny’s recommendations are implemented.

The way forward

Membership

The question has been raised of whether there are sufficient members to “staff” an additional Panel. Whilst the Committee is aware of the limited number of members available, it also believes that it is important to get the structure right and that a sufficient number of interested members exist either from those presently not involved in scrutiny or from those who wish to change their current responsibilities.

Transitional arrangements

The Committee is aware of the excellent work initiated by the current Social Affairs Panel and would seek to ensure that all initiated and ongoing reviews of that Panel continue to a proper conclusion.

Conclusion

It is inevitable that there will be “settling in” issues with scrutiny. If scrutiny is to be effective, it must have the resources to scrutinise all key areas of government. The Social Affairs Panel’s remit of five departments represents 73 percent of government expenditure and requires concentrated attention. Members have understandable concerns about approving new resources. It should be stressed that the States have already adopted a “slim” version of scrutiny in that the model merges the research, administration and organisational functions in contrast to comparable authorities which have established separate functions.

To put the issue in its broader context the Chairmen’s Committee is seeking two extra staff to provide the support in monitoring a group of departments who employ a very large number of staff. We hope members will see this proposition as an essential organisational amendment of the scrutiny function.