

**WRITTEN QUESTION TO THE CHAIRMAN OF THE PRIVILEGES AND PROCEDURES
COMMITTEE BY DEPUTY R.G. LE HÉRISSIER OF ST. SAVIOUR**

ANSWER TO BE TABLED ON TUESDAY 11TH MARCH 2008

Question

Would the Chairman identify the objectives which were achieved at the “What is Scrutiny?” seminar and those that remain to be achieved?

Answer

The primary stated aim of this conference was for all States members and some stakeholders to discuss how scrutiny is developing in Jersey, how the system of scrutiny can be developed in the Jersey context, and to open up discussions and share views on what scrutiny is, and what scrutiny is *not*.

It was noted that this was the first opportunity for all members to meet to discuss progress since the States' debates introducing scrutiny.

The “What is Scrutiny?” conference arose out of the initial findings of the Machinery of Government Review Report (R.105/2007) (MOGR). In particular, the conference was designed to explore recommendations 15, 17, 20, 25, 26, 27, 29, 37, 38 and 41.

Broadly speaking, these recommendations were –

- What is Scrutiny?
 - Should legislative scrutiny be an integral part of scrutiny?
 - timely access to information
 - Should Scrutiny review the process of decision making?
 - Panels should analyse decisions, not general activity of a Minister
 - Review of structure of scrutiny function/sub panels R20
 - Canvass views of public from time to time
 - Chairmen’s Committee (CC) CC should coordinate scrutiny; What does ‘co-ordinate’ mean? CC should take the lead on the Annual Business Plan and Budget scrutiny, and monitor Panels’ progress;
 - CC should prioritise allocation of resources;
 - CC review processes and clarify in the Code.

At a meeting on 2nd January 2008 with the President and Vice President of the Chairmen’s Committee a list of topics was agreed which should form the basis of the conference workshops.

The objectives were necessarily reduced because it would not have been possible for participants to give full and proper consideration to all of them in the time available. For example, it was decided not to attempt to cover whether assistant ministers should participate in scrutiny on this day.

The objectives discussed were –

1. There is no single agreed definition of scrutiny, and a primary objective therefore was to enable a discussion to take place to either agree a definition or to realise that there are different approaches which are all valid. The discussion resulted in a greater understanding of the different scrutiny styles and how each was useful, and this proved to be a helpful discussion.
2. A review of access to information, the timeliness of provision of information and the level of detail provided to scrutiny. The need for Green and White Papers was clearly understood by the end of the day as being of value to the public, to the scrutiny panel, and to States members during the debate, and it is to be hoped that these will systematically be produced for new policy in the future, and also in relation to draft legislation.
3. To seek a measure of agreement on when scrutiny of policy should start and how long it should take. It was clear from the discussion at the conference that there were several views on when scrutiny of policy should begin. Concern was not expressed on the ‘right’ or ‘wrong’ time to commence scrutiny, and it therefore appears that this is not an issue.
4. To ensure that forward plans of work be produced by the Scrutiny Panels and the Ministers, and exchanged, so that each party is better informed about the proposed work plans of the other. The Chairmen’s Committee and the Council of Ministers should co-ordinate these.
5. To underline the need for legislative scrutiny of new legislation or major amendment to existing legislation. The workshop groups agreed that reviews of draft legislation (but not all legislation) should look at whether a law was needed or not, the policy objective of a draft law and whether the draft delivered that objective, and the resource implications. Given the measure of agreement on this subject, the objective was attained.
6. To gain greater clarity on the Chairmen’s Committee (CC) role. There was useful discussion on whether CC should have a stronger monitoring role, and provide quality assurance of reports, or whether CC had sufficient political influence to be able to encourage Chairmen to comply without strengthening its role. There was some variance in views, but there was general agreement that the CC might take a firmer line. Note was also taken that progress had been made since the end of the review period into, for example, procedures for scrutiny of the Annual Business Plan and Budget.
7. Improved Scrutiny of the States’ Strategic Plan. The conference noted that a lot of work had taken place to improve procedures for the future, and that a real improvement was anticipated for the next States Strategic Plan.
8. To clarify the role of the PAC. The conference agreed that there was a need for better communication of the PAC’s role and activities, and that the PAC should take steps to action this.

It was stressed at this time that this conference was but the first step in taking forward the findings of the MOGR.

What the conference achieved:

Items highlighted for further consideration in the context of the ongoing MOGR work, including...

- Reflection of what was envisaged for scrutiny and how the reality measures up. Are any changes to Standing Orders required?
- Discussion and acknowledgment of the importance of scrutinising legislation.
- Discussion of meaning and use of Green Papers.
- Acknowledgement of the time constraints on scrutiny, in respect of legislation and business plan/strategic plan.
- Promoted better knowledge of the aims, methods and limitations of the scrutiny process amongst Executive and officers.

Sir Robert Phillis gave some early feedback on the conference, and advised that he genuinely believed that the parties are much closer together in their thinking than they seem willing to admit. If and it is a big if, the commitments made during the day to fulfilling the agreed terms of reference together with the necessary coordination of activities on behalf of both the Chairman's Committee and the Council of Ministers are followed through and there is the necessary provision of information in a planned and timely way, he believes that Scrutiny can be made to work effectively. But clearly this comes down to questions of confidence and trust between the Council of Ministers and the Scrutiny Panels. He believes that there is a genuine issue about resourcing and supporting the Scrutiny Panels, but noted that there is scope within the available budgets to provide some assistance here if a case can be made. The next phase would be to place concerted attention on putting the procedures and processes in place which would allow for a more effective and planned process of all Scrutiny activities.