

STATES OF JERSEY



MACHINERY OF GOVERNMENT REVIEW

**Presented to the States on 9th November 2007
by the Privileges and Procedures Committee**

STATES GREFFE

FOREWORD

At the end of 2006, the Privileges and Procedures Committee was requested by the States to prepare a report on the first 12 months of ministerial government, and appointed a sub-committee of 3 of its members to undertake this task – Connétable Derek Gray, the Chairman, Senator M.E. Vibert and Deputy J. Gallichan of St. Mary.

The sub-committee received written and oral evidence over a period of several months, and has now put its findings, together with its recommendations, into the attached report. The Privileges and Procedures Committee is presenting the findings of the sub-committee without alteration, and intends to recommend a way forward to carry out the discussions and further reviews recommended, with a view to bringing to the Assembly, where appropriate, proposals for approval.

The Privileges and Procedures Committee will also co-ordinate consideration of the recommendations and where appropriate has suggested a lead body to take them forward. Where there are a significant number of stakeholders, PPC itself will act as lead body. The Committee will invite feedback on all matters discussed, and it will report to the States on actions already taken and any further action proposed by the lead body. Any matters that require decision by the States will be proposed by the Committee. The objective will be to have any necessary changes in place by the end of the second session of the States in 2008, and given the timing of elections, any that require States' approval will need to be considered no later than 21st October.

The Committee proposes to hold a series of events involving all States members early in the New Year to consider the major issues highlighted in the report, and members are encouraged to attend so as to reach a shared understanding of the key issues.

The following lead bodies are proposed in respect of the recommendations –

PRIVILEGES AND PROCEDURES COMMITTEE

Recommendation 7	The sub-committee recommends that Standing Orders should be amended to provide that a Minister, if present in the Assembly, should only be able to delegate the answering of an oral question with notice to an Assistant Minister with the consent of the questioner. This would ensure that members are not frustrated in their attempts to hold Ministers themselves to account if they wish to do so. <i>(CoM/Scrutiny members)</i>
Recommendation 12	The sub-committee recommends that Ministerial Decision Summaries be clear, robust and comprehensive, and are cross-referenced with earlier decisions and discussions, and that they must be accompanied by all appropriate background papers and reports of relevance to ensure that the decision can be seen in context. <i>(CoM/Chairmen's Committee)</i>
Recommendation 15	The sub-committee recommends that the States should work to reach a shared understanding of what Scrutiny is there to do and when, and what scrutiny is <i>not</i> . The sub-committee believes that in the Jersey context this will include a variety of different forms of Scrutiny activity, ranging from involvement at the earliest stages of policy development to reviews of existing policy at a much later stage. <i>(Chairmen's Committee/Scrutiny members/All States' members)</i>
Recommendation 17	The sub-committee recommends Panels should analyse

	<p>decisions, not the general activity of a Minister, and that a Scrutiny Panel should focus on conducting reviews by receiving/hearing evidence and obtaining advice. Panels should avoid old style ‘committee’ discussion.</p> <p><i>(Chairmen’s Committee/All Scrutiny Panels/Council of Ministers)</i></p>
Recommendation 21	<p>The sub-committee recommends that the Chairmen’s Committee should consider and publish the procedure for scrutinising the Strategic Plan, the Annual Business Plan and the Budget and that annually, the Council of Ministers and the Chairmen’s Committee should agree the programme for the coming year, and inform the States thereon.</p> <p><i>(Chairmen’s Committee/Council of Ministers)</i></p>
Recommendation 22	<p>The sub-committee recommends that, if not already in place, clear procedures should be agreed on the passing of all relevant information to each Scrutiny Panel in relation to the Strategic Plan and Annual Business Plan in a timely fashion, and that the Chairmen’s Committee should be responsible for co-ordinating the work of the different panels.</p> <p><i>(Chairmen’s Committee/Council of Ministers)</i></p>
Recommendation 23	<p>The Council of Ministers and the Chairmen’s Committee should agree a protocol on the sharing of information between Panels in relation to States-wide policies, for example in relation to the Strategic Plan, the Annual Business Plan and the Budget.</p> <p><i>(Chairmen’s Committee/Council of Ministers)</i></p>
Recommendation 25	<p>The sub-committee believes it is essential that all major law should be scrutinised so that members fully understand the impacts on the citizen of the legislation, once introduced. The sub-committee is not yet happy with this situation and would like to see an in-depth review of the way in which legislation is scrutinised.</p> <p><i>(Chairmen’s Committee/Council of Ministers)</i></p>
Recommendation 27	<p>As part of the discussions about “What is Scrutiny?” referred to earlier, agreement should be reached on what Scrutiny comprises, and whether or not Scrutiny should be reviewing the process of making a decision, as well as the actual decision itself.</p> <p><i>(Chairmen’s Committee/Council of Ministers)</i></p>
Recommendation 31	<p>The sub-committee recommends that members of Scrutiny Panels should take care to ensure that information received by the panel is not used for individual political purposes, that is, information received in confidence by a Scrutiny Panel should not be used by an individual member in a personal capacity, for example, during question time in a States meeting. Furthermore, when seeking information as a private member, members who also serve on Scrutiny Panels should make it clear that the request for information is a</p>

	<p>personal one and not made on behalf of a Scrutiny Panel. (Chairmen's Committee/All Scrutiny members)</p>
Recommendation 36	<p>The sub-committee does not see the need to have 2 independent members on the Chairmen's Committee. (Chairmen's Committee)</p>
Recommendation 37	<p>The sub-committee recommends that the Chairmen's Committee should –</p> <ul style="list-style-type: none"> (i) actively co-ordinate the work of the Scrutiny Panels; (ii) take a lead in the organisation of Scrutiny of the Annual Business Plan and Budget; (iii) monitor the progress of the Panels' work programmes. <p>(Chairmen's Committee/All Scrutiny members/ Council of Ministers)</p>
Recommendation 38	<p>The Chairmen's Committee should prioritise the allocation of resources in accordance with Standing Orders. This will necessitate a discussion on proposed reviews across the piece, the prioritisation of the reviews, and the allocation funds to those given the highest priority. (The allocation of staff resources should be undertaken by the Scrutiny Manager and not at a political level). It is recommended that the Committee should not allocate the entire budget at the start of the year, but should hold a proportion of funds back for allocation later in the year according to need. (Chairmen's Committee/All Scrutiny members)</p>
Recommendation 39	<p>It is recommended that a more streamlined process be introduced for approving and lodging amendments to Standing Orders which have been agreed by the Chairmen's Committee.</p> <p>The Chairmen's Committee should review the structure of Scrutiny and determine whether there is sufficient flexibility within the current system, whether the structure remains appropriate, and whether there is merit in reducing time spent on general discussion of Ministers' policies. (Chairmen's Committee)</p>
Recommendation 44	<p>The sub-committee recommends that Standing Orders should be amended to provide that the President of the Chairmen's Committee should be an ex-officio member of PPC to ensure good co-ordination between PPC and the Scrutiny function. (Chairmen's Committee)</p>
Recommendation 45	<p>In order to allow peer review of the Scrutiny budget, the sub-committee recommends that the PPC should continue to hold the Scrutiny budget, and should take a stronger position on an appropriate budget level for Scrutiny, having regard to previous years' underspends. Secondly, a procedure should be agreed to resolve any difficulties that may be highlighted by the Accounting Officer. (Chairmen's Committee)</p>

Recommendation 48	<p>The sub-committee recommends that there should be some form of informal “hustings” organised for members, particularly new members, before the formal appointment process in the States Chamber. This would enable new members to meet the candidates for Chief Minister – and those who might be nominated to be Ministers – before being required to make the appointment.</p> <p><i>(All States members)</i></p>
Recommendation 49	<p>The sub-committee recommends that Standing Orders should be amended to require the Chief Minister designate to give formal notice through the States Greffe of his or her nominees as Ministers at least 24 hours before the appointments are made.</p> <p><i>(All States members)</i></p>
Recommendation 50	<p>The sub-committee recommends that Standing Orders should be amended to provide that all candidates for ministerial office, even if uncontested, should produce a written statement so that their proposed policy as Ministers is set out in advance for the official record and recorded in Hansard.</p>
Recommendation 51	<p>The sub-committee recommends that the Chairmen’s Committee and the Council of Ministers, in consultation with the Privileges and Procedures Committee, review the possible advantages and disadvantages of amending the States of Jersey Law 2005 and Standing Orders to allow Assistant Ministers, in certain circumstances, to participate in the Scrutiny function.</p> <p><i>(Council of Ministers/Chairmen’s Committee)</i></p>
Recommendation 52	<p>The sub-committee recommends that there should be a short adjournment of at least 4 hours between the appointment of Ministers and the subsequent appointment of the Chairman of the Privileges and Procedures Committee, the Public Accounts Committee and the Scrutiny Panels. This half-day adjournment could, in practice, mean reconvening the following day or, alternatively, meeting in the afternoon if the appointment of Ministers is concluded during a morning Sitting.</p> <p><i>(All States members)</i></p>
Recommendation 53	<p>The sub-committee recommends that Standing Orders be amended to restrict the number of written questions that any one member can submit per States meeting to 3 written questions of a maximum length of 200 words each.</p> <p><i>(All States members)</i></p>
Recommendation 54	<p>The sub-committee recommends that Standing Order 27 be amended to provide that the Greffier shall refer a Proposition lodged by a private member to the relevant Minister or Ministers so that the Ministers can consider whether or not to report to the States on the matter.</p> <p><i>(Council of Ministers)</i></p>

CHIEF MINISTER

Recommendation 4	<p>The sub-committee recommends that, in cases of breach of the Ministerial Code that do not merit dismissal, the Chief Minister should issue a formal written reprimand to the Minister concerned and present this to the States Assembly for information. The issue of such a formal written reprimand would put on record the disapproval of the Chief Minister, supported by a majority of Ministers, in relation to the conduct concerned; and would be available as a formal record if further concern about the Minister's conduct occurred at a later date. If the Minister concerned had been asked to apologise, details of any apology given could also be recorded in the same document when presented to the Assembly.</p> <p><i>(Council of Ministers)</i></p>
Recommendation 5	<p>The sub-committee recommends that the appropriate legislation should be amended to provide that once a proposition for the dismissal of a Minister is lodged by the Chief Minister in accordance with the statutory requirements, the Chief Minister should, supported by a majority of Ministers, be empowered to suspend the Minister concerned from office pending the States debate on the dismissal. In these circumstances, the Chief Minister himself or herself, or another Minister nominated by the Chief Minister, would fulfil the functions of the suspended Minister pending the debate. If the States were to reject the dismissal proposal, the suspended Minister would immediately resume his or her duties.</p> <p><i>(Council of Ministers)</i></p>

COUNCIL OF MINISTERS

Recommendation 1	<p>The sub-committee recommends that where reports are of interest to all States members and are not confidential to the Council of Ministers, then presentations on them should be made to all members and not just to the Council.</p>
Recommendation 2	<p>The sub-committee recommends that the Council of Ministers review how it liaises with the Comité des Connétables.</p>
Recommendation 3	<p>The sub-committee recommends that the Council of Ministers should keep items listed on the B Agenda to the strict minimum and should always err on the side of openness in case of any uncertainty about whether an item should be taken as Part A or Part B. Every effort should be made to communicate forthcoming discussions and the subsequent decisions with all members of the States, and significant policy decisions should always be</p>

	<p>notified to other members of the States before they are released to the media. In order to ensure information is as accessible as possible, the Council of Ministers should ensure that minutes of Part B items are recorded in Part A minutes once a decision has been taken so that members are advised of what has been decided. There is also the facility to divide the record of an item between Part A and Part B of the minutes where residual confidential matters remain.</p>
Recommendation 6	<p>The sub-committee recommends that more use should be made of Assistant Ministers appointed to more than one Department and that the current limit of 2 Assistant Ministers per Ministry should be removed, albeit with no change to the overall maximum number of Assistant Ministers.</p>
Recommendation 8	<p>The sub-committee recommends that Assistant Ministers should only be appointed if the Minister concerned has a meaningful rôle for them to undertake. It is clear to the sub-committee that Assistant Ministers who have been given specific, well-defined, delegated responsibility, have found their rôle more meaningful than those whose rôle is not clearly defined.</p>
Recommendation 9	<p>The sub-committee recommends that ongoing delegations to Assistant Ministers, both in terms of general oversight and statutory functions, should be made clear on each department's website, so that the public and States members know who is dealing with which issues on a day-to-day basis.</p>
Recommendation 10	<p>The sub-committee recommends that the Council of Ministers, in consultation with Assistant Ministers, the Privileges and Procedures Committee and others, should give consideration to the appropriate arrangements that should be put in place when a Minister is absent. This review should clarify the rôle of the Assistant Minister in these circumstances. If necessary, appropriate amendments can then be brought to the States of Jersey Law 2005 and the Standing Orders of the States to clarify the rôle of an Assistant Minister in a Minister's absence. <i>(Assistant Ministers/PPC)</i></p>
Recommendation 11	<p>The sub-committee recommends that the scope of matters that can be delegated to Assistant Ministers should be reviewed. Subject to the receipt of appropriate legal advice the sub-committee sees no reason, for example, that Assistant Ministers should not be able to make Orders under specific legislation where other statutory responsibilities have already been delegated to them, subject to appropriate limitations. <i>(AG)</i></p>
Recommendation 24	<p>At the beginning of each year –</p>

	<ul style="list-style-type: none"> the Council of Ministers must inform the Chairmen's Committee of its indicative programmes in relation to the Annual Business Plan and the Budget, and every third year, the Strategic Plan, and the dates of the key meetings which Scrutiny members would be invited to attend in relation to each; Scrutiny must provide the Council of Ministers with scheduled dates of each of its Panels for meetings/hearings in relation to these documents; and dates upon which it would seek informal briefing meetings with officers, and meetings with Ministers; <p>with a view to ensuring the timely transfer of information, the dovetailing of meetings of the Executive and Scrutiny, sufficient time for Scrutiny and the efficient and effective use of manpower resources. <i>(Chairmen's Committee)</i></p>
Recommendation 26	<p>Proper arrangements should be put in place to provide for timely access to information. The time of the States Assembly should not be taken up in questions and answers that are required for the purpose of Scrutiny. Requests for information should be reasonable, allow a reasonable period for reply, and consideration should be given to deciding whether such requests should relate to the decision only, and not the decision-making process. <i>(Chairmen's Committee)</i></p>
Recommendation 30	<p>The sub-committee recommends that Ministers should ensure that the 2 processes (policy formulation and Scrutiny) will operate side by side from the start, and that 'green' (Discussion) and 'white' (Draft Policy) papers should be issued and available for Scrutiny. The sub-committee believes it would be helpful for the title pages of discussion papers to be printed on green paper.</p>
Recommendation 46	<p>The sub-committee recommends that the future Strategic Plan brought forward by the Council of Ministers should be a broad policy statement setting out the general overall policy direction of the Council without excessive detail on individual initiatives.</p>
Recommendation 55	<p>The sub-committee believes that the Council of Ministers should nevertheless give consideration to requesting all departments to identify fee increases currently made by Regulation so that appropriate amendments could be made to enable these to be made by Order in the future.</p>

MINISTER FOR TREASURY AND RESOURCES

Recommendation 47	<p>The sub-committee recommends that the Minister for Treasury and Resources should review the annual financial cycle to see if there is any scope to alter the current lodging and debate time for the Annual Business Plan.</p>
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CHIEF MINISTER'S DEPARTMENT

Recommendation 13	<p>The sub-committee recommends that the Chief Executive to the Council of Ministers should examine ways of expanding the policy support available to the Council of Ministers, possibly drawing on expertise already available in other departments.</p> <p><i>(Chief Executive to the Council of Ministers)</i></p>
Recommendation 14	<p>The sub-committee recommends that the Chief Minister's Department should investigate the creation of a private secretary type support rôle for the Chief Minister. This would be a full-time rôle that might involve a civil servant of approximately Grade 911, who would be responsible for undertaking basic research for the Chief Minister, assisting with preparation for official duties and attending meetings with the Chief Minister. In addition, the person appointed could undertake more basic functions such as diary planning for the Chief Minister.</p> <p><i>(Chief Executive to the Council of Ministers)</i></p>

CHAIRMEN'S COMMITTEE

Recommendation 16	<p>The membership of a Panel or Sub-Panel undertaking a review should not be heavily weighted in favour of a political party.</p> <p><i>(PPC)</i></p>
Recommendation 18	<p>The sub-committee recommends that the Scrutiny function gives further consideration to the manner in which its public relations are handled to ensure that the effective solution is implemented whilst achieving value for money.</p> <p><i>(PPC)</i></p>
Recommendation 19	<p>The sub-committee recommends that Standing Orders be amended to allow sub-panels to present reports to the States in their own name. This recommendation is, in part, dependent on the outcome of the review of the Scrutiny structure referred to in Recommendation 20.</p> <p><i>(Scrutiny Panels)</i></p>
Recommendation 20	<p>The sub-committee recommends that the structure of the Scrutiny function be reviewed to capitalise on the enthusiasm and focus that sub-panels have shown.</p> <p><i>(All Scrutiny members)</i></p>
Recommendation 24	<p>At the beginning of each year –</p> <ul style="list-style-type: none">• the Council of Ministers must inform the Chairmen's Committee of its indicative programmes in relation to the Annual Business Plan and the Budget, and every third year, the Strategic Plan, and the dates of the key

	<p>meetings which Scrutiny members would be invited to attend in relation to each;</p> <ul style="list-style-type: none"> • Scrutiny must provide the Council of Ministers with scheduled dates of each of its Panels for meetings/hearings in relation to these documents; and dates upon which it would seek informal briefing meetings with officers, and meetings with Ministers; <p>with a view to ensuring the timely transfer of information, the dovetailing of meetings of the Executive and Scrutiny, sufficient time for Scrutiny and the efficient and effective use of manpower resources. <i>(Council of Ministers)</i></p>
Recommendation 28	<p>The sub-committee is aware that discussions in relation to legal advice have been on-going for many months between the Council of Ministers and the Chairmen's Committee. The matter has nearly come to a head on 2 occasions when a debate was scheduled as the draft Code of Practice for Scrutiny, but on both occasions the proposition was withdrawn at the last minute. The sub-committee does not believe it can usefully add to the on-going discussions but believes that the issue must be resolved one way or another. If, as seems likely, no agreement can be reached between the Executive, the Attorney General and Scrutiny, the matter should be brought to the States as soon as possible to allow the whole Assembly to take a decision on this issue.</p>
Recommendation 40	<p>The Chairmen's Committee and the Council of Ministers should meet specifically for the purpose of exchanging information on the work programme of Ministers and the review programme of Scrutiny. The agenda for this meeting should be agreed in advance, and participants should be aware of their rôles in the discussion. On both sides, prior work should be undertaken to agree priorities and set timetables for the work/review programmes.</p> <p>Update meetings should be timetabled and held if changes to the programme have occurred or are likely to occur, in order that everyone is fully informed, and to ensure as far as possible that no abortive work is undertaken. <i>(Council of Ministers)</i></p>
Recommendation 41	<p>The Chairmen's Committee should review its processes for co-ordinating the work programme and prioritising and allocating resources, and clarify these procedures in the Code of Practice.</p>
Recommendation 42	<p>The updated draft Code of Practice should be lodged and debated without delay. In the event that no consensus can be reached on legal advice, this section should simply be determined by the States.</p>
Recommendation 43	<p>The question of who is accountable for Scrutiny must be</p>

	considered and satisfactorily resolved.
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PUBLIC ACCOUNTS COMMITTEE

Recommendation 32	The sub-committee recommends that the Public Accounts Committee (PAC) be proactive in the latter part of 2008 to ensure the membership is appointed as soon as possible after the beginning of the next session in December 2008.
Recommendation 33	The sub-committee recommends that the terms of reference of the PAC be reviewed to ensure that it has a meaningful rôle, and that it can act independently of the Comptroller and Auditor General (CAG) should it wish to do so.
Recommendation 34	The PAC should prepare a future work programme for onward transmission to the Council of Ministers each year.
Recommendation 35	The PAC is recommended to adopt a more consistent method of informing members about the PAC's activity, and to produce a report and present it to the States at the conclusion of each of its reviews, so that States members and the public may be apprised of its conclusions on the matters it has considered. These should be uploaded onto the States Assembly and PAC websites. The sub-committee recommends that the PAC meets the Council of Ministers on a regular, perhaps bi-annual, basis to discuss reviews and to offer feedback to the Council on its findings. <i>(Council of Ministers)</i>

SCRUTINY PANELS

Recommendation 29	The sub-committee recommends that there should be a formal process, conducted from time to time, to canvass the public's views on matters for review. Alternatively, panels might consider holding public hearings from time to time, during which members of the public may have a limited time slot to question a departmental officer or a Minister on a matter of public or personal interest.
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The lead bodies will be asked to discuss the recommendations with the other stakeholders listed in italics.

The Committee is mindful that to consider all of the above recommendations, and to take subsequent action prior to the next elections, is a considerable task, and it will make every effort to ensure the proposed timescale is adhered to. The Committee will be contacting each of the above bodies, and asking how they propose to review the recommendations, whether they will review the recommendations in consultation with others, and when outcomes are estimated to be available.

Derek Gray
Chairman, Privileges and Procedures Committee

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Summary of Recommendations

Recommendation 1	The sub-committee recommends that where reports are of interest to all States members and are not confidential to the Council of Ministers, then presentations on them should be made to all members and not just to the Council.
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Recommendation 9	The sub-committee recommends that ongoing delegations to Assistant Ministers, both in terms of general oversight and statutory functions, should be made clear on each department's website, so that the public and States members know who is dealing with which issues on a day-to-day basis.
Recommendation 10	The sub-committee recommends that the Council of Ministers, in consultation with Assistant Ministers, the Privileges and Procedures Committee and others, should give consideration to the appropriate arrangements that should be put in place when a Minister is absent. This review should clarify the rôle of the Assistant Minister in these circumstances. If necessary, appropriate amendments can then be brought to the States of Jersey Law 2005 and the Standing Orders of the States to clarify the rôle of an Assistant Minister in a Minister's absence.
Recommendation 11	The sub-committee recommends that the scope of matters that can be delegated to Assistant Ministers should be reviewed. Subject to the receipt of appropriate legal advice the sub-committee sees no reason, for example, that Assistant Ministers should not be able to make Orders under specific legislation where other statutory responsibilities have already been delegated to them, subject to appropriate limitations.
Recommendation 12	The sub-committee recommends that Ministerial Decision Summaries be clear, robust and comprehensive, and are cross-referenced with earlier decisions and discussions, and that they must be accompanied by all appropriate background papers and reports of relevance to ensure that the decision can be seen in context.
Recommendation 13	The sub-committee recommends that the Chief Executive to the Council of Ministers should examine ways of expanding the policy support available to the Council of Ministers,

	possibly drawing on expertise already available in other departments.
Recommendation 14	The sub-committee recommends that the Chief Minister's Department should investigate the creation of a private secretary type support rôle for the Chief Minister. This would be a full-time rôle that might involve a civil servant of approximately Grade 911, who would be responsible for undertaking basic research for the Chief Minister, assisting with preparation for official duties and attending meetings with the Chief Minister. In addition, the person appointed could undertake more basic functions such as diary planning for the Chief Minister.
Recommendation 15	The sub-committee recommends that the States should work to reach a shared understanding of what Scrutiny is there to do and when, and what scrutiny is <i>not</i> . The sub-committee believes that in the Jersey context this will include a variety of different forms of Scrutiny activity, ranging from involvement at the earliest stages of policy development to reviews of existing policy at a much later stage.
Recommendation 16	The membership of a Panel or Sub-Panel undertaking a review should not be heavily weighted in favour of a political party.
Recommendation 17	The sub-committee recommends Panels should analyse decisions, not the general activity of a Minister, and that a Scrutiny Panel should focus on conducting reviews by receiving/hearing evidence and obtaining advice. Panels should avoid old style 'committee' discussion.
Recommendation 18	The sub-committee recommends that the Scrutiny function gives further consideration to the manner in which its public relations are handled to ensure that the effective solution is implemented whilst achieving value for money.
Recommendation 19	The sub-committee recommends that Standing Orders be amended to allow sub-panels to present reports to the States in their own name. This recommendation is, in part, dependent on the outcome of the review of the Scrutiny structure referred to in Recommendation 20.
Recommendation 20	The sub-committee recommends that the structure of the Scrutiny function be reviewed to capitalise on the enthusiasm and focus that sub-panels have shown.
Recommendation 21	The sub-committee recommends that the Chairmen's Committee should consider and publish the procedure for scrutinising the Strategic Plan, the Annual Business Plan and the Budget and that annually, the Council of Ministers and the Chairmen's Committee should agree the programme for the coming year, and inform the States thereon.
Recommendation 22	The sub-committee recommends that, if not already in place, clear procedures should be agreed on the passing of all relevant information to each Scrutiny Panel in relation to the Strategic

	Plan and Annual Business Plan in a timely fashion, and that the Chairmen's Committee should be responsible for co-ordinating the work of the different panels.
Recommendation 23	The Council of Ministers and the Chairmen's Committee should agree a protocol on the sharing of information between Panels in relation to States-wide policies, for example in relation to the Strategic Plan, the Annual Business Plan and the Budget.
Recommendation 24	<p>At the beginning of each year –</p> <ul style="list-style-type: none"> • the Council of Ministers must inform the Chairmen's Committee of its indicative programmes in relation to the Annual Business Plan and the Budget, and every third year, the Strategic Plan, and the dates of the key meetings which Scrutiny members would be invited to attend in relation to each; • Scrutiny must provide the Council of Ministers with scheduled dates of each of its Panels for meetings/hearings in relation to these documents; and dates upon which it would seek informal briefing meetings with officers, and meetings with Ministers; <p>with a view to ensuring the timely transfer of information, the dovetailing of meetings of the Executive and Scrutiny, sufficient time for Scrutiny and the efficient and effective use of manpower resources.</p>
Recommendation 25	The sub-committee believes it is essential that all major law should be scrutinised so that members fully understand the impacts on the citizen of the legislation, once introduced. The sub-committee is not yet happy with this situation and would like to see an in-depth review of the way in which legislation is scrutinised.
Recommendation 26	Proper arrangements should be put in place to provide for timely access to information. The time of the States Assembly should not be taken up in questions and answers that are required for the purpose of Scrutiny. Requests for information should be reasonable, allow a reasonable period for reply, and consideration should be given to deciding whether such requests should relate to the decision only, and not the decision-making process.
Recommendation 27	As part of the discussions about "What is Scrutiny?" referred to earlier, agreement should be reached on what Scrutiny comprises, and whether or not Scrutiny should be reviewing the process of making a decision, as well as the actual decision itself.
Recommendation 28	The sub-committee is aware that discussions in relation to legal advice have been on-going for many months between the Council of Ministers and the Chairmen's Committee. The matter has nearly come to a head on 2 occasions when a debate

	<p>was scheduled as the draft Code of Practice for Scrutiny but on both occasions the proposition was withdrawn at the last minute. The sub-committee does not believe it can usefully add to the on-going discussions but believes that the issue must be resolved one way or another. If, as seems likely, no agreement can be reached between the Executive, the Attorney General and Scrutiny, the matter should be brought to the States as soon as possible to allow the whole Assembly to take a decision on this issue.</p>
Recommendation 29	<p>The sub-committee recommends that there should be a formal process, conducted from time to time, to canvass the public's views on matters for review. Alternatively, panels might consider holding public hearings from time to time, during which members of the public may have a limited time slot to question a departmental officer or a Minister on a matter of public or personal interest.</p>
Recommendation 30	<p>The sub-committee recommends that Ministers should ensure that the 2 processes (policy formulation and Scrutiny) will operate side by side from the start, and that 'green' (Discussion papers) and 'white' (Draft Policy) papers should be issued and available for Scrutiny. The sub-committee believes it would be helpful for the title pages of discussion papers to be printed on green paper.</p>
Recommendation 31	<p>The sub-committee recommends that members of Scrutiny Panels should take care to ensure that information received by the panel is not used for individual political purposes, that is, information received in confidence by a Scrutiny Panel should not be used by an individual member in a personal capacity, for example, during question time in a States meeting. Furthermore, when seeking information as a private member, members who also serve on Scrutiny Panels should make it clear that the request for information is a personal one and not made on behalf of a Scrutiny Panel.</p>
Recommendation 32	<p>The sub-committee recommends that the Public Accounts Committee (PAC) be proactive in the latter part of 2008 to ensure the membership is appointed as soon as possible after the beginning of the next session in December 2008.</p>
Recommendation 33	<p>The sub-committee recommends that the terms of reference of the PAC be reviewed to ensure that it has a meaningful rôle, and that it can act independently of the Comptroller and Auditor General (CAG) should it wish to do so.</p>
Recommendation 34	<p>The PAC should prepare a future work programme for onward transmission to the Council of Ministers each year.</p>
Recommendation 35	<p>The PAC is recommended to adopt a more consistent method of informing members about the PAC's activity, and to produce a report and present it to the States at the conclusion of each of its reviews, so that States members and the public may be apprised of its conclusions on the matters it has considered. These should be uploaded onto the States Assembly and PAC</p>

	websites. The sub-committee recommends that the PAC meets the Council of Ministers on a regular, perhaps bi-annual, basis to discuss reviews and to offer feedback to the Council on its findings.
Recommendation 36	The sub-committee does not see the need to have 2 independent members on the Chairmen's Committee.
Recommendation 37	The sub-committee recommends that the Chairmen's Committee should – (i) actively co-ordinate the work of the Scrutiny Panels; (ii) take a lead in the organisation of Scrutiny of the Annual Business Plan and Budget; (iii) monitor the progress of the Panels' work programmes.
Recommendation 38	The Chairmen's Committee should prioritise the allocation of resources in accordance with Standing Orders. This will necessitate a discussion on proposed reviews across the piece, the prioritisation of the reviews, and the allocation of funds to those given the highest priority. (The allocation of staff resources should be undertaken by the Scrutiny Manager and not at a political level.) It is recommended that the Committee should not allocate the entire budget at the start of the year, but should hold a proportion of funds back for allocation later in the year according to need.
Recommendation 39	It is recommended that a more streamlined process be introduced for approving and lodging amendments to Standing Orders which have been agreed by the Chairmen's Committee. The Chairmen's Committee should review the structure of Scrutiny and determine whether there is sufficient flexibility within the current system, whether the structure remains appropriate, and whether there is merit in reducing time spent on general discussion of Ministers' policies.
Recommendation 40	The Chairmen's Committee and the Council of Ministers should meet specifically for the purpose of exchanging information on the work programme of Ministers and the review programme of Scrutiny. The agenda for this meeting should be agreed in advance, and participants should be aware of their rôles in the discussion. On both sides, prior work should be undertaken to agree priorities and set timetables for the work/review programmes. Update meetings should be timetabled and held if changes to the programme have occurred or are likely to occur, in order that everyone is fully informed, and to ensure as far as possible that no abortive work is undertaken.
Recommendation 41	The Chairmen's Committee should review its processes for co-ordinating the work programme and prioritising and allocating resources, and clarify these procedures in the Code of Practice.
Recommendation 42	The updated draft Code of Practice should be lodged and

	debated without delay. In the event that no consensus can be reached on legal advice, this section should simply be determined by the States.
Recommendation 43	The question of who is accountable for Scrutiny must be considered and satisfactorily resolved.
Recommendation 44	The sub-committee recommends that Standing Orders should be amended to provide that the President of the Chairmen's Committee should be an ex-officio member of PPC to ensure good co-ordination between PPC and the Scrutiny function.
Recommendation 45	In order to allow peer review of the Scrutiny budget, the sub-committee recommends that the PPC should continue to hold the Scrutiny budget, and should take a stronger position on an appropriate budget level for Scrutiny, having regard to previous years' underspends. Secondly, a procedure should be agreed to resolve any difficulties that may be highlighted by the Accounting Officer.
Recommendation 46	The sub-committee recommends that the future Strategic Plan brought forward by the Council of Ministers should be a broad policy statement setting out the general overall policy direction of the Council without excessive detail on individual initiatives.
Recommendation 47	The sub-committee recommends that the Minister for Treasury and Resources should review the annual financial cycle to see if there is any scope to alter the current lodging and debate time for the Annual Business Plan.
Recommendation 48	The sub-committee recommends that there should be some form of informal "hustings" organised for members, particularly new members, before the formal appointment process in the States Chamber. This would enable new members to meet the candidates for Chief Minister – and those who might be nominated to be Ministers – before being required to make the appointment.
Recommendation 49	The sub-committee recommends that Standing Orders should be amended to require the Chief Minister designate to give formal notice through the States Greffe of his or her nominees as Ministers at least 24 hours before the appointments are made.
Recommendation 50	The sub-committee recommends that Standing Orders should be amended to provide that all candidates for ministerial office, even if uncontested, should produce a written statement so that their proposed policy as Ministers is set out in advance for the official record and recorded in Hansard.
Recommendation 51	The sub-committee recommends that the Chairmen's Committee and the Council of Ministers, in consultation with the Privileges and Procedures Committee, review the possible advantages and disadvantages of amending the States of Jersey Law 2005 and Standing Orders to allow Assistant Ministers, in

	certain circumstances, to participate in the Scrutiny function.
Recommendation 52	The sub-committee recommends that there should be a short adjournment of at least 4 hours between the appointment of Ministers and the subsequent appointment of the Chairman of the Privileges and Procedures Committee, the Public Accounts Committee and the Scrutiny Panels. This half-day adjournment could, in practice, mean reconvening the following day or, alternatively, meeting in the afternoon if the appointment of Ministers is concluded during a morning Sitting.
Recommendation 53	The sub-committee recommends that Standing Orders be amended to restrict the number of written questions that any one member can submit per States meeting to 3 written questions of a maximum length of 200 words each.
Recommendation 54	The sub-committee recommends that Standing Order 27 be amended to provide that the Greffier shall refer a Proposition lodged by a private member to the relevant Minister or Ministers so that the Ministers can consider whether or not to report to the States on the matter.
Recommendation 55	The sub-committee believes that the Council of Ministers should nevertheless give consideration to requesting all departments to identify fee increases currently made by Regulation so that appropriate amendments could be made to enable these to be made by Order in the future.

MACHINERY OF GOVERNMENT REVIEW

1. Introduction (Background)

- 1.1 On 21st November 2006 the States adopted a proposition lodged by Senator B.E. Shenton and agreed to request the Privileges and Procedures Committee to present to the States a report reviewing the first 12 months of ministerial government. The report was to include comment on the operation of both the Council of Ministers and the Scrutiny function examining the strengths and weaknesses of current processes and making any recommendations for improvement that PPC felt appropriate.
- 1.2 Following the adoption of an amendment lodged by the Privileges and Procedures Committee the full terms of reference of the review were agreed by the States (see Appendix A).

2. How review was undertaken

- 2.1 The Privileges and Procedures Committee decided to establish a small sub-committee to undertake the Review on its behalf. The sub-committee was chaired by the Committee Chairman, Connétable Derek Gray, and in order to ensure a balance between the Executive and non-executive, Senator Mike Vibert (Minister for Education, Sport and Culture) and Deputy Juliette Gallichan of St. Mary (member of a Scrutiny Panel) were appointed as members.
- 2.2 The sub-committee wrote to all members of the States seeking their views on 18th January 2007. Members were invited to respond by completing a questionnaire which set out the terms of reference or by giving evidence in person at one of the public hearings organised by the sub-committee. The sub-committee was somewhat disappointed with the response received from members as only a small number of questionnaires were returned, but the sub-committee nevertheless received oral evidence from a large number of members of the States at a series of public hearings held throughout March and April. A full list of those who gave evidence to the sub-committee is included in Appendix B.
- 2.3 The sub-committee received written evidence from a number of sources and gave careful consideration to all views expressed. A list of those who submitted written evidence is included in Appendix B.
- 2.4 The sub-committee has found that certain themes have emerged from the evidence and the sub-committee noted that strong views were expressed on 3 particular aspects of the new system: namely the rôle of Assistant Ministers, the Scrutiny function, and the operation of the Chairmen's Committee.
- 2.5 As can be seen from this report the sub-committee has made a number of recommendations but, in addition, has also raised a number of issues that it believes are worthy of further consideration. In some areas the sub-committee felt it was inappropriate, without further consultation, to make specific recommendations but trusts that those involved in these areas will take the necessary steps to respond to the points raised by the sub-committee.
- 2.6 The sub-committee has spent a considerable period of time hearing evidence and considering the written evidence submitted. The sub-committee therefore hopes that the Council of Ministers, the Chairmen's Committee and others will give full consideration to this report so that appropriate changes can be brought forward in the coming months.

3. The operation of the Council of Ministers

The terms of reference of this part of the Review were as follows –

to review the operation of the Council of Ministers and, in particular –

- (i) *the nature of matters listed on the agenda of meetings of the Council and the timeliness and effectiveness of decision-making;*

- (ii) *the extent to which decisions are taken by the Council as opposed to individual Ministers;*
- (iii) *the relationship between the Council and other members of the States;*
- (iv) *the provision of information to members of the States and the public about the work of the Council.*

3.1 The internal workings of the Council of Ministers

- 3.1.1 During its review the sub-committee did not receive extensive evidence concerning the operation of the Council of Ministers. In general the evidence received from the Chief Minister and other Ministers that was corroborated by Senior Officers, was that the Council of Ministers had worked well as a team since its establishment in December 2005. It is fair to point out that the sub-committee concluded its evidence-gathering before the summer recess of 2007 and events since that date relating to the position of the Minister for Health and Social Services have clearly indicated difficulties that were not apparent when the sub-committee took its initial evidence.
- 3.1.2 In relation to the internal workings of the Council of Ministers the sub-committee heard that Ministers felt that decisions have been made much more swiftly and efficiently under the ministerial system than under the former Committee system. In some cases individual Ministers were working closely together on particular topics and this led to much quicker decision-making than was possible under the old system. Ministers felt that decision-making was faster and it had been possible to gain value. There was also a feeling from Ministers that some cross-departmental strategy that was now possible would not have been easy to achieve under the Committee system.
- 3.1.3 The sub-committee undertook some analysis of the nature of matters listed on the agenda of meetings of the Council. It was noted that many significant items of policy that were the legal responsibility of one individual Minister had been taken to the Council for discussion since December 2005. This is understandable as Ministers no doubt wish to use the Council of Ministers as a form of “sounding board” for developing policies and strategy. The sub-committee believes that it is nevertheless important to remember that legal responsibility for decisions rests with individual Ministers and not with the Council as a whole; and the sub-committee believes it is important that individual Ministers do not use the Council as a means of taking difficult decisions, thereby shielding individual Ministers from proper accountability and responsibility for their decisions.
- 3.1.4 The analysis of matters listed on the Council’s agenda showed that there were many discussions on matters that affected more than one Minister and the ability of Ministers to discuss cross-cutting issues in this manner is clearly a significant advantage of the new system.
- 3.1.5 In summary, the sub-committee does not believe that any significant changes are required to the current operation of the Council of Ministers. Despite the difficulties referred to above, the Chief Minister was satisfied, when giving his evidence, that Ministers had become an effective team where differences of opinion are nevertheless able to be openly expressed even to the extent of speaking and voting against other Ministers in States’ debates. In light of recent events relating to the position of the Minister for Health and Social Services, the sub-committee nevertheless believes that the current procedures relating to the dismissal of Ministers need to be reviewed and makes recommendations on this matter later in this Report.

3.2 The nature of matters listed on the agenda of the Council of Ministers

- 3.2.1 The areas of concern relating to the operation of the Council of Ministers as expressed to the sub-committee related almost exclusively to the manner in which the Council communicated with other members of the States. A number of members giving evidence to the sub-committee who were not Ministers expressed the view that the Council was too secretive and viewed by some as a form of “inner elite”.

- 3.2.2 In examining the agendas of the Council the sub-committee had some concern that there were items presented to the Council exclusively that could perhaps have been shared more widely, for example, the Annual Report of the Medical Officer of Health or the Building a Safer Society Annual Report. Although the recommendations and actions in these reports do impact on the work of Ministers it perhaps only enhances the concern of other members about the workings of the Council when “general” reports of this nature are not shared at the outset with all members.

Recommendation 1 The sub-committee recommends that where reports are of interest to all States members and are not confidential to the Council of Ministers, then presentations of them should be made to all members and not just to the Council.

- 3.2.3 The Comité des Connétables has advised the sub-committee, however, that there is a positive relationship between the Council of Ministers and the Comité, as the Chairman of the Comité attends all Council meetings by invitation as an observer. This has enabled the Connétables to comment on issues which affect ‘local’ government in the Parishes and to raise relevant matters with the Council of Ministers. The Chairman had been able to report to the Comité des Connétables on any issues addressed by the Council, and the Chief Minister has also attended a number of meetings of the Connétables. This has provided a vital link between the Parishes and the Council, and the Comité would welcome the attendance of the Chairman at Council meetings to be formalised so as to become a permanent feature to ensure the good relationship continues.
- 3.2.4 In considering whether to continue or formalise this arrangement, the Council of Ministers would need to accept that it does not appoint the Chairman of the Comité, that person is appointed by the Connétables. Indeed, the Connétables play an important part in the scrutiny function at this time, with 5 Connétables being involved, and it is possible that a future Chairman of the Comité might be a Chairman of a Scrutiny Panel, for example, rather than the current position where the Chairman is Assistant Minister to the Chief Minister.
- 3.2.5 In formalising such an arrangement, the Council of Ministers will need to review the criteria surrounding this issue, as there may be other office-holders of equal importance who should also be permitted to attend as an observer.

Recommendation 2 The sub-committee recommends that the Council of Ministers review how it liaises with the Comité des Connétables.

3.3 The provision of information by the Council of Ministers

- 3.3.1 Many members of the States who were not Ministers expressed significant concern about the degree of communication given to States members by the Council of Ministers. This concern was expressed not only by members who are not in the Executive but also by certain Assistant Ministers (further discussion of the concerns of Assistant Ministers is given in a later section). Members were particularly concerned that since the introduction of ministerial government there have been occasions when members had learnt about new policy initiatives or decisions in the media. One member giving evidence to the sub-committee commented that communication from the Council related only to trivial matters and not the most important decisions.
- 3.3.2 The sub-committee noted that significant efforts have been made by the Council since December 2005 to improve communication with other States members. The Part A Minutes of the Council have always been circulated to other members once signed and, because of the inevitable time delay for this, the Council instituted a system some months ago of sending a summary of the decisions on Part A items prepared by the Committee Clerk the day after each Council meeting. The sub-committee recognises that this is a positive step forward although, inevitably, the majority of substantial items discussed by the Council are often listed on the B Agenda. Quite recently the Council instituted a new system of summarising the principal B items for discussion on the face of the A Agenda and again the subcommittee recognises that this is a positive step forward.

- 3.3.3 The Chief Minister informed the sub-committee that he was extremely keen to ensure that all members were properly informed about the work of the Council and the regular update meetings by Ministers that are now being held during the lunch adjournment on certain States' sitting days should also be of benefit. Not all States members are content with this arrangement and consequently not all members attend.
- 3.3.4 The sub-committee recognises that it is an inevitable consequence of the new system that some discussions of the Council of Ministers must remain confidential and Ministers will often be aware of matters that cannot initially be shared with all members. It is simply not possible or desirable for all Executive business to be conducted in public.

<p>Recommendation 3 The sub-committee recommends that the Council of Ministers should keep items listed on the B Agenda to the strict minimum and should always err on the side of openness in case of any uncertainty about whether an item should be taken as Part A or Part B. Every effort should be made to communicate forthcoming discussions and the subsequent decisions with all members of the States, and significant policy decisions should always be notified to other members of the States before they are released to the media. In order to ensure information is as accessible as possible, the Council of Ministers should ensure that Part B items are recorded in Part A minutes once a decision has been taken so that members are advised of what has been decided. There is also the facility to divide the record of an item between Part A and Part B of the minutes where residual confidential matters remain.</p>

4 The rôle of Ministers and Assistant Ministers

The terms of reference of this part of the Review were as follows –

to consider the rôle of Ministers and Assistant Ministers and, in particular –

- (i) the relationship between Ministers and the Council of Ministers;*
- (ii) the relationship between Ministers and Assistant Ministers;*
- (iii) the timeliness and effectiveness of decision-making by Ministers and the manner in which ministerial decisions are recorded and disseminated;*
- (iv) the level of administrative support available to the Council of Ministers, Ministers and Assistant Ministers.*

4.1 Rôle of the Chief Minister

- 4.1.1 The rôle of the Chief Minister was not referred to directly in the terms of reference of the review but the sub-committee believed it was appropriate to consider how the rôle had developed since December 2005.
- 4.1.2 The sub-committee noted that the rôle of the Chief Minister is something of a paradox under the new system as introduced in December 2005. In some ways the rôle is an extremely important and demanding one whereas, in other respects, the Chief Minister has very little personal executive responsibility or authority.
- 4.1.3 When giving evidence to the sub-committee, the Chief Minister himself stated that the rôle was much as he had expected and had possibly exceeded his expectations. He regarded his primary rôle as being to lead the Council of Ministers and ensure that all policies were approved and implemented in accordance with the timescales laid down. He regarded it as part of his rôle to ensure that the Strategic Plan was delivered by Ministers and he did this through leadership and motivation. He chaired the Council of

Ministers and assisted it to reach a cohesive decision on issues. He also had a personal function to represent Jersey internationally.

- 4.1.4 It is clear to the sub-committee that the rôle of Chief Minister is an extremely busy one, even though the actual executive functions of the Chief Minister for statutory purposes are limited. Difficult political issues frequently involve a discussion with the Chief Minister and the sub-committee also heard evidence that many individuals and bodies in the Island seek meetings with the Chief Minister on a range of issues. It is, perhaps, inevitable that people want to “go to the top” in Jersey to seek the views or support of the Chief Minister on particular issues.
- 4.1.5 Despite a perception for some members of the public that the Chief Minister is too powerful, several people giving evidence to the sub-committee expressed concern about the very limited powers of the Chief Minister over other Ministers. The Chief Minister himself expressed some concern that his options in relation to minor disagreements with Ministers were very limited. There is no sanction between doing nothing and the more radical option of seeking the dismissal of the Minister concerned for matters such as a breach of the Ministerial Code.
- 4.1.6 The sub-committee noted that the various decisions taken by the States in the lead up to the introduction of Ministerial Government had very severely restricted the powers of the Chief Minister. Unlike in other jurisdictions where the Prime Minister or Chief Minister might have the ability to hire and fire Ministers there is, of course, no such ability for the Chief Minister in Jersey. The Chief Minister is required to work with a team of Ministers appointed by the States, some of whom may not be his or her preferences. In addition, the Chief Minister cannot dismiss a Minister as this power is reserved to the States as a whole. Although the sub-committee believes that the current statutory provisions should be kept under review in the coming years, it is probably too early to suggest any radical changes to the current appointment and dismissal procedures. The sub-committee nevertheless noted with interest that in the Isle of Man the initial system of appointment and dismissal of Ministers by Tynwald has now been replaced with the more traditional system of allowing the Chief Minister to appoint and dismiss, as this was felt to give greater accountability to the Chief Minister for the actions of Ministers.
- 4.1.7 In relation to the issue of discipline for Ministers the sub-committee believes that certain minor changes could be introduced. As mentioned above, the Chief Minister himself expressed concern that there is currently no sanction between doing nothing and dismissing a Minister in the event, for example, of a minor breach of the Ministerial Code. The sub-committee has struggled to identify any appropriate alternative to the current arrangements as it would not seem appropriate to grant the Chief Minister power to suspend a Minister in these circumstances. Some formal written reprimand may nevertheless be possible in such cases.

Recommendation 4	The sub-committee recommends that, in cases of breach of the Ministerial Code that do not merit dismissal, the Chief Minister should issue a formal written reprimand to the Minister concerned and present this to the States Assembly for information. The issue of such a formal written reprimand would put on record the disapproval of the Chief Minister, supported by a majority of Ministers, in relation to the conduct concerned; and would be available as a formal record if further concern about the Minister’s conduct occurred at a later date. If the Minister concerned had been asked to apologise, details of any apology given could also be recorded in the same document when presented to the Assembly.
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- 4.1.8 The sub-committee had concluded its evidence-gathering when the events of the summer of 2007 relating to the Minister for Health and Social Services occurred. The sub-committee has nevertheless considered the lessons to be learnt from these events.
- 4.1.9 The sub-committee does not believe it is satisfactory that a Minister should be able to continue performing his duties after the Chief Minister has lodged a Proposition for his or her dismissal. Once the relationship between a Minister and his or her ministerial colleagues has broken down to the extent that

the Chief Minister is seeking the dismissal of the Minister concerned, it seems inappropriate that the Minister, who may have extensive statutory powers and duties, should continue to carry out his duties, but should instead be suspended until the States make a decision on his/her dismissal.

Recommendation 5 The sub-committee recommends that the appropriate legislation should be amended to provide that once a proposition for the dismissal of a Minister is lodged by the Chief Minister in accordance with the statutory requirements, the Chief Minister should, supported by a majority of Ministers, be empowered to suspend the Minister concerned from office pending the States debate on the dismissal. In these circumstances, the Chief Minister himself or herself, or another Minister nominated by the Chief Minister, would fulfil the functions of the suspended Minister pending the debate. If the States were to reject the dismissal proposal, the suspended Minister would immediately resume his or her duties.

4.2 Relationship between Ministers and the Council of Ministers

4.2.1 Reference has already been made in the previous section to the relationship between Ministers and the Council of Ministers. It is clearly a matter of judgement for Ministers to decide when policy matters should be brought to the Council of Ministers. Similarly, it is on occasions a matter of judgement for a Minister, no doubt after consultation with the Council of Ministers, to know which policy matters are sufficiently important to bring to the States for debate. The sub-committee believes that since the introduction of ministerial government Ministers have, in general, made the right decisions about what policy issues should be brought to the States for consideration.

4.2.2 In considering the general rôle of Ministers, the sub-committee notes that it is an extremely demanding rôle and all Ministers giving evidence to the sub-committee pointed out that they spent very long hours on their ministerial duties. In addition, with the introduction of technology such as ‘Blackberries’, Ministers can find themselves “on duty” when they are out of the Island on business and even on annual leave. The fact that the rôle of Minister is a demanding one is not surprising and is an inevitable consequence of moving from the previous Committee system to a ministerial system with the concentration of all executive responsibility for one department in one person, albeit assisted by one or two Assistant Ministers. The sub-committee does not believe it is possible to make specific recommendations relating to the manner in which Ministers undertake their duties, but recommends that all ministerial departments ensure that proper schemes of delegation are in place to ensure that Ministers are only required to take the important policy decisions that should rightly be taken at political level. The sub-committee was, for example, surprised to note that certain applications under the Mental Health (Jersey) Law 1969 are referred to the Minister in person and the sub-committee can see no reason why this function could not be delegated to an appropriate officer under the provisions of Article 28 of the States of Jersey Law 2005 relating to the delegation of functions.

4.3. The rôle of Assistant Ministers

4.3.1 Evidence relating to the rôle of Assistant Ministers represented by far the second largest area of concern expressed to the sub-committee after concerns relating to the Scrutiny function and the Chairmen’s Committee. The sub-committee received evidence from a number of Assistant Ministers and heard a wide range of views from almost all members of the States who gave evidence about this rôle.

4.3.2 It is clear to the sub-committee that, despite certain steps taken by Ministers during the last 18 months, the rôle of Assistant Ministers is unclear, varied and there is great uncertainty among States members (including some Assistant Ministers themselves) about the exact purpose and function of the position.

4.3.3 The sub-committee’s research into the background to ministerial government through the various reports, propositions and legislation indicates that the position of Assistant Ministers was one that had, perhaps, too little thought before ministerial government was established.

- 4.3.4 It is clear from the various documents that significant work went into designing the Departmental structure and into defining the rôle of Ministers. Furthermore, the establishment of the Shadow Scrutiny function enabled much valuable preparation work to be undertaken in relation to the establishment of the Scrutiny function. Little appears to have been done to define the precise purpose of the position of Assistant Minister. In P.122/2001, Machinery of Government: proposed reforms (the first proposition relating to the decision to move to ministerial government in September 2001), the then Policy and Resources Committee wrote in the report that *“the Committee believes that the rôle of the Minister and Assistant Ministers will develop over time, and it is therefore difficult at this stage to provide detailed lists of their responsibilities.”* In Appendix 5 to that proposition a very brief description of the rôle of Assistant Minister was given. This stated that the rôle of an Assistant Minister would be to assist a Minister in exercising responsibility for a department of government. Three responsibilities were listed, namely to –
- provide advice and assistance to a Minister in relation to his/her executive work;
 - assist the Minister by, for example, taking the lead under her or his direction in a given area of work. This could include acting under delegated authority;
 - deputise for the Minister in her or his absence.
- 4.3.5 The rôle of Assistant Minister is, of course, an entirely new one under ministerial government and some of the confusion that has arisen may have come from the fact that certain members saw it as similar to a Vice-President of a Committee under the previous system. It is clear to the sub-committee that, although there may be some parallels with the rôle of Vice-President, the position is, in fact, quite different. Through the evidence received it also became clear that some Assistant Ministers who had served on the former Committee in the same department have found it difficult to adapt to the change in rôle.
- 4.3.6 The sub-committee noted that the rôle and responsibilities of Assistant Ministers varied significantly between the different ministerial departments. In some cases very defined areas of ministerial responsibility have been delegated almost entirely to an Assistant Minister and the Assistant Minister concerned acts almost as the “Minister” for those areas. In other cases an Assistant Minister acts as a general assistant to the Minister offering support and guidance in all areas of ministerial responsibility. There are, nevertheless, certain Assistant Ministers whose rôle appears to be less defined.
- 4.3.7 The sub-committee heard evidence from Deputy Alan Maclean about his rôle as Assistant Minister in the Economic Development Department. The sub-committee also heard from the Minister for Economic Development himself about the manner in which he worked with his two Assistant Ministers.
- 4.3.8 Deputy Maclean explained that he has been given very defined areas of responsibility and the Minister has delegated full responsibility to him for the Harbours and Airport. In a similar way the second Assistant Minister for Economic Development, the Connétable of St. Lawrence, dealt with agricultural matters, Sunday Trading and the Finance Industry. In his rôle in relation to the Harbours and Airport, Deputy Maclean took full responsibility for dealing with all operational matters, dealing with the press and answering questions in the States in relation to the Harbours and Airport. In addition to the defined responsibilities of the Assistant Ministers at Economic Development the sub-committee was told that there is good communication between the Minister and his two Assistants with weekly meetings and structured agendas. Both Assistant Ministers felt confident to deal with issues in the Minister’s absence across the entire portfolio of Economic Development.
- 4.3.9 The rôle of the Assistant Ministers at Economic Development was starkly contrasted with public evidence of the then Assistant Minister of Health and Social Services, Deputy Celia Scott Warren. It was clear to the sub-committee that Deputy Scott Warren had not been given any significant responsibility at Health and Social Services and was uncertain about her rôle. She stated that she had not, for example, been involved to any real extent with the development of the New Directions strategy for the future of the Health Service in Jersey.
- 4.3.10 The sub-committee heard significant concern from some Assistant Ministers about their current rôle.

Some felt that they were not sufficiently involved in departmental decision-making and felt that this caused difficulty when they were required to stand in for the Minister in his or her absence. The sub-committee believes this is unfortunate as an Assistant Minister, in addition to his or her other dedicated responsibilities, should be able to have a rôle to ensure that Departmental business is being properly carried out, much as Committee members did in the old Committee system. Some Assistant Ministers referred to the close relationship that existed between the Minister, the Chief Officer and other senior departmental officers and felt that Assistant Ministers did not have the same level of officer support.

4.3.11 Although some Assistant Ministers were invited to attend the Council of Ministers when issues that they were involved with were being discussed, other Assistant Ministers commented they did not frequently attend the Council of Ministers and were therefore out of touch with the activities of the Executive as a whole. At least one Assistant Minister expressed the view to the sub-committee that he thought that Assistant Ministers should be able to attend all Council of Ministers meetings as a matter of right as observers if they wished to do so. The sub-committee does not believe that this would be feasible or desirable but does believe that Ministers should take care to ensure that Assistant Ministers are invited to attend on matters relating to the relevant ministerial portfolio when the Assistant Minister has some involvement.

4.3.12 The sub-committee noted that no Assistant Minister had initially been appointed to serve two Ministers, although this happened in the summer of 2007 when Deputy Le Fondré was appointed as Assistant Minister to both the Chief Minister and the Minister for Treasury and Resources. The use of Assistant Ministers in this way appears to the sub-committee to be a very useful means of improving communication between departments and, as long as the overall number of members serving as Assistant Ministers is not increased, the sub-committee believes it should be encouraged. The sub-committee heard that the current restrictions on allowing only two Assistant Ministers per Minister had also proved restrictive as it had, for example, prevented the Assistant Minister at Education, Sport and Culture with responsibility for Culture from being appointed as an Assistant Minister at Economic Development.

<p>Recommendation 6 The sub-committee recommends that more use should be made of Assistant Ministers appointed to more than one Department and that the current limit of 2 Assistant Ministers per Ministry should be removed, albeit with no change to the overall maximum number of Assistant Ministers.</p>

4.3.13 It became clear to the sub-committee during the review that the rôle of Assistant Minister can be a relatively isolated rôle in the States. Ministers obviously meet regularly during Council meetings and on other occasions and are therefore aware of a range of matters across the various ministerial departments. Members of Scrutiny Panels are, by definition, part of a Scrutiny “team” and in addition to the work on their own Scrutiny Panel also have contact with other Scrutiny members in a variety of different meetings. Assistant Ministers are, by contrast, quite isolated, particularly in departments where there is only one Assistant Minister. There is no collective rôle for Assistant Ministers although the sub-committee heard that there had been some attempt to organise some formal meetings for them on topics such as the Annual Business Plan. The sub-committee also heard that there had been some private meetings organised by the Assistant Ministers themselves to discuss their rôle.

4.3.14 Despite concerns about the possible creation of an Executive voting “block” of Ministers and Assistant Ministers by some opponents of ministerial government before its introduction, experience since December 2005 has shown that this is not the case. An examination of voting records shows that Assistant Ministers have normally voted with their own Minister on matters brought forward by that Minister but, on matters brought forward by other Ministers, Assistant Ministers appear to vote entirely as individual members of the States and not as members of the Executive. Deputy Gorst, at the time Assistant Minister in the Chief Minister’s Department, summarised this in his evidence to the sub-committee by stating that in voting in the Assembly he always voted as “Deputy Ian Gorst of St. Clement” and not as an Assistant Minister unless the matter related to his own area of executive responsibility.

- 4.3.15 The sub-committee received evidence that some action had been taken in early 2007 to address increasing concerns being expressed by some Assistant Ministers about their rôle. The Assistant Ministers had been invited to meet the Chief Executive to the Council of Ministers and a checklist had subsequently been drawn up to assist discussion on the relationship between Ministers and Assistant Ministers. All Ministers had been asked to discuss this with their Assistant Ministers and it is understood that the majority did that. A copy of the checklist is attached at Appendix C, together with an example protocol between the Minister for Education, Sport and Culture and his Assistant Ministers.
- 4.3.16 Having examined the statutory provisions relating to Assistant Ministers it is understandable that there is some potential for confusion about their rôle. Understandably, in the ministerial system, formal legal responsibility and accountability must rest with the 10 Ministers who are defined as corporations sole in the States of Jersey Law 2005. Any activities undertaken by an Assistant Minister on behalf of a Minister are therefore, in Law, the responsibility of the Minister himself or herself. The manner in which Assistant Ministers delegate for Ministers in their absence is also somewhat unclear. The sub-committee heard that, in practice, most Assistant Ministers deputised for their Minister when he or she was unwell or out of the Island. In most cases this extended across the entire spectrum of ministerial responsibility although there are certain matters that cannot, in law, be delegated to an Assistant Minister. These include, importantly, the ability to make Orders and, in the absence of a Minister, these must be made by the Chief Minister or another Minister appointed by the Chief Minister to undertake the functions of the absent Minister.
- 4.3.17 Although Assistant Ministers appear to be deputising for Ministers in their absence as described above this appears to run contrary to the original intention of the States of Jersey Law 2005 (Article 27(2)) which specifies that, during the temporary absence or incapacity of a Minister, the Chief Minister may personally discharge the functions or designate another Minister to discharge the functions of that Minister. There is therefore an implication that the Assistant Ministers do not have a rôle in these circumstances. The sub-committee noted that during the lengthy incapacity of the Minister for Health and Social Services in the spring and early summer of 2007 the majority of Ministerial Decisions were signed by the Chief Minister and not by the Assistant Minister for Health and Social Services.
- 4.3.18 Some concern was expressed to the sub-committee about the rôle of Assistant Ministers in answering questions in the States Assembly. It was noted that Assistant Ministers do this in two separate circumstances.
- Assistant Ministers have answered questions when their Minister is absent from the Assembly;
 - Assistant Ministers can be asked by their Minister to answer questions on matters delegated to them, for example, the Assistant Minister for Home Affairs who has answered questions on firearms issues, or the Assistant Ministers for Economic Development on matters delegated to them.
- 4.3.19 The sub-committee noted concern that a Minister was, effectively, bound by answers given on his or her behalf by an Assistant Minister. The sub-committee was therefore pleased to note that Assistant Ministers had not answered ministerial questions without notice in a Minister's absence. When a Minister due to answer on the rota has been absent the rota has been amended. It is nevertheless difficult to see what alternative could be implemented in a Minister's absence to deal with oral questions with notice. It would appear unfair to other members to disallow questions simply because a Minister was absent. In the case of lengthy absence through illness, for example, this could prevent questioning for many weeks. A second alternative, to require another Minister to answer for the absent Minister, would appear equally unsatisfactory as that Minister would in practice, be less aware of issues in the relevant ministerial department than the Assistant Minister. This second option would also undermine the rôle of Assistant Minister. In the circumstances the sub-committee sees no realistic alternative to the present convention that an Assistant Minister answers oral questions with notice in the Minister's absence.
- 4.3.20 In relation to Assistant Ministers answering questions on delegated matters at the request of the Minister, the sub-committee heard concerns from some members that it could be frustrating for members that they could not hold the Minister himself or herself to account in these circumstances. Some giving evidence to

the sub-committee felt that, as Ministers had full statutory responsibility for their ministerial departments, it should be possible for members to question the Minister himself or herself and not be forced to direct questions to an Assistant Minister. The sub-committee appreciates these concerns.

Recommendation 7 The sub-committee recommends that Standing Orders should be amended to provide that a Minister, if present in the Assembly, should only be able to delegate the answering of an oral question with notice to an Assistant Minister with the consent of the questioner. This would ensure that members are not frustrated in their attempts to hold Ministers themselves to account if they wish to do so.

4.3.21 The rôle of Assistant Minister is undoubtedly evolving during the first period of Ministerial Government. The sub-committee nevertheless believes it is important that the rôle is clarified to avoid the type of concerns and misunderstandings that have arisen for some Assistant Ministers. The sub-committee therefore makes the following general recommendations in relation to Assistant Ministers.

Recommendation 8 The sub-committee recommends that Assistant Ministers should only be appointed if the Minister concerned has a meaningful rôle for them to undertake. It is clear to the sub-committee that Assistant Ministers who have been given specific, well defined, delegated responsibility, have found their rôle more meaningful than those whose rôle is not clearly defined.

Recommendation 9 The sub-committee recommends that ongoing delegations to Assistant Ministers, both in terms of general oversight and statutory functions, should be made clear on each department's website, so that the public and States members know who is dealing with which issues on a day-to-day basis.

Recommendation 10 The sub-committee recommends that the Council of Ministers, in consultation with Assistant Ministers, the Privileges and Procedures Committee and others, should give consideration to the appropriate arrangements that should be put in place when a Minister is absent. This review should clarify the rôle of the Assistant Minister in these circumstances. If necessary, appropriate amendments can then be brought to the States of Jersey Law 2005 and the Standing Orders of the States to clarify the rôle of an Assistant Minister in a Minister's absence.

Recommendation 11 The sub-committee recommends that the scope of matters that can be delegated to Assistant Ministers should be reviewed. Subject to the receipt of appropriate legal advice the sub-committee sees no reason, for example, that Assistant Ministers should not be able to make Orders under specific legislation where other statutory responsibilities have already been delegated to them, subject to appropriate limitations.

4.4 Recording of ministerial decisions

4.4.1 The sub-committee heard little evidence concerning the recording of ministerial decisions but, in accordance with the review's agreed terms of reference, decided to examine this matter briefly.

4.4.2 With the abolition of the old Committee system the standardised recording of Committee Minutes by a dedicated team of Committee Clerks ceased. Under ministerial government, ministerial decisions are recorded by Departments on a standard Decision Summary template. This Decision Summary is normally accompanied by a Written Report and by other supporting documents as appropriate.

4.4.3 The sub-committee was informed that draft Decision Summaries are normally drafted by departmental officers before the matter is placed before the Minister for consideration. These draft documents are uploaded electronically to the "Livelihood" document management system. They are then sent in draft

through the electronic workflow to the States Greffe for “Quality Assurance”. This is undertaken by the Committee Clerks’ section with oversight by the Greffier and Deputy Greffier of the States.

- 4.4.4 The sub-committee was notified that a significant number of proposed alterations to the draft Decision Summaries are made by the States Greffe at this stage. These comments can relate to matters such as incorrect references to procedural aspects, simple typographical and spelling errors and more serious matters such as a decision that might be ultra vires. The sub-committee recognises nevertheless that the checking stage by the States Greffe is useful and should continue.
- 4.4.5 Despite the checking process it is not, of course, possible to expect the same sort of consistency in style that existed in Committee Minutes as each department prepares its own Ministerial Decision Summaries and in some large departments, a number of different officers are involved in the process. The sub-committee heard that in some departments the preparation of Ministerial Decision Summaries is undertaken by relatively junior staff, and the sub-committee believes it is important that, if this happens, a rigorous checking process is put in place for more senior officers to check the Summaries before they are signed by the Minister. The sub-committee does not believe that a Decision Summary has yet been challenged in a court case but, as happened with Committee Minutes, it is inevitable that this will happen in due course and it is important that the recording is accurate and comprehensive.
- 4.4.6 The sub-committee has some concern about the audit trail for ministerial decisions. Each Decision Summary has its own unique reference number and, with an on-going matter, there appears to be no back-referencing to earlier decisions on the same matter. Part A Decisions are published on the States website in a long list but without specific indexing. In future years it may be difficult, when the number of Ministerial Decisions is greater, to follow the decision trail over a lengthy period. In addition, there is often little information given about the background to a decision and not always a record of informal discussions that led up to the final decision. One witness commented to the sub-committee that, in his view, it was difficult from the Ministerial Decision to ascertain the various options that had been considered by the Minister in reaching his or her eventual decision.
- 4.4.7 The sub-committee recognises that the move from a Committee system to Ministerial Government inevitably had the consequence that the previous recording system could not continue. It is nevertheless, equally important under the new system that full and accurate information is available about decisions taken so that Scrutiny and others can be aware of the reasons for decisions.

<p>Recommendation 12 The sub-committee recommends that Ministerial Decision Summaries be clear, robust and comprehensive, and are cross-referenced with earlier decisions and discussions, and that they must be accompanied by all appropriate background papers and reports of relevance to ensure that the decision can be seen in context.</p>

4.5 Administrative support available to Ministers.

- 4.5.1 In relation to administrative support for Ministers, the sub-committee heard that this was variable. In relation to the Council of Ministers, the sub-committee learnt that there is little support at what might be described as the central policy level. Although the Chief Minister’s Department has a significant headcount (193 on 31st December 2006) the sub-committee noted that the majority of these staff are employed in operational areas such as Human Resources or the Information Services Department. In addition, a number are employed in specialised areas such as economics advice or statistics. Support for the Council of Ministers therefore falls on a very small number of staff and the sub-committee is concerned that the importance of the work of the Council is not recognised in the current structure. The sub-committee nevertheless recognises that it is difficult for the Chief Minister’s Department to seek additional staffing at a time when it no doubt wishes to take a lead on showing financial discipline at a time of budgetary constraints.

<p>Recommendation 13 The sub-committee recommends that the Chief Executive to the Council of Ministers should examine ways of expanding the policy support available to the</p>
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Council of Ministers, possibly drawing on expertise already available in other departments.

- 4.5.2 The sub-committee heard from both the Chief Minister and the Chief Executive to the Council of Ministers that support available to the Chief Minister is very limited. The Chief Minister informed the sub-committee that he obtains very good assistance from the Chief Executive and other senior staff in his department, but these are inevitably busy people with many other duties, in particular the Chief Executive who clearly has a very demanding rôle as head of the Public Sector. The only secretarial support available to the Chief Minister is the shared use of the secretarial support for the Chief Executive. The sub-committee believes that as Jersey's political "leader" it is essential that the Chief Minister receives adequate support. As with the recommendation above relating to the Council of Ministers, the sub-committee appreciates the political sensitivities for the Chief Minister of seeking increased manpower but the sub-committee believes the rôle of the Chief Minister requires proper administrative support.

Recommendation 14 The sub-committee recommends that the Chief Minister's Department should investigate the creation of a private secretary type support rôle for the Chief Minister. This would be a full-time rôle that might involve a civil servant of approximately Grade 9-11, who would be responsible for undertaking basic research for the Chief Minister, assisting with preparation for official duties and attending meetings with the Chief Minister. In addition, the person appointed could undertake more basic functions such as diary planning for the Chief Minister.

- 4.5.3 The sub-committee believes that the facilities used by the Chief Minister are not of the standard that might be expected of Jersey's political leader. The Chief Minister has an office on the 4th floor of Cyril Le Marquand House with access through a busy general office area. These facilities would, for example, make it difficult for the Chief Minister to receive an overseas visitor in the manner that might be considered appropriate. Once again, the sub-committee recognises that it would be difficult to justify the creation of expensive new facilities for the Chief Minister but hopes that, as part of any overall review of the States property portfolio, some better and more appropriate facilities for the Chief Minister may be identified.
- 4.5.4 The support provided to Ministers appeared to the sub-committee to be quite variable. Some Ministers have full office facilities provided in their department and some informed the sub-committee that they spent considerable periods of time in these facilities. Few Ministers have any dedicated officer support and most share access to secretarial support with their Chief Officer.
- 4.5.5 The sub-committee believes it is important for Ministers to recognise and respect the distinction between the political rôle of the Minister and the administrative rôle of the Chief Officer and other senior officers who are responsible for managing the Department. Partly for this reason the sub-committee recognises that it would be inappropriate, and no doubt unacceptable, to suggest that each Minister should be allocated a secretary or assistant to provide administrative and/or secretarial support. Furthermore, each Minister has his or her own way of working and these methods are no doubt variable between Ministers. As a result, the demands of the Minister in a Department may vary over a period of years depending on the identity of that Minister. However, it is important that departments should provide some assistance to Ministers, perhaps by sharing administrative support with officers, although the sub-committee heard no specific evidence that this was not happening at the present time. The sub-committee is of the view that Ministers and Assistant Ministers need additional support, as appropriate, but recognises that this places an additional burden on departments, and that in most cases, no account has been taken of these additional demands. This matter should be kept under review.

5. The operation of the Scrutiny function (Scrutiny Panels)

- 5.1 *The terms of reference of this part of the Review were as follows –*

to review the structure and operation of the Scrutiny function (namely the Scrutiny Panels and the

PAC) and, in particular –

- (i) *whether the panels and the PAC are fulfilling their terms of reference as set out in Standing Orders and whether those terms of reference remain appropriate;*
- (ii) *the relationship between the panels/PAC, Ministers and the Council of Ministers;*
- (iii) *whether the present allocation of subject areas to the 5 Scrutiny Panels is appropriate;*
- (iv) *whether the level of financial and manpower resources allocated to the Scrutiny function is appropriate and whether adequate financial control is in place;*
- (v) *the degree and nature of co-operation received from Ministers and Departments;*
- (vi) *whether the procedures governing the manner in which the Scrutiny function is able to review draft policies and draft legislation are appropriate;*
- (vii) *the impact of the establishment of the Scrutiny function on the workload of other States Departments, including the non-Executive Departments.*

Note: The work of the PAC is considered in Section 6.

5.2 Introduction

- 5.2.1 The general overall impression of Scrutiny during its first year of operation is that Members, officers and departments have been working very hard, and some very useful and informative reports have been produced, although the building of fruitful relationships to include mutual trust is still developing. The independence of Scrutiny is seen to be important, as well as its rôle as critical friend, without interference from Ministers or the Council of Ministers.
- 5.2.2 In truth, a full cycle of Scrutiny has not yet occurred, taking in a full 3 year term reflecting the term of office of the Council of Ministers, and including the review of actions taken by a Minister in the fullness of time following the conduct of a Scrutiny review.
- 5.2.3 There are teething problems, however, as detailed comments below will show. The States approved ‘Shadow Scrutiny: arrangements and approval of Chairmen and members’ (P.186/2003) on 9th December 2003. The Appendix of that proposition set out the objectives for Scrutiny and in particular this included “*to develop the practical arrangements for a system of Scrutiny appropriate for Jersey*” and “*to develop guidelines governing the Scrutiny process*”. That Appendix further made it clear that the purpose of shadow Scrutiny was not to provide an opposition to States policy; further personal or political agendas; or examine minor matters, or other matters prejudicial to the public interest.
- 5.2.4 The Shadow Scrutiny phase did result in protocols and guidelines being introduced, which were eventually subsumed into the Draft Code of Practice on Scrutiny, awaiting re-lodging at the time of writing.

5.3 What is Scrutiny?

- 5.3.1 Despite the initial work undertaken by Shadow Scrutiny, there remains considerable confusion as regards the fundamental question “**What is Scrutiny?**” Without the solid foundation of an agreed definition of Scrutiny, there is a divergence of views and practices leading to bewilderment and frustration from all quarters of the Assembly.
- 5.3.2 Part of the question relating to “What is Scrutiny?” has been the question “What is government?” The States of Jersey Law 2005 was drafted so as to make each Minister accountable, and therefore the Minister is ultimately responsible for all decisions which are taken in relation to the laws and policies which fall within his or her area. A Scrutiny Panel has no Executive rôle because its function is to scrutinise, and if it uncovers evidence which points to the decisions of the Minister (or the policies or legislation he or she administers) to be faulty, then it is for the Panel to expose the matter through debate by the States Assembly. While all members of the Assembly are in a position to approve or reject policy or legislation in draft when they are considered by the States Assembly, once approved their administration rests with the Minister. This is a point which has been a matter of some discussion and

may be a feature of the transitional phase between a Committee system of government and a Ministerial system. Clearly there are a range of views among members of the States at present. Further consideration is given to the question “What is government” in Section 8.

5.3.3 So what are the views on what Scrutiny is?

5.3.4 The following are a selection of the views expressed by individual Scrutiny Chairmen and Scrutiny members during one-to-one interviews. It is not thought likely that all members involved with Scrutiny would agree with all the statements –

1. Scrutiny has a dual rôle, relating to both the decision itself and the decision-making process.
2. Scrutiny should review new legislation or policy and advise or guide the Minister.
3. Scrutiny should be involved in policy development.
4. Policy development is the most important rôle of Scrutiny.
5. Scrutiny should not bring forward alternative policy.
6. Scrutiny should bring amendments to Projets and draft legislation where necessary.
7. Scrutiny should hold the executive to account.
8. Scrutiny should oversee what the Minister does.
9. Scrutiny should be evidence-based.
10. Scrutiny should provide evidence from a different source to the ones the civil servants use to enable the Minister to evaluate the selected option.
11. Scrutiny should be about policies and not individuals.
12. Scrutiny must be allowed to examine any further issues, related to a review, which may arise in the course of the review that the Panel considers relevant.
13. Scrutiny should start from the moment when the Minister has an idea.
14. Scrutiny should become involved as early as possible, before decisions are made, so that they can add value.
15. Scrutiny should be given 7 days’ notice of decisions the Minister wishes to make.
16. Who scrutinises the scrutineers if they bring forward alternative policies?

5.3.5 The following are a selection of the views expressed by individual Ministers and Assistant Ministers during one-to-one interviews. Again, it is not thought likely that all Ministers and Assistant Ministers would agree with all the statements –

1. Scrutiny must scrutinise policy but is not there to develop policy.
2. Scrutiny should not develop alternative policy.
3. Scrutiny should not be ruled out of policy development, providing it is timely.
4. Scrutiny involvement in policy development is important.
5. Scrutiny could develop policy and strategy in an advisory capacity in a combined Committee/Ministerial system.
6. Scrutiny must review the Strategic Plan and States Business Plan.
7. There are opportunities for Ministers and Scrutiny to work together.
8. Scrutiny should not attempt to be a shadow Council of Ministers.
9. Scrutiny should not behave as an opposition.
10. Scrutiny involvement should start before a decision has been made.
11. Scrutiny should start when a Green Paper is issued.
12. Scrutiny should start after a decision has been made.

5.3.6 As can be seen there is clearly a significant divergence of views on whether Scrutiny should be involved in the development of policy or the development of alternative policy, and on when Scrutiny should commence. These are fundamental questions, and while there will always be some variation from case to case it has clearly led to considerable misunderstanding since December 2005 that there has been no shared understanding of these issues.

5.3.7 The sub-committee believes that, although it has been extremely useful to draw on experience of Scrutiny from other jurisdictions, a system of Scrutiny that suits Jersey’s political structure and culture must be

developed and used in the Island. In a largely non-party political system, with a long tradition of involvement for all members in some form of executive decision-making, it is not surprising that many involved in Scrutiny want to be involved in policy development at a very early stage, perhaps receiving confidential papers, etc. from the Minister. Although working alongside Ministers in this way might not be classified as ‘Scrutiny’ in some jurisdictions, it is clearly an activity that has worked well for some reviews in Jersey. There is, therefore, no reason why this form of Scrutiny cannot be carried out alongside reviews that are intended to hold Ministers to account in a more public way.

5.3.8 The Jersey experience has been that Panels operate differently, and that their methods of working have ranged from the critical friend, or peer review style, through to investigatory, and finally adversarial. The question is whether any of these methods of working are ‘wrong’ and whether, if each has its merits, Panels should continue to be able to operate in different ways, or one Panel may even adopt a different style for a particular review because that is seen to be more suitable. Certainly the Corporate Services Scrutiny Panel has worked as a critical friend adopting the peer review style, and has been able, through its advisers, to highlight areas of policy that needed amendment. As proposals are taken on board, the Panel becomes involved in the development of policy. The Environment Scrutiny Panel has also been involved in peer review, with meaningful exchanges of information taking place between the Minister for Planning and Environment and the Chairman of the Scrutiny Panel.

5.3.9 It is perhaps obvious to state that an adversarial way of working will not create a climate where a Panel will become engaged in policy development. The tensions in the relationship are too great to engender effective co-working. There are times when such a style may be appropriate, but it is clear that the relationship between the Panel and the Minister will be under greater strain, and, because it is human nature to do so, the scrutiny process itself and the exchange of information, etc. will be under careful review, possibly diluting the effort being put into the actual scrutiny review under way.

5.3.10 Rather than trying to determine exactly what scrutiny is, and then making all involved in scrutiny conform to a single rule about what scrutiny is, and how it should be undertaken, there may be more merit in deciding ‘What Scrutiny is **not**?’ If the States are content for scrutiny members themselves to have complete autonomy as to what scrutiny is, what they wish to review, to what level of detail, and at what cost, then this needs to be explicit. If there are parameters, then it needs to be clear when Panels move outside of the range of what is agreed, and there needs to be a mechanism to halt inappropriate scrutiny, perhaps through the Chairmen’s Committee or the PPC.

<p>Recommendation 15 The sub-committee recommends that the States should work to reach a shared understanding of what Scrutiny is there to do and when, and what scrutiny is <i>not</i>. The sub-committee believes that in the Jersey context this will include a variety of different forms of Scrutiny activity, ranging from involvement at the earliest stages of policy development to reviews of existing policy at a much later stage.</p>

5.3.11 The sub-committee would comment that scrutiny reviews must not be undertaken for political purposes. For example, one review mid-2007 involved 3 members of a political party and the perception was that the review was being used for political purposes. For the integrity of the scrutiny process, this situation should be avoided in the future.

<p>Recommendation 16 The membership of a Panel or Sub-Panel undertaking a review should not be heavily weighted in favour of a political party.</p>
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5.3.12 The sub-committee noted that Panels spent time considering a Minister’s general policy, for example by considering the ministerial decisions made during the previous period, by considering questions to be asked of the Minister, by reviewing propositions lodged by the Minister for debate. A number of regular items on certain Panel agendas give rise to these discussions. It can be argued that the Panel needs to shadow the work of a Minister in order to decide what reviews to undertake. However, the monitoring of the Minister’s activities day-to-day should not be undertaken at the expense of important reviews, such as the review major new policies of the Annual Business Plan or of draft legislation.

Recommendation 17 The sub-committee recommends Panels should analyse decisions, not the general activity of a Minister, and that a Scrutiny Panel should focus on conducting reviews by receiving/hearing evidence and obtaining advice. Panels should avoid old style ‘committee’ discussion.

- 5.3.13 Scrutiny has invested a significant amount of officer time on a Public Engagement Strategy, with the initial assistance of a public relations company (although this contract has now been concluded), producing a newsletter, issuing a Scrutiny Guide, co-ordinating a Citizenship Programme, and holding general Scrutiny meetings. It is nevertheless clear to the sub-committee that to date, the Scrutiny function has, with certain notable exceptions, failed to engage the people of Jersey in a significant way. Many ‘public’ hearings have been poorly attended and the majority of panel meetings have been held without any members of the public in attendance. It is unfortunate that access to the two scrutiny rooms in the States Building is difficult and this may discourage some members of the public from attending meetings. The sub-committee has not had the sense that pressure groups are engaging with the scrutiny process in any numbers, so it cannot be said that pressure groups are therefore acting on behalf of the public. The sub-committee noted that a Scrutiny Newsletter has been issued (and this will be repeated) to advise the public of what has been going on, and is useful to raise the profile of scrutiny, but this is a passive form of communication and does not engage the public in reviews.
- 5.3.14 The sub-committee believes that Scrutiny must make better efforts to engage with the public and publicise its work more effectively. This is of course, dependent on choosing review topics that are relevant and of real interest to the public. The sub-committee was, for example, surprised that, in view of the likely public interest in many matters relating to crime and justice in Jersey, the former Social Affairs Panel spent many months on the very narrow issue of the rôle of Centenier that attracted little public interest. Scrutiny has looked at the closure of two hospital wards affecting the elderly, but the overall topic of services for the elderly, in an aging society and in an environment where there is great pressure on all resources, including funding and land, has gone completely untouched.
- 5.3.15 The sub-committee notes that all Scrutiny reports are given out free of charge to the public. Some of these are lengthy documents, which are expensive to produce, and which may exceed what the public requires. Simplified leaflets focussing on the executive summary of the main report may be all that is required.
- 5.3.16 While the Communications Unit has been established for all departments to use, this service is chargeable for Scrutiny and the Privileges and Procedures Committee, and there is a perception amongst Scrutiny that this unit would not be able to provide the type of service it requires because the focus of its work is to support the Executive.

Recommendation 18 The sub-committee recommends that the Scrutiny function gives further consideration to the manner in which its public relations are handled to ensure that an effective solution is implemented whilst achieving value for money.

5.4 The structure of the Scrutiny function

- 5.4.1 The Scrutiny function comprises a Chairmen’s Committee with responsibility for co-ordinating Scrutiny, and, at the outset of 2006, 4 Scrutiny Panels. This was raised to 5 in December 2006 because too many areas were expected to be scrutinised by one of the panels, and Standing Orders now provide the following panels –
- (a) a Scrutiny Panel which is assigned the topics of corporate services, corporate policies and external relations (“corporate services”);
 - (b) a Scrutiny Panel which is assigned the topics of economic affairs and economic development (“economic affairs”);
 - (c) a Scrutiny Panel which is assigned the topics of education, sport and culture and home affairs

(“education and home affairs”);

- (d) a Scrutiny Panel which is assigned the topics of environment and technical services (“environment”);
- (e) a Scrutiny Panel which is assigned the topics of health and social services, social security and housing (“health, social security and housing”)

5.4.2 Each of the Scrutiny Panels may appoint sub-panels to undertake reviews. Standing Orders allow for a sub-panel to appoint a States member, who is not a member of the Scrutiny Panel or a Minister or Assistant Minister, to be a member of the Panel.

5.4.3 The sub-committee has reviewed how Panels undertake their work, and has noted the successful usage of sub-panels to undertake specific reviews. Sub-panels have been able to bring together members from different panels and other members who are not in the Executive who are not members of a permanent panel. The reviews have been clearly focussed on one particular issue and the sub-panels have been able to operate without the constraints of ‘general’ panel business. The sub-committee nevertheless noted that sub-panels are not able to present reports in their own name and some giving evidence pointed out that some tension had arisen when a main Panel had sought to amend a report prepared by a sub-panel.

Recommendation 19 The sub-committee recommends that Standing Orders be amended to allow sub-panels to present reports to the States in their own name. This recommendation is, in part, dependent on the outcome of the review of the Scrutiny structure referred to in Recommendation 20.

5.4.4 By contrast with the work of sub-panels, work carried out by Panels as a group tended more to behave in ‘Committee mode’ a problem that has perhaps been accentuated because of the involvement in the Scrutiny function of a number of members who had been Committee members in the old system of government before December 2005. Acting in this way involves receiving agendas and prepared papers, with some Panels considering the policies of the departments covered, discussing the views of those assembled on the proposed policies, rather than taking evidence and expert advice on those policies in order to reach an objective conclusion. This approach was considered by the sub-committee to be more likely to lead to political second-guessing rather than proper evidence-based scrutiny given that the Committee system no longer exists and there is currently no consensus on whether Scrutiny should act in an advisory capacity.

5.4.5 In discussion with a Panel Chairman, the view was noted that there was benefit in a Panel having subject areas, and in the Panel members gaining a particular area of expertise. Many felt that this would be lost if the structure were to change to create sub-panels for specific reviews and which would fall away on presentation of its report. In addition the creation of relationships between Panels and the relevant Minister and departmental officer was considered to be important.

5.4.6 The sub-committee nevertheless considers that a review of the structure of Scrutiny should be undertaken, and for example to consider whether Scrutiny would function better with only one overarching ‘Chairmen’s Committee’ which would agree the programme of subject-based reviews, and establish sub-panels on single issues. Under this structure the 5 formal subject-based panels would be abolished and members would simply come together in sub-panels to review a particular matter in an overall programme co-ordinated by the overarching Committee. This would ensure that Scrutiny work was ‘review-based’ and would enable members involved in Scrutiny to concentrate on one or 2 Scrutiny topics at a time. Members would be able to assess their degree of involvement in Scrutiny at any particular time in light of other demands on their time rather than being required to participate in all panel business over a 3 year cycle as happens under the present structure. The sub-committee recognises that the practicalities of this radical alternative approach might preclude its introduction; for example the setting of a Scrutiny programme for the year might become unwieldy, but the sub-committee considers that this merits investigation. If the change was considered to be too radical, a compromise might be to retain the 5 subject-based panels for general overview and liaison with the relevant Department but undertake all reviews on a sub-panel basis. This would hopefully prevent Panels operating in old-

fashioned Committee mode which is unlikely to be productive. There is a significant risk at present that Scrutiny is becoming a very slow and laborious process, taking many weeks or months to finalise reviews. This is unsatisfactory as Ministers are able to act and react very swiftly. Scrutiny must also become more 'nimble'.

Recommendation 20 The sub-committee recommends that the structure of the Scrutiny function be reviewed to capitalise on the enthusiasm and focus that sub-panels have shown.

5.5 The extent to which panels are fulfilling their terms of reference

5.5.1 The terms of reference for Scrutiny are set out in Standing Order 136, and are repeated below for ease of reference.

5.5.2 Terms of reference

- (a) to hold reviews into such issues and matters of public importance as it, after consultation with the Chairmen's Committee, may decide;
- (b) to consider the existing and proposed policy of the Council of Ministers;
- (c) to scrutinize draft Laws and draft subordinate enactments which are to be made by the States and consider possible amendments to them, if appropriate;
- (d) to scrutinize subordinate enactments which have been made by a Minister;
- (e) to scrutinize international conventions and agreements before they are extended to Jersey;
- (f) to scrutinize the draft Annual Business Plan, the Budget and other financial proposals of the Council of Ministers.

5.5.3 The following table shows the terms of reference addressed by each review –

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Scrutiny – Terms of reference completed in 2006

Terms of Reference	Panels				
	Corporate	Economic	HSSH	Ed/HA	Environment
			(Started its work in 2007)	(inc. Social Affairs)	
Matters of public importance	Age of Consent. S.R.1/2006 Overseas Aid. S.R.11/2007	All reviews		Overdale. S.R.1/2007 G.P. Out of Hours S.R.6/2007	Waste. S.R.13/2007 Planning Process S.R.2/2007 Design of homes (ongoing)
Proposed policy	GST (exemptions). S.R.6/2007 & S.R.7/2007 Zero/Ten S.R.4/2006 & S.R.3/2007 & ongoing	Dairy. S.R.4/2007 Telecoms Privatisation. S.R.5/2007 Postal Regulations. S.R.2/2006	Income Support (ongoing)		Design of homes (ongoing) Waste. S.R.13/2007
Existing policy		Fulfilment. S.R.7/2006		Centeniers (ongoing) G.P. Out of Hours S.R.6/2007	
Draft Laws	Zero/Ten S.R.4/2006 & S.R.3/2007 & ongoing GST S.R.6/2007 & S.R.7/2007 & ongoing			Comments on Sexual Offences No S.R. – comments/ statement to States only	Deep Ground Water Advisory Group. No review but work undertaken.
Subordinate enactments		Postal Regulations S.R.2/2006			
International conventions	6th Monthly progress report – no report – monitoring work	Postal Regulations to an extent			Waste S.R.13/2007
Annual Business Plan (Strategic Plan) & Budget	Financial Framework. S.R.3/2006 Process	Work undertaken in 2006 but no reports		Work undertaken in 2006 but no reports	Work undertaken in 2006 but no reports

5.5.4 Not all of the work undertaken by Panels in 2006 resulted in a report, or was concluded the same year. The terms of reference of Scrutiny Panels in Standing Orders states “if appropriate, to report to the States upon any matter reviewed, considered or scrutinized by the panel and make recommendations in respect of the matter”.

5.5.5 The list of Scrutiny Reports may be found at Appendix F.

5.5.6 The Panels have given emphasis to existing policy or proposed policy, and a number of reviews have been influenced by a member's own political agenda. The sub-committee has noted some concern that the States' Strategic Plan, the Annual Business Plan and the Budget have not received appropriate Scrutiny, and that there has been insufficient legislative Scrutiny.

5.6 Scrutiny of States' Strategic Plan, Annual Business Plans and Budget

5.6.1 The overarching policy documents in the ministerial system adopted by the States are the periodic States' Strategic Plan, the Annual Business Plan and the Budget. These therefore merit special evaluation and have been specifically listed in Standing Orders. Indeed, analysis of these documents would enable systematic review of the Ministers' wider policies, rather than auditing individual decisions of the Council of Ministers or individual Ministers.

5.6.2 The States' Strategic Plan was produced quickly, within 4 months as prescribed by Article 18(e) of the States of Jersey Law 2005. The document was complex, covering the entire range of activity of the States, and in some ways contained too much detail for a strategic document, appearing to be a hybrid between a strategic document and a business plan, as it contained lists of actions ('What we will do'). If the actions which were to be included (similar to business plan objectives) then they contained insufficient detail for members not involved in the executive to consider them in a meaningful way. (Further consideration of the Strategic Plan is given in Section 8). The confusion arising from the speed of consideration necessary the length and complexity of the document, and its hybrid content, and the lack of financial detail to support the actions, coupled with the fact that the Scrutiny function was relatively new and inexperienced, meant that the States' Strategic Plan escaped detailed Scrutiny the first time around. It is anticipated that, now that the initial document is in place, and has become better understood *since its adoption*, that the next Strategic Plan will be easier to review, based, as it must be, on the original version adopted in 2006.

5.6.3 The Annual Business Plan 2007 was the subject of only one published review in 2006, although elements of it were considered by most Panels. An agreement had been struck at the end of 2005, prior to the commencement of ministerial government, between the Shadow Scrutiny function and the Presidents of the Policy and Resources and Finance and Economics Committees to ensure that Scrutiny would be involved at key points throughout the development of the Annual Business Plan, as it had been recognised at an early stage that this document would be difficult to absorb and review in-between lodging and debate.

<p>Recommendation 21 The sub-committee recommends that the Chairmen's Committee should consider and publish the procedure for scrutinising the Strategic Plan, the Annual Business Plan and the Budget and that annually, the Council of Ministers and the Chairmen's Committee should agree the programme for the coming year, and inform the States thereon.</p>

5.7 Who is scrutinising the Strategic Plan and the Annual Business Plan?

5.7.1 There was considerable confusion on this issue, which led to serious delays. The Panels believed that it was all of their responsibility, and each were awaiting information or draft documents to scrutinise. There was a perceived lack of communication between the Council of Ministers and all Scrutiny Panels and/or the Chairmen's Committee, a lack of communication between the Chairmen of Scrutiny, and a lack of co-ordination by the Chairmen's Committee of the reviews on these subjects. The Executive had been dealing solely with the Corporate Services Scrutiny Panel, as the Executive considered that the Plans were a matter for that Panel, and consequently believed that they had been passing information to Scrutiny. The Chairman of the Corporate Services Scrutiny Panel was unaware that he was the only Chairman with the information and did not raise it with the other Chairmen.

5.7.2 This is an example of where the Chairmen's Committee might have played a strong co-ordinating rôle, in accordance with its terms of reference, to ensure that this important area was properly covered. It is appreciated that individual Chairmen wish to have a degree of autonomy and do not wish to be directed

by the Chairmen's Committee, but in this instance it would have been helpful if the Chairmen's Committee had taken a lead and had ensured that progress on the programme of review of the Annual Business Plan did not lose momentum, that any issues such as access to information were speedily resolved, and possibly that it assemble the comments of all panels into one document.

Recommendation 22 The sub-committee recommends that, if not already in place, clear procedures should be agreed on the passing of all relevant information to each Scrutiny Panel in relation to the Strategic Plan and Annual Business Plan in a timely fashion, and that the Chairmen's Committee should be responsible for co-ordinating the work of the different panels.

5.7.3 As stated above, all information relating to the Plans was forwarded to one panel. Once it was learned that this had occurred, there was a discussion on whether information passed to one Chairman could be passed to the other Chairmen, which the Executive could not support. The other Chairmen then each had to make separate approaches to the Executive for information, and this ate considerably into the time available for Scrutiny.

5.7.4 Provided that members of Panels do not use information received during the course of a review for private political purposes, there would seem to be no reason why information on the States' Strategic Plan and the Annual Business Plan cannot be shared between Panels.

Recommendation 23 The Council of Ministers and the Chairmen's Committee should agree a protocol on the sharing of information between Panels in relation to States-wide policies, for example in relation to the Strategic Plan, the Annual Business Plan and the Budget.

5.8 When should Scrutiny commence on the Strategic Plan, the Annual Business Plan and the Budget?

5.8.1 Scrutiny believes that, in order to be able to participate in decision-making and influence outcomes, it needs to be involved from the very outset. This is part of the overall debate on 'What is Scrutiny?' The Executive needs to understand whether Scrutiny Panels will be scrutinising the Plans, and if so when, and what the programme is. Scrutiny needs to understand what the Executive's timetable is, and when the key meetings it may attend occur. There is a need to eliminate confusion and suspicion on both sides, and properly inform all concerned of the processes and procedures, to enable efficient and effective use of all staff, both in departments and in Scrutiny.

Recommendation 24 At the beginning of each year –

- the Council of Ministers must inform the Chairmen's Committee of its indicative programmes in relation to the Annual Business Plan and the Budget, and every third year, the Strategic Plan, and the dates of the key meetings which Scrutiny members would be invited to attend in relation to each;
- Scrutiny must provide the Council of Ministers with scheduled dates of each of its Panels for meetings/hearings in relation to these documents; and dates upon which it would seek informal briefing meetings with officers, and meetings with Ministers;

with a view to ensuring the timely transfer of information, the dovetailing of meetings of the Executive and Scrutiny, sufficient time for Scrutiny and the efficient and effective use of manpower resources.

5.9 How should the Strategic Plan, the Annual Business Plan and the Budget be scrutinised?

5.9.1 While the decisions as to what to scrutinise are a matter for Panels, it is clearly not possible to review all of the above documents fully every year, and there may be considerable merit in focussing each year on a particular element, for example services for the elderly, to see how these documents across the board affect that sector.

5.10 Scrutiny of Draft Laws and of subordinate legislation adopted by the States or made by the Minister

5.10.1 There are two primary functions of the States Assembly. The first is to act as a political control over the Executive and the second is to act as a legislature. The introduction of legislation is an absolutely essential function – it is the Laws which confer power on the Executive to act and it is the duty of States Members to ensure that they understand the Laws which they are adopting. It is important for Members to be reassured that the detailed terms of the legislation which has been lodged for debate accurately reflect the policy which has been approved. Careful scrutiny of draft legislation will expose the policy which is being promoted. In some cases legislation has been initiated following States approval of a high-level strategy document. Such a document may have proposed the overriding policy principles, but would not have explained in detail exactly how the proposals would be implemented. These are revealed at draft legislation level and under the Ministerial system of government, if a Scrutiny Panel chooses not to review draft legislation, then the draft legislation has been challenged and tested by one member only, namely the Minister. This is a significant change from the former Committee system when a number of members reviewed any draft.

5.10.2 In drawing up the draft Standing Orders of the States of Jersey, the then Privileges and Procedures Committee was particularly interested in improving the Scrutiny of legislation generally prior to its adoption. The Committee was conscious that, under the Committee system, 7 individuals were likely to scrutinise the law in depth, although in practice perhaps 2 or 3 members took a deep interest in the draft legislation. Under that system, there had been no structured mechanism for fully examining the draft proposals, Article by Article, save within a convened meeting of the States Assembly. Other jurisdictions, for example, the United Kingdom, examine the content of a draft law in great detail at a Committee stage where the policy principles behind the proposals, and the draft proposals themselves and amendments, together with examination of any intended or unintended consequences, are considered in enormous detail.

5.10.3 Standing Order 72 was introduced to provide that, under the Ministerial system of government when one Minister was responsible for the approval and lodging of a draft law, without the addition of 6 other members to question and test the draft, that detailed Scrutiny should occur. Even under the previous committee system, it was acknowledged that scrutiny of legislation was insufficient, and it had been hoped that improvements could be incorporated into the new system. It was intended that the referral of a draft Law or Regulations for Scrutiny might mirror in some way the ‘Committee stage’ of examination of draft legislation in other jurisdictions. However, the Committee was mindful that the Executive should not be able to dictate to the Scrutiny Panels what matters they would have to scrutinise, and therefore the Standing Order was permissive rather than prescriptive.

5.10.4 In 2006 the following legislative matters were either lodged “au Greffe” or presented to the States –

<i>Type of Draft Legislation</i>	<i>Number of 2006 Projets lodged</i>
Laws	38
Amendments to Laws	5
Standing Orders	3
Regulations	39
Amendments to Regulations	7
Appointed Day Acts	16
Amendments to Appointed Day Acts	1
Legislative Acts of other types	3

Total number of Orders made during 2006	85
Total number of Rules made during 2006	10
Total number of U.K. Orders in Council extended to Jersey and registered in the Royal Court during 2006 (not made by Ministers)	1

- 5.10.5 The Social Affairs Scrutiny Panel reviewed the Draft Sexual Offences (Jersey) Law 200- (P.63/2006) and presented comments to the States on this draft Law. Both the Zero/Ten and GST Reviews are ongoing reviews of the Corporate Services Scrutiny Panel that have continued into 2007. The Sub-Panels have/will continue to look at the legislation in detail, but in both cases reviewing the legislation was not actually carried out in 2006: this has been a focus of the Panel's work for 2007. The GST Sub-Panel's review will also continue to include a review of the GST Regulations.
- 5.10.6 It should be noted that there is no requirement to cover all of the terms of reference in each year, but rather during the term of office of the panel.
- 5.10.7 A further issue was considered in relation to draft legislation which had been lodged and withdrawn in 2005 and then re-lodged in 2007. During 2006 a Deep Ground Water Advisory Group had been established and invited to consider and make recommendations on the earlier draft Water Resources Law. The Environment Scrutiny Panel members were involved in carrying out some investigation, but no official review was undertaken or report presented by the Panel.
- 5.10.8 In the sub-committee's view, the Panels appear to have been reviewing the policy proposals that preceded the lodging of draft legislation, and assessing whether those policy proposals are the correct ones, rather than ensuring that the draft legislation delivers the policy that the Minister and/or States have adopted. Unless detailed examination of the draft legislation takes place, it is not possible to gain reassurance that it accurately delivers the required policy objectives.
- 5.10.9 The sub-committee noted that, excluding Appointed Day Acts, in total 95 pieces of draft legislation had been lodged 'au Greffe' in 2006 and 96 Orders, Rules and Orders in Council had been presented to the States, 191 items in total. Of these, Scrutiny commented to the Assembly on one. The sub-committee has found this disappointing.

Recommendation 25 The sub-committee believes it is essential that all major law should be scrutinised so that members fully understand the impacts on the citizen of the legislation, once introduced. The sub-committee is not yet happy with this situation and would like to see an in-depth review of the way in which legislation is scrutinised.

- 5.10.10 The sub-committee considers whether, in view of the lack of enthusiasm of panels to review draft legislation, it would be preferable to establish one dedicated panel or sub-panel to do this. The sub-committee does not believe that this would be the best way for legislation scrutiny to be undertaken. The advantage of each Panel undertaking this task is that the Panel concerned may have knowledge of the relevant policy area already, as well as an existing network of contacts with the Minister and departmental officers. Nevertheless, if subject Panels do not show greater interest in the scrutiny of legislation in the near future, the sub-committee considers that a dedicated panel or sub-panel is an option that could be investigated to ensure that the important aspect of scrutiny work is not overlooked.

5.11 The allocation of subject areas to the 5 panels

- 5.11.1 The sub-committee was informed that the additional Panel established at the end of 2006 had alleviated the pressures which had been apparent on the previous Social Affairs Scrutiny Panel. The appropriateness of the, now 5, panels' responsibilities was not queried during the sub-committee's hearings, but frequent comment was made about the limitations of the number of Scrutiny staff on the number of reviews that could be undertaken. Equally, though not stated, if an increased output were achieved for the Scrutiny section through increased staffing, there is likely to be a build up of pressure on departmental staff which

would be unacceptable, and on members involved in Scrutiny also.

5.12 The level of financial and manpower resources allocated to the Scrutiny function and the level of financial control

- 5.12.1 The sub-committee found varying views on the amount of money set aside for Scrutiny. In 2006 there was a significant underspend of £311,644 out of a total budget of £939,085 (expenditure – £627,141 including staff costs). Scrutiny Chairmen felt that it was too early to reduce the budget, as the Scrutiny function was still developing and increased use would be made of specialist advisers. In addition, some felt that there was likely to be an increased need to purchase legal advice from outside the Law Officers' Department. However, in the climate of financial restraint, others felt that Scrutiny had been allocated too much money.
- 5.12.2 The sub-committee noted that some concern had been expressed on the way certain funds have been used.
- 5.12.3 There has been a discussion on one occasion between a Scrutiny Panel and the Accounting Officer on what monies made available to Scrutiny could be spent on. In the absence of a clear agreed statement of what Scrutiny is, and whether or not it includes, for example, the development of alternative policy, it has not been possible to determine with any degree of accuracy what is or is not legitimate expenditure. Given that the sums of money in each instance which may have caused concern (not exceeding £5,000) have not been significant, and that advice from the States' Treasury has been that the amounts concerned are *de minimis*, the Accounting Officer has not felt it appropriate to take any further steps in relation to the Panels' expenditure.
- 5.12.4 The Scrutiny section is staffed by 10 Scrutiny Officers, (notionally 2 officers per Panel), 2 Administrators and a Scrutiny Manager. Each officer supports the Panel or Sub-Panel to which they are assigned for the time being, and works on one review at a time (normally), undertaking research, providing a full range of administrative and executive support in respect of the work of the Panel and the reviews under consideration and drafting reports. Officers also support other Panel Officers in their work as and when the need arises. The Scrutiny Administrators provide a range of administrative and secretarial duties, a significant part of which involves attendance at hearings and preparation of log-notes for the transcripts of hearings. The Scrutiny Manager provides advice and executive support to the Chairmen's Committee and the President of that Committee and is responsible for managing and overseeing the Scrutiny section and its work, including financial and manpower resources.
- 5.12.5 The sub-committee was concerned to hear evidence from a number of witnesses relating to the pressure that had been placed on Scrutiny Officers since December 2005. There is clearly pressure that arises through the workload and the sub-committee heard from the Scrutiny Manager and others that it was inevitable that officers may have significant demands on their time in the period leading up to the publication of a report. The sub-committee accepts that this is possibly an inevitable feature of the Scrutiny system but believes it is important that panels recognise that officers cannot be expected to work under this type of pressure on a continual basis. The sub-committee was more concerned to hear that certain panels had placed officers in difficult situations by seeking to involve officers in political disagreements. The sub-committee believes it is essential that the Scrutiny Officers are viewed as politically independent and it is unacceptable for members to seek to direct them in a political way. It is particularly important that panels are prepared to consider independent and impartial advice from the Scrutiny Officers, for example, when summarising the evidence received during a review. It is, of course, the prerogative of the elected members on the panel to finalise their own conclusions and recommendations and, at this point, it is clearly appropriate for the Scrutiny Officer to reflect those political decisions in the final report. It is, nevertheless, unacceptable for panels to put pressure on officers to give a particular political 'slant' to a report before a proper objective evaluation of the evidence has been received.
- 5.12.6 The sub-committee heard concern from some giving evidence that there were many areas of ministerial policy that escaped Scrutiny due to the restriction on resources available at political and officer level in the Scrutiny function. It is inevitable that the available Scrutiny resources will never be adequate to cover

all areas of ministerial policy making. To do this would require an enormous increase in the size of the Scrutiny function and that is clearly not a feasible option at the present time. For this reason it is particularly important that panels think carefully when planning the annual Scrutiny programme to ensure that, over time, all important areas of ministerial policy are subject to some Scrutiny. The sub-committee felt that scrutiny resources could be used in a more effective and efficient way if Panels stopped acting in the “old Committee” mode referred to earlier.

- 5.12.7 The sub-committee received submissions from a number of people that a new post of Chief Officer should be created for the Scrutiny office. This suggestion was made by the Council of Ministers in its written submission to the sub-committee and, in that submission, the Council suggested that there was a need for an authoritative and politically experienced figure to lead and manage the administration of the Scrutiny function and the competing demands made by Scrutiny members. The Council suggested that the Scrutiny Chief Officer should be independent of the States Greffe and accountable to the Chairmen’s Committee. The Council suggested that for administrative purposes the post would be a non executive one reporting to the Greffier of the States in much the same way as the Comptroller of Income Tax reported to the Treasurer of the States.
- 5.12.8 Some Scrutiny members giving evidence to sub-committee also raised the suggestion of the creation of a chief officer post. It appears to the sub-committee that, for these members, the principal motivation for the suggestion was to ensure that the Scrutiny Office had sufficient “status” in relation to the Ministerial departments. Some felt that there was a form of inequality between Chief Officers of Ministerial departments who sat on the Corporate Management Board and the Scrutiny Manager who reported to the Deputy Greffier of the States.
- 5.12.9 The sub-committee does not believe that there is currently any justification to suggest that a chief officer should be appointed for the Scrutiny function. The sub-committee believes it is naïve to suggest that any of the perceived failings of the Scrutiny function have arisen because of the lack of a chief officer. It must be borne in mind that the Scrutiny function is fundamentally different from executive government in a Ministerial department. The Scrutiny function is very heavily politically directed and all the evidence received by the sub-committee led it to conclude that many of the difficulties that had arisen between the Executive and the Scrutiny function in the first year of operation of the new system had arisen as a result of political decisions in the Scrutiny function and not as a result of officer advice. In fact the sub-committee heard evidence that officer advice in the Scrutiny function had, on occasions been ignored by the political membership and the sub-committee saw no evidence that a chief officer would have been able to have persuaded the political membership to have taken a different decision.
- 5.12.10 The sub-committee is concerned that some members working in Scrutiny may wish to establish an independent office separate from the States Greffe for inappropriate reasons. The sub-committee is concerned that a Scrutiny office that was entirely separate from any other States department could fall under political influence, particularly if the Chief Officer reported directly to the Chairmen’s Committee.
- 5.12.11 The sub-committee heard evidence from a number of witnesses praising the work undertaken by the Scrutiny Manager since her appointment just before the establishment of Ministerial Government. There is clear evidence that she has created a well motivated and extremely hardworking team of Scrutiny Officers and she has done much work to address some of the inevitable teething problems that arose in the early months of the new system. The Scrutiny office is, effectively, a stand-alone section within the States Greffe but the overall oversight of the Greffier of the States and his Deputy ensures that proper independent and impartial oversight of the office is in place. There would undoubtedly be significant cost associated with the establishment of an additional chief officer post and, with oversight of only 12 other staff, the creation of such a post does not appear appropriate to the sub-committee. The sub-committee therefore recommends no immediate change to the management of the Scrutiny office.
- 5.12.12 It was recognised that Scrutiny is resource-hungry on both sides, both for the Scrutiny function and for departments. The latter had received no additional financial resources to deal with Scrutiny, this being expected to accrue from the reduced level of administration in the move from a Committee to a ministerial form of government.

5.13 The degree and nature of co-operation received from Ministers and Departments

- 5.13.11 The Chief Minister and Ministers interviewed all advised that they were committed to the need for Scrutiny and a willingness to co-operate with the process and with reasonable requests. Issues that arose in 2006 related to access to information, having particular regard to the tight timeframe within which some Scrutiny Reviews can be undertaken.
- 5.13.2 Standing Orders provide that the debate on draft legislation or propositions may be deferred to allow Scrutiny to take place. In the case of legislative Scrutiny, Standing Order 72 provides that either the Chairman may notify the States after they have approved the principles that he or she wishes to have the draft referred to the relevant Panel for Scrutiny, or indeed any member of the States may propose without notice that the States request the Panel to reconsider this decision. The States allow the Panel a delay until the next meeting to advise them whether the matter is to be referred to the Panel, and if it is, the matter shall be re-listed for consideration at a meeting not later than the fourth meeting following the debate upon the principles. This means, provided there are no intervening recesses, that a matter can be reconsidered 8 weeks later.
- 5.13.3 In relation to a matter that the States have begun to debate, Standing Order 79 provides that consideration may be suspended and the States may request the relevant Scrutiny Panel to consider having the proposition referred to it. There will be an initial period of 2 weeks during which the Panel will decide whether or not it wishes to consider the proposition, and if it decides it does wish to do so, the debate must be listed to resume at a meeting which is not later than the fourth meeting following the meeting at which the Chairman confirms the Panel's decision. This means that from the suspension of the debate there is a maximum of 10 weeks, assuming that there are no intervening recesses.
- 5.13.4 Finally, a Scrutiny Panel may decide prior to the commencement of a debate that it would wish to review a matter which has been lodged, and Standing Orders set down a specific timeframe for this consideration.
- 5.13.5 The difficulty arises in that it is extraordinarily difficult to carry out a review in such a short space of time. This timeframe was achieved in relation to the Draft Sexual Offences (Jersey) Law 200-, which was referred to the Corporate Services Scrutiny Panel on 17th January 2007, following which the Panel presented its report to the States on 28th March. In this instance it was possible for the Panel to conduct its review during the available timeframe, however it was necessary for the Panel to keep its terms of reference very narrow in order for the presentation deadline to be met. It was also fortunate that the referral came to the Panel during the initial stages of the Scrutiny process, and the Panel had therefore not finalised its work programme for the year, meaning it had the benefit of some flexibility. It is possible for the Panel to respond to issues during a tight timescale, as long as the review is kept targeted and focused at all times – predominantly by ensuring the terms of reference are not set too wide-ranging from the outset. In 2007, the Draft Price and Charge Indicators (Jersey) Law 200- is being reviewed and is expected to be completed within 10 weeks. This is again achievable only because the terms of reference have been tightly drawn.

5.14 Access to Information by Scrutiny Panels

- 5.14.1 A Minister is likely to want to give the public an amount of information, for example when a new policy is adopted or a new piece of legislation is promoted. The usual course of action is to undertake a consultation exercise or to issue a 'green' or 'white' paper on the matter. Aside from this process, a backbench politician has access through existing parliamentary procedures to obtain any information he might require. He may first of all put questions to a Minister in informal correspondence and if the reply from the Minister is not sent or is incomplete, then a member might pursue the matter by putting questions in the States. This can be done by written question, oral question or by questions without notice.
- 5.14.2 An individual back-bench member may also try to persuade a Scrutiny Panel that the subject of his enquiry should be the subject of Scrutiny Review.

- 5.14.3 Furthermore, it is open to any member to initiate a debate in the States if the information has not been forthcoming or is not complete, or if the member considers the matter worthy of debate. In all of the above cases, publicity will be given to the political process and this is likely to attract media interest.
- 5.14.4 In relation to Scrutiny obtaining information it has been necessary to introduce procedures. Generally speaking, information has been sought by letter or by e-mail, and difficulties relating to piecemeal requests are discussed below. It is also noted that Scrutiny members have also begun to use questions in the States' Assembly as a means of obtaining information swiftly for Scrutiny Reviews. In certain instances, Panels had found that the information they required was not being sent within a timescale which they considered to be acceptable, and consequently, questions in the States were asked which required an answer by the States day upon which they would be listed.
- 5.14.5 Once a Panel has decided to conduct a Review, it has been necessary to assemble all written evidence as quickly as possible so that the Panel can assimilate the core principles and then decide on lines of questioning for oral hearings. A Scrutiny Chairman pointed out that the number of staff available to Scrutiny Panels was limited and therefore departments ought to respond favourably to requests for information.
- 5.14.6 There is a divergence of views in relation to what elements are being scrutinised. Some Chairmen feel that they are reviewing not only the decision, but also the process leading up to that decision; in some cases an enormous amount of information has been requested in a short space of time. Some Ministers advised that sometimes requests had been received for every single piece of paper relating to a matter including file-notes, e-mails and 'post-it' notes and this has been disruptive of the day-to-day running of the department. Another was quite happy to release all information to the Panel Chairman provided that confidentiality was observed.
- 5.14.7 Two matters have hampered the departments in carrying out their duty in relation to Scrutiny. One is that manpower resources were not made directly available to departments for Scrutiny, relying instead on a decrease in activity connected with the transfer from a Committee system of government to a Ministerial system of government. Secondly, the sub-committee was informed that departments were not as good as they should be in information handling. The Public Records Law in reality had huge resource implications and no-one had yet come to grips with it. While it should be possible to develop common filing records, tracking systems, etc, this would cost approximately £3.0 million to do properly.
- 5.14.8 The sub-committee also noted that some Scrutiny members wished to receive all papers on every item on the B Agenda on the Council of Ministers' meetings. Some Ministers have agreed that they will release information in connection with ongoing reviews only. This has presented Scrutiny with a difficulty in deciding whether or not to review a matter. Agreed procedures require that a scoping document is drawn up and that certain research takes place prior to deciding whether or not to conduct a review, and this process is hampered in the absence of relevant information. Scrutiny members do not have a general right of access to all information but they are given the necessary information for all of their Reviews.
- 5.14.9 The biggest problem in the release of information was perceived to be one of trust. Ministers wished to be assured that information would be kept confidential, and that it would be used for the purpose of the review only. This includes ensuring that individual members do not abuse information received in confidence by a Scrutiny Panel of which he/she is a member.

Recommendation 26 Proper arrangements should be put in place to provide for timely access to information. The time of the States Assembly should not be taken up in questions and answers that are required for the purpose of Scrutiny. Requests for information should be reasonable, allow a reasonable period for reply, and consideration should be given to deciding whether such requests should relate to the decision only, and not the decision-making process.

5.15 Legal advice

- 5.15.1 There are two issues here, firstly the release of legal advice given to a Minister which may or may not have influenced a decision made which the Panel may wish to scrutinise, and secondly the giving of legal advice to a Scrutiny Panel in its Scrutiny rôle.
- 5.15.2 There have been considerable discussions on Scrutiny Panels' access to legal advice given to a Minister prior to a decision being taken. It is interesting to note that in many jurisdictions including the United Kingdom the Attorney General is a member of the government and convention dictates that legal advice is not shared.
- 5.15.3 In Jersey, the Attorney General has confirmed that it would only be in certain very restricted circumstances that he would pass on the legal advice by mutual agreement between the Attorney General and the Minister. The Scrutiny Panels believe that in order to evaluate a decision made by a Minister, they need to have access to all advice given to the Minister, including legal advice. This is, however, only relevant if Scrutiny includes a review of the process the Minister followed to make his decision. If there is agreement that a Panel should scrutinise the decision once made, and that this point is the starting point for Scrutiny, then the issue of the legal (and officer) advice received is less relevant.
- 5.15.4 In relation to advising a Scrutiny Panel, the Attorney General has confirmed that he is prepared to attend upon a Scrutiny Panel and give it advice. A Chairman told the sub-committee that to ensure independence of advice his Panel had sought legal advice externally, using its expert advice budget. The question of timing of advice to a Panel was also of interest, and reviews were frequently conducted in a short timescale, during which it was not possible to guarantee the receipt of advice from the Attorney General owing to his other commitments.

Recommendation 27 As part of the discussions about “What is Scrutiny?” referred to earlier, agreement should be reached on what Scrutiny comprises, and whether or not Scrutiny should be reviewing the process of making a decision, as well as the actual decision itself.

Recommendation 28 The sub-committee is aware that discussions in relation to legal advice have been on-going for many months between the Council of Ministers and the Chairmen's Committee. The matter has nearly come to a head on 2 occasions when a debate was scheduled as the draft Code of Practice for Scrutiny but on both occasions the proposition was withdrawn at the last minute. The sub-committee does not believe it can usefully add to the on-going discussions but believes that the issue must be resolved one way or another. If, as seems likely, no agreement can be reached between the Executive, the Attorney General and Scrutiny, the matter should be brought to the States as soon as possible to allow the whole Assembly to take a decision on this issue.

5.16 Relationships between Scrutiny Panels and the Ministers

- 5.16.1 The Committee has found that relationships between the Panels and the Ministers vary quite widely, from mutual respect and understanding, and consequential co-operation with one another, to a degree of antagonism despite an understanding of the importance of Scrutiny and a willingness to co-operate within the resources available. On the one hand, it may be possible for the Minister and the Scrutiny Chairman to become too close and to lose the healthy tension between the two functions, on the other, relationships may be too tense to provide for efficient co-working and co-operation. There may not be scope to improve all relationships, but a shared agreed understanding of what Scrutiny is will no doubt help. The sub-committee believes that regular meetings between a Minister and the relevant Scrutiny Panel are essential to discuss matters of common interest and these should take place at least once every quarter.
- 5.17 **The procedures governing the manner in which the Scrutiny function is able to review draft policies**

and draft legislation

- 5.17.1 The procedure for establishing the programme of reviews for the year was set out in the draft Code of Practice on Scrutiny (which was lodged twice, but was subsequently withdrawn). The procedure described in the draft Code of Practice is set out below in italics, with comment on how it has been working –

“Scrutiny Panels: Planning the Forward Work Programme

At the start of each year the Panels will consider their forward work programme. This will include agreeing the topics they want to address, how they will be prioritised and timetabled, any research they wish to commission and what approach will best deliver their objectives when carrying out their enquiries.”

- 5.17.2 All Panels considered forward work programmes. All but one decided on an initial review as it was not possible to plan for a full year – this is also dependent on the Ministers being forthcoming and open about their forward work programmes. In 2006 one Panel (Social Affairs) planned a full year’s programme but found that it was impossible to adhere to it as it had not allowed space for ad-hoc reviews.
- 5.17.3 To date it has proved impractical to plan a full year’s forward programme. The main reason for this is that Scrutiny is not in a position to drive its own programme because the bulk of its work is in response to the Executive’s programme. It is the Executive that decides when to take a draft policy or draft law forward, and it may prioritise, programme, defer or postpone action. Scrutiny is entirely dependent on the Executive notifying Scrutiny of its planned programme, and giving regular updates, to ensure that it can set aside time at an appropriate juncture, and to ensure that abortive work is not carried out on matters that are unavoidably delayed.

“As part of this initial planning, the Panels will invite Ministers relevant to their remit to discuss the business plan and forward priorities of their Departments. Good communication at this stage should enable Scrutiny to develop a work programme which will co-ordinate appropriately with the Executive’s legislative and strategic business plans.”

- 5.17.4 In the main, most panels spoke to Ministers early on but information from the Ministers was not always forthcoming – for example, one was most reluctant to discuss anything other than a review topic. Ministers have to be prepared to share all information about work within their respective portfolios and not restrict discussions just to those matters that Scrutiny has already decided to scrutinise.

“The Panels may also invite interest groups and stakeholders relevant to their remit to make presentations on possible future topics for review.”

- 5.17.5 It is not believed that any interest groups or stakeholders have been invited specifically to give presentations on possible future reviews in 2006. Department officers have done so on request by Scrutiny, however.

“The Panels will also consider suggestions for reviews from other States members and from members of the public. Proposal forms are available from the Scrutiny Office for this purpose. Scrutiny Officers will advise anyone wishing to make a proposal on the current priorities of the Panel.”

- 5.17.6 Reviews suggested by public have been considered but there have not been many suggestions and most of them are issues which need to be resolved by Departments and not by Scrutiny. Members have suggested a number of reviews, for example the dairy review, and all those matters referred to Scrutiny by the States, such as the telephone masts issue, and the Draft Sexual Offences (Jersey) Law 200-.

Recommendation 29 The sub-committee recommends that there should be a formal process, conducted from time to time, to canvass the public’s views on matters for review.
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Alternatively, panels might consider holding public hearings from time to time during which members of the public may have a limited time slot to question a departmental officer or a Minister on a matter of public or personal interest.

“The Panels will take account of the Executive’s ‘Discussion Papers’ and ‘Draft Policy Papers’ in planning its work programme. These consultation papers should enable the Panels to have a clear view of the planning process for a major policy proposal or important new legislation and should help the Panels to determine the most appropriate opportunity to conduct a review.”

5.17.7 Scrutiny has not been automatically sent Discussion Papers (Green Papers) and Draft Policy Papers (White papers) to date. Scrutiny has obtained some of these by a lucky accident, namely because the Scrutiny Manager has happened to subscribe to the consultation website. This is a huge area which needs improvement on the part of the Executive. In addition, Scrutiny feel that Discussion papers (Green Papers) should set out a full range of policy options and not just one way forward. Also if Scrutiny is to plan a full year’s work programme it needs to receive some indication at the start of the year when these will be referred to Scrutiny.

“The Panels will seek to be co-operative in the planning process and will determine how best to participate in public consultation. Once the Executive has completed its consultation, the Panels will not normally commence a separate investigation into a policy proposal unless there is evidence that significant factors have been ignored by the Executive.”

5.17.8 This has caused difficulties and relates to an issue referred to earlier, namely when Scrutiny gets involved. Should Scrutiny merely be a consultee or can it undertake a review once the matter has been out to consultation and lodged? If so, there will inevitably be duplication of consultation. Some members giving evidence commented that Scrutiny can be compromised if it becomes involved in policy formulation at an early stage as it cannot then comment at a later stage on the effectiveness of the policy concerned. Any discussions on the fundamental issue of “What is Scrutiny?” need to consider these issues.

“Communication is a two-way process and the Panels will seek to give good notice to the Executive of their intention to scrutinise a policy in development so that the Scrutiny process does not unduly delay the programme set out by the Executive in its business plan.”

5.17.9 There is a need for the Executive to advise Scrutiny of forthcoming policy. Panels try to give good notification but often time is tight. If a Minister lodges a draft policy without having involved Scrutiny, and a Scrutiny Panel wants to review the matter, then delays will inevitably occur. The experience to date has been that even a ‘short’ review will take more than the 4 meetings of the States (i.e. 8 weeks) for which the Standing Orders provide.

“In developing a balanced work programme, the Panels will take account as far as possible of the four main rôles of Scrutiny, namely –

- *Policy*
- *Primary/subordinate legislation*
- *Annual Business Plan/Budget*
- *Matters of public interest.”*

5.17.10 All of these were taken into account in 2006, although there were difficulties in scrutinising the Annual Business Plan and Budget as referred to earlier.

“In selecting topics for review, the Panels will consider if they are–

- *linked to States strategic objectives;*
- *a community/corporate priority area;*
- *a key issue for the public;*
- *likely to result in an improved service to the public;*
- *related to a service/issue where there is a high level of dissatisfaction.”*

5.17.11 This was done in all cases in 2006 and documented in the scoping document.

“Topics will be rejected if they are–

- already being addressed by others*
- sub-judice or prejudicial to States interests;*
- within a complaints procedure;*
- an individual disciplinary/grievance matter;*
- unlikely to result in an improved service.”*

5.17.12 This was done in 2006, except possibly in the case of the first bullet point. The question again is, when does Scrutiny get involved? One example in 2006 of an area already being addressed by others was the dairy review.

“Matters of best value, efficiency and effectiveness of policy implementation are properly the rôle of the Public Accounts Committee.”

5.17.13 This is agreed, but overlaps have often been considered. Examples are the Criminal Injuries Compensation Scheme and Public Sector Pensions.

“The Panels, in accordance with Standing Order 72, may consider draft legislation which has been referred to them by the States Assembly after agreement on the principles of the draft legislation and before the second reading. The process of legislative Scrutiny will operate more effectively if the Panels are given good advance notice by the relevant Department of their intentions with regard to the draft legislation.”

5.17.14 Only one draft Law was referred to Scrutiny under this Standing Order by States in 2006, namely the Draft Sexual Offences (Jersey) Law 200-.

“Panels will not normally scrutinise individual decisions made by a Minister or delegated to their Officers, particularly decisions in respect of development control, licensing, registration, consents and other permissions. In particular, Scrutiny should not be used as an alternative to normal appeals procedures, nor must it become involved in what would amount to a disciplinary investigation against Officers.”

5.17.15 No problems were experienced in 2006.

“Once a Panel has agreed its provisional work programme for the year it will communicate the programme firstly to the Chairmen’s Committee for endorsement and then to the relevant Minister(s) for information. Finally, the work programme will be published on the website and sent to the media.”

5.17.16 Only one Panel agreed a provisional work programme for 2006, and consequently this could not be achieved. However, once a review was decided upon, the scoping document and terms of reference are referred to the Chairmen’s Committee and that Committee receives monthly updates on the work of all Panels and PAC. Ministers are informed as soon as is possible about new reviews.

“The Panels will need to revisit their forward work programme on a regular basis in order to take into account new developments in the Executive’s policies and matters of public importance. The Panels, for example, may request without prior notice, in accordance with Standing Order 79, that a proposition being debated by the States Assembly should be suspended and referred to it for investigation. The Panels will therefore need to retain a degree of flexibility in their forward planning which will enable them to re-prioritise their programme of work as new circumstances arise.”

- 5.17.17 Scrutiny is largely a responsive process, and Panels respond to policies and draft legislation put forward by the Executive. In addition, matters are referred to Scrutiny by the States, or perhaps by the Ministers themselves, making it difficult for Scrutiny Panels to set their own forward work programme. This has not been achievable to date because of the need to adapt to new developments in the Executive's work.
- 5.17.18 The way that the above works is that a Scrutiny Panel initially should consider the Business Plans of the Departments within its remit, the annual work programme of those Departments (if available) and any requests from the public to look into a matter. The Panel would then request some background research to be undertaken into a number of areas to ascertain whether a review is required. It may also invite the Minister and officers to a Panel meeting to brief the Panel on any issues.
- 5.17.19 Once this has been undertaken, topics for possible full reviews are determined and the scoping document prepared. This itemises all the areas for consideration; whether an adviser will be required, fact-finding visits, estimated budget, time targets, staffing, etc. From this, the full terms of reference for the review are drawn up. This process for the initiation of a review takes a little time, but is there to ensure a review has been carefully planned before inception and is capable of being satisfactorily completed.
- 5.17.20 Notwithstanding this procedure, the interests of the Chairman and members of a Panel naturally play a part in topic selection, and the sub-committee considers that certain of the Sub-Panels are populated by members with a particular interest in the topic matter. There is clearly a balance to be struck between the need for scrutiny members to have some interest in the review topic and the need to ensure that personal agendas do not dominate the process. The sub-committee does not believe that scrutiny members need any prior knowledge of a topic to undertake an effective review.
- 5.17.21 A number of members involved in Scrutiny have expressed the view that they would like to act in an advisory capacity to the Minister, or, as a 'sounding board' for him or her. At least one Panel in 2006 regularly considered its views on the draft policy of the Minister. This appears to hark back to the Committee style of government, or perhaps looks to emulate the function of a shadow government. The sub-committee does not believe that this was the intention of the States in adopting a ministerial style of government. This should be reviewed as part of the States consideration of what Scrutiny is in order to reach a consensus and remove all doubt as to what Scrutiny should or should not be doing. If States members agree that Scrutiny in Jersey should involve this type of activity it should be clearly set out as part of the Scrutiny remit to avoid any misunderstanding.

5.18 The impact of the establishment of the Scrutiny function on the workload of other States Departments, including the non-Executive Department

- 5.18.1 There has been much discussion about the level of manpower resources for the Scrutiny function. There is also the related question of manpower resources within ministerial departments to support the work of Scrutiny Panels. Analysis had not been undertaken prior to the introduction of Ministerial Government into the amount of time it would take department Officers to prepare information and Reports for Scrutiny Panels, and in order to prepare for appearance as an oral witness at Scrutiny hearings. As a rule of thumb it was suggested that the amount of Officer time that had been required to support the Committee system of government would be reduced under Ministerial Government, so freeing up officers to devote to Scrutiny.
- 5.18.2 However, it is important to note that there has also been a significant increase in the number of questions being asked in the States Assembly and that it is the same officers preparing answers to questions in the States Assembly who are also preparing responses to Scrutiny Panels. Added to the increase in workload relating to Scrutiny and to questions in the States Assembly, departments will be very aware that they are also being asked to make efficiency savings and to reduce staff numbers. It is unsurprising in the face of such increases, that departmental responses to the consultation exercise on the machinery of government review lead to numerous comments about the need for orderly requests for information and the value of personal contact with Scrutiny Officers to ensure that there was clarity over the information that was being requested so that there would be no abortive effort on the part of departments in providing information that the Panels already had. Departments made it clear that they would welcome face-to-face

meetings to discuss Scrutiny's requirements at an early stage.

- 5.18.3 Departments will have to draw up programmes for new policy which includes a suitable timescale to undertake meaningful Scrutiny. There has been a clear need for a change of mentality and probably of process on both sides, e.g. executive and Scrutiny, and the introduction of a 'green' and 'white' paper system formed part of the original proposals – the following text was included in the report accompanying the original 'Clothier' proposition on the subject in 2000 –

“As part of the strategy for developing a culture of consultation, one of the main proposals is that there should be a regular and formalised use of "green" and "white" papers. These are forms of consultation paper that would generally be issued by departments when they were considering major changes in policy. A "green" paper would be issued at a relatively early stage in the process of policy formulation, and States Members, Scrutiny Committees, and the general public would be invited to comment on its contents. Once these comments had been taken into account, a department would then formulate its proposals in more detail and issue a "white" paper, which would again be the subject of comments from the public and Scrutiny Committee(s). When this stage was completed, a department would formally define its proposals for consideration by the Council of Ministers and onward transmission to the States Assembly.

There is nothing radically new about this aspect of the Committee's proposals. What is new, however, is the proposal that green and white papers should be a regular and integral part of the policy-making process. Many States Committees have issued consultation papers in the past, but this has by no means been a universal or consistent practice. In future, more emphasis would be placed on the use of consultation papers, and both the public and their elected representatives would become more involved in the process of policy formulation.”

- 5.18.4 There is, effectively, a whole new stage here during the policy formulation process. It was not intended, as indicated above, that Scrutiny would have a third bite of the cherry once the final proposals were produced after the 'white paper' stage. What may have been happening in the early stages is that some of the policies coming forward have been in the pipeline for a long time, and that therefore the 'green' and 'white' paper stage have not always been included.

- 5.18.5 Another reference to this issue can be found in the PPC's proposition on Scrutiny from 2003 (P.79/2003) where it is stated (the reference to (a) here refers to reviews into matters of public importance selected by the Panels themselves) –

“9. (b) Considering the policy and proposed policy of the Executive

9.1 *The Clothier Report put forward the recommendation that Scrutiny Panels should have an important rôle in overseeing the policy and proposed policy of the Executive.*

9.2 *Scrutiny Panels may wish to consider existing policies of the Executive or may be invited to comment on proposed policies. Unlike the reviews undertaken in accordance with part (a) of the terms of reference, which will be on issues and topics chosen by the Scrutiny Panels themselves, the review of policy and proposed policy of the Executive under this part of the terms of reference will be in response to existing or proposed policies of the Executive. It is inevitable, of course, that some of the reviews held by Scrutiny Panels under part (a) above will, directly or indirectly, examine and comment on the policy of the Executive and there will, therefore, be some overlap between these two parts of the terms of reference. Furthermore, it is hoped that there can be co-ordination, without overriding the prerogatives of the Comptroller and Auditor General, between audit and Scrutiny so that audit reports support Scrutiny reports and vice versa, as explained in Section 37 below.*

9.3 *Experience in other jurisdictions has shown that 'pre-Scrutiny' of decisions can give Scrutiny Committees and panels real influence. Those involved in Scrutiny feel able to participate in the decision-making process and have their voice heard. It is likely that, with the introduction of a*

more formal system of consultation papers (similar to U.K. 'Green' and 'White' Papers), Scrutiny Panels will be invited to comment on and scrutinise draft policies in the course of development. This will also ensure that members who are not in the Executive have new and positive ways of being involved in policy formation and are able to contribute to the policy debate.

9.4 *Scrutiny Panels will nevertheless need to consider the extent to which they become involved in scrutinising and considering draft policies in the course of preparation by the Executive. Although there could, if the present absence of political parties continues, be some merit in seeking to obtain a consensus through consultation as set out above, the Committee was also interested to note, during the seminar on 28th March 2003, that Committees of the Scottish Parliament do not tend to consider draft policies, as they take the view that it can later be claimed, when the Committees wish to comment on the implementation of the policy, that the lack of any critical comment at the draft stage amounted to a tacit endorsement of the policy. It may also be difficult for the Scrutiny Panels to seek the views of the public and interested bodies at a time when the Executive itself is seeking comments during the consultation stage. The Committee is nevertheless of the view that 'pre-Scrutiny' is highly desirable as long as it is made absolutely clear that it does not imply endorsement of the proposed policies.*

9.5 *The Committee believes that it cannot be unduly prescriptive about the way in which future Scrutiny Panels should interpret this part of the terms of reference and the Committee does not intend to propose that Scrutiny Panels should be required to scrutinise and comment on all draft policy proposals of the Executive even when requested to do so. The Committee is not convinced that failure to comment critically on a draft policy would be seen as tacit approval in the manner described above but this is a matter where Scrutiny Panels will need to develop and adapt working practices in the light of experience."*

5.18.6 Inevitably, departments will need to ensure that Scrutiny is informed of proposals and receives assistance during any review or during its consideration of whether or not to review a policy. This places an additional administrative burden on departments, but is an integral part of the new system.

<p>Recommendation 30 The sub-committee recommends that Ministers should ensure that the 2 processes (policy formulation and Scrutiny) will operate side by side from the start, and that 'green' (Discussion) and 'white' (Draft Policy) papers should be issued and available for Scrutiny. The sub-committee believes it would be helpful for the title pages of discussion papers to be printed on green paper.</p>

5.18.7 The impact of the establishment of the Scrutiny function on the workload of the non-Executive Departments has been felt in particular in the Law Officers' Department and the States Greffe. The Law Officers' Department may provide legal advice to the Panels, and elsewhere in this report there is reference to Scrutiny's request to access to legal advice given by the Law Officers' Department to Ministers. In practice, Scrutiny Panels often require access to legal advice for themselves at shorter notice than the Law Officers' Department finds easy to accommodate, given its other major commitments.

5.18.8 The States Greffe management has absorbed the overview of an additional section in the department, which has been time-consuming in the formative stages, but this had settled down by the end of 2006. During the absence of the Scrutiny Manager on leave, senior management carries out the advisory, and where necessary, the executive functions to the Chairmen's Committee. The States Greffe provides a range of administrative services to the Scrutiny function, of which the most significant are IT/logistical support, photocopying and recruitment services.

5.19 The interaction between members of Scrutiny Panels and the rôle of a backbencher

5.19.1 The sub-committee was notified by several witnesses of difficulties that had arisen when members of Scrutiny Panels appeared to have mixed their Scrutiny rôle with their rôle as a private member. This can arise, for example, when information received by a Scrutiny Panel as a whole is then used as the basis for

questions by a member in his or her capacity as a private member. There was an example where information received by a Panel in confidence had then formed the basis of questions asked in the States by a member of a Panel acting in an individual capacity, and as States proceedings are held in public forum, so the information was effectively made public. This kind of situation can lead to misunderstandings between Ministers and the Scrutiny functions and discourages the Executive from sharing information with Scrutiny Panels in an open and transparent way.

5.19.2 It is possible that the Panel member concerned did not perceive that he was asking a question on that occasion in a personal capacity, but rather, as a member of the Panel, with the intention of receiving information more rapidly than otherwise possible. The sub-committee does not agree with the view that questions in the States form part of the Scrutiny process and that this is a legitimate way for Panels to obtain timely information, under Standing Orders as currently drafted. In any event, the issue regarding confidentiality of information received by a Panel remains the central issue.

5.19.3 The Sub-committee believes it is important that members, when acting in a personal capacity, must take care not to use information which they have received in confidence in their capacity as a member of a scrutiny panel.

Recommendation 31 The sub-committee recommends that members of Scrutiny Panels should take care to ensure that information received by the panel is not used for individual political purposes, that is, information received in confidence by a Scrutiny Panel should not be used by an individual member in a personal capacity, for example, during question time in a States meeting. Furthermore, when seeking information as a private member, members who also serve on Scrutiny Panels should make it clear that the request for information is a personal one and not made on behalf of a Scrutiny Panel.

6. The Public Accounts Committee

6.1 *The terms of reference of this part of the Review were as follows –*

to review the structure and operation of the Scrutiny function (namely... the PAC) and, in particular –

- (i) whether the PAC is fulfilling its terms of reference as set out in Standing Orders and whether those terms of reference remain appropriate;*
- (ii) the relationship between the ...PAC, Ministers and the Council of Ministers;*
- (iii) whether the level of financial and manpower resources allocated to the Scrutiny function is appropriate and whether adequate financial control is in place;*
- (iv) the degree and nature of co-operation received from Ministers and Departments;*
- (v) the impact of the establishment of the Scrutiny function on the workload of other States Departments, including the non-Executive Departments.*

6.2 General

6.2.1 The sub-committee reviewed the structure and operation of the PAC and noted that the PAC comprises a spread of membership between politicians and non-politicians with a business background providing a broad spectrum of expertise from the private sector. Standing Orders provide that the quorum shall be one half of the Committee's membership, of whom 2 must be members who are elected members. Until the appointment of non-States members by the States on 14th March 2006, all members and candidates for membership of the Committee met informally (3 occasions). Of the remaining 8 meetings in 2006, on

further meeting was inquorate, so there were 7 properly constituted meetings in 2006.

Recommendation 32 The sub-committee recommends that the Public Accounts Committee (PAC) be proactive in the latter part of 2008 to ensure the membership is appointed as soon as possible after the beginning of the next session in December 2008.

6.2.3 The sub-committee heard evidence from a number of witnesses expressing the view that PAC had not proved to be effective in its first year of operation.

6.2.4 It is not apparent from the minutes of the PAC whether it had a programme of work in 2006, although the Committee received a briefing on the programme of the Comptroller and Auditor General. Lead members were appointed to the areas of Health, Harbours, Education, Home Affairs and Jersey Post and it was agreed that the Comptroller and Auditor General would discuss courses of action for each area with the lead members. At a meeting in May, the Committee noted a recommendation that the Chief Officers of these departments be invited to answer questions on the performance of their respective departments but this does not seem to have been followed up in 2006.

6.3 The manner in which Public Accounts Committee has fulfilled its terms of reference as set out in Standing Orders.

6.3.1 *The terms of reference of the PAC are reproduced, paragraph by paragraph, below, together with activity under each in 2006 –*

“(1) The terms of reference of the PAC are –

(a) to receive reports from the Comptroller and Auditor General on –

(i) the results of the audit of the annual financial statement of the States,

(ii) the results of any other audits by the Comptroller and Auditor General,

(iii) the annual accounts of the Social Security Fund, the Social Security (Reserve) Fund and the Health Insurance Fund,

and to report to the States upon any significant issues arising from those reports;”.

6.3.2 The PAC heard from the Chief Officer of Housing, the Treasurer of the States and the Controller of Social Security in public hearing on the subject of the States Accounts.

6.3.3 The PAC, in private session, discussed the States Accounts 2005 with PriceWaterhouseCoopers, and the Summary of Departmental Quarterly Financial Reports June 2006 and the Financial Report and Accounts 2005 with the Treasurer of the States.

“(b) to receive reports from the Comptroller and Auditor General on the results of investigations into the economy, efficiency and effectiveness achieved in the use of resources by –

(i) States funded bodies,

(ii) independently audited States bodies (apart from those that are companies owned and controlled by the States), and

(iii) States aided independent bodies;”

6.3.4 The PAC received the report of the Comptroller and Auditor General on Sickness Absence Levels and interviewed the Director of Human Resources in public session.

“(c) to assess –

(i) whether public funds have been applied for the purpose intended by the States, and

(ii) whether extravagance and waste are being eradicated and sound financial practices applied throughout the administrations of the States;”.

6.3.5 This is the only term of reference which enables to PAC to function without the direct input of the Comptroller and Auditor General. Under this item, the PAC interviewed the Strategic Planning Manager,

Chief Minister's Department and others in relation to the process of formulating the Annual Business Plan.

6.3.5 The PAC also interviewed the Chief Executive of the States, the Treasurer of the States and others on the appointment of Accounting Officers.

“(d) to receive reports from the Comptroller and Auditor General on the adequacy of the corporate governance arrangements within –
(i) the States,
(ii) States funded bodies,
(iii) independently audited States bodies, and
(iv) States aided independent bodies.”

6.3.6 The PAC received reports from the Comptroller and Auditor General on –

- The 2007 Property Plan;
- The CAG's letter to Deputy R.G. Le Hérissier regarding the Connex Review; and
- 2006 Battle of Flowers.

6.3.7 The PAC conducted two reviews in 2006, which led to the presentation of the following reports early in 2007 –

- Battle of Flowers Financial Grant
- States Property Plan

6.3.8 The list of reports presented to the States in 2006-2007 is to be found at Appendix F.

6.3.9 In 2007, the PAC lodged an amendment to the Annual Business Plan 2008 which appeared to the sub-committee to be outside the PAC's terms of reference. The PAC, by its very nature, must look at expenditure already committed, and hold accounting officers to account for their actions. The sub-committee believes that the amendment the Committee proposed related to policy, and was more properly the province of the Corporate Services Scrutiny Panel.

6.3.10 In 2006, the work of the PAC appears to have been led by the Comptroller and Auditor General (CAG).

6.3.11 The independence of the CAG is provided for in Article 52 of the Public Finances (Jersey) Law 2005–

“52 Independence of Comptroller and Auditor General

- (1) The Comptroller and Auditor General may not be directed on how any function of the office of Comptroller and Auditor General is to be carried out.
- (2) However the Comptroller and Auditor General must liaise with the Public Accounts Committee when carrying out those functions, and shall attend all meetings of the Committee.
- (3) The Comptroller and Auditor General may seek legal advice from the Attorney General on any subject relevant to the functions of the office of the Comptroller and Auditor General, and the Attorney General may provide that advice.”

6.3.12 It had been assumed in the early stages, perhaps wrongly, that the CAG would be a full-time appointment, but upon establishment became a part-time appointment of 2 days a week.

6.3.13 In order to assist the CAG to comply with Article 52(2) of the Public Finances Law, the Public Accounts Committee only calls meetings when it is clear that the CAG will be in the Island and available.

6.3.14 It had been intended that the work of the new PAC would add to and supplement the work of the CAG. The sub-committee is unclear whether the work previously undertaken by the Audit Commission

continues to be carried out, or whether the new higher level work of the CAG has replaced the audit reviews formerly carried out.

6.3.15 The Comptroller and Auditor General declined to meet the sub-committee during the review.

Recommendation 33 The sub-committee recommends that the terms of reference of the PAC be reviewed to ensure that it has a meaningful rôle, and that it can act independently of the Comptroller and Auditor General (CAG) should it wish to do so.

6.4 The relationship between the panels/PAC, Ministers and the Council of Ministers

6.4.1 The Chairman of the PAC is, ex officio, a member of the Chairmen's Committee, and has participated in the agreed procedure of that Committee of each Chairman giving a report on the work of his/her Panel since the previous meeting. Summaries are recorded in the minutes of these meetings.

6.4.2 The sub-committee noted a lack of clarity amongst States members about the work of the Public Accounts Committee (PAC). There had been no relationship built up between the PAC and the Council of Ministers, and members generally were not aware of what the PAC had achieved in its first year. The Chairmen's Committee is charged with maintaining close contact with the Council of Ministers and to ensure that –

- (i) the PAC and Scrutiny Panels are kept aware of the future work programme of the Council, and
- (ii) the Council of Ministers is kept aware of the future work programme of the PAC and Scrutiny Panels;

Recommendation 34 The PAC should prepare a future work programme for onward transmission to the Council of Ministers each year.

6.4.3 The sub-committee met with the Chairman of the PAC, Deputy S.C. Ferguson, on 30th March 2007 to discuss her views on the operation of PAC and noted the procedures adopted. Having reviewed the PAC minutes for 2006, the sub-committee remained unclear as to which of the discussions referred to matters being undertaken by the Comptroller and Auditor General (CAG), which matters had been considered by the CAG and were now being considered by the Committee, and which matters the PAC had decided to pursue separately. In addition, there was a lack of clarity as to when the Committee had concluded a review. In this connexion the sub-committee noted that in 2006 the PAC had –

- (a) held 11 business meetings in private (4 of which were inquorate), and linked with these had held –
 - (i) 4 hearings in public;
 - (ii) 1 hearing in private;
 - (iii) 1 discussion with officers in private;
- (b) the PAC had presented its comments to the States on 8th August 2007 relating to Howard Davis Farm, Trinity: part of Fields 562, 827 and 828 – sale of land (P.68/2006);
- (c) the PAC had made 2 statements to the States Assembly –
 - (i) 18th July 2006 concerning the presentation of comments on P.68/2006;
 - (ii) 24th October 2006 concerning the States Property Plan.

6.4.4 The sub-committee did not note any reports to the States Assembly, and remained unclear on the progress of PAC in 2006 until 24th April 2007 when the States Assembly – Annual Report 2006 was presented, which outlined the matters that the Committee had considered.

6.4.5 In relation to the Committee's relationship with Ministers, the PAC reported in the States Assembly – Annual Report 2006 as follows –

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

6.4.6 The sub-committee is pleased to note that from 2007, the PAC decided to review its procedure at its meetings, and agreed to consider as many matters as possible as ‘Part A’ items, that is, as being ‘open’ in accordance with the Code of Practice on Public Access to Official Information, and that the minutes of the PAC meetings held in 2007 have been uploaded to its website and are available to view.

Recommendation 35 The PAC is recommended to adopt a more consistent method of informing members about the PAC’s activity, and to produce a report and present it to the States at the conclusion of each of its reviews, so that States members and the public may be apprised of its conclusions on the matters it has considered. These should be uploaded onto the States Assembly and PAC websites. The sub-committee recommends that the PAC meets the Council of Ministers on a regular, perhaps bi-annual, basis to discuss reviews and to offer feedback to the Council on its findings.

6.5 The level of financial and manpower resources allocated to the PAC and the level of financial control

6.5.1 When the Public Accounts Committee was established on a permanent basis with effect from December 2005, it was served by 0.5 FTE of the Scrutiny Manager’s time. It had been thought, during the planning phases, that the PAC would require executive support to carry out its own reviews under paragraph (c) of its terms of reference, namely –

“to assess –

- (i) whether public funds have been applied for the purpose intended by the States, and*
- (ii) whether extravagance and waste are being eradicated and sound financial practices applied throughout the administrations of the States;”*

6.5.2 It became clear during 2006 that the majority of the PAC’s work would flow from the office of the Comptroller and Auditor General. The work of the Chairmen’s Committee took up a very significant proportion of the Scrutiny Manager’s time, and the Greffier of the States reviewed the level of staffing support to establish whether there was another way to provide sufficient support to the PAC. The Chairman of the PAC did not request executive support and was of the view that a Clerk to print agendas and record the meetings was adequate for the PAC’s needs. The Chairman asked the States Greffe to consult the CAG on the matter, and the CAG indicated that he made his own extensive manuscript notes of meetings and hearings and did not require there to be an executive officer for the Committee. As a result, the Greffier offered to support the PAC by providing a Committee Clerk to attend and record minutes, and to provide administrative support at hearings.

6.5.3 The PAC had not been allocated a budget in 2006, and the then 4 Scrutiny Panels each set aside £10,000 to allow the PAC a budget of £40,000. It became clear during the year that the PAC did not require this level of funding, and the Chairmen’s Committee decided in July that £20,000 should be returned to the Scrutiny budget. Apart from the provision of a Committee Clerk, funded by the States Greffe, the PAC committed minimal expenditure, and at the end of the year, of the order of £19,000 remained in the budget. Clearly the Chairmen’s Committee has taken an interest in budgetary issues and the PAC’s

current general expenditure is of a very low level.

6.6 The degree and nature of co-operation received from Ministers and Departments

6.6.1 Departments appear to have co-operated fully with the PAC. Ministers have not been actively engaged by the PAC.

6.7 The impact of the establishment of the PAC on the workload of other States Departments, including the non-Executive Departments

6.7.1 The Audit Commission was the precursor of the Public Accounts Committee and the Comptroller and Auditor General. The work of the PAC would not appear to have had an additional impact on the workload of departments. However, it is expected that the work of the CAG has had an impact, but this is not a matter for this review.

7. The operation of the Chairmen's Committee

7.1 *The terms of reference of this part of the Review were as follows –*

to review the operation of the Chairmen's Committee and, in particular –

- (i) whether the Committee is fulfilling its terms of reference as set out in Standing Orders and whether those terms of reference remain appropriate;*
- (ii) the relationship between the Committee and the Scrutiny Panels/PAC;*
- (iii) the relationship between the Committee and the Privileges and Procedures Committee;*
- (iv) the relationship between the Committee and the Council of Ministers.*

7.2 General

7.2.1 The sub-committee noted several comments from members that it interviewed regarding the membership and activity of the Chairmen's Committee. It was noted that the Chairmen's Committee comprised the 5 Chairmen 'ex officio' and 2 additional independent members. The President of the Chairmen's Committee must be appointed from amongst the persons who are members of the Committee by virtue of their office, although the Vice-President does not need to be a Chairman. There was some discussion on the rôle of the independent members and it was recalled that when the Privileges and Procedures Committee decided how the Chairmen's Committee should be comprised, independent members had been added to the complement of Chairmen to provide balance and also to provide independence in Scrutiny reviews. However, the sub-committee was concerned that the size of the Chairmen's Committee was too large, given that it comprised 8 members out of a total of 22 members in Scrutiny. It is not clear to the sub-committee that the 2 additional members are necessary on the Committee. Although the 2 members appointed by the States in 2006 (Deputies Le Hérisier and Reed) have played a valuable part in the work of the Chairmen's Committee, with Deputy Le Hérisier acting as Vice-President, the sub-committee has concluded that the rôle of the Committee can be compromised by the appointment of these additional members. The quorum of the Committee is currently 4 and therefore, in theory, the Committee could be quorate to take significant decisions about scrutiny with only one Scrutiny Panel Chairman present, the other 3 members present being the Chairman of PAC (currently also Committee President) and the 2 independent members, one of whom sits on PAC but not on a Scrutiny Panel. The sub-committee believes that the Committee would be more focussed and effective if it simply brought together the 5 Panel Chairmen and the Chairman of PAC so that each Panel is only represented once. At present, the 2 extra members can bring an imbalance to the Committee as one Scrutiny Panel or the Public Accounts Committee can be represented by another member as well as the Chairman.

Recommendation 36 The sub-committee does not see the need to have 2 independent members on the

Chairmen's Committee.

7.2.2 The sub-committee considers that the Chairmen's Committee has suffered from some of the failings of the former Committee system, with regular meetings which are resource intensive. It was noted, that, for example, the Chairmen's Committee had met 37 times in 2006.

7.2.3 The sub-committee noted a great deal of uncertainty surrounding the rôle of the Chairmen's Committee, both from within that Committee, and from outside it. Individual views on the rôle the Chairmen's Committee are varied and provide a clue as to the confusion relating to its rôle –

- the Chairmen's Committee should not have a controlling function, the individual Chairmen should be allowed to follow their own route, but the Committee should however, co-ordinate matters;
- the Chairmen's Committee should only co-ordinate and monitor expenditure;
- the Chairmen's Committee should co-ordinate staffing and finance matters;
- the Chairmen's Committee should pull together the Scrutiny function and should stick to its rôle as defined in Standing Orders;
- it is not the rôle of the Chairmen's Committee to advertise the work of Scrutiny or appoint PR consultants;
- the Chairmen's Committee should ensure that the remit of the Departments are covered;
- the Chairmen's Committee should co-ordinate Scrutiny work and in particular major policies such as the States' Resource Plan and the Annual Business Plan;
- individual Scrutiny members should be able to serve on the Chairmen's Committee in rotation;
- the Chairmen's Committee should have more powers so that it could be a kind of opposition party to the executive.

7.3 Is the Chairmen's Committee fulfilling its terms of reference as set out in Standing Orders and do those terms of reference remain appropriate?

7.3.1 This is set out in the Draft Code of Practice on the Operation of the Scrutiny Function. The terms of reference of the Chairmen's Committee are as follows –

“(a) to act as a co-ordinating body for the work of the PAC and Scrutiny Panels, to ensure that there is no unintended overlap in the work undertaken by them and to ensure that all aspects of the work of the Council of Ministers are, over time, reviewed;”

7.3.2 The rôle of coordination could be undertaken in more than one way, ranging from receiving and noting the proposed reviews to be undertaken by panels in a given period (and not necessarily for the entire year), to requiring individual panels to present to it their proposed reviews for a one year period for consideration and approval, against which the Chairmen's Committee would then prioritise resources to carry out those reviews. The Chairmen's Committee could, if it wished, prioritise and allocate resources to those reviews that it considered more important ahead of other reviews which, in its opinion, were of less value.

7.3.3 The Chairmen's Committee has found this a difficult route to take. The individual Chairmen have found some difficulty in determining a future work programme for the year to come and, to date, for 2007, only one panel has done so. During 2006, it was noted that the Scrutiny Panels had put together quite ambitious programmes, which had placed staff under considerable pressure from time to time. It could also be said that the Chairmen's Committee has found it difficult to behave in a corporate manner, as, on an individual level, the various Chairmen did not wish to be controlled by the Chairmen's Committee. Instead of actively managing the Scrutiny programme, the Chairmen's Committee has received monthly reports

from each panel on their activities, and receives information retrospectively rather than in a proactive way.

- 7.3.4 It does not appear to the sub-committee that the Chairmen's Committee had undertaken work to ensure that all aspects of the work of the Council of Ministers were, over time, reviewed. No evidence was presented to the sub-committee to demonstrate that the Chairmen's Committee had reviewed the programme of work of the Council of Ministers for 2006, and that it had endeavoured to identify the areas that had already been reviewed, and the areas which it was important should be reviewed. There has been no input on the part of the Chairmen's Committee relating to the work of the panels, and there appears to have been no mechanism for reviewing the work of each of the panels, for example meetings with the entire membership of a panel to discuss the work being undertaken and the future work programme of that panel.
- 7.3.5 If the Chairmen's Committee were to behave as a co-ordinating body, it could check at what stage the reviews were at, when they were to be ready, the performance of a panel and whether a panel has covered the full range of work being undertaken by the department and the Minister. For example, it was noted that between 60 and 70% of the work of the Economic Development Department is connected with the finance industry, but there were no reviews being undertaken on this although this is being rectified in 2007. The Chairmen's Committee should also ensure that Scrutiny was covering those areas the panels are expected to cover, for example, the Scrutiny of legislation.
- 7.3.6 The Chairmen's Committee should take a lead and co-ordinate the Scrutiny of the Annual Business Plan, and the Budget, to ensure that all Panels carried out an element of review, and in a timely fashion. It could programme a series of hearings with Ministers over a period of a week, say, to go through the Plan and Budget, line by line if necessary, as happens in the Australian Senate for example. These weeks could be diarised in advance and there would be certainty on all sides as to when the reviews were underway, and when Ministers would be required to give evidence.

<p>Recommendation 37 The sub-committee recommends that the Chairmen's Committee should –</p> <ul style="list-style-type: none">(i) actively co-ordinate the work of the Scrutiny Panels;(ii) take a lead in the organisation of Scrutiny of the Annual Business Plan and Budget;(iii) monitor the progress of the Panels' work programmes.
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7.4 The prioritisation and allocation of resources to the PAC and Scrutiny Panel by the Chairmen's Committee

- 7.4.2 The Chairmen's Committee in 2006 did not oversee the prioritisation and allocation of resources on an ongoing basis. It was agreed early on that an amount of £40,000 from the Scrutiny budget would be set aside for the Public Accounts Committee, which at that time did not have a budget, an amount would be set aside for general expenditure, and the remainder would be divided equally between the, then, 4 Scrutiny Panels. In addition, when a panel wished to commence a new review, its estimated expenditure for that review needed to be approved by the Chairmen's Committee before the review could commence. This appears to the sub-committee to be an inappropriate process. Either an annual budget, or a periodic amount, is allocated to a Panel, and the Panel then determines how to spend it, or if expenditure is centrally controlled by the Chairmen's Committee, then expenditure should be approved as it is required. The current system appears to be a combination of both. The Chairmen's Committee is not content to delegate the monitoring of expenditure to individual Chairmen or officers and considers this as a Committee at its scheduled meetings. This can cause frustrating delay in a climate where panels are working to tight deadlines.
- 7.4.3 The situation arose that one Scrutiny Panel found that it had spent virtually its entire allocation by the end of 2006 and, one might argue, could have also commenced a further review had it had the necessary resources, while other panels spent considerably less than their allocated budgets. On the other hand, the Chairmen's Committee did claw back £20,000 of the budget allocated to the PAC. This seems to the sub-committee to be nonsensical. It is the rôle of the Chairmen's Committee to oversee the prioritisation and allocation of resources, and it would seem more appropriate for the Chairmen's Committee to handle the

entire budget and to allocate on the basis of priorities. This would mean that there would not be unspent funds sitting in accounts while other panels had important work which they wished to carry out or which might require expert assistance. It is likely, in addition, that the overall Scrutiny budget could be reduced if it was managed differently as considerable underspends have arisen to date.

Recommendation 38 The Chairmen's Committee should prioritise the allocation of resources in accordance with Standing Orders. This will necessitate a discussion on proposed reviews across the piece, the prioritisation of the reviews, and the allocation of funds to those given the highest priority. (The allocation of staff resources should be undertaken by the Scrutiny Manager and not at a political level.) It is recommended that the Committee should not allocate the entire budget at the start of the year, but should hold a proportion of funds back for allocation later in the year according to need.

7.5 The manner in which the Chairmen's Committee have kept under review the operation of the Scrutiny function

- 7.5.1 There has been a lack of clarity in relation to this term of reference. While it is the rôle of the Chairmen's Committee to keep under review the operation of the Scrutiny function and to make recommendations for change, it is the Privileges and Procedures Committee which traditionally promotes changes to Standing Orders. The procedures relating to Scrutiny are enshrined in Standing Orders, and there has been uncertainty as to who should lead on amendments.
- 7.5.2 Initially, where the Chairmen's Committee saw that amendments to the Standing Orders might be helpful, it referred the matter to the Privileges and Procedures Committee. However, in circumstances where PPC did not agree with the Chairmen's Committee there has been stalemate or unsatisfactory delays in progressing matters. Referring requests for changes to Standing Orders to PPC, and waiting for responses, has replicated some of the delays experienced in the former Committee style of government. It would be simpler if the Chairmen's Committee were to delegate to its President responsibility for taking forward approved proposals for amendments to Standing Orders, and it would be helpful in the circumstances if the President of the Chairmen's Committee were to attend meetings of the Privileges and Procedures Committee to talk through the issues and relate the concerns which were to be addressed.
- 7.5.3 In the event, one of the vacancies which have occurred on the PPC in 2007 has now been filled by the President of the Chairmen's Committee, thus providing an important link. She is also Chairman of the PAC which adds a further helpful connection. Alternatively, the Chairmen's Committee could lodge proposed amendments directly. The only difficulty with this suggestion is that the PPC would be unable to explain the reasoning behind the way the Standing Orders had been drafted, which might refer to standpoints the Chairmen's Committee had not considered.
- 7.5.4 The Chairmen's Committee has not yet considered in depth whether the existing structure for Scrutiny is appropriate. As referred to earlier, there may be different structures that could be used, for example, whether Scrutiny might move away from the 5 fixed Panels and operate, for instance, on the basis of ad hoc Scrutiny Panels set up to consider a particular review as suggested earlier in this report. Currently most of the Scrutiny Panels consider in general the policies of the Minister which they scrutinise, and show a regular interest in general policy matters. These are considered at their meetings in 'Committee' mode. If it were decided to change the system, the Chairmen's Committee would need to ensure that all Scrutiny members were involved, and ensure that the Chairmen of reviews did not just choose the popular or like-minded members. This proposal would function better if the Chairmen's Committee agreed the membership of each Panel set up. If someone had stated strong opinions on a review then they would not be appointed to conduct a review.

Recommendation 39 It is recommended that a more streamlined process be introduced for approving and lodging amendments to Standing Orders which have been agreed by the Chairmen's Committee.

The Chairmen's Committee should review the structure of Scrutiny and determine whether there is sufficient flexibility within the current system, whether the structure remains appropriate, and whether there is merit in reducing time spent on general discussion of Ministers' policies.

7.6 Production of an Annual Report

This was undertaken in 2006.

7.7 Liaison and co-operation between the Chairmen's Committee and the Council of Ministers

7.7.1 There are two elements to this term of reference. Firstly to maintain a close contact with the Council of Ministers in general terms; and secondly to ensure an appropriate exchange of future work programmes. The Chairmen's Committee has met with the Council of Ministers from time to time, but during 2006 there was insufficient clarity of the purpose of those meetings.

7.7.2 Individual Scrutiny Panels have not been able to prepare future work programmes, and the Chairmen's Committee did not feel able to take a stronger line on the collation of the future work programme of the Scrutiny Panels, and so it was not able to keep the Council of Ministers aware of the future work programme of the PAC and Scrutiny Panels in accordance with its terms of reference. The knock-on effect of this is that it was not possible, therefore, for the Chairmen's Committee and the Council of Ministers to consider the best way of taking the reviews forward, and for example, ensure that reviews focussing on one department were not carried out concurrently placing that department under excessive strain.

Recommendation 40 **The Chairmen's Committee and the Council of Ministers should meet specifically for the purpose of exchanging information on the work programme of Ministers and the review programme of Scrutiny. The agenda for this meeting should be agreed in advance, and participants should be aware of their rôles in the discussion. On both sides, prior work should be undertaken to agree priorities and set timetables for the work/review programmes.**

Update meetings should be timetabled and held if changes to the programme have occurred or are likely to occur, in order that everyone is fully informed, and to ensure as far as possible that no abortive work is undertaken.

7.8 Code of Practice for Scrutiny

7.8.1 Standing Orders require the Chairmen's Committee –

- (f) *to prepare, keep under review and lodge for approval by the States, codes of practice for the proceedings of the PAC and Scrutiny Panels which shall include –*
 - (i) *the manner in which the PAC or a Scrutiny Panel shall prepare and make public the terms of reference and timetable for any review it proposes to conduct,*
 - (ii) *the manner in which the PAC or a Scrutiny Panel should select and, if appropriate, remunerate, expert witnesses and advisers,*
 - (iii) *the manner in which a hearing by the PAC or a Scrutiny Panel must be organized and conducted,*
 - (iv) *the manner in which a person called to give evidence before the PAC or a Scrutiny Panel is dealt with before, during and after the hearing,*

- (v) *the time when any assessment or Scrutiny of a policy of the Council of Ministers should be undertaken,*
 - (vi) *the manner in which personal or confidential information given in evidence before or contained in documents produced to the PAC or a Scrutiny Panel is to be treated,*
 - (vii) *how the PAC or a Scrutiny Panel should obtain legal advice and treat the advice obtained,*
 - (viii) *rules for the declaration of interests by members of the PAC or a Scrutiny Panel during one its meetings or hearings;*
- (g) *to prepare, keep under review and lodge for approval by the States, codes of practice as to the manner in which and the time within which the Council of Ministers must present a report or comment in response to a report by the PAC or a Scrutiny Panel which is referred to it.”*

7.8.2 The Chairmen’s Committee has prepared and lodged 2 draft codes of practice for the proceedings of the PAC and Scrutiny Panels, each of which have been withdrawn before debate. The area that has given the Chairmen’s Committee particular difficulty has been access to information, and in particular, access to legal advice given to a Minister by the Law Officers’ Department. In addition the Chairmen’s Committee has given a lot of consideration to the question of “what is government?” and the rôle of Scrutiny in the government.

7.8.3 The draft code sets out points which it also considers the Chairmen’s Committee is responsible for, such as ensuring that all non executive members of the States, who wish to participate in the Scrutiny function, are involved in the work of the panels or sub panels; that it will ensure that the work programme chosen by the PAC and the panels can be undertaken within the financial and manpower resources available, while not having any sort of “veto” over the programmes drawn up by the PAC and the panels. The Chairmen’s Committee has also declared that it will consider the overall strategic priorities of the Executive, and it may refer potential topics for review to the relevant panel for consideration.

7.8.4 The draft Code of Practice makes it clear that the Chairmen’s Committee does not wish to interfere with the selection of topics. It has also agreed that it will ensure that the work programme can be undertaken within the resources available. This appears somewhat topsy-turvy. It is the Committee’s obligation to manage its resources, and only undertake the number of reviews that it can accommodate from its budget, rather than find the necessary resources to carry out the programmes of work agreed by the PAC and the Panels.

Recommendation 41 The Chairmen’s Committee should review its processes for co-ordinating the work programme and prioritising and allocating resources, and clarify these procedures in the Code of Practice.

7.8.5 The delay in approving the draft Codes of Practice is unacceptable and should be remedied. The biggest stumbling block to the Code of Practice has been access to legal advice to Ministers, but this matter is one on which it has been impossible to reach agreement, and the Chairmen’s Committee has already taken the view that it will lodge its preference on this matter, and the parliamentary process will provide for amendments to its proposals. The States will then decide between the options presented.

Recommendation 42 The updated draft Code of Practice should be lodged and debated without delay. In the event that no consensus can be reached on legal advice, this section should simply be determined by the States.

7.9 The relationship of the Chairmen’s Committee and the Scrutiny Panels/PAC

7.9.1 During the first few months of 2006 there was concern about the lack of communication between the Chairmen’s Committee and the Scrutiny Panels. Because each of the Chairmen was present at the

Chairmen's Committee it was believed that discussions around the table amounted to communication with the panels, however it was discovered that individual members of Scrutiny Panels felt remote from the Chairmen's Committee and did not feel that they were consulted. Communication has been, to a degree, one way. The Chairmen's Committee receives reports at each meeting on the work of the Scrutiny Panels and Sub-Panels. The problems surrounding communication were tackled by holding a Scrutiny away day in October of 2006, and this was found to be very successful and the sub-committee hopes it will now become a regular feature.

7.9.2 It is unclear what the relationship is between the Chairmen's Committee and the PAC. The Chairmen of the PAC prepares a report for the Chairmen's Committee on the work of that Committee as part of the regular update agenda item. However, there is a considerable difference between the work of the PAC and the work of the Scrutiny Panels. Some have suggested that the PAC should not be part of Scrutiny, and if this is agreed, then it probably follows that there is no rôle for the Chairman of the PAC on the Chairmen's Committee.

7.9.3 The Chairmen's Committee has not played a pro-active rôle in overseeing the work of individual panels and any discussion on the work of the panels, their expenditure and their working methods has been undertaken as part of a round table discussion at a Chairmen's Committee meeting. The Committee meetings have also discussed the proposals of individual panels in relation to Standing Order changes, frustrations relating to the staffing levels accorded to Scrutiny, the need for prioritisation of reviews from a staffing point of view, frustrations relating to access to information, and the rôle of Scrutiny in government.

7.9.4 The sub-committee feels it is important to address the matter of accountability for Scrutiny and would like to see more much more emphasis on co-ordination. Who is accountable for the Scrutiny function? Is that accountability spread across all of the Scrutiny Panels and the PAC, or does the Chairmen's Committee bear a responsibility for the Scrutiny function, given its responsibilities for acting as a co-ordinating body, to ensure that all aspects of the work of the Council of Ministers are reviewed, for the prioritisation and allocation of resources, and the keeping under review the operation of the Scrutiny function? If the Chairmen's Committee is accountable for the performance of the Scrutiny function, then it must monitor the work of Scrutiny Panels and it must be prepared to challenge or justify their work. If responsibility for Scrutiny remains with each individual Chairmen of the 5 panels and of the PAC, then this would appear to be a continuation of the 'silo' mentality from which the States had hoped to escape. In order to achieve this, the Chairmen's Committee must behave corporately as the Committee responsible for Scrutiny, rather than a debating forum for individual chairmen safeguarding the interests of their panels.

Recommendation 43 The question of who is accountable for Scrutiny must be considered and satisfactorily resolved.
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7.10 The relationship between the Chairmen's Committee and the Privileges and Procedures Committee

7.10.1 During 2006 there was very little evidence of any relationship between the Chairmen's Committee and the Privileges and Procedures Committee. The only matters upon which these 2 bodies liaised was, firstly, in relation to the overall budget, which the Privileges Procedures Committee holds on behalf of Scrutiny, and secondly in relation to changes to Standing Orders which Scrutiny was advocating. There has been a lack of structure in calling regular meetings between the 2 bodies, and until recently, there were no shared members between the PPC and the Chairmen's Committee. This has now been resolved, when the PPC took the initiative to fill a vacancy by inviting the President of the Chairmen's Committee to be a member of PPC. The sub-committee believes that this was a very positive step to improve co-ordination.

Recommendation 44 The sub-committee recommends that Standing Orders should be amended to provide that the President of the Chairmen's Committee should be an ex-officio member of PPC to ensure good co-ordination between PPC and the Scrutiny function.
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- 7.10.2 The sub-committee considered whether the present structure on financial matters is appropriate. At present the PPC seeks the budget for the Scrutiny function, and that budget is effectively ring-fenced and equal amounts allocated to each scrutiny panel by the Chairmen's Committee. The PPC has questioned the level of resources set aside for the Scrutiny function, but has accepted the assurances of the Chairmen's Committee that the level of resources is appropriate. Should PPC play a more forthright rôle, and if so, at what point? If the Scrutiny function has an underspend? If it underspends for a given number of consecutive years? Given that the budget for Scrutiny effectively falls within the budget of the PPC, and given the financial climate within which the States currently operate, is it worth considering whether PPC should have more control on Scrutiny spending?
- 7.10.3 In addition, there has been an interesting relationship between the Accounting Officer and the Chairmen of Scrutiny Panels. The Scrutiny Panels decide which Scrutiny reviews they wish to undertake, they estimate the level of expenditure required, they decide how they wish to take their reviews forward, whether they wish to undertake research by holding surveys or exhibitions, they decide which countries they wish to visit in order to undertake their research. The Accounting Officer has been in the unenviable position of questioning members of the States about their expenditure so that he can satisfy himself whether he considers it is in order. This has not presented particular difficulty to date, but should more major items of expenditure arise in the future, there is a chance that a difficulty might arise if an officer challenges directly the authority of the Panels, and it might be worthwhile to develop a procedure for dealing with such an eventuality.
- 7.10.4 With regard to staffing, the staff of the Scrutiny section are part of the States Greffe and the Scrutiny Manager reports to the Deputy Greffier through to the Greffier of the States. This mirrors provision in other jurisdictions where Scrutiny is a parliamentary service and falls within the secretariat's department.

Recommendation 45 In order to allow peer review of the Scrutiny budget, the sub-committee recommends that the PPC should continue to hold the Scrutiny budget, and should take a stronger position on an appropriate budget level for Scrutiny, having regard to previous years' underspends. Secondly, a procedure should be agreed to resolve any difficulties that may be highlighted by the Accounting Officer.

7.11 The relationship between the Chairmen's Committee and the Council of Ministers

- 7.11.1 The relations between the Chairmen's Committee and the Council of Ministers have focussed on procedure in relation to the Scrutiny function rather than the substance of reviews being undertaken by Scrutiny, the programme of Scrutiny and progress.
- 7.11.2 During 2006 the Chairmen's Committee considered at length the issue of access to information, and more specifically the access to legal advice provided to Ministers. The Committee has so far been able to agree with the Council of Ministers a confidentiality statement on access to Part B information, that is information that is exempt under the Code of Practice on Public Access to Official Information, with a protocol to follow once agreed between the 2 parties.
- 7.11.3 The Chairmen's Committee has continued to request access to legal advice given to Ministers which may have contributed to the decision making process, and has been unable to reach agreement with the Council of Ministers on this matter. This has become a stumbling block between the 2 bodies, and has delayed the presentation of the draft Code of Practice on Scrutiny to the States for approval.
- 7.11.4 The Chairmen's Committee has not presented a united front when attending Council meetings and the objectives of those meetings have not been agreed in advance.
- 7.11.5 The Chief Minister made it clear that for the future he hoped for improved dialogue and relationship. For the relationship between the Chairmen's Committee and the Council of Ministers to work, the Chairmen's Committee must work in a co-ordinating rôle and take a lead.

8. The impact of machinery of government changes on the States Assembly

8.1 *The terms of reference of this part of the Review were as follows –*

to consider the impact of the introduction of the machinery of government changes on the operation of the States Assembly as the Island’s legislature, and in particular –

- (i) whether the statutory provisions on the approval of the common strategic policy of the Council of Ministers (“the Strategic Plan”) are appropriate;*
- (ii) the relationship between the Strategic Plan and the Annual Business Plan;*
- (iii) whether any changes have been made to the authority of the States Assembly by the new system and, if so, whether those changes have been appropriate.*

8.2 Strategic Plan

8.2.1 In accordance with the provisions of Article 18(2)(e) of the States of Jersey Law 2005, the Council of Ministers must agree and, within 4 months of their appointment, lodge what is described in the Law as “a statement of their common strategic policy” (commonly now referred to as the States Strategic Plan). The Law requires this to be referred to one or more Scrutiny Panels before approval by the States. There is no statutory deadline given for the debate but it would clearly be meaningless within a 3 year cycle if the plan was not debated relatively early in the life of the Council of Ministers. In 2006 the Strategic Plan was lodged by the Council on 10th April 2006 and debated over 4 days on 20th, 21st, 22nd and 27th June 2006.

In considering whether the present provisions are appropriate, the sub-committee found it helpful to look back to the origins of the requirement in Article 18 of the Law. The concept was initially mentioned in the first proposition on the move to Ministerial Government in 2001 (P.122/2001).

8.2.2 In that document one of the responsibilities of the Council of Ministers was described as follows –

“To formulate a general policy document on a regular basis, for consideration and approval by the States, that will guide the activities of the Island’s government, and report back to the States Assembly on an annual basis.”

In a footnote to the above responsibility it was stated that “the proposed policy document will provide a general review of States’ plans, priorities, and programmes, and will set out a statement of aims and objectives for an agreed period.”

8.2.3 The concept was developed in the Implementation Plan presented to the States by the then Policy and Resources Committee on 27th November 2001. In section 6.8 of that plan, headed “the Council of Ministers – policy formulation” the policy formulation process envisaged was referred to as follows:

“During elections, candidates for the States will set out their manifestos for the public to consider and the success or otherwise of each candidate will be determined, in part, on those policies espoused.

The first task of the newly elected States Assembly will be the election of the Chief Minister.

The candidates for Chief Minister will put forward a programme of policy objectives. It is probable that this programme will be developed in conjunction with other States members and will reflect a consensual approach to solving the issues of the day, but will draw upon the election manifestos of those elected members. The consensual nature of this approach will, of necessity, lead to some manifesto proposals being compromised or changed, but there will clearly

be an advantage to the most successful candidates in the election to argue for their policy proposals. The programme will be a development of the Strategic Policies in place at that time.

The successful candidate for the post of Chief Minister will then be expected to put together a team of Ministers whose job will be to put into place the programme proposed by the Chief Minister. One of the first tasks of the Council of Ministers, within four months, would be to seek the endorsement of the States Assembly to the broad direction which the Council of Ministers will be taking in a Programme Debate. The debate would also encompass the broad resource plan and budgetary proposals.

There would be nothing to prevent further review of the Strategic Policy framework during the period of office of the Council of Ministers, indeed it is likely that some policy development may take considerable time. These changes to the Strategic Policies would be subject to further debate by the Assembly.

In December of each year, the Council of Ministers will present its Budget proposals to the States for debate.

At the beginning of each year, except election years, a Business Plan debate will take place during which the Council of Ministers would present to the States the proposals which will be considered during the forthcoming year.”

- 8.2.4 The requirement was then formalised into Article 18(2)(e) of the States of Jersey Law referred to above.
- 8.2.5 Several issues arose in 2006 concerning the preparation of the first Strategic Plan under Ministerial government. Several witnesses giving evidence to the sub-committee noted that the timescale for production was extremely tight. By definition the document is a complex and lengthy one and, because of the statutory requirement, the Council, taking into account the inevitable Christmas and New Year break after its appointment, has only some 3½ months to finalise and lodge the document. In giving evidence, the Chief Minister himself nevertheless stated he believed the timescale was appropriate. After the formation of the Council he felt that the requirement to produce the Strategic Plan within a very tight timescale had enabled the Council to bond as a team quickly around this work. The Council had held an “away day” to discuss policy and the Chief Minister felt that this had helped to form an effective team.
- 8.2.6 Others giving evidence to the sub-committee were more concerned about the timescale. Some suggested that the process had been rushed and it was not feasible for Scrutiny Panels to have any meaningful input into the process. Scrutiny Panels themselves were undergoing initial training and developing working practices in the early months after their formation and this meant that the initial Strategic Plan had received little input from Scrutiny.
- 8.2.7 The sub-committee noted that the first Strategic Plan under ministerial government was, in many ways, a development of the existing Strategic Plan agreed by the States in June 2004. In addition, the sub-committee was informed that senior officers had already undertaken preparation work on the formulation of the Strategic Plan before the formation of the Council of Ministers in December 2005.
- 8.2.8 The sub-committee believes it is important to recognise that, in the future, there is no guarantee that an incoming Council of Ministers will share the political philosophy and objectives of its predecessor. In the event of a major shift in policy following elections a new Council of Ministers might wish to overturn many of the existing priorities and objectives of the States. Nevertheless, in these circumstances, it is likely that the incoming Council will itself have a clear programme of policy objectives and should hopefully be in a position to develop the new Strategic Plan within the statutory deadline. The sub-committee has concluded that, until the 3 year cycle of each States is extended, there is little realistic or alternative to the current 4 month deadline. Anything longer would inevitably mean that the debate on the Strategic Plan would be delayed until the autumn Session, which would mean that the overall policy direction of the Council of Ministers would not be agreed until nearly one year after its appointment. This would only leave 2 years to implement the agreed policies. In the circumstances the sub-committee does

not recommend any changes to the current 4 month deadline for the lodging of the Strategic Plan.

8.2.9 A second significant issue that arose in relation to the Strategic Plan in 2006 related to the actual status of the plan. Article 18 of the States of Jersey Law refers to the plan as being “a statement of their [the Council of Ministers’] common strategic policy”. When the plan was first lodged there was some confusion on whether or not other members of the States would be able to amend the plan, as it was initially ruled by the Bailiff that it was a policy statement of the Council of Ministers and not of the States. This ruling was subsequently amended and a large number of amendments were eventually lodged and debated. There was, nevertheless, a significant concern from the Chairmen’s Committee on behalf of the Scrutiny function in relation to the plan. The Chairmen’s Committee was concerned that the plan contained a vast number of policy options and, once it had been approved by the States, the Chairmen’s Committee was concerned that the Council of Ministers would be able to take significant action without further referral to the States. As a result the Chairmen’s Committee lodged an amendment, which was accepted by the Council of Ministers and adopted by the States, which included the words “in principle” in relation to the approval of the plan. In its report accompanying the amendment the Chairmen’s Committee stated that these words were being inserted “to ensure that the initiatives within the plan will be developed and returned in a more complete state to the States for subsequent approval or not as the case may be”.

8.2.10 In its comments indicating its acceptance of the amendment the Council of Ministers commented that the Strategic Plan set out the outline work programme for the next 5 years. The plan was described by the Council as the framework within which new legislation and major policy proposals would be developed prior to the referral to the States Assembly for a decision. The Council went on to state “Each year the Annual Business Plan will determine the resources, objectives and initiatives for each department. It is the States decision on this that will provide the necessary resources and authorise Ministers to proceed with specific initiatives. If there are major new policies or programmes these will be brought to the States for their agreement.”.

8.2.11 The sub-committee feels that the status of the Strategic Plan, particularly following the adoption of the amendment of the Chairmen’s Committee, is unclear. The plan was a mixture of very high level objectives and very detailed actions. Many of the objectives were, inevitably, described in very general terms that almost any reasonable person would be likely to agree with. The actions related to the objectives were, however, extremely detailed in some cases, for example, “Amend building by laws to incorporate lifetime home standards by 2007.”.

8.2.12 The sub-committee believes that the next Council of Ministers, when fulfilling the requirement to bring forward a new Strategic Plan, should take care to ensure that it is a broad policy statement of the policy direction of the Council and not a detailed list of many hundreds of actions. The sub-committee believes that the wording referred to above in the 2001 Implementation Plan, which described the plan as the “broad direction which the Council of Ministers will be taking” was appropriate.

<p>Recommendation 46 The sub-committee recommends that the future Strategic Plan brought forward by the Council of Ministers should be a broad policy statement setting out the general overall policy direction of the Council without excessive detail on individual initiatives.</p>
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8.3 The relationship between the Strategic Plan and the Annual Business Plan

8.3.1 Because the first Strategic Plan was, as mentioned above, an extremely detailed one, it was difficult for States members to differentiate between the Strategic Plan and the first Annual Business Plan brought forward under Ministerial Government in the summer of 2006. In common with the Strategic Plan, the Annual Business Plan contained many detailed objectives for departments and these were not always directly linked to the action that the department concerned would undertake in 2007 (being the year covered by the Annual Business Plan).

- 8.3.2 If the Annual Business Plan debate is to be meaningful for members, the sub-committee believes that it should be the occasion for members to debate the detail of the actions that ministerial departments will be undertaking within the broad policy framework that will have been agreed in the Strategic Plan at the start of the lifetime of the Council of Ministers. The 2 documents should clearly be different as they have a very different purpose.
- 8.3.3 A further concern expressed to the sub-committee related to the timing of the lodging and debate of the Annual Business Plan. Because of the current financial cycle, there is little alternative to the present situation where the Annual Business Plan is lodged at the end of the summer recess with a debate at the very start of the autumn session. Several members giving evidence to the sub-committee expressed concern that, as a result, there was little opportunity for members and Scrutiny Panels to bring forward amendments because of the summer break.

<p>Recommendation 47 The sub-committee recommends that the Minister for Treasury and Resources should review the annual financial cycle to see if there is any scope to alter the current lodging and debate time for the Annual Business Plan.</p>
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8.4 Changes to the authority of the States Assembly by the new system

- 8.4.1 The sub-committee heard concern from a number of members that the new system had diminished the authority of the States Assembly. It was clear to the sub-committee that the fundamental question “What is government?” remained unanswered for a number of members of the Assembly. Some members involved in Scrutiny were concerned that Scrutiny was not considered as part the ‘government’ in Jersey and felt that, as a result, the authority of the States Assembly had been diminished.
- 8.4.2 Some members who had been present in the Assembly when the initial decision to move to ministerial government had been agreed in 2001 felt that the system as established did not correspond to the undertakings that had been given at that time. In particular, assurances by the then Policy and Resources Committee and, in particular, its President, then Senator Pierre Horsfall, were felt by some giving evidence to have been ignored when the legislation bringing into force the new system had been drafted and approved.
- 8.4.3 In the initial proposition relating to the move to ministerial government (Machinery of Government Proposed Reforms P.122/2001) the following description was given of the relationship between Ministers and the States Assembly in the proposed new system.

“6.1 Before describing the ministerial system, it should be emphasised that the Committee’s proposals will not detract from the power of the States Assembly, and the function of the Assembly as the Island’s seat of government will remain paramount. The States would continue to be the Island’s legislature, and general policies would be approved by the Assembly as they are now. The Assembly would also continue to take those major executive decisions that do not fall within States-approved policies. Examples are decisions to adopt the capital and revenue expenditure budgets, to build a new school or hospital, or to create a Territorial Army Unit.

6.2 Under present arrangements the day to day business of the Island is conducted by Committees which are appointed by the States and have delegated areas of responsibility. Committees are all subject to decisions of the States, except where they are given specific powers and duties by legislation. The responsibilities of individual Committees vary enormously, but the majority of them are responsible for providing a public service, such as health or education. All propositions for the passing of new legislation, together with any significant policy proposals, have to be referred by Committees to other Committees and then to the States Assembly for a decision.

6.3 It is proposed that the present system of Committees, together with its supporting administrative arrangements and infrastructure, should be abolished and replaced by a ministerial system of government. This means that the present Committee responsibilities would be taken on by

individual ministers, each of whom would be responsible for a particular area or department of government. As with the present system, the States would remain the supreme decision-making body and any new legislation and major policy proposals would have to be referred to the States.”

8.4.4 The written description above in the Proposition was re-enforced by the then President of the Policy and Resources Committee during his summing-up speech on 28th September 2001. In that speech he said –

“...whatever happens, all these changes that are being proposed, the House remains absolutely paramount, whether it’s policy, big decisions, capital programme – the House remains paramount. Some minutiae will go but the House’s authority is actually undiminished – I just want to emphasise that. And the other thing which is linked to that that I want to emphasise because a member on the other side of the House did ask me to do so, the private member’s rights – it is absolutely imperative that when the Privileges and Procedures Committee draws up Standing Orders, that members’ rights are safeguarded – there can be no question that members must retain rights to act in the interests of their electors and again, I will repeat time and time again, those rules, however they are drafted will come to the House for approval and I would say to members of the House, if they don’t preserve members’ rights – you will reject them, because you should and so will I – members’ rights will be preserved and the House will judge whether they have been or not.”

8.4.5 Some giving evidence considered that the drafting of the States of Jersey Law 2005, which refers to Ministers as corporations sole, meant that the authority of the States Assembly had been diminished and that the Assembly was no longer the paramount body under the new system. More than one witness drew attention to the comments of the Attorney General and Solicitor General on the first draft of the Code of Practice for Scrutiny Panels and the Public Accounts Committee (P.101/2006) that had been presented to the States by the Law Officers on 1st September 2006. Paragraph 21 and the beginning of 22 of those comments read as follows –

“21. At paragraph 9.18, the code of practice asserts that because both executive and Scrutiny belong to the same elected assembly, they are not to be considered as separate clients. As a matter of law, this is not correct. The whole concept of the States of Jersey Law, 2005 and the move to Ministerial Government is based on the premise that the States Assembly is no longer to take executive decisions, because these will instead be taken by Ministers independently. That is why the States of Jersey Law provides that Ministers are corporations sole. They have a separate legal status. As a matter of law, Ministers are separate from the States Assembly and from members.

22. Scrutiny Panels are not corporations sole. They have no need to be, because they do not take executive decisions in relation to individual cases. Scrutiny is an important parliamentary process for holding the executive to account.”

8.4.6 The sub-committee concluded that some of the concern and confusion that has arisen may relate to the interpretation of the word “government”. It is clear under the new system that the Ministers and Assistant Ministers form part of the Executive. Ministers and Assistant Ministers are responsible for taking executive decisions within their area of responsibility and the States of Jersey Law 2005 makes it clear that Ministers have statutory responsibility for their actions. Nevertheless, in a largely non party system, it is clear that all 53 members elected to the States of Jersey participate in the overall process of ‘governing Jersey’. It is clear to the sub-committee that because the Executive is in the minority it cannot have the autonomy to take decisions that might exist in other jurisdictions where Ministers are supported by a large party majority in their parliament. In practice, in Jersey, if Ministers attempted to introduce major new policies without any reference to the States Assembly it is likely that they would very quickly lose the political support of the Assembly and could face a vote of no confidence.

8.4.7 The sub-committee has concluded that academic discussions about the legal position of Ministers or their theoretical ability to take executive decisions without reference to the Assembly are unlikely to be helpful or productive. The practical reality is that experience since December 2005 has shown that all major new

policies are being brought to the States for debate and Ministers are respecting the decisions of the States on policy matters. The current Chief Minister has made it clear on a number of occasions that he considers that all members of the States have a part to play in the government of the Island and, if that was not the case, it is clear that the Council of Ministers would soon lose the support of the Assembly. It is clearly important for legal reasons that Ministers must have proper statutory authority for their rôle and the sub-committee does not believe that the authority of the States Assembly has been diminished by the introduction of the new system. As referred to earlier there are clearly concerns that communication by Ministers is not always satisfactory and there is clearly a perception on occasions that private members have not been sufficiently involved in matters such as the preparation of the draft Annual Business Plan. The sub-committee believes it is important, if Jersey's long tradition of consensus politics involving all members of the Assembly is to continue, that the Council of Ministers takes steps to involve as many members as possible in policy formulation. This should not only be done through the Scrutiny structure but also through more general involvement of all members in their individual capacity.

9. The appointment procedure in December 2005

9.1.1 *The terms of reference of this part of the Review were as follows –*

to review the success or otherwise of the operation in December 2005 of the current procedures for the appointment of the Chief Minister, Ministers, Assistant Ministers and the Chairmen and members of the Chairmen's Committee, the PAC and the Scrutiny Panels.

9.1.2 The sub-committee took care to look into the way appointments had been made in December 2005 and questioned a number of members who came to give evidence on this topic.

9.2 Chief Minister

9.2.1 The sub-committee heard no great concern about the way in which the actual appointment had been made in the Chamber for the Chief Minister in December 2005, although the sub-committee recognises that the straight contest between only 2 candidates possibly made the process more straightforward. An appointment could be more challenging with several candidates. The principal concern expressed to the sub-committee on this matter by some new members was that they did not know the 2 candidates well and in some cases, not at all, and were forced to make a choice on the basis of very little information.

<p>Recommendation 48 The sub-committee recommends that there should be some form of informal “hustings” organised for members, particularly new members, before the formal appointment process in the States Chamber. This would enable new members to meet the candidates for Chief Minister – and those who might be nominated to be Ministers – before being required to make the appointment.</p>
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9.3 Ministers

9.3.1 In relation to the appointment of Ministers the sub-committee noted that Standing Orders do not require the Chief Minister designate to give any advance notice to members of his or her nominations for ministerial office. In theory the Chief Minister could make no public announcement about his or her nominations until the start of the appointment process in the States Chamber.

9.3.2 The sub-committee noted that the current Chief Minister had, in fact, given informal notification to members through the States Greffe some 24 hours before the appointments in 2005. The informal notification had nevertheless made it clear that this advance notification could be amended when the Chief Minister made his formal nominations in the Chamber. The sub-committee believes that it is essential that members should have advance knowledge of the candidates for ministerial office so that they are aware of the proposed “team” being proposed by the Chief Minister and can make reasoned choices about nominating alternative candidates. In addition, the candidate for Chief Minister should have the prior agreement of those he intends to nominate to be his Ministers.

- 9.3.3 New members also did not feel that they knew other members well enough to make sound judgements on appointments as Minister and would benefit from an informal event to remedy this.

Recommendation 49 The sub-committee recommends that Standing Orders should be amended to require the Chief Minister designate to give formal notice through the States Greffe of his or her nominees as Ministers at least 24 hours before the appointments are made.

- 9.3.4 The sub-committee noted that the majority of Ministers in 2005 were appointed without a contest and they therefore had no opportunity to set out their proposed policy in the Assembly. It was, in fact, only in the contested appointment of the Minister for Transport and Technical Services that members heard the 10 minute speech of the candidates and were able to question them. The current Minister for Education Sport and Culture notified the sub-committee that he had circulated to all members for information the speech that he had planned to give in case of a contested appointment and this enabled all members to be aware of his policy manifesto as Minister at the start of his term of office. The sub-committee believes it is important that all Ministers should do something similar in the future even if the positions are uncontested.

Recommendation 50 The sub-committee recommends that Standing Orders should be amended to provide that all candidates for ministerial office, even if uncontested, should produce a written statement so that their proposed policy as Ministers is set out in advance for the official record and recorded in Hansard.

9.4 Assistant Ministers

- 9.4.1 Assistant Ministers are the only office holders in the new system who are not appointed by the States. Assistant Ministers are selected and appointed by Ministers with the consent of the Chief Minister.
- 9.4.2 Some giving evidence to the sub-committee expressed the view that Assistant Ministers should be appointed by the States. These members pointed out that, for example, the Chief Minister may be required to work with Ministers that he or she has not selected and similarly Scrutiny Chairmen may find that members are appointed to Scrutiny Panels against the wishes of the Chairman.
- 9.4.3 Having considered the rôle of Assistant Minister, the sub-committee does not believe that it would be appropriate to amend the present appointment procedure. If the rôle of Assistant Minister is to be meaningful and worthwhile it is essential that the relationship between the Minister and his or her Assistant Minister or Ministers is excellent. It is, in fact, probably even more important than the rôle of Ministers working together on the Council of Ministers where differences of opinions and the lack of any close political relationship does not affect the overall working of the Council.
- 9.4.4 The sub-committee considered whether it would be appropriate to involve Assistant Ministers in Scrutiny Panels if they wished to serve in this capacity. Some Assistant Ministers mentioned that they felt they would already be too busy to take on additional responsibilities although others expressed an interest in being able to become involved in Scrutiny as well. The sub-committee believes that this matter is worthy of further consideration as there would appear to be no real valid reason to prevent Assistant Ministers from serving on Scrutiny Panels, provided that these panels were not reviewing any matters within the Assistant Minister's area of executive responsibility. If a more flexible scrutiny function, with greater use of sub-committees, was introduced this would, of course, be easier to introduce.

Recommendation 51 The sub-committee recommends that the Chairmen's Committee and the Council of Ministers, in consultation with the Privileges and Procedures Committee, review the possible advantages and disadvantages of amending the States of Jersey Law 2005 and Standing Orders to allow Assistant Ministers, in certain circumstances, to participate in the Scrutiny function.

9.5 Chairmen of Scrutiny Panels

- 9.5.1 Current Standing Orders provide that the Chairmen of Scrutiny Panels must be appointed immediately after Ministers and these appointments are therefore, made on the same day as Ministers.
- 9.5.2 When the new Standing Orders were put in place the then Privileges and Procedures Committee considered it was important that the election of the PPC Chairman, the PAC Chairman and Scrutiny Panel Chairmen took place immediately after the appointment of Ministers so that the status of these Chairmen was recognised and to ensure that Chairmen could be appointed before the Ministers selected their Assistant Ministers.
- 9.5.3 Experience in December 2005 showed that the provisions in Standing Orders are possibly not satisfactory. Because 3 out of the 4 appointments for Scrutiny Chairmen were uncontested, the process of appointing Chairmen happened very quickly and several people giving evidence to the sub-committee considered that this “rush” to appoint Chairmen was unsatisfactory. The sub-committee is conscious that the Chief Minister’s nominees for Minister were, with one exception, all appointed in December 2005. This may not be the case in the future when more positions may be contested and, in those circumstances, it is possible that unsuccessful candidates for Minister may wish to put their names forward as Chairman of PPC, PAC or a Scrutiny Panel. On balance, the sub-committee therefore believes it may be better to have a short adjournment between the appointment of Ministers and the appointment of Chairmen.

<p>Recommendation 52 The sub-committee recommends that there should be a short adjournment of at least 4 hours between the appointment of Ministers and the subsequent appointment of the Chairman of the Privileges and Procedures Committee, the Public Accounts Committee and the Scrutiny Panels. This half-day adjournment could, in practice, mean reconvening the following day or, alternatively, meeting in the afternoon if the appointment of Ministers is concluded during a morning Sitting.</p>
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9.6 Members of PPC, PAC and Scrutiny Panels

The sub-committee did not hear any concerns about the current method used for the appointment of members of committees and panels and has no recommendations for change in relation to these appointments.

10. Other issues

The terms of reference of this part of the Review were as follows –

To consider any other matters deemed relevant to this review.

10.1 Introduction

During the review the sub-committee received evidence and considered a number of matters that were not directly covered by the detailed terms of reference. Although these items were not all exclusively related to the Machinery of Government changes the sub-committee felt it was helpful to summarise them and to make a number of recommendations.

10.2 Questions

- 10.2.1 The sub-committee noted that the number and length of written questions tabled for answer in the Assembly during 2006 and 2007 to date was considerably greater than the number in 2005. There was, in fact, an increase of some 80.7% between 2005 and 2006.

- 10.2.2 The sub-committee recognises that the ability of members to hold Ministers to account and obtain information through written questioning is fundamentally important. The sub-committee nevertheless believes that this right of members must be balanced with some responsibility. In theory each member of the States could table an unlimited number of written questions of unlimited length and this could bring the entire government administration in Jersey to an almost total standstill. Of course, in practice, the system is somewhat self regulating and an examination of the Order Paper shows that there are a relatively small number of members who table the majority of written questions.
- 10.2.3 The sub-committee heard evidence from some Ministers and Chief Officers that the preparation of written answers was a significant burden on the resources of departments. Certain Chief Officers mentioned that one or 2 days per week were taken up for senior officers preparing written answers.
- 10.2.4 In balancing the rights of individual members to seek information and the reasonable demands on ministerial departments, the sub-committee believes that some limitation on the number and length of written questions that can be submitted should be introduced. At present any member can submit up to 2 oral questions with notice of a maximum length 70 words each per States meeting. The subcommittee believes that it would be appropriate for each member to be able to submit no more than 3 written questions of a maximum length of up to 200 words each.

Recommendation 53 The sub-committee recommends that Standing Orders be amended to restrict the number of written questions that any one member can submit per States meeting to 3 written questions of a maximum length of 200 words each.

10.3 Private members' Propositions

- 10.3.1 The submission from the Council of Ministers to the sub-committee drew attention to the current requirement in Standing Order 27 that any Proposition lodged by a private member should be referred to the Council of Ministers for a Report. The Council of Ministers submitted that this was an unnecessary requirement as certain private members propositions are only relevant for one or 2 Ministers and not for the whole Council. The sub-committee accepts this view.

Recommendation 54 The sub-committee recommends that Standing Order 27 be amended to provide that the Greffier shall refer a Proposition lodged by a private member to the relevant Minister or Ministers so that the Ministers can consider whether or not to report to the States on the matter.

10.4 Minimum lodging periods

- 10.4.1 The sub-committee heard concern from the Council of Ministers and others that the current 2 week minimum lodging period for a proposition lodged by a private member was extremely short. In the case of a private member's proposition raising a significant issue of policy there was not, with the 2 week lodging period, time for the Council of Ministers or individual Ministers to consider the matter in detail and report to the States.
- 10.4.2 The sub-committee recalled that the 2 week lodging period for private members had been inserted in the 2005 Standing Orders to preserve the rights of private members that existed under the 1966 Standing Orders. Because the debate date of any proposition is ultimately a matter for the States Assembly, the sub-committee does not believe that any change to the current provisions is required. If a Minister informs the States Assembly that he or she requires additional time to consider a private member's proposition and prepare a report the Assembly will, if it believes that the receipt of the Minister's report is important, normally agree to defer the debate. The sub-committee believes that the right of private members to bring matters to the Assembly at short notice with the 2 week lodging period is important and should be retained.

10.5 Appointed Day Acts and Orders

- 10.5.1 The Council of Ministers, in its evidence to the sub-committee, suggested that it could be appropriate for certain straightforward legislation to be commenced by an Order made by the Minister rather than by an Appointed Day Act approved by the States. The Council suggested that because the States have already approved the relevant legislation there is little benefit in involving the Assembly in the details of the day of commencement.
- 10.5.2 The sub-committee recognises that, on many occasions Appointed Day Acts are viewed by members as nothing more than a formality and are approved relatively quickly. On other occasions, with controversial legislation, the Appointed Day Act provides the opportunity for members to have one further occasion to discuss whether or not the legislation should be brought into force on the day suggested by the Minister. The sub-committee believes that this is an important safeguard and it would, in practice, be difficult to assess which legislation might be controversial, and therefore worthy of an Appointed Day Act, and which would not. Because straightforward Appointed Day Acts can be debated and agreed extremely quickly, and with a 2 week lodging period, the sub-committee sees little benefit in amending the current system.
- 10.5.3 The Council of Ministers suggested to the sub-committee that it was an inappropriate use of the time of the States Assembly for fee increases to be made by Regulation when many were made by Order and this latter option appeared more appropriate. The sub-committee shares this view particularly because Orders must be tabled in the States for information and can be annulled on a proposition brought by any member. The sub-committee recognises that changes to primary legislation will be needed to amend the enabling power in relation to fee increases and this matter may not be a high priority for the legislation programme.

Recommendation 55 The sub-committee believes that the Council of Ministers should nevertheless give consideration to requesting all departments to identify fee increases currently made by Regulation so that appropriate amendments could be made to enable these to be made by Order in the future.

10.6 Succession planning in the Ministerial system

- 10.6.1 Some members giving evidence to the sub-committee expressed concern about the way in which Ministers and other senior appointments will be made in the future in the Ministerial system. Some members drew attention to the fact that the previous informal systems of succession planning that existed in the Committee system, where a Committee member or Vice-President might aspire to be President, did not exist in the same way in the new system. There was concern that future Ministers might only be chosen from the ranks of the Assistant Ministers and it was noted that several new members in 2005 had been appointed as Assistant Ministers and might therefore become Ministers at some stage in the future without ever serving in the Scrutiny function.
- 10.6.2 The sub-committee does not share the concerns of members in this regard. The sub-committee sees no reason why Chairmen of Scrutiny Panels or other members could not become Ministers, particularly if they had been seen to act effectively in the Scrutiny function. The sub-committee hopes that there will be movement between the Executive and the Scrutiny function and there is already evidence since 2005 that members who have worked in Scrutiny have become Assistant Ministers. The sub-committee hopes that there will be two-way movement between the Executive and Scrutiny and that members will not view Executive work as more “important” than work in the equally important Scrutiny function. One member wrote to the sub-committee that Scrutiny consists of the “leftovers”. The sub-committee strongly refutes this description and it is very important that it is not the case.

11. Conclusion

- 11.1 The sub-committee is extremely grateful to all members who took the trouble to give evidence in writing or in person to enable it to undertake this review. The sub-committee is conscious that the new system of Ministerial government has, at the time of concluding this review, only been in place for less than 2 years

This review is, in the words of the Chairman of PPC on 21st November 2006, equivalent to the “first service of a motor vehicle”. As the Chairman mentioned on that day the sub-committee does not consider that it is yet time for a full scale review of the new system of government. It is nevertheless important, during the lifetime of the next Council of Ministers when more experience of the new system will have been gained, to keep the system under review.

11.2 Most witnesses giving evidence to the sub-committee accepted that the new system was, in general, working well and the Committee only received one real submission suggesting that the previous Committee system had been much better than the new system. There is nevertheless concern that there may be a growing feeling of division between the Council of Ministers and other members. This division has been referred to several times in this report in different contexts and the sub-committee believes that it is a matter of concern. Jersey, as mentioned earlier, has a long tradition of States members working together in different contexts with involvement of all 53 members in the government of the Island. This consensual working should not, of course, be at the expense of proper challenge of executive decisions, and there must be members, either through Scrutiny or in their individual capacity, who take robust steps to hold Ministers to account and ensure overall accountability of the Executive. It is nevertheless clear that there is a desire on the part of all members to be involved in policy-making processes. The sub-committee hopes that the proposed review of the important issue of “what is scrutiny?” referred to earlier, combined with greater efforts by the Council of Ministers to communicate and involve members to a greater extent, will address concerns that members have about being isolated from involvement in the government process in Jersey.

Terms of Reference

- (1) to review the operation of the Council of Ministers and, in particular –
 - (i) the nature of matters listed on the agenda of meetings of the Council and the timeliness and effectiveness of decision-making;
 - (ii) the extent to which decisions are taken by the Council as opposed to individual Ministers;
 - (iii) the relationship between the Council and other members of the States;
 - (iv) the provision of information to members of the States and the public about the work of the Council.
- (2) to consider the rôle of Ministers and Assistant Ministers and, in particular –
 - (i) the relationship between Ministers and the Council of Ministers;
 - (ii) the relationship between Ministers and Assistant Ministers;
 - (iii) and the timeliness and effectiveness of decision-making by Ministers and the manner in which ministerial decisions are recorded and disseminated;
 - (iv) the level of administrative support available to the Council of Ministers, Ministers and Assistant Ministers.
- (3) to review the structure and operation of the Scrutiny function (namely the Scrutiny Panels and the PAC) and, in particular –
 - (i) whether the panels and the PAC are fulfilling their terms of reference as set out in Standing Orders and whether those terms of reference remain appropriate;
 - (ii) the relationship between the panels/PAC, Ministers and the Council of Ministers;
 - (iii) whether the present allocation of subject areas to the 5 Scrutiny Panels is appropriate;
 - (iv) whether the level of financial and manpower resources allocated to the Scrutiny function is appropriate and whether adequate financial control is in place;
 - (v) the degree and nature of co-operation received from Ministers and Departments
 - (vi) whether the procedures governing the manner in which the Scrutiny function is able to review draft policies and draft legislation are appropriate;
 - (vii) the impact of the establishment of the Scrutiny function on the workload of other States Departments, including the non-Executive Departments;
- (4) to review the operation of the Chairmen’s Committee and, in particular –
 - (i) whether the Committee is fulfilling its terms of reference as set out in Standing Orders and whether those terms of reference remain appropriate;
 - (ii) the relationship between the Committee and the Scrutiny Panels/PAC;

- (iii) the relationship between the Committee and the Privileges and Procedures Committee;
 - (iv) the relationship between the Committee and the Council of Ministers.
- (5) to consider the impact of the introduction of the machinery of government changes on the operation of the States Assembly as the Island's legislature, and in particular –
- (i) whether the statutory provisions on the approval of the common strategic policy of the Council of Ministers (“the Strategic Plan”) are appropriate;
 - (ii) the relationship between the Strategic Plan and the Annual Business Plan;
 - (iii) whether any changes have been made to the authority of the States Assembly by the new system and, if so, whether those changes have been appropriate.
- (6) to review the success or otherwise of the operation in December 2005 of the current procedures for the appointment of the Chief Minister, Ministers, Assistant Ministers and the Chairmen and members of the Chairmen's Committee, the PAC and the Scrutiny Panels.
- (7) To consider any other matters deemed relevant to this review.

Oral witnesses

The following members and officers gave evidence in public session –

In the capacity of Minister –

Senator F.H. Walker,	Chief Minister
Senator T.A. Le Sueur,	Minister for Treasury and Resources and Deputy Chief Minister
Senator P.F.C. Ozouf	Minister for Economic Development
Deputy G.W.J. de Faye,	Minister for Transport and Technical Services
Deputy P. N. Troy	Assistant Minister, Social Security
Deputy C.J. Scott Warren	Assistant Minister, Health and Social Services (at time of interview)
Deputy A.J.D. Maclean	Assistant Minister, Economic Development
Deputy I.J. Gorst	Assistant Minister to the Chief Minister

In the capacity as Chairman of the Public Accounts Committee or of a Scrutiny Panel –

Deputy S.C. Ferguson	(Public Accounts Committee)
Deputy P. Ryan	(Corporate Services)
Deputy G.P. Southern	(Economic Affairs)
Deputy F.J. Hill, B.E.M.	(Social Affairs Scrutiny Panel/Education and Home Affairs)
Deputy A. Breckon	(Health, Social Security and Housing)
Deputy R.C. Duhamel	(Environment)

In an individual capacity –

Senator B.E. Shenton
 Senator J. Perchard
 Deputy R. Le Hérissier
 Deputy J.G. Reed
 Deputy D. Mezbourian
 Deputy S. Power

The following members and officers were interviewed in private session –

Senator F.H. Walker,	Chief Minister
Senator F.E. Cohen,	Minister, Planning and Environment
Deputy R.C. Duhamel,	President of the Chairmen’s Committee
Mr. W. Ogley,	Chief Executive
Mr. I. Black,	Treasurer of the States
Mr. P. Thorne,	Director of Planning
Mr. J. Richardson,	Chief Officer, Transport and Technical Services
Mrs. K. Tremellen-Frost,	Scrutiny Manager

Completed Questionnaires were received from –

Sir Philip Bailhache, Q.C., Bailiff of Jersey
 Senator P.F.C. Ozouf
 Senator B.E. Shenton
 Connétable K.P. Vibert

Connétable M.K. Jackson
Deputy R.C. Duhamel
Deputy G.C.L. Baudains
Deputy C.J. Scott Warren
Deputy R.G. Le Hérisssier
Deputy B.J. Fox
Deputy P.J.D. Ryan
Deputy C.F. Labey of Grouville
Deputy G.W.J. De Faye
Deputy A. Pryke of Trinity
Deputy S. Pitman

Written submissions were received from –

Council of Ministers
Comité des Connétables
Education and Home Affairs Scrutiny Panel
Deputy G.C.L. Baudains
Mr. W. J. Bailhache, H.M. Attorney General
Reverend B. Shaw

19th October 2006

Review of the Rôle of Assistant Ministers – Checklist

1. Are the Assistant Ministers' rôles and responsibilities clear?
2. Has the Assistant Minister received an appropriate induction?
3. Are the arrangements for briefing the Assistant Minister clear?
 - By the Minister
 - By the Chief Officer
 - By relevant Senior Officers
4. Are the Assistant Ministers' decision-making powers clear?
 - Are decisions delegated by the Minister
 - Does the Minister provide an overall framework for decisions?
 - Are specified issues to be referred to the Minister?
 - For discussion
 - For decision
5. Is the Assistant Minister expected to contribute to Ministerial decisions?
 - If so what are the arrangements for this?
 - Regular briefings
 - Ad hoc requests
6. Are the arrangements for Officer support clearly agreed?
 - Timescales for response etc.
7. Does the Assistant Minister have a rôle in appeals, or could their rôle be extended?
 - Is the rôle clearly defined and understood by officers and potential appellants?
8. How is the Assistant Minister expected to support the Minister in relation to scrutiny?
 - Lead on delegated items
 - Lead on ad hoc issues
 - General support and if so how is the Assistant Minister prepared for this?
9. Is the Assistant Minister always invited to Council of Ministers meetings for items delegated to them?

10. What arrangements are in place to brief Assistant Ministers on issues discussed at Council of Ministers, which affect them or the department?
11. Is the Assistant Minister expected to deputise for the Minister at the Council of Ministers?
12. Does the Assistant Minister lead on relevant propositions in the States.
13. Should the Assistant Minister be invited to answer questions in the States which address their areas of responsibility?
14. How is the Assistant Minister expected to deal with media matters?
 - Lead on matters delegated to them
 - Refer to Minister
15. Are arrangements in place for Ministers and Officers to inform the Assistant Minister about relevant media enquiries or interviews?
16. Does the Assistant Minister have a rôle to play in relation to good news items?
17. Does the Assistant Minister have any responsibility for cross-cutting issues and if so how are functions delegated to them?

Education, Sport and Culture

Working with the Ministerial Team Protocol

Interaction/Decision-making

The Minister will deal with items either:

- As part of a regular meeting with Assistant Ministers; or
 - As part of 'ad-hoc' meetings within the Department; or
 - Through telephone or e-mail meetings.
- Items can be presented to the Minister for decision by the Chief Officer and the members of the Senior Management Team only. This does not, of course, preclude others from developing items and attending meetings.
 - In general, the Chief Officer and members of the Senior Management Team only are authorised to take instructions and/or agree decisions from/with the Minister or Assistant Ministers. Where it is necessary for another Member of staff to receive instructions from the Ministerial Team, the staff member concerned would be expected to discuss it with the Director or their Assistant Director.
 - The decision-making process will comply with the 'Guidelines for Ministerial Decisions', issued by the Chief Ministers Department, which is *attached* to this protocol.

Regular Formal Ministerial Meetings

- One formal meeting every 2 weeks will be scheduled with the Ministerial Team (i.e. Minister and Assistant Ministers). This is currently alternate Mondays at 2:00 p.m.
- An agenda will be sent out in advance by e-mail (on the Friday).
- Papers will be submitted in advance, but independently from the agenda and sent direct by the originator.
- The Director (or his nominee) and the Assistant Director, Policy and Planning will attend these meetings and other officers will attend to present their items.
- An action list will be maintained and reviewed at each meeting.
- A series of meetings will take place throughout the year between the Ministerial Team and the Senior Management Team to consider key strategic or policy items.

Other Meetings

- Ad-hoc meetings can be arranged with the Minister or Ministerial Team to discuss specific items, these will be attended by the Director (or his nominee) and officers will attend to present their items.

- Papers for ad-hoc meetings will be circulated to both the Minister and the Assistant Ministers in advance.
- Telephone and e-mail meetings can be organised and all the Assistant Ministers should be copied into correspondence.

Papers and Reports

- The majority of items for decision should be supported by a paper (in the standard format).
- Papers to be considered by the Minister will have been approved by the Senior Management Team or the Director before being presented.
- Papers will be circulated to the Assistant Ministers at the same time they are sent to the Minister.
- Under normal circumstances, papers will be provided to the Minister and Assistant Ministers at least 3 working days in advance of a decision being required.

Recording Decisions

- Decision Templates must be agreed with the SMT or Director in advance of being put to the Minister.
- The signature of Decision Templates must be overseen by the Director/his designate.
- Copies of decision all summaries should be sent to Assistant Ministers for information

Management of the Process

- The Assistant Director, Policy and Planning will be responsible for the management of all aspects of the interaction with the Minister, including:
 - Ensuring meetings are properly serviced.
 - Co-ordinating reports and papers from the Department to the Minister.
 - Ensuring decisions taken and recorded properly and in accordance with published guidance.
 - Managing the actions that emerge from the interaction with the Minister and the interface with the SMT.
 - Liaising with other Departments (such as the States Greffe) with regard to the Ministerial system.
 - Ensuring regular business (e.g. States Member's questions) are managed in a timely manner.
 - Ensuring that communications are effective and well co-ordinated.

Chief Minister's Department

Guidelines for Ministerial Decisions

R.C.80/2005, presented on 18th October 2005, set out the basis and process for making and recording Ministerial Decisions.

Whilst the R.C. set out the formal process there are some associated points which will ensure that there is an appropriate governance arrangement in relation to the separation of advice to Ministers, the actual process of decision making and the implementation of decisions. Those points are as follows –

1. It is inappropriate for Ministers to take decisions without receiving advice from their officers. Where matters are particularly significant or controversial that advice should, whenever possible, be reviewed by the Chief Officer.
2. A Minister must make it clear at the beginning of a meeting where no officer is present that no decisions can be taken at the meeting. In all but the most urgent of cases the Minister should not be expected to make a decision on the spot. The Minister should be afforded the opportunity to reflect upon the matter and consider appropriate advice and evidence.
3. A Minister might indicate his or her intent verbally or by other means, but a decision will only be made when the Ministerial decision is signed or, *in extremis*, agreed remotely.
4. The decision form must as far as possible be fully completed and supported by appropriate information and a trail to relevant documents.
5. The officer providing advice and/or completing the decision form is accountable for the advice given. It should be complete and balanced and reflect the officer's best professional advice. Ministers, as the decision takers, are free to take a different view and a contrary decision to the advice received. The Minister's reasoning should be recorded as far as possible.
6. Officers will be expected to implement Ministerial decisions regardless of the advice given. If, however, a decision were to result in an illegal act, contravene financial directions or create a significant risk to the States or the Island the officer should refer the matter to the Chief Officer of the department or, if the officer is a Chief Officer, to the Chief Executive to the Council of Ministers.

Those senior officers will be expected to discuss the matter with the Minister or the Council of Ministers in order to resolve it appropriately.

7. In the case of a decision which contravenes financial directions or would otherwise contravene the role of Accounting Officer the Minister will have to issue a direction. The Accounting Officer will then follow the rules laid out for such matters.
8. Chief Officers are personally responsible for ensuring that Ministers are appropriately supported and that all appropriate officers are fully aware of and trained to fulfil their responsibilities.
9. Ministers are personally responsible for ensuring that they follow the rules and guidelines to ensure that their actions are subject to sufficient governance and that there is appropriate separation of advice and recording of decisions.
10. In order to ensure appropriate segregation of responsibilities Ministers should whenever possible refrain from implementing their own decisions.

2006 PUBLIC ACCOUNTS COMMITTEE REPORTS	
Reference	Title of Report & date presented
	No P.A.C. reports were presented during 2006.

2007 PUBLIC ACCOUNTS COMMITTEE REPORTS TO END SEPTEMBER 2007	
Reference	Title of Report & date presented
P.A.C.1/2007	Public Accounts Committee Report on the States' Property Plan. <i>Presented: 13th February 2007.</i>
P.A.C.2/2007	Public Accounts Committee Report on the Battle of Flowers. <i>Presented: 1st March 2007.</i>
P.A.C.3/2007	Public Accounts Committee: Review of the Comptroller and Auditor General's Reports on Jersey Financial Services Commission and Overseas Aid and Notes on States' Aggregate Expenditure. <i>Presented: 7th June 2007.</i>
P.A.C.4/2007	Public Accounts Committee: Comments on Ministerial Decision MD/TR/2007/0057: Review of the Public Finances (Jersey) Law 2005. <i>Presented: 18th September 2007.</i>

2006 SCRUTINY REPORTS (no Responses published)		
Reference	Title of Report & date presented	Presenting Panel
S.R.1/2006	Corporate Services Scrutiny Panel Report: Age of Consent Review. <i>Presented: 27th March 2006.</i>	<i>Corporate Services Scrutiny Panel</i>
S.R.2/2006	The impact of the fulfillment policy on the incorporation of Jersey Post. <i>Presented: 23rd May 2006.</i>	<i>Economic Affairs Scrutiny Panel</i>
S.R.3/2006	Financial Framework of the Strategic Plan. <i>Presented: 5th June 2006.</i>	<i>Corporate Services Scrutiny Panel</i>
S.R.4/2006	Review of the Zero-Ten Design Proposal. <i>Presented: 28th September 2006.</i>	<i>Corporate Services Scrutiny Panel</i>
S.R.5/2006	Interim Report – Delivery of Income Support: Structure. <i>Presented: 10th October 2006.</i>	<i>Social Affairs Scrutiny Panel</i>
S.R.6/2006	Interim Report – Goods and Services Tax Review. <i>Presented: 18th October 2006.</i>	<i>Corporate Services Scrutiny Panel</i>
S.R.7/2006	The impact of the fulfillment industry on the local economy. <i>Presented: 30th October 2006.</i>	<i>Economic Affairs Scrutiny Panel</i>

2007 SCRUTINY REPORTS AND RESPONSES TO END SEPTEMBER 2007		
Reference	Title of Report & date presented	Presenting Panel
S.R.1/2007	Overdale: The Closure of Leoville and McKinstry Wards. <i>Presented: 10th January 2007.</i>	<i>Education and Home Affairs Scrutiny Panel</i>
S.R.1/2007 Res.	Overdale: The Closure of Leoville and McKinstry Wards (S.R.1/2007) – response of the Minister for Health and Social Services. <i>Presented: 17th July 2007.</i>	<i>Minister for Health and Social Services</i>
S.R.2/2007	The Planning Process. <i>Presented: 16th January 2007.</i>	<i>Environment Scrutiny Panel</i>
S.R.2/2007 Res.	The Planning Process (S.R.2/2007) – response of the Minister for Planning and Environment. <i>Presented: 15th March 2007.</i>	<i>Minister for Planning and Environment</i>
S.R.3/2007	Review of the Zero/Ten Tax Design Proposals. <i>Presented: 23rd January 2007.</i>	<i>Corporate Services Scrutiny Panel</i>
S.R.4/2007	Review of the dairy industry. <i>Presented: 25th January 2007.</i>	<i>Economic Affairs Scrutiny Panel</i>
S.R.5/2007	Jersey Telecom – Privatisation <i>Presented: 6th March 2007.</i>	<i>Economic Affairs Scrutiny Panel</i>
S.R.6/2007	The GP Co-Operative Out-of-Hours Service. <i>Presented: 8th March 2007.</i>	<i>Education and Home Affairs Scrutiny Panel</i>
S.R.6/2007 Res.	The G.P. Co-Operative Out-of-Hours Service (S.R.6/2007) – response of the Minister for Health and Social Services. <i>Presented: 17th July 2007.</i>	<i>Minister for Health and Social Services</i>
S.R.7/2007	Goods and Services Tax Review: Second Report. <i>Presented: 4th April 2007.</i>	<i>Corporate Services Scrutiny Panel</i>
S.R.8/2007	Review into the Perceived Health Effects of Mobile Phone Masts. <i>Presented: 20th April 2007.</i>	<i>Health, Social Security and Housing Scrutiny Panel</i>
S.R.8/2007 Res.	Review into the Perceived Health Effects of Mobile Phone Masts (S.R.8/2007) – response of the Minister for Economic Development. <i>Presented: 30th May 2007.</i>	<i>Minister for Economic Development</i>
S.R.8/2007 Res.(2)	Review into the Perceived Health Effects of Mobile Phone Masts (S.R.8/2007) – response of the Minister for Planning and Environment. <i>Presented: 7th September 2007.</i>	<i>Minister for Planning and Environment</i>
S.R.9/2007	Retail Strategy (Interim) Review. <i>Presented: 27th April 2007.</i>	<i>Economic Affairs Scrutiny Panel</i>
S.R.10/2007	Review of the proposed sale of the former Jersey College for Girls. <i>Presented: 22nd May 2007.</i>	<i>Corporate Services Scrutiny Panel</i>
S.R.11/2007	Corporate Services Scrutiny Panel Report: Review of Jersey's Overseas Aid. <i>Presented: 30th May 2007.</i>	<i>Corporate Services Scrutiny Panel</i>

S.R.11/2007 Res.	Corporate Services Scrutiny Panel Report: Review of Jersey's Overseas Aid (S.R.11/2007) – response of the Jersey Overseas Aid Commission. <i>Presented: 18th September 2007.</i>	<i>Jersey Overseas Aid Commission</i>
S.R.12/2007	Review of the Social Housing Property Plan 2007–2016. <i>Presented: 18th June 2007.</i>	<i>Health, Social Security and Housing Scrutiny Panel</i>
S.R.13/2007	Waste Recycling. <i>Presented: 3rd July 2007.</i>	<i>Environment Scrutiny Panel</i>
S.R.13/2007 Res.	Waste Recycling (S.R.13/2007) – response of the Minister for Transport and Technical Services. <i>Presented: 31st July 2007.</i>	<i>Minister for Transport and Technical Services</i>
S.R.14/2007	Review of the Zero/Ten Tax Design Proposals – Taxing Foreign Owned Trading Companies. <i>Presented: 4th September 2007.</i>	<i>Corporate Services Scrutiny Panel</i>
S.R.15/2007	Design of Homes. <i>Presented: 11th September 2007.</i>	<i>Environment Scrutiny Panel</i>
S.R.16/2007	Review of the Draft Price and Charge Indicators (Jersey) Law 200-. <i>Presented: 25th September 2007.</i>	<i>Economic Affairs Scrutiny Panel</i>
S.R.17/2007	Review of the Income Support proposals. <i>Presented: 28th September 2007.</i>	<i>Health, Social Security and Housing Scrutiny Panel</i>
S.R.18/2007	The Rôle of the Centenier in the Magistrate's Court. <i>Presented: 28th September 2007.</i>	<i>Education and Home Affairs Scrutiny Panel</i>

Re-issue Note

This Report is being re-issued because some of the Recommendations were numbered incorrectly in the original document, and it was felt that the importance of this Report warranted a re-issue.