

STATES OF JERSEY



MACHINERY OF GOVERNMENT REVIEW (R.105/2007): SUMMARY OF ACTION ARISING

**Presented to the States on 29th January 2009
by the Privileges and Procedures Committee**

STATES GREFFE

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Summary of action arising

FINAL REPORT

1. Introduction

In 2006 the Privileges and Procedures Committee (PPC) was requested by the States to prepare a report on the operation of the first 12 months of Ministerial Government. A subcommittee of 3 members was established to undertake this work, consisting of Connétable Derek Gray, Senator M.E. Vibert and Deputy J. Gallichan of St. Mary.

The sub-committee took oral and written evidence from a number of sources and presented its final report to the States on 9th November 2007 (R.105/2007 refers). The review looked at all aspects of the new system, from the operation of the Council of Ministers to the structure of the Scrutiny function.

2. Recommendations

The report made a total of 55 recommendations which were to be undertaken by PPC, the Chief Minister, the Chief Minister's Department and the Chairmen's Committee.

3. Action taken

Following the publication of the review, PPC co-ordinated consideration of the recommendations and, where appropriate, suggested a lead body to take them forward. Where there were a significant number of stakeholders, PPC itself acted as lead body. The objective was to have any necessary changes in place by the end of the second session of the States in 2008.

This has been achieved, not least with the adoption by the States on 21st October 2008 of the Draft Amendment (No. 9) of the Standing Orders of the States of Jersey, (P.140/2008) as amended (P.140/2008 Amd), and the Draft States of Jersey (Amendment No. 5) Law 200 (P.122/2008).

This report details the action taken under each recommendation by the Council of Ministers, Privileges and Procedures Committee, Chairmen's Committee, Scrutiny Panels and Public Accounts Committee as constituted up until early December 2008. It includes the percentage of those States members who had responded to the States members' questionnaire and who supported the individual recommendations.

RECOMMENDATION 1– 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.

Supported by 77% of members who responded

Presentations are currently made to all States members, both quarterly and when major policy is constructed.

Special presentations to States members have covered major policy areas from anti-inflation strategy, to the proposed airport runway works; although the Council of Ministers consider that an element of reasonableness is required in determining whether a presentation would constitute an efficient use of resources and officer time. It is anticipated that the new Council of Ministers will be provided with an opportunity to consider the frequency of such presentations to States Members.

RECOMMENDATION 2– The Council of Ministers should review how it liaises with the Comité des Connétables.

Supported by 63% of members who responded

The Chief Minister regularly meets with the Chairman of the Comité des Connétables and it is anticipated that

this will continue under the new Council of Ministers, although this is an informal agreement which could be reviewed.

RECOMMENDATION 3– 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 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.

Supported by 85% of members who responded

The Council of Ministers endorsed the recommendation^[1].

RECOMMENDATION 4– 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.

Supported by 77% of members who responded

The Council of Ministers endorsed the suggestion that, where appropriate, a formal written reprimand be given in the case of such a breach, to put on record the disapproval of the Chief Minister, supported by a majority of Ministers.^[2] Each case of a suspected breach of the Ministerial Code will be considered by the Council, who will determine whether a reprimand is required and the manner in which it will be executed. It will be a matter for the new Council, as appointed in December 2008, to consider whether the Code of Conduct for Ministers should be amended accordingly.

The above recommendation has also been approved by PPC.^[3]

RECOMMENDATION 5– 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.

Supported by 77% of members who responded

Recommendation 5 formed part of the Draft States of Jersey (Amendment No. 5) Law 2008, lodged ‘au Greffe’ by the Privileges and Procedures Committee on 29th July 2008, and adopted by the States on 21st October 2008.

RECOMMENDATION 6– More use should be made of Assistant Ministers appointed to more than one Department and the current limit of 2 Assistant Ministers per Ministry should be removed, albeit with no change to the overall maximum number of Assistant Ministers.

Supported by 58% of members who responded

The Council of Ministers endorsed the recommendation in its letter to PPC of 12th March 2008, having concluded that it would allow for Assistant Ministers to play a key role in the development of cross-departmental policies. PPC had previously decided not to pursue the recommendation, as it had received little support from members^[4],

but notes that Assistant Ministers are working together in their consideration of the States' Strategic Plan.

RECOMMENDATION 7– 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.

Supported by 59% of members who responded

Recommendation 7 formed part of the Draft Amendment (No. 9) of the Standing Orders of the States of Jersey which was lodged 'au Greffe' by the Privileges and Procedures Committee on 5th September 2008, and was adopted by the States on 21st October 2008.

RECOMMENDATION 8– 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.

Supported by 80% of members who responded

Although the Council of Ministers endorsed the recommendation, it considered that the Assistant Minister already undertook a broad range of worthwhile duties. In its response to PPC dated 12th March 2008, the Council contended that it would not wish to constrain the range of duties performed through the introduction of precise definitions.

RECOMMENDATION 9– 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.

Supported by 78% of members who responded

Recommendation 9 formed part of the Draft States of Jersey (Amendment No. 5) Law 200, which was lodged 'au Greffe' by the Privileges and Procedures Committee on 29th July 2008, and was adopted by the States on 21st October 2008.

RECOMMENDATION 10– 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.

Supported by 77% of members who responded

Recommendation 10 formed part of the Draft States of Jersey (Amendment No. 5) Law 200, which was lodged 'au Greffe' by the Privileges and Procedures Committee on 29th July 2008, and was adopted by the States on 21st October 2008.

RECOMMENDATION 11– 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.

Supported by 64% of members who responded

The Council of Ministers endorsed the recommendation in its response to PPC of 12th March 2008 and agreed that all such delegations of authority to Assistant Ministers should be collated and published on the States of Jersey website. This is currently under preparation. The States of Jersey Law 2005 precludes the making of Orders by an Assistant Minister and this remains unchanged.

RECOMMENDATION 12– 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.

Supported by 83% of members who responded

This recommendation was endorsed by the Council of Ministers^[5] who agreed that the States Greffe, in consultation with the Corporate Management Board, should re-issue guidelines to all departments for the completion of Ministerial Decisions and emphasize the importance of cross-referencing linked decisions wherever possible. The Council also concluded that individual Ministers were responsible for determining whether documentation attached in support of a decision was appropriate.

The Chief Minister's Department established a Working Party in 2008 in conjunction with the States Greffe to review the progress of the recording of Ministerial Decisions. It will be progressing the issue of guidelines to departments and an Intranet page to include guidance and frequently asked questions, and training on the recording of Ministerial Decisions will be delivered to all departments by the States Greffe in January 2009.

RECOMMENDATION 13– 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.

Supported by 62% of members who responded

At present, the Corporate Management Board provides policy support both to Ministers through their respective Chief Officers, and to the Council of Ministers.

The Council of Ministers observed, in its letter to PPC of 27th November 2008, that consideration had been given to implementing a network of policy support from officers below the level of the Corporate Management Board. An informal network is in place and this matter will be considered in greater depth following the internal review of the Chief Minister's Department, which is currently underway.

RECOMMENDATION 14– 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.

Supported by 70% of members who responded

The Council agreed, at its meeting of 7th February 2008, that the Chief Minister would benefit significantly from provision of a dedicated research and administrative capability. Increased support for the Chief Minister was included as a growth item for the Chief Minister's Department for 2009 as part of the package of amendments to the Annual Business Plan lodged by the Council of Ministers. Arrangements for meeting this requirement are being implemented as part of the continued development of the Central Policy Unit in the Chief Minister's Department.

RECOMMENDATION 15– The States should work to reach a shared understanding of what Scrutiny is there to do and when, and what scrutiny is *not*. 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.

Supported by 80% of members who responded

The 'What is Scrutiny?' conference was held on 6th February 2008 and was attended by a significant number of States members and senior officers.

On 12th March 2008, the States approved the Code of Practice for Scrutiny Panels and the Public Accounts Committee as set out in the Appendix to the report of the Chairmen's Committee dated 28th December 2007, and amended by the Council of Ministers.

RECOMMENDATION 16– The membership of a Panel or Sub-Panel undertaking a review should not be heavily weighted in favour of a political party.

Supported by 74% of members who responded

This recommendation was rejected by the Chairmen's Committee on the basis that Scrutiny is an evidence-based process and does not take account of political perspectives. The Committee considered the important factor to be that Panels and sub-Panels comprise members interested in the subject who can work together, irrespective of political allegiances.^[6]

PPC agreed that the Chairmen's Committee could intervene if it was felt that the membership of a panel or a sub-panel was heavily weighted in favour of a political party, and decided not to progress this recommendation.

RECOMMENDATION 17– 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.

Supported by 63% of members who responded

The Council of Ministers endorsed the recommendation.^[7]

PPC noted that each Panel has its own style of working, and did not propose any amendment at this stage.

RECOMMENDATION 18– The Scrutiny function should give 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.

Supported by 66% of members who responded

Following the success of the citizenship programme and the Scrutiny Matters newsletter, the Chairmen's Committee believes public engagement should continue to be managed through the Scrutiny office. In its letter to PPC of 10th October 2008, the Chairmen's Committee suggested that an amendment should be brought to Standing Orders 128, 143 and 136 to remove responsibility for informing the public about Scrutiny work from the terms of reference of PPC and to include it in the terms of reference of the Chairmen's Committee and Scrutiny Panels.

RECOMMENDATION 19– Standing Orders should 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.

Supported by 57% of members who responded

The Chairmen's Committee advised PPC in May 2008 that, as Scrutiny was still in its infancy and developing, it needed time to continue to evolve and therefore it did not wish to comment on the recommendation.

RECOMMENDATION 20– The structure of the Scrutiny function should be reviewed to capitalise on the enthusiasm and focus that sub-panels have shown.

Supported by 63% of members who responded

The Chairmen's Committee advised PPC in May 2008 that, as Scrutiny was still in its infancy and developing, it needed time to continue to evolve and therefore it did not wish to comment on the recommendation.

RECOMMENDATION 21– 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.

Supported by 72% of members who responded

In December 2008, the Council of Ministers provided Scrutiny with the Strategic Plan – proposed process, setting out the timetable and next steps in the consideration of the States Strategic Plan 2009, together with the process for engaging with States Members and Scrutiny.

All States Members were invited to a meeting to discuss the plan in January 2009.

RECOMMENDATION 22– 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 the Chairmen's Committee should be responsible for co-ordinating the work of the different panels.

Supported by 76% of members who responded

Recommendations 21 and 22 were endorsed by the Council of Ministers.^[8] The Chairmen's Committee advised that a timetable had been drawn up between the Executive and Scrutiny which included dates of further meetings and drew attention to dates when Scrutiny could expect more detailed papers and briefing meetings. Scrutiny of the 2008 Annual Business Plan had been co-ordinated by the Chairmen's Committee and responses sent with a covering paper by the Committee. Plans are currently underway for scrutiny of the Strategic Plan in 2009.

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.

Supported by 76% of members who responded

The Council of Ministers commented in its report to PPC of 27th November 2008 that information had been made available to Scrutiny Panels in accordance with the Scrutiny Code of Practice, under which each Panel must sign a confidentiality agreement for information they are given. However, it has been accepted by the Council that the higher-level information contained in corporate documents such as the Annual Business Plan, Budget and Strategic Plan are of wider interest to all Panels. Accordingly, during the 2009 Annual Business Plan process, it was agreed that the Chairman of the Chairmen's Committee would sign a confidentiality agreement on behalf of the other Chairmen, after obtaining their agreement, so that the information could be shared across all Panels.

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.

Supported by 76% of members who responded

The Council of Ministers currently operates in accordance with the above recommendation. On a related matter, the Council acknowledge that there is a need for the States to determine the next Strategic Plan by July 2009 in

order to provide the next Council and Assembly with substantive room for decision-making.

The Chairmen's Committee commented in its letter to PPC of 10th October 2008 that a timetable had been drawn up which included dates of further meetings, and that work was being undertaken at officer level in respect of the Strategic Plan.

RECOMMENDATION 25– 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.

Supported by 76% of members who responded

A review has been undertaken by Scrutiny into the way in which legislation is scrutinised. However, the Chairmen's Committee does not believe that scrutiny of all major legislation is appropriate.^[9]

In its report to PPC of 27th November 2008, the Council of Ministers stated that no law drafting briefs had been forwarded to Scrutiny Panels since the Council endorsed recommendation 25 at its meeting of 7th February 2008. Green and white papers are already shared with Scrutiny Panels and the Council feel there is a need for a legislative scrutiny process to review Ministers' deliberations.

The recommendation has been supported by the Law Draftsman's office and in future, Scrutiny Panels should be informed by the sponsoring departments when law drafting briefs have been sent. The Council of Ministers has suggested that a pilot scheme should be undertaken in 2009 to trial cost-effective scrutiny of draft legislation for a number of selected laws.

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.

Supported by 68% of members who responded

PPC has not progressed this recommendation further. It would be impossible to establish for certain whether a member was asking a question for his or her own interest or that of a Panel, and as Scrutiny has extensive power to access information by issue of summons, if necessary, there would be no value in laying down rules to attempt to prevent this.

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.

Supported by 63% of members who responded

The Chairmen's Committee stated in its letter to PPC of 10th October 2008, that in order to fully scrutinise a matter it was essential to be able to review how a decision had been reached. The Committee considered that, as scrutiny was evidence-based, there would be circumstances when it would be appropriate to put forward alternative policy options.

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.

Supported by 73% of members who responded

On 12th March 2008, the States approved the Code of Practice for Scrutiny Panels and the Public Accounts Committee set out in the Appendix to the report of the Chairmen's Committee dated 28th December 2007 (P.198/2007 refers), as amended by the Council of Ministers.

RECOMMENDATION 29– 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.

Supported by 61% of members who responded

The Chairmen's Committee, in its letter to PPC of 12th December 2007, stated that there was a danger of encouraging review topics from the public and not having the capacity to undertake them. The Committee observed that last part of the recommendation had already been undertaken, but on a review topic only, not on generic issues. As scrutiny is review-based, the Chairmen's Committee felt that it would be inappropriate for Scrutiny to host meetings of this nature on generic issues. Subsequent to this, Scrutiny had a presence all at the Home and Lifestyle Show 2008 from 6th to 9th November 2008, to explain the work carried out by Scrutiny and invite comments from the public.

RECOMMENDATION 30– 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.

Supported by 82% of members who responded

The Council of Ministers endorsed recommendation 30 at its meeting of 7th February 2008. It further considered that there was scope for clarifying the circumstances in which Scrutiny could have a matter referred to it by the States Assembly, particularly when a specific policy proposal had already been considered by the Panel at the green and/or white paper stage.

The Communications Unit is currently redrafting the existing consultation guidelines, as part of a review, 2 year after their introduction. The review will take into account PPC's request for greater clarity for green papers, and the revised guidelines will be presented to the new Council of Ministers in early 2009.

RECOMMENDATION 31– 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.

Supported by 74% of members who responded

PPC notes that improper release of information is inappropriate and is likely to hinder the Scrutiny process, however, PPC has not progressed this recommendation further. Information obtained confidentially as a member of a Scrutiny Panel should not be used by a member in an independent capacity.

RECOMMENDATION 32– The Public Accounts Committee (PAC) should 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.

Supported by 66% of members who responded

The PAC advised that, at the time of the transmutation from the Shadow Committee to the full Committee, there were resignations of independent members from the Committee. In order to ensure a range of experience and total transparency, the vacancies were advertised and this process led to a delay in the formation of the full Committee.

[10]

RECOMMENDATION 33– The terms of reference of the PAC should 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.

Supported by 70% of members who responded

The PAC advised that it can operate independently of the Comptroller and Auditor General, but that it would be unwise to operate more than occasionally without his advice.

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

Supported by 71% of members who responded

It was considered by the PAC that the annual work-programme reports of the Comptroller and Auditor General, published every autumn and presented to the States, would be guidance for the expected hearings of the Public Accounts Committee as it was from these reports that a schedule of hearings would be derived.

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.

Supported by 77% of members who responded

The reports of the PAC are presented to the States and published on the PAC website. While the Committee appreciated that a meeting with the Council of Ministers would provide one method of following up reports, it considered that it would be preferable for the relevant Minister to issue a response to reports, together with plans for implementation of the recommendations, as provided for in the Code of Conduct for Scrutiny panels and the PAC.^[11]

RECOMMENDATION 36– The sub-committee does not see the need to have 2 independent members on the Chairmen’s Committee.

Supported by 62% of members who responded

There are no longer 2 independent members on the Chairmen’s Committee, following the adoption by the States, on 21st October 2008, of Draft Amendment (No. 9) of the Standing Orders of the States of Jersey (P.140/2008) amendments, lodged ‘au Greffe’ by Senator M.E. Vibert on 23rd September 2008.

RECOMMENDATION 37– 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.

Supported by 62% of members who responded

All work and review targets are co-ordinated by the Chairmen’s Committee through monthly Panel updates. Each meeting includes a review of work in progress and work planned.

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.

Supported by 60% of members who responded

In the period 2005-2008, financial resources were divided between Panels for ease of management and an amount set aside in a general budget, in a system which the Chairmen's Committee believed worked well. Any queries or concerns regarding planned expenditure are passed to the Accounting Officer, and if the matter could not be resolved between the Accounting Officer and the Panel, it was forwarded to the Chairmen's Committee.

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.

Supported by 59% of members who responded

The Chairmen's Committee, in its letter to PPC of 10th October 2008, remained of the view that the structure of the scrutiny function was appropriate.

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.

Supported by 72% of members who responded

The Council of Ministers endorsed the recommendation and concluded that it should consult with the Chairmen's Committee with a view to producing a framework document describing the process of formulating the Strategic Plan and the Annual Business Plan. On a related matter, the Council concluded that Scrutiny Panels should aim to draft their work programmes for the coming year in September and that it would be of considerable assistance to Ministers if Panels would forward to the relevant Ministers key meeting dates for the coming year prior to the commencement of that year.^[12]

The Chairmen's Committee advised in its letter to PPC of 10th October 2008 that it was the responsibility of the individual Panels to be knowledgeable about the work programmes of the relevant Ministers and departments. The Panels also report to the Chairmen's Committee any topics which are considered for review but not 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.

Supported by 63% of members who responded

Inclusion of the above-mentioned procedures in the Code of Practice was considered by the Chairmen's Committee to be inappropriate, and would have resulted in a delay in presenting the report on the matter to the States. The Chairmen's Committee advised that it had a protocol covering its co-ordinating rôle.^[13]

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.

Supported by 67% of members who responded

On 12th March 2008, the States approved the Code of Practice for Scrutiny Panels and the Public Accounts Committee set out in the Appendix to the report of the Chairmen's Committee dated 28th December 2007 (P.198/2007 refers), as amended.

RECOMMENDATION 43– The question of who is accountable for Scrutiny must be considered and satisfactorily resolved.

Supported by 75% of members who responded

The question of who is accountable for Scrutiny has yet to be resolved,^[14] although the Chairmen's Committee believe that the system for managing the budget has worked.^[15]

RECOMMENDATION 44– Standing Orders should be amended to provide that the President of the Chairmen's Committee should be an ex-officio member of the Privileges and Procedures Committee to ensure good co-ordination between the Privileges and Procedures Committee and the Scrutiny function.

Supported by 55% of members who responded

Recommendation 44 formed part of the Draft Amendment (No. 9) of the Standing Orders of the States of Jersey lodged 'au Greffe' by the Privileges and Procedures Committee on 5th September 2008 and adopted by the States, as amended, on 21st October 2008.

RECOMMENDATION 45– In order to allow peer review of the Scrutiny budget, 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' under-spends. Secondly, a procedure should be agreed to resolve any difficulties that may be highlighted by the Accounting Officer.

Supported by 61% of members who responded

The Chairmen's Committee advised in its letter to PPC of 10th October 2008, that the system for managing the Scrutiny budget had worked.

RECOMMENDATION 46– 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.

Supported by 59% of members who responded

The Council of Ministers considered the structure of the next Strategic Plan and agreed that it should be a higher-level document, although the final structure of the Strategic Plan would be a matter for the next Council of Ministers to agree.^[16]

RECOMMENDATION 47– 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.

Supported by 80% of members who responded

The Chairmen's Committee endorsed recommendation 47 in its letter to PPC of 10th October 2008 and recognised a need to change the financial cycle to enable 2/3 year planning and give scrutiny more timely access to information. However, it also recognised that any alteration to the lodging and debate time for the Annual Business Plan 2009 would have resulted in a requirement to alter timings for the 2008 elections, and therefore the matter remained "work in progress".

RECOMMENDATION 48– 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.

Supported by 74% of members who responded

New members were invited to attend an informal meeting with nominees for Chief Minister on 5th December 2008, however, time restrictions did not allow for a similar event to be held in 2008 with new members and prospective Ministers.

RECOMMENDATION 49– 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.

Supported by 78% of members who responded

Recommendation 49 formed part of the Draft Amendment (No. 9) of the Standing Orders of the States of Jersey lodged 'au Greffe' by the Privileges and Procedures Committee on 5th September 2008, and adopted by the States, as amended, on 21st October 2008, and formed part of the process for the appointment of Chief Minister in December 2008.

RECOMMENDATION 50– 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.

Supported by 77% of members who responded

Recommendation 50 formed part of the Draft Amendment (No. 9) of the Standing Orders of the States of Jersey lodged 'au Greffe' by the Privileges and Procedures Committee on 5th September 2008, and adopted by the States, as amended, on 21st October 2008. This formed part of the election process in December 2008.

RECOMMENDATION 51– The Chairmen's Committee and the Council of Ministers, in consultation with the Privileges and Procedures Committee, should 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.

Supported by 50% of members who responded

The Council of Ministers considered that there were important philosophical and practical issues to address before Assistant Ministers could be invited to participate in the scrutiny function and concluded that it was unable to endorse recommendation 51^[17]

RECOMMENDATION 52– 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.

Supported by 57% of members who responded

Recommendation 52 formed part of the Draft Amendment (No. 9) of the Standing Orders of the States of Jersey lodged 'au Greffe' by the Privileges and Procedures Committee on 5th September 2008, and adopted by the States, as amended, on 21st October 2008, in which PPC had invited the States to agree that the Assembly be given the opportunity to decide whether to adjourn, and if so, the length of any adjournment.

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.

Supported by 51% of members who responded

PPC felt it would be too restrictive to follow the sub-Committee's recommendation, and therefore proposed a

maximum of 5 written questions, each on a single topic, of up to 200 words each. This revised recommendation was adopted by the States on 21st October 2008 as part of the Draft Amendment (No. 9) of the Standing Orders of the States of Jersey.

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.

Supported by 66% of members who responded

The Council of Ministers endorsed the recommendation.^[18]

Recommendation 54 formed part of the Draft Amendment (No. 9) of the Standing Orders of the States of Jersey lodged 'au Greffe' by the Privileges and Procedures Committee on 5th September 2008, and adopted by the States, as amended, on 21st October 2008.

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.

Supported by 66% of members who responded

The Council of Ministers considered that such changes would require a bid for drafting time within the legislation programme and that there was a need to review the existing policy on fee increases. Although in-principle support for the recommendation was expressed, the Council concluded that it would be preferable for the aforementioned review to be completed first.^[19]

Privileges and Procedures Committee 31st December 2008.

^[1] Minute No. A3, Council of Ministers meeting, 7th February 2008

^[2] Minute No. A3, Council of Ministers meeting, 7th February 2008

^[3] Minute No. A4, Privileges and Procedures Committee meeting, 7th May 2008

^[4] Minute No. A2, Privileges and Procedures Committee meeting, 5th March 2008, with reference to the report of the Deputy Greffier of the States dated 2nd April 2008, 'Machinery of Government Reforms – Review P. 105/2007,' Appendix D

^[5] 'Summary of outcomes of discussions between Council of Ministers and stakeholders regarding Machinery of Government Review and Recommendations', 12th March 2008

^[6] Letter from Deputy S.C. Ferguson, President, Chairmen's Committee, to Connétable D.F. Gray, Chairman, Privileges and Procedures Committee, dated 12th December 2007

^[7] Minute No. A3, Council of Ministers meeting, 7th February 2008

^[8] Minute No. A3, Council of Ministers meeting, 7th February 2008

^[9] Minute No. A2, Privileges and Procedures Committee meeting, 12th November 2008

^[10] Minute No. A2, Privileges and Procedures Committee meeting, 5th March 2008, with reference to the report of the Deputy Greffier of the States dated 2nd April 2008, 'Machinery of Government Reforms – Review P.105/2007', Appendix C(iii)

^[11] Minute No. A2, Privileges and Procedures Committee meeting, 5th March 2008, with reference to the report of the Deputy Greffier of the States dated 2nd April 2008, 'Machinery of Government Reforms – Review P.105/2007', Appendix C(iii)

- [12] Minute No. A3, Council of Ministers meeting, 7th February 2008
- [13] Letter from Deputy S.C. Ferguson, President, Chairmen's Committee, to Connétable D.F. Gray, Chairman, Privileges and Procedures Committee, dated 10th October 2008
- [14] Minute No. A2, Privileges and Procedures Committee meeting, 12th November 2008
- [15] Letter from Deputy S.C. Ferguson, President, Chairmen's Committee, to Connétable D.F. Gray, Chairman, Privileges and Procedures Committee, dated 10th October 2008
- [16] 'Machinery of Government Review – Responding to the update request of the Privileges and Procedures Committee', 27th November 2008
- [17] 'Summary of outcomes of discussions between Council of Ministers and stakeholders regarding Machinery of Government Review and Recommendations', 12th March 2008
- [18] Minute No. A3, Council of Ministers meeting, 7th February 2008
- [19] 'Summary of outcomes of discussions between Council of Ministers and stakeholders regarding Machinery of Government Review and Recommendations', 12th March 2008