
STATES OF JERSEY



SCRUTINY AND PUBLIC ACCOUNTS COMMITTEE PROCEEDINGS: CODE OF PRACTICE

Presented to the States on 12th April 2018
by the Chairmen's Committee

STATES GREFFE



Scrutiny and Public Accounts Committee Proceedings:

Code of Practice

[Hereafter known as the 'Scrutiny/PAC Proceedings Code']

A. Introduction

1. The Scrutiny Panels and Public Accounts Committee ('PAC') are an integral part of the machinery of government in Jersey. Panels work on behalf of the States Assembly, and therefore the wider public, to objectively and transparently hold the Executive to account for its policies, legislation and actions and to undertake reviews into any matters of public importance. The role of the PAC is to work on behalf of the States Assembly and the public to consider the use of public funds and the adequacy of corporate governance arrangements.
2. In doing so, Panels aim to help improve government policies, legislation and the administration of public services (with PAC focusing on financial governance and administration), by ensuring they are fit for purpose and that changes are justified by appropriate rationale and evidence.

B. Purpose of the Scrutiny Proceedings Code of Practice

3. The purpose of this Scrutiny Proceedings Code is to establish a framework for consistent good practice within Scrutiny by providing guidance to Panels/PAC, Chairmen, Sub-Panels and Review Panels regarding the agreed processes and procedures for Scrutiny work. It should be read in conjunction with the *Protocol for Engagement Between 'Scrutiny Panels and the Public Accounts Committee and 'he Executive' ('Scrutiny/PAC Engagement Protocol')*, which deals with all matters relevant to engagement between those parties.
4. Although it carries out a scrutiny role, PAC is not a 'Scrutiny Panel' as defined by Standing Orders. It is established under separate Standing Orders with discrete terms of reference. However, its procedural and administrative engagement with the Executive is broadly similar to that of the Scrutiny Panels. Where a provision in this Code applies only to a Scrutiny Panel, the term 'Panel' is used. 'Panel/PAC' is used where it applies to both, and 'PAC' where it applies only to PAC. Standalone paragraphs relevant only to the work of PAC are contained in section T.

C. Status

5. This Scrutiny Proceedings Code has been presented to the States to inform about the proceedings of Scrutiny Panels and the PAC. All those who join the Scrutiny

function, whether as a member appointed to a Scrutiny Panel or PAC by the States Assembly, a member of a Sub-Panel or a member of a Review Panel, are required to abide by this Scrutiny Proceedings Code.

6. The Scrutiny Proceedings Code is a live document which may be amended at any time by the Chairmen's Committee in consultation with Scrutiny members. Any revisions made will be reported to the States.

D. Remits and Membership

7. The formal terms of reference for the Scrutiny Panels and PAC are set out in Standing Orders.
8. Each Scrutiny Panel consists of the Chairman and up to four elected States members who are appointed to the Panel by the States in the manner set out in Standing Orders.
9. The PAC consists of a Chairman and at least 4 other members, 50% of whom are elected members and 50% non-elected members.
10. Each Panel and the PAC selects a Vice-Chairman to fulfil the functions of the Chairman in his/her absence.
11. The quorum for each Panel is one half of its membership (where this is not a whole number, it should be rounded up to the nearest whole) in order to make any substantive decisions and hold public hearings. Additionally in the case of the PAC, at least 2 of those present must be States members. Without a quorum, a Panel/PAC may not make decisions at a meeting on its work programme, the terms of reference of specific reviews, appointment of an adviser or financial expenditure or a report following a review. These decisions must all be formally minuted. A public or private hearing also requires a quorum of members.
12. In practice Panels/PAC make most of their decisions by consensus without the need to vote. Where a vote is necessary, each member of the Panel has one vote. The Panel Chairman does not have a deciding vote in the event of a tied vote. It is not possible to proceed with a decision on a tied vote.

Co-option

13. Scrutiny Panels may co-opt an additional non-executive member onto a Panel for the purposes of assisting with a specific review. A member can only be co-opted onto a Panel if she or he is not already a member of two Scrutiny Panels.
14. The co-opted member must only take part in discussions on the specific review for which she or he has been co-opted and not in any other Panel business.

Sub-Panels

15. Scrutiny Panels are entitled to set up Sub-Panels of up to five members to deal with particular issues, for example to undertake a review which cuts across the responsibility of more than one Panel. Sub-Panels may contain members who are

not members of the Panel in question (provided that they are non-executive members).

16. Sub-Panels operate on behalf of the Panel which has appointed them and only with the authorisation of that Panel. The appointment, remit and timescale must be agreed by the full Panel and recorded in the Minutes.
17. The Sub-Panel will appoint its own Chairman, who will be a member of the main Panel. It is the responsibility of the Sub-Panel Chairman to report to the full Panel on a regular basis. The quorum for a Sub-Panel is one half of its members. Where this is not a whole number it should be rounded up to the nearest whole. The report prepared by the Sub-Panel on its review will be presented to the States in the name of the full Panel.
18. Sub-Panels may, subject to the agreement of the Panel, call upon the financial and manpower resources available to the Panel. This is subject to the other commitments of the Panel and to the agreement of the Chairmen's Committee and Head of Scrutiny.

Review Panels

19. Review Panels may be established by the Chairmen's Committee, for example to provide greater flexibility for cross-cutting matters, at the request of a States Member to examine a topic that would not otherwise be scrutinised by a Scrutiny Panel, or in times of particularly heavy workload.
20. Review Panels will contain elected members who are not Ministers or Assistant Ministers, and operate on behalf of the Chairmen's Committee which has appointed them and only with the authorisation of that Committee. The appointment, remit, budget and timescale must be agreed by the Chairmen's Committee and recorded in the minutes. There is no specified limit on the number of members who can serve on a Review Panel.
21. The Review Panel will nominate its own Chairman for approval by the Chairmen's Committee. It is the responsibility of the Review Panel Chairman to update the Committee on a regular basis. The Review Panel will present its report prepared on its review to the Chairmen's Committee. The report shall be presented to the States by the Chairmen's Committee. It is, however, the responsibility of the Chairman of the Review Panel to undertake the subsequent media, public and political engagement responsibilities.
22. For the Committee to establish a Review Panel, it will need, in agreement with the Head of Scrutiny, to consider current officer workload, current Panel review work and identify a Scrutiny Officer from within the existing team to be released to support the work of a Review Panel.

Rapporteurs

23. Under Standing Orders, the Scrutiny Panels are also entitled to appoint a single member of that Panel, a 'rapporteur', to deal with a specific issue within the Panel's

remit, but may not allocate any of its resources for such a purpose without the agreement of the Chairmen's Committee.

24. Rapporteurs operate on behalf of the Panel, on the same basis as a Sub-Panel, as set out above. Rapporteurs will progress their investigations on their own initiative and direction, but ultimately report back to the Panel. Rapporteurs should liaise with the Chairman on a regular basis.

E. Chairmen's Committee

25. The Chairmen's Committee, led by the President, is responsible for the oversight of the Scrutiny and PAC function as set out in [Standing Orders](#) 142 and 143.
26. The Committee's overarching role is to ensure that Scrutiny/PAC operates effectively and appropriately, taking note of best practice and developments in similar parliamentary committee systems.
27. The Committee will also oversee the appropriate allocation of financial resources to Scrutiny and PAC Reviews, ensuring that the overall work programme of all the Panels and the PAC is undertaken within the financial resources available, and covers the work of all the Ministers during the relevant term of office.
28. The Committee is advised by Panels/PAC of all planned Reviews through receipt of terms of reference and scoping documents detailing financial and manpower implications, public engagement strategy, timescale, risks and mitigation of identified risks. Until a scoping document has been received and approved by the Committee, no budget will be allocated.
29. Budgets for quarterly hearings and initial hearings to identify background information are not subject to the scoping process or Chairmen's Committee approval
30. The Committee also seeks to ensure that the status and business needs of members conducting scrutiny work is appropriately recognised. For example, in the 2014 – 2018 term the Committee secured adequate resourcing for scrutiny related phone use and business cards, mirroring (in those areas) the resources afforded to Ministers.

F. Role of Chairman

31. The Chairman of each Panel/PAC is appointed by the States in the manner set out in Standing Orders. The term of office for each Chairman is for the duration of the States Assembly until the beginning of the first States meeting following the next ordinary election.
32. The main responsibilities of the Chairman are as follows:
 - Implement the remit of the Panel/PAC as established by Standing Orders
 - Provide direction and leadership to the Panel/PAC and act as a figurehead for its work (and Scrutiny more widely), establishing a suitable public profile

- Ensure prominence is given to effective public engagement, appropriate to the context and stakeholder groups for each piece of work
- Work closely with colleagues and the Scrutiny Officers to establish clear working practices to help the Panel/PAC to function professionally, efficiently and effectively, and in keeping with the approved framework of the Scrutiny Proceedings Code of Practice
- Establish an appropriate and effective working relationship with Ministers within the Panel's remit
- Upon election to the position, identify and propose colleagues for appointment as Panel/PAC members
- Establish preferred working practices with the Panel/PAC Officers, taking into account advice provided by them on relevant processes.
- Respond in good time to requests for direction from Scrutiny Officers.
- Approve all draft agendas prepared by the Scrutiny Officers (ie before they are distributed to the Panel/PAC)
- Sign Panel/PAC minutes upon their approval by the Panel/PAC
- At report writing stage (this includes Scrutiny/PAC Reports and Comments), the following stages require the Chairman's input:
 - (a) By the end of evidence gathering phase, ensure the Panel/PAC has considered evidence gathered to help inform drafting to be undertaken by Scrutiny Officer
 - (b) Receive a full draft report/Comments paper etc. from the Officer(within agreed timeframe)
 - (c) Liaise with Scrutiny Officer to complete a draft to be presented to the full Panel/PAC as the 'Chairman's Draft'
- Carry out interviews with the media unless otherwise delegated
- Attend meetings of the Chairmen's Committee, unless otherwise delegated
- Within the Chamber:
 - (a) Under Standing Order 72, confirm when asked by Presiding Officer whether Panel wishes to have the relevant draft legislation referred to the Panel (this Standing Order does not apply to PAC)
 - (b) Make Statements on matters of official responsibility (eg publication of reports)
 - (c) Answer written/oral questions directed to the Panel/PAC
 - (d) Table written/oral questions directed to relevant Ministers

33. The Chairman may delegate certain functions as necessary to another member of the Panel/PAC, for example chairing a public hearing or contacting the media.

G. Meetings

34. Panels/PAC will agree for each calendar year a schedule of regular meetings which will be held to plan and consider the progress of enquiries being undertaken by the Panel/PAC and other matters arising. When this schedule has been agreed, it will be published on the States Assembly website.
35. Panel/PAC meetings will commonly be held in the rooms which have been designated for Scrutiny (Le Capelain and Blampied). However, a Panel may meet at any location of its choice. A Panel/PAC may also hold meetings by email or other appropriate electronic means.
36. All meetings are held in private to enable the Panels/PAC to have open and frank discussions on procedural and administrative matters, and to consider draft documentation. However, minutes will be published on the States Assembly website of all Panel meetings, subject to applicable exemptions of the Freedom of Information (Jersey) Law 2011 and relevant data protection legislation.(.
37. Panel/PAC meetings must be quorate in order to make any substantive decisions and hold public hearings.
38. There will be agendas for all scheduled Panel/PAC meetings. The front page of agendas (ie items of business but not associated papers) will be published on the relevant section of the States Assembly website. The full agenda will be distributed electronically to the Panel/PAC members, Head of Scrutiny and Greffier of the States. Hard copies will be provided to members by the Scrutiny Officer on request.
39. Independent and impartial minutes of all Panel/PAC meetings and hearings will be made by the Scrutiny Officers from the States Greffe to provide a complete, impartial and objective audit trail of the work of the Panels/PAC. These will record main points of discussion and all decisions and financial matters, but will not be verbatim. Panel/PAC decisions must be made at formally convened meetings (in person or electronically) at which an Officer from the States Greffe is present to record those decisions.
40. The minutes will be signed by the Chairman once the Panel has agreed that they represent a true record of the proceedings. The minutes of each meeting will then be published electronically as soon as possible after each meeting.

H. Planning a Forward Work Programme – Scrutiny Panels

41. At the start of each year the Panels will consider their forward work programme based on the work programme of the relevant Departments and any other areas of public interest. They will endeavour to identify topics for review and develop a draft forward programme.
42. 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 [Appendix 3(13)], 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.

I. Identifying Reviews – Scrutiny Panels

43. Panels are topic based (see Standing Order 135) and have the freedom to select their own programme of Reviews within those topic areas. Panels select work priorities from a number of sources, including the work programme(s) of the relevant Minister(s) and suggestions from States members, stakeholders and/or members of the public.

44. In developing a balanced work programme, the Panels will take account, as far as possible, of the following main focuses of Scrutiny, namely:

- policy
- legislation
- Medium Term Financial Plan/Budget
- matters of public interest
- public service initiatives

45. In selecting topics for review, Panels will consider if they:

- are linked to States strategic objectives
- are a community/corporate priority area
- are a key issue for the public
- are likely to result in an improved service to the public
- relate to a service/issue where there is a high level of dissatisfaction
- make a positive contribution to the development of policy

46. Topics will be rejected if they:

- are sub-judice
- fall within a complaints procedure
- are an individual matter
- relate to matters of individual employee disciplinary/grievance

47. Topics may be rejected if they:

- are already being addressed by others
- are prejudicial to States interests

J. Declaration of interests

48. Where a member of a Panel/PAC or their spouse/civil partner/cohabitee has a direct financial interest in matter under consideration or review, the member must declare an interest and not participate in any associated proceedings. If that interest is

financial but not directly so (i.e. is general, indirect or shared with a large class of persons), the interest should be declared from the outset but this does not necessarily exclude participation.

49. However, members of a Panel/PAC must be mindful of being open and transparent about declaring interests. For those reasons, such disclosure may be required at different stages during a Review, not only at the outset. It is inappropriate, for example, for a Panel/PAC member who represents, or is a member of, a particular interest, stakeholder group or other organisation to participate in a review of a topic directly related to that group, without declaring the interest both at the outset and in the preparation for and holding of a hearing with that or a 'competitor' group.
50. A member might still withdraw from part or all of a review being conducted if he/she/the Panel/PAC considers that any interest would prejudice, or could be perceived to prejudice, his or her ability to participate in the proceedings in an impartial manner and thereby undermine the Panel/PAC's review.
51. Any uncertainty or impasse about a potential conflict of interest on the part of a member of a Panel/PAC should be referred to the Chairmen's Committee for consideration, who will refer the matter to the Privileges and Procedures Committee if a satisfactory resolution cannot be achieved.

K. Advisers – Scrutiny Panels

52. Panels may appoint advisers to assist with compilation and interpretation of specialist and technical information. Advisers can be commissioned to undertake a specific piece of technical analysis on behalf of a Panel or engaged to work with the Panel more broadly on a Review.
53. Panels should, however, fully consider the use of expert witnesses, the research resource provided by the Scrutiny Officers and the terms of reference and objectives of Reviews to determine whether specialist adviser support would indeed be required. It is not always necessary to appoint an adviser.
54. For access to a budget for the engagement of advisers, estimated costs must be included in a scoping document and forwarded to the Chairmen's Committee.

L. Review Methodology

55. Reviews can be undertaken as follows, dependant on the availability of members and manpower resources:
 - a) as a full Panel/PAC
 - b) as a full Panel with the co-option of another non-executive member. The co-opted member must only be present for matters relating to the Review to which (s)he has been co-opted (not applicable to PAC)
 - c) as a Sub-Panel of the main Panel (formally established by the main Panel and chaired by a member of the Panel). The report of the Sub-Panel is presented to the States by the main Panel (not applicable to PAC)

- d) through a rapporteur - one member of the main Panel, reporting back to the full Panel in whose name the report would be presented (not applicable to PAC)
 - e) through a Review Panel (formed by the Chairmen's Committee, the report of the Panel is presented to the States by the Chairmen's Committee) (not applicable to PAC)
56. Panels/PAC may request briefings in private prior to starting a Review to gain an initial understanding of the matter and to assess whether a Review is required.
57. A Review is considered to have started once a scoping document has been approved by the Panel/PAC, forwarded to and approved by the Chairmen's Committee. It is only at this stage that a Panel/PAC has access to the budget and may call for evidence. Panels/PAC announce Reviews publicly through public/media engagement. Terms of reference should be provided to the relevant Minister and uploaded to the Scrutiny website.
58. Reviews are flexible and can be undertaken in a number of ways, from a desk top process to wide scale public calls for evidence and holding evidence gathering hearings and meetings.
59. Public engagement is an important aspect of Panel/PAC work, and should be adapted to the context and stakeholder groups of each review. Advice will be provided by Scrutiny Officers, and as part of the scoping process Panels/PAC will agree a public engagement and communications strategy for each Review, which should reflect each key stage of a Review (launch, evidence gathering, report presentation and follow up. The strategy should be reviewed and updated as required during the Review).
60. Terms of reference should be reviewed periodically during the Review to ensure they remain appropriate in covering the identified objectives of the Panel/PAC.
61. Information may be sought from whoever a Panel/PAC deems to be appropriate, mindful of that source's particular context and 'interest' in a given matter and doing so in a manner appropriate to the Review.
62. All information is requested from and sent to the Scrutiny Office. If Chairmen or members are sent information directly it should be forwarded to the Scrutiny Office directly.

M. Gathering Evidence

63. A large part of the Panels'/PAC's workload will involve taking evidence and gathering views. Panels/PAC will gather evidence formally through written submissions and oral evidence sessions. They may conduct fact-finding visits in order to clarify technical and practical issues. Panel/PAC members involved in fact-finding visits and other information-gathering activities, will be accompanied by a Scrutiny Officer who will prepare a note of the findings to be considered as evidence in the preparation of the final report.

64. The Panels/PAC are free to seek evidence from whoever they wish and may request papers and records from private bodies and individuals where these are relevant to the Panel's remit.
65. Panels/PAC will need to consider how best to engage stakeholders, the media and the general public in the issues under review. They may choose innovative and imaginative information-gathering activities.
66. Panels/PAC must take steps to acquire information in a reasonable manner, and should follow the process established by the Engagement Protocol in the case of information requested from Ministers, Chief Officers/Accounting Officers, Departments or States owned/funded bodies.
67. If information is not forthcoming in a timely fashion from non-governmental sources, the Chairman, through the Scrutiny Office should write formally to the person from whom the information was requested.
68. In the event that the information is still not forthcoming the matter should be passed to the Chairmen's Committee for follow-up.
69. There are certain criteria to be met and procedures to be followed before the decision to issue a summons is taken, as contained in the Regulations.

N. Written Submissions

70. In undertaking a scrutiny review, it is likely that Panels will wish to invite comment and information from potential interested parties. For this purpose, the Panels will make an open call for evidence through various means, which may include the website, press releases, media coverage and formal notification in the press. In addition, the Panels may make a direct request for information and comment to individual organisations.
71. The Scrutiny Officers are responsible for the receipt and collation of all written evidence. If the Chairman or Panel/PAC members receive evidence directly they should pass it to the Scrutiny Officers in the first instance.
72. The Panels/PAC are committed to the principle of open access to information.
73. Submissions must be treated in accordance with data protection legislation. To this end, Scrutiny Officers will undertake a privacy impact assessment as a matter of course at the scoping phase of each review, and agree a framework with the Panel/PAC for the processing of sensitive data.
74. In principle, all written evidence received by the Panel/PAC will be published on the website. However, where a witness considers that the information to be provided is of a sensitive or private nature, a request for the information to be treated in confidence by the Panel/PAC should ideally be submitted through the Scrutiny Officer in advance of a submission being made. However, such an agreement can also be reached after a submission has been made.

75. In addition, it may be determined through liaison between the Scrutiny Officer and the Panel/PAC that certain information must be treated in confidence, despite a witness considering that the information being provided is not of a sensitive or private nature. As with the above, the Scrutiny Officer will ensure that the intentions of how the information is to be handled by the Panel/PAC is made clear to the person or organisation making the submission.
76. While confidential submissions will therefore be processed for Panels/PAC to consider as above, anonymous submissions will not be considered as their authenticity cannot be verified.
77. Any disagreement on the part of a witness as to the Panel's/PAC's intended or actual treatment of information should be referred in the first instance to the Chairmen's Committee and thereafter to the Privileges and Procedures Committee if a resolution is not found.

O. Hearings

78. As a matter of principle, Panel/PAC hearings (evidence gathering sessions) are held in public and will be webcast live and the audio recorded, with transcripts being uploaded to the website at the earliest opportunity. Meeting rooms have been set up for this purpose in the States Building but the Panels/PAC may choose to hold a hearing at an alternative venue. Normally, only where there is information of a confidential or personally sensitive nature will a Panel/PAC hearing be held in private session. In such circumstances, a Panel will consider publishing a full or redacted transcript after the hearing if appropriate. Such decisions rest with the Panel/PAC concerned, in liaison with the witness concerned and advised as appropriate by the Scrutiny Officer.
79. Panels/PAC will decide who they wish to invite as witnesses. Witnesses may include individuals or organisations that have submitted written evidence, but do not have to be limited to those. No organisation or individual has the automatic right to give evidence – it is for the Panel/PAC to decide who it wishes to invite but Panels/PAC will make every reasonable effort to consider all relevant evidence.
80. Panels/PAC will arrange and publish dates for oral evidence to be given at public hearings, providing witnesses with reasonable notice of all the Panel's/PAC's requirements. The Panels/PAC will inform the witnesses of the key areas of questioning, as opposed to fully detailed questions, it wishes to focus on at least five working days in advance of the hearing. This is to enable witnesses to prepare themselves fully to address the objectives of the Panel/PAC.
81. The primary purpose of oral evidence sessions is to put questions to witnesses in order to elicit information and views which the Panel/PAC will subsequently consider in preparing its report. Panels/PAC should ensure that their questioning is related to the topic and their terms of reference. Panels/PAC must endeavour to put witnesses at their ease to provide an environment which encourages openness and a willingness to provide information.

82. Witnesses requested to attend on a Panel/PAC will not be remunerated for travel, loss of earning or other expenses. If a Panel/PAC feels that there should be an exception, a request will be made to the Chairmen's Committee.
83. Members of the public who are admitted to a Panel/PAC public hearing will be expected to comply with the conditions of behaviour as determined by the Chairmen's Committee. Their attendance will be on the basis of an observer. No intervention into the public hearing will be permitted.
84. The Chairman may request that any member of the public who does not observe these conditions be removed from the hearing room and excluded from the remainder of that public hearing. In the event that a member of the public refuses to leave, the Chairman may close the hearing.
85. Following the public hearing, a draft transcript will be uploaded to the website at the earliest opportunity, but witnesses will be provided with a draft copy of the transcription for correction of any inaccuracies in the text. Substantial revisions to the verbatim text will not be permitted. However, the Panels/PAC may accept further clarification from the witness regarding points made during oral evidence. Should changes be agreed by the Panel/PAC, the draft transcript previously uploaded to the website will be replaced.

P. Review Output

86. There are a number of outcomes from which a Panel/PAC may select, including:
 - a) A full formal report (S.R./PAC), presented to the States
 - b) Formal 'Comments' to a Proposition, presented to the States
 - c) A Proposition and/or Amendments
 - d) Publication of evidence received
 - e) Media/Public engagement
87. All outcomes should be made public, except in exceptional circumstances as agreed by the Panel/PAC.

Q. Report and Comments: Preparation and Presentation

88. Once all evidence has been collated, Scrutiny Officers will present draft Heads of Report, i.e. the report's/Comments' outline sections and headings structure. This will have been quality assessed within the States Greffe, and presented for approval by the Panel/PAC.
89. The Scrutiny Officer will then draft a full, impartial and objective report/Comments based on evidence received, which will be internally quality assessed by the States Greffe ahead of circulation to the Chairman in the first instance (see also Section F Role of Chairman) and subsequently the members of the relevant Panel/PAC. Panel/PAC reports (and alternative output, see P) should be factual and based on evidence received. They should not contain members' subjective observations or criticisms and avoid political and personal agendas.

90. In order to ensure that the evidence received is fairly and accurately reported, once it has considered and approved the body of a draft Panel/PAC report the Panel/PAC will circulate relevant draft sections of the report to all witnesses and allow up to five working days for comment in advance of finalising the report. Normally these draft sections will be factual or descriptive passages and will not include findings or recommendations. This process is intended to apply to reports in the S.R./PAC series and is therefore optional for Panels in respect of Comments papers.
91. The Panels/PAC will carefully consider the comments received from all witnesses but retain discretion in determining any amendments to the main body of the draft report.
92. Panel/PAC members' prime focus will be on the formulation of their findings and recommendations based on the evidence received. These should also not contain subjective criticism and avoid personal and political agendas.
93. Once the Panels/PAC have finalised and approved their report it will be formally presented to the States for information in a specific series of reports for Scrutiny/PAC. The report, together with its findings and recommendations, remains confidential to the Panel/PAC until it has been presented. Comments should be presented to the States in accordance with Standing Orders.
94. In addition to States members, the Panels/PAC may decide to release an advance copy of the report/Comments under embargo to principal witnesses and to the media in order that they might prepare appropriate news coverage. Particularly in the case of reports, as part of their public engagement strategy the Panels/PAC may decide to arrange a media and/or public launch event at the time of publication, led by the Chairman (or other member as delegated).
95. A copy of the report will be sent, on publication, to all witnesses.

R. Report Follow up

96. Panels/PAC will endeavour to ensure that all reviews are appropriately followed up. Upon publication of the report or Ministerial Response, Scrutiny Officers will recommend to Panels/PAC an appropriate course of action for follow up, the initial phase of which should commonly be undertaken within 3-6 months of Panel reports. The Scrutiny Officer will implement the necessary arrangements as agreed by the Panel/PAC.

S. Legal Advice

97. There would be significant cost to the public if Scrutiny Panels/PAC engaged external lawyers on a regular basis. Accordingly, where possible, Scrutiny Panels and the PAC should seek advice from the Law Officers' Department. The Law Officers' Department gives independent advice and can provide legal advice to Scrutiny Panels and to Ministers/Accounting Officers and does so. If the Law Officers' Department is required to advise more than one party on the same set of facts then they will do so on a consistent basis and subject to confidentiality.
98. In addition to any preliminary discussion a Panel/PAC may request on a matter under its consideration, a Scrutiny Panel/PAC can request legal advice from the LOD by

emailing the Attorney General, Solicitor General or the Director of the Civil Division. The request should include a summary of the background to the request and enclose any relevant documents. The request should specify the questions in relation to which advice is sought and set out the timescale for the Review being undertaken.

99. The Law Officers' Department will respond within five working days indicating whether it can advise and if so by when. If the Law Officers' Department cannot advise for any reason then it may assist the Panel in obtaining legal advice from a lawyer in private practice to ensure that best value and the correct expertise is obtained. When a Scrutiny Panel/PAC takes advice from a private sector lawyer, it is desirable that it should consider disclosing that advice to the Law Officers in order that any potential disagreement about what the law is can be identified and so that, in the event of such disagreement, discussions where appropriate can take place between the Panel/PAC and the Law Officers so as to minimise any potential difficulties for States members.

100. It is recognised by the States and the Law Officers that the process of seeking and taking legal advice from the Law Officers is confidential. There are three primary underlying reasons for this –

(i) to ensure that there is no damage done to the public interest by the publication of legal advice given by Law Officers; publication of such advice would risk politicising the Law Officers' Department and would inhibit the Law Officers from giving frank advice;

(ii) to ensure that there is no inhibition on the part of Scrutiny Panels or the PAC in taking advice for fear of its publication. It is in the public interest that decisions are taken on a correct legal basis and that adequate confidential legal advice is obtained to assist;

(iii) to ensure that there is no inhibition on the part of the Law Officers or lawyers within their Department in giving full and frank advice on all the matters which are raised with the Law Officers or one of the Departmental lawyers for advice, or which the Law Officers or the advising lawyer consider should reasonably be volunteered to Scrutiny, the Panels or PAC for consideration; and to ensure that the Scrutiny Panels make full disclosure of all material relevant to the advice sought to the Law Officer.

101. It is recognised that the same principles apply in respect of advice given by the Law Officers to Ministers and their Departments. A Scrutiny Panel/PAC (including its officials) will not publish:

(i) The fact that legal advice has been sought.

(ii) The facts which have been given to the Law Officers for the purposes of taking advice.

(iii) The legal advice which has been given to the Panel/PAC on the facts presented to the Law Officers.

102. This does not prevent a Panel/PAC making a statement in a Report to the States as to what in its opinion the law is, or as to what its understanding is of the legal basis

of the policy followed or decision taken. If the Law Officers' Department has advised a Panel/PAC, the Law Officers' Department will be provided with a draft copy of the Review to ensure confidentiality regarding legal advice has been maintained.

103. Panels/PAC should be careful to ensure that their reports do not suggest that any conclusion or statement has been endorsed by the Law Officers.
104. Scrutiny Panels/PAC and the Law Officers recognise that, in exceptional cases, the public interest, which is both different from and wider than the political interests of the Panels/PAC and the professional interests of the Law Officers, may override the other public interest factors set out above, and make it desirable that the legal advice given to Scrutiny Panels/PAC is published. In such circumstances the prior written permission of the Attorney General must be obtained before publication.

T. PAC: Standalone Proceedings

105. In general, the operational approach of the PAC will reflect that adopted by the Scrutiny Panels. This section addresses those matters that apply only to the PAC.
106. The PAC considers how government policy is implemented and the resources used in the execution of government policy. It does not consider the merits of policy objectives.
107. The Committee will be comprised of at least 4 members, 50% of whom shall be elected States members and 50% shall be independent, non-elected members of the public. Where possible the independent members of the PAC should represent different areas of expertise.

Relationship with Comptroller and Auditor General ('C&AG')

108. The PAC and the C&AG are both independent, answerable only to the States Assembly. The C&AG has a statutory duty to liaise with the PAC and will attend all meetings of the PAC. It is essential that the PAC and C&AG should work together whilst remembering that neither shall dictate to the other.
109. Administrative liaison between the PAC and the C&AG will be handled by the Scrutiny section of the States Greffe. Meetings will be scheduled in conjunction with the C&AG.
110. It is unlikely, although permissible, that the PAC will require expert external witnesses or to commission external expert advice, as technical input will normally be supplied by the C&AG. Such circumstances would be exceptional and should be first discussed with the C&AG.
111. The C&AG will liaise with PAC on the development, delivery of and changes to the Audit Plan set out in the Code of Audit Practice presented to the States Assembly. This Plan will form the basis of the majority of the PAC's work.
112. The C&AG has agreed to inform PAC members of the publication of a report from the C&AG seven days prior to its publication. The C&AG may discuss reports prior to circulation with the Chairman.

113. Copies of all C&AG reports will be made available to PAC members at the same time as other States members and the media.
114. The C&AG will be notified of all media releases to be issued by the PAC prior to their wider distribution.

Review Topic Selection

115. The PAC's primary role is to receive reports from the C&AG and to report to the States upon any significant issues arising therefrom. It should also assess whether public funds have been applied for the purpose intended by the States, and examine whether extravagance and waste are being eradicated and sound financial practices applied throughout the administrations of the States.
116. In developing a balanced programme of Review topics, the PAC will ordinarily prioritise the consideration of reports presented to the States by the C&AG. The PAC will also request an Executive Response from the relevant Department(s) on all C&AG reports and subsequently present that response to the States.
117. Notwithstanding the prioritisation of C&AG reports, the PAC reserves the right to commence a Review concerning any topic that falls within its terms of reference as defined in Standing Orders, irrespective of whether the topic has been the subject of a report to the States by the C&AG.

U. Resources and work of the Scrutiny section of the States Greffe

118. The main remit of the Scrutiny section of the States Greffe is to provide an impartial and independent service to the Chairmen's Committee, the Scrutiny Panels and the PAC.
119. The Head of Scrutiny is appointed to manage and oversee the Scrutiny section, including Officer resource allocation to Panels/PAC. Each of the Panels/PAC will be provided with executive and administrative support by one or more Scrutiny Officers, as directed by the Head of Scrutiny. The post-holder will also provide an executive support function to the Chairmen's Committee.
120. Scrutiny Officers will work both pro-actively and responsively to the requirements of the Panel/PAC, working particularly closely with the Chairman to fulfil agreed Panel/PAC actions and assisting the Chairman to carry out of his/her responsibilities. The role of the Scrutiny Officers includes:
 - obtaining and collating information, documents, written and verbal reports and other appropriate information or evidence relevant to the issue under scrutiny and processing such information in accordance with data protection legislation
 - undertaking research
 - identifying and obtaining additional appropriate professional and technical information, including expert witnesses or advisers, when necessary

- advising on States approved procedures and protocols and processes for conducting scrutiny reviews
- preparing briefing papers on matters arising
- providing executive and administrative support
- arranging, attending and recording meetings and hearings
- liaising with witnesses regarding submission of evidence, transcripts and representation of their views by the Panel/PAC
- drafting, amongst other material: reports, comments, amendments, propositions, States questions, answers to States questions, Chairmen's Statements to the Assembly, speeches and public hearing question plans for consideration by the Panel/PAC
- proposing a strategy for Panels/PAC to follow up report recommendations, and administering the implementation of the agreed actions
- liaising with ministerial departments, other non-executive governmental organisations, media, pressure groups, stakeholders and other relevant external bodies
- ensuring that the scrutiny website is fully updated
- proposing public engagement/communications strategies for Reviews and other Panel/PAC work, preparing media releases and other promotional material and undertaking social media activity as agreed in such strategies

V. Compliance

121. Any alleged infringements of this Scrutiny/PAC Proceedings Code should be reported to the Chairmen's Committee, which will seek to determine an appropriate course of action.
122. The Chairmen's Committee might write to the relevant member/individual/other entity detailing the alleged infringement and invite them to a meeting to discuss the matter or provide a written response.
123. If a member/individual/other entity accepts responsibility for an infringement, the Committee will determine an outcome. Actions available to the Chairmen's Committee might include formally recording a finding that the Scrutiny/PAC Proceedings Code has been breached and the issuing of a verbal or written reprimand and/or in the case of members, advice as to future conduct. The precise action taken will be dependent on the facts and seriousness of the infringement. The format of publication, where appropriate, of the outcome of such processes, will be agreed in consultation with the member/individual/other entity concerned.
124. Where an alleged infringement, or outcome, is not accepted by a member/individual/other entity, the Chairmen's Committee will consider whether

any further action is required. If so, in such circumstances it may refer the matter to PPC/Commissioner for Standards.

125. At any stage of the process, either the member/individual/other entity alleged to be responsible for an infringement, or the Chairmen's Committee, can request the matter be referred to PPC/Commissioner for Standards. Furthermore, reference of the matter to the Chairmen's Committee does not prevent PPC or the Commissioner for Standards from taking up a complaint, nor another member/individual/other entity referring the matter directly to those bodies as appropriate.
126. The Chairmen's Committee reserves the right established by Standing Orders to seek alternative remedy via the States Assembly.

Appendix

Advisory Notes for Chairmen regarding options for dealing with alleged infringements of the Protocol for Engagement Between Scrutiny Panels/PAC and the Executive

The following paragraphs are intended as guidance only to Chairmen of Panels/PAC and the Chairmen's Committee in the event of a dispute or disagreement with any person engaging with Scrutiny or Scrutiny Panel members in respect of the Code of Practice for Engagement Between 'Scrutiny Panels and the Public Accounts Committee' and 'the Executive'. The guidance is not intended to be exhaustive and Chairmen and the Chairmen's Committee retain discretion to deal with matters as they consider fit having regard to all relevant circumstances.

This guidance is intended:

1. To assist Chairmen in determining reasonable and proportionate steps to take in resolving disputes or tackling instances of non-co-operation
2. To foster a consistent and unified approach from Scrutiny Chairmen where appropriate
3. To demonstrate the collective intent of Scrutiny in having a fair and robust accountability mechanism

Possible courses of action, in no particular order of priority and dependent on the status (eg member/individual/other entity etc) of the subject of the alleged infringement, might include:

- a private discussion; private correspondence; public correspondence; arranging attendance at a Panel or Committee meeting (the outcome of which may or may not be minuted); arranging attendance at a public hearing
- reference to the Chairmen's Committee; request to President of the Chairmen's Committee to raise the matter with the Chief Minister; reference to the Privileges and Procedures Committee and/or Commissioner for Standards; mediation by an independent mediator
- Statement to the States Assembly; Censure motion; Vote of no confidence