

CONFLICTS OF INTEREST

Introduction

Matters relating to conflicts of interest arose during the Panel's undertaking of the review. Firstly, Senator J.A. Le Maistre is a member of the Shadow Scrutiny Panel but had been the President of the then Agriculture and Fisheries Committee which had taken the Agriculture Policy 2001, of which the agri-environment scheme formed a part, to the States for debate. Also Deputy F.J. Hill had been a member of the Agriculture and Fisheries Committee at that time. Secondly when Senator P.F.C. Ozouf, President, Environment and Public Services Committee was requested to attend on the Panel to give evidence about the States approved agri-environment scheme, he informed the Panel that he was unwilling to do so as he had declared a conflict of interest.

The States needs to accept that during the shadow period with the Committee system in operation and during the first few years of ministerial government it is inevitable that conflicts of interest will arise due to the change of the system of government.

Conflict of interest of a Panel member

When considering the working process of the Panel, it was agreed, that in order to give each Panel member the widest range of experience, each member would have the opportunity of taking the rôle of Review Chairman. On deciding this, it was noted that Senator Le Maistre had been the President of the Agriculture and Fisheries Committee when the Agriculture Policy 2001 had been developed and that Deputy Hill had also been a member of the Panel at that time. Consequently, the Panel decided that, in order to promote independence, neither of these members should be the Chairman for this review.

Scrutiny Process

The conflict of interest declared by Senator Ozouf raised a number of issues in respect of the possibility of setting a precedent for the scrutiny process.

The Panel considered who should determine whether a conflict of interest is genuine in respect of giving evidence to a Scrutiny Panel. Without a decision in this regard, there would be the possibility of any Committee President declaring a conflict of interest in a matter being reviewed by a Scrutiny Panel with the sole intention of avoiding the whole Scrutiny process.

Having considered this issue, the Scrutiny Panel concluded that it should be within the remit of the Panel itself to determine whether a declaration of conflict of interest was genuine, based on the terms of reference of the specific review. The Panel decided that it should be incumbent on the President/States member who believed there was a conflict of interest to present the case and reasons to the Panel so that the Panel could decide whether that person should be excluded from giving evidence.

The matter was put before the Privileges and Procedures Committee and that Committee's response is included as an Appendix to this report (Appendix 1)

The Panel considered the procedure followed by the States in dealing with similar matters as set out in the Standing Orders of the States of Jersey 1966 Part VIII [44 & [44A] (Appendix 2)

Panel's conclusions -

- That any conflict of interest expressed by a States member who has been requested to attend on a Scrutiny Panel should be considered by the Panel in terms of the Standing Orders of the States of Jersey Part VIII [44 and 44A]
- That any declaration of interest should be made to the Scrutiny Panel at a public hearing, unless the reasons are commercially or financially sensitive, in which case the Panel would be prepared to conduct an in-camera hearing.
- That the Scrutiny Panel should be the determining body as to whether a claim of conflict of interest is acceptable.
- That, in the event that the Panel overrules the declaration of conflict of interest and a witness persists in non-attendance at hearings, under the Shadow Scrutiny Process, the matter should be referred to the Privileges and Procedures Committee.
- This clearly indicates that the work and function of the Scrutiny Panels in the reformed system of government will be severely limited without the power to subpoena witnesses.

Specific declaration of interest from Senator Ozouf

Reason

The Panel subsequently considered the specific situation relating to Senator Ozouf's

declaration of interest which was centred around family circumstances, in that his father was a dairy farmer and his father would, therefore, be in a position whereby he might benefit from such a scheme. Senator Ozouf acknowledged that he would receive no direct benefit from the scheme.

Background

When the Agriculture Policy Report 2001, was debated in the States on 25th July 2002, Senator Ozouf (then a Deputy of St. Helier No. 3) voted against it. During the debate on 26th July 2002, when the States approved the funding for the implementation of the agri-environment scheme which formed a part of the Agriculture Policy Report 2001, Senator Ozouf again voted against it.

Senator Ozouf, believed that that was the last time he had taken part in debates relating to agricultural matters.

Senator Ozouf was elected as President of the Environment and Public Services Committee by the States on 2nd March 2004, a position he holds to date.

In 2004, the year that Environment and Public Services Committee put forward the revised agri-environment scheme to the Fundamental Spending Review process, Senator Ozouf represented the Environment and Public Services Committee on 18th and 19th March 2004 when the level of savings and growth were considered, and again on 5th April 2004 when the views of other States members and Committees on savings and growth proposals were received.

A Part B Act of the Environment and Public Services Committee dated 3rd June 2004, records Senator Ozouf's declaration of conflict of interest, despite having represented the Environment and Public Services Committee in the Fundamental Spending Review process when the agri-environment scheme was considered in 2004. (Part B Acts are subject to the Code of Access to Public Information and cannot be released into the public domain)

Panel's objectives.

The Panel, having received Senator Ozouf's declaration of conflict of interest, wished to question him, not about whether he supported the scheme, but about the position in which he found himself having voted against the report and proposition (P115/2002) in 2002, then finding himself as the President of the Committee which was promoting the scheme during the

2004 Fundamental Spending Review process for funding in 2005 to 2007. Also, as to why, if he had realised that there was a conflict at the end of 2002, as he stated in evidence, he had not officially declared an interest until 3rd June 2004.

Evidence from public hearings

Full transcripts of the public hearings when Senator Ozouf was present held on 15th July and 20th September 2004 are included as appendices to this report (Appendices 3 and 4.)

Despite having attended the Fundamental Spending Review workshops in 2004 in his capacity of President of Environment and Public Services Committee he stated the following at a public hearing of the Scrutiny Panel -

I have inherited the position of being the President of Environment and Public Services and, as such, I see a very clear rôle in abiding by the States' decision to support and, indeed, promote an agri-environment scheme. I believe that it would be inappropriate for me to be seen to be active in promoting an agri-environment scheme at this point in 2004 because of a much closer familial connection I have with my father who is a substantial landowner. It is quite clear to me that, in the event of an agri-environment scheme being supported by the States, all landowners would be ... it would be possible for landowners to apply for funds and whilst ... and I understand that my declaration of interest has been reviewed by Members of the Scrutiny Panel and you will note that I do not own, to the best of my knowledge and belief, land directly. Such is the connection with my father, having my political office based at his farm, having lived at my father's house for a period of time in the last two years, I think that it would be completely inappropriate for me to be seen to promote an agri-environment scheme. Hence I have asked my Vice President to take the seat as Acting President in relation to the agri-environment scheme."

He subsequently stated -

"They [agri-environment schemes] do present or are a catalyst for investment. They encourage people to do things which hopefully have good environmental outcomes, and clearly I don't want to be put in the position where I am encouraged, to be seen to be encouraged to do something with money that I am taking from a States' budget and putting it into something that could be linked to me."

However, subsequent to an explanation by a Panel member that no financial gain would be

made by a farmer who had taken part in the States-approved agri-environment scheme as the scheme would only pay 90 per cent of the costs, Senator Ozouf stated -

“I am sufficiently unfamiliar on the purpose of the agri-environment scheme”

In further evidence to the Panel, when Senator Ozouf appeared in the capacity as an individual States member he explained his understanding of the agri-environment scheme as -

“If a dairy farmer, for example, is to meet environmental standards and future expected...rightly expected...proposals to, for example, increase slurry storage, then a dairy farmer is going to be able to receive monies for the investment of a slurry store, for example. Therefore, my father, as a dairy farmer needing to increase his slurry capacity would receive State funds in order to assist in that investment. I think that is a good example of how a dairy farmer, which my father is, would benefit from the agri-environment scheme and, therefore, it would be entirely inappropriate, in my view, to be seen to be actively arguing and supporting that.”

Panel's conclusions

- The declaration of interest does not fall within the terms of the Standing Orders of the States of Jersey Part VIII [44 and 44A].
- The Panel has found no evidence that Senator Ozouf has withdrawn from meetings between the end of 2002 and 3rd June 2004, when matters relating to an agri-environment scheme have been discussed.
- The Panel has found no evidence that Senator Ozouf withdrew from the 2004 Fundamental Spending Review process when the agri-environment scheme (renamed Countryside Renewal) was considered. Whilst he declared an interest in June 2004, he did not declare an interest in the Fundamental Spending Review when he represented the Environment and Public Services Committee on 18th and 19th March 2004.
- The Panel is concerned that the declared conflict of interest causes a further conflict with the rôle of President, Environment and Public Services Committee, in that he will be obliged to withdraw from any discussion relating to agricultural matters which could be a substantial number.
- The Panel raises the question as to whether Senator Ozouf should have declared this

conflict of interest, dating back to the end of 2002, to the States prior to standing for President of Environment and Public Services Committee in March 2004.

- Senator Ozouf's declaration of conflict of interest, made in June 2004 is rather tardy in view of the fact that he had decided late in 2002 that there was a conflict of interest.
- Senator Ozouf had misunderstood the underlying principles of the agri-environment scheme which he opposed in the States in 2002.
- The Panel agreed that this report should be forwarded to the Privileges and Procedures Committee for it to consider the matter as a part of the Standing Order Review which it was currently undertaking.

In conclusion, the Panel believes Senator Ozouf's declaration of conflict of interest to be unfounded and illogical.