

Chairmen's Committee

Record of Meeting Part A

Date: 23.04.09

Meeting No: 13

Present	Senator B. E. Shenton, President Senator S.C. Ferguson Deputy P.J. Rondel Deputy M.R. Higgins Deputy T. Pitman (representing Education and Home Affairs Scrutiny Panel item 4 onwards)
Apologies	Deputy R.G. Le Hérisier, Vice-President Senator A. Breckon
Absent	
In attendance	Mrs K. Tremellen-Frost, Scrutiny Manager

Ref Back	Agenda matter	Action
	<p>1. Minutes of previous meetings</p> <p>The Minutes of the 19th March 2009 were approved and signed. It was agreed that, although the meeting of that date had been held in private session (Part B) there were no matters within the minutes which necessitated retaining them as exempt under the Code of Practice on Public Access to Official Information. Consequently the Committee authorised the release of these minutes into the public domain. On a related matter the Committee was advised that that meeting had been held in closed session due to confusion between scrutiny meetings which were "working" meetings and scrutiny hearings where witnesses were questioned.</p> <p>The Minutes of 3rd and 14th April 2009 were also approved and signed.</p>	
<p>19.03.09 item 10 510/3 (5)</p>	<p>2. Newsletter</p> <p>The Committee noted that proofs were now being prepared. Some changes have had to be made to panel reports to make the newsletter more user friendly and final versions would be passed by relevant Chairmen. Distribution would be commencing on 14th May 2009 for a week. Chairmen were requested to advertise the newsletter at every opportunity and all Scrutiny Panel members would be requested to do the same.</p>	<p>Chairmen/SP</p>
<p>19.03.09 item 11 510/3(2)</p>	<p>3. Citizenship programme</p> <p>A schedule of dates had now been drawn up and circulated to all Scrutiny Members. Chairmen agreed to stress the benefits of this programme to Panel Members and encourage them to sign up for slots in the schedule.</p>	<p>Chairmen/TO</p>

510/1(15)	<p>4. Financial report - first quarter</p> <p>The Committee noted the first quarter financial report as at 31st March 2009. This was the first report since the centralisation of the budget and the Committee was apprised of the overview of expenditure per Panel, estimated expenditure and actual expenditure per review and spend per area.</p> <p>The Committee was content with the amount of information and noted that it would continue to monitor expenditure within the centralised structure.</p>	
510/1(15)	<p>5. Budget cuts: possibility</p> <p>The Committee considered the possibility of there being pressure placed on the Chairmen's Committee to relinquish any underspend at the end of the year. The Committee considered that this would be unreasonable given that the function had only seen through one term of office to date. Correspondence between the Public Accounts Committee and the Greffier of the States in respect of this matter was noted. It was also noted that the President had a conflict of interest in this matter as he was Chairman of the Public Accounts Committee.</p> <p>Consideration was given to the lack of research facilities and financial support for individual backbench members to undertake private work and considered the appropriateness of the redirection of some of the underspend of the scrutiny budget to this area.</p> <p>It being noted that no response had been received from the Privileges and Procedures Committee in respect of the letter of the Chairmen's Committee dated 23rd February 2009, regarding members facilities it was agreed to write a further letter to request information about what action had been taken to remedy the situation. It also agreed to propose that the Members "Rest Room" should be turned into a further meeting room or used for Members Services.</p>	BS/KTF
19.03.09 item 7	<p>6. Panel activity reports</p> <p>The Committee noted these and the following additional items:-</p> <p>Economic Affairs: the Committee was advised that the Panel had been slow to start work on its work programme but that it had agreed to arrange additional meetings to progress matters should the need arise.</p>	
513/19(8)	<p>7. Corporate Services Scrutiny Panel: Economic Stimulus Plan Review</p> <p>The Committee noted the scoping document and timeline for the above review which had an estimated expenditure of £15,300.</p>	
512(6)	<p>8. Public Accounts Committee: Energy from Waste Plant - management of foreign currency exchange risks review</p> <p>The Committee noted a scoping document and Terms of Reference in respect of the above review and also noted that it was unlikely that any expenditure would be incurred.</p>	
512(5)	<p>9. Public Accounts Committee: Procurement Review</p> <p>The Committee noted a scoping document and Terms of Reference in respect of the above review and also noted that there should be no expenditure in the fulfilment of this.</p>	

	<p>10. Conflict of interest: Connétable of St. Peter</p> <p>In view of the appointment of the Connétable of St. Peter to the Board of WEB. It was noted that he would not take part in any discussions relating to the role of WEB and its control of facilities on the Waterfront.</p>	
517/5(8)	<p>11. Ministerial Responses: Long Term Care for the Elderly</p> <p>The Committee noted that the Health, Social Security and Housing Panel had received responses from the Ministers of Housing and Planning and Environment in respect of the former Panel's review into Long Term Care of the Elderly. The Ministers had been advised to formally present these responses to the States. No response had yet been received from the Minister for Social Security.</p>	
	<p>12. Joint Chairmen's Committee and Council of Ministers' meeting</p> <p>The Committee expressed its dissatisfaction with the way in which this meeting had been managed and chaired. The Committee had been under the impression that there was an agenda and a running order, although these had not been itemised on the agenda, as had occurred at the first joint meeting of 29th January 2009. The Committee was therefore surprised that the Chief Minister, on opening the meeting, had stated that there was no agenda but noted that the Chairmen's Committee had written a number of letters in respect of matters for discussion. There was further surprise that given the notification of matters for discussion through these letters, there appeared to have been no prior consideration given to the matters by the Council. In this regard, the Committee considered the value of these meeting if the Council of Ministers was not taking matters raised by the Chairmen's Committee seriously.</p> <p>In light of the Committee's dismay at the way the meeting was handled, it was agreed that a robust letter would be sent to the Chief Minister to suggest that the next two meetings should be chaired by the President, Chairmen's Committee (in fact alternate chairing should have been agreed at the outset) and that meetings should start at 2.00pm rather than over lunch at 12.30pm so that Members could focus on the matters to be discussed in a more professional and organised manner.</p>	BS/KTF
19.03.09 item4 510/1(41)	<p>13. Ministerial Decisions</p> <p>The Committee considered the discussion with the Council of Ministers of this day in respect of Ministerial Decisions. The Committee had raised the issue of the Councils' guidelines not according with the signed Minute of the joint meeting of 29th January 2009 in which it stated that there would be merit in each department sending a copy of each decision made to the Chairman of the relevant Scrutiny body."</p> <p>Although the Council had attempted to turn the matter into a discussion about the rôle of scrutiny, it had agreed to consider whether to send scrutiny Part B exempt Ministerial Decisions. However, it was agreed to write to the Chief Minister to explain its anticipation of being informed of the number and title of exempt MDs forthwith in accordance with the above quoted minute which referred to "each" decision.</p>	BS/KTF
19.03.09 item16	<p>14. Strategic Plan</p>	

	<p>The Committee considered the discussions it had had with the Council of Ministers of that day and considered that it wished to make no further comment on the matter. Panels would undertake individual work if they felt it appropriate and/or worthwhile.</p>	
<p>19.03.09 item 6 510/1(41)</p>	<p>15. Confidentiality of Part B background reports</p> <p>As this matter as detailed in the Committee's letter to the Chief Minister, dated 20th March 2009, was not discussed at the joint meeting between the Chairmen's Committee and the Council of Ministers' meeting of this day, it was agreed to write to the Chief Minister to explain that the Committee now anticipated that Ministers would abide by the Code of Practice for Scrutiny Panels and the Public Accounts Committee clause 9.23.</p> <p>This would mean that documents exempted under 3.2.1(a)(xiv) (policy under development) which did not fall under 9.23 of the Code of Practice (commercial, sensitive or exceptional) should be released to scrutiny as a matter of course upon request. This would also permit one of the original purposes of scrutiny to be fulfilled: that of being involved in policy formation in accordance with P.79/2003 9.3.</p> <p>In the event that papers were confidential due to commercial, sensitive or exceptional circumstances, the Committee would expect to have the circumstances fully explained to it.</p>	<p>BS/KTF</p>
<p>19.03.09 item 3 (3) 1444/5(3)</p>	<p>16. Confidentiality: departmental documentation</p> <p>This matter as detailed in the Committee's letter to the Chief Minister, dated 20th March 2009, was not discussed at the joint meeting between the Chairmen's Committee and the Council of Ministers' meeting of this day. The Committee agreed to write to the Chief Minister to explain that the Committee now anticipated requests being made from individual Ministers to treat documentation in confidence with a full explanation of the reasons for the confidentiality request. This would enable the Panels and/or Sub-Panels to make an informed decision about agreeing or not to the confidentiality.</p>	<p>BS/KTF</p>
<p>19.03.09 item 12 510/1(42)</p>	<p>17. Public footage of scrutiny meetings and hearings/protocols</p> <p>The Committee gave further consideration to the public being permitted to take visual footage of scrutiny events and agreed that there was differentiation between four types of scrutiny work namely:-</p> <ol style="list-style-type: none"> 1. "Working" scrutiny meetings; 2. Scrutiny meetings with the public to gather views; 3. Scrutiny Panel hearings; 4. Chairmen's Committee meetings. <p>The following decisions were made in respect of the above:-</p> <ol style="list-style-type: none"> 1. "Working" scrutiny panel meetings <p>There was a presumption that such meetings would be held in public (Part A) unless a matter for discussion came within an exemption of the Code of Practice on Public Access to Official Information when the meeting would conduct its business in private (Part B). Dependant on the discussion and outcomes, the record of that discussion could be made under Part A of the minutes.</p>	

All scheduled meetings had been agreed at the start of the year and were posted on the website. Agendas were prepared for these meetings and made available in advance on the website, in the States Assembly Information Centre and on the board outside the States Building. Only when additional meetings were called at short notice was it not possible to prepare an agenda well in advance.

Committee decision: Members of the public would be allowed to attend Part A (open session) “working” scrutiny panel and sub-panel meetings in the capacity of observers only with no interruptions or taking of aural or visual footage being permitted. Members of the public would not be permitted to attend whilst any Part B (closed session) were being considered.

2. Scrutiny meetings with the public to gather views

The purpose of these meetings was to gather views from members of the public and they were usually held in the evenings in an external venue. Such meetings were advertised in advance.

Committee decision: Members of the public would be encouraged to attend and to participate but not allowed to take visual footage unless specifically authorised by the Chairman who would advise the meeting of any permission granted. Members of the public attending the meeting would have the right to decline to have footage taken of them.

3. Scrutiny Panel Hearings

Whilst there is a presumption that hearings would be held in public there were occasions when they may be held in private under the exemptions within the Code of Practice on Public Access to Official Information. Hearings by their very nature had to be organised well in advance unless there were exceptional circumstances and information relating to hearings were posted on the website, in the States Assembly information Centre and outside the States Building.

Committee decision: Members of the public would be permitted to attend hearings being held in public (Part A open session). No interruptions of the proceedings would be permitted and, in order to take visual or aural footage, authorisation would have to be given by the relevant Chairman through the Scrutiny Office three days in advance of the hearing and this would only be given with the consent of the witness.

Members of the public would not be permitted to attend Part B (closed session) hearings.

4. Chairmen’s Committee meetings

These meetings were “management” meetings overseeing the work of the scrutiny function. As with scrutiny meetings there was a presumption that these were held in public (Part A open session) unless a matter was exempt under the Code of Practice on Public Access to Official Information (Part B closed session).

Committee decision: Members of the public would be permitted to

	<p>attend Part A (open session) meetings but not Part B (closed session) meetings. Attendance would be in the capacity of observer only and no interruptions or taking of aural or visual footage would be permitted. No interruptions would be permitted.</p> <p>It was noted that other work was being undertaken in respect of the rôle of the public in other jurisdictions.</p> <p>Committee decision: work on this should be continued and a paper be prepared for the Committee at a subsequent meeting.</p> <p>The Committee agreed to respond to the letter from the Privileges and Procedures Committee, dated 7th April 2009 to state that as work was ongoing into the above matters it was not appropriate for the Chairmen's Committee to bring any amendments to the Code of Practice for Scrutiny Panels and the Public Accounts Committee at this stage.</p>	KTF
<p>19.03.09 item 8</p>	<p>18. Legislative scrutiny</p> <p>The Committee considered a number of ways in which legislation could be scrutinised and received background papers on the original intentions of legislative scrutiny contained within P.79/2003 "Machinery of Government: Establishment of Scrutiny Panels and Public Accounts Committee" Sections (10 and 11). It also received papers in respect of developments in this area since that project had been adopted by the States. It was agreed that the following three main means of legislative scrutiny were appropriate:-</p> <ol style="list-style-type: none"> 1. Short peer review. This would usually include calling the relevant Minister to a hearing and, if no further evidence were required. Such reviews would be completed in the short term and would culminate in a short follow-up report, comments or an amendment. 2. Medium peer review. This would usually involve calling the relevant Minister to a hearing and maybe a representative of the Law Officers Department and/or a Law Draftsman and other relevant witnesses if appropriate. Such reviews would be completed in a medium time frame and would culminate in a report, comments or an amendment. 3. Full scrutiny review This would involve putting out a public call for evidence to ascertain whether the legislation was "fit for purpose" and the effect such legislation would have on the public. Such a review would culminate in a full report in the S.R. series and may also result in an amendment or amendments. <p>The Committee agreed that, irrespective of the type and duration of review, there must be evidence of the Panel's work in a written form to the States be that comments, amendments or a full report in the S.R. series.</p> <p>It also agreed that the Chairmen's Committee would be advised of all legislative scrutiny through the usual process of a scoping document which included financial and officer time estimates. The Chairman, Economic Affairs Scrutiny Panel advised the Committee that the Panel would be considering the Draft Sea Fisheries (Bag Limits) (Jersey) Regulations 200-. The relevant Scrutiny Officer would be advised of</p>	

	<p>this so that he could take the necessary action to confirm Panel agreement in the usual way and prepare a related minute.</p> <p>It was agreed that all Panels be advised of the above.</p> <p>Finally the Committee noted a paper clarifying Standing Order 72 "Referral of legislation or Regulations to Scrutiny"</p>	KTF
10.03.09 item 15	<p>19. Renaming "Scrutiny Panel" to "Select Committee" - proposal</p> <p>The Committee recalled that this matter had been referred to the Privileges and Procedures Committee which had advised that only two of its members supported the proposal to change the name "Scrutiny Panel" to "Select Committee". Given that there was no consensus on the matter, the Committee agreed to seek the views of all Scrutiny Members.</p>	KTF
10.03.09 item 9 510/1(44)	<p>20. Legal advice for scrutiny panels - availability</p> <p>The Committee noted responses from a number of legal firms requesting to be included on a central register. The areas of expertise and fees were also noted and the Committee agreed that all Panels should be informed of the list which would be retained centrally in the Scrutiny Office. Panels would also be advised that this list did not preclude them from seeking advice from legal firms not included on the list.</p>	KTF
510/1(28)	<p>21. Home and Lifestyle Exhibition 2010</p> <p>The Committee recalled that scrutiny had participated in the 2008 event held at Fort Regent last November. Whilst it had been successful in promoting the work and function of scrutiny, the timing had been unfortunate in that it was during the election period. It was also agreed that during 2010 it would be more likely that Panels would be seeking public input into reviews and this was an excellent opportunity for reaching out to the public. It was noted that it was more appropriate for Members to man the stand rather than officers although the exhibition would be prepared and mounted by the officer team. The necessary booking arrangements would be made.</p>	KTF
	<p>22. Scrutiny Rooms: use by Court service.</p> <p>The Committee expressed its dissatisfaction that there had been an agreement by the previous Privileges and Procedures Committee to authorise the use of the Blampied Room to the Court service on a number of days during April, May and June. The Committee expressed its surprise that at no time had the former Privileges and Procedures Committee had the courtesy of consulting the former Chairmen's Committee. The Committee noted that the Blampied and Le Capelain Rooms had been built for the purpose of scrutiny and that it was highly inappropriate that scrutiny panels had been forced to identify and pay for alternative venues to hold hearings, as had been the case.</p> <p>Noting that a further 15 days of use of the Blampied Room was to be denied to scrutiny, the Committee agreed that it would write to the Privileges and Procedures Committee to express its dissatisfaction with this arrangement, to express that this was likely to have a detrimental impact on the scrutiny function and to request an urgent review of this decision</p>	KTF
	<p>23. Meeting Rooms: availability of other rooms</p>	

	The Committee considered the possibility of using the former "Old Committee Room" which was now managed by the Judicial Greffe and the Old Library managed by the Bailiff's Chambers. The Committee agreed to investigate the possibility of this.	
	<p>24. Former Magistrate's Court</p> <p>The Committee noted that the former Magistrate's Court had been used for some hearings whilst the Blampied Room had been allocated to other uses. It was also noted that the Magistrates Court was not appropriate for scrutiny hearings due to the poor acoustics and the inability of the public to hear.</p>	
	<p>25. Date of next meeting</p> <p>It was noted that the date of the next meeting would be 21st May 2009 at 12.30pm in Le Capelain Room.</p>	

Signed

Date:

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 Senator B. Shenton
 President

..... 21ST May 2009