

STATES OF JERSEY



HUMAN RIGHTS COMMITTEE AND STATEMENTS OF COMPATIBILITY (P.78/2008): COMMENTS

**Presented to the States on 30th June 2008
by the Privileges and Procedures Committee**

STATES GREFFE

COMMENTS

Introduction

The proposition of the Deputy of St. Martin refers to two separate but related issues. The first is the establishment of a new committee to deal exclusively with human rights matters and the second relates to the Statements of Compatibility that Ministers must sign when lodging any draft law for debate.

Paragraphs (a) and (b)

The Privileges and Procedures Committee does not support paragraphs (a) and (b) of this proposition. Although the Committee hopes that all members share the view that the correct implementation of human rights legislation in Jersey is important PPC does not believe that the issue is so important that it deserves a special single topic committee as suggested by the Deputy of St. Martin. There are many issues that are equally important for any new legislation or proposals that are brought forward, for example the financial implications, the environmental consequences, the economic impact or the manpower implications. If members are to take well informed decisions on legislation and new proposals it is equally important that information is provided on all these issues and PPC believes that it is wrong to single out human rights as deserving a special committee of its own. Although, as the Deputy points out, there is a joint committee in the United Kingdom involving members of the Houses of Commons and Lords, PPC does not believe that the comparison with a large jurisdiction such as the United Kingdom is appropriate for Jersey. It is of interest to note that there is no dedicated Human Rights Committee in the Scottish Parliament or the National Assembly for Wales and no similar arrangement is in place in Guernsey.

The Deputy of St. Martin has reproduced possible costings for the Committee in his report and PPC considers that the figures from the Scrutiny Manager give an accurate and realistic estimate of the costs likely to be involved in running a Committee of this type. It is therefore clear to PPC that there would be a significant cost associated with the operation of this committee and PPC does not believe that the cost could be justified. It is also not clear whether there would be sufficient interest among States members and members of the public to spend time on one single issue particularly if there was a requirement for the Committee to look at every single piece of legislation brought forward.

The Privileges and Procedures Committee believes that the proper way forward in dealing with human rights in Jersey is for all Ministers bringing forward legislation to ensure that due consideration is given at all times to human rights issues. In addition, Scrutiny Panels should take care to take particular notice of human rights issues when scrutinising draft legislation and new policy proposals. PPC is concerned about the suggestion that alternative legal advice could be received on human rights issues as this appears to imply that the legal advice received from the Law Officers' Department would be second-guessed by outside lawyers. There would clearly be a significant cost involved in doing this and PPC does not believe it would be a good use of taxpayers' money. In addition little would be achieved if differing legal opinions were received as States members would not be in a position to judge the merits of the differing legal opinions and PPC believes it is appropriate for members to rely on their own legal advisers and not on outsiders.

Paragraphs (c) and (d)

Paragraphs (c) and (d) of the proposition relate to the Statements of Compatibility that Ministers must sign when lodging draft laws for debate. PPC understands the need for all aspects of legislation to be properly scrutinised but as stated above believes that such issues can be considered within the remit of existing scrutiny panels that have access to legal advice via the Law Officers' Department. PPC would take issue with the Deputy's proposition which states that the statement should specify what articles of the European Convention have been considered as the Committee understands that all articles are considered on each occasion even if some are clearly of no relevance to the matter being brought forward.

The Privileges and Procedures Committee would point out that Article 16 is currently drafted in quite broad terms and, even if there was any move to review the present style of statements made by Ministers, there may not need to be any formal amendment to Article 16.

