

Chairmen's Committee

Record of Meeting

Date: 08.04.11
Meeting No: 77

Present	Senator S.C. Ferguson, President Deputy R.G. Le Hérisier, Vice-President Senator B. E. Shenton Deputy G.P Southern Deputy P.J. Rondel Deputy M.R. Higgins
Apologies	
Absent	
In attendance	Mrs. K. Tremellen-Frost, Scrutiny Manager

Ref Back	Agenda matter	Action
<p>24.03.11 item 2</p> <p>515/19(8)</p>	<p>1. Economic Affairs Scrutiny Panel: Sub-Panel Review into Jersey Airport - perceived conflict of interest of Chairman.</p> <p>The Committee convened by way of a special meeting to reconsider its previous decision to permit a review of Jersey Airport by a Sub-Panel of the Economic Affairs Scrutiny Panel, chaired by the Chairman of that Panel. The purpose was to reconsider whether the Committee believed that there was a perception of conflict of interest on the part of the Chairman in chairing the review, due to his involvement with and receipt of remuneration in respect of the Jersey International Air Display (JIAD).</p> <p>The Committee again noted that the Chairman received remuneration in his capacity as organiser of the JIAD, and noted that this did not come directly from the Economic Development Department. The Committee also considered the fact that the proposed review was not of the Air Display but of the Airport. In view of this, the Committee then considered whether there could be a perception that there was a conflict of interest on the part of the Chairman. However, the Chairman queried why there had been no consideration of a perception of conflict when he was involved in the Tourism PPP review or, indeed, as Chairman of the Economic Affairs Scrutiny Panel.</p> <p>Members discussed individual circumstances when it was appropriate for them to withdraw from all involvement in matters and explained that their concerns were not about whether the Chairman would use information to resolve any issues with JIAD but the fact that there could be a perception that he would be automatically placed in such a position to be able to do so.</p> <p>In response, the Chairman again assured the Committee that all reviews in which he had been involved had been evidence-based as would this one; that there were Members on the Sub-Panel, all of whom were independent of airport issues and that the first part of the final report would deal with the perception of conflict matter. He</p>	

contended that every States Member had a conflict and that it was important to be able to utilise the knowledge and information one had to conduct reviews. The Committee was advised by the Chairman that Jersey Airport was breaking the States Employment Policy by some of the recruitments they had made.

Consideration was again given to the benefit of the Chairman being a witness, however, he claimed that as a witness he would have to be there as a representative of the JIAD.

The Chairman was asked if he would declare the amount of the remuneration in his report, however the Committee was advised that that was not a straightforward matter as it changed and he would need to address this by going through all the figures. The Chairman explained that his rôle in the JIAD in relation to the airport itself was limited: he wrote a letter at the start of the year to appoint a flying display director and Committee, after which he stepped back and only worked at funding the acts. The operational side, it was noted, was undertaken by others who interfaced with the airport and there was also an external auditor. There was one secondee from Air Traffic Control. The Chairman of the Economic Affairs Scrutiny Panel maintained that it had been Senator Ferguson, in her previous rôle with the JIAD, who had advised the Chairman to take remuneration.

The Committee reconsidered correspondence from the Minister for Economic Development and the view that it was he who had instigated this situation.

The majority of Members of the Committee accepted that because there was remuneration, there was a perception of conflict of interest and considered ways forward. The following compromises were considered:

- a different Member of the Panel chairing the review. No other Members of the Panel were interested.
- the Chairman being a witness. This was declined as he had already done a lot of groundwork in reading through previous Committee minutes. Also he explained that a lot of the work would be done by him as an individual.

The Committee noted that the Chairman had invited Deputy Le Hérissier to be a Member of the Panel to provide further checks and balances but he had declined.

Consideration was given to Deputy Southern, who was a member of the Sub-Panel, chairing the review, however, it was noted that in order to do this he would have to be appointed to the main Economic Affairs Scrutiny Panel. This could only occur at the next States sitting which was 3rd May 2011. If this were to take place and the Chairman were to accept the Sub-Panel being chaired by Deputy Southern, it would be the responsibility of the Sub-Panel Chairman to address any issues which might arise.

The Committee recalled that Senator Shenton, as previous President of the Committee, had suspended the review on receipt of the letter from the Minister for Economic Development. His "right" to take such

an action was challenged by the Chairman of the Economic Affairs Scrutiny Panel. The former President explained that the review had been put on hold because of the allocation of resources and use of public funds into a review where there could be a perception of conflict of interest on the part of the Chairman. The Committee noted that Standing Order 143(b) stated that one of its terms of reference was "to oversee the prioritisation and allocation of resources to the PAC and scrutiny panels" and further, 4.22 of the Code of Practice for Scrutiny Panels and the PAC stated "Sub-Panels may call upon the financial and manpower resources available to the Panel. This is subject to other commitments of the Panel and to the agreement of the Chairmen's Committee and Scrutiny Manager."

One interpretation of the above was that this was intended to ensure fairness across Panels but did not infer control of Panel reviews; however this view was not shared across the Committee. It was queried how many Members would wish to chair Panels, if they were to be controlled by the Committee.

Notwithstanding the above, the Committee agreed that it would seek advice from the Greffier of the States and H.M. Attorney General in respect of whether:

- The President had the unilateral power to suspend a review;
- The Committee had the powers to withhold resources and prevent a review proceeding.

The Committee considered suspending the review until 3rd May 2011 when Deputy Southern could be appointed to the Economic Affairs Scrutiny Panel, however there was concern that the Economic Development Department was already "stonewalling" the Sub-Panel by not sending through requested information which was readily available. Such documentation included the Airfield Manual on Safety and the Euro control Memorandum of Understanding 1995 which had been updated.

The Committee also considered an adviser to the review and noted that Mr. B. Mellor, former Airport Director, would be approached in the first instance. Mr. M. Lanyon, also a former Airport Director, would be asked to attend on the Sub-Panel as a witness.

Given the time between now and the 3rd May 2011, it was agreed that any follow-up work in eliciting the information from the Economic Development Department should be undertaken by Deputy Southern in his capacity as a Member of the Sub-Panel and also the Chairmen's Committee.

The Chairman, Economic Affairs Scrutiny Panel agreed to consider Deputy Southern being appointed to the main Panel and chairing the Sub-Panel but only after he had received advice from the Greffier of the States and H.M. Attorney General in respect of the above matters but prior to 3rd May 2011.

It was finally agreed that if the Chairman, Economic Affairs Scrutiny Panel, declined to step down as Chairman of the Sub-Panel, the Panel would hold a further meeting.

Signed

Date:



15/06/11

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Senator S.C. Ferguson
President