

STATES OF JERSEY



COMPETENT AUTHORITIES MINISTERS: RELEASE OF MINUTES OF MEETINGS TO SCRUTINY (P.86/2021) – AMENDMENT

Lodged au Greffe on 26th October 2021
by the Council of Ministers
Earliest date for debate: 23rd November 2021

STATES GREFFE

COMPETENT AUTHORITIES MINISTERS: RELEASE OF MINUTES OF
MEETINGS TO SCRUTINY (P.86/2021) – AMENDMENT

1 PAGE 2 –

After the words “the Scrutiny Liaison Committee”, for the words “any approved minutes” substitute “agendas, papers and actions agreed”.

2 PAGE 2 –

After the words “without redactions by the”, for the words “Chief Minister” substitute “Competent Authorities Ministers”.

3 PAGE 2 –

After the words “that Committee for distribution” insert the words “, in confidence,”.

COUNCIL OF MINISTERS

Note: After this amendment, the proposition would read as follows –

THE STATES are asked to decide whether they are of opinion –

that, on request by the Scrutiny Liaison Committee, **agendas, papers and actions agreed** of meetings of the Competent Authorities Ministers should be shared in confidence and without redactions by the **Competent Authorities Ministers** with that Committee for distribution, **in confidence**, to the relevant Scrutiny Panels.

REPORT

The Council of Ministers appreciates the importance of transparency in decisions reached and has sought to provide briefings to both Scrutiny Panels and States Members more generally following Competent Authorities Ministers decisions being taken and in advance of public announcements.

This notwithstanding, the Council of Ministers considers the unamended proposition to be a significant divergence from the longstanding principle that the full content of both Ministerial and Scrutiny meetings are confidential. This is in-line with best practice in the U.K. and elsewhere.

This amendment will allow for the agendas and papers of meetings to be provided for the relevant Scrutiny Panels to review, in detail, the options papers, officer advice, presentations and evidence used to inform decisions of the Competent Authorities Ministers.

Similarly, a record of actions agreed will provide Scrutiny with a clear summary and explanation of the collective position of the Competent Authorities Ministers without compromising the confidentiality of Ministerial deliberations.

It is suggested that such a record would be in the form of a table with an explanatory note for each item, which would deliver a clear record for Panels along with the papers.

This amendment would therefore provide Scrutiny Panels with all agendas, papers, officer advice (excluding legal advice) and a record of actions and decisions reached by Ministers for all Competent Authorities Ministers meetings without altering or influencing the nature of the necessarily forthright and honest discussion which much take place before decisions are reached.

Meetings of the Competent Authorities are, given the sensitivity of discussions and in line with longstanding and fundamental conventions in Jersey, confidential. A confidential safe space provides for frank, candid and open discussions between Ministers which allows for decisions to be taken following robust discussion. Introducing an observed element to the decision-making process would, even if limited, have an impact on the content and nature of discussions.

Ministers and officers must be at liberty to express their views, without being unduly influenced to give performative interventions for the sake of the minutes. Equally, participants could be dissuaded from giving an opinion or be circumspect with their advice for fear of looking foolish in hindsight.

This is especially the case during the “live” development of policy, when a “safe space” within which discussions takes place helps with the formulation of good decisions.

This principle was reconfirmed during the revision of the Code of Practice approved by the Assembly in 2018, as agreed between the then Council of Ministers and the then Scrutiny Chairmen’s Committee. Ministers of that time categorically argued the case for Minutes to remain confidential to the Council of Ministers, in line with normal governmental practises, and this was accepted and agreed by the Scrutiny Panels of the

day. This enabled papers to be provided, and other information, while leaving it for the Ministers to determine how they treat their minutes. This has been respected ever since.

This amendment would therefore continue to respect that agreement and provide further transparency for Scrutiny without imperilling the decision-making process itself.

Financial and manpower implications

Any financial or manpower implications would be very marginal as a result of this Amendment.