

**WRITTEN QUESTION TO THE PRESIDENT OF THE PRIVILEGES AND
PROCEDURES COMMITTEE BY SENATOR P.F. ROUTIER**

ANSWER TO BE TABLED ON TUESDAY 5th JULY 2005

Question

Would the President confirm whether the Committee is satisfied that there are sufficient guidelines in place to enable the scrutiny process to operate objectively on a basis of a 'critical friend', and, if not, would he confirm whether such guidelines will be put in place prior to the move to ministerial government including guidance on the appointment and suitability of advisors asking questions as opposed to the elected Scrutiny Panel?

Answer

Draft Guidelines for Shadow Scrutiny Panels were included as an Appendix to the report that accompanied Project No. P.186/2003, entitled 'Shadow Scrutiny: Arrangements and Approval of Chairmen and Members'. They are clear on what is and is not expected of Shadow Scrutiny. For example, and on the matter of objectivity, they state that the purpose of Shadow Scrutiny is not to provide an opposition to States policy or to further personal or political agendas. To date, the Privileges and Procedures Committee remains satisfied that Shadow Scrutiny is functioning well and, to a greater or lesser extent, as intended. It should, nevertheless, be noted that the process is still at an evolutionary stage. The Chairmen's Committee is about to conduct a thorough evaluation of the Shadow Scrutiny process which will invite feedback from all members who have been directly involved. The Privileges and Procedures Committee understands that constructive comments from Senator P.F. Routier and other members will also be warmly welcomed. The Committee aims to report the Chairmen's Committee evaluation to the States by the end of September 2005 and it is anticipated that further refinement of the process will follow the release of that report.

It appears to the Committee that the majority of issues with the Shadow Scrutiny process stem from a failure to understand what is meant by the term 'critical friend'. The original use of the term critical friend followed research into the scrutiny function in the United Kingdom. It was intended to signify mutual respect and 'parity of esteem' for the scrutiny function as a legitimate check on executive arrangements in exercising public accountability. Whilst the scrutiny function could, if appropriate, 'rubber stamp' policies favoured by Committees and their ministerial successors, or suggest minor refinements, it was never intended that this was the sole purpose of scrutiny. Its purpose was always to probe, to analyze and to ask questions that may, on occasion, have been overlooked by the Executive in its enthusiasm to implement a particular policy or piece of legislation.

It is perhaps inevitable that scrutiny will, from time to time, expose significant or even fundamental flaws in government policy. The outcome of the Scrutiny Review into the Agri-Environment Scheme is a good example of this in that it led to the implementation of the Countryside Renewal Scheme. Members may also recall that, during the course of the Waste Management review, the Panel identified that more could be done to reduce the toxicity of emissions from the existing incinerator at Bellozanne and that the Committee's own recycling targets were set too low.

In the current review of the Goods and Services Tax proposals, members will recall from an earlier oral question that the Panel chaired by Deputy R.C. Duhamel of St. Saviour appointed Mr. Richard Murphy as one of its advisors to assist with its review of the planned Goods and Services Tax. Clearly those who are strongly supportive of the finance industry in its current form will be aware that Mr. Murphy has previously expressed views on the viability and sustainability of offshore finance centres such as Jersey. However, the fact that his views tend to differ from those of the Policy and Resources and Finance and Economics Committees is not an acceptable reason for calling into question the objectivity of the Panel, particularly as a second consultant, namely Mr. Paul Frith, has also been appointed. Mr. Frith is known to hold markedly different views to those of Mr. Murphy. In any event, submissions and other input from consultants are merely one part of the evidence gathering process, albeit an important part. It falls to individual Scrutiny Panels to evaluate evidence received from all relevant sources appropriately and objectively, and having regard to all appropriate factors. In the case of the GST

review, input from both advisers will simply put the Panel in a stronger position to test the validity of the policy as proposed. That can only be a good thing.

The Committee is aware that, at a recent public hearing held by the Shadow Scrutiny Panel reviewing the proposals for GST, the two advisers were permitted to ask a significant number of questions. The Committee is also aware that the Panel had previously agreed the lines of questioning that were to be explored during the hearing and that it retained full control of proceedings. In the view of the Panel, best value was achieved by allowing the advisers to take the lead on complex matters that were firmly within their areas of expertise. Moreover, the admirably professional approach of the two advisers ensured that the hearing was both objective and highly productive.

Scrutiny and the Executive aspire to the same goals: they want what is best for Jersey. Nevertheless, it is inevitable that, on occasion, the conclusions reached by the Scrutiny Panels will be critical. So long as that criticism is constructive, and is based on solid evidential foundations, it will add real value to the decision making process. The Privileges and Procedures Committee has every confidence that those members who have worked so hard to make Shadow Scrutiny a success will continue to operate on that basis.