

# STATES OF JERSEY



## REVISED CODE OF PRACTICE FOR ENGAGEMENT BETWEEN ‘SCRUTINY PANELS AND THE PUBLIC ACCOUNTS COMMITTEE’ AND ‘THE EXECUTIVE’

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Lodged au Greffe on 9th March 2022  
by the Scrutiny Liaison Committee  
Earliest date for debate: 25th March 2022

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STATES GREFFE

## **PROPOSITION**

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

to approve the revised Code of Practice for Engagement between ‘Scrutiny Panels and the Public Accounts Committee’ and ‘the Executive’ as set out in Appendix 1 to the report accompanying this proposition.

SCRUTINY LIAISON COMMITTEE

## REPORT

### Introduction:

This proposition relates specifically to proposed updates to *The Code of Practice for Engagement Between 'Scrutiny Panels and the Public Accounts Committee' and 'the Executive'* (the 'Scrutiny/PAC Engagement Code'). The updates identified by the Scrutiny Liaison have been subject to consultation with the Chief Minister and the wider Council of Ministers. The final proposed version of the Scrutiny/PAC Engagement Code is contained in Appendix 1. Appendix 2 is a version of the same Code but with all changes tracked, and is included for ease of reference for Members, or other interested persons, to readily view the differences between the current and proposed versions.

Updates are being made concurrently to the *Scrutiny and Public Accounts Committee Proceedings: Code of Practice* (the 'Scrutiny/PAC Proceedings Code'). Revisions to this document do not require the approval of the States Assembly and are therefore not within scope of this Proposition. However, for clarity and completeness, all of the changes that will come into effect upon formal presentation of the updated Scrutiny/PAC Proceedings Code to the States are highlighted in Appendix 3 of this report.

### Background:

This Proposition is lodged by the Scrutiny Liaison Committee in accordance with its roles and responsibilities, as established in the extracts below:

#### Scrutiny/PAC Engagement Code

6. The Scrutiny/PAC Engagement Code is a 'live' document which will be kept under review (see 8).

#### **B. Responsibilities**

7. The President of the Chairmen's Committee, in conjunction with the Committee, will oversee the Scrutiny/PAC Engagement Code and the Scrutiny & PAC Proceedings Code of Practice.

8. The Chief Minister and the President of the Chairmen's Committee, in conjunction with the Chief Executive of the States and the Head of Scrutiny, will review this Scrutiny/PAC Engagement Code at least once a term (or as required). This process should include consultation with the Chairmen's Committee and the Council of Ministers.

#### Standing Orders of the States of Jersey

143 Scrutiny liaison committee: terms of reference

The terms of reference of the scrutiny liaison committee are –

(c) to keep under review the operation of the scrutiny function and, as appropriate, to make recommendations for change;

(f) to –

(i) prepare and keep under review, in conjunction with the Council of Ministers, a code of practice for engagement, for the purposes of scrutiny, between scrutiny panels and review panels and Ministers and Assistant Ministers,

(ii) prepare and keep under review, in conjunction with the Council of Ministers, a code of practice for engagement between the PAC and Ministers, Assistant Ministers and States' employees working in an administration of the States for which a Minister is assigned responsibility, and

(iii) lodge each code of practice for approval by the States;

(g) to prepare, keep under review and present to the States –

(i) a code of practice for the proceedings of scrutiny panels and review panels (apart from the engagement described in paragraph (f)(i)),

and

(ii) a code of practice for the proceedings of the PAC (apart from the engagement described in paragraph (f)(ii)).

It might be noted that the adoption of [P.56/2018](#) (Code of Practice for Engagement between 'Scrutiny Panels and the Public Accounts Committee' and 'the Executive'), by the States, resulted in practice in the merging of the various PAC and Scrutiny Panel codes that are indicated above. The rationale for this was explained in the report accompanying the P.56/2018:

*As work progressed, there was a growing consensus that favoured reducing the number of proposed Protocols and Codes. As well as simply reducing the inherent confusion and inefficiency in having 4 similar codes, there is considerable overlap and procedural similarities between the work of PAC and Scrutiny Panels, albeit that it is recognised that PAC is not strictly a 'Scrutiny Panel' as defined in Standing Orders. The decision was taken by the Chairmen's Committee that in place of the 4 proposed documents there should be 2: a joint Scrutiny/PAC Code of Practice for Engagement with the Executive, and a joint Code of Practice for Scrutiny and PAC Proceedings. Notable differences in PAC process are clearly identified, and there are standalone sections in each Code to cover matters that are relevant only to the PAC.*

### **Key Changes:**

The full scope of proposed changes to the Scrutiny/PAC Engagement Code is relayed through Appendices 1 and 2. In summary, however, there are 3 main areas that are addressed:

1. Housekeeping – a number of titles referred to in the existing Code are now redundant, and are therefore brought up to date by the changes. Most prominently this includes changing the title of 'Chairmen's Committee' to the current 'Scrutiny Liaison Committee', in line with [P.72/2019](#) Draft Amendment (No. 41) of the Standing Orders of the States of Jersey.
2. Access to Council of Ministers Supporting Agenda Papers – the current section 'F' is updated to better reflect the practical arrangements that have evolved between the Government and Scrutiny function to exchange information since the Code's introduction, accelerated by increased digitalisation and the adoption of the Teams platform.
3. Ministerial Decisions – the existing Code is silent on the process by which Ministerial Decisions are made available to Scrutiny. The making of such

Decisions is an integral part of Ministerial responsibilities, and by extension those of the Scrutiny Panels whose role it is to hold Ministers to account for their actions and decisions. Consistent and timely receipt of the associated documentation is important to enable Panels to fulfil this duty. This anomaly is addressed by the insertion of a new section ‘G’.

The Committee would like to thank the Chief Minister and his officers for their input into the updated Code, and, additionally, the wider Council of Ministers for their consideration of the document as part of the required consultation process.

### **Financial and manpower implications**

There are no additional financial and manpower implications arising from this proposition.

States of Jersey  
States Assembly



États de Jersey  
Assemblée des États

**CODE OF PRACTICE FOR ENGAGEMENT  
BETWEEN  
'SCRUTINY PANELS & THE PUBLIC ACCOUNTS COMMITTEE'  
AND  
'THE EXECUTIVE'**

[Hereafter known as the 'Scrutiny/PAC Engagement Code']

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**A. Introduction**

1. The States Assembly Scrutiny Panels and the Public Accounts Committee (PAC) are integral parts of the machinery of government in Jersey.
2. The Scrutiny/PAC Engagement Code should be considered in conjunction with the Code of Conduct for Elected Members, the Code of Conduct and Practice for Ministers and Assistant Ministers and the Scrutiny & PAC Proceedings Code of Practice.
3. For the purpose of this Code, the 'Executive' shall mean Ministers, Assistant Ministers and relevant Officers.
4. Although it carries out a scrutiny role, PAC is not a 'Scrutiny Panel' as defined by Standing Orders. It is established under separate Standing Orders with discrete terms of reference. However, its procedural and administrative engagement with the Executive is broadly similar to that of the Scrutiny Panels. Where a provision in this Code applies only to a Scrutiny Panel, the term 'Panel' is used. 'Panel/PAC' is used where it applies to both, and 'PAC' where it applies only to PAC. Standalone paragraphs relevant only to the work of PAC are also contained in section K.
5. For the avoidance of doubt, where reference is made in this Scrutiny/PAC Engagement Code to engagement by Ministers and Assistant Ministers, in matters relating to PAC such requirements as contained should be assumed to normally refer to Directors General/Accounting Officers, with the exception of paragraph 26.
6. The Scrutiny/PAC Engagement Code is a 'live' document which will be kept under review (see 8).

## B. Responsibilities

7. **The President** of the Scrutiny Liaison Committee, in conjunction with the Committee, will oversee the Scrutiny/PAC Engagement Code and the Scrutiny & PAC Proceedings Code of Practice.
8. **The Chief Minister and the President** of the Scrutiny Liaison Committee, in conjunction with the Chief Executive of the States and the Assistant Greffier (Committees and Panels), will review this Scrutiny/PAC Engagement Code at least once a term (or as required). This process should include consultation with the Scrutiny Liaison Committee and the Council of Ministers.
9. **Chairs and the President** will ensure their respective Panels/Committee, Sub-Panels and Rapporteurs abide by Standing Orders, the Scrutiny/PAC Engagement Code and the Scrutiny & PAC Proceedings Code of Practice.
10. **The Scrutiny Liaison Committee** will ensure that all Review Panels, which it establishes, abide by Standing Orders, the Scrutiny/PAC Engagement Code and the Scrutiny & PAC Proceedings Code of Practice.
11. **Ministers and Assistant Ministers** engaging with Scrutiny will abide by Standing Orders, the Protocol, the Code of Conduct for Elected Members and the Code of Conduct and Practice for Ministers and Assistant Ministers.
12. **The Chief Minister, Ministers and the Council of Ministers** will use best endeavours to try to ensure that all Propositions on major policies and legislation are lodged '*au Greffe*' at least six months before the date of the next elections so that sufficient time is factored in for Scrutiny purposes.
13. **The Chief Executive of the Government of Jersey and Head of the Public Service** will ensure that the relevant Private Secretary within the Ministerial Office will act as Scrutiny Liaison Officer (SLO) to the corresponding Panel. For PAC, a suitably senior and authorised officer will be appointed from within the Office of the Chief Executive to act as Liaison Officer. Committee and Panel Officers will conduct all liaison with Departments/Ministries via the SLOs unless otherwise agreed with the Private Secretary.

## C. Initial Consultation with Ministers and Relevant Officers

14. Prior to the Panels drawing up a schedule of Reviews, Ministers (or Assistant Ministers as delegated) will, at the request of a Panel, promptly provide a private briefing on the forthcoming work and priorities of their Departments, including target completion dates.

15. Relevant Executive Officers (in accordance with paragraph 13) will liaise with Committee and Panel Officers to provide detailed information on forthcoming work including draft policy papers and legislation.
16. Requests to Departments for initial background information should be acknowledged promptly by relevant Officers to the relevant Committee and Panel Officer, and best endeavours undertaken to provide the information requested within 5 working days. In requesting information, it is helpful for Panels to focus their requests so as to aid a quick response by Departments.

#### **D. Reviews – Process and Access to Information**

17. The Executive should allow sufficient time for Reviews to be undertaken. Commonly Reviews, especially but not exclusively those addressing non-legislative matters, will take a minimum of three months to complete. Regular communication about progress on Departmental policies and legislation programmes will assist both parties. Equally, Panels will endeavour to undertake as much preparatory work as possible, in advance of lodging to help enable debates to proceed without undue delay. This includes outlining to Departments as far in advance as reasonably possible their requirement for information and arranging advisors as early as practically possible. This approach is best supported by continuing dialogue between Committee and Panel Officers and SLOs and Panels, Panel Chairs, and Ministers.
18. Ministers, Assistant Ministers and relevant Officers will attend on a Panel/PAC if requested to provide an initial briefing (in private if required) on the topic under consideration. Briefings may be held before completion of scoping and terms of reference. Normally, only Officers are expected to attend in the case of PAC.
19. Once a scoping document and terms of reference have been approved by a Panel/PAC and subsequently the Scrutiny Liaison Committee, the relevant Minister(s) (Director General/Accounting Officer in the case of PAC) and Department(s) will be advised of the terms of reference. Panels will give consideration to any feedback received.
20. Panels/PAC can ask for information as the topic requires, and can call Ministers, Assistant Ministers and relevant Officers to further briefings and hearings. Such requests will normally be directed to Officers in the case of PAC.
21. When requested, Departments will provide Panels with a full list of policies and legislation which relate to the topic under review.
22. Requests for information to a Department in relation to an established Review should be acknowledged promptly and the information provided within 5 working days, or, if clarification is needed, a date given by which

the information will be provided, which shall not be greater than 10 working days. In the event that requested information does not exist, or does so but not in the form requested, Panels/PAC will be notified accordingly within 5 working days.

23. The importance of evidence to an effective scrutiny process is recognised by all parties. Ministers, Assistant Ministers, Director General/Accounting Officers and other applicable Departmental Officers will therefore actively assist Panels/ PAC in the conduct of their work by volunteering any additional material information held by them, or otherwise under their control, in respect of a Review topic which may not have been specifically requested, to enable the Scrutiny Panels/PAC to comprehensively review the matter. Where there is uncertainty over the relevance of information held, within 5 working days of the request the SLO should contact the respective Committee and Panel Officer, who will inform the Panel/PAC and arrange with the SLO for the material in question to be assessed for its relevance by the Panel/PAC.
24. Where information provided will include items of a confidential nature and relevant exempt Ministerial decisions, confidentiality will be respected by all Members involved in Scrutiny/PAC.
25. All written information will normally be sent by email to the States Greffe (Scrutiny section) by the relevant SLO, will be clearly named, and will be indexed where appropriate.
26. At the request of the relevant Panel/Committee, the Minister responsible, and/or the Minister designated as the shareholder representative, for any States owned body subject to a request for information from a Panel/PAC during a Scrutiny/ PAC Review, shall communicate with the respective body within one week endeavouring to facilitate the voluntary provision of that information, should the body have failed to comply. The relevant Minister will use best endeavours to achieve compliance, communicating to the Panel on the extent and outcome of those endeavours within a maximum of two weeks.

#### **E. Fact-finding Visits**

27. Panels/PAC may conduct fact-finding visits in relation to potential or confirmed Review topics.
28. Panels/PAC undertaking fact-finding visits will be accompanied by a Committee and Panel Officer, who will prepare an independent note of the visit.

#### **F. Access to Council of Ministers Supporting Agenda Papers**

29. Through the Office of the Chief Executive, the Council of Ministers will provide a copy of the Part A agenda to the Committees and Panels Section of the States Greffe before the meeting of the Council of Ministers.

30. The Assistant Greffier (Committees and Panels) will arrange circulation of this agenda to all Members of the Scrutiny Liaison Committee and to the Committee and Panel Officers.
31. The Part A agenda will not be circulated to or discussed with anyone other than members of the Scrutiny Panels/PAC, and States Greffe staff.
32. Material that was provided to the Council of Ministers as part of the Part B agenda items will be made available digitally to the relevant Panel/PAC within one working day of the respective Council of Ministers meeting. If the Council of Ministers considers the material to be of a particularly sensitive or commercial nature, or if there are exceptional circumstances surrounding the release of information, those circumstances will be communicated to the relevant Chair by the Council of Ministers (or designated Minister), through the official designated liaison channels.
33. All Part B material will be treated as confidential by Panels/PAC until the relevant Minister determines otherwise. Confidential information should be clearly marked by the Executive in accordance with paragraph 44 of this Protocol.
34. The Council of Ministers will be informed as required, through the designated liaison channels, of which Panels/PAC are in receipt of Part B material. There will be a presumption that a Minister will agree the release of the material under confidential cover to any Panel/PAC, but the Scrutiny Liaison Committee will be mindful to ensure that such provision of confidential information is justified in its relevance to related to remits and work programmes. Any exceptional circumstances which might surround the release of information will be explained to a relevant Chair or the Scrutiny Liaison Committee through the official liaison channels in the first instance.
35. The Council of Ministers will consider providing Panel/PAC Chairs with relevant items of Part B minutes of Council of Ministers meetings upon request, in accordance with the process and criteria established for Part B reports.

## **G. Ministerial Decisions**

36. In order to properly fulfil their terms of reference as set out in Standing Order 136, all approved Ministerial Decisions will be provided to the relevant Scrutiny Panel(s), and PAC where appropriate to its remit. All Decisions will be provided within one working day of being signed by the corresponding Minister, save any redactions required to comply with the relevant data protection legislation (having particular regard to sensitive personal information and the need to provide that information onwards to a Panel) Panels will also maintain the confidentiality of any information, unless that confidentiality is waived by the Minister.
37. The Decision, including any associated report, will be provided in digital form to the appropriate Committee and Panel Officer by the relevant

Private Secretary, unless alternative arrangements have been otherwise agreed by those parties.

38. The sharing of such information is subject to the provisions of Section I.

39. If there is doubt as to which Panel or Committee a Decision applies, the Ministerial Office will, within the one working day period, request guidance from the Assistant Greffier (Committees and Panels).

## **H. Legal advice**

40. It is recognised by the States and the Law Officers that the process of seeking and taking legal advice from the Law Officers is confidential. There are three primary reasons for this –

- i) to ensure that there is no damage done to the public interest by the publication of legal advice given by Law Officers; publication of such advice would risk politicising the Law Officers' Department and would inhibit the Law Officers from giving frank advice;
- ii) to ensure that there is no inhibition on the part of Panels/PAC in taking advice for fear of its publication. It is in the public interest that decisions are taken on a correct legal basis and that adequate confidential legal advice is obtained to assist;
- iii) to ensure that there is no inhibition on the part of the Law Officers or lawyers within their Department in giving full and frank advice on all the matters which are raised with the Law Officers or one of the Departmental lawyers for advice, or which the Law Officers or the advising lawyer consider should reasonably be volunteered to Panels/PAC for consideration; and to ensure that the Scrutiny Panels make full disclosure to the Law Officers of all material relevant to the advice sought.

41. It is recognised that the same principles apply in respect of advice given by the Law Officers to Ministers and their Departments.

42. It is accepted that advice given by the Law Officers to a Minister or to the Council of Ministers or to departmental officials and/or the fact that advice has been sought will not be disclosed to a Panel/PAC.

43. Panel/PAC members recognise and accept that Ministers and their officials will maintain their claim to legal advice privilege, except in exceptional circumstances, if questioned by a Panel/PAC, and will not seek to interfere with that privilege. Such exceptional circumstances are likely to arise only where there is a coordinated Law Officer, Ministerial and Scrutiny/PAC approach to the release of the advice, where there would be no adverse impact on actual or possible legal proceedings in court, and where there would be no undesirable precedent set as a result. In such circumstances the written prior permission of the Attorney General must be obtained before the advice is disclosed to a Panel/PAC,

and also before any legal advice or reference to it is published by the Panel/PAC.

## **I. Personal or Confidential Information**

44. Panels/PAC are committed to the principle of open access to information and will publish all information unless there are appropriate confidentiality or personal reasons not to do so. Documents received in confidence will remain so until otherwise agreed with the Executive.
45. For the avoidance of doubt, the fact that information is confidential is not a reason for delay in providing it to a Panel/PAC.
46. Information which contains personal data or relates to a third party will not be made public if doing so could contravene relevant data protection legislation.
47. If a Minister or Chief Officer/Accounting Officer believes that information to be provided to a Panel/PAC is either confidential or personal, the Panel/PAC must be advised of the reasons via the States Greffe.
48. All confidential or personal information provided in written format shall be clearly marked as such by the Department concerned (where feasible on each relevant page), with a rationale supplied as to the reason for the confidentiality in accordance with the Freedom of Information (Jersey) Law 2011.

## **J. Hearings**

49. There is a presumption that all Scrutiny & PAC hearings will be held in public. Exceptions will be determined by the Panel/PAC in the case of sensitive or confidential information.
50. Panels and PAC reserve the right to reject any request to conduct a hearing in private.
51. The relevant SLO will be provided with the intended broad areas of questioning in advance of a hearing, but will not receive a detailed question plan, unless in exceptional circumstances so determined by the relevant Panel, PAC, Sub-Panel or Review Panel.
52. Whilst the powers of Summons are not applicable for States Members, Ministers and Assistant Ministers will attend hearings in accordance with Schedule 3 (9) of the Standing Orders of the States of Jersey.
53. Department Chief Officers/Accounting Officers, and/or other relevant Officers, will attend Hearings as requested. In the case of Scrutiny Panels this is restricted to the purpose of answering questions relating to the facts with regard to policy matters and implementation thereof.

54. Panel/PAC members, Ministers, Assistant Ministers and Officers will behave in a professional manner with each other. The Executive are expected to be forthcoming in providing information at hearings.
55. Unless otherwise decided by the Panel/PAC, public hearings will be webcast live, the audio will be recorded and transcripts uploaded to the Scrutiny section of the States Assembly website as soon as they are available following the hearing.
56. At that time, the relevant SLO will be sent the transcript for the purpose of clarifying any matters of fact only. Any clarification will be provided within 5 working days, unless otherwise agreed by the Panel/PAC. Any subsequent amendment to the transcript will be a matter for the States Greffe and Panel/PAC.
57. Scrutiny Panels will normally hold hearings about the work programmes of their respective Ministers and Assistant Ministers on a quarterly basis ('Quarterly Hearings'). This paragraph does not apply to PAC.

#### **K. Reports, Responses and Implementation**

58. Once a Panel/PAC has approved the body of a report (i.e. minus findings and recommendations), relevant excerpts will be sent in confidence to the SLO of the Department whose Minister/Assistant Minister or Officers have contributed evidence. Five working days should be provided for the SLO to submit comment on matters of a factual nature only relating to the evidence provided by those witnesses. It will be accepted, however, that time pressures may lead to occasions when less than five days will be given.
59. Panels/PAC reserve the right to determine whether amendments are to be accepted.
60. Once the report is finalised, wherever possible copies will be released in advance to the relevant Minister(s) (Director(s) General/Accounting Officer(s) in the case of PAC) under embargo and in confidence before presentation to the States under the S.R. or PAC series.
61. Reports remain confidential until presented to the States Assembly.
62. Ministers (Directors General/Accounting Officers in the case of PAC) will respond to the Scrutiny/PAC Report using the Ministerial/Executive Response template format respectively within 6 weeks of the publication of the Report. The templates may be revised as required by agreement between the Council of Ministers and the Scrutiny Liaison Committee.
63. Where Ministers (Directors General/Accounting Officers in the case of PAC) are unable to respond in the given timescale, an interim response should be presented within 6 weeks and a full response presented within 3 months.

64. Responses will be presented directly to the States Assembly via the Ministerial Decision process.
65. Ministers (Chief Officers/Accounting Officers in the case of PAC) will implement the accepted recommendations in a timely manner as detailed in the response, and advise the Panel/PAC when these have been completed.
66. Ministers (Chief Officers/Accounting Officers in the case of PAC) will, on request, provide an update to Panels/PAC on progress against accepted recommendations.

#### **L. Public Accounts Committee (PAC)**

67. In general, the approach of (and towards) PAC will reflect that adopted by (and towards) the Scrutiny Panels – see paragraphs 4 and 5. This section addresses those matters that relate only to PAC.
68. In developing a balanced programme of Review topics, PAC will ordinarily prioritise the consideration of reports presented to the States by the C&AG. Having received a report that has been presented to the States by the C&AG, PAC will write to the relevant Director(s) General/Accounting Officer(s) (in accordance with paragraph 13 of this Code) and request a response, using the PAC's response template format, to any recommendations made in the report within a period not exceeding 6 weeks. The deadline for the requested response will be specified in the correspondence
69. Once the response(s) to the recommendations made by the C&AG have been received from the relevant Officer, PAC will present the response to the States and determine whether to commence a follow-up Review of the topic addressed in the C&AG's report.
70. In the event that one or more responses are not received from Officers within the deadline set, PAC may invoke an escalation procedure and/or commence a follow-up Review of the topic addressed in the C&AG's report.

#### **M. Compliance**

71. Any alleged infringements of the Scrutiny/PAC Engagement Code should be reported to the Scrutiny Liaison Committee, which will seek to determine an appropriate course of action.
72. Actions available to the Scrutiny Liaison Committee include writing to and/or requesting a meeting with the member concerned, or the relevant Accounting Officer/Chief Executive in the case of PAC. In appropriate cases, the matter will be raised between the President and the Chief Minister who will endeavour to achieve an appropriate resolution.
73. Where the issue cannot be satisfactorily resolved, it may be referred to the Privileges and Procedures Committee.

74. It is recognised that alternative processes by which matters might be addressed, particularly those of a more serious nature, are also provided by Standing Orders. These include options of direct recourse to the States Assembly.

#### **N. Summary of Timings**

Information from Executive to Panel/PAC on general information requests	Within 5 working days.
Information from Executive to Panel/PAC on Review material	Routinely: within 5 working days. Exceptional circumstances: within 10 working days
Clarification from SLO on matters of fact in Public Hearing transcripts	Within 5 working days
Executive comments on draft sections of reports (technical/factual comments only)	Within 5 working days
Presentation to States of Official Response to Panel/PAC Reports	Routinely: within 6 weeks from date of presentation of report  Exceptional circumstances: Interim response within 6 weeks, full response within 3 months
Response to PAC of recommendations contained in C&AG reports	Within 6 weeks from date of presentation of report
Ministerial Decisions	Within one working day of signature

States of Jersey  
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**CODE OF PRACTICE FOR ENGAGEMENT  
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‘THE EXECUTIVE’**

[Hereafter known as the ‘Scrutiny/PAC Engagement Code’]

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**A. Introduction**

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## C. Initial Consultation with Ministers and Relevant Officers

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#### **D. Reviews – Process and Access to Information**

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22. Requests for information to a Department in relation to an established Review should be acknowledged promptly and the information provided within 5 working days, or, if clarification is needed, a date given by which

the information will be provided, which shall not be greater than 10 working days. In the event that requested information does not exist, or does so but not in the form requested, Panels/PAC will be notified accordingly within 5 working days.

23. The importance of evidence to an effective scrutiny process is recognised by all parties. Ministers, Assistant Ministers, Director General/Accounting Officers and other applicable Departmental Officers will therefore actively assist Panels/ PAC in the conduct of their work by volunteering any additional material information held by them, or otherwise under their control, in respect of a Review topic which may not have been specifically requested, to enable the Scrutiny Panels/PAC to comprehensively review the matter. Where there is uncertainty over the relevance of information held, within 5 working days of the request the SLO should contact the respective Committee and Panel Officer, who will inform the Panel/PAC and arrange with the SLO for the material in question to be assessed for its relevance by the Panel/PAC.
24. Where information provided will include items of a confidential nature and relevant exempt Ministerial decisions, confidentiality will be respected by all Members involved in Scrutiny/PAC.
25. All written information will normally be sent by email to the States Greffe (Scrutiny section) by the relevant SLO, will be clearly named, and will be indexed where appropriate.
26. At the request of the relevant Panel/Committee, the Minister responsible, and/or the Minister designated as the shareholder representative, for any States owned body subject to a request for information from a Panel/PAC during a Scrutiny/ PAC Review, shall communicate with the respective body within one week endeavouring to facilitate the voluntary provision of that information, should the body have failed to comply. The relevant Minister will use best endeavours to achieve compliance, communicating to the Panel on the extent and outcome of those endeavours within a maximum of two weeks.

#### **E. Fact-finding Visits**

27. Panels/PAC may conduct fact-finding visits in relation to potential or confirmed Review topics.
28. Panels/PAC undertaking fact-finding visits will be accompanied by a Committee and Panel Officer, who will prepare an independent note of the visit.

#### **F. Access to Council of Ministers Supporting Agenda Papers**

29. Through the Office of the Chief Executive, the Council of Ministers will provide a copy of the Part A agenda to the Committees and Panels Section of the States Greffe before the meeting of the Council of Ministers.

30. The Assistant Greffier (Committees and Panels) will arrange circulation of this agenda to all Members of the Scrutiny Liaison Committee and to the Committee and Panel Officers.
31. The Part A agenda will not be circulated to or discussed with anyone other than members of the Scrutiny Panels/PAC, and States Greffe staff.
32. Material that was provided to the Council of Ministers as part of the Part B agenda items will be made available digitally to the relevant Panel/PAC within one working day of the respective Council of Ministers meeting. If the Council of Ministers considers the material to be of a particularly sensitive or commercial nature, or if there are exceptional circumstances surrounding the release of information, those circumstances will be communicated to the relevant Chair by the Council of Ministers (or designated Minister), through the official designated liaison channels.
33. All Part B material will be treated as confidential by Panels/PAC until the relevant Minister determines otherwise. Confidential information should be clearly marked by the Executive in accordance with paragraph 44 of this Protocol.
34. The Council of Ministers will be informed as required, through the designated liaison channels, of which Panels/PAC are in receipt of Part B material. There will be a presumption that a Minister will agree the release of the material under confidential cover to any Panel/PAC, but the Scrutiny Liaison Committee will be mindful to ensure that such provision of confidential information is justified in its relevance to related to remits and work programmes. Any exceptional circumstances which might surround the release of information will be explained to a relevant Chair or the Scrutiny Liaison Committee through the official liaison channels in the first instance.
35. The Council of Ministers will consider providing Panel/PAC Chairs with relevant items of Part B minutes of Council of Ministers meetings upon request, in accordance with the process and criteria established for Part B reports.

## **G. Ministerial Decisions**

36. In order to properly fulfil their terms of reference as set out in Standing Order 136, all approved Ministerial Decisions will be provided to the relevant Scrutiny Panel(s), and PAC where appropriate to its remit. All Decisions will be provided within one working day of being signed by the corresponding Minister, save any redactions required to comply with the relevant data protection legislation (having particular regard to sensitive personal information and the need to provide that information onwards to a Panel) Panels will also maintain the confidentiality of any information, unless that confidentiality is waived by the Minister.
37. The Decision, including any associated report, will be provided in digital form to the appropriate Committee and Panel Officer by the relevant

Private Secretary, unless alternative arrangements have been otherwise agreed by those parties.

38. The sharing of such information is subject to the provisions of Section I.

39. If there is doubt as to which Panel or Committee a Decision applies, the Ministerial Office will, within the one working day period, request guidance from the Assistant Greffier (Committees and Panels).

## **H. Legal advice**

40. It is recognised by the States and the Law Officers that the process of seeking and taking legal advice from the Law Officers is confidential. There are three primary reasons for this –

- iv) to ensure that there is no damage done to the public interest by the publication of legal advice given by Law Officers; publication of such advice would risk politicising the Law Officers' Department and would inhibit the Law Officers from giving frank advice;
  - v) to ensure that there is no inhibition on the part of Panels/PAC in taking advice for fear of its publication. It is in the public interest that decisions are taken on a correct legal basis and that adequate confidential legal advice is obtained to assist;
  - vi) to ensure that there is no inhibition on the part of the Law Officers or lawyers within their Department in giving full and frank advice on all the matters which are raised with the Law Officers or one of the Departmental lawyers for advice, or which the Law Officers or the advising lawyer consider should reasonably be volunteered to Panels/PAC for consideration; and to ensure that the Scrutiny Panels make full disclosure to the Law Officers of all material relevant to the advice sought.
41. It is recognised that the same principles apply in respect of advice given by the Law Officers to Ministers and their Departments.
42. It is accepted that advice given by the Law Officers to a Minister or to the Council of Ministers or to departmental officials and/or the fact that advice has been sought will not be disclosed to a Panel/PAC.
43. Panel/PAC members recognise and accept that Ministers and their officials will maintain their claim to legal advice privilege, except in exceptional circumstances, if questioned by a Panel/PAC, and will not seek to interfere with that privilege. Such exceptional circumstances are likely to arise only where there is a coordinated Law Officer, Ministerial and Scrutiny/PAC approach to the release of the advice, where there would be no adverse impact on actual or possible legal proceedings in court, and where there would be no undesirable precedent set as a result. In such circumstances the written prior permission of the Attorney General must be obtained before the advice is disclosed to a Panel/PAC,

and also before any legal advice or reference to it is published by the Panel/PAC.

## **I. Personal or Confidential Information**

44. Panels/PAC are committed to the principle of open access to information and will publish all information unless there are appropriate confidentiality or personal reasons not to do so. Documents received in confidence will remain so until otherwise agreed with the Executive.
45. For the avoidance of doubt, the fact that information is confidential is not a reason for delay in providing it to a Panel/PAC.
46. Information which contains personal data or relates to a third party will not be made public if doing so could contravene relevant data protection legislation.
47. If a Minister or Chief Officer/Accounting Officer believes that information to be provided to a Panel/PAC is either confidential or personal, the Panel/PAC must be advised of the reasons via the States Greffe.
48. All confidential or personal information provided in written format shall be clearly marked as such by the Department concerned (where feasible on each relevant page), with a rationale supplied as to the reason for the confidentiality in accordance with the Freedom of Information (Jersey) Law 2011.

## **J. Hearings**

49. There is a presumption that all Scrutiny & PAC hearings will be held in public. Exceptions will be determined by the Panel/PAC in the case of sensitive or confidential information.
50. Panels and PAC reserve the right to reject any request to conduct a hearing in private.
51. The relevant SLO will be provided with the intended broad areas of questioning in advance of a hearing, but will not receive a detailed question plan, unless in exceptional circumstances so determined by the relevant Panel, PAC, Sub-Panel or Review Panel.
52. Whilst the powers of Summons are not applicable for States Members, Ministers and Assistant Ministers will attend hearings in accordance with Schedule 3 (9) of the Standing Orders of the States of Jersey.
53. Department Chief Officers/Accounting Officers, and/or other relevant Officers, will attend Hearings as requested. In the case of Scrutiny Panels this is restricted to the purpose of answering questions relating to the facts with regard to policy matters and implementation thereof.

54. Panel/PAC members, Ministers, Assistant Ministers and Officers will behave in a professional manner with each other. The Executive are expected to be forthcoming in providing information at hearings.
55. Unless otherwise decided by the Panel/PAC, public hearings will be webcast live, the audio will be recorded and transcripts uploaded to the Scrutiny section of the States Assembly website as soon as they are available following the hearing.
56. At that time, the relevant SLO will be sent the transcript for the purpose of clarifying any matters of fact only. Any clarification will be provided within 5 working days, unless otherwise agreed by the Panel/PAC. Any subsequent amendment to the transcript will be a matter for the States Greffe and Panel/PAC.
57. Scrutiny Panels will normally hold hearings about the work programmes of their respective Ministers and Assistant Ministers on a quarterly basis ('Quarterly Hearings'). This paragraph does not apply to PAC.

#### **K. Reports, Responses and Implementation**

58. Once a Panel/PAC has approved the body of a report (i.e. minus findings and recommendations), relevant excerpts will be sent in confidence to the SLO of the Department whose Minister/Assistant Minister or Officers have contributed evidence. Five working days should be provided for the SLO to submit comment on matters of a factual nature only relating to the evidence provided by those witnesses. It will be accepted, however, that time pressures may lead to occasions when less than five days will be given.
59. Panels/PAC reserve the right to determine whether amendments are to be accepted.
60. Once the report is finalised, wherever possible copies will be released in advance to the relevant Minister(s) (Director(s) General/Accounting Officer(s) in the case of PAC) under embargo and in confidence before presentation to the States under the S.R. or PAC series.
61. Reports remain confidential until presented to the States Assembly.
62. Ministers (Directors General/Accounting Officers in the case of PAC) will respond to the Scrutiny/PAC Report using the Ministerial/Executive Response template format respectively within 6 weeks of the publication of the Report. The templates may be revised as required by agreement between the Council of Ministers and the Scrutiny Liaison Committee.
63. Where Ministers (Directors General/Accounting Officers in the case of PAC) are unable to respond in the given timescale, an interim response should be presented within 6 weeks and a full response presented within 3 months.

64. Responses will be presented directly to the States Assembly via the Ministerial Decision process.
65. Ministers (Chief Officers/Accounting Officers in the case of PAC) will implement the accepted recommendations in a timely manner as detailed in the response, and advise the Panel/PAC when these have been completed.
66. Ministers (Chief Officers/Accounting Officers in the case of PAC) will, on request, provide an update to Panels/PAC on progress against accepted recommendations.

#### **L. Public Accounts Committee (PAC)**

67. In general, the approach of (and towards) PAC will reflect that adopted by (and towards) the Scrutiny Panels – see paragraphs 4 and 5. This section addresses those matters that relate only to PAC.
68. In developing a balanced programme of Review topics, PAC will ordinarily prioritise the consideration of reports presented to the States by the C&AG. Having received a report that has been presented to the States by the C&AG, PAC will write to the relevant Director(s) General/Accounting Officer(s) (in accordance with paragraph 13 of this Code) and request a response, using the PAC's response template format, to any recommendations made in the report within a period not exceeding 6 weeks. The deadline for the requested response will be specified in the correspondence
69. Once the response(s) to the recommendations made by the C&AG have been received from the relevant Officer, PAC will present the response to the States and determine whether to commence a follow-up Review of the topic addressed in the C&AG's report.
70. In the event that one or more responses are not received from Officers within the deadline set, PAC may invoke an escalation procedure and/or commence a follow-up Review of the topic addressed in the C&AG's report.

#### **M. Compliance**

71. Any alleged infringements of the Scrutiny/PAC Engagement Code should be reported to the Scrutiny Liaison Committee, which will seek to determine an appropriate course of action.
72. Actions available to the Scrutiny Liaison Committee include writing to and/or requesting a meeting with the member concerned, or the relevant Accounting Officer/Chief Executive in the case of PAC. In appropriate cases, the matter will be raised between the President and the Chief Minister who will endeavour to achieve an appropriate resolution.
73. Where the issue cannot be satisfactorily resolved, it may be referred to the Privileges and Procedures Committee.

74. It is recognised that alternative processes by which matters might be addressed, particularly those of a more serious nature, are also provided by Standing Orders. These include options of direct recourse to the States Assembly.

#### **N. Summary of Timings**

Information from Executive to Panel/PAC on general information requests	Within 5 working days.
Information from Executive to Panel/PAC on Review material	Routinely: within 5 working days. Exceptional circumstances: within 10 working days
Clarification from SLO on matters of fact in Public Hearing transcripts	Within 5 working days
Executive comments on draft sections of reports (technical/factual comments only)	Within 5 working days
Presentation to States of Official Response to Panel/PAC Reports	Routinely: within 6 weeks from date of presentation of report  Exceptional circumstances: Interim response within 6 weeks, full response within 3 months
Response to PAC of recommendations contained in C&AG reports	Within 6 weeks from date of presentation of report
Ministerial Decisions	Within one working day of signature

States of Jersey  
States Assembly



États de Jersey  
Assemblée des États

## Scrutiny and Public Accounts Committee Proceedings: Code of Practice

[Hereafter known as the 'Scrutiny/PAC Proceedings Code']

### **A. Introduction**

1. The Scrutiny Panels and Public Accounts Committee ('PAC') are an integral part of the machinery of government in Jersey. Panels work on behalf of the States Assembly, and therefore the wider public, to objectively and transparently hold the Executive to account for its policies, legislation and actions and to undertake reviews into any matters of public importance. The role of the PAC is to work on behalf of the States Assembly and the public to consider the use of public funds and the adequacy of corporate governance arrangements.
2. In doing so, Panels aim to help improve government policies, legislation and the administration of public services (with PAC focusing on financial governance and administration), by ensuring they are fit for purpose and that changes are justified by appropriate rationale and evidence.

### **B. Purpose of the Scrutiny Proceedings Code of Practice**

3. The purpose of this Scrutiny Proceedings Code is to establish a framework for consistent good practice within Scrutiny by providing guidance to Panels/PAC, Chairs, Sub-Panels and Review Panels regarding the agreed processes and procedures for Scrutiny work. It should be read in conjunction with the *Code of Practice for Engagement Between 'Scrutiny Panels and the Public Accounts Committee' and 'the Executive' ('Scrutiny/PAC Engagement Code')*, which deals with all matters relevant to engagement between those parties.
4. Although it carries out a scrutiny role, PAC is not a 'Scrutiny Panel' as defined by Standing Orders. It is established under separate Standing Orders with discrete terms of reference. However, its procedural and administrative engagement with the Executive is broadly similar to that of the Scrutiny Panels. Where a provision in this Code applies only to a Scrutiny Panel, the term 'Panel' is used. 'Panel/PAC' is used where it applies to both, and 'PAC' where it applies only to PAC. Standalone paragraphs relevant only to the work of PAC are contained in section T.

### **C. Status**

5. This Scrutiny Proceedings Code, mandated by the States through Standing Order 143 (g), has been presented to the States to inform Members and the public about the proceedings of Scrutiny Panels and the PAC. All those who join the Scrutiny function, whether as a member appointed to a Scrutiny Panel or PAC by the States Assembly, a member of a Sub-Panel or a member of a Review Panel, are required to abide by this Scrutiny Proceedings Code.
6. The Scrutiny Proceedings Code is a live document which may be amended at any time by the Scrutiny Liaison Committee in consultation with Scrutiny members. Any revisions made will be reported to the States.

### **D. Remits and Membership**

7. The formal terms of reference for the Scrutiny Panels and PAC are set out in Standing Orders.
8. Each Scrutiny Panel consists of the Chair and up to four elected States Members who are appointed to the Panel by the States in the manner set out in Standing Orders.
9. The PAC consists of a Chair and at least 4 other members, 50% of whom are elected members and 50% non-elected members.
10. Each Panel and the PAC selects a Vice-Chair to fulfil the functions of the Chair in his/her absence.
11. The quorum for each Panel is one half of its membership (where this is not a whole number, it should be rounded up to the nearest whole) in order to make any substantive decisions and hold public hearings. Additionally, in the case of the PAC, at least 2 of those present must be States members. Without a quorum, a Panel/PAC may not make decisions at a meeting on its work programme, the terms of reference of specific reviews, appointment of an adviser or financial expenditure or a report following a review. These decisions must all be formally minuted. A public or private hearing also requires a quorum of members.
12. In practice Panels/PAC make most of their decisions by consensus without the need to vote. Where a vote is necessary, each member of the Panel has one vote. The Panel Chair does not have a deciding vote in the event of a tied vote. It is not possible to proceed with a decision on a tied vote.
13. It is imperative that Members of Panels and Committees play an active and regular role in their proceedings. Members must give due priority to attendance at meetings and hearings and should be present unless they have very compelling reasons not to be so. Work programmes are

extensive and it is conducive to effective outcomes that the workload is approached collaboratively and shared appropriately among the membership. Should any Member be absent for more than 3 consecutive hearings or scheduled meetings for reasons that are not considered to be compelling by their respective Chair, they will be written to by the Chair to remind them of their responsibilities with regard to attendance, and the matter will also be referred to the Scrutiny Liaison Committee. The Scrutiny Liaison Committee will consider whether any further action is required, and will communicate with the Member accordingly.

14.

#### **Co-option**

15. Scrutiny Panels may co-opt an additional non-executive member onto a Panel for the purposes of assisting with a specific review. A member can only be co-opted onto a Panel if she or he is not already a member of two Scrutiny Panels.
16. The co-opted member must only take part in discussions on the specific review for which she or he has been co-opted and not in any other Panel business.

#### **Sub-Panels**

17. Scrutiny Panels are entitled to set up Sub-Panels of up to five members to deal with particular issues, for example to undertake a review which cuts across the responsibility of more than one Panel. Sub-Panels may contain members who are not members of the Panel in question (provided that they are non-executive members).
18. Sub-Panels operate on behalf of the Panel which has appointed them and only with the authorisation of that Panel. The appointment, remit and timescale must be agreed by the full Panel and recorded in the Minutes.
19. The Sub-Panel will appoint its own Chair, who will be a member of the main Panel. It is the responsibility of the Sub-Panel Chair to report to the full Panel on a regular basis. The quorum for a Sub-Panel is one half of its members. Where this is not a whole number it should be rounded up to the nearest whole. The report prepared by the Sub-Panel on its review will be presented to the States in the name of the full Panel.
20. Sub-Panels may, subject to the agreement of the Panel, call upon the financial and manpower resources available to the Panel. This is subject to the other commitments of the Panel and to the agreement of the Scrutiny Liaison Committee and Assistant Greffier (Committees and Panels).

#### **Review Panels**

21. Review Panels may be established by the Scrutiny Liaison Committee, for example to provide greater flexibility for cross-cutting matters, at the request of a States Member to examine a topic that would not otherwise be scrutinised by a Scrutiny Panel, or in times of particularly heavy workload.
22. Review Panels will contain elected members who are not Ministers or Assistant Ministers and operate on behalf of the Scrutiny Liaison Committee which has appointed them and only with the authorisation of that Committee. The appointment, remit, budget and timescale must be agreed by the Scrutiny Liaison Committee and recorded in the minutes. There is no specified limit on the number of members who can serve on a Review Panel.
23. The Review Panel will nominate its own Chair for approval by the Scrutiny Liaison Committee. It is the responsibility of the Review Panel Chair to update the Committee on a regular basis. The Review Panel will provide a final draft of the report prepared on its review to the Scrutiny Liaison Committee before presentation to the States.. It is the responsibility of the Chair of the Review Panel to undertake the subsequent media, public and political engagement responsibilities.
24. For the Committee to establish a Review Panel, it will need, in agreement with the Assistant Greffier (Committees and Panels), to consider current officer workload, current Panel review work and identify a Committee and Panel Officer from within the existing team to be released to support the work of a Review Panel.

### **Rapporteurs**

25. Under Standing Orders, the Scrutiny Panels are also entitled to appoint a single member of that Panel, a 'rapporteur', to deal with a specific issue within the Panel's remit, but may not allocate any of its resources for such a purpose without the agreement of the Scrutiny Liaison Committee.
26. Rapporteurs operate on behalf of the Panel, on the same basis as a Sub-Panel, as set out above. Rapporteurs will progress their investigations on their own initiative and direction, but ultimately report back to the Panel. Rapporteurs should liaise with the Chair on a regular basis.

### **E. Scrutiny Liaison Committee**

27. The Scrutiny Liaison Committee, led by the President, is responsible for the oversight of the Scrutiny and PAC function as set out in [Standing Orders](#) 142 and 143.
28. The Committee's overarching role is to ensure that Scrutiny/PAC operates effectively and appropriately, taking note of best practice and

developments in similar parliamentary committee systems. It will typically meet on a monthly basis.

29. The Committee will also oversee the appropriate allocation of financial resources to Scrutiny and PAC Reviews, ensuring that the overall work programme of all the Panels and the PAC is undertaken within the financial resources available, and covers the work of all the Ministers during the relevant term of office.
30. The Committee is advised by Panels/PAC of all planned Reviews through receipt of terms of reference and scoping documents detailing financial and manpower implications, public engagement strategy, timescale, risks and mitigation of identified risks. Until a scoping document has been received and approved by the Committee, no budget will be allocated.
31. Budgets for quarterly hearings and initial hearings to identify background information are not subject to the scoping process or Scrutiny Liaison Committee approval.
32. The Committee also seeks to ensure that the status and business needs of members conducting scrutiny work is appropriately recognised.

#### **F. Role of Chair**

33. The Chair of each Panel/PAC is appointed by the States in the manner set out in Standing Orders. The term of office for each Chair is for the duration of the States Assembly until the beginning of the first States meeting following the next ordinary election.
34. The main responsibilities of the Chair are as follows:
  - Implement the remit of the Panel/PAC as established by Standing Orders
  - Provide direction and leadership to the Panel/PAC and act as a figurehead for its work (and Scrutiny more widely), establishing a suitable public profile
  - Ensure prominence is given to effective public engagement, appropriate to the context and stakeholder groups for each piece of work
  - Work closely with colleagues and the Committee and Panel Officers to establish clear working practices to help the Panel/PAC to function professionally, efficiently and effectively, and in keeping with the approved framework of the Scrutiny Proceedings Code of Practice
  - Establish an appropriate and effective working relationship with Ministers within the Panel's remit

- Upon election to the position, identify and propose colleagues for appointment as Panel/PAC members
  - Establish preferred working practices with the Panel/PAC Officers, taking into account advice provided by them on relevant processes.
  - Respond in good time to requests for direction from Committee and Panel Officers.
  - Approve all draft agendas prepared by the Committee and Panel Officers (ie before they are distributed to the Panel/PAC)
  - Authorise then electronic signature of Panel/PAC minutes upon their approval by the Panel/PAC
  - At report writing stage (this includes Scrutiny/PAC Reports and Comments), the following stages require the Chair's input:
    - (a) By the end of evidence gathering phase, ensure the Panel/PAC has considered evidence gathered to help inform drafting to be undertaken by Committee and Panel Officer
    - (b) Receive a full draft report/Comments paper etc. from the Officer(within agreed timeframe)
    - (c) Liaise with Committee and Panel Officer to complete a draft to be presented to the full Panel/PAC as the 'Chair's Draft'
  - Carry out interviews with the media unless otherwise delegated
  - Attend meetings of the Scrutiny Liaison Committee, unless otherwise delegated
  - Within the Chamber:
    - (a) Under Standing Order 72, confirm when asked by Presiding Officer whether Panel wishes to have the relevant draft legislation referred to the Panel (this Standing Order does not apply to PAC)
    - (b) Make Statements on matters of official responsibility (eg publication of reports)
    - (c) Answer written/oral questions directed to the Panel/PAC
    - (d) Table written/oral questions directed to relevant Ministers
35. The Chair may delegate certain functions as necessary to another member of the Panel/PAC, for example chairing a public hearing or contacting the media.

## **G. Meetings**

36. Panels/PAC will agree for each calendar year a schedule of regular meetings, typically at least once every two weeks, which will be held to plan and consider the progress of enquiries being undertaken by the Panel/PAC and other matters arising. When this schedule has been agreed, it will be published on the States Assembly website. Additional meetings will be held as required in between the scheduled meetings.
37. Panel/PAC meetings will commonly be held in the rooms which have been designated and technologically equipped for Scrutiny purposes (Le Capelain and Blampied). However, a Panel may meet at any suitable location of its choice. A Panel/PAC may also hold meetings through appropriate digital platforms.
38. All meetings (as opposed to hearings – see Section O) are held in private to enable the Panels/PAC to have open and frank discussions on procedural and administrative matters, and to consider draft documentation. However, minutes will be published on the States Assembly website of all Panel/PAC meetings, subject to applicable exemptions of the Freedom of Information (Jersey) Law 2011 and relevant data protection legislation.
39. Panel/PAC meetings must be quorate in order to make any substantive decisions and hold public hearings.
40. There will be agendas for all scheduled Panel/PAC meetings. The front page of agendas (i.e. items of business but not associated papers) will be published on the relevant section of the States Assembly website. The full agenda will be distributed electronically to the Panel/PAC members.
41. Independent and impartial minutes of all Panel/PAC meetings and hearings will be made by the Committee and Panel Officers from the States Greffe to provide a complete, impartial and objective audit trail of the work of the Panels/PAC. These will record main points of discussion and all decisions and financial matters, but will not be verbatim. Panel/PAC decisions must be made at formally convened meetings (in person or electronically) at which an Officer from the States Greffe is present to record those decisions.
42. The minutes will be signed by the Chair once the Panel/PAC has agreed that they represent a true record of the proceedings. The minutes of each meeting will then be published electronically as soon as possible after each meeting.

## **H. Planning a Forward Work Programme – Scrutiny Panels**

43. At the start of each year the Panels will consider their forward work programme based on the work programme of the relevant Departments and any other areas of public interest. They will endeavour to identify topics for review and develop a draft forward programme.
44. The Panels will need to revisit their forward work programme on a regular basis in order to take into account new developments in the Executive's policies and matters of public importance. The Panels, for example, may request without prior notice, in accordance with Standing Order 79 [Appendix 3(13)], that a proposition being debated by the States Assembly should be suspended and referred to it for investigation. The Panels will therefore need to retain a degree of flexibility in their forward planning which will enable them to re-prioritise their programme of work as new circumstances arise.

#### **I. Identifying Reviews – Scrutiny Panels**

45. Panels are topic based (see Standing Order 135) and have the freedom to select their own programme of Reviews within those topic areas. Panels select work priorities from a number of sources, including the work programme(s) of the relevant Minister(s) and suggestions from States Members, stakeholders and/or members of the public.
46. In developing a balanced work programme, the Panels will take account, as far as possible, of the following main focuses of Scrutiny, namely:
- policy
  - legislation
  - Medium Term Financial Plan/Budget
  - matters of public interest
  - public service initiatives
47. In selecting topics for review, Panels will consider if they:
- are linked to States strategic objectives
  - are a community/corporate priority area
  - are a key issue for the public
  - are likely to result in an improved service to the public
  - relate to a service/issue where there is a high level of dissatisfaction
  - make a positive contribution to the development of policy
48. Topics will be rejected if they:
- are sub-judice
  - fall within a complaints procedure
  - are an individual matter
  - relate to matters of individual employee disciplinary/grievance

49. Topics may be rejected if they:

- are already being addressed by others
- are prejudicial to States interests

#### **J. Declaration of interests**

50. Where a member of a Panel/PAC or their spouse/civil partner/cohabitee has a direct financial interest in matter under consideration or review, the member must declare an interest and not participate in any associated proceedings. If that interest is financial but not directly so (i.e. is general, indirect or shared with a large class of persons), the interest should be declared from the outset but this does not necessarily exclude participation.

51. However, members of a Panel/PAC must be mindful of being open and transparent about declaring interests. For those reasons, such disclosure may be required at different stages during a Review, not only at the outset. It is inappropriate, for example, for a Panel/PAC member who represents, or is a member of, a particular interest, stakeholder group or other organisation to participate in a review of a topic directly related to that group, without declaring the interest both at the outset and in the preparation for and holding of a hearing with that or a 'competitor' group.

52. A member might still withdraw from part or all of a review being conducted if he/she/the Panel/PAC considers that any interest would prejudice, or could be perceived to prejudice, his or her ability to participate in the proceedings in an impartial manner and thereby undermine the Panel/PAC's review.

53. Any uncertainty or impasse about a potential conflict of interest on the part of a member of a Panel/PAC should be referred to the Scrutiny Liaison Committee for consideration, who will refer the matter to the Privileges and Procedures Committee if a satisfactory resolution cannot be achieved.

#### **K. Advisers – Scrutiny Panels**

54. Panels may appoint advisers to assist with compilation and interpretation of specialist and technical information. Advisers can be commissioned to undertake a specific piece of technical analysis on behalf of a Panel or engaged to work with the Panel more broadly on a Review.

55. Panels should, however, fully consider the use of expert witnesses, the research resource provided by the Committee and Panel Officers along with their supporting Research and Project Officers, and the terms of reference and objectives of Reviews to determine whether specialist

adviser support would indeed be required. It is not always necessary to appoint an adviser.

56. For access to a budget for the engagement of advisers, estimated costs must be included in a scoping document and forwarded to the Scrutiny Liaison Committee.

#### **L. Review Methodology**

57. Reviews can be undertaken as follows, dependant on the availability of members and manpower resources:

- a) as a full Panel/PAC
- b) as a full Panel with the co-option of another non-executive member. The co-opted member must only be present for matters relating to the Review to which (s)he has been co-opted (not applicable to PAC)
- c) as a Sub-Panel of the main Panel (formally established by the main Panel and chaired by a member of the Panel). The report of the Sub-Panel is presented to the States by the main Panel (not applicable to PAC)
- d) through a rapporteur - one member of the main Panel, reporting back to the full Panel in whose name the report would be presented (not applicable to PAC)
- e) through a Review Panel (formed by the Scrutiny Liaison Committee, the report of the Panel is presented to the States by the Scrutiny Liaison Committee) (not applicable to PAC)

58. Panels/PAC may request briefings in private prior to starting a Review to gain an initial understanding of the matter and to assess whether a Review is required.

59. A Review is considered to have started once a scoping document has been approved by the Panel/PAC, forwarded to and approved by the Scrutiny Liaison Committee. It is only at this stage that a Panel/PAC has access to the budget and may call for evidence. Panels/PAC announce Reviews publicly through public/media engagement. Terms of reference should be provided to the relevant Minister and uploaded to the Scrutiny website.

60. Reviews are flexible and can be undertaken in a number of ways, from a desk top process to wide scale public calls for evidence and holding evidence gathering hearings and meetings.

61. Public engagement is an important aspect of Panel/PAC work and should be adapted to the context and stakeholder groups of each review. Advice will be provided by Committee and Panel Officers, and as part of the scoping process Panels/PAC will agree a public engagement and communications strategy for each Review, which should reflect each key stage of a Review (launch, evidence gathering, report presentation and follow up. The strategy should be reviewed and updated as required during the Review).
62. Terms of reference should be reviewed periodically during the Review to ensure they remain appropriate in covering the identified objectives of the Panel/PAC.
63. Information may be sought from whoever a Panel/PAC deems to be appropriate, mindful of that source's particular context and 'interest' in a given matter and doing so in a manner appropriate to the Review.
64. All information is requested from and sent to the States Greffe. If Chairs or members are sent information directly it should be forwarded to the States Greffe directly.

**M. Gathering Evidence**

65. A large part of the Panels'/PAC's workload will involve taking evidence and gathering views. Panels/PAC will gather evidence formally through written submissions and oral evidence sessions. They may conduct fact-finding visits in order to clarify technical and practical issues. Panel/PAC members involved in fact-finding visits and other information-gathering activities, will be accompanied by a Committee and Panel Officer who will prepare a note of the findings to be considered as evidence in the preparation of the final report.
66. The Panels/PAC are free to seek evidence from whoever they wish and may request papers and records from private bodies and individuals where these are relevant to the Panel's remit.
67. Panels/PAC will need to consider how best to engage stakeholders, the media and the general public in the issues under review. They may choose innovative and imaginative information-gathering activities.
68. Panels/PAC must take steps to acquire information in a reasonable manner and should follow the process established by the Engagement Protocol in the case of information requested from Ministers, Directors General/Accounting Officers, Departments or States owned/funded bodies.

69. If information is not forthcoming in a timely fashion from non-governmental sources, the Chair, through the States Greffe should write formally to the person from whom the information was requested.
70. In the event that the information is still not forthcoming the matter should be passed to the Scrutiny Liaison Committee for follow-up.
71. There are certain criteria to be met and procedures to be followed before the decision to issue a summons is taken, as contained in the Regulations.

#### **N. Written Submissions**

72. In undertaking a scrutiny review, it is likely that Panels will wish to invite comment and information from potential interested parties. For this purpose, the Panels will make an open call for evidence through various means, which may include the website, press releases, media coverage and formal notification in the press. In addition, the Panels may make a direct request for information and comment to individual organisations.
73. The Committee and Panel Officers are responsible for the receipt and collation of all written evidence. If the Chair or Panel/PAC members receive evidence directly they should pass it to the Committee and Panel Officers in the first instance.
74. The Panels/PAC are committed to the principle of open access to information.
75. Submissions must be treated in accordance with data protection legislation. To this end, Committee and Panel Officers will undertake a privacy impact assessment as a matter of course at the scoping phase of each review and agree a framework with the Panel/PAC for the processing of sensitive data.
76. In principle, all written evidence received by the Panel/PAC will be published on the website. However, where a witness considers that the information to be provided is of a sensitive or private nature, a request for the information to be treated in confidence by the Panel/PAC should ideally be submitted through the Committee and Panel Officer in advance of a submission being made, However, such an agreement can also be reached after a submission has been made.
77. In addition, it may be determined through liaison between the Committee and Panel Officer and the Panel/PAC that certain information must be treated in confidence, despite a witness considering that the information being provided is not of a sensitive or private nature. As with the above, the Committee and Panel Officer will ensure that the intentions of how

the information is to be handled by the Panel/PAC is made clear to the person or organisation making the submission.

78. While confidential submissions will therefore be processed for Panels/PAC to consider as above, anonymous submissions will not be considered as their authenticity cannot be verified.
79. Any disagreement on the part of a witness as to the Panel's/PAC's intended or actual treatment of information should be referred in the first instance to the Scrutiny Liaison Committee and thereafter to the Privileges and Procedures Committee if a resolution is not found.

## **O. Hearings**

80. As a matter of principle, Panel/PAC hearings (evidence gathering sessions) are held in public and will be webcast live and the audio recorded, with transcripts being uploaded to the website at the earliest opportunity. Meeting rooms have been set up for this purpose in the States Building but the Panels/PAC may choose to hold a hearing on a digital platform or at an alternative venue. Normally, only where there is information of a confidential or personally sensitive nature will a Panel/PAC hearing be held in private session. In such circumstances, a Panel will consider publishing a full or redacted transcript after the hearing if appropriate. Such decisions rest with the Panel/PAC concerned, in liaison with the witness concerned and advised as appropriate by the Committee and Panel Officer.
81. Panels/PAC will decide who they wish to invite as witnesses. Witnesses may include individuals or organisations that have submitted written evidence, but do not have to be limited to those. No organisation or individual has the automatic right to give evidence – it is for the Panel/PAC to decide who it wishes to invite but Panels/PAC will make every reasonable effort to consider all relevant evidence.
82. Panels/PAC will arrange and publish dates for oral evidence to be given at public hearings, providing witnesses with reasonable notice of all the Panel's/PAC's requirements. The Panels/PAC will inform the witnesses of the key areas of questioning, as opposed to fully detailed questions, it wishes to focus on at least five working days in advance of the hearing. This is to enable witnesses to prepare themselves fully to address the objectives of the Panel/PAC.
83. The primary purpose of oral evidence sessions is to put questions to witnesses in order to elicit information and views which the Panel/PAC will subsequently consider in preparing its report. Panels/PAC should ensure that their questioning is related to the topic and their terms of reference. Panels/PAC must endeavour to put witnesses at their ease to

provide an environment which encourages openness and a willingness to provide information.

84. Witnesses requested to attend on a Panel/PAC will not be remunerated for travel, loss of earning or other expenses. If a Panel/PAC feels that there should be an exception, a request will be made to the Scrutiny Liaison Committee.
85. Members of the public who are admitted to a Panel/PAC public hearing will be expected to comply with the conditions of behaviour as determined by the Scrutiny Liaison Committee. Their attendance will be on the basis of an observer. No intervention into the public hearing will be permitted.
86. The Chair may request that any member of the public who does not observe these conditions be removed from the hearing room or digital platform and excluded from the remainder of that public hearing. In the event that a member of the public refuses to leave, the Chair may close the hearing.
87. Following the public hearing, a draft transcript will be uploaded to the website at the earliest opportunity, but witnesses will be provided with a draft copy of the transcription for correction of any inaccuracies in the text. Substantial revisions to the verbatim text will not be permitted. However, the Panels/PAC may accept further clarification from the witness regarding points made during oral evidence. Should changes be agreed by the Panel/PAC, the draft transcript previously uploaded to the website will be replaced.

#### **P. Review Output**

88. There are a number of outcomes from which a Panel/PAC may select, including:
  - a) A full formal report (S.R./PAC), presented to the States
  - b) Formal 'Comments' to a Proposition, presented to the States
  - c) A Proposition and/or Amendments
  - d) Publication of evidence received
  - e) Media/Public engagement

89. All outcomes should be made public, except in exceptional circumstances as agreed by the Panel/PAC.

#### **Q. Report and Comments: Preparation and Presentation**

90. Once all evidence has been collated, Committee and Panel Officers will present draft Heads of Report, i.e. the report's/Comments' outline sections and headings structure. This will have been quality assessed within the States Greffe, and presented for approval by the Panel/PAC.

91. The Committee and Panel Officer will then draft a full, impartial and objective report/Comments based on evidence received, which will be internally quality assessed by the States Greffe ahead of circulation to the Chair in the first instance (see also Section F Role of Chair) and subsequently the members of the relevant Panel/PAC. Panel/PAC reports (and alternative output, see P) should be factual and based on evidence received. They should not contain members' subjective observations or criticisms and avoid political and personal agendas.
92. In order to ensure that the evidence received is fairly and accurately reported, once it has considered and approved the body of a draft Panel/PAC report the Panel/PAC will circulate relevant draft sections of the report to all witnesses and allow up to five working days for comment in advance of finalising the report. Normally these draft sections will be factual or descriptive passages and will not include findings or recommendations. This process is intended to apply to reports in the S.R./PAC series and is therefore optional for Panels in respect of Comments papers.
93. The Panels/PAC will carefully consider the comments received from all witnesses but retain discretion in determining any amendments to the main body of the draft report.
94. Panel/PAC members' prime focus will be on the formulation of their findings and recommendations based on the evidence received. These should also not contain subjective criticism and avoid personal and political agendas.
95. Once the Panels/PAC have finalised and approved their report it will be formally presented to the States for information in a specific series of reports for Scrutiny/PAC. The report, together with its findings and recommendations, remains confidential to the Panel/PAC until it has been presented. Comments should be presented to the States in accordance with Standing Orders.
96. In addition to States Members, the Panels/PAC may decide to release an advance copy of the report/Comments under embargo to principal witnesses and to the media in order that they might prepare appropriate news coverage. Particularly in the case of reports, as part of their public engagement strategy the Panels/PAC may decide to arrange a media and/or public launch event at the time of publication, led by the Chair (or another member as delegated).
97. A copy of the report will be sent, on publication, to all witnesses.

## **R. Report Follow up**

98. Panels/PAC will endeavour to ensure that all reviews are appropriately followed up. Upon publication of the report or Ministerial Response,

Committee and Panel Officers will recommend to Panels/PAC an appropriate course of action for follow up, the initial phase of which should commonly be undertaken within 3-6 months of Panel reports. The Committee and Panel Officer will implement the necessary arrangements as agreed by the Panel/PAC.

#### **S. Legal Advice**

99. There would be significant cost to the public if Scrutiny Panels/PAC engaged external lawyers on a regular basis. Accordingly, where possible, Scrutiny Panels and the PAC should seek advice from the Law Officers' Department. The Law Officers' Department gives independent advice and can provide legal advice to Scrutiny Panels and to Ministers/Accounting Officers and does so. If the Law Officers' Department is required to advise more than one party on the same set of facts then they will do so on a consistent basis and subject to confidentiality.
100. In addition to any preliminary discussion a Panel/PAC may request on a matter under its consideration, a Scrutiny Panel/PAC can request legal advice from the LOD by emailing the Attorney General, Solicitor General or the Director of the Civil Division. The request should include a summary of the background to the request and enclose any relevant documents. The request should specify the questions in relation to which advice is sought and set out the timescale for the Review being undertaken.
101. The Law Officers' Department will respond within five working days indicating whether it can advise and if so by when. If the Law Officers' Department cannot advise for any reason then it may assist the Panel in obtaining legal advice from a lawyer in private practice to ensure that best value and the correct expertise is obtained. When a Scrutiny Panel/PAC takes advice from a private sector lawyer, it is desirable that it should consider disclosing that advice to the Law Officers in order that any potential disagreement about what the law is can be identified and so that, in the event of such disagreement, discussions where appropriate can take place between the Panel/PAC and the Law Officers so as to minimise any potential difficulties for States Members.
102. It is recognised by the States and the Law Officers that the process of seeking and taking legal advice from the Law Officers is confidential. There are three primary underlying reasons for this –
- (i) to ensure that there is no damage done to the public interest by the publication of legal advice given by Law Officers; publication of such advice would risk politicising the Law Officers' Department and would inhibit the Law Officers from giving frank advice;

(ii) to ensure that there is no inhibition on the part of Scrutiny Panels or the PAC in taking advice for fear of its publication. It is in the public interest that decisions are taken on a correct legal basis and that adequate confidential legal advice is obtained to assist;

(iii) to ensure that there is no inhibition on the part of the Law Officers or lawyers within their Department in giving full and frank advice on all the matters which are raised with the Law Officers or one of the Departmental lawyers for advice, or which the Law Officers or the advising lawyer consider should reasonably be volunteered to Scrutiny, the Panels or PAC for consideration; and to ensure that the Scrutiny Panels make full disclosure of all material relevant to the advice sought to the Law Officer.

103. It is recognised that the same principles apply in respect of advice given by the Law Officers to Ministers and their Departments. A Scrutiny Panel/PAC (including its officials) will not publish:

- (i) The fact that legal advice has been sought.
- (ii) The facts which have been given to the Law Officers for the purposes of taking advice.
- (iii) The legal advice which has been given to the Panel/PAC on the facts presented to the Law Officers.

104. This does not prevent a Panel/PAC making a statement in a Report to the States as to what in its opinion the law is, or as to what its understanding is of the legal basis of the policy followed or decision taken. If the Law Officers' Department has advised a Panel/PAC, the Law Officers' Department will be provided with a draft copy of the Review to ensure confidentiality regarding legal advice has been maintained.

105. Panels/PAC should be careful to ensure that their reports do not suggest that any conclusion or statement has been endorsed by the Law Officers.

106. Scrutiny Panels/PAC and the Law Officers recognise that, in exceptional cases, the public interest, which is both different from and wider than the political interests of the Panels/PAC and the professional interests of the Law Officers, may override the other public interest factors set out above, and make it desirable that the legal advice given to Scrutiny Panels/PAC is published. In such circumstances the prior written permission of the Attorney General must be obtained before publication.

#### **T. PAC: Standalone Proceedings (see also Appendix B)**

107. In general, the operational approach of the PAC will reflect that adopted by the Scrutiny Panels. This section addresses those matters that apply only to the PAC.
108. The PAC considers how government policy is implemented and the resources used in the execution of government policy. It does not consider the merits of policy objectives.

The Committee will be comprised of at least 4 members, 50% of whom shall be elected States Members and 50% shall be independent, non-elected members of the public. Where possible the independent members of the PAC should represent different areas of expertise. Non-elected members are recruited through a process that is consistent with the principles and guidelines established by the Jersey Appointments Commission, and which includes compliance with the requirements established by Appendix B of this Code.

### **Relationship with Comptroller and Auditor General ('C&AG')**

109. The PAC and the C&AG are both independent, answerable only to the States Assembly. The C&AG has a statutory duty to liaise with the PAC and will attend all meetings of the PAC. It is essential that the PAC and C&AG should work together whilst remembering that neither shall dictate to the other.
110. Administrative liaison between the PAC and the C&AG will be handled by the Scrutiny section of the States Greffe. Meetings will be scheduled in conjunction with the C&AG.
111. It is unlikely, although permissible, that the PAC will require expert external witnesses or to commission external expert advice, as technical input will normally be supplied by the C&AG. Such circumstances would be exceptional and should be first discussed with the C&AG.
112. The C&AG will liaise with PAC on the development, delivery of and changes to the Audit Plan set out in the Code of Audit Practice presented to the States Assembly. This Plan will form the basis of the majority of the PAC's work.
113. The C&AG has agreed to inform PAC members of the publication of a report from the C&AG seven days prior to its publication. The C&AG may discuss reports prior to circulation with the Chair.
114. Copies of all C&AG reports will be made available to PAC members at the same time as other States Members and the media.
115. The C&AG will be notified of all media releases to be issued by the PAC prior to their wider distribution.

## **Review Topic Selection**

116. The PAC's primary role is to receive reports from the C&AG and to report to the States upon any significant issues arising therefrom. It should also assess whether public funds have been applied for the purpose intended by the States, and examine whether extravagance and waste are being eradicated and sound financial practices applied throughout the administrations of the States.
117. In developing a balanced programme of Review topics, the PAC will ordinarily prioritise the consideration of reports presented to the States by the C&AG. The PAC will also request an Executive Response from the relevant Department(s) on all C&AG reports and subsequently present that response to the States.
118. Notwithstanding the prioritisation of C&AG reports, the PAC reserves the right to commence a Review concerning any topic that falls within its terms of reference as defined in Standing Orders, irrespective of whether the topic has been the subject of a report to the States by the C&AG.

## **U. Resources and work of the Scrutiny unit of the States Greffe**

119. The main remit of the Scrutiny unit, based in the Committees and Panels section of the States Greffe, is to provide an impartial and independent service to the Scrutiny Liaison Committee, the Scrutiny Panels and the PAC.
120. The Assistant Greffier (Committees and Panels) is appointed to manage and oversee the section, including Officer resource allocation to Panels/PAC. Each of the Panels/PAC will be provided with executive and administrative support by one or more Committee and Panel Officers, supported by a Research and Project Officer and Communications Officer as directed by the Assistant Greffier (Committees and Panels). The post-holder will also provide an executive support function to the Scrutiny Liaison Committee.
121. Committee and Panel Officers will work both pro-actively and responsively to the requirements of the Panel/PAC, working particularly closely with the Chair to fulfil agreed Panel/PAC actions and assisting the Chair to carry out of his/her responsibilities. The role of the supporting Officers includes:
- obtaining and collating information, documents, written and verbal reports and other appropriate information or evidence relevant to the issue under scrutiny and processing such information in accordance with data protection legislation

- undertaking research
- identifying and obtaining additional appropriate professional and technical information, including expert witnesses or advisers, when necessary
- advising on States approved procedures and protocols and processes for conducting scrutiny reviews
- preparing briefing papers on matters arising
- providing executive and administrative support
- arranging, attending and recording meetings and hearings
- liaising with witnesses regarding submission of evidence, transcripts and representation of their views by the Panel/PAC
- drafting, amongst other material: reports, comments, amendments, propositions, States questions, answers to States questions, Chair's Statements to the Assembly, speeches and public hearing question plans for consideration by the Panel/PAC
- proposing a strategy for Panels/PAC to follow up report recommendations, and administering the implementation of the agreed actions
- liaising with ministerial departments, other non-executive governmental organisations, media, pressure groups, stakeholders and other relevant external bodies
- ensuring that the scrutiny section of the States Assembly website is fully updated
- proposing public engagement/communications strategies for Reviews and other Panel/PAC work, preparing media releases and other promotional material and undertaking social media activity as agreed in such strategies

## **V. Compliance**

122. Any alleged infringements of this Scrutiny/PAC Proceedings Code should be reported to the Scrutiny Liaison Committee, which will seek to determine an appropriate course of action.
123. The Scrutiny Liaison Committee might write to the relevant Member/individual/other entity detailing the alleged infringement and invite them to a meeting to discuss the matter or provide a written response.

124. If a Member/individual/other entity accepts responsibility for an infringement, the Committee will determine an outcome. Actions available to the Scrutiny Liaison Committee might include formally recording a finding that the Scrutiny/PAC Proceedings Code has been breached and the issuing of a verbal or written reprimand and/or in the case of Members, advice as to future conduct. The precise action taken will be dependent on the facts and seriousness of the infringement. The format of publication, where appropriate, of the outcome of such processes, will be agreed in consultation with the Member/individual/other entity concerned.
125. Where an alleged infringement, or outcome, is not accepted by a Member/individual/other entity, the Scrutiny Liaison Committee will consider whether any further action is required. If so, in such circumstances it may refer the matter to PPC/Commissioner for Standards.
126. At any stage of the process, either the Member/individual/other entity alleged to be responsible for an infringement, or the Scrutiny Liaison Committee, can request the matter be referred to PPC/Commissioner for Standards. Furthermore, reference of the matter to the Scrutiny Liaison Committee does not prevent PPC or the Commissioner for Standards from taking up a complaint, nor another Member/individual/other entity referring the matter directly to those bodies as appropriate.
127. The Scrutiny Liaison Committee reserves the right established by Standing Orders to seek alternative remedy via the States Assembly.

## **Appendix A**

### **Advisory Notes for Chairs regarding options for dealing with alleged infringements of the Protocol for Engagement Between Scrutiny Panels/PAC and the Executive**

The following paragraphs are intended as guidance only to Chairs of Panels/PAC and the Scrutiny Liaison Committee in the event of a dispute or disagreement with any person engaging with Scrutiny or Scrutiny Panel Members in respect of the Code of Practice for Engagement Between 'Scrutiny Panels and the Public Accounts Committee' and 'the Executive'. The guidance is not intended to be exhaustive and Chairs and the Scrutiny Liaison Committee retain discretion to deal with matters as they consider fit having regard to all relevant circumstances.

This guidance is intended:

1. To assist Chairs in determining reasonable and proportionate steps to take in resolving disputes or tackling instances of non-co-operation
2. To foster a consistent and unified approach from Scrutiny Chairs where appropriate
3. To demonstrate the collective intent of Scrutiny in having a fair and robust accountability mechanism

Possible courses of action, in no particular order of priority and dependent on the status (eg Member/individual/other entity etc) of the subject of the alleged infringement, might include:

- a private discussion; private correspondence; public correspondence; arranging attendance at a Panel or Committee meeting (the outcome of which may or may not be minuted); arranging attendance at a public hearing
- reference to the Scrutiny Liaison Committee; request to President of the Scrutiny Liaison Committee to raise the matter with the Chief Minister; reference to the Privileges and Procedures Committee and/or Commissioner for Standards; mediation by an independent mediator
- Statement to the States Assembly; Censure motion; Vote of no confidence



## Lay Members of the Public Accounts Committee

### Code of Conduct

The purpose of this code is to establish the standards expected from those who are appointed by the States Assembly to serve the public of Jersey as lay members (i.e. not elected States Members) of the Public Accounts Committee (PAC). It complements the required approach to operational matters of the PAC as prescribed by the *Scrutiny and Public Accounts Committee Proceedings: Code of Practice*.

Compliance with this code is compulsory, and acceptance of its terms during the selection process is a condition of an individual's subsequent nomination. Appointees are deemed signatories of the code upon appointment. It is the responsibility of all appointees to ensure that they are familiar and comply with its provisions. Any upheld breach should be viewed as a significant indiscretion.

#### 1. General: The Seven Principles of Public Life

Lay members of the PAC are expected to observe the 'Nolan Principles' that underpin the ethical standards expected of public office holders. These are:

- **Selflessness**

Holders of public office should act solely in terms of the public interest.

- **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

- **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

- **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

- **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

- **Honesty**

Holders of public office should be truthful.

- **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## **2. Political Activity**

In this role the lay member must be, and seen to be, politically impartial. The member must maintain discretion on matters relating to the work of PAC and recognise that certain political activities could be incompatible with their membership. Political statements should not be made, nor political activity undertaken, on issues that are of direct relevance to the work of PAC.

The lay member will not hold a high-profile (or paid) post in a political party. They are expected to refrain from prominent or controversial political activity, abstain from creating traditional or e-petitions and should not stand for election while in post (he or she will resign before doing so).

The Chair of PAC should be consulted before undertaking any other political activity. Subject to this and the above context, the member can engage in political activity, whilst remaining mindful of their responsibilities and obligations as a PAC member.

In the event of there being doubt as to whether this aspect of the Code has been or might be engaged, the Chair of PAC must be consulted.

## **3. Responsibilities towards employees**

Lay members of PAC will treat all public sector staff with respect and courtesy, in the same way that it is expected that employees' behaviour will reflect the very same standards.

They will not in any way request or induce employees to act in a way that would conflict with the terms and conditions of their employment.

## **4. Social Media**

In adhering to all parts of this code, as a public forum the same considerations apply to social media as they would to speaking in public or writing material for publication. This is irrespective of using any such platform in a personal or official capacity.

Where any personal social media accounts used by the lay member make reference or connection to their role on PAC, the lay member must take care to ensure that it is clear what capacity it is that they are acting in.

When engaging on social media platforms the lay member should at all times respect all confidentiality that applies to any of the information being referenced.

## **5. Conflicts of Interest**

When considering applying, and if accepting to be proposed, for appointment by the States Assembly to PAC, an individual should consider if any conflicts of interest arise (direct/indirect/perceived) from their private interests or by virtue of any other roles held.

At either stage advice should be sought from the Greffier of the States and any such actual or potential conflicts raised. Where conflicts of interest are identified, agreement should be made with the Greffier and the Chair of PAC on the appropriate management of the conflict and/or course of action.

The lay member must ensure that no subsequent conflict arises, or could reasonably be perceived to do so, between their public duties and private interests, financial or otherwise.

The lay member must be transparent on such matters at all times. They must comply with the rules regarding the declaration of interests governing the PAC, as set out in section J of the *Scrutiny and PAC Committee Proceedings: Code of Practice* on handling conflicts of interests.

## **6. Use of information**

Lay members must be mindful that confidential information received in the course of the Committee's work should only be used in connection with that role.

Information received in this capacity must never be used for the purpose of financial gain. Furthermore, it should not in any way be used in their own personal interest or that of their families or friends.

The member should not disclose publicly, or to any third party, personal information about named individuals which they receive in the course of their role. The members must at all times have regard to all relevant statutory obligations (including data protection/privacy, financial and human rights legislation) when dealing with confidential information and be aware of the consequences of breaching confidentiality.

These responsibilities continue to apply after they have left the Committee.

## **7. Gifts and Hospitality**

PAC's lay members should not accept gifts (directly or indirectly through family and friends), hospitality or services that might appear to place them under any form of obligation to the giver, or be seen to compromise their personal judgement or integrity. They will not seek gifts or hospitality, but if receiving them the member should ensure that this could not bring the PAC into disrepute. They should consider whether they would be prepared to justify acceptance to the public.

## **8. Miscellaneous Responsibilities**

Appointees should:

- play a full and active role in the work of PAC, undertaking the role responsibly, acting in good faith and in the best interests of the work and reputation of PAC
- promote an inclusive and diverse culture and environment around PAC where different perspectives and backgrounds are welcomed. Harassment, bullying, acting inappropriately towards or discrimination towards any person is unacceptable
- deal with officials, the public and other stakeholders professionally, fairly and efficiently, avoiding acting in a way that unjustifiably favours or discriminates against particular individuals or interests
- fulfil effectively any statutory or administrative requirements relating to their position
- inform the Chair of PAC and the Greffier of the States of any bankruptcy, current police investigation, unspent criminal conviction or disqualification as a company director in advance of proposed appointment, or should any such instances occur during the appointment

## **9. Concerns about breaches of the Code**

If an appointee or any other person has a concern about a possible breach of this code it should be raised with the Chair of PAC and/or the Greffier of the States. The Greffier will investigate any allegation of a breach of the code and report his/her findings to the PAC Chair who has the right to raise the matter with the full Committee. The Committee has the option of publishing a report on the matter, of inviting the lay member to consider their position and, ultimately, bringing a proposition to dismiss the lay member.

**B2 – Conflicts of Interest (application process declaration)**  
**Lay members of the Public Accounts Committee (PAC)**

This appointment requires the highest standards of propriety, involving as it does impartiality, integrity and objectivity in relation to the scrutiny of public funds and public sector governance frameworks. It is important, therefore, that you consider your circumstances when applying for this appointment and identify any potential conflicts of interest, whether real or perceived. This includes any private, voluntary or charitable interest which might be material and relevant to the work of PAC should be declared. There is a requirement to declare below any actual, potential or perceived conflict of interest you may have in being appointed. Any such conflict of interest will be fully explored by the selection Panel prior to appointment.

Potential or actual conflicts of interest arising after appointment must be managed in accordance with the *Lay Members of the Public Accounts Committee: Code of Conduct* and the provisions of the *Scrutiny and Public Accounts Committee Proceedings: Code of Conduct*.

Position applied for: Lay member of PAC	
<b>Name:</b> •	
<b>Declaration:</b>	

### B3 – Political Activity (application process questionnaire)

#### Lay members of the Public Accounts Committee (PAC)

Lay members need to show political impartiality during their time on the Committee and should not, during their term of office, undertake any political activity as outlined in the *Lay Members of the Public Accounts Committee: Code of Conduct*.

It is appreciated that some candidates may well have undertaken political activity in earlier periods. The political activity questionnaire will only be seen by the selection panel prior to interview, at which stage the panel may explore any such activity with candidates.

Please indicate which of the following activities you have undertaken during the past five years by ticking the appropriate box and by providing details of your involvement. Name the individual, party or body for which you have been active. If you have sought or obtained a position as a representative of a particular public/industry interest group, you should state this.

**Name of applicant:**

**Please tick all relevant categories**

Held a position in a political organisation or public/industry interest group	
Spoken in public on matters of Island political controversy	
Expressed views on political matters in the media or in books, articles or leaflets, or on social media sites such as Twitter or Facebook	
Been a candidate for election to the States Assembly	
Canvassed on behalf of a candidate/party for election to the States Assembly	
Participated in forums, workshops of similar activities arranged by sitting States Members, party or politically influential organisations	
Been involved in campaigning in an Island referendum campaign.	
None of the above activities apply	

**Name of Member/Party for which activity undertaken:**

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Note: this questionnaire is strictly for the use of the selection panel only, to inform shortlisting and interview discussions.

Political activity, potential or actual, arising after appointment must be managed in accordance with the *Lay Members of the Public Accounts Committee: Code of*

*Conduct and the provisions of the Scrutiny and Public Accounts Committee  
Proceedings: Code of Conduct.*