



Scrutiny Management
Committee

SCRUTINY MANAGEMENT COMMITTEE

Annual Report 2023

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1. Introduction

This Annual Report outlines the work of the Scrutiny Management Committee during 2023. The Scrutiny Management Committee provides oversight of coordinated scrutiny of policy, financial matters and legislation across the States of Guernsey. It achieves this by the work of the main Scrutiny Management Committee and two key Panels: the Financial Scrutiny Panel and the Legislation Review Panel. It also administers the Freedom of Information Appeals Panel, which is an independent Panel of the States.

2. The role of the Scrutiny Management Committee

The role of the Scrutiny Management Committee is to ensure all Committees, Boards and Authorities of the States are meeting the policy and financial objectives outlined by the States of Guernsey and that they are delivering their services effectively and efficiently. This is achieved by examining and reviewing the work of government and publishing findings and recommendations.

Scrutiny in Guernsey can only function effectively in its current form with the cooperation of States' Members and the public sector. This requires recognition that the work of scrutinising policy, services, financial matters, and draft legislation is a vital function in our system of government.

3. Membership

The Scrutiny Management Committee Membership consists of a President, a Vice-President and one States Member. There are also two Non-States Members whose appointment is recommended by the political members of the Committee and ratified by the States Assembly. The Non-States Members have voting rights on the Committee.

Scrutiny Management Committee Members

Deputy Yvonne Burford – President

Deputy Simon Fairclough – Vice-President

Deputy John Dyke – Member

John Whittle – Non-States Member (resigned 8th December 2023)

Grace Ruddy – Non-States Member

4. Work undertaken by the Scrutiny Management Committee in the report period

During 2023, the Scrutiny Management Committee continued to hold public hearings with key Committees and Bodies of the States, with the aim of gathering information and questioning progress on areas of their mandate. Work also continued on its sub-panels, the Legislation Review Panel the Financial Scrutiny Panel and the Freedom of Information Appeals Panel. A review on Island wide voting was undertaken and published in November 2023 and the Committee's review of the 'Smart Guernsey' – Future Digital Services (FDS) Contract with Agilisys is in its final stages. More details are given on these activities in the sections below.

5. Public Hearings

The Scrutiny Management Committee conducted a total of six public hearings during 2023. Three of these were with Principal Committees, one was with the Policy & Resources Committee on the progress being made on the Government Work Plan and a further two were hearings gathering views on Island wide voting.

The Committee will continue with its public hearings in 2024 as the Committee believes that this offers an important opportunity to question and gain valuable information on the progress being made within the States Committees, all heard in the public domain. In particular, it offers an opportunity for both elected members and senior public officials to explain and be challenged on the specific issues in an open forum. In Guernsey no other opportunity exists to publicly question both elected members and senior public officials.

Various elected Members took part in these hearings which encourages a fuller role in formal parliamentary scrutiny. Members of the community who have expertise in the areas being examined also took part by sitting on the Scrutiny panels. The public hearings continue to be live streamed on YouTube enabling more people to watch live or view subsequently, and this further contributes to openness and transparency.

Public Hearings held during 2023

March	Policy & Resources Committee - Government Work Plan
March	Committee <i>for</i> Health & Social Care
July	Committee <i>for</i> Education, Sport & Culture
September	Committee <i>for</i> Economic Development
October	Island wide voting Review (2 hearings)

6. Reviews

Agilisys Review

In 2019, when the States of Guernsey agreed to sign a contract worth around £200 million over 10 years with Agilisys Guernsey Limited (Agilisys) for an all-encompassing IT services agreement, it was with the intention that the Public Sector could look forward to a much-improved use of technology generally, as well as the successful implementation of various technology-related programmes. The contract included almost all day-to-day IT support and Business as Usual.

Given the scale and complexity of the services covered by the Agilisys contract it was necessary to narrow the focus of the review to ensure the scope was manageable. The Panel therefore decided to principally investigate four specific areas: the major system outages in late 2022 and early 2023, the implementation of the IT elements of the Revenue Service transformation programme, the implementation of the IT elements of the MyGov transformation programme, and the provision of day-to-day IT support. The MyGov and Revenue Service areas were chosen because of their scale and importance in the transformation of Government IT services.

The Scrutiny Management Committee continued its review of the 'Smart Guernsey' – Future Digital Services (FDS) Contract with Agilisys in 2023. The Call for Evidence undertaken in 2022 was directed to all States' Committees, the general public and relevant local contractors and suppliers. Meetings with key personnel from Agilisys and States' IT continued throughout 2023.

The main body of evidence to inform the review was gathered, reviewed, analysed and collated during 2023. The report will be published in 2024.

The review scope includes:

- the transition of the IT service to Agilisys;
- any demonstrable improvement of BAU IT services;
- the transformation activities undertaken to date;
- the level of the investment in infrastructure;
- the current status of the programme of digital transformation;
- the effectiveness and value for money of the Agilisys contract;
- how the contract is managed by the States of Guernsey and
- how the contract has been affected by the period of the COVID-19 pandemic.

Agilisys Review Panel Membership

At the commencement of the review, it was determined that the Scrutiny Management Committee needed greater technology expertise on its review panel to enable the analysis of the

significant amount of technical information which would need to be considered. To this end, four additional members with current industry knowledge were identified to join the Panel, bringing extensive IT knowledge and experience.

The Agilisys Review Panel comprises:

Deputy Yvonne Burford

Deputy John Dyke

John Davidson

Anita Kilby

Mike Ozanne

Camilla Smillie

Island Wide Voting Review

The 2020 island-wide voting election represented a significant change from previous systems which were based largely around parish or district representation. In September 2022, the Scrutiny Management Committee resolved to review the election. It appointed a review panel to undertake a review of island-wide voting and to present a report to the Scrutiny Management Committee for publication.

It was made clear at the outset that it was not the intention of the Review Panel to recommend any change to the system of election for 2025. The main objective was to gather evidence reflecting public opinion and to propose improvements to the island wide voting system for the 2025 General Election.

The Scrutiny Management Committee jointly with the States' Assembly and Constitution Committee formed a review panel consisting of members of both Committees and also members of the public with relevant expertise, to review the outcomes of first full island wide voting election.

The review evaluated public opinion of the electoral changes that had been made in 2020 and considered the demonstrable and perceived advantages and disadvantages of the island wide voting election process.

Evidence was gathered by three separate means: a call for evidence which was launched in February, a comprehensive survey undertaken by Island Global Research which was launched in June, and two public hearings with relevant parties including former States Deputies and experts in this field, which were held in October.

The review scope was designed to understand:

- any demonstrable advantages from using the island-wide voting system
- any demonstrable disadvantages from using the island-wide voting system
- the effectiveness of the election process
- the views of those who took part in the process.

In November 2023 the Committee released its final report¹ which provides an important evidence base for fine-tuning the current system of election in 2025 and it will act as a resource to inform any future changes.

Island wide voting Review Panel Membership

Deputy Yvonne Burford

Deputy Simon Fairclough

Deputy Carl Meerveld

Advocate Chris Green

Ms Michelle Le Clerc

7. Government Work Plan Scrutiny Panel

When the Government Work Plan was agreed by the States, the Scrutiny Management Committee decided that it was important to ensure that this central tenet of future policy for this political term was adequately scrutinized, particularly in light of the fact that the States had voted to allow the Policy & Resources Committee delegated authority on over half a billion pounds of capital spending. Therefore, a dedicated panel was established for this purpose. This panel has included both members of the Scrutiny Management Committee and other elected members who can add specific expertise to the review process.

The Government Work Plan Scrutiny Panel has continued to scrutinise the leadership being provided by the Policy & Resources Committee in 2023. This has been undertaken by holding public hearings, writing to the Policy & Resources Committee to request additional information and by other face to face contacts between politicians and officers as and when required.

The Scrutiny Management Committee will continue to undertake this bespoke scrutiny throughout the remainder of this political term.

¹ <https://gov.gg/CHttpHandler.ashx?id=173086&p=0>

Current Government Work Plan Panel Membership

Deputy Yvonne Burford

Deputy Simon Fairclough

Deputy Gavin St Pier

Deputy Adrian Gabriel

8. Financial Scrutiny Panel

The Financial Scrutiny Panel meets throughout the year on a regular basis. It considers the financial implications of States' policy with a specific focus on the Annual Budget and the States of Guernsey Accounts in order to determine any areas requiring further investigation. It includes monitoring progress made on previous Scrutiny Management Committee investigations and recommendations, to ensure that such recommendations have been properly considered and implemented.

As the Scrutiny Management Committee has previously stated, financial scrutiny is an essential part of the assurance process which should occur across the entire organisation. Resources must be dedicated to ensuring that tax levied on the population and on local business is spent wisely and provides value for money. This is the role of the Scrutiny Management Committee's Financial Scrutiny Panel.

The legitimacy and independence of this role is an important contribution to overall financial assurance and a key part of the demonstrable accountability of public services to the general public.

Financial scrutiny in Guernsey is limited in comparison with many similar jurisdictions, and it arguable that the pre-2016 structure of government which featured an independent and separate Public Accounts Committee, provided a better model to appropriately examine States' financial matters and hold those responsible for the public purse to account. Any future review of the Machinery of Government should give consideration to this matter.

Financial Scrutiny Panel Membership

Deputy Yvonne Burford

Deputy Simon Fairclough

Deputy John Dyke

Deputy Gavin St Pier

Mr Paul Hodgson

Ms Grace Ruddy

9. Legislation Review Panel

The Legislation Review Panel has continued to review, approve, and direct legislation to be transmitted to the States for consideration as appropriate. The Panel reviewed fifty pieces of legislation in 2023 which are detailed in appendix 1.

The role of the Panel is to ensure that drafted legislation is in accordance with Resolutions agreed by the States Assembly. The Panel has reviewed several large and complex pieces of legislation during 2023 which were mainly centered around finance and financial crime in preparation for the MoneyVal evaluation which is due to take place in April 2024.

The Panel is the only body checking proposed legislation before it is presented in the States Assembly for approval, therefore, it plays a vital and important role. The Panel Members continue to consider the importance of the Legislation Review Panel's role and its current status including potential changes that could be made to improve how it functions.

Potential change to the approval process of primary legislation is also under discussion. Currently all Bailiwick Projets de Loi are approved by the Sovereign providing Assent acting through the Privy Council. This follows consideration of a Policy Letter in May 2023 by the States Assembly and the subsequent approval by the Guernsey, Alderney and Sark's parliaments of proposals to change the process for granting Royal Assent to Projets de Loi made within the Bailiwick.

The proposed modified process will enable the ratification of some Bailiwick Projets de Loi by His Excellency the Lieutenant-Governor in the Bailiwick. There will be no change to how Projets de Loi are debated or approved by the Bailiwick parliaments nor to the registration of legislation in the Royal Court. This is currently sitting with the UK Government and a decision should be made in Q1 of 2024.

Legislation Review Panel Membership

Deputy John Dyke (Chair)

Deputy Simon Fairclough (Vice Chair)

Deputy David De Lisle

Deputy John Gollop (left in December 2023)

Deputy Aidan Matthews

Deputy Chris Le Tissier (joined in July 2023)

Non-States Member - Advocate Simon Howitt

Non-States Member - Advocate William Simpson

10. Freedom of Information Appeals Panel

In January 2022, the Scrutiny Management Committee established the new Freedom of Information Appeals Panel. The Appeals Panel is an independent sub-panel of the Scrutiny Management Committee with Secretariat support provided by its Office. It comprises five suitably qualified and knowledgeable persons, whose task it is to adjudicate on appeals against a refusal to release requested information in accordance with one or more exemptions contained in the Code. Should an appeal be upheld by the Appeals Panel, the relevant Committee or Body will be requested to release the information.

There have been four appeals submitted to the Appeals Panel in 2023, one which was upheld in part, one which was deemed not to be a valid appeal, one which was resolved by the relevant Committee when further information was requested and one which remains ongoing at the time of writing this report.

It is the belief of the Scrutiny Management Committee that the very existence of the Freedom of Information appeals process concentrates Committees' thinking across the States when considering whether or not to apply exemptions to refuse disclosure and therefore, it provides a valuable service. Certainly, the anecdotal evidence thus far indicates that decision making is being influenced by the existence of the Appeals Panel.

The Panel members will report to the full Scrutiny Management Committee before the end of this political term on their views on the effectiveness and the operation of the Appeals Panel thus far.

Freedom of Information Appeals Panel Membership

Advocate Chris Green

Advocate Simon Howitt

Advocate Ian Kirk

Mrs Susan Gordon Hardy

Ms Rachel Masterton

11. Conclusions

'Good scrutiny makes for good government', wrote Robin Cook, when he was Leader of the House of Commons. While there is general agreement on this point, there is relatively limited public understanding of the actual role that scrutiny plays in the effective functioning of democratic government. It is therefore difficult to answer some of the key questions for a Scrutiny function – such as what does 'good' scrutiny look like, how does it actually have an impact on government and how can its beneficial impacts be maximised to promote effective government? However, the overall aim has to be to improve the effectiveness of government.

In Guernsey the individuals, and institutions engaged in scrutiny do not have any power to compel the Government to change what it is doing. Scrutiny relies principally on the power of influence to achieve its impact. Hence it can be challenging to evaluate how effective is the work of the scrutiny function in terms of improving the effectiveness of government. In simple terms it relies principally on the government implementing its recommendations to effect positive change.

Looking forward to 2024, the Scrutiny Management Committee has a wide programme of work scheduled for the coming year.

The Committee will also continue with its programme of regular public hearings with the Principal Committees which provide a valuable forum to enable inquisitive and challenging questioning. The Committee will continue to strive to provide meaningful scrutiny, with the aim of increasing openness and transparency and engendering greater public trust in the work of government.

Appendix 1 - Legislation Reviewed in 2023

The Legislation Review Panel (Legislation Review Panel) has reviewed, approved and directed the following legislation be transmitted to the States for consideration. The Panel also reviewed emergency legislation to be transmitted to the Policy & Resources Committee for enactment under provisions of Article 66A (1) of the Reform (Guernsey) Law, 1948.

January

1. Land Planning and Development (Exemptions) Ordinance, 2023
2. Trading Standards (Fair Trading) (Guernsey) Ordinance, 2023

March

1. Employment and Equal Opportunities Service (Guernsey) Law, 2023
2. Income Tax (Guernsey) (Approval of Agreement with Qatar) Ordinance, 2023

April

1. Social Insurance (Rates of Contributions and Benefits etc.) Ordinance, 2022 (Amendment) Ordinance, 2023
2. Income Support (Implementation) (Amendment) Ordinance, 2023
3. Long-Term Care Insurance (Guernsey) (Rates) Ordinance, 2023
4. Severe Disability Benefit and Carer's Allowance Ordinance, 2022 (Amendment) Ordinance, 2023
5. Family Allowances Ordinance, 2023
6. Criminal Justice (Defence Case Statements) (Bailiwick of Guernsey) Ordinance, 2023
7. Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) (Amendment) (No. 2) Ordinance, 2023
8. Guernsey Financial Services Commission (Transfer of Functions) (Fees) (Bailiwick of Guernsey) Ordinance, 2023
9. Prevention of Discrimination (Employment) (Miscellaneous Amendments) Ordinance, 2023
10. Criminal Justice (Proceeds of Crime and Drug Trafficking) (Bailiwick of Guernsey) (Amendment) Ordinance, 2023
11. International Coffee Organization (Privileges and Immunities) (Bailiwick of Guernsey) Ordinance, 2023

June

1. Forfeiture of Assets in Civil Proceedings (Bailiwick of Guernsey) Law, 2023

2. Criminal Justice (Miscellaneous Amendments - Preventative Offences) (Bailiwick of Guernsey) Ordinance, 2023
3. Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) (Amendment) (No. 4) Ordinance, 2023
4. Criminal Justice (Proceeds of Crime and Drug Trafficking – Money Laundering, etc) (Bailiwick of Guernsey) (Amendment) Ordinance,
5. Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) (Amendment) (No. 3) Ordinance, 2023
6. Social Insurance (Guernsey) Law (Amendment) Ordinance, 2023
7. Companies (Guernsey) Law, 2008 (Amendment) Ordinance, 2023
8. Limited Partnerships (Guernsey) (Amendment) Law, 2023
9. Limited Liability Partnerships (Guernsey) Law, 2013 (Amendment) Ordinance, 2023
10. Machinery of Government (Transfer of Functions) Ordinance, 2023
11. Beneficial Ownership of Legal Persons (Guernsey) (Amendment) Law, 2023
12. Beneficial Ownership of Legal Persons (Guernsey) Law, 2017 (Amendment – Enforcement etc) Ordinance, 2023
13. Foundations (Guernsey) (Amendment) Law, 2023
14. Foundations (Guernsey) Law, 2012 (Amendment) Ordinance, 2023
15. Charities etc. (Guernsey and Alderney) (Amendment) Ordinance, 2023
16. Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) (Amendment) (No. 3) Ordinance, 2023

July

1. Sexual Offences (Transitional Provisions) (Bailiwick of Guernsey) Ordinance, 2023

August

1. Criminal Justice (Miscellaneous Amendments - Deferred Prosecution Agreements) (Bailiwick of Guernsey) Ordinance, 2023

September

1. Public Notaries (Bailiwick of Guernsey) Law, 2023
2. Long-term Care Insurance (Guernsey) (Rates) Ordinance, 2023

3. Social Insurance (Rates of Contributions and Benefits etc.) Ordinance, 2023
4. Sanctions and Terrorist Asset Freezing (Bailiwick of Guernsey) (Amendment) Ordinance, 2023
5. Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) (Amendment) (No. 5) Ordinance, 2023

October

1. Income Tax (Guernsey) (Amendment) Ordinance, 2023
2. Severe Disability and Carer's Allowance Ordinance, 2023
3. Family Allowances Ordinance, 2023
4. Income Support (Implementation) (Amendment) (No. 2) Ordinance, 2023
5. Transfrontier Shipment of Waste (Bailiwick of Guernsey) (Amendment) Ordinance, 2023
6. Reform (Guernsey) Law, 1948 (Amendment) Ordinance, 2023

November

1. Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2023
2. Income Tax (Guernsey) (Approval of Agreement with Montserrat) Ordinance, 2024

December

1. Income Tax (Exemption of Benefits) (Amendment) Ordinance, 2024
2. Publication of Official Notices (Guernsey) Law, 2024
3. Sexual Offences (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2024
4. Taxation of Real Property (Guernsey and Alderney) (Amendment) (No.2) Ordinance, 2023

Appendix 2 - Scrutiny Management Committee Mandate

Constituted as a committee of the States with effect from the 1st of May 2016 by resolutions of the States of the 9th of July 2015 and the 27th of November 2015.

- **Constitution**

A President who shall be a member of the States: provided that the President of the Scrutiny Management Committee shall not be the President or a member of the Policy & Resources Committee or the President or a member of any of the six Principal Committees; and two members who shall be members of the States: provided that a member of the Scrutiny Management Committee shall not be the President or a member of the Policy & Resources Committee or the President or a member of more than one of the six Principal Committees; and two voting members who shall not be members of the States and who shall be elected by the States.

- **Duties & Powers**

To lead and co-ordinate the scrutiny of committees of the States and those organisations which are in receipt of public funds, or which have been established by legislation, by reviewing and examining legislation, policies, services and the use of monies and other resources.

As far as is reasonably practicable, to appoint scrutiny panels (whether task and finish or standing panels) to carry out the work of reviewing and scrutinising committees' policies and services and their management of monies and other resources entrusted to them: provided that neither the President nor the members of the Policy & Resources Committee shall serve on such scrutiny panels and also provided that the Committee retains the power, if it so wishes, to carry out any review itself rather than through an appointed panel and also provided that the Committee shall at all times be responsible, and accountable to the States, for everything done by the Committee and any panels it has appointed, including the content of any report issued under its name.

To appoint a Legislation Review Panel to carry out the functions of legislative scrutiny in Article 66 of the Reform Law and also to recommend any changes to legislation from which it believes the Island may benefit: provided that the Committee shall at all times be responsible, and accountable to the States, for everything done by the Legislation Review Panel; and to constitute the Legislation Review Panel as follows: a President who shall be a member of the Scrutiny Management Committee and also a member of the States, a minimum of four other States' members, a minimum of two non-voting members who shall not be members of the States, and any number of additional and occasional non-voting members as the Scrutiny Management Committee sees fit for the purposes of review of any item of legislation or any other matter: provided that such additional and occasional non-voting members may or may not be members of the States and also provided that neither the President nor the members of the Policy & Resources Committee shall serve on the Legislation Review Panel.

To scrutinise any matter contained in a policy letter which has been referred to the Committee by resolution of the States in accordance with any terms set out in the resolution and to submit to the

States its findings thereon within a period of time set out in the resolution, which findings, together with the original matter, shall be laid before the States.

To promote and facilitate the participation in scrutiny of the widest possible range of States' members and persons independent of the States.

When determining the subject of its reviews and examinations, to pay particular attention to the performance of committees in contributing to States' objectives and policy plans and to matters which are of substantial importance or of significant public interest.

To recognise that the carrying out of scrutiny in public where possible is likely to contribute positively to public perceptions of scrutiny.

To submit a report to the States annually which reviews the work of the Committee and its panels over the previous 12 months, and which sets out the Committee's objectives and, to the extent that it is possible while retaining a flexible and responsive approach to scrutiny, an indicative programme of work over the next 12 months.

To represent the work of scrutiny in the States, and publicly to promote and champion the value of scrutiny.

To advise the States if and when in its opinion circumstances justify the establishment of a Tribunal of Inquiry in accordance with the Tribunals of Inquiry (Evidence) (Guernsey) Law, 1949, as amended.

To exercise powers and perform duties conferred on the Committee by extant States' resolutions, including those resolutions or parts of resolutions which relate to matters for the time being within the mandate of the Scrutiny Management Committee and which conferred functions on the former Legislation Select Committee, Public Accounts Committee and Scrutiny Committee.

To fulfil the responsibilities set out in Annex One to the mandates of committees of the States.

- **Operational Functions**

To deliver or oversee the delivery of, and to be accountable to the States for, any operational functions conferred on the Committee by way of extant legislation or resolutions of the States or which may be allocated to the Committee in Annex Two to the mandates of committees of the State.