



**XVII
2019**

BILLET D'ÉTAT

WEDNESDAY, 4th SEPTEMBER 2019

THE BUSINESS OF THE MEETING

1. Scrutiny Management Committee – Tribunal of Inquiry, P.2019/86

BILLET D'ÉTAT

TO THE MEMBERS OF THE STATES OF THE ISLAND OF GUERNSEY

I hereby give notice, pursuant to the provisions of Rule 2(4) of the Rules of Procedure of the States of Deliberation and their Committees, that the item listed in this Billet d'État which has been submitted for debate, will be considered at a Meeting of the States of Deliberation to be held at **THE ROYAL COURT HOUSE**, on **WEDNESDAY**, the **4th September, 2019 at 9:30 a.m.**

R. J. MCMAHON
Deputy Bailiff and Presiding Officer

The Royal Court House
Guernsey

27th August, 2019

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

SCRUTINY MANAGEMENT COMMITTEE

TRIBUNAL OF INQUIRY

The States are asked to decide:-

Whether, after consideration of the Policy Letter entitled 'Tribunal of Inquiry', dated 27 August 2019, they are of the opinion:

1. To resolve it is expedient that a Tribunal of Inquiry be established in accordance with the Tribunals of Inquiry (Evidence) (Guernsey) Law, 1949, as amended, to inquire into a matter of urgent public importance, namely the establishment of the facts and circumstances surrounding the appointment of the role of Head of Curriculum and Standards and any other associated relevant matters as the Tribunal shall determine, and to forward its resultant report to the Presiding Officer of the States of Deliberation for publication as an appendix to a Billet d'État.
2. To delegate authority to the Policy & Resources Committee to approve expenditure as required up to £250,000 to establish a Tribunal of Inquiry in accordance with the Tribunals of Inquiry (Evidence) (Guernsey) Law, 1949, as amended.
3. That the Terms of Reference for the Tribunal shall be:
 - a) to inquire into the circumstances leading up to and surrounding the appointment of the Head of Curriculum and Standards;
 - b) to examine whether the appointment made conformed to the current policies & procedures of the relevant Committees of the States of Guernsey;
 - c) to examine whether good governance standards were maintained during the appointment process;
 - d) to make such recommendations as may be considered appropriate; and
 - e) to deliver a report on its findings to the Presiding Officer of the States of Deliberation as soon as practicable.

The above Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

SCRUTINY MANAGEMENT COMMITTEE

TRIBUNAL OF INQUIRY

The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port

27 August, 2019

Dear Sir,

1 Introduction

- 1.1 The Scrutiny Management Committee wishes to advise the States Assembly that in its opinion circumstances surrounding the recruitment process relating to the recent appointment to the role of Head of Curriculum and Standards, employed by the States of Guernsey at the Committee *for* Education, Sport & Culture, justify the establishment of a Tribunal of Inquiry in accordance with the Tribunals of Inquiry (Evidence) (Guernsey) Law, 1949, as amended.
- 1.2 This recruitment process has attracted significant media and public interest resulting in substantial comment of a highly critical nature. Allegations and counter allegations by various parties regarding alleged political interference, rigged process and poor governance abound which in the opinion of the Scrutiny Management Committee has undermined public trust and confidence in their government. It is also noteworthy that the Committee *for* Education, Sport & Culture have complained of certain inaccuracies in the media coverage.
- 1.3 In these circumstances, the Scrutiny Management Committee believes that the best and indeed only effective way to deliver a completely independent and transparent investigation which will restore public confidence is for the review to be conducted under the Tribunals of Inquiry (Evidence) (Guernsey) Law, 1949, as amended, the Guernsey equivalent of a public inquiry process.

2 Tribunals of Inquiry (Evidence) (Guernsey) Law, 1949, as amended

- 2.1 The Tribunals of Inquiry (Evidence) (Guernsey) Law, 1949, as amended, states that the provisions of that Law shall apply *“where it has been resolved...by the States that it is expedient that a tribunal be established for inquiring into a definite matter described by the Resolution as of urgent public importance”*.

The Law confers upon the Tribunal all the powers, rights and privileges as are vested in the Royal Court with regard to:

- (a) enforcing the attendance of witnesses and their examination on oath;
- (b) compelling the production of documents; and
- (c) issuing of a commission or request to examine witnesses out of this Island.

The Royal Court is responsible for the appointment of persons to serve on the Tribunal.

- 2.2 The Scrutiny Management Committee is mandated to advise the States when it believes a Tribunal of Inquiry should be established¹. It is our firm belief that this course of action is justified in the interests of holding an effective review that will have unimpeachable independence and transparency. Additionally, we believe such action fulfils another mandated duty of this Committee, *“to recognise that the carrying out of scrutiny in public where possible is likely to contribute positively to public perceptions of scrutiny”*.
- 2.3 The Scrutiny Management Committee has reached this decision after significant deliberation. We have discussed the various investigatory mechanisms available which might include: the Scrutiny Management Committee commissioning a review conducted by an independent reviewer; initiating an in-house review; convening a public hearing; or indeed to take no action. However, within our system of government, where there is an absence of relevant powers conferred on the Scrutiny Management Committee, we firmly believe only a formally constituted Tribunal of Inquiry can guarantee an effective and thorough investigation into a matter such as this with access to all the information required, the ability to compel any and all relevant witnesses of fact to attend to give evidence, plus the transparency that we believe is essential for this review process

¹ Extract from the Scrutiny Management Committee mandate “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.”

with proceedings taking place in public. The other potential mechanisms have been ruled out as likely to be insufficiently robust and ineffective.

3 Recommendations

- 3.1 The Scrutiny Management Committee recommends to the States that a Tribunal of Inquiry be established in accordance with the Tribunals of Inquiry (Evidence) (Guernsey) Law, 1949, as amended, to inquire into a matter of urgent public importance, namely the establishment of the facts and circumstances surrounding the appointment of the role of Head of Curriculum and Standards and any other associated relevant matters as the Tribunal shall determine, and to forward its resultant report to the Presiding Officer of the States of Deliberation for publication as an appendix to a Billet d'État.
- 3.2 To delegate authority to the Policy & Resources Committee to approve expenditure as required up to £250,000 to establish a Tribunal of Inquiry in accordance with the Tribunals of Inquiry (Evidence) (Guernsey) Law, 1949, as amended.
- 3.3 That the Terms of Reference for the Tribunal shall be:
 - a) to inquire into the circumstances leading up to and surrounding the appointment of the Head of Curriculum and Standards;
 - b) to examine whether the appointment made conformed to the current policies & procedures of the relevant Committees of the States of Guernsey;
 - c) to examine whether good governance standards were maintained during the appointment process;
 - d) to make such recommendations as may be considered appropriate; and
 - e) to deliver a report on its findings to the Presiding Officer of the States of Deliberation as soon as practicable.

4 Compliance with Rule 4

- 4.1 Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States.
- 4.2 In accordance with Rule 4(1), the Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.

- 4.3 In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the Propositions above have the unanimous support of the four Committee Members present² when this matter was discussed.
- 4.4 In accordance with Rule 4(5), the Propositions relate to the duties of the Committee mandate; *“To advise the States if and when in its opinion circumstances justify the establishment of Tribunal of Inquiry in accordance with the Tribunals of Inquiry (Evidence) (Guernsey) Law, 1949, as amended”*.

Yours faithfully,

C J Green
President

L B Queripel
Vice-President

J S Merrett
Member

G Morris
Non-States Member

Advocate P Harwood
Non-States Member

² Deputy J S Merrett was off-island and therefore absent from the meeting