



Scrutiny Management
Committee

Scrutiny Management Committee



2022

Annual Report

States of Guernsey

Scrutiny Management Committee

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1. Introduction

This Annual Report outlines the work of the Scrutiny Management Committee during 2022. The Scrutiny Management Committee provides structured and coordinated scrutiny of policy, financial matters, and legislation across the States of Guernsey.

The Scrutiny Management Committee oversees the work of three key Panels: the Legislation Review Panel (LRP), the Financial Scrutiny Panel (FSP) and the Freedom of Information Appeals Panel (FoIAP).

In addition, during this term the Committee is also overseeing and monitoring progress being made on the Government Work Plan by means of the Government Work Plan Scrutiny Panel, and it has appointed the Agilisys Review Panel to undertake a Review of the 'Smart Guernsey' – Future Digital Services (FDS) Contract with Agilisys.

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.

Scrutiny in Guernsey can only function effectively in its current form with the full 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 other 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.

Current Scrutiny Management Committee Members

Deputy Yvonne Burford – President

Deputy Simon Fairclough – Vice-President

Deputy John Dyke – Member

John Whittle – Non-States Member

Grace Ruddy – Non-States Member

4. The Scrutiny of States and Public Bodies (Guernsey) Ordinance, 2020

The Scrutiny Management Committee, unlike other committees which exist by virtue of resolution, exists by virtue of legislation as found in the Reform (Guernsey) Law, 1948, s20(I)¹ by way of the

¹ [The Reform Law \(Guernsey\) 1948 - pg.37](#)

Scrutiny of States and Public Bodies (Guernsey) Ordinance, 2020² which came into force on 4th May 2020. This Ordinance enables formal requirements to give evidence and produce documents when requested by the Scrutiny Management Committee. These powers have yet to be exercised however, having them does give the Scrutiny Management Committee additional authority when undertaking reviews and requesting information from all States Committees and Bodies when required.

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

The Scrutiny Management Committee has continued to hold public hearings with key Committees and Bodies of the States, with the aim of gathering information and questioning progress of the Government Work Plan. In January 2022 the Scrutiny Management Committee established the new Freedom of Information Appeals Panel (FOIAP) and in July 2022 it launched its review of the 'Smart Guernsey' – Future Digital Services (FDS) Contract with Agilisys.

6. Public Hearings

The Scrutiny Management Committee conducted a total of nine public hearings during 2022, with most of the Principal Committees, including three hearings with the Policy & Resources Committee on the progress being made on the Government Work Plan. The Committee will continue with its public hearings in 2023 as this offers an important opportunity to question and gain valuable information on the progress being made within the States Committees, all done in the public domain.

In 2022 all the public hearings have also been live streamed on YouTube enabling many more people who could not attend in person, to watch live or subsequently view the hearings. In 2022 there were 3,259 views, bringing the work of the Committee to a much wider audience and providing a record for future reference.

The Committee believes it is important that a wide range of elected Members play a fuller role in formal parliamentary scrutiny. Members of the community have also been invited to sit on these panels. These actions help fulfil the Committee's mandated responsibility "*to promote and facilitate the participation in scrutiny of the widest possible range of States' members and persons independent of the States*".

Public Hearings held during 2022

January	Policy & Resources Committee – Government Work Plan
January	Committee <i>for</i> Education, Sport & Culture
March	Committee <i>for</i> Employment & Social Security
April	Committee <i>for</i> Environment & Infrastructure
April	Development & Planning Authority
May	Policy & Resources Committee – Government Work Plan
September	States' Trading & Supervisory Board
October	Policy & Resources Committee – Government Work Plan

² [Scrutiny of States and Public Bodies \(Guernsey\) Ordinance, 2020](#)

7. Reviews

Agilisys Review

The Scrutiny Management Committee commenced its review of the 'Smart Guernsey' – Future Digital Services (FDS) Contract with Agilisys in July by launching its Terms of Reference and Call for Evidence. This was followed by the appointment of four local people with expertise in various aspects of IT system applications and functionality, with the aim of providing an independent expert analysis.

The Review scope is:

- 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.

The Review Panel meet monthly and are currently analysing the evidence submitted and gathering further evidence in written and oral form.

Agilisys Review Panel Membership

Deputy Yvonne Burford

Deputy John Dyke

John Davidson

Anita Kilby

Mike Ozanne

Camilla Smillie

8. Government Work Plan Scrutiny Panel

Following the States Assembly's decision in July to delegate financial authority for the entire Capital Portfolio workstream for this political term to the Policy & Resources Committee, a delegated authority in excess of half a billion pounds, the Scrutiny Management Committee agreed that an additional Scrutiny response was needed. Therefore, a dedicated panel has been created to specifically scrutinise this change. The Government Work Plan Scrutiny Panel intends to hold approximately three public hearings a year with the Policy & Resources Committee on this crucial matter as well as seeking information by other methods.

Current Government Work Plan Panel Membership

Deputy Yvonne Burford

Deputy Simon Fairclough

Deputy Gavin St Pier

Deputy Adrian Gabriel

John Whittle

9. Financial Scrutiny Panel

The Financial Scrutiny Panel (FSP) which meets throughout the year on a regular basis considers the financial implications of States' policy, with a specific focus on the Annual Budget and the States of Guernsey Accounts, 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.

The FSP is now even more important because changes resulting from the introduction of the Government Work Plan (GWP) process, with its very significant increase in delegated financial authority for the Policy & Resources Committee, means that large scale financial decisions can be taken in Committee whereas previously these decisions would receive wider political & public scrutiny.

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, had greater strength in its ability to appropriately examine States' financial matters and hold those responsible for the public purse to account.

The Scrutiny Management Committee believes that scrutiny of government finances is an essential political duty and one that must be valued. The current Committee considers this to be an area that requires further strengthening.

10. Legislation Review Panel

The Legislation Review Panel (LRP) has continued to review, approve, and direct that legislation is transmitted to the States for consideration as appropriate. The Panel has reviewed forty pieces of legislation in 2022 which are detailed in appendix 2.

The role of the LRP 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 2022 including the long-awaited Prevention of Discrimination (Guernsey) Ordinance, 2022 the Lending, Credit and Finance (Bailiwick of Guernsey) Law, 2022 and the reform of the Marriage Law in the Matrimonial Causes (Bailiwick of Guernsey) Law, 2022.

The Panel has also reviewed several pieces of financial legislation in preparation for the MoneyVal evaluation which is due to take place in January 2024.

The LRP 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 have considered the importance of the LRP's role and produced a briefing paper on its current status and potential changes that could be made to improve how it functions. There were lengthy discussions on these matters including comparisons with other jurisdictions such as Jersey, the Isle of Man, Gibraltar, and Westminster. Once further review and discussion has taken place, the Panel will consider writing to the Re-shaping Government working group, who are currently reviewing government processes and functions.

Legislation Review Panel Membership

Deputy John Dyke (Chair)

Deputy Simon Fairclough (Vice-Chair)

Deputy David De Lisle

Deputy John Gollop

Deputy Aidan Matthews

Non-States Member - Advocate Simon Howitt

Non-States Member - Advocate William Simpson

11. Freedom of Information Appeals Panel

In January 2022, the Scrutiny Management Committee established the new Freedom of Information Appeals Panel (FoIAP). 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 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.

As yet there have been no appeals made to the Panel, however, the Panel Members met quarterly during 2022 for discussions and to establish processes for when an appeal is submitted.

Freedom of Information Appeals Panel Membership

Advocate Chris Green

Advocate Simon Howitt

Advocate Ian Kirk

Susan Gordon Hardy

Rachel Masterton

12. Conclusion

The Scrutiny Management Committee has a broad programme of work scheduled for 2023. It will continue the Agilisys Review and, together with its regular public hearings, will strive to provide ongoing meaningful scrutiny.

Appendix 1 - Legislation Reviewed in 2022

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. Public Holidays Ordinance, 2022
2. Customs and Excise (General Provisions) (Bailiwick of Guernsey) (Amendment) Law, 2022
3. Electricity (Guernsey) Law, 2001 (Amendment) Ordinance, 2022
4. Sanctions (Bailiwick of Guernsey) (Amendment) Ordinance, 2022
5. Beneficial Ownership (Miscellaneous Amendments) (Guernsey) Law, 2022
6. Capacity (Lasting Powers of Attorney) (Bailiwick of Guernsey) Ordinance, 2022
7. Capacity (Bailiwick of Guernsey) Law, 2020 (Commencement) (Guernsey and Alderney) Ordinance, 2022
8. Sexual Offences (Bailiwick of Guernsey) Law, 2020 (Commencement) Ordinance, 2022
9. Police Force (Bailiwick of Guernsey) (Amendment) Law, 2021 (Commencement) Ordinance, 2022

March

1. Human Rights (Bailiwick of Guernsey) (Amendment) Law, 2022
2. Lapsed modifications to the Mental Health Law – verbal update

April

1. Long-term Care Insurance (Guernsey) (Rates) (Amendment) Ordinance 2022
2. Damages (Assumed Rate of Return and Related Matters) (Enabling Provisions) (Guernsey and Alderney) Law, 2020 (Commencement) Ordinance, 2022
3. Lending, Credit and Finance (Bailiwick of Guernsey) Law, 2022
4. Human Tissue and Transplantation (Bailiwick of Guernsey) Law, 2020 (Commencement) Ordinance, 2022

May

1. Matrimonial Causes (Bailiwick of Guernsey) Law, 2022
2. Public Service Vehicles (Minimum Age) Ordinance, 2022
3. Beneficial Ownership (Miscellaneous Amendments) Guernsey Law, 2022 (Commencement) Ordinance, 2022

August

1. Environmental Pollution (Water Pollution) Ordinance, 2022
2. Environmental Pollution (Guernsey) Law, 2004 (Commencement) Ordinance, 2022
3. Prevention of Discrimination (Guernsey) Ordinance, 2022
4. Income Tax (Guernsey) (Amendment) Ordinance, 2022
5. Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2022
6. Public Highways (Temporary Closure) (Amendment) Ordinance, 2022
7. Reform (Guernsey) (Amendment) Law, 2022

September

1. Forfeiture of Money etc. in Civil Proceedings (Bailiwick of Guernsey) (Amendment) Ordinance, 2022
2. Economic and Financial Crime Bureau and Financial Intelligence Unit (Bailiwick of Guernsey) Law, 2022 (Commencement) Ordinance, 2022
3. Social Insurance (Rates of Contributions and Benefits etc.) Ordinance, 2022
4. Long-term Care Insurance (Guernsey) (Rates) Ordinance, 2022
5. Secondary Pensions (Guernsey and Alderney) Law, 2022
6. Fishing (Amendment) Ordinance, 2022
7. Human Tissue and Transplantation (Excluded Material) (Bailiwick of Guernsey) Ordinance, 2022
8. Criminal Justice (Miscellaneous Amendments and Provisions) (Bailiwick of Guernsey) Ordinance, 2022
9. Lending, Credit and Finance (Bailiwick of Guernsey) (Commencement) Ordinance, 2022
10. Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) (Amendment) Ordinance, 2022

October

1. Severe Disability Benefit and Carer's Allowance (Amendment) Ordinance, 2022
2. Family Allowances Ordinance, 2022
3. Income Support (Implementation) (Amendment) (No. 2) Ordinance, 2022
4. Criminal Justice (Cybercrime and Miscellaneous Amendments) (Bailiwick of Guernsey) Law, 2022

November

1. Air Accident Investigation (Guernsey) Ordinance, 2022

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.