

PM/MH/214

PRIVILEGES AND PROCEDURES COMMITTEE

(13th Meeting)

25th July 2012**PART A**

All members were present, with the exception of Senator Sir P.M. Bailhache, from whom apologies were received.

Connétable A.S. Crowcroft of St. Helier, Chairman
 Senator S.C. Ferguson
 Connétable L. Norman of St. Clement
 Deputy J.A. Martin
 Deputy M. Tadier
 Deputy K.L. Moore (not present for items B1 and B2)

In attendance -

Mrs. A.H. Harris, Deputy Greffier of the States
 P. Monamy, Acting Clerk to the Privileges and Procedures Committee

Note: The Minutes of this meeting comprise Part A and Part B.

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| Minutes. | A1. The Minutes of the meetings held on 28th June (Part A only) and 20th June 2012 (Part A and Part B), having been previously circulated, were taken as read and were confirmed. |
| Standing Orders and Internal Procedures Sub-Committee: proposed Business Management Committee. 465/4(11) | A2. The Committee, with reference to its Minute No. A6 of 20th June 2012, received an oral update from the Chairman concerning the proposed establishment of a business management committee from which it was noted that he had taken no further action. |
| Questions submitted and propositions lodged: activity levels – written question from Deputy M.R. Higgins. 465/1(183) | A3. The Committee considered a written question from 17th July 2012 which the Chairman had been asked by Deputy M.R. Higgins regarding a breakdown of the activity levels of each category of States Member in terms of questions submitted and propositions lodged from 2005 to date. The Committee recalled that the information sought was available on the States Assembly website, though possibly not in the format desired by the questioner. The Committee also noted that a broadly similar question appeared recently in a template posted on a blog by Mr. D. Wimberley. Prior to the submission of the question, approximately 16 persons appeared to have utilised this template as the basis for their submission to the Electoral Commission. The Commission had already considered this matter and had concluded that committing its limited |

officer resource to the collation of answers to these questions would not generate sufficient benefit, having regard to its terms of reference.

Whilst the Chairman's response to the question was considered to be acceptable by a majority of the Committee, Deputy M. Tadier considered it to be unsatisfactory in some respects, as he felt that the information requested should be available to be provided to the member and to any others requesting it in the format of their choosing. He suggested that had the Freedom of Information Law been in force, departments would have been encouraged to collate relevant information in a better, more publicly accessible way. The Deputy Greffier of the States confirmed that the Freedom of Information Law would not require officers to collate information in the way an enquirer might wish it to be arranged, but simply to provide the generality of the information requested. Senator Ferguson suggested that, in the present case, the information sought was already available and therefore accessible by the member and the public generally.

The Committee endorsed the answer provided by the Chairman on 17th July 2012. Deputy Tadier asked that his dissent to that decision be recorded.

States
Assembly
Information
Centre: hard
copy document
supplied to
public –
review of
charging
arrangements.
422/14/1(12)

A4. The Committee reviewed the charging arrangements for the supply to the public of hard copy documents by the States Assembly Information Centre, following a suggestion by Deputy M. Tadier that the issue of free access to public documents should be considered.

It was noted that the majority of documentation offered for sale at the Information Centre was available free of charge either on the States Assembly website (www.statesassembly.gov.je) or the Jersey Legal Information Board website (www.jerseylaw.je). The charging structure applied for material supplied over the counter at the Information Centre was designed so as to recover printing and material costs. The Committee noted that income generated by the Information Centre from document sales over the previous 6 years had fallen from £22,342 in 2006 to £6,192 in 2011, with the majority of the income being derived from sales to companies (e.g. law firms) or other States departments,

The Committee agreed that it would not be appropriate to remove the current charges for hard copies of documentation sold to professional users, but decided that henceforward single copies of documents should be made available to members of the public free of charge.

The Greffier of the States was directed to take the necessary action.

Oral and
written
questions in
the States
Assembly:
provision of
training for
States
Members.
1240/9/1(158)

A5. The Committee considered whether training in the drafting of oral and written questions in the States Assembly should be provided to Members of the States and whether H.M. Attorney General should be formally invited to assist in that regard.

The Committee recalled that during a meeting of all Scrutiny members on 13th June 2012, the matter of questioning training had been discussed and, following an offer from H.M. Attorney General to provide training, the conclusion had been reached that all States Members would benefit from professional advice regarding the formulation of oral and written questions in the States Assembly.

Having noted that the question of the effectiveness of oral and written questions in the States Assembly had been raised by several witnesses during the course of the Machinery of Government Review Sub-Committee's recent programme of

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interviews with States Members and senior officers, the Committee agreed that to ask the Attorney General if he would be prepared to offer questioning training to all States members and, if so, on what basis (e.g. whether free of charge) – noting that it was understood that he had previously indicated that a maximum of 16 per training group would be reasonable.

The Greffier of the States was directed to take the necessary action.

Electronic devices in the States Chamber: battery-powered hand-held devices – draft report and proposition. 465/1(169)

A6. The Committee, with reference to its Minute No. A5 of 20th June 2012, considered a draft report and proposition inviting the States to sanction a trial of battery-powered hand-held devices (but not laptop computers) in the States Chamber during meetings of the Assembly for a trial period ending on 31st July 2013, provided that the devices were silent and were used without disturbing other members.

The Chairman complimented the officers on the production of a very full and useful report to accompany the proposition, and a number of amendments to the proposition and to the report were agreed. In particular, the Committee decided to omit reference in the proposition to “(but not laptop computers)”, substituting the words “that are silent in operation”; and also to change “are silent and are used without disturbing other members” to “do not disturb members or impair decorum.” The Committee asked that the report be similarly amended, as appropriate.

The Committee accordingly approved the revised projet and asked that it be lodged ‘au Greffe’ as soon as practicable, with a view to it being taken into consideration by the States in September 2012.

“Compromise Agreements: following up the investigations of the Comptroller and Auditor General”: recommendati on of Public Accounts Committee. 512/15(6)

A7. The Committee considered 5 recommendations of the Public Accounts Committee in its report entitled: “Compromise Agreements: following up the investigations of the Comptroller and Auditor General” (PAC.1/2012) which were of particular relevance to it.

The Committee noted, as follows -

“Recommendation 3.2 - The Privileges and Procedures Committee should amend Standing Orders to ensure that Amendments which would bring about major changes to States Policy must be accompanied by an Impact Assessment and explained to all States members in the wider context before debate. This would make all States Members fully aware of implications of Amendments to major propositions. (See 6.22).”

It was recalled that the Sub-Committee had already reported to the Committee and that a report was in the course of preparation. The Committee noted that Standing Order 21(2) required that the draft of a proposition for lodging ‘au Greffe’ “*must be accompanied by the proposer’s statement of whether the proposition, if adopted, would have any implications for the financial or manpower resources of the States or any administration of the States and, if there are such implications – (a) set out the proposer’s estimate of those implications; and (b) explain how, when and from where, in the proposer’s opinion, they could be sourced.*” Whereas: (3) “*The proposer may request information from any Minister responsible for the resources in question and a Minister shall, when so requested, ensure that the proposer is provided with complete and accurate*

information sufficient to enable the proposer to prepare the statement”, it was apparent that the proposer was not obliged to so request such information. The Committee decided to request a report for its next meeting on the provision of Impact Assessments with propositions, and invited the Assistant Greffier, who had been the support officer for the review of Standing Orders, to prepare a report for its meeting in September.

“Recommendation 3.4 - The Review into the Machinery of Government currently being undertaken by a Sub-Committee of the Privileges and Procedures Committee must resolve the fractured lines of responsibility at the level of Chief Minister and Chief executive Officer, because without clear lines of responsibility, there are no clear lines of accountability. (See 7.12.)”

The Committee considered that it would be more appropriate for the Sub-Committee to seek to “address” the fractured lines of responsibility rather than to “resolve” them. The Committee invited the Sub Committee to consider this issue in conjunction with its review and to make a recommendation on it.

“Recommendation 3,7 – An independent mediator should be identified before the end of 2012 to work with the States Employment Board and the Privileges and Procedures Committee whenever serious concerns are expressed by the Chief Executive Officer and Chief Officers in respect of working relationships with Ministers. (See 7.46).”

It was agreed that this was a matter which the Chief Minister should be asked to resolve. Deputy Martin questioned whether the mediator might be able to perform 2 roles.

“Recommendation 3.8 – The Privileges and Procedures Committee must ensure that the Appendix of (Amendment No. 1) of the Standing Orders of the States of Jersey (P.225/2005) [*Procedure for dealing with a complaint or concern about capability from an elected Member*] must be included in the States Members Handbook so that Members are fully aware of the procedures to be followed, (See 7.56).”

The Committee recalled that, as P.225/2005 had been adopted by the States, the Appendix could be included in the Handbook as suggested.

“Recommendation 3.9 – The Privileges and Procedures Committee must draw up a thorough and robust system of investigation and resulting sanctions which can be implemented to ensure compliance with the Code of Conduct for both States Members and the Council of Ministers. (See 9.6).”

It was recalled that this work was currently in progress and would be returned to in Autumn 2012.

Standing
Orders 104 and
108:
application –
discussion with
Deputy J.P.G.
Baker.

A8. The Committee discussed with Deputy J.P.G. Baker of St. Helier his request that presiding officers should give consideration to a more robust application of the rules in Standing Orders concerning irrelevant or repetitious speeches.

Deputy Baker outlined his considered view that a number of debates he had observed or participated in since November 2011 had been extended excessively due to speeches made in possible contravention of Standing Order 104, which

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450/2/1(71)

required “(1) A speech by a member of the States must be relevant to the business being discussed. (2) A member must not – (a) unduly repeat his or her own arguments or the arguments of others.”

The Committee considered that Standing Order 108 was also relevant to the matter raised by the Deputy: “(1) The presiding officer shall warn a member of the States whose speech – (a) is not relevant to the business being discussed; or (b) unduly repeats the member’s own arguments or the arguments of others, (2) If the member disregards the warning, the presiding officer shall direct the member to discontinue his or her speech.”

It was noted that Deputy Baker was concerned that misleading statements made by members in the Assembly reflected poorly on the Assembly as a whole. Unless a challenge were to be made at the time about anything inaccurate or misleading spoken in the Assembly, Deputy Baker was concerned that the impression might be given that the remaining members acquiesced to what had been said, however erroneous it might have been. One aspect of particular concern to the Deputy was the need for members to remain ‘on subject’ during questioning and debate, and that they should not incorrectly link unconnected matters.

Deputy Baker suggested that the present arrangements for debate of, in particular, ‘routine’ items, was grossly inefficient and often irrelevant. He advocated the imposition of time-limited speeches as probably the only way of ensuring that members kept their contributions in the Assembly relevant. The Committee considered other possible changes to the current format of conducting business in the Assembly, although it was recognised that not all members of the States necessarily shared the views expressed by the Deputy. Deputy Tadier recalled that the possibility of 3-weekly meetings of the Assembly, rather than the present 2-weekly arrangement, had been considered previously. The Chairman suggested that it might be possible to reduce the quorum required for certain items of States business such that only a bare minimum of members could be able to conduct ‘routine’ matters. The Committee noted the arrangements in Guernsey where the States met on a monthly basis, for up to 2 days, from a Thursday morning through to the Friday afternoon, if necessary.

Having considered whether it might be appropriate for the Chairman to write to the Bailiff and other presiding officers in order to urge them to rule firmly on any transgressions by members in the States Assembly, it was accepted that, generally, it was considered that the presiding officers already dealt with such transgressions promptly and firmly as required by the particular circumstances of each case.

Deputy Baker, having thanked the Committee for providing him with an opportunity to address it on the above matters, expressed the hope that it would be possible for the time available to the States Assembly to be put to better use than hitherto, preferably through the application of a greater level of discipline on the part of States members. Deputy Baker withdrew from the meeting.

The Committee agreed that the Chair should take a stronger line on repetition and decided to offer the guidance to the Presiding Officer that it was the Committee’s view he should rule more strictly on Standing Orders 104(2)(a) and 108. The Chairman was requested to write to the Presiding Officer accordingly.

Public
Elections
Review Sub-
Committee:

A9. The Committee received an oral update from Deputy Martin, in her capacity as Chairman of the Public Elections Review Sub-Committee which was presently undertaking a review of the Public Elections (Jersey) Law 2002.

update.
465/8(6)

It was noted that work would shortly commence on preparing a report for presentation to the Committee, and the Deputy Greffier of the States indicated that responses received from members of the public and States members and others were presently being analysed, in conjunction with the response which had been forthcoming from the Sub-Committee's meeting with the Jurats. Meanwhile, it was noted that 2 members of the Sub-Committee, together with the St. Helier Electoral Officer and the Deputy Greffier of the States would be visiting Guernsey on 2nd August 2012 for discussions regarding the arrangements in place in that jurisdiction.

Machinery of
Government
Review Sub-
Committee:
update.
465/1(182)

A10. The Committee received an oral update from Deputy Tadier, in his capacity as Chairman of the Machinery of Government Review Sub-Committee.

It was noted that the Sub-Committee, having conducted interviews with approximately half of current States members, and others, was now ready to move into a public consultation phase, during which comments would be invited from the public on the basis that no interviews were envisaged. The Committee concurred with the Chairman's suggestion that an invitation to attend for interview should be extended to all those States members who had not yet availed themselves of the opportunity to speak to the Sub-Committee.

Deputy Tadier emphasised that all contributions to date had been received in confidence and would not be attributed to an individual unless consent for this had been given. It was apparent to the Sub-Committee from the interviews held to date that there was no general consensus of opinion as to the way ahead, although there had been some lines of agreement in certain areas. Deputy Tadier suggested that it had been a worthwhile exercise which had resulted in analysis of the perceived problems, although not necessarily the identification of solutions.

It was noted that once the public consultation phase had been concluded, it was envisaged that Sub-Committee would review its findings to date and commence work on recommendations.

Electoral
Commission:
fact-finding
visit to
Barbados.
1240/22/1/10(7)

A11. The Chairman reported that he had been contacted by a journalist from the Jersey Evening Post regarding the fact-finding visit to Barbados presently being undertaken by the Electoral Commission.

The Committee noted that the Chairman had confirmed that 2 members of the Commission and an officer had travelled to the Caribbean, utilising the budget which had been allocated to the Commission to undertake its task.