

PRIVILEGES AND PROCEDURES COMMITTEE

(46th Meeting)

19th May 2005PART A

All members were present, with the exception of Senator P.V.F. Le Claire and Deputy C.J. Scott Warren, from whom apologies had been received.

Deputy R.G. Le Hérisier
 Connétable D.F. Gray
 Deputy P.N. Troy
 Deputy J-A. Bridge
 Deputy J.A. Bernstein

In attendance -

M.N. de la Haye, Greffier of the States
 Mrs. A.H. Harris, Deputy Greffier of the States
 I. Clarkson, Committee Clerk

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

- Minutes. A1. The Minutes of the meetings held on 28th April and 3rd May 2005, having been circulated previously, were taken as read and were confirmed.
- Ombudsman. A2. The Committee, with reference to its Act No. A2 of 28th April 2005, received an oral report from the Committee Clerk in connexion with the matter of 1386/4(15) drafting instructions for an ombudsman law.
- Clerk
 The Committee was advised that drafting instructions for a financial services ombudsman law had been submitted to the Law Draftsman in May 2002. Responsibility for development of the policy had passed from the Finance and Economics Committee to the Economic Development Committee during the summer of 2003. There was no further evidence of any progress. **The Committee Clerk was instructed to carry out further enquiries with the Economic Development Committee.**
- States members' remuneration. A3. The Committee, with reference to its Act No. A7 of 28th April 2005, recalled that it wished to revisit the terms of reference of the Remuneration Review Body 1240/3(76) prior to commencement of a review of members' remuneration for 2006 to 2008.
- Clerk
 The Committee welcomed a delegation from the Remuneration Review Body consisting of: Mr. J. Rogers, Chairman; Mr. P. Barber, Vice Chairman, and Mr. B. Bullock.
- The Committee recalled that in its first report, the Review Body had referred to the matter of whether the Connétables should receive only a part of the States remuneration package, on the basis that a significant portion of their workload related to their respective parishes. Connétable D.F. Gray contended that the Review Body should not be permitted to consider varying the salary paid to the Connétables, as the remuneration some received from their Parishes should not be considered differently from remuneration received by other members from matters such as directorships of the utility companies. The Committee nevertheless acknowledged that the Connétables had either declined to become involved in

Shadow Scrutiny or had subsequently resigned on account of the competing need to serve the interests of their parishes. In turn, this had caused an increase in the workload of the remaining members of Shadow Scrutiny.

A discussion followed on the matter of severance pay. It was reported that several members had expressed concern at the financial consequences of losing their seat in the forthcoming elections. Recent revisions to salary arrangements, which had resulted in salaries being paid monthly and in arrears, were thought to have been a contributory factor. Moreover, and although members were acknowledged to have been appointed by the electorate on the equivalent of a fixed term contract, the Committee acknowledged that recent changes to employment legislation would have a beneficial effect on the entitlements of workers in the private and public sectors whose fixed term contracts were due to expire. The possibility of introducing a pension scheme for members was also discussed.

The Committee considered that it would be appropriate to broaden the terms of reference of the Remuneration Review Body in order that it could examine the aforementioned issues and any other matters that it considered to be appropriate.

Connétable D.F. Gray requested that his dissent to the Committee decision be recorded.

Public elections:
voter registration
campaign.
1148(41)

A4. The Committee, with reference to its Act No. A5 of 28th April 2005, recalled that it had sought assistance from the Communications Unit in connexion with a voter registration campaign.

The Committee welcomed Mrs. K. Le Quesne, Communications Consultant.

Clerk
G.O.S.
P.R.E.O.

The Communications Consultant submitted that there appeared to be a number of underlying reasons for the relatively low rate of voter registration in Jersey. She invited the Committee to defer taking immediate action so as to allow her to conduct further research on the matter of whether the campaign should target particular classes or groups of voters. In the event that it was considered necessary to run an advertising campaign, the Communications Consultant advised that she was prepared to draw up a suitable brief for an advertising agency and investigate the likely cost implications. The Committee formed the view that any campaign should seek to target all ages and classes of voter, although it acknowledged that there might be some benefit in concentrating resources on groups such as young adults and shift workers in the hospitality sector. The Committee acknowledged that an overriding concern was the maintenance of the security of the electoral register while at the same time increasing accessibility to the vote.

The Committee agreed to invite the Communications Consultant, a representative of the Jurats and an officer of the Judicial Greffe to attend its next meeting and discuss the matter of a voter registration campaign and other electoral issues, including the integrity of the existing postal voting system.

The Committee Clerk was instructed to take the necessary action.

Computing
facilities for
States members.
1060/5/1(18)

A5. The Committee received a report, prepared by Mr. K. Fox, Service Delivery Manager, Computer Services Department, in connexion with the provision of computing facilities for States members.

The Committee welcomed Dr. S. Chiang, IT Director, and Mr. K. Fox, Service Delivery Manager.

Clerk

The Committee was advised that there had, in recent years, been an exponential

growth in the level of web browsing activity and e-mail use across the States of Jersey. States members were acknowledged to be particularly heavy users. Measures to increase the capacity of the States IT system had been implemented in 2002. Further revisions to the IT infrastructure were made in 2004. Although the demand for increased capacity had required financial investment, a positive consequence of that investment was that the Computer Services Department had been able to create web hosting facilities 'in-house', thereby saving approximately £50,000 per year. Further to the foregoing, funds had been made available to provide States members with updated notebook computers and ADSL routers, so as to provide an 'always on' broadband internet connection .

On the matter of training for members, it was clarified that the Computer Services Department continued to offer one to one training sessions, although the availability of such sessions was limited by resource constraints. Nonetheless, the option of offering the European Computer Driving Licence course to Members was being considered.

A discussion followed regarding the feasibility of adapting the States Chamber so to allow members to use notebook computers. The Committee was advised that current technology would, in theory, allow the Assembly to conduct all its business electronically. Notwithstanding the foregoing, it was recognized that the limited space available in the Chamber would present a particular challenge to any project team charged with installing the necessary systems. It was further estimated that a minimum budget of £400,000 and a comprehensive analysis of work flows at the States Greffe would be required for such a project to have a realistic chance of succeeding.

Several members questioned the reliability of the States IT network, particularly in light of a major failure in the e-mail system, which had occurred on 27th April 2005. The Committee was informed that the said failure had been the first in four years and that the problem was caused by inappropriate use of software by one States department. It was understood that a majority of States members were satisfied with the standard of service provided. Notwithstanding the foregoing, the Committee was invited to advise all members to liaise with the department through Senator P.V.F. Le Claire in the event that they appeared to suffer any severe or repeated IT related failures.

A further discussion concerning the security of the States IT network took place under the Committee's Part B agenda.

The Committee noted the report.

States Building:
security.
1060/5(176)

A6. The Committee acknowledged that an increasing number of States members were expressing concern regarding attendance, and the use of facilities, within the States Building by persons other than States members. For example, it had been alleged that research assistants and other associates of certain States members were being allowed access to the building and were using the equipment in the computer room whilst unaccompanied.

Members undertook to monitor the situation and to consider options for action at its next meeting.

Shadow
Scrutiny: process
query: Migration
Strategy.
502/5/13(1)

A7. The Committee received correspondence, dated 26th April 2005, from Mr. P. Austin, Chief Executive, Jersey Finance, in connexion with the Shadow Scrutiny review of the draft Migration Strategy.

Clerk
D.G.O.S.

The Committee recalled that the review of the draft Migration Strategy was ongoing. On 18th April 2005, Mr. Austin had given evidence to the Shadow Scrutiny Panel regarding the draft strategy and the implications for the finance industry. The following day Mr. Austin had heard the Chairman of the said Panel

Scrutiny

using his evidence in a different context and to support his own political arguments, despite the fact that the migration review was still gathering evidence. Advice was sought from the Committee on the matter of whether members of individual panels should be permitted to act in such a way.

The Committee considered that the question being asked was whether a Scrutiny Panel should be entitled to use information obtained during the evidence gathering process for political purposes other than those directly related to the review in question. **It concluded that it would be unwise for a Panel member to utilize such evidence in a manner which might reasonably suggest that they had prejudged the outcome of an ongoing review.** Notwithstanding the foregoing, it acknowledged that witnesses giving evidence to a Panel were, in the majority of cases, delivering evidence in a public forum.

The President undertook to reply to Mr. P. Austin.

The Committee Clerk was instructed to take the necessary action.

Shadow
Scrutiny: process
reviews.
502/1(46)

A8. The Committee, with reference to its Act No. A9 of 13th January 2005, recalled that process evaluations of each Shadow Scrutiny review were being conducted.

Clerk
D.G.O.S.
Scrutiny

The Committee received correspondence, dated 19th April 2005, from Deputy J.L. Dorey and Deputy J.G. Reed, on behalf of the Chairmen's Committee, in connexion with the operation of process evaluations. It was proposed that debriefing sessions with departmental officers involved in the reviews should continue but that the independent record of the sessions should be prepared by a Scrutiny Officer, rather than by the Committee Clerk. A further Scrutiny Officer would also attend for the purposes of chairing the meeting. It was clarified that evaluation reports would be considered by the Chairmen's Committee, following which they would be forwarded to the Privileges and Procedures Committee as internal working documents to assist with the future development of the Scrutiny process.

The Committee agreed that it would be appropriate to modify the evaluation process as suggested. Accordingly it endorsed the proposal.

States of Jersey
Law 200-: draft
amendment.
450(2)

A9. The Committee received an amendment, lodged 'au Greffe' by Senator S. Syvret, to Projet No. P.83/2005 entitled, 'Draft States of Jersey (Amendment) Law 200-'.

Clerk.

The Committee noted that the primary purpose of the amendment was to allow any elected member of the Assembly to nominate one or more elected members for appointment to specified ministerial offices. It recalled that the issue in question had been discussed in detail by the Committee, and by the States as a whole, on a number of previous occasions. On each occasion the Committee, and the States, had decided that it should be for the Chief Minister alone to nominate his or her preferred candidates for particular ministerial posts. Further to the foregoing, the Committee noted that the amendment proposed would have the effect of removing the facility by which the Assembly would have the opportunity to elect a new Chief Minister in the event that the Chief Minister elect failed, on three occasions, to secure the support of the Assembly for his or her preferred candidates for a particular post.

The Committee noted the amendment.

States of Jersey
Law 2005:
disciplinary
process.
450(1)

A10. The Committee, with reference to its Act No. B2 of 3rd May 2005, recalled that it had agreed to bring a proposition to the States Assembly calling for the rescindment of Article No. 51 of the States of Jersey Law 2005.

The Committee received a draft report and proposition entitled, 'States of Jersey

A.G.
Clerk
G.O.S.
L.D.
Pub.Ed.
States (2)

(Amendment No.2) Law 200-. It noted that the draft included the text of the advice given previously by H.M. Attorney General.

On the matter of modification of the complaints process, the Committee noted that the accompanying report referred to the possibility of independent oversight of the complaints process for elected members. The Committee acknowledged that, while it favoured some form of independent involvement in the complaints process, the level of that involvement should not extend to oversight. **Accordingly the Committee approved the draft report and proposition, subject to an amendment to the report to reflect the foregoing position, and agreed that it should be lodged 'au Greffe' at the next available opportunity.**

The Committee Clerk was instructed to take the appropriate action.

Law Drafting
Programme
2006.
422/23/1(17)

A11. The Committee, with reference to its Act No. A3 of 3rd May 2005, recalled that it had submitted to the 2006 Law Drafting Programme a bid for reform of the Public Elections (Jersey) Law 2002.

Clerk
G.O.S.
P.R.C.C.
P.R.E.O.

The Committee received correspondence, dated 12th May 2005, from the Policy Adviser, Policy and Resources Department, outlining a request for prioritization of law drafting bids for 2006. It was reported that the number of new bids, when combined with successful bids from previous years which had been delayed, was such that there was insufficient law drafting time available to progress every item. Therefore, the Committee had been requested to review and prioritize new and outstanding law drafting bids in advance of the forthcoming decision conference.

The Committee recalled that it had no outstanding bids other than that which concerned its proposals for a Freedom of Information Law (Projet No. P.72/2005 refers). That matter was due to be debated in the States in early July 2005 and the Committee considered that, if it was successful, work on drafting the new Law would commence prior to the end of the current year. Accordingly the Committee was satisfied that the bid in question fell outside of the terms of the correspondence.

Turning to its bid for reform of the Public Elections (Jersey) Law 2002, the Committee acknowledged that its bid might be regarded by some as less than critical, particularly as changes to the Law could not be made in time for the elections of Senators and Deputies in late 2005. Nevertheless the Committee considered that failure to obtain law drafting time in either the 2006 or 2007 programme would mean that the 2008 elections would remain vulnerable to low voter turnout and postal voting irregularities. **Accordingly the Committee agreed that its bid for reform of the Public Elections (Jersey) Law 2002 should be classed as essential.**

The Committee Clerk was instructed to take the necessary action.

Standing Orders
of the States of
Jersey: revision.
1240/4(171)

A12. The Committee, with reference to its Act No. A4 of 3rd May 2005, continued to review a revised draft of the new Standing Orders of the States of Jersey.

The Committee welcomed Miss. P. Staley, Law Draftsman.

Clerk
G.O.S.
L.D.

The Committee noted that the revised draft contained all the revisions previously requested by the Committee and that work to incorporate its proposals on registration and declaration of Members' interests was ongoing. Several other minor changes had been made with a view to improving the general administrative arrangements of the Assembly. For example, draft Standing Order No. 4 gave the Committee power to propose meeting dates for the following year, while Standing Order No. 16 was designed to prevent potential abuses of procedure whereby members could make personal statements challenging the conduct or position of another member in the knowledge that the member being attacked was not afforded

a right of reply.

The Committee expressed broad approval for the draft Standing Orders as presented. It nevertheless agreed a series of amendments to the draft, as follows –

- 7. The Committee determined that the States should not meet for a period of three weeks prior to an ordinary election for Senators and Deputies instead of the 14 days suggested in the draft. An extended period was thought necessary in order that the legitimacy of the decision making process could not be called into question and so as to allow sitting candidates sufficient time to campaign. On a related matter, the Committee acknowledged that it was particularly undesirable to have a Budget debate so close to the date of ordinary elections;**
- 16. The Committee agreed that the word ‘uncontroversial’ should be removed from paragraph (2);**
- 17. It was agreed that a chairman should be required to obtain the approval of his or her committee or panel prior to making a statement to the Assembly;**
- 20. The Committee considered that paragraph (2) should make clear that a proposition must be accompanied by a report outlining both the case for adopting the said proposition and the resource implications arising from it. Notwithstanding the foregoing, the Committee was clear that the Greffier of the States should not be obliged either to confirm or challenge any statements regarding resource implications;**
- 25. The Committee recalled that several propositions lodged ‘au Greffe’ in the recent past by private members had been relatively complex in terms of their implications for government policy. On that basis the Committee considered that propositions lodged ‘au Greffe’ by a private member should be subject to a minimum lodging period of three weeks. Further to the foregoing, and so as to guard against the possibility of unnecessary delays, the Committee agreed that a Minister should be obliged to declare within 6 weeks of the date of lodging (or 4 weeks in the case of a proposition lodged by a private member) in the event that he or she did not intend to comment upon a particular proposition;**
- 30. The Committee agreed that, in the interests of clarity, paragraph 4 should be re-worded;**
- 32. The Committee agreed that it should give further consideration to the process by which dates of debate, and the order in which items should be debated, could be changed;**
- 35. It was agreed that a reference should be made to the right of an individual Member to present a minority report;**
- 39. The Committee agreed that the words ‘print and’ should be removed from Standing Order No. 39, and other similar paragraphs, so as to reflect the possibility of future reliance upon electronic document management and distribution;**
- 40. The Committee concluded that members should be provided with a list of oral questions for a forthcoming meeting of the Assembly,**

so as to highlight the order, as determined by ballot, in which the said questions were due to be asked;

43. The Committee acknowledged that the Greffier and the Law Draftsman intended to make further refinements to the description of the order paper preparation process;

49. The Committee requested clarification on the matter of whether the current draft would allow for continuation days other than those which had been planned in advance;

74. It was decided that paragraph (2) should be re-worded so as to leave any decision on the proposing of provisions in groups to the proposer;

81. While the Committee endorsed the wording of the Standing Order as drafted, it considered that there should be an additional provision to allow a Scrutiny Panel to move for a deferral of a debate for a specified period, in order that it be given time to conduct a review;

82. It was acknowledged that the closure motion could, in theory, be used tactically by a future Council of Ministers in order to stifle debate. Moreover, the Committee accepted that several members had complained repeatedly that the closure mechanism was undemocratic. The Committee therefore considered that it should bring forward amendments to the existing procedure, whereby only those who had not yet spoken could propose that the question be put and that the one hour period should run from the end of the proposer's speech.

96. The Committee formed the view that the Bailiff should not be entitled to chair the Assembly on occasions when the Assembly elected to sit 'in Committee'.

The Committee agreed that it should meet again on 26th May 2005 to continue consideration of the draft Standing Orders.

Deputy P.N. Troy requested that his dissent to the Committee decision in respect of the proposed Standing Order No. 82 be recorded in the Minutes.

Deputy J-A. Bridge requested that her dissent to the Committee decision to endorse the draft Standing Order No. 94 be recorded in the Minutes.

Matters for information.

A13. The Committee noted the following matters for information –

- (a) a list of outstanding actions and matters arising from previous meetings;
- (b) correspondence, dated 11th May 2005, from Deputy R.C. Duhamel, Chairman of a Shadow Scrutiny Panel, in connexion with the Agri-environment Scheme conflict of interest report;
- (c) correspondence, dated 10th May 2005, from the President of the Policy and Resources Committee in connexion with Projet No. P.72/2005 entitled, 'Freedom of Information: proposed legislation';
- (d) correspondence, dated 6th May 2005, from the Director of Architecture, Public Services Department, concerning air quality in the States Chamber; and,

- (e) an exchange of correspondence between the President and the Data Protection Registrar in connexion with the responsibilities of Members.