

PRIVILEGES AND PROCEDURES COMMITTEE

(76th Meeting)

21st September 2010PART A

All members were present, with the exception of Connétable J. Gallichan of St. Mary, Chairman, Senator B.I. Le Marquand and Deputy J.A. Martin, from whom apologies had been received.

Deputy C.H. Egré, Vice Chairman
 Connétable P.F.M. Hanning of St. Saviour
 Deputy J.B. Fox
 Deputy M.R. Higgins

In attendance -

Deputy M. Tadier (item No. A10 only)
 B. Faudemer, Jersey Financial Services Commission, Director - Enforcement (item No. A11 only)
 S. de Gruchy, Jersey Financial Services Commission, Senior Authorisation Manager (item No. A11 only)
 N. Troy, Jersey Financial Services Commission, Deputy Director - Anti money-laundering unit (item No. A11 only)
 M.N. de la Haye, Greffier of the States
 Mrs. A.H. Harris, Deputy Greffier of the States
 Miss A-C. Heuston, 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 of 7th September 2010 (Part A and Part B) and 9th September 2010 (Part A only), having been previously circulated, were taken as read and were confirmed. |
| Financial and manpower statements in propositions: revised procedures.
P.92/2010
450/2/1(31) | <p>A2. The Committee, with reference to its Minute No. A6 of 7th September 2010, received a draft comment in respect of the proposition: Financial and manpower statements in propositions: revised procedures, lodged “<i>au Greffe</i>” on 30th June 2010 by Deputy P.V.F. Le Claire (P.92/2010 refers).</p> <p>The Committee recalled that, while it did not support the proposition of Deputy Le Claire, it was grateful that the issue had been raised, and had agreed to undertake a brief review of the current function of Standing Order 21 of the Standing Orders of the States of Jersey. The Committee approved the draft comment in respect of the proposition: Financial and manpower statements in propositions: revised procedures, and requested that it be lodged “<i>au Greffe</i>” at the earliest opportunity.</p> <p>The Greffier of the States was requested to take the necessary action.</p> |
| Machinery of Government: establishment of | A3. The Committee, with reference to its Minute No. A7 of 7th September 2010, received a draft comment in connexion with the proposition: Machinery of Government: establishment of Ministerial Boards and revised system of scrutiny, |

Ministerial
Boards and
revised system of
scrutiny.
1240/22/1(55)
P.120/2010

lodged "*au Greffe*" on 26th August 2010 by Senator A. Breckon (P.120/2010 refers).

The Committee recalled that it supported the proposition of Senator Breckon, and had agreed to present a comment to the States to acknowledge the preliminary work carried out by States members and officers in advance of the proposition being lodged. The Committee noted the content of the draft comment and accordingly **approved** the same. The Committee also noted the intention of the Vice Chairman, Deputy C.H. Egré, to lodge an amendment to the proposition.

The Greffier of the States was requested to present the Committee's comment to the States at the earliest opportunity.

Media Working
Party.
1240/10(36)

A4. The Committee, with reference to its Minute No. A7 of 13th July 2010, noted a report in connexion with the pursuance of the recommendations contained within the report of the Media Working Party.

Recommendation 1 of the Media Working Party's report suggested that an online notice-board of forthcoming States, Committee and Scrutiny meetings should be available to view on the internet. The Committee noted that a notice-board would be available on the revised States Assembly website, which was due to be launched shortly.

Recommendation 2 stated that the feasibility and cost of installing interactive electronic notice-boards at various locations should be investigated. The Committee was not aware of any need for such a facility at present, and considered that the improved States Assembly website would provide this information online. The Committee **agreed** that the installation of interactive electronic notice-boards at fixed locations in St. Helier would be costly, and could not be justified in the current economic climate.

Recommendation 3 proposed that States sittings and meetings of Committees and Scrutiny Panels should be broadcast live on the internet and recordings should be retained on the website until the transcript of the meeting had been uploaded. The Committee noted the estimated cost of between £3,000 and £5,000 for the facility and **agreed** that a detailed cost breakdown should be sought from the Department of Electronics prior to the matter being considered any further.

The Committee Clerk was requested to take the necessary action.

Media Relations:
Code of Conduct.
P.100/2010
1240/10(36)

A5. The Committee, with reference to its Minute No. A9 of 7th September 2010 and its Minute No. A6 of the present meeting, received correspondence, dated 13th September 2010, from Deputy F.J. Hill of St. Martin, in connexion with the proposition: Media relations: Code of Conduct, lodged "*au Greffe*" on 15th July 2010 by the Privileges and Procedures Committee (P.100/2010 refers).

The Committee noted that the Deputy intended to lodge amendments to the proposition, and wished to discuss the matter with the Committee in the first instance. It was **noted** that arrangements had been made for the Deputy of St. Martin to the Committee's next meeting on 5th October 2010.

Media Relations:
Code of Conduct.
P.100/2010 Amd.
1240/10(36)

A6. The Committee, with reference to its Minute No. A9 of 7th September 2010, and its Minute No. A5 of the present meeting, received a draft comment in respect of the amendment by Deputy R.G. le Hérisseur of St. Saviour to the proposition: Media relations: Code of Conduct, lodged "*au Greffe*" on 2nd September 2010 (P.100/2010 Amd. refers).

The Committee **agreed** to defer finalisation of the draft comment, pending its discussion with Deputy F.J. Hill of St. Martin in respect of the proposition: Media relations: Code of Conduct, lodged "*au Greffe*" by the Privileges and Procedures Committee on 15th July 2010 (P.100/2010 refers).

States Business
Organisation
Sub-Group.
465/1(136)

A7. The Committee, with reference to its Minute No. A3 of 18th March 2010 received correspondence dated 4th September 2010, from Deputy D.J.A. Wimberley of St. Mary in connexion with the report of the States Business Organisation Sub-Group (R.59/2010 refers).

The Deputy suggested a number of amendments to the current system of government in order to reduce States members' workload to what he considered to be a more manageable level. The Deputy considered that: both the proposer and the main opponent of a proposition should have summing-up rights; reports accompanying propositions should adhere to a standard format; following the introduction of research and administration facilities for members, a filter should be introduced for propositions; guidelines on the commissioning and use of reports should be reviewed to ensure that reports were unbiased and helpful; and, that scrutiny reports should be introduced on the floor of the Assembly and debated, perhaps in the form of a statement with questions.

The Committee, having discussed the content of the correspondence, considered that the proposals contained within the proposition "Machinery of Government – establishment of Ministerial Boards and revised system of scrutiny" (P.120/2010), lodged "*au Greffe*" by Senator A. Breckon on 26th August 2010, would, if adopted, address many of the concerns the Deputy had raised. The Committee noted the Deputy's suggestion that a mechanism should be introduced for the formal tabling and discussion of scrutiny reports on the floor of the Assembly and **agreed** to investigate possible ways to enable such an approach. The Chairman was **requested** to write to the Deputy of St. Mary to advise him of the Committee's decision.

The Committee Clerk was directed to take the necessary action.

Increased postage
costs.
465/4(9)

A8. The Committee, with reference to its Minute No. A5 of 29th June 2010, noted responses received to its questionnaire in connexion with the postage costs associate with the distribution of States Assembly reports and propositions.

It was noted that a number of members had agreed to collect copies of reports and propositions from the States Building in future, and that this would save considerable postage costs. It was **agreed** that a reminder should be sent to those members who had not yet responded to the questionnaire.

The Committee Clerk was requested to take the necessary action.

States members'
facilities.
1240/9/1(137)

A9. The Committee, with reference to its Minute No. A5 of 29th June 2010, received e-mail correspondence dated 13th September 2010 from Senator P.F.C. Ozouf, Minister for Treasury and Resources, in connexion with facilities for States members and the proposed trial use of iPads in the States Assembly.

Senator Ozouf contended that it would be difficult to justify the purchase of iPads for States members in the current economic climate, but advised that he would be willing to take part in a trial using his personal iPad. The Committee recalled that it had met with Mr. N. Wells, Director, Information Services, in June 2010 (Minute No. A4 of the meeting of 15th June 2010 refers), and that it had been agreed that consideration would be given to members' information technology requirements going forward. The Director of Information Services had agreed to provide the Committee with a

schedule of information technology facilities currently supplied to members, and it was **agreed** that an update should be sought as to the progress made in this regard.

The Committee Clerk was directed to take the necessary action.

Deposits for election candidates and revised nomination procedures.
424/2(70)

A10. The Committee, with reference to its Minute No. A3 of 7th September 2010, received correspondence from Deputy M. Tadier, of St. Brelade, dated 13th September 2010, in connexion with the possible introduction of deposits for election candidates and revised nomination procedures.

The Committee recalled that it had agreed on 13th July 2010 to draft a proposition which would propose the introduction of a deposit of £500 for election candidates, as well as new procedures which would require senatorial candidates to obtain signatures from 2 electors in each parish on his or her nomination form. Consideration of the draft proposition had been deferred at the Committee's meeting of 7th September 2010, pending consideration of the recommendations of the Public Elections Working Party. The Committee noted that Deputy Tadier was not content with the Committee's suggestions in respect of the proposed introduction of deposits or revised nomination procedures. The Committee also noted the opposition of Deputy M.R. Higgins to the proposal that candidates for the position of Senator should obtain signatures from 2 persons from each parish on their nomination form.

The Committee welcomed Deputy Tadier who contended that the proposed revised nomination procedures for senatorial candidates were antidemocratic. Due to the disparity in size and population in each parish, the requirement was felt to be disproportionate, and Deputy Tadier did not consider that a lack of support in one of the Island's parishes should impact upon a candidate's right to stand for election. The Deputy had suggested in his correspondence of 13th September 2010 that a more suitable approach which would also demonstrate that the candidate had Island-wide support would be to provide that:

- (i) no more than 5 nominations of the current 10 should come from any one parish; and/or
- (ii) the candidate must have signatures from resident in at least 6 different parishes.

With regard to the proposed introduction of deposits for election candidates, Deputy Tadier referred the meeting to a report by The Electoral Commission entitled "Standing for election in the United Kingdom". The Deputy advised that, while a deposit system was in operation in the United Kingdom, concern had been expressed that this was detrimental to minority parties. Deputy Tadier was concerned that the introduction of deposits in Jersey would prevent those who could not afford the required deposit from standing for election.

The Committee invited Deputy Tadier to make available to it copies of the report to which he referred, and **agreed** to give further consideration to the matter at a future meeting. Having been thanked by the Vice Chairman for his attendance, Deputy Tadier withdrew from the meeting.

Draft Freedom of Information (Jersey) Law 201-.
P.101/2010
670/1(21)

A11. The Committee, with reference to its Minute No. A2 of 7th September 2010, received correspondence dated 10th September 2010 from the Jersey Financial Services Commission in connexion with the draft Freedom of Information (Jersey) Law 201-.

The Committee recalled that the Vice Chairman had written to the Director General

of the Commission, Mr. J. Harris, on 8th September 2010, to advise that it was not minded to amend Article 43(g) or Article 19(3) of the draft Freedom of Information (Jersey) Law 201-, as had been requested in correspondence received from the Commission dated 10th August 2010. The Committee recalled that the Commission had expressed concern that the qualified exemption available under Article 43(g) of the draft Law was too narrow and could result in prejudice to the carrying out of certain of its functions. It also considered that the indexing requirement under Article 19(3) of the draft Law should be replaced by a requirement for an authority to “keep a general record of all information that it holds”. The Committee considered further correspondence from the Commission dated 10th September 2010, which further outlined its concern that there was no provision in the draft Law to deal with information held by a public authority that had been derived from information provided to it by a legal person, except where disclosure by the public authority would, or would be likely to, prejudice the commercial interests of that person, or the economic interests of Jersey. The Commission reiterated its request that Article 43(g) of the draft Law be amended to cover information which it held as a result of the carrying out of any of its statutory functions. The Commission also repeated its request that the indexing requirement under Article 19(3) of the draft Law be amended.

The Committee welcomed representatives from the Jersey Financial Services Commission: Mr. B. Faudemer, Director - Enforcement; Mr. S. de Gruchy, Senior Authorisation Manager; and Mr. N. Troy, Deputy Director - Anti money-laundering unit. Mr. B. Faudemer advised the Committee of the difficulties which were likely to be experienced by the Commission should the Law be adopted as presently drafted. It was noted that the Commission held information by virtue of functions that it exercised under the Companies (Jersey) Law 1991, the Control of Borrowing (Jersey) Order 1958 and the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008, and that the release of that information would, or would be likely to, prejudice the exercise of the Commission’s functions under the aforementioned legislation. The Commission understood that the United Kingdom Freedom of Information Act 2000 contained particular exemptions which could be utilised by the Financial Services Authority which were not available to the Commission under the draft Freedom of Information (Jersey) Law 200-. The Commission also expressed its ongoing concern regarding the indexing requirement under Article 19(3) of the draft Law, which it considered to be onerous.

The Committee requested the Commission to notify it of the exemptions to which it referred under the United Kingdom Freedom of Information Act 2000. The Committee also invited the Commission to put forward a suggestion in respect of how the draft Freedom of Information (Jersey) Law 201- could be amended in order to ensure that the exercise of the Commission’s statutory functions would not be prejudiced, should the Law be adopted. The Committee **agreed** that it would then consider the matter further and advise the Commission of its decision accordingly.

Having been thanked by the Vice Chairman for their attendance, Mr. B. Faudemer; Mr. S. de Gruchy, and Mr. N. Troy withdrew from the meeting.

Work
programme.
465/1(110)

A12. The Committee, with reference to its Minute No. A11 of 7th September 2010, noted its ongoing work programme, with particular regard to the following:

- (i) Standing Order 168 - Land transactions: arrangements would be made for Property Holdings to attend upon the Committee at its meeting on 26th October 2010, in order to provide an update in respect of the proposed revision of Standing Order 168 of the Standing Orders of the States of Jersey;

- (ii) States members' facilities: 7 computers had been installed in the members' room outside the States Chamber, in accordance with the Committee's decision of 27th April 2010 (Minute No. A5 refers). Some members had expressed the view that fewer computers were required, however, it was agreed that the terminals should remain in place at present, and their use during States sittings monitored.

Matters arising.

A12. The Committee noted the following matters arising:

- (a) written question 1240/5(5635): the Committee noted the content of a written question by Deputy T.M. Pitman of St. Helier regarding attendance at States sittings, the answer to which was required to be tabled by the Chairman on Tuesday 28th September 2010. The Committee discussed possible mechanisms to monitor members' attendance but agreed that these would be difficult to administer. The Committee also noted that it was the responsibility of members to uphold the requirements of the Code of Conduct and to adhere to their oath of office, both of which contained a formal obligation to attend States sittings; and
- (b) e-mail correspondence from the Jersey Evening Post: the Committee noted that Mr. B. Querée, political correspondent, Jersey Evening Post, had contacted members of the States to request a comment in respect of the draft Annual Business Plan debate. Mr. Querée had notified those members that, in the absence of a response in less than 100 words by a stated date, a "no comment" answer would be attributed to them. The Committee agreed that such an approach was inappropriate and unhelpful. The Vice Chairman was requested to write to the Editor of the Jersey Evening Post to notify him of the Committee's concerns.