

PRIVILEGES AND PROCEDURES COMMITTEE

(11th Meeting)

3rd May 2006PART A

All members were present with the exception of Senator S. Syvret, from whom apologies had been received.

Connétable D.F. Gray of St. Clement - Chairman
 Senator M.E. Vibert
 Connétable K.A. Le Brun of St. Mary
 Deputy G.C.L. Baudains
 Deputy C.H. Egré
 Deputy J. Gallichan

In attendance -

M.N. de la Haye, Greffier of the States
 Mrs. A.H. Harris, Deputy Greffier of the States
 D.C.G. Filippini, Assistant Greffier of the States (for a time)
 Miss P. Horton, Clerk to the Privileges and Procedures Committee

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

- Minutes. A1. The Minutes of the meetings held on 22nd March 2006 (Part A only), 5th April 2006 (Parts A and B) and 11th April 2006 (Part B only), having been previously circulated, were taken as read and were confirmed.
- Matters arising. A2. The Committee noted the following matters arising from its previous Minutes -
- (a) **Minute No. A5 of 5th April 2006 - Appointment of States members to public bodies** - The Committee noted that the Council of Ministers had yet to provide official confirmation of their support for the proposal that in future all States members should be given the opportunity to put themselves forward to be appointed to a public body;
 - (b) **Minute No. A6 of 5th April 2006 - States members' remuneration** - The Committee noted correspondence dated 25th April 2006, from the Comptroller of Income Tax, 26th April 2006, from the Treasurer of the States and 20th April 2006, from the Controller, Social Security Department. The Committee noted that the abovementioned correspondence advised that no loopholes existed which would allow States members to avoid their income tax or social security liabilities; and
 - (c) **Minute No. A7 of 5th April 2006 - Composition and election of the States** - The Committee recalled that, whilst it had agreed to conduct a questionnaire to determine the public's views on the matter of low voter turn out, it had also been agreed that the questionnaire would determine the views on the size and composition of the States and whether having

a general election day would encourage more people to vote.

2005 carry
forward balance.
422/10/1(79)

A3. The Committee, with reference to its Minute No. A6 of 8th February 2006, considered correspondence, dated 11th April 2006, received from the Minister for Treasury and Resources concerning the carry forward balance from 2005 for the Privileges and Procedures Committee.

The Committee noted that, in accordance with Code of Direction No. 9 - Carry Forward of Revenue Balances, the States Treasury had approved the carry forward of £165,528 which was within the 3 per cent of the total budget permitted as a carry forward. The Committee was advised that the remaining carry forward balances had been subject to a rigorous prioritisation process which had been approved by the Council of Ministers and the States Treasury was requesting that the remaining unspent balance of £337,573, of the former Privileges and Procedures Committee's cash limit for 2005, be transferred for use in accordance with the funding priorities agreed.

The Committee, having considered the above, agreed that the remaining unspent balance could be transferred to provide funding in accordance with the priorities agreed by the Council of Ministers.

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

Estimates of the
States Assembly
and its services
for 2007.
422/10/1(80)

A4. The Committee considered a report, dated 26th April 2006, prepared by the Greffier of the States and correspondence, dated 20th April 2006, received from the Treasury and Resources Minister in connexion with the estimates of the States Assembly and its services for 2007.

The Committee noted that the report had been prepared as a reminder of the process set out in the new Public Finances (Jersey) Law 2005 in relation to the draft estimates which would be provided shortly for its consideration. The Committee was advised that the Privileges and Procedures Committee, as previously constituted, had agreed that it would be appropriate for the States Assembly to produce separate budgetary estimates to take account of the separation of executive and non-executive functions of government, as was the practice followed in other jurisdictions.

The Committee was advised that it would be necessary to provide the Treasury and Resources Minister with an indication of whether or not the cash limit was acceptable by 31st May 2006, and that, prior to this, the cash limit would need to be submitted to the Comptroller and Auditor General for his comments. The Committee agreed that Deputy C.H. Egré, Vice Chairman, should liaise with the Assistant Greffier of the States on the draft estimates and any comments of the Comptroller and Auditor General. The Committee noted that it would not be possible to request funding for a fifth Scrutiny Panel until the creation of such had been approved by the States. If the States did approve a fifth Panel then it would be necessary to lodge an amendment to the Business Plan to seek the States' approval for the additional funding.

Oral Questions
with notice -
submission of.
450/2(3)

A5. The Committee considered a report in connexion with the matter of oral questions with notice being submitted by one member on behalf of a colleague.

The Committee noted that Standing Order 13(5) provided that each member could submit a maximum of two oral questions with notice for each meeting. It had been brought to the Chairman's attention that, on occasions, members were asked to submit questions to the States Greffe on behalf of colleagues who had already used up their quota of two questions. Although it could be considered to be acceptable for one member to agree to submit a particular question in his or her name, there was

concern that the States Greffe had, on occasions, been told that any queries relating to the question should be submitted to another member. The Committee was of the opinion that it was a disregard of Standing Order 13(5) for a member to submit questions on behalf of a colleague and request that any queries be directed to that person and agreed that the States Greffe should, on every occasion, refer queries to the member who had submitted the question.

On a related matter, the Committee discussed the issue of Assistant Ministers answering questions in the absence of a Minister. The Committee noted that it appeared from a ruling given by the Bailiff during question time on 28th March 2006 that anything said by an Assistant Minister in answer to questions would be binding on the Minister. The Committee agreed that the Bailiff should be requested to clarify the ruling made on 28th March 2006 prior to the matter being considered further.

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

Administrative
Decisions
(Review) (Jersey)
Law 1982, as
amended: Report
of the
Administrative
Appeals Panel for
2005.
1386/2/2(10)

A6. The Committee, in accordance with the Administrative Decisions (Review) (Jersey) Law 1982, as amended, and with Mrs. C.E. Canavan, Chairman, Miss C. Vibert, Mr. N.P.E. Le Gresley, Advocate R.J. Renouf and Mr. J.G. Davies, members of the Administrative Appeals Panel present, considered a draft of the report of the Administrative Appeals Panel for 2005.

The Committee agreed that it would wish to place on record its thanks to the Chairman, Deputy Chairmen and all of the members of the Panel for their hard work in an honorary capacity dealing with a wide variety of complaints during the period 2005.

The Committee recalled that it had embarked on a review of the Administrative Appeals system and had presented to the States its report R.C.20/2004 in which a number of improvements had been suggested, for example, creating greater flexibility in the system, dealing with the findings of the Board, introducing stricter timescales and publicizing the system, it would also give the Chairman or Deputy Chairman the responsibility to decide whether a matter justified a review by a Board. The Administrative Decisions (Review) (Amendment No. 2) (Jersey) Law 200- was lodged 'au Greffe' on 13th September 2005 and was approved by the States, with amendments, on 14th February 2006. These amendments would be brought into force once approved by Privy Council and registered in the Royal Court.

Having discussed various aspects of the work of the Administrative Appeals Panel the Committee agreed that, when matters relating to the Administrative Appeals system were considered, members of the Panel could be invited to attend as this would establish greater contact between the Committee and the Panel which it was felt had been missing recently.

The Committee accordingly approved the Report and requested the President to present it to the States at the earliest opportunity for their information.

On a related matter the Committee was advised that the term of office of the Chairman, the 2 Deputy Chairmen and the 7 members would end on 20th May 2006. The existing Chairmen, Deputy Chairmen and members had all agreed that they would like to continue for a further term of 3 years. It was noted that re-appointing the same members complied with the Appointment Commission's current policies on bodies of this nature where members served in an honorary capacity and where no new members were being appointed. The Committee requested that a report and proposition be prepared for their consideration and approval.

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

Jersey Electoral
Register.
424/2(34)

A7. The Committee, with reference to its Minute No. A3 of 8th March 2006, considered correspondence received in connexion with the Jersey Electoral Register being made available to UK credit reference companies.

The Committee recalled that it had been advised that although the Draft Public Elections (Jersey) Law had been passed on 23rd October 2001, the Appointed Day Act had excluded the commencement of a number of Articles including Article 12(2) (b). As a result of this, credit reference agencies were no longer able to access the electoral register to verify the identity of Jersey residents for credit or other purposes and an increasing number of such checks were either being refused or further information being requested thus delaying the application process. Experian had made contact with the Data Protection Commissioner in an attempt to resolve this problem. The Committee had agreed that it would be beneficial to receive further information and requested that the true extent of the problem be investigated before deciding if the electoral register should be made available to the public.

In this regard the Committee considered correspondence received from Experian, the Jersey Bankers Association, Equifax Plc and the Comité des Connétables. The Committee expressed surprise at the claims by Experian that a total of 107,740 enquiries had been received from local residents between the period of 1st January 2005 and 31st March 2006, particularly as it was noted that the Comité des Connétables had received a very limited number of requests for confirmation that a person was listed on the electoral register.

The Committee considered that there was no real evidence of a problem and agreed that it would only be prepared to approve the release of an edited version of the Electoral Register. The Committee requested that the Comité des Connétables be consulted in order to establish their views on the matter.

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

Election
Expenses:
questionnaire.
424/2(22)

A8. The Committee, with reference to its Minute No. A4 of 22nd March 2006, received and considered a draft questionnaire to establish the amount each States member had spent on their respective election campaigns.

The Committee recalled that it had previously received only a limited response from members and in order to establish a true indication of the amounts each member had spent on their campaigns it would circulate a formal questionnaire to all States members. The Committee discussed the questionnaire and agreed that, as several months had passed since the last elections had been held, members might not remember the exact amounts they had spent on their campaigns. The Committee agreed that, at this time, it would be appropriate for members to provide an indication of the total amount spent and that the questionnaire should be sent to members as an indication of the type of questions which could be asked regarding expenditure on future election campaigns. It was further agreed that members should be requested to submit any comments they might have or any additional questions that they felt it would be beneficial to include in the questionnaire.

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

Election
Expenses:
regulation of in
other

A9. The Committee, with reference to its Minute No. A4 of 22nd March 2006, noted a chart comparing the regulation of election expenses in other jurisdictions.

The Committee noted that there were various methods used for controlling election

jurisdictions.
424/2(22)

expenses in other jurisdictions. Some jurisdictions imposed a variable limit which took into account the number of registered voters in the constituency. The limit was usually expressed as a basic flat rate plus a fixed amount per name on the electoral register. Some jurisdictions had a fixed sum ceiling and others had no limit on expenditure at all. The Committee was advised that many jurisdictions required details of election expenditure to be submitted even if they did not limit the amount that could be spent on a campaign. There were various penalties imposed for failing to submit election expenditure or for making a false declaration as to election expenses ranging from fines to, in some cases, prison terms.

The Committee noted the position.

Composition and
election of the
States.
424/2(33)

A10. The Committee, with reference to its Minute No. A7 of 5th April 2006, received an oral report from the Greffier of the States updating members on enquiries made into the cost of conducting a public opinion survey.

The Committee was advised that the Communications Manager, Chief Minister's Department, had received a proposal from MORI written in August 2004 for conducting a survey of Jersey residents. It was estimated that a survey carried out by telephone would cost in the region of -

Interview of a representative sample of 500 residents with a 10 minute questionnaire - £17,000
sample of 500 residents with a 15 minute questionnaire - £22,000
sample of 1,000 residents with a 10 minute questionnaire - £25,000.

The Committee accepted that a survey would be relatively expensive but nevertheless agreed that it was essential to have reliable data to use in relation to this issue. The Committee therefore agreed that a selection of major polling organisations should be requested to submit quotations for carrying out a survey on behalf of the Committee.

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

Official
photographic
identification.
465/1(75)

A11. The Committee received and considered an e-mail dated 25th April 2006, received from Deputy A.E. Pryke of Trinity requesting the Committee to consider providing all States members with a form of official identification.

The Committee noted that Deputy Pyke felt that it would be appropriate for all States members to be issued with official identification particularly when visiting constituents. On discussing the matter it was established that members of the Committee had not personally encountered this problem although it was agreed that it could be an issue for new States members. The Committee considered whether it would be beneficial to provide members with the option to apply for official identification if they felt it was necessary. However, members were concerned that this could result in it becoming compulsory for all States members to carry official identification with them at all times, a situation that the Committee did not want to prevail.

The Committee agreed that, as it was not aware that this was a major problem for the majority of States members, it would not consider offering a form of official identification at the current time although it was agreed that if it did become an issue the matter would be reconsidered.

Senator M.E. Vibert requested that his dissent from this decision be recorded.

States members'

A12. The Committee noted correspondence, dated 24th April 2006, received from

remuneration.
1240/3(80)

Mr. I. Black, Treasurer of the States regarding States members' receiving Short Term Incapacity Allowance. The Committee agreed that it would wish to lodge an amendment in order that States members could be treated as employees for Social Security purposes and also to rectify the current situation which allowed members who were unwell to receive Short Term Incapacity Allowance and remuneration as a member.

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

Matters for
information.

A12. The Committee noted the following matters for information -

- (a) correspondence, dated 18th April 2006, received from the Chief Minister regarding the Draft Strategic Plan 2006-2011;
- (b) correspondence, dated 11th April 2006, sent to all States members regarding States members' remuneration;
- (c) correspondence, dated 11th April 2006, sent to the Minister for Transport and Technical Services regarding States members' car parking;
- (d) an e-mail, dated 21st April 2006, received from Mr. B. Auffret regarding the ordering and installation of card readers to improve security in the States Building;
- (e) Senator Vibert expressed concern that, as yet, Codes of Practice for Scrutiny had not been brought forward by the Chairmen's Committee for approval by the States as required by Standing Order 143. The Committee was advised that the issue of the provision of legal advice to Scrutiny Panels had held up the lodging of the Codes of Practice as no agreement had yet been reached with the Council of Ministers or the Law Officers on that matter. The Committee agreed that the Chairmen's Committee should be advised that every effort should be made to resolve the issue and the Codes of Practice should be lodged as soon as possible;
- (f) the Committee was advised that it had been noted that whilst Standing Orders required a member to declare an interest regarding matters considered under oral questions the requirement had been omitted for matters considered under written questions. The Committee agreed that this issue needed to be addressed; and
- (g) the Committee confirmed that its next meeting would be held on Wednesday 31st May 2006, commencing at 9.45 a.m. in the Le Capelain Room, States Building, Royal Square.