

PRIVILEGES AND PROCEDURES COMMITTEE

(6th Meeting)

8th March 2006PART A

All members were present, with the exception of Senator M.E. Vibert, from whom apologies had been received.

Connétable D.F. Gray of St. Clement - Chairman  
 Senator S. Syvret  
 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  
 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 8th February 2006 (Parts A and B) and 24th February 2006 (Part A 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 -
- Minute No. A8 of 8th February 2006 - draft Freedom of Information (Jersey) Law 200-** - The Committee was advised that the revised draft and covering note would be available for its consideration shortly.
- “The Role of the Electoral Register in Decision Processing”: Data Protection Commissioner. 424/2(34) A3. The Committee, with reference to its Minute No. A13 of 11th January 2006, welcomed Mrs. E. Martins, Data Protection Commissioner to the meeting in connexion with her report entitled “The Role of the Electoral Register in Decision Processing”.
- The Committee was advised that in the past it had been common practice for many companies to take advantage of the public availability of the electoral register, using it as a valuable tool for their products and services. Electoral registration officers had been under a duty to disclose the full register on payment of the appropriate fee. There had been no authority in law to limit the content of the register. Whilst the UK had implemented the necessary legislation to ensure the register was processed and disclosed in compliance with data protection and human rights, Jersey, whilst acknowledging the problem, had not addressed it.
- The Draft Public Elections (Jersey) Law was passed on 23rd October 2001. The Law was brought forward by the then Legislation Committee with an Appointed Day Act of 5th June 2002 which served to commence the majority of the provisions within the Law but excluded the commencement of a number of Articles including Article 12(2)

(b) which stated –

*‘The Connétable of the parish shall cause a copy of the register as so in force to be published in printed form and copies of it so published to be available to...any person, on payment of a reasonable charge determined by the Parish Assembly of the parish, or if no such charge has been determined, free of charge.’*

As a result of Article 12(2)(b) not being in force credit reference agencies were no longer able to access the data to verify the identity of Jersey residents for credit or other purposes. As a result, an increasing number of such checks were either being refused or further information was being requested thus delaying the application process. One of the largest agencies, Experian, had made contact with the Island authorities and the Data Protection Commissioner in an attempt to resolve the current problem.

The Committee considered how the matter was dealt with in the UK and was advised that voters were given the option of having their details listed either on a full or an edited version of the electoral roll which enabled the government to control the indiscriminate use by the direct marketing community of names, addresses, and in some cases e-mail addresses and phone numbers. The full register had the names and addresses of everyone registered to vote and was updated once a month. It was available for anyone to look at but copies were only supplied for certain purposes, such as elections and law enforcement. Credit reference agencies could only use the register to verify names and addresses of individuals who were applying for credit, and to stop money laundering. The edited register could be bought by any person, company or organisation and used for any purpose such as checking identity and commercial activities such as marketing. Individuals could choose not to be on the edited register which was kept separately from the full register and updated every month.

The Committee was advised that the situation would affect an increasing number of Jersey residents due to the fact that as more of the population moved their new addresses would not be recognised by the credit agencies and an increasing number would become unverifiable.

The Committee felt it was important to protect the rights of individuals and ensure that they received a high level of protection of personal data. The Committee was of the opinion that if the register was made available to credit reference agencies there should be sufficient restrictions in place to prevent the register being passed on to other companies. However, the Data Protection Commissioner advised the Committee that anyone who had a copy of the register would be committing a criminal offence if they unlawfully passed on information from it. The Committee 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.

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

Candidate’s  
registration fee to  
receive the  
Electoral  
Register.  
424/2(34)

A4. The Committee, with reference to its Minute No. A2(a) of 8th February 2006, discussed with the Data Protection Commissioner the registration fee candidates were required to pay before they could obtain the electoral register during an election campaign.

The Data Protection Commissioner advised the Committee that the fee charged had been reduced. Previously registration had been charged at £125 for a period of three years this had now been amended to £50 for a registration period of one year.

The Committee noted the position.

Standing Orders  
of the States of  
Jersey -  
amendment of  
lunch  
adjournment.  
1240/4(175)

A5. The Committee, with reference to its Minute No. A9 of 8th February 2006, considered Amendment (No. 4) of the Standing Orders of the States of Jersey.

The Committee recalled that when new Standing Order 44 was approved the States agreed to amend the normal lunchtime adjournment from 12.45 p.m. - 2.30 p.m. to 1 p.m. - 2.15 p.m. The decision had been taken during a period when States members had been faced with an almost record number of additional meeting days due to the volume of business to be debated before the elections. The Committee considered that a more structured approach to planning States' business had been introduced as part of the new system of government and it was hoped this would overcome the concerns about the need for unscheduled additional meetings that had perhaps influenced the decision to change the length of the lunchtime adjournment. The Committee further considered that the lunchtime adjournment was frequently used by members to hold meetings or presentations and attend to the many other matters that had to be dealt with on a States' day.

The Committee concluded that the States lunchtime adjournment should be amended to 12.45 p.m. to 2.15 p.m. which would allow a 30 minute period for members to eat lunch and a full one hour period to deal with other matters.

The Committee was advised that the amendment, which substituted Standing Order 44 and provided for the presiding officer to invite the States to adjourn at 12.45 p.m. instead of at 1 p.m., set out the entire revised Standing Order so that an amendment could be lodged to propose a different start or finish time.

The Committee, subject to the title of Standing Order 44 being amended, to change the word "lunch-time" to "midday", accordingly approved the draft Amendment (No. 4) of the Standing Orders of the States of Jersey and agreed to lodge them 'au Greffe' on 14th March 2006 for consideration by the States on 25th April 2006.

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

States Members'  
parking.  
1240/9/1(115)

A6. The Committee, with reference to its Minute No. A5 of 8th February 2006, received and considered e-mail exchanges in connexion with States Members' parking.

Deputy Baudains advised the Committee that he had now been issued with a parking permit. The Committee concluded that this was a satisfactory solution to the problem and the matter was now considered to be closed.

Law Drafting  
Programme 2007.  
422/23/1(17)

A7. The Committee received correspondence, dated 17th February 2006, from the Administration and Project Officer, Chief Minister's Department, in connexion with the 2007 Law Drafting Programme.

The Committee agreed that it would require drafting time for amendments to the Public Elections (Jersey) Law 2002 and an amendment to the States of Jersey Law 2005. The Committee requested that the appropriate Legislation Request Questionnaire be forwarded to the Chief Minister's Department prior to 30th March 2006.

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

Questions

A8. The Committee received and considered a report, dated 1st March 2006,

without notice to  
Ministers -  
Procedure.  
1240/1/2(34)

prepared by the Greffier of the States in connexion with the procedure for questions without notice to Ministers.

The Committee was advised that it had been suggested by at least two members that the presiding officer should allow members asking questions without notice to follow up the initial question with a 'supplementary' question. The members concerned considered that allowing a follow up question would be a more effective way of probing and holding Ministers to account. The Committee nevertheless concluded that with a limited time of only 15 minutes available, it would be unfair to allow a member to ask what would effectively amount to 2 questions when there were other members waiting to ask questions. It could lead to bad feeling among members if only 6 or 7 members were able to ask questions during a 15 minute period.

The Committee was of the opinion that it was too soon to change question time and agreed that it would maintain the current procedure for questions and reconsider the matter in three months time.

Bailiff's  
Consultative  
Panel (P.20/2006)  
- Amendment.  
499/2(21)

A9. The Committee, with reference to its Minute No. A3 of 8th February 2006, considered the draft Bailiff's Consultative Panel (P.20/2006): amendment which was being proposed by the Connétable of St. Helier.

The Committee was advised that the purpose of the amendment was to take away the *ex officio* membership of the senior Senator and senior Deputy and replace these by increasing the number of States members selected by ballot.

The Committee was of the opinion that it would not be minded to support the amendment and agreed to present a comment to the States advising the same.

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

Draft Strategic  
Plan 2006-2011.  
1444/1(6)

A10. The Committee received and considered a report, dated 2nd March 2006, prepared by the Greffier of the States in connexion with the draft Strategic Plan for which comments had been invited.

The Committee noted that the Council of Ministers was required to bring the Plan forward in accordance with the provisions of Article 18(2)(e) of the States of Jersey Law 2005. The intention of Article 18 was to ensure that the Council's proposed policy 'manifesto' was brought forward at an early stage and approved by the States.

The Committee was advised that there were a number of issues in the draft Plan that involved the Privileges and Procedures Committee in particular the 10th of the Council of Ministers' Top Priorities which was to 'Assist the Privileges and Procedures Committee in reviewing the composition of the States and electoral reform', and the Strategic Initiative 5.1.1 which was to 'Work with the Privileges and Procedures Committee in reviewing the composition of the States, electoral reform and alternative methods of voting (CM/PPC)'. The Committee agreed that as the Top Priority and strategic initiative were already in the PPC's work programme, and the priority and initiative were to 'assist' and 'work with PPC' it would not be necessary to comment on the abovementioned.

The Committee then considered the following strategic initiative -

“5.1.4 Present a Freedom of Information Law which will incur no additional cost to the States for approval by the end of 2006 (PPC)”

The Committee acknowledged that it did intend to bring forward the Freedom of

Information Law this year, however it noted that the above initiative included a further proviso that no additional cost to the States should arise. The Committee agreed that the matter of resource implications was one of the most controversial and disputed aspects of the proposed Law. Although estimates of potential costs varied, all parties involved to date had agreed that some additional cost was inevitable, if only because there was likely to be a requirement for one additional member of staff in the Office of the Data Protection Commissioner, who would become the Information Commissioner. The Committee had estimated that the additional costs would be £99,600 per year over the first 2-year introductory period and thereafter £59,600 per year. The estimated increase in costs made by the former Finance and Economics Committee had been significantly greater and concerns about resources were also voiced by the Attorney General and others. The Committee agreed that it would not be possible to introduce a Freedom of Information Law at no extra cost to the States and requested that the Chief Minister be advised of the same.

The Committee further noted initiative 6.2.8 which stated -

“6.2.8 Improve scrutiny through the establishment of a Public Accounts Committee and the Comptroller and Auditor General from 2006 (PPC)”

The Committee requested that the Chief Minister be informed that both the Public Accounts Committee and the Comptroller and Auditor General had been established and were no longer the responsibility of the Privileges and Procedures Committee.

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

Matters for  
information.

A11. The Committee noted the following matters for information -

- (a) correspondence, dated 15th February 2006, sent to the Minister for Transport and Technical Services regarding States Members' Car Parking;
- (b) correspondence, dated 15th February 2006, sent to the Minister for Social Security regarding States Members' Remuneration. The Committee noted that a reply had not yet been received and it was requested that a reminder letter be sent;
- (c) Deputy Gallichan expressed concern regarding the lack of security in the States building. It had been noted that doors to States members' rooms including the computer area were unlocked which meant that members of the public could easily gain access to these areas. The Committee agreed that it would be beneficial to install locks on the doors and requested that the matter be investigated;
- (d) the Chairman expressed concern with regard to his part in the States sitting in which he proposed the arrangement of public business for future meetings, however it was noted that his role was likely to become more significant in the future;
- (e) the Committee was advised that it could be asked for its views on the issue of Scrutiny Panels having access to the legal advice given to Ministers or the Council of Ministers;
- (f) Senator Syvret expressed concern that a member could be marked as 'en défaut' if they were out of the Island on holiday. However, it was noted

that the oath taken by Senators and Deputies stated 'you will attend the meetings of the States whenever you are called upon to do so' therefore, if possible, members should be present at all States meetings; and

- (g) the Committee agreed that it would meet on 22nd March 2006, commencing at 9.45 a.m. to consider the matters relating to electoral reform. The Committee further agreed to defer consideration of Agenda Items A9 and A16 to a future meeting.