

STATES OF JERSEY



HAND-HELD DEVICES IN THE STATES CHAMBER: TRIAL

Lodged au Greffe on 17th May 2011
by the Privileges and Procedures Committee

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

- (a) to agree that elected members should be permitted to use hand-held electronic devices (but not laptop computers) in the States Chamber during meetings of the Assembly for a trial period ending on 31st March 2012 provided that the devices are silent and can be used without disturbing other members;
- (b) to request the Privileges and Procedures Committee to monitor the progress of the trial and report back to the States with recommendations before the end of trial to enable the Assembly to decide at that stage whether to allow such devices to be used on a permanent basis or whether their use should be prohibited.

PRIVILEGES AND PROCEDURES COMMITTEE

REPORT

The Privileges and Procedures Committee (PPC) has been considering for some time the best way forward in relation to the use of electronic devices such as laptops, Blackberries, smart phones, iPads and other tablet devices by States members in the States Chamber.

The only guidance in the current Standing Orders on the use of such devices is found in Standing Order 99(1) which states –

- “(1) Before entering the Chamber, a member of the States must switch off any mobile telephone and every other electronic device he or she has with him or her that would be likely to disturb the proceedings of the States.”

In the absence of any further rules in Standing Orders the Bailiff ruled on 20th January 2010, (using his power under Standing Order 167 to determine matters that are not provided for in Standing Orders) that laptops could not be used by elected members during a States meeting. In making this ruling the Bailiff nevertheless acknowledged that this was ultimately a matter for elected members to decide and that his ruling could only apply until the Assembly itself considered the matter. The full text of the Bailiff’s ruling is attached for information in the Appendix.

PPC accepts that there are likely to be widely differing views among elected members about the use of electronic devices in the Chamber. As the Bailiff pointed out in his January 2010 ruling, it is quite possible that the character of proceedings could change if members are engaged in reading and sending e-mails, looking at the internet and undertaking other work on their electronic devices rather than giving all their attention to the debate that is taking place. Some members who have visited the National Assembly for Wales where computers have been used in the debating Chamber since the devolved Assembly was first established, have commented that the atmosphere is very different in the Senedd Chamber as many Assembly Members appear to be concentrating on their computer work and not on the proceedings. It is also clear to PPC that it would be extremely unsatisfactory for the proceedings to be disturbed by the use of computer keyboards which could become extremely disruptive if a large number of members were using them during a sitting.

Laptops are unfortunately relatively large and some might almost cover a member’s entire desk in the Chamber. The wooden desks, which have remained largely unchanged since 1887, are clearly unsuitable for use with a laptop as they are sloping and the distance between the desk and a member’s seat could make it uncomfortable for a member to use a keyboard for a protracted period. Even with careful use the keyboard of a laptop can be noisy and the battery life of some laptops is relatively limited, meaning that members might be tempted to connect a power lead to the socket under the desks which could create a hazard for fellow members attempting to enter or leave their seats.

Although PPC recognises that some members will oppose any further use of electronic devices, the Committee believes that recent advances in technology have enabled the Committee to propose a trial of certain types of devices. The development of larger hand-held devices with touch screens such as tablet PCs and iPads has meant that there is now a realistic alternative to laptops for a trial of such devices in the States Chamber. The devices are relatively small and, as their name implies, can be held by

hand without the need to rest on a desk or other surface all the time. These types of devices would fit easily on members' desks and the absence of a keyboard means that they could be used silently without undue disturbance to other members. PPC has noted that the House of Lords voted on 10th March 2011 to accept the recommendations of their Administration and Works Committee¹ to permit a one-year trial of such devices in the House of Lords and that the Procedure Committee of the House of Commons published a report on 24th March 2011² which made a similar recommendation. The final recommendation of the Procedure Committee was that the House of Commons should agree the following resolution –

“That hand-held electronic devices (not laptops) may be used in the Chamber, provided that they are silent, and used in a way that does not impair decorum; that Members making speeches in the Chamber or in committee may refer to electronic devices in place of paper speaking notes; and that electronic devices, including laptops, may be used silently in committee meetings, including select committees.”

(PPC does not consider it is necessary to address the use of electronic devices in committees and panels in this proposition as that is a matter for each individual committee/panel to decide on).

PPC has considered whether restrictions should be placed on the uses that hand-held devices can be put to during a States meeting. It is of interest that the House of Commons Procedure Committee gave extensive consideration to this point during its inquiry, particularly perhaps because the House of Lords had, in a decision that some may find curious, agreed that members of the House of Lords should not be permitted to use electronic devices to send or receive messages for use in the proceedings under consideration or to search the internet for information for use in the debate. The Procedure Committee commented as follows in its report on whether any restrictions should be recommended for the House of Commons –

“12. The purpose to which hand-held electronic devices might be used is clearly the starting point and was rightly identified by the Lords Administration and Works Committee as the “main consideration” in determining the new rules. The Lords Committee concluded that electronic devices could be used “for any purpose not related to the proceedings before the House or Grand Committee”. The new rules singled out for prohibition sending or receiving messages for use in proceedings and also searching the Web for material for use in debate. The latter point attracted most comment in the debate on the report, with several peers arguing that a ban on searching the internet was impractical as well as misconceived since such searches could lead to better informed debate.

13. We have reservations on three fronts about basing any reformulation of the rules on what activities are either permissible or forbidden. First, the inadequacy of the reference in the current rules to checking

¹ “Use of Electronic Devices in the House” HL Paper 92 published on 31st January 2011

² “Use of hand-held devices in the Chamber and Committees” HC 889 published on 24th March 2011.

Both Reports can be viewed on the Parliament website www.parliament.uk

emails shows how rapidly the range of applications available on hand-held devices could outstrip any attempt at defining acceptable usage.

14. Secondly, we agree with the concerns expressed in the Lords that it is difficult to police activity on an electronic device in a proportionate way. The Lords Administration and Works Committee considered that the convention of self-regulation in the House of Lords would make it feasible to experiment with a one-year trial of banning the use of electronic devices to search the internet for material that might be used in the course of proceedings but which is not generally available. There is no such convention in the Commons and it would be invidious to expect the Speaker to rule on whether a Member had been using his device for a proper purpose following a complaint from another Member or the public.
15. Thirdly, we are persuaded by the argument that it is illogical to prevent Members from using electronic devices in the way that they would use paper notes and documents for speaking notes or for research purposes. Nor would we wish to prevent Members from checking facts or consulting material by means of an internet search in the course of proceedings in the Chamber.
16. We therefore conclude that Members should be allowed to use electronic hand-held devices for any purpose when in the Chamber whilst not speaking, and that the current ban on the use of hand-held electronic devices as an aide memoire, whilst speaking in a debate, should be ended. We understand that Hansard would be happy to accept notes for speeches electronically, rather than requiring a hard copy print-out of a Member's speech.
17. We have given special consideration to the example set by the Lords in their reinforcement of the rule that electronic devices must not be used to send or receive messages for use in proceedings. At its most extreme, allowing messages to be passed in and out of the Chamber in this way could result in Prime Minister's Question Time being conducted by instant rebuttal teams briefing the principals on what they should say, whilst all other Members were bombarded with messages from the public and others commenting on and attempting to offer contributions to the debate. We believe that it is a fundamental principle, to which all Members should agree, that direct interference in proceedings should not be permitted. However, at present notes are passed from officials to Ministers during debates and Members may choose to consult others in the margins of committees. We see no reason why such messages should not equally be transmitted electronically as by hand.
18. The next issue of importance is how devices may be used. The link between the rules formulated by many different legislatures is that devices must be used with discretion and with due regard to decorum. For us, that is the central principle on which the House should agree. The current rules refer to not causing disturbance. This covers distracting other Members by sight or sound but we feel that it does not convey quite the right message that Members using hand-held

devices should have constantly in mind that they are in the Chamber and should behave accordingly. We are therefore attracted to the inclusion in the rules of a condition that hand-held devices may be used only where they do not “impair decorum”. It would then be a matter for the occupant of the Chair to judge in specific circumstances when this rule had been breached, which is in keeping with the general conventions on behaviour in the Chamber. The decorum rule should be understood to mean that all devices should be used silently and unobtrusively, without disturbing other Members, and that excessive use should not be tolerated.

19. On the type of devices which may be used, it is a certainty that any attempt to be prescriptive would soon be out of date. It is therefore preferable for the House to define in general terms what is acceptable. We believe that the House would wish to maintain its current prohibition on using mobile phones, except in silent mode, in the Chamber or in Committee and we also consider that there is no case for the use of laptops in the Chamber, partly on grounds of lack of space since Members do not have their own desks or even their own seats. We see no logical reason to distinguish between other types of hand-held devices, provided that they are of reasonably small dimensions. A good rule of thumb would be a device no bigger than an A4 sheet of paper in width and length which did not obscure the Member’s face when in use. We believe that all devices fitting this description should be permissible.”

PPC considers that the House of Commons Procedure Committee has made sensible and pragmatic recommendations in relation to usage and shares its view. Trying to impose restrictions on what types of e-mails members could send or receive whilst in the Chamber or what internet sites could be viewed would then place the presiding officer in the position of having to police such restrictions with no realistic possibility of being able to do so. Points of order from other members alleging that Member X had received an e-mail, or was looking at an internet site, that breached the rules would simply waste time and, in reality, it would be almost impossible to rule on such matters. PPC believes that members must be trusted to use these devices sensibly and with restraint and the Committee notes that members with BlackBerries have been using them for some time without undue problems being identified.

If this proposition is adopted a trial to allow the use of these devices in the Chamber lasting until the end of March 2012 will be permitted. Although this represents a relatively lengthy period there will be few sittings in the autumn session this year because of the elections and PPC considers it would be useful for the trial to continue into the new States. PPC will monitor progress during the trial and the new Committee established in November 2011 will then make a final recommendation in early 2012 to enable the new Assembly to take a decision to allow the use on a permanent basis or to outlaw the use of all such devices (which PPC would stress would then need to encompass the use of BlackBerries as well).

Members will note that the proposition simply refers to “hand-held electronic devices (but not laptop computers)” because technology is moving so fast in this area that it would not be feasible to try to define the precise devices that should be permitted. The

House of Lords Administration and Works Committee found a similar problem during its inquiry and stated in its Report –

“13 A secondary consideration is which types of electronic device Members should be permitted to use in the Chamber and Grand Committee. We believe it is important to avoid too much detail because the rules would rapidly be overtaken by new technology—as has happened with the current rules. **We therefore propose that all hand-held devices should be permitted in the Chamber and Grand Committee provided that they are silent.** This would exclude conventional laptops. But beyond this, we think it inadvisable to define ‘hand-held devices’.”

PPC shares the Committee’s view and has not attempted to define the devices, considering that the term used will be adequate for members to understand what type of device will be acceptable.

The proposed trial will provide the opportunity to assess the real impact of using hand-held devices in the Chamber. In practice some members may find it easier to use a device rather than using paper and some members may find it easier to give a speech with notes on a hand-held tablet rather than on a sheet of paper. It is possible that the ability to access e-mails and the internet in the Chamber will encourage members to remain in their seats and not leave the Chamber inquisitive as happens quite frequently at present. Nevertheless if the overall impact is considered to be a negative one at the end of the trial period the Assembly will be able to take a decision at that stage to prohibit the use of all hand-held devices during proceedings.

Financial and manpower implications

There are no additional resource requirements for the States arising from this proposition. Members using devices to access the internet in the Chamber will be able to use the wireless network which is already in place and which has the capacity to enable concurrent use by many members. PPC would stress that there is no intention at present to provide members with free hand-held devices and members will have to provide their own equipment if they want to use it in the Chamber. Some of the lower range devices can now be obtained for less than £300 and PPC believes that it is quite reasonable to expect members who wish to obtain a device to use some of their £3,650 annual expense allowance to do so. If the trial proves successful PPC would nevertheless be willing to discuss with the Information Services Department the possibility of offering a hand-held device of this nature as an alternative to the laptop computers currently available to members.

Alongside the discussions on this proposition, PPC has been considering revised methods of distribution of documents such as propositions and reports to members, and if the trial of electronic devices proves successful, there may be further scope to reduce the distribution of hard copy documents if some members are happy to access documents on screen during States sittings. This could lead to some savings in printing and postage in due course.

**Ruling by the Bailiff on the use of laptops
20th January 2010**

“I think I must start by saying that whether laptops or other electronic equipment such as BlackBerries or laptops should be permitted is ultimately a matter for Members not ultimately a matter for the Chair. It is for Members to decide how they wish to proceed and as I understand it, the Privileges and Procedures Committee is looking into the matter at present and may come forward with proposals and certainly if Members may be interested, I have just been to the Conference of Speakers of Commonwealth Parliaments and this is a matter which is being considered by a number of Parliaments. The majority at the moment do not allow laptops but some do. Canada does and Wales does, for example. Now, it seems to me that I must make a ruling at the moment one way or the other pending a decision taken by the Assembly as a whole and we have, of course, Standing Order 99(1) to which reference has already been made which says that Members must turn off any electronic equipment that may disturb the proceedings of the States. There is also Standing Order 167 which provides the Bailiff shall decide any question of order or procedure not provided for in Standing Orders. Now, I have to say that in my judgment, if a number of Members start using laptops, there is a real risk of disturbance of the proceedings under Standing Order 99(1). Furthermore, it would be quite a considerable change from the procedure which has been followed hitherto and it would be likely to affect the character of the proceedings. At present, those who are in the Chamber are by and large listening to the Member who is speaking because there is no other activity which is meant to be undertaken subject to the BlackBerry point. If laptops are permitted, Members would be able to send messages, deal with wholly unrelated matters and if one of the main purposes of proceedings is to persuade by oral argument, that would be a considerable change. Furthermore, I consider that if there are laptops there, they are quite large, they are quite obvious. When people tap on the keys, it tends to make a noise as, for instance, one hears over there even though they have been silenced. If we had 53 of those going on, I consider that that would disturb the proceedings. So I emphasise that ultimately it is a matter for Members through Standing Orders whether they wish to have laptops in or not but pending any such decision by Members, I am going to rule that laptops are not permitted. Now, can I add 2 points? First of all, the question is whether that applies to BlackBerries. The fact is BlackBerries have been used and I am not going to rule that they should not be for 2 reasons. First, as I say, they have been used and it is now before Members so Members will be able to decide today whether they think they should or not, so I do not think it is right for the Chair to change the *status quo* in the midst of a debate or immediately before a debate. Secondly, I do not consider that they disturb proceedings to the same extent as a laptop because they are small, they are hidden but that is a matter for Members but I do not consider that they are breach Standing Orders. Can I just add this in relation to the Attorney General because I accept that he has been allowed to use a laptop for some years. I do not consider that so far that has disturbed the proceedings. It is only one person and no one has made a complaint so far. So what I propose to say is that I am not going to allow laptops but because this has hitherto been allowed so that he can continue to do his work, I am going to allow him to continue. Again, it will be a matter for Members to decide in due course whether they think that should be allowed or not. I emphasise what Members do think should happen in this Assembly is ultimately for Members. I am just making a ruling in the meantime pending P.P.C. considering the matter and bringing it forward.”