

PRIVILEGES AND PROCEDURES COMMITTEE

(28th Meeting)

4th November 2004PART A

All members were present.

Deputy R.G. Le Hérisier
 Senator P.V.F. Le Claire
 Connétable D.F. Gray
 Deputy P.N. Troy
 Deputy C.J. Scott-Warren
 Deputy J-A. Bridge
 Deputy J.A. Bernstein

In attendance -

M.N. de la Haye, Greffier of the States (for a time)
 Mrs. A.H. Harris, Deputy Greffier of the States
 Mr. D.C.G. Filippini, Assistant Greffier of the States (for a time)
 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 16th September 2004 (Parts A and B), 28th September 2004 (Part B), 5th October 2004 (Part A), 8th October 2004 (Part A), 11th October 2004 (Part B), 14th October 2004 (Parts A and B) and 18th October 2004 (Part A), were taken as read and were approved.
- Matters arising. A2. The Committee noted the following matters arising from the Minutes of its meetings held on 16th September 2004 (Parts A and B), 28th September 2004 (Part B), 5th October 2004 (Part A), 8th October 2004 (Part A), 11th October 2004 (Part B), 14th October 2004 (Parts A and B) and 18th October 2004 (Part A) –
- (a) **Act No. B1 of 11th October 2004** – the Committee decided that the President should write Senator E.P. Vibert regarding his failure to comply with its request to read out his letter of apology to Deputy J.A. Hilton in the States, and
 - (b) the Committee requested that copies of completed Minutes be distributed to members via e-mail and that printed copies be attached to the front of the subsequent agenda.
- Shadow Scrutiny: A3. The Committee, with reference to its Act No. A9 of 15th July 2004, recalled allocation of funding for consultation. 502/1(31) that it had elected to allocate a specific budget of £35,000 to each Scrutiny Panel for such matters as transcription services and the engagement of specialist advisors.
- Clerk Scrutiny A.G.O.S. The Committee received correspondence, dated 3rd November 2004, from Senator E.P. Vibert in his capacity as Chairman of a Shadow Scrutiny Panel, in connexion with the allocation of funding to individual Scrutiny Panels for consultation.
- It was reported that the Scrutiny Panel chaired by Senator E.P. Vibert was already committed to £47,000 of expenditure in 2004 and that the ongoing workload of that Panel would inevitably result in requests for additional funding.

The Committee recognized that the operation of the Shadow Scrutiny Panels was evolving and that an appropriate level of funding had yet to be determined. It was further reported that the overall financial status of the Scrutiny function was in comparatively good order. Further to the foregoing, it was understood that Deputy G.P. Southern, in his capacity as Chairman of a Shadow Scrutiny Panel, had indicated that he would consider a request to transfer funds to the Panel chaired by Senator E.P. Vibert.

Notwithstanding the foregoing, the Committee considered that individual Scrutiny Panels should be expected to demonstrate that they could plan and execute a programme of work in accordance with the resources available to them. Concerns were also expressed that, in the event the Committee reverted to operating a single budget for all Scrutiny Panels, a future dominant chairman of a Scrutiny Panel might succeed in committing an excessive proportion of that budget to the detriment of other Panels.

The Committee agreed to meet all financial obligations incurred by the Panel chaired by Senator E.P. Vibert, including all actual items of expenditure and those items on purchase order awaiting payment, for the period up to and including 4th November 2004. However, it determined that it was not minded to rescind its previous decision to allocate an individual budget to each Shadow Scrutiny Panel. Furthermore, it Committee determined that it would require a formal request, supported by an appropriate business case, before it would be prepared to consider sanctioning any further expenditure by the Panel chaired by Senator E.P. Vibert in the current financial year.

With regard to the longer term, the Committee agreed that the Shadow Scrutiny Panels should adopt more robust accounting practices. It recalled that, in accordance with Projet No. P.79/2003, a Chairmen's Committee was to have been set up to coordinate the work of the Panels and to oversee the allocation of resources. **Whilst the Committee understood the reasons why regular meetings had not taken place, it nevertheless concluded that, in the interests of financial integrity and good governance, the Chairmen's Committee should meet regularly with effect from January 2005. Further to the foregoing, it was agreed that each Panel should determine in advance its programme of work for the coming year, together with the estimated financial and manpower implications arising from each individual project, and submit the agreed programmes through the Chairmen's Committee to the Committee for comment.**

The Greffier of the States was requested to send a copy of this Act to the Shadow Scrutiny Panels.

Scrutiny training
for States
Members.
502/3(9)

A4. The Committee, with reference to its Act No. A10 of 16th September 2004, recalled that it had received a request from Deputy J.L. Dorey that training should be given to States members who intended to sit on a Scrutiny Panel, specifically addressing question and answer techniques and Chairmanship skills.

DGOS
Clerk
Scrutiny

The Committee received a report, dated 27th October 2004, from the Deputy Greffier of the States, in connexion with scrutiny training for Members of the States. It was explained that the Chairmen of the Shadow Scrutiny Panels had indicated support for the use of a barrister in training Panel members. Enquiries had established that a Mr. John Sturrock, QC, who had conducted a particularly well received training course for Committee Hearings for the Scottish Parliament Justice Committees, was an appropriate person to conduct the necessary training sessions. Although a firm quotation had yet to be finalized, it was envisaged that the course would take one or two days to deliver at a cost of £2,000 per day.

The Committee acknowledged that membership of the Shadow Scrutiny Panels had

altered on several occasions during the course of 2004 and that new members were required to assist on the Panel chaired by Deputy G.P. Southern. It further acknowledged that the Scrutiny function would require an increasing number of States Members following the commencement of the ministerial system. **It therefore considered that it would be both equitable and cost effective to offer the training opportunity to all States Members.**

The Deputy Greffier of the States was requested to organize the necessary training session.

On a related matter, the Committee noted that Mr. C. Ahier, Scrutiny Officer was working to finalize proposals for training in connexion with scrutiny of the Resource Plan 2005 and the Budget 2005.

Shadow Scrutiny
Panels: re-
appointment of
Chairmen.
502/1(12)

A5. The Committee received an oral report from the Deputy Greffier of the States in connexion with the re-appointment of Shadow Scrutiny Chairmen.

The Committee recalled that, in accordance with the terms of Projets Nos. P.186/2003 and P.194/2003, the States had appointed by ballot 2 Members to be Chairmen of the 2 Shadow Scrutiny Panels, and a further Member to the post of Shadow Chairman of the Shadow Public Accounts Committee, for an initial period of 12 months. It was therefore necessary to re-appoint Members to the three posts in January 2005.

The Committee agreed that it should write to all elected Members of the States seeking expressions of interest.

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

Official Report
of the States
Assembly and its
Committees
(‘Hansard’).
1240/10/1(1)

A6. The Committee, with reference to its Act No. A10 of 23rd September 2004, recalled that it had failed to secure the funding necessary to facilitate the commencement in 2005 of an official report or ‘Hansard’ service for the States of Jersey. It further recalled that, on 26th October 2004, the States had adopted amendments to the Standing Orders of the States of Jersey, which had resulted in oral questions and the answers given being recorded in the minutes of the proceedings.

Clerk

The Committee received a report, dated 29th October 2004, prepared by the Deputy Greffier of the States and the Senior Committee Clerk, in connexion with progress on the development of a Hansard service for the States of Jersey.

It was reported that alternative approaches, using information technology, had been investigated. In particular, the streaming of audio on a dedicated Web site had been considered. However, the size of audio files was such that the cost of establishing an online audio archive was thought likely to be prohibitive. Notwithstanding the foregoing, the Committee considered that the feasibility of introducing Web casting of States debates might be a matter of interest to local media organizations such as BBC Jersey. It therefore directed the Deputy Greffier of the States to make enquiries accordingly.

The Committee considered a suggestion to produce selective transcriptions of major debates. It acknowledged, however, that agreement on what constituted a major debate might prove difficult and also that the cost of producing such transcriptions on an as necessary basis was relatively expensive at £220 per audio hour.

The Committee determined that it would not support the provision of selective transcriptions of major debates, although it believed that every effort should be made to ensure that a full Hansard service was put in place by January 2006.

Draft States of Jersey Law 200-450(2)

A7. The Committee, with reference to its Acts Nos. A1 – A3 of 28th October 2004, recalled that it had elected to table Comments to the amendments to the draft States of Jersey Law 200- as proposed by Senator S. Syvret, by Senator E.P. Vibert and by Deputy S.C. Ferguson.

The Committee noted that the draft States of Jersey Law 200- was due to be debated in the States on 9th November 2004 and agreed that the President would present the Law. It further noted that the forthcoming debate was likely to increase pressure on either the Committee or the Special Committee on the Composition and Election of the States Assembly to address the matter of the presence of non-elected members in early course.

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

A8. The Committee received a report, dated 28th October 2004, prepared by the Greffier of the States, in connexion with the production of a law drafting brief for revised Standing Orders of the States of Jersey.

Clerk
G.O.S.
L.D.

It was explained that, although an initial working draft had already been produced, further progress could only be made once the Committee had determined its position on a variety of policy issues, including –

- (a) method for fixing meeting dates,
- (b) procedure at meetings of the States,
- (c) questions,
- (d) voting, and
- (e) prescribed matters.

The Committee, having acknowledged that the extent of any revisions to Standing Orders would effectively be determined by the result of the forthcoming debate on the draft States of Jersey Law 200-, deferred further consideration of the law drafting brief until such time as the debate on the draft Law had been concluded.

Freedom of information – progress and research. 955(36)

A9. The Committee, with reference to its Act No. A1 of 23rd August 2004, recalled that it had approved the secondment of an officer to assist with the production of drafting instructions for a draft freedom of information law.

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

The Committee welcomed Mr. P. Baker, Strategic Development Coordinator, Jersey Harbours. It noted that Mr. Baker had been selected for the secondment on the basis of his considerable law drafting experience, which included the development of the Shipping (Jersey) Law 2002. The Committee was advised that the said secondment was designed to operate as a part-time arrangement for a period of two months.

The Committee congratulated Mr. P. Baker on his appointment and noted that he was working closely with Deputy J-A. Bridge on the production of an initial brief for presentation to the Committee within one month.

On a related matter, the Committee received Act No. A13, dated 1st October 2004, of the Legislation Committee concerning draft freedom of information legislation. In particular, the Committee noted that the Legislation Committee had endorsed a recommendation made by Deputy J-A. Bridge that the Joint Working Party on Freedom of Information be dissolved.

Having recalled that the Joint Working Party on Freedom of Information had completed its review of the Code of Practice successfully, the Committee agreed to dissolve the said working party with immediate effect.

The Greffier of the States was requested to send a copy of this Act to the Policy and Resources Committee for information purposes.

Code of Conduct:
draft Protocol for
Relations
between States'
Members and
States'
Employees.
1240/4(166)

A10. The Committee, with reference to its Act No. A7 of 13th May 2004, recalled that Deputy M.F. Dubras had made representations to it concerning the conduct of States Members during debates and, in particular, the matter of personalized criticism of civil servants.

The Committee received Act No. B3, dated 9th September 2004, of the Policy and Resources Committee, in connexion with a draft protocol for relationships between States Members and Public Sector employees.

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

The Committee agreed that personal criticism of individual civil servants in public was both inappropriate and unhelpful. It nevertheless considered that the draft protocol as approved by the Policy and Resources Committee had clear implications for States Members' right of free speech.

Having noted that the draft protocol had been proposed for inclusion within the Code of Conduct for States Members, the Committee referred the said protocol to the Code of Conduct Working Party for further consideration.

Senator P.V.F. Le Claire and Deputy J-A. Bridge expressed their opposition to the draft protocol and requested that their dissent to the Committee decision be recorded accordingly.

The Greffier of the States was requested to send a copy of this Act to the Policy and Resources Committee for information purposes.

Schedule of
States sittings for
2005.
1240/7/1(78)

A11. The Committee, with reference to its Act No. A6 of 23rd September 2004, recalled that it had lodged 'au Greffe' a report and proposition entitled, 'Meetings of the States in 2005' (Projet No. P.181/2004 refers).

G.O.S.

The Committee received a report, dated 1st November 2004, prepared by the Greffier of the States, in connexion with the aforementioned proposition. It was explained that Deputy G.C.L. Baudains of St. Clement was intending to present an amendment proposing an alternate system of extra dates for each meeting.

The Committee recalled that it had proposed that each 'main' Tuesday meeting should initially continue on the following day and then, if necessary, on the following Tuesday. It noted that Deputy G.C.L. Baudains was intending to propose that the following Tuesday be set aside as the second day, with the following Wednesday being used as a third day if necessary.

The Committee agreed that it would proceed with a debate on its proposal at the next available opportunity.

With regard to the date of the election of the Chief Minister, the Committee recalled that it had proposed 6th December 2005 as a date for election on the basis that new States' Members would be sworn in on that day and that the Chief Minister designate would come to the States on 8th December 2005 to seek approval for a team of Ministers.

It was reported that the Policy and Resources Committee, following concern expressed by Senator W. Kinnard, had formed the view that a Chief Minister would benefit from the provision of an additional day in which to finalize his or her selection of ministerial candidates.

Having reflected upon its decision, the Committee agreed that the election of a Chief Minister should take place on Monday 5th December 2005. It therefore

instructed the Greffier of the States to withdraw paragraph (b) of the aforementioned proposition and lodge 'au Greffe' a new proposition in due course.

Matters for
information.

A12. The Committee noted the following matters for information –

Clerk.

- (a) a list of outstanding Committee actions and matters arising;
- (b) various items of correspondence, dated 25th – 27th October 2004, in connexion with ex-gratia payments to States Members (Act No. B2 of 14th October 2004 refers);
- (c) correspondence, dated 19th October 2004, from the President to the President of the Environment and Public Services Committee concerning car parking for States' Members;
- (d) correspondence, dated 28th October 2004, from the President to all States' Members concerning Committee Statements; and,
- (e) Act No. A13, dated 9th September 2004, of the Environment and Public Services Committee concerning the allocation of rooms within the States Building.