

PRIVILEGES AND PROCEDURES COMMITTEE

(49th Meeting)

26th January 2010PART A

All members were present, with the exception of Deputy J.A. Martin, Deputy M. Tadier and Deputy M.R. Higgins, from whom apologies had been received.

Connétable J. Gallichan of St. Mary, Chairman
 Senator B.I. Le Marquand
 Deputy J.B. Fox
 Deputy C.H. Egré

In attendance -

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.

Minutes.

A1. The Minutes of the meetings of 11th December 2009 (Part A and Part B); 22nd December 2009 (Part B only) and 30th December 2009 (Part A only); having been previously circulated, were taken as read and were confirmed.

Meeting dates for 2010.

A2. The Committee **agreed** the following meeting dates for 2010:

26th January	29th June
9th February	13th July
2nd March	27th July
30th March	7th September
13th April	5th October
27th April	9th November
18th May	23rd November
1st June	14th December

The Chairman expressed concern regarding the late apologies given by members when they were unable to attend meetings, and asked that apologies be given as soon as possible in advance.

Standing Order 168 of the Standing Orders of the States of Jersey.
 450/2/1(17)

A3. The Committee received a report in connexion with the provisions of Standing Order 168 of the Standing Orders of the States of Jersey, and correspondence, dated 9th December 2009, from Mr. P. Griffin, Principal Valuer, Property Holdings.

The Committee welcomed Mr. Griffin and Mr. M. Grant, Assistant Director, Property Holdings, who invited the Committee to undertake a review of Standing Order 168, with regard to the following:

- (a) the procedure for entering into deeds of arrangement, which currently need to be lodged '*au Greffe*' for debate by the States;
- (b) the requirement under the draft Residential Tenancy (Jersey) Law 200- for 3 month's notice to be given in respect of the grant, renewal,

extension or variation of social housing agreements; and the current rule under Standing Order 168(4) for all matters requiring more than one month's notice to be brought before the States; and

- (c) the requirement under Standing Order 168(3) for the Minister for Treasury and Resources to give 15 working days notice to the States before any binding arrangement would be made for the disposal, acquisition, letting or rental of land on behalf of the public which did not require the prior agreement of the States.

Having discussed the boundary and contract matters to which deeds of arrangement usually applied, the Committee was **minded to agree** that these should no longer need to be lodged '*au Greffe*' for debate by the States, but should be dealt with under delegated authority. With regard to paragraph (b), the Committee **agreed** that the grant, renewal, extension or variation of social housing agreements should not need to be brought before the States; rather, Standing Order 168(4) could be amended in line with the draft Residential Tenancy (Jersey) Law 200- to require that all matters necessitating more than 3 months notice should be brought before the States. In respect of paragraph (c), it was noted that, between 1st July 2009 and 31st December 2009, the States Greffe had recorded 19 Ministerial Decisions which did not meet the requirement to give 15 days notice under Standing Order 168(3). Those present discussed whether a *de minimis* level should be set at which the States would not require 15 days notice, and any transactions which fell below this level (and did not require the prior agreement of the States) could be reported on a monthly basis, perhaps via e-mail.

It was **agreed** that Property Holdings should discuss the matter further with the Law Officers and the States Greffe, and that any recommendations should be brought back to the Committee for consideration at a future meeting.

Draft Freedom of Information (Jersey) Law 201-
670/1(14)

A4. The Committee, with reference to its Minute No. A2 of 9th October 2009, received a bundle of documents prepared by the Deputy Greffier of the States in connexion with the draft Freedom of Information (Jersey) Law 200-.

DGOS

The Committee had regard for the 35 responses to its report: Draft Freedom of Information Law 'Policy Paper': White Paper October 2009, presented to the States on 14th October 2009 (R.114/2009 refers). The Committee also noted the draft Freedom of Information (Jersey) Regulations 200-. The Committee welcomed Mr. C. Borrowman, Assistant Law Draftsman, and considered the following areas:

Neither confirm nor deny

The Committee **agreed** that Article 10(2) should include a clause which would enable the public authority to refuse to inform the applicant as to whether or not it held the information, if this were considered to be in the public interest.

Appeals route

The Committee **agreed** that appeals should be passed from the Information Commissioner to the Royal Court, and that a Tribunal would not be formed.

Powers of Information Commissioner

It was **agreed** that provision should be included within the draft legislation to enable the Information Commissioner to issue codes of practice and require the supply of information.

Definition of public authority

The Committee considered the possible prejudice to corporations in which the States had a controlling interest, if they were to be included under Freedom of Information legislation. The view was expressed that they were governed by other legislation, and the committee asked whether members of the public could obtain information regarding such corporations, which was not already publicly available,

by approaching the Treasury and Resources Department. Subject to this being possible, it was **agreed** that corporations in which the States had a controlling interest should not be included in the draft legislation, subject to this being correct.

Citation and commencement

It was **agreed** that the legislation should be brought in by Appointed Day Acts. The Committee would recommend a lead in time of 5 years, due to the amount of preparation required in respect of records management, although it was noted that this decision would be taken at the implementation stage.

The Committee **requested** the Assistant Law Draftsman to update the draft Freedom of Information (Jersey) Law 201- accordingly, for further consideration at the Committee's next scheduled meeting. It was **agreed** that the Committee would give further consideration to the draft Regulations at a future meeting.

Having been thanked by the Chairman for his attendance, the Assistant Law Draftsman withdrew from the meeting.

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

A5. The Committee, with reference to its Minute No. A3 of 11th December 2009, received an oral update from the Chairman of the States Business Organisation Sub-Group, Deputy C.H. Egré.

The Committee noted that 6 States members had made oral submissions to the Sub-Group on 14th and 15th January 2010. In addition, 3 written submissions had been received from individual members, as well as a further submission signed by 8 States members. It was **agreed** that the Sub-Group should write to all States members to request further input into the review, to be received by Friday 26th February 2010.

The Committee Clerk was **directed** to take the necessary action.

Composition and
election of the
States: Single
election day each
year.
1240/22/1(50)

A6. The Committee, with reference to its Minute No. A12 of 11th December 2009, noted correspondence dated 14th January 2010 from the Minister for Treasury and Resources, Senator P.F.C. Ozouf, in connexion with the single election day.

The Committee recalled that the Chairman had written to Senator Ozouf on 31st December 2009 to request his views on the practicalities of a revised date for the single election day in 2011. Senator Ozouf had advised that timetables and key decision dates for future budgets and business plans would be considered as part of the ongoing Comprehensive Spending Review, and had suggested that a meeting be arranged to discuss the timing of the single election day for 2011.

It was **noted** that Senator Ozouf would attend the Committee's meeting on Tuesday 16th March 2010 to discuss the matter.

Election
expenses
legislation.
424/2(67)

A7. The Committee, with reference to its Minute No. B1 of 9th October 2009, received correspondence in connexion with free mailing for election candidates.

The Committee recalled that it had agreed to bring forward permanent legislation based on the triennial Public Elections (Expenditure and Donations) (Jersey) Regulations 2008. The Chairman had accordingly written to the Minister for Treasury and Resources, Senator P.F.C. Ozouf, to request a meeting to discuss the matter, including the free posting of election material by candidates.

The Committee noted that Senator Ozouf had approached Jersey Post in respect of the proposal in e-mail correspondence dated 26th November 2009. It also noted correspondence dated 28th February and 4th April 2008 between the Greffier of the States and Jersey Post, and correspondence dated 10th and 11th July 2008 between the Chairman of the Privileges and Procedures Committee as previously constituted, and the former managing director of Jersey Post.

It was **noted** that Senator Ozouf would attend the Committee's meeting on Tuesday 16th March 2010 to discuss the matter.

Information
technology
provision for
States members.
1240/9/1(137)
1240/26(9)

A8. The Committee, with reference to its Minutes Nos. A1 of 22nd October 2009, and A3 of 27th November 2009, discussed information technology provision for States members and the use of electronic equipment in the States Chamber.

The Committee recalled that, at its meeting of 22nd October 2009, it had been minded to introduce a trial period during which members would be permitted to use laptops in the States Chamber. However, this matter had been put on hold pending the outcome of the proposition entitled, Blackberries: costs for Ministers and Assistant Ministers and use in the Assembly, lodged '*au Greffe*' on 29th October 2009 by Deputy T. Pitman. The proposition had been debated, and lost, during the States sitting of 20th January 2009. During this debate the Bailiff had made a ruling to ban the use of laptops in the States Chamber and to continue to permit the use of BlackBerries, pending a proposition on the matter from the Privileges and Procedures Committee.

Discussions in this regard continued under the B Agenda (Minute Nos. B2 and B3 of the same date refer).

Correspond-ence
from Mr. B.
Cooper.
499/3(22)

A9. The Committee received correspondence, dated 18th January 2010, from Mr. B. R. Cooper, Honorary Secretary, Campaign for Constitutional Reform – Jersey, in connexion with P.5/2009, Rôle of the unelected members of the States: review, lodged "au Greffe" on 6th January 2010 by Deputy F.J.B. Hill, and adopted by the States, as amended, on 4th February 2009.

The Committee noted that, in his letter, Mr. Cooper sought "a directive on the legal validity of the Agreement of 27th May 2003 entered into by the Office of the Lieutenant-Governor under advice of the Law Officers of the Crown to surrender a section of the Island Foreshore – contrary to the Laws of the Island." Mr. Cooper invited the Privileges and Procedures Committee to "extend the Agenda of the Review of the Crown Appointees to act as a Committee of Inquiry into the aforesaid Agreement and consequences of the involvement of any Crown Appointees without exemption or exception."

The Committee noted that the Chairman and members of the panel undertaking the review of the roles of the Bailiff, Attorney General and Solicitor General, had been appointed by the States on 3rd December 2009 and the review was underway. It agreed that the review panel could not be asked to look into the issue raised by Mr. Cooper, and the Committee agreed that it could not support Mr. Cooper's suggestion that the terms of reference of the review should be extended.

The Chairman was **requested** to write to Mr. Cooper to advise him accordingly.